

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twentieth Legislature**  
**State of Maine**

**Volume II**

**First Regular Session**

May 18, 2001 – June 22, 2001

**Second Regular Session**

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Pages 890-1770

ONE HUNDRED AND TWENTIETH LEGISLATURE  
 FIRST REGULAR SESSION  
 62nd Legislative Day  
 Tuesday, June 5, 2001

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

Prayer by Reverend Gertrude DeCoteau, East Otisfield Free Baptist Church.

National Anthem by Mahoney Middle School 8th Grade Band, South Portland.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

**SENATE PAPERS**

**Non-Concurrent Matter**

An Act to Amend the Animal Welfare Laws (EMERGENCY)  
 (S.P. 356) (L.D. 1170)  
 (C. "A" S-286)

**FAILED** of **PASSAGE TO BE ENACTED** in the House on June 4, 2001.

Came from the Senate **PASSED TO BE ENACTED** in **NON-CONCURRENCE**.

On motion of Representative McKEE of Wayne, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

**Non-Concurrent Matter**

Bill "An Act to Exclude Credit Balances Between Business Associations from Unclaimed Property"  
 (H.P. 1088) (L.D. 1457)

House **ADHERED** to its former action whereby the Majority (9) **OUGHT TO PASS AS AMENDED** Report of the Committee on **JUDICIARY** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-605)** in the House on June 4, 2001.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Minority (4) **OUGHT NOT TO PASS** Report of the Committee on **JUDICIARY** was **READ** and **ACCEPTED** and **ASKED FOR A COMMITTEE OF CONFERENCE** in **NON-CONCURRENCE**.

On motion of Representative LaVERDIERE of Wilton, the House voted to **INSIST** and **JOIN** in a **COMMITTEE OF CONFERENCE** in concurrence.

**Non-Concurrent Matter**

Bill "An Act to Require Full Disclosure of Prescription Drug Marketing Costs"  
 (H.P. 778) (L.D. 1022)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-517)** in the House on May 21, 2001.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-517) AS AMENDED BY SENATE AMENDMENT "A" (S-304)** thereto in **NON-CONCURRENCE**.

Representative FULLER of Manchester moved that the House **RECEDE AND CONCUR**.

The **SPEAKER**: The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative **BROOKS**: Mr. Speaker, Ladies and Gentlemen of the House. I rise this morning to discuss with you

very briefly about the Recede and Concur motion and I hope that you will vote against it, with me.

This bill when it left this body on the 21st of May, I voted against it, I spoke against it then, I haven't changed my mind at all. As a matter of fact when it went to the other body, the reason that it has come back to us in non-concurrence is because an amendment was added to it which does remove the advertising element from it. This is a bill that would require the drug manufacturing companies that do business in the State of Maine to register once a year for a fee, I believe, of \$5, but also would require them to reveal their marketing plans, their marketing dollars and although the amendment changes some of the advertising commitment, simply because it would be difficult to continue with that advertising commitment because it would be difficult to figure out what in the State of Maine was being spent on things like Sports Illustrated or other national magazines. It still doesn't answer a couple of very, very serious questions for me. One of those questions is, why does this not then set a precedent and that precedent scares me, because as far as I am aware that would mean that the State of Maine is the first one to ask the pharmaceutical industry to do this, to reveal their marketing plans and all their marketing and advertising dollars.

The other question that I have is that the mechanism that is used on how the pharmaceutical industry does operate is that there would be a damaging effect on the amount of medication or free samples that are provided by the industry to the individual doctors. Those would all have to be listed and I believe that those folks who receive it, my wife, as a matter of fact, did receive some free samples when she began her treatment for cancer, before we figured out that the kinds of drugs were necessary and we ultimately did get prescriptions for them. This would have affected that and I have a problem with that, but my overriding problem, my larger concern is the precedent that this would set in the State of Maine of requiring any industry to reveal their marketing plans. Yesterday we spent a fair amount of time listening to testimony about being anti-business and what scares me the most here is that I can remember not very many years ago when workers comp that we were all worried and concerned about the number of companies that were willing to come here and sell workers comp insurance. Matter of fact, I had a friend who ran such a company in Boston and told me privately that he had one company left in Maine and he would never come back because of the climate that existed in Maine involving workers comp. Are we doing the same thing here with the pharmaceutical industry, but more importantly where are we going with this kind of an issue that would require marketing and advertising plans and dollars to be identified fully and completely. Who's next? Pulp and paper industry. I know that some people tell me that they already do things like that, but I'm not so sure in the competitive market worldwide, perhaps lumber dealers and automobile dealerships and lawyers and insurance industry and furniture manufacturers and real-estate companies and who knows else, bankers, real-estate companies, think about where we could go with this precedent if we set it. I hope that you will join with me this morning in voting against the Recede and Concur, because that will leave us in non-concurrence and we can do some work down in the other body. Attempting to figure out a way that we can either amend this bill further or do what I had hoped to do and that's indefinitely postpone this. I'm just absolutely fearful of the precedent that we're setting here and the message that we're sending. That message of being again in another area, in another industry, in another business that Maine don't want you here. I want to say one other thing. Please understand that I have continually supported the pharmaceutical bills and the committee that I am in, the Health and Human Services Committee, and on the floor of this House, but I think

the prescription drug costs are too high, I agree, and I'm 100 percent supportive behind the Maine RX Program and programs like that and the waiver programs that will reduce the cost. This is not the way to do it, to penalize companies for doing business. Is it next year we'll discover that there's only one pharmaceutical industry left that willing to do business in the State of Maine? Then what are they going to do about prices. The pharmaceutical industry like a lot of other industries, including pulp and paper, is a competitive market. Let's not tell them how unfriendly we can be by requiring them to do all this registration.

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

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. I will be supporting the motion to Recede and Concur. I believe that the bill has been amended as it comes before us and is a reasonable proposal. I respect the opinions of those who feel otherwise but this is an area where we as a body and as a state have focused a great deal of our attention, of our public policy efforts. We are trying as hard as we can to help the citizens we represent acquire, at a reasonable price, prescription drugs that they need. That is what is at issue. This bill is not the camel's nose under the tent. We're all business in the State of Maine. We have taken many steps in this body in the last few years to help the people we represent on this particular issue. All this bill does is to say, if you are manufacturing pharmaceuticals that people need and you are saying that the prices you charge are necessary because of the research and development and other items being done, then also tell us how much is being spent on advertising to promote those items and in the bill as amended does not even cover the costs for advertisements purchased on a regional or national market and includes advertisements only within this state. It's a very limited bill, a consumer information bill. I think it deserves a Recede and Concur. I hope you will support that effort.

The SPEAKER: The Chair recognizes the Representative from Manchester, Representative Fuller.

Representative **FULLER**: Mr. Speaker, Ladies and Gentlemen of the House. I would just briefly mention that the drug market is really not a competitive market given the patents that drug companies get forever and it is a little bit different than our general businesses.

The same Representative **REQUESTED** a roll call on her motion to **RECEDE AND CONCUR**.

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 Hartland, Representative Stedman.

Representative **STEDMAN**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **STEDMAN**: Mr. Speaker, Ladies and Gentlemen of the House. Could someone please tell me what's to be done with the information gained if this bill should be passed. How is that information going to be used?

The SPEAKER: The Representative from Hartland, Representative Stedman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Old Orchard Beach, Representative Lemoine.

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. Consumers that are informed about the material that they purchase will make purchasing decisions based on that information. We hope that what that means is that people will decide if they can buy brand x or brand y and brand x is spending a great deal more on advertising than that consumer

feels is necessary. They will move to brand y, it's consumer choice. In addition the information that is garnered may help in general the effort in this state to move forward with having affordable prescription drugs because we will have a better idea about what is really needed for profit and what is being spent on advertising, what's being done for research. We can tell if an exorbitant amount of money is being spent to sell drugs to people in the State of Maine. That information may, or may not, we don't know the results, but once we have that information and the consumers can make an informed choice, the outcome of which we will have to wait and see.

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative **STEDMAN**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **STEDMAN**: Mr. Speaker, Men and Women of the House. Just a follow up question, how is this information going to be disbursed to the public? What's going to be done to get the public informed about the results of this survey?

The SPEAKER: The Representative from Hartland, Representative Stedman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Manchester, Representative Fuller.

Representative **FULLER**: Mr. Speaker, Ladies and Gentlemen of the House. The information that would be obtained would be public information that could be used by a number of the advocacy organizations that serve elderly people. It also requires a report back to the Legislature on the marketing costs and I would hope that our public servants that are making public policy would look at this information and use it in future policy making.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative O'Brien.

Representative **O'BRIEN**: Mr. Speaker, Ladies and Gentlemen of the House. This kind of caught me off guard and I hope I can explain my position to the best of my ability here. I really feel this bill does unfairly target an industry that somehow has been branded as the evil industry. I would dovetail on what Representative Brooks, the good Representative from Winterport said, this is targeting those little samples that you may get at the doctor's office, that the doctors give out to those they know it may be a very expensive medication and they give out samples to those that they know would have a hard time paying it. It also includes a very important piece. It targets the reps, those sales people that go into the doctors offices. I was told by a physician and I did speak of this the last time this bill came up, that he felt that these were very important to his business. He, as a physician, is not necessarily always right on top of what the drug interactions may be, the affects of the drug, the side effects of the drugs and he really relies on these customer reps, or sales people that come into the office and they may go to lunch, so that hour is a very important hour for him. I don't understand why this has become such an evil industry. It is targeting one industry. Somehow it feels like we are punishing them, for why I don't understand, but I think it really sends a wrong message and I would hope that you would follow Representative Brooks light.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Laverriere-Boucher.

Representative **LAVERRIERE-BOUCHER**: Mr. Speaker, Ladies and Gentlemen of the House. This bill is not a bill to punish anyone, it's basically a bill that would make the industry accountable for the money that they spend. A lot of the times they claim that research is a higher percentage of their costs then their advertisement and we just want to see it on paper. This is the only industry that actually sells a product that means.

life or death to people and there's nothing wrong with knowing the bottom line, how much money that they actually spend for advertising compared to research and that's basically what we are interested in knowing. It's not to penalize anyone. It's just for knowledge. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative **BROOKS**: Mr. Speaker, Ladies and Gentlemen of the House. The answer to the two questions that were asked a few minutes ago go right to the heart of my concern, in addition to penalizing those people who are getting assistance and help from the pharmaceutical industry and that is what you're going to do with the information and how's it going to be collected. Good Lord. I think that we need to be a whole lot more cautious around here about putting in laws that allow people to collect information when they're not absolutely certain of how, who, when, why, what they're going to do with it except to attempt to discredit an industry that I think is operating in Maine.

The **SPEAKER**: The Chair recognizes the Representative from Standish, Representative Hawes.

Representative **HAWES**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to let you know what kind of assistance I got last week from the pharmaceutical company with a new medication for my husband's epilepsy. We have been receiving free samples for a few months from the neurologist to see if it worked, and it worked so on Friday I went to purchase the medication and it's \$241 for a one month supply. Personally I'd like to know what percentage of that goes towards marketing and how free those samples really were and to also know the cost of developing the medication and if the price truly reflects the cost of developing that medication. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative **GOOLEY**: Mr. Speaker, Men and Women of the House. I'd just like to say that this attitude could apply to almost any business here in the State of Maine. I run a Christmas tree business and I charge \$22 to come and cut one of my Christmas trees. Some people probably feel they are being ripped off, but that's the case of it. It's something that if we're going to do it to this business, we could do that same thing to almost any business here in the State of Maine.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Recede and Concur. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 325**

**YEA** - Annis, Bagley, Baker, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Bryant, Bull, Bunker, Canavan, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Dorr, Dudley, Dunlap, Duplessie, Estes, Etnier, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Mayo, McDonough, McGlocklin, McKee, McLaughlin, Michael, Michaud, Mitchell, Muse C, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Richard, Rines, Skoglund, Stanley, Sullivan, Tarazewich, Tuttle, Twomey, Usher, Volenik, Watson, Mr. Speaker.

**NAY** - Andrews, Ash, Belanger, Berry DP, Bowles, Brooks, Bruno, Buck, Bumps, Carr, Chase, Chick, Clough, Collins, Crabtree, Cressesey, Daigle, Davis, Desmond, Duncan, Duprey, Fisher, Foster, Glynn, Goodwin, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, MacDougall, Marrache, Matthews, McGowan, McKenney, McNeil, Morrison, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Rosen, Savage, Schneider, Sherman, Shields, Smith, Snowe-Mello, Stedman, Tessier, Thomas, Tobin D, Tobin J,

Tracy, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

**ABSENT** - Dugay, Kane, Lovett, Madore, Mendros, Muse K, Povich, Quint, Richardson, Simpson.

Yes, 72; No, 69; Absent, 10; Excused, 0.

72 having voted in the affirmative and 69 voted in the negative, with 10 being absent, and accordingly the House voted to **RECEDE AND CONCUR**.

**Non-Concurrent Matter**

An Act to Facilitate the Implementation of the Enhanced 9-1-1 Emergency System

(H.P. 1098) (L.D. 1467)

(C. "A" H-442)

**PASSED TO BE ENACTED** in the House on May 17, 2001.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-442) AS AMENDED BY SENATE AMENDMENT "A" (S-315)** thereto and **SENATE AMENDMENTS "A" (S-252), "B" (S-292) AND "C" (S-306)** in **NON-CONCURRENCE**.

On motion of Representative COLWELL of Gardiner, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

**Non-Concurrent Matter**

Resolve, to Establish the Commission to Study Ways to Eliminate Cigarette Litter in Maine (EMERGENCY)

(H.P. 1314) (L.D. 1778)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-549) AND HOUSE AMENDMENT "A" (H-636)** in the House on June 4, 2001.

Came from the Senate with that Body having **ADHERED** to its former action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-549)** in **NON-CONCURRENCE**.

On motion of Representative BRYANT of Dixfield, the House voted to **RECEDE AND CONCUR**.

**COMMUNICATIONS**

The Following Communication: (S.P. 645)

**STATE OF MAINE  
120TH LEGISLATURE**

June 4, 2001

Hon. Peggy A. Pendleton, Senate Chair

Hon. Martha A. Bagley, House Chair

Joint Standing Committee on State and Local Government

120th Legislature

Augusta, ME 04333

Dear Senator Pendleton and Representative Bagley:

Please be advised that Governor Angus S. King, Jr. has nominated Anthony Monfiletto of Yarmouth for reappointment and Gary M. Koocher of Portland and John C. Cooney of Brunswick for appointment as members of the Workers' Compensation Board

Pursuant to Title 39-A, M.R.S.A. §151, these nominations will require review by the Joint Standing Committee on State and Local Government and confirmation by the Senate.

Sincerely,

S/Michael H. Michaud

President of the Senate

S/Michael V. Saxl

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT**.

**READ** and **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** in concurrence.

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

**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

Miles Jacob Sweet, of Fairfield, who has earned the distinction of being selected as a 2001 Rhodes Scholar. His proposed subject for Oxford University in England is Chemistry. Miles is one of 4 people selected from the New England and New York areas and holds a B.A. in Chemistry and is working towards a M.A. from Wheaton College. He is a graduate of the Maine School of Science and Mathematics in Limestone. We extend our congratulations to him on his achievements and we wish him success on his future endeavors;

(HLS 516)

Presented by Representative **TESSIER** of Fairfield.  
Cosponsored by Senator **MILLS** of Somerset.

On **OBJECTION** of Representative **TESSIER** of Fairfield, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

**REPORTS OF COMMITTEE**

**Ought to Pass Pursuant to Joint Order**

Representative **GREEN** from the Committee on **TAXATION** on Bill "An Act Related to the Suspension of Property Tax Abatement Appeals When the Taxpayer is Delinquent in Paying Taxes"

(H.P. 1367) (L.D. 1824)

Reporting **Ought to Pass** pursuant to Joint Order (H.P. 1357).

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

The Bill was **READ ONCE**.

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** and sent for concurrence.

**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.

An Act to Create Uniform Underwriting Standards for Determining Eligibility for Certain Group Policies

(S.P. 379) (L.D. 1217)

(C. "A" S-270)

**TABLED** – June 4, 2001 (Till Later Today) by Representative **COLWELL** of Gardiner.

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

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

**ROLL CALL NO. 326**

**YEA** - Andrews, Ash, Bagley, Baker, Belanger, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Bruno, Bull, Bumps, Bunker, Canavan, Carr, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Duncan, Dunlap, Duplessie, Estes, Etnier, Fisher, Foster, Fuller, Gagne, Goodwin, Gooley, Green, Hall, Haskell, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Koffman, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Michael, Michaud, Mitchell, Morrison, Murphy E, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Perry, Pineau, Richard, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tracy, Trahan, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Winsor, Young, Mr. Speaker.

**NAY** - Annis, Buck, Chase, Clough, Collins, Crabtree, Cressey, Duprey, Glynn, Kasprzak, MacDougall, McKenney, Murphy T, Pinkham, Stedman, Tobin J, Treadwell, Waterhouse.

**ABSENT** - Bryant, Dugay, Gerzofsky, Kane, Lovett, Madore, Mendros, Povich, Quint, Richardson.

Yes, 123; No, 18; Absent, 10; Excused, 0.

123 having voted in the affirmative and 18 voted in the negative, with 10 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**HOUSE DIVIDED REPORT** – Majority (12) **Ought to Pass as Amended by Committee Amendment "A" (H-286)** – Minority (1) **Ought to Pass as Amended by Committee Amendment "B" (H-287)** – Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Amend the Laws Governing Term Limits"

(H.P. 697) (L.D. 901)

**TABLED** – May 31, 2001 (Till Later Today) by Representative **TUTTLE** of Sanford.

**PENDING** – Motion of Representative **DUPREY** of Hampden to **INDEFINITELY POSTPONE** Bill and accompanying papers. (Roll Call Ordered)

With unanimous consent, Representative **DUPREY** of Hampden **WITHDREW** his motion to **INDEFINITELY POSTPONE** Bill and accompanying papers.

Subsequently, the Minority **Ought to Pass as Amended** Report was **ACCEPTED**.

On motion of Representative **KASPRZAK** of Newport, the House **RECONSIDERED** its action whereby the Minority **Ought to Pass as Amended** Report was **ACCEPTED**.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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 acceptance of the Minority **Ought to Pass as Amended** Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 327**

YEA - Ash, Bagley, Baker, Belanger, Berry DP, Berry RL, Blanchette, Bliss, Bowles, Brannigan, Brooks, Bruno, Bryant, Canavan, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Dorr, Dudley, Dugay, Duncan, Dunlap, Estes, Etnier, Fisher, Foster, Fuller, Gagne, Goodwin, Green, Hall, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Koffman, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lessard, Marrache, Matthews, Mayo, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Michaud, Mitchell, Murphy E, Muse C, Muse K, Nass, Norbert, Norton, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perry, Pineau, Richard, Richardson, Rines, Savage, Sherman, Simpson, Smith, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Trahan, Tuttle, Volenik, Watson, Wheeler EM, Wheeler GJ, Young, Mr. Speaker.

NAY - Andrews, Annis, Bouffard, Buck, Bull, Bumps, Carr, Chase, Clough, Collins, Cressey, Davis, Desmond, Duplessie, Duprey, Glynn, Gooley, Haskell, Kasprzak, Lemoine, Lundeen, MacDougall, Mailhot, Marley, Michael, Morrison, Murphy T, Nutting, Perkins, Pinkham, Rosen, Schneider, Shields, Skoglund, Snowe-Mello, Stanley, Stedman, Tobin J, Tracy, Treadwell, Twomey, Usher, Waterhouse, Weston, Winsor.

ABSENT - Bunker, Gerzofsky, Kane, Lovett, Madore, McDonough, Mendros, Povich, Quint.

Yes, 97; No, 45; Absent, 9; Excused, 0.

97 having voted in the affirmative and 45 voted in the negative, with 9 being absent, and accordingly the Minority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "B" (H-287)** was **READ** by the Clerk.

On motion of Representative MAYO of Bath, **Committee Amendment "B" (H-287)** was **INDEFINITELY POSTPONED**.

The **SPEAKER**: The Chair recognizes the Representative from Lebanon, Representative Chick.

Representative **CHICK**: Mr. Speaker, Ladies and Gentlemen of the House. What I have to say this morning would be something that I didn't get up in time to say the other day, but I will say here to you this morning, all of my colleagues, that I was born in the State of Maine. I've lived my life here and when the opportunity was there I tried to take part in matters that affect my neighbors. There are members of my family that were denied the right to vote, I'm talking about some of the ladies in my family. Some died before they were given the privilege to vote. I believe that this is a denial of my right to serve and to be elected at a ballot box. I believe also that it is the same as trying to prevent people within our memory here in the United States in other parts of the country, from being able to vote because of their inability to possibly read, for one thing, but this morning I would want you all to know that in my heart this is a denial, a right that I believe I have, a right that I've fought for. Thank you.

Under suspension of the rules, the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Representative MAYO of Bath **PRESENTED** House Amendment "A" (H-674), which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Bath, Representative Mayo.

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. Before I commence discussing House Amendment 674, I do wish to apologize to the Clerk of the House for questioning the situation on last Thursday. I was reading from a different amendment then we had in front of us at that point and I would hope that the good Clerk would accept my

apology. With that being said, H-674, which is now before you does a number of things. First, it expands term limits to six two-year terms for members of the House and the Senate. The Constitutional Officers, which were mentioned as being able to operate under the same situation, were removed as noted in the amendment 674. The entire matter will go out to a vote of the people of the State of Maine in November of 2002, if the people at that time vote to accept an increase in term limits to six two year terms from four two year terms it would take effect with those people who are first elected at that November 2002 time and who take office on December 4, of 2002. In other words, those of you who are currently in the chamber today, who are not termed out at the end of the 120th Legislature will not be covered by this. You will continue to operate under the existing statute. Only those people who are elected in 2002 and who can therefore serve six two-year terms in the Maine Legislature will be covered. I hope that that isn't confusing. It was done so that we would not ourselves be voting on something that would affect ourselves. It will affect those who will follow us in the future. I would hope that people would allow the adoption of House Amendment 674 so that this matter may move forward and eventually go out to a vote of the people, as I indicated previously, in November of 2002. The question to go before the people has received the approval of the Secretary of State Office and is contained in the amendment. Thank you ladies and gentlemen.

Representative WATERHOUSE of Bridgton **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-674)**.

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

Representative GLYNN of South Portland **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 Arundel, Representative Daigle.

Representative **DAIGLE**: Mr. Speaker, May I pose a question through the Chair?

The **SPEAKER**: The Representative may pose his question.

Representative **DAIGLE**: Mr. Speaker, Men and Women of the House. We have gone through several gyrations of this bill, may I just clear from anyone who may care to answer that if we reject this current house amendment what will be the status of the legislation that remains?

The **SPEAKER**: The Representative from Arundel, Representative Daigle has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. I think basically it would be open to the body to make any number of amendments. I would think that we would adopt this present motion and if for some reason unlikely that that would occur, there are other motions that can be made.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is adoption of House Amendment "A". All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 328**

YEA - Andrews, Bagley, Baker, Belanger, Berry RL, Bouffard, Brannigan, Bruno, Canavan, Chizmar, Collins, Cote, Cowger, Cummings, Daigle, Dugay, Duncan, Estes, Etnier, Fuller, Gerzofsky, Goodwin, Green, Hawes, Heidrich, Jacobs, Jodrey, Koffman, Labrecque, Landry, LaVerdiere, Lessard, Marrache, Mayo, McGlocklin, McGowan, McKee, McKenney, McNeil, Michael, Michaud, Mitchell, Norbert, Norton, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Richard, Rines,

Savage, Smith, Tessier, Thomas, Tobin D, Tuttle, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ, Young, Mr. Speaker.

NAY - Annis, Ash, Berry DP, Blanchette, Bliss, Bowles, Brooks, Bryant, Buck, Bull, Bumps, Bunker, Carr, Chase, Chick, Clark, Clough, Colwell, Crabtree, Cressey, Davis, Desmond, Dorr, Dudley, Dunlap, Duplessie, Duprey, Fisher, Foster, Gagne, Glynn, Gooley, Hall, Haskell, Hatch, Honey, Hutton, Jones, Kasprzak, Laverriere-Boucher, Ledwin, Lemoine, Lundeen, MacDougall, Mailhot, Marley, Matthews, McDonough, McLaughlin, Morrison, Murphy E, Murphy T, Muse C, Muse K, Nass, Nutting, Peavey, Perkins, Pineau, Pinkham, Richardson, Rosen, Schneider, Sherman, Shields, Simpson, Skoglund, Snowe-Mello, Stanley, Stedman, Sullivan, Tarazewich, Tobin J, Tracy, Trahan, Treadwell, Twomey, Waterhouse, Winsor.

ABSENT - Kane, Lovett, Madore, Mendros, Povich, Quint, Weston.

Yes, 65; No, 79; Absent, 7; Excused, 0.

65 having voted in the affirmative and 79 voted in the negative, with 7 being absent, and accordingly the motion to **ADOPT House Amendment "A" (H-674) FAILED.**

On motion of Representative COLWELL of Gardiner, **TABLED** pending **PASSAGE TO BE ENGROSSED** and later today assigned.

**SENATE DIVIDED REPORT – Majority (7) Ought Not to Pass – Minority (5) Ought to Pass as Amended by Committee Amendment "A" (S-277) – Committee on CRIMINAL JUSTICE on Bill "An Act Concerning the Sentencing of Persons to County Jails"**

(S.P. 354) (L.D. 1168)

– In Senate, Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-277).**

**TABLED** – May 31, 2001 (Till Later Today) by Representative POVICH of Ellsworth.

**PENDING – ACCEPTANCE OF EITHER REPORT.**

Representative MITCHELL of Vassalboro moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

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

**ENACTORS**

**Acts**

An Act to Require Teaching of Maine Native American History and Culture in Maine's Schools

(H.P. 255) (L.D. 291)

(C. "A" H-666)

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.

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

**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 Laws Governing Municipal Citizen Initiatives and Referenda" (EMERGENCY)

(S.P. 231) (L.D. 796)

**TABLED** – May 30, 2001 (Till Later Today) by Representative COLWELL of Gardiner.

**PENDING – ADOPTION OF COMMITTEE AMENDMENT "A" (S-167).**

Representative TWOMEY of Biddeford **PRESENTED House Amendment "B" (H-648) to Committee Amendment "A" (S-167)**, which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. What this does is it puts back the retroactive clause in this bill. The same way that when we make mistakes up here, and sometimes we do, we pass some bad legislation, the people have 90 days to act upon the things that we do, that we put into law and this amendment would do the same thing to this bill. It would give people 90 days to get their petitions in and have something retroactive if something in their community is so despicable that they can't live with. This isn't to stop a sun deck or any small project like that. If we have a sense of our community and we care about the people who live there and you care about home rule, I would ask for your support on this amendment. Thank you.

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

Representative **CHASE**: Mr. Speaker, Ladies and Gentlemen of the House. This whole issue doesn't involve just big boxes, this is an issue that effects everybody in the State of Maine. Those that heard the hypothetical subdivision story a few days ago are aware that I was trying to make the point that the 4th generation dairy farmer that didn't have much but the inherited land was subject to numerous lawsuits and costs if a retroactive provision were allowed. It could apply to anyone who purchased a lot in that subdivision, it could have been anyone in this body, or your relatives, it could have been at extreme cost if this were allowed. The bill is a good bill. It prohibits that retroactivity. That idea has been addressed by the *Bangor Daily News* editorial and the *Ellsworth American*. You just received a handout that the *Portland Press Herald* encourages the bill. The bill would prohibit that retroactive changes of ordinances after a permit is issued. Now this amendment essentially kills the whole idea of retroactivity, if the amendment is adopted, it still allows an amendment to be amended after the permit is issued. Now this talks about 90 days and that's an attempt to make us think that there is a very long period of time in there, but in effect this could give up to 15 months for that whole project to be held hostage. It talks about after the permit is issued, the initiative referendum can be started any time within 90 days, so there's three months that is gone, then if you're in a town meeting form of government and if you just had your town meeting, you eventually get your signatures and submit them to the town clerk and it could be still up to a year before that gets onto a town meeting warrant and I'm not sure how long from the time you take out the petition until you have to submit it, it's probably a month anyway, so you're talking 16 months, that that project can be squashed. I don't see anyway that that can be fair to anybody. The newspaper editorials talk about this being a real detriment to business. Yesterday, on some other issues, it was mentioned how this legislative body seems to not be too concerned about enacting



laws that are harmful to business. That discourages business from coming. If we don't enact this one, we again in this body have put another block in front of business. It is unreasonable for anybody to want to go in and put the expenses in to get a project going with the knowledge that even after he's gone through the expenses and got the permits it can be thrown out. I simply urge everybody to defeat this amendment and any other amendments that come along and enact the ordinance. Thank you.

Representative **TESSIER** of Fairfield moved that **House Amendment "B" (H-648) to Committee Amendment "A" (S-167) be INDEFINITELY POSTPONED.**

The **SPEAKER**: The Chair recognizes the Representative from Fairfield, Representative Tessier.

Representative **TESSIER**: Mr. Speaker, Men and Women of the House. You've just heard an explanation of this amendment. I agree with the previous speaker. This amendment essentially keeps the bill the way it was, it only adds the 90 day period, it still gives a retroactive referendum, which I think is the core of the whole bill that needs to be defeated, so I would ask you to please vote for indefinite postponement.

The **SPEAKER**: The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. I would concur with my good friend from Fairfield, Representative Tessier, on the matter before us on indefinite postponement of the good Representative Twomey's amendment and I urge you to support that. The only reason I do so is so we can then move on to indefinite postponement of committee amendment "A" which is what I had hoped to do earlier. I will limit my comments to that and if we can defeat this, let's move on to indefinite postponement this committee amendment.

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. I'm not going to debate the merits of this bill, I think you all know how I feel, but I want to tell you about the people who are promoting this thing and the treatment I got over the weekend. Now a lot of you know my wife, and you can ask her the next time you see her, or call her right now if you want, to see if I'm lying to you or exaggerating, I'm not. Starting about Saturday afternoon, I started getting phone calls, these were anonymous phone calls, we have a call identifier, but they were all blocked, unknown caller, if I answered the thing it was getting, you blankety, blankety, bleeding heart liberal, what are you trying to do. Why don't you try to get the Maine Municipal Association disbanded and all this sort of stuff. My e-mail was blocked up. I made a private statement to a member of this House, somebody I thought I could trust, there was two lines and it was immediately after the last time we worked on this bill in committee. I had that statement read back to me word for word by a real-estate broker in my town. If you've noticed the halls the last few days, they have spent some big bucks. They even had the old kingfish out there yesterday and they don't get him for nothing. I'll let you wonder about who that is, I think you know who I'm talking about. He charges more than anyone else and doesn't usually step out and do something like this unless someone's pocketbook got treaded on. This whole thing kind of reminds me of an old story of Homer and Jethro a thing they used to do. They did a little tour in Canada many years ago and one of them was relating the experience and he said, "You know, you've seen these signs that says drink Canada Dry, well we didn't do it, but we had them working nights." We may possibly lose this thing, but I'm going to tell you there's a reason why they're spending this money. Last week it was a convenient

argument to say that there wouldn't be a planning board in the state that would be safe from this, but yet last week there was a court decision come down against the planning board in Bangor, because one of these boxes didn't like the decision. I'm just going tell you, think about who you're dealing with. Everyone of you have had or almost everyone of you have had many local businesses close, good businesses where the profit stayed in the community, the jobs were good, take a look at what you have now. The businesses are gone. The big boxes grabbed the profits and ran. Sure they deliver, most of them, cheaper merchandise and in a lot of cases it really is cheaper, not just inexpensive, so I'm going to let it go at that, but I just thought you ought to know the kind of tactics, if this was all honorable they wouldn't have to do things like this. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Bangor, Representative Blanchette.

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. I feel that I'm obligated to correct some information that was just laid on the floor by the previous speaker about the court decision that came down in favor of the big box development in Bangor over this last week. The court ruled in favor of Wal-Mart coming into Bangor because our planning board ruled unlawfully with a sentimental drive instead of following the law that is on the books that the big box developer whether you're pro Wal-Mart or whatever, that they had jumped through the hoops. They had dotted their I's, they had crossed their T's, they met the criteria for development. When the planning board ruled in favor of the proponents that were there trying to protect what they perceived to be a fresh water marsh, which I have some questions about whether how fresh water marsh this is, the courts overturned them and rightfully so. They did the right thing. You cannot, you should not and I hope this body will not say that after a developer has come in and jumped through the planning process, they have met the site development criteria that your planning board and your comprehensive plan that is devised and implemented by citizens, in your community by the way, it's not done by just bureaucracy. Citizens have more input into a comprehensive plan than the bureaucracy does. They ruled for the big box development and rightfully so. I'm going to urge you to unanimously vote to indefinitely postpone this amendment and then we will go back and deal with the initial amendment which is the bill. If we want to stand here and blatantly say to developers from across the country and across the world, when you enter Maine do not look to develop in any reasonable time frame, because it won't happen and I think that we need to replace the signs that are on every gateway coming into Maine, Welcome to Maine Vacationland Life the Way it Should Be, and erect signs that welcome to Maine, we don't need you business nor do we want it, go home. Thank you, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Portland, Representative McDonough.

Representative **MCDONOUGH**: Mr. Speaker, Men and Women of the House. I'll be brief and respectful of the Speaker's request because I did want to say a number of things that have been mentioned here since the amendment was put up. First thing, this thing is floating around, since my name is prominently mentioned in that, I would just like to say that sometimes the Portland paper endorses me and sometimes they don't. I don't lose much sleep over it one way or the other and you all go through the same processes with your local papers. This whole thing, the bill, the amendment, is a bad bill. I said that the other day and I want to repeat myself, but something that really relates to the amendment is the yellow sheet that has been passed around and I would ask you all to take a moment before you vote your conscience on this amendment and read this handout that

the good Representative from Harpswell, Representative Etnier, and the good Representative Deborah Simpson distributed to you. I think that's a very thoughtful thing and it really gets to the issue of the amendment.

This is an emotional issue. You heard the good Representative from Skowhegan relating some of his experiences, we've all been lobbied hard on this. The issue on the amendment is, is it in the best interest of the people? Don't be swayed by the scare tactics that have been spread around about Maine being a state that is not conducive to do and friendly to the business community, because it is. We've all been to meetings where you've heard people from the business community say the Legislature doesn't do enough. We do plenty for business, everyday we do and that has been demonstrated time and time again, so in this amendment it's not anti-business. It's an amendment that looks at and asks us to look at the process of the people's right to go to referendum and petition their government when they don't like something. You know, I know, the process works in its present form so do we need an amendment? I don't think we need an amendment. Do we need a bill relating to the amendment? I don't think so. Bottom line, my friends, is that this whole issue is a bad issue and we ought to put it where it belongs, in the dumpster. Having said that, Mr. Speaker, ladies and gentlemen, thank you.

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

Representative **MCLAUGHLIN**: Mr. Speaker, Men and Women of the House. We have just had our attention brought to a handout on gold colored paper, I would also like to bring the members attention to a handout on white paper on Maine Municipal Association letterhead and if you look at the back side of that letter from Jeff Herman, it is dealing with and giving an explanation of section 21 of article 4 of the Maine Constitution where it says that it is MMA's view that the Constitutional provision regarding the local citizen initiative process simply allows municipalities to decide if they are going to have a citizen initiative process or not and if so the method by which such ordinances are to be placed before the general electorate. As is expressly allowed by the Constitutional provision in question, the Legislature has created a generic, or default citizen initiative process that governs the citizen initiative method in those municipalities that have not adopted alternative approaches. I hope you will take a couple of seconds to read through the MMA letter, which gives you a bit more substance and clarity to just the language of the Constitutional articles and sections.

Representative McLAUGHLIN of Cape Elizabeth **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** House Amendment "B" (H-648) to **Committee Amendment "A" (S-167)**.

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 Dixfield, Representative Bryant.

Representative **BRYANT**: Mr. Speaker, Ladies and Gentlemen of the House. Just a few words, on the white sheet, we have to remember that MMA represents government, it doesn't represent the people. I think the people in the State of Maine are getting sick and tired of us imposing on them and taking away their rights. I think the members in this chamber need to think about that. Over the last couple of weeks what we've done up here and think about when you go back home, what their people are going to think about them taking away their rights. I'll leave you with that. Thank you.

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Kasprzak.

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. First of all I would like to address a few things. First and foremost this bill does not do this, it does not prevent citizen initiatives or their right to petition. It does not prevent citizens from being heard and voicing their opinions. It does not violate the Maine Constitution or I certainly would not be in support of that, as you all know I am well acquainted with the Constitution and always measure it against my votes. I will not be supporting the indefinite postponement of this bill and I would encourage you to follow my light. This bill does do one thing. It does support private landowner's rights. If you agree with supporting private landowner's rights, I would ask you to follow my light. Thanks

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to vote to reject this current amendment and to stay with the bill so that we can move forward on this. I'd like you to think of it in these terms, it's very important for our government to be predictable and the use of land, growth management and so forth, the intent there is to enact ordinances that reflect comprehensive planning, that reflect the will of the community and say that's the rules that we are being allowed to play by. When you have a mechanism that says well we can cavalierly approach these ordinances, put them in place and when we actually see somebody use them in a way we didn't intend, well we can get together an initiative and we can repeal it. We can create that uncertainty. We can harass businesses by threatening to have a repeal of it. As long as you have insincerity in your ordinances, you're going to have problems. Enacting this bill does a couple of things, one thing it gives us that certainty that businesses deserve to have when they are looking forward, making investments, and getting their permits. The other thing is saying to the towns, if you don't like your ordinances, fix them. Correct them in the first place, be preventive of your problems, because that's the way that tool is intended to be used. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative **WATERHOUSE**: Mr. Speaker, Men and Women of the House. Just a brief response to my good friend the Representative from Dixfield mentioning the MMA and the fact that it is government and government doesn't represent the people. I take issue with that. Government does represent the people, we are a representative democracy, those are elected officials and I'm sure that he would not say that he doesn't represent his people as an elected official. Thank you.

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

Representative **GLYNN**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I've received a number of telephone calls from constituents concerned about how this would be applied to local ordinances and I wanted to ask a member of the body a question if they could answer it and clarify it for me. If this law was to take effect and a resident was unhappy with a comprehensive plan in their town and they petitioned against an ordinance, would this state law prohibit them for petitioning an ordinance a change that was called for in the municipality's comprehensive plan?

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to defeat the pending

motion, add this amendment to a bad bill to make it an almost bearable bill. We've seen a letter from Maine Municipal Association telling us, in my opinion, please do our dirty work for us because we're unwilling to take away the rights of our own citizens in our towns so we want the Legislature to step in and do that so we don't have to take the heat, because what this bill does, especially without this amendment is destroys the initiative process for towns, pure and simple. Read the bill, it's very clear, by what they are calling retroactivity means from the enactment date of the petition, that means if you have a vote on Tuesday, it passes with 90 percent of the vote, that enactment in almost every town I've seen takes 10 days to go into affect from the vote, so the following Friday it becomes law. The Thursday before that the planning board meets, gives the permit, the Council meets gives the permit and your planning board is appointed, they're not even elected, who do they answer to and you've nullified the referendum. We are destroying the initiative process in municipalities and trampling on the rights of citizens, groups of citizens who all sign a petition, not one or two people that are mad and want to harass businesses, a group of 3,000 people that want to protect their neighborhood. Let's put it in perspective of who's doing what and I urge you if you want to destroy the initiative process in municipalities then pass this bill and tell the people that your town wanted us to do this because they were unwilling to pull it out of their charter.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Foster.

Representative **FOSTER**: Mr. Speaker, Men and Women of the House. I just want to relate to the people in this chamber something that I was involved with in with a developer. We had been hired to do some work for them, essentially consisted of clearing the rights of ways for streets, driveways and where the houses were going to set. This was in a small town. The developer went through all the rules and regulations, I attended about five planning board meetings with him. Eventually the planning board discovered they had in this town what they call the ability to have cluster housing, where you could take half the lot or some percentage put the houses there and the rest of it was to stay in trees, or field or whatever might be there. Well anyway, next to the last meeting, the planning board discovered that the half that was to remain undeveloped was mostly wetlands, so the next meeting based upon that the planning board decided that this development would not go. This person had been there many times, had jumped through the hoops almost every time they met there was a different one to jump through and eventually they denied him the right to go through with that development. Now this all happened before the fact, which definitely proves that the citizens have plenty of time to react rather than waiting until after the fact. That's a horror show enough but if this bill passes, it would at least prevent a horror show that would be worse than that after the fact and there are people, in this case the developer, who should have some protection in what he's doing as well as the people who live in the town.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I feel compelled to have a brief response to my good friend, the passionate Representative from Lewiston. I disagree with him entirely on this issue. I'll take a back seat to nobody for constitutional rights, for the rights of citizens to petition their government and the referendum process as you well know and in future debates you'll see me taking the side of the people on those issues, however, I see this issue as entirely different. I see it as a property rights issue. I see it as a rule of law and stability, in that rule of law and a bill of rights

issue. We have a bill of rights that protects the minorities from the will of the majority on certain issues. One of things that always bothered me, and one of the things we have in the Constitution in criminal proceedings is expo facto laws and also in other laws too, going back and having a law that changes something that was not in effect in the past, so you can scoop up those people. This is what I see happening and I don't see it happening in big developments per se as opposed to small individuals. I've seen it happen to individuals that get a permit, go through the process and have it shanghaied, if you will, from people who don't want anything to take place in the neighborhood. I've always taken the position that you should be active in your politics at the local level. You should go to planning board meetings. You should go to appeal board meetings. You should make your wishes known at your selectmen's meetings, if you have selectmen in your town and do that. Once your elected officials make a decision, if you're not happy with that decision, vote them out of office, get them out of there. Other than that if you want to have certain things not happen, or to happen in your town, or the place where you reside than you ought to put in prospective ordinances to take care of those situations, so I see this as an entirely different issue. It does not destroy the citizen's right to petition their government and I see it as a property rights issue and a stability issue in the rule of law. Thank you.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative **PERKINS**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. To anyone who might answer and I assume it would be a proponent of the law before us. It seems like everybody agrees that the retroactivity is a bad thing when somebody changes something retroactively, but my question is, who should decide and at what level. Why is this a compelling state issue, why couldn't this be handled at the local level. It's my understanding that the towns, the communities, could change their charter and use this same language that we're talking about at the state. Why should it be at the state level? Could somebody answer that please.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. Sometimes we make mistakes. We're real people and when we are so passionate about things, sometimes we mess up procedurally and I'm here to confess that I would like you to kill my amendment. Not because it isn't good, it's because I want to kill the whole bill. I wanted to get something, if I couldn't kill this bill and so I jumped up too soon because somebody was going to indefinitely postpone this bill, so I'm admitting to you that I made a mistake. I feel so passionately about this, because I did not come here to represent developer, I didn't. I didn't come here to represent real estate brokers, I came here to represent the people and I came here to represent local control. It is so difficult now to do anything in our communities, because when the developers roll in with their lawyers and their risk assessments and their transportation reports and traffic report, you can't fight anything. This isn't fighting like I said, a simple deck, this is honoring the members of your community who have decided that perhaps something isn't something they can support, like the Portland waterfront. The Portland waterfront was going to be built with condominiums until the fishermen got together and decided that they would rather have a working waterfront. Even in our adjacency laws we have retroactive clauses. This is about people living in a town

who come together and say, you know maybe this Wal-Mart isn't the best, maybe this isn't progress, because we're hurting the little business person, we're hurting the little hardware store person, because Rich's is gone, and Stewart's is gone, because Wal-Mart came in. We gained jobs and we let how many other people go because we closed down these other small businesses. This is about local control. It's about somebody in your community saying, hey, we didn't hear about this, let's see what we can do and they have 90 days to do it, just like the people's veto. I'm standing up to tell you that I made a mistake and I'm asking you to kill my amendment. Thank you.

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

Representative MCDONOUGH: Mr. Speaker, Men and Women of the House. I apologize for rising a second time, but I just wanted to thank the good Representative from Biddeford for bringing that amendment forward. It did have some wheels under it and I don't think that the good Representative has to feel that she should apologize to the body for doing that. It created some dialogue. It puts us in a position that we can look at taking the next step after we defeat this amendment. Thank you Mr. Speaker, Men and Women.

With unanimous consent, Representative TWOMEY of Biddeford WITHDREW her motion to **ADOPT House Amendment "B" (H-648) to Committee Amendment "A" (S-167)**.

Representative ETNIER of Harpswell moved that **Committee Amendment "A" (S-167) be INDEFINITELY POSTPONED**.

The same Representative REQUESTED a roll call on the motion to **INDEFINITELY POSTPONE Committee Amendment "A" (S-167)**.

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 Harpswell, Representative Etnier.

Representative ETNIER: Mr. Speaker, Men and Women of the House. I move the indefinite postponement of this committee amendment and had I been here the other day when you debated this, and unfortunately, for myself, at least I was not, I certainly would have spoken against that bill that was before you at the time, last Thursday. I think this bill should be more accurately called, An Act to Limit the Public's Right to Petition Their Municipal Government. The title that's before us is bad enough, but nowhere does it spell out the true nature of this, what I think is a very bad bill. The rights that our constituents have to petition the government are clearly spelled out in the constitution and they've been mentioned to you today and I certainly urge you to review that language relative to Article 1 and Article 4. I think it's fairly clear how important our forbearers took this right of petition and also the possibility that there would be people's veto, not only on the state level, but on the municipal level as well and the opportunity was put forward for them to exercise that and it has been exercised. This bill, I feel, has been a sleeper through this legislative session to date. It's been dwarfed perhaps by the several other bills that had to deal with statewide citizen initiatives and petition gathering drives and I think this has not gotten the attention until the last four, five, six days, frankly, that it should have gotten and that the folks in our towns should have given it perhaps and it has only recently come to light what the attempt is here by this piece of legislation is to take away a right of theirs, an opportunity of theirs, a possibility of theirs to petition their municipal government or when they feel a mistake has been made, relative to land use planning, or an ordinance. That is a huge mistake and I believe that when word trickles down to our constituents as it has been and the calls and

e-mails have been coming in I know to a number of you that more the word get out the people will object to this.

With those I ask the question rhetorically, would those who support this measure today, the one that's before today, support the same measure were these actions that are purposed actions that were taken by the Legislature, in other words would these same folks that support this bill, this committee amendment, support a similar thing if the Legislature were to pass it for actions taken by the Legislature, prohibition on retroactive changes by citizen veto, I sincerely doubt it. I know that the other day there were comments made regarding the previous people's veto relative to this so called gay rights law that this Legislature passed earlier. I agree to those who argue that point that to some degree that's apples and oranges, but on the big picture I don't think it is apples and oranges at all. Let me give you another example which never did actually materialize, but came, I think, close to materializing which had to do with Bath Iron Works and I think it was in the 117th, perhaps the 118th. We passed major legislation here relating to a major employer in my area that's passed along significant tax benefits to them. I supported it at the time, but it was very controversial and aroused the ire of a number of our citizens, especially those of you that don't happen to live near Bath Iron Works and I understand that and that's fine. There was talk about a citizen's veto of that legislation relating to the tax incentives for General Dynamics to proceed with the major work there. Well, had that taken effect, had that petition come forward, it never did materialize, but had that come forward then it would have had the same effect as what is purposed here, in so far as Bath Iron Works, the law passed by the Legislature would have continued the work that Bath Iron Works started, they would have gotten the permits they needed through the DEP and the Army Corp of Engineers and they would have continued on their work after considerable investment of time and energy and low and behold here comes a people's veto, which is their right relative to the actions taken by the Legislature relative to the tax advantages for the corporation that we're offering. Well that would have had the same effect as what is purposed here except it would have been on the state level and I would certainly not have supported it, saying that the people of the State of Maine did not have the right to petition this government to override the action taken by this Legislature back in the 118th. I fully support that action had it come forward. I would have voted against it, but that would have been my right and it would have been my people's right to vote on it. What is brought before you today, I repeat, is an attempt to take away that right, what I believe is a right, and the possibility of voting by our constituents.

I talked about this bill last Thursday with some of the lobbyists in the hall, you've heard about one of them, one of them is a very nice lady that represents a real estate industry. Wave, I'm sure she's in the gallery. I asked where's the big problem here, why are we bringing forth this bill, I didn't know it was such a rampart problem in the State of Maine that we needed to pass this law. At the time, perhaps she was incorrect, in fact I know she was, but she said there's been three cases, Topsham, Portland and the other one was Yarmouth and they tried to do something retroactive to some ordinance change, zoning change and that was three attempts that she knew of and I said what happened to the all, well the people didn't accept them, they were all overturned at the polling place. I said that seems to pretty well clearly speak to the level of the problem, there is none.

I knew of another case, which she wasn't aware of which occurred in my own little humble hamlet of Harpswell last year relative to a development on Jaquis Island and the desire of an individual, unfortunately, to build a house on that island. It

doesn't matter where it is, but it was a very emotional issue for the folks in Mackerel Cove area on Bailey Island. We had a town meeting on it. There was a citizen's petition to retroactively change the zoning. I spoke at that town meeting, opposed to that citizen's petition as much as I hated to have that house go up there and sided with those folks emotionally. I knew it was the wrong thing to do retroactively to change the zoning in the town of Harpswell, I couldn't support it, but I certainly would not support an effort as this is, to take away the right to bring that petition forward after the planning board has made what they felt was an egregious decision. Let the people decide. That's the key point here folks, let the people decide and if they need to bring something forward in a citizen's petition in an attempt to override what they believe is a failure of the municipal government, then let them do that. Do not say they can't. It's a horrible thing to do. Are our local planning boards infallible, are the zoning boards infallible, are they perfect, of course not. They're citizens much like us. They generally work long hard hours with no pay and they make mistakes and I hold nothing against them for that. Does the citizenry have the right now to go right to court and challenge the decision made by the planning board, or the zoning board of appeal. Of course they do. Is that liable to be very expensive and complicated for the general citizenry to involve themselves with? You bet your boots. Is it much easier, and is it as expensive and is it perhaps the folks that are bringing forward whatever this project is better versed at dealing with lawyers and the court system? You bet your boots they are. Is democracy generally messy, time consuming, expensive at times, would it be much simpler if government was just eliminating all these opportunities for public redress or grievances? You bet it would be. But this is a democracy, folks, it's messy, it's slow and unfortunately it does cause problems sometimes for folks who have legitimate projects that they are trying to bring forward. But I say again, let the people decide. If municipalities want to pass this same version of this and eliminate retroactive ordinances, changes, then let them do it, they can do that now. Let's not put this upon them. Please support the indefinite postponement and excuse my length of speech.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Savage.

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. I have in front of me a letter which states a position in support of LD 796 and then proceeds to provide what I consider to be a fairly strong argument it. I'm going to read briefly from the middle of the third paragraph of this letter from the Maine Municipal Association. It is the judgment of Maine's municipal officers that the capacity to change ordinances retroactively should be reserved for emergency situations such as where inadequacies of the local code have allowed approval of a development that would have a significant negative effect on the natural environment. At this time Mr. Speaker I would like to pose a question through the Chair.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Savage.

Representative **SAVAGE**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. Where do we have in this amendment anything that would allow for such an emergency situation as posed by the Maine Municipal Association?

The SPEAKER: The Representative from Buxton, Representative Savage has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative McDonough.

Representative **MCDONOUGH**: Mr. Speaker, Men and Women of the House. In answer to the good Representative from Buxton question. There isn't any.

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

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. I rise to follow the comments and the spirit of the remarks given by the good Representative from Harpswell, Representative Etnier. This is an old fight, it's a fight about direct democracy and it's not new. If we look at the Maine Constitution it's very clear under article 4, part 3, section 21. The city council of any city may establish the direct initiative and people's veto for the electors of such city in regard to its municipal affairs. The language goes on, it's very clear that the people of this state in 1907 granted, through constitutional amendment, the right of local control on this issue. Any town in the state can enact an ordinance on this point, that's their prerogative. I don't believe that we as a legislature should intervene in that local effort.

The background on that is, it's very interesting actually, in 1907 the Maine Constitution was amended and it was part of a series of amendments which dealt with the people's initiative and people's veto. It was done, that's why we have a 90 day delay now for enactment of our laws so that there is a period for people's veto of what we do in this body. At that time there was great debate about whether or not those changes should be made and in a wonderful book on the Maine Constitution written by Marshall Tinkle, he points out that the theoretical importance of this amendment and that's this whole package of people's initiative, citizen's initiative language must not be underestimated as it has forever altered the character of Maine's government from a pure representative democracy to a mix of representative and direct democracy. In other words, the people have a direct voice in what we do. There was great debate on the floor of the House when those series of amendments were being proposed. One of the most interesting to me was by Mr. Waldren of Dexter, who began, Mr. Speaker, I had not intended to make any remarks upon this point, which may sound familiar, and another one was by Mr. Cobb of the great working community of Gardiner and he pointed out quoting Abraham Lincoln, that the common people are fast losing control of the machinery of government and the present agitation for referendum is but an effort on their part to regain their control. Abraham Lincoln in his inaugural address said, "Why should there not be a patient confidence in the ultimate justice of the people. Is there any better or equal hope in the world. The very idea of monopoly is repugnant to the populist sentiment and it's practice must always be a menace to popular rights and an injury to business interest." I hope you will vote to indefinitely postpone this. Thank you.

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

Representative **TESSIER**: Mr. Speaker, Men and Women of the House. I'm asking that you defeat the current motion and move on to accept an Ought to Pass on this bill. If I seem a bit harsh this morning in some of my remarks, let me tell you why. I woke up this morning to the banner headline in the *Morning Sentinel* that said essentially, North Anson company to close, 145 manufacturing jobs lost. Unfortunately it is news that we in Somerset County have grown all to used to. Now we have the distinction of being the county with the lowest per capita income of any county in the State of Maine. Ladies and Gentlemen if we pass the current motion, it signals to the outside world we don't want your business in Maine. Now if you live in Maine, certain areas of the state with 1.6, or 2.0 unemployment, you can afford to push this extreme agenda. If you live in Somerset County, you can be sure for the most part that the response will be very

different. Unfortunately, out of state companies don't differentiate between southern and northern Maine. If the current motion prevails all that they will recognize is that Maine has a very unfriendly business climate and who is pushing this extreme agenda, pushing the agenda are organizations that keep their jobs by throwing rocks at business people and developers who can create jobs. Perhaps these groups should put some of that energy and funding towards helping men and women in Maine get a job to support their families. You've heard the cry that people have rights, and they do. They are given public notice of a pending development and public hearings are held so that they can have public input, however, once a permit is issued there should not be an option for retroactively revoking that permit. Developers and business people have rights too, we seem to forget that. To allow a retroactive decision over permit by petition gives one group greater rights than the other and I believe this is wrong. We've heard about three cases where it went to court and the court found for the developers, what isn't said in this is that these developers have now been put on hold for a long period of time in many instances. When other companies hear of that, they begin to say is that where we really want to be? Again I urge you to defeat the current motion and move on so we can accept the Ought to Pass on this bill. Thank you.

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

Representative **QUINT**: Mr. Speaker, Men and Women of the House. Business is not risk free and part of doing business in the State of Maine is the fact that we honor the people's right to petition their government and to allow it to go to the general population for consideration. We keep talking about public hearings, public notice, process this, citizens have an opportunity to participate here. Well the reality of it is from my perspective, governments put these processes in to run the people's government. We put these processes in to insure public input, but we do that so that we can operate as a government at a state level or at a municipal level. Citizens should be able to intervene at any point in order to have their considerations or their thoughts known. Government is not predictable. We make mistakes and as a Legislature, we always know that one Legislature cannot bind another and although that's not exactly the same as what's here, it is the spirit of what and how we do business. I don't know how many times I've sat on a committee and people have spent a year working on regulations, public process, travel across the state, lots of input, sometimes hundreds of people participate in that process and it gets in front of a committee of 13 people and we just throw it out or modify it dramatically. I don't know about any of you but I have always said well where did this come from and they are always quick to point out that you got a notice as we all do about the public hearings and the changes in laws and the rules that we're making and how many of you actually pay attention to those when you're not in session and you're running your busy life, working, and have your family and being on vacation. Those things somehow, even for legislators, fall to the bottom of our priorities. Somehow the fact that working families, single parents who have a family life and participating in their communities as they see fit, somehow sitting in a boring planning meeting that never starts on time, that never recognizes the public and can only, in my municipalities' participation, participate at certain points as delegated or as determined by the planning board and can't speak at workshops. They can only speak at the public hearing. It's very restrictive and certainly not pleasant.

We live in a state that has a people's veto. People will say that's not the same, well the fact of the matter is that people can prevent from going into law. Something that has had in many

cases hours and days and months of participation from people, both bodies have supported it and the Governor has signed it. Now that may not be retroactive but the fact of the matter is if the folks can get their signatures, it can still go on the ballot. Now there also is another movement afoot to prevent domestic partnership benefits from being extended to anyone who is not married. It does not only apply to this point forward, it also is retroactive, so any municipality or state government who has given benefits to their employees as they are currently able to do, this petition if it does go to referendum and passes would in fact make those agreements with their employees null and void. Now would I vote for that, absolutely not. Do I think that's a good idea? No. Do I even like the idea that it's happening or that this discussion is taking place. No. I find it offensive personally, but I really am proud that we have the ability to do that. I didn't like when we had a people's veto in the civil rights for gays and lesbians was overturned or not gone into law. I actually hated it personally. You know when you lose, you want to change the rules, or if there's a fear of losing you want to change the rules so the risk factor is less. It always happens, you never see anybody who wins wanting to change the rules, ever. Now when we lost that people's veto, or the people's veto was successful, there were all sorts of ideas about how to change the people's veto, increasing the amount of signatures, a whole host of things, none of which I supported, because at some point, ladies and gentlemen, we'll want or may need the opportunity to overturn something that does not agree with us, personally. In one other, I hate to use this term, I don't think I have ever used it, slippery slope, but it seems to me that if we are considering not allowing the citizens to be retroactive about a decision that's been made, incidentally, only about business and developers and planning, would the next step be not allowing the citizens of Maine to overturn any decision that's been made. Quite frankly the arguments being used about the planning board could also be said for city or town council meetings. There's a public process, there's workshops, people have all sorts of opportunities to participate in that process. There's public notice, they meet the same time every day, every week, every month, year after year after year. Citizens should know that so if they don't participate in that process, or the public hearing, or the workshop and a city council or a town council decides to make a decision that they don't like, why would we want the citizens to have the right to overturn that. It's legal, it's an ordinance, so I would strongly encourage everyone to vote for the indefinite postponement of 1796. Thank you.

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

Representative **BAKER**: Mr. Speaker, Men and Women of the House. I'm finding it difficult to believe that we're sitting here considering turning away the citizen's right to petition. It's unconscionable that we're trying to take away the rights of the people we represent. We are here representing the citizens of Maine and we would destroy their right to correct a mistake, to change the minds of this body. If we allow them to change the mind of this body, how can we say that they don't have the right to go back and retroactively look at something that has been done locally. I want to remind us that communities are for citizens, they're not for the developers and yes, we need business and we need growth, but what we need is smart growth. We need intelligent growth.

Now, Bangor has been mentioned and I would like to clarify a couple of things. We've got a situation in Bangor. Bangor is a service center, we don't have enough money coming in to serve the areas that we need to serve. We're a service community. Our city officials are desperate for more tax money, they want sales tax money because they are desperate, because this

Legislature will not do the hard work of restructuring our tax system, so we throw the problem back on the municipalities, Bangor doesn't necessarily want a Super Wal-Mart, but our elected officials are so hard up for money, faced with having to raise taxes yet again of the people who live in Bangor, while the people who live outside Bangor, but use Bangor don't have to pay those taxes. Yes, they are desperate for sales tax, so yes a few people are desperate for a Wal-Mart Super Center, but let me tell you, Wal-Mart is in Bangor. They have a fine store, but they're planning to vacate it and leave it empty, so it won't be competitive to the Super Center. We've already got a Home Depot vacant, empty. I can't tell you how many acres of gorgeous farmland has been paved over for two huge stores now to be empty. I understand Wal-Mart is planning to move into Brewer. It's what two miles away, five miles away, I shutter for the further damage that is going to be done to our local, our precious local small businesses in Bangor, because let me tell you this corporation does not care. They're planning to come in and pave over 18 acres, now that's the size of something like 14 football fields. It's actually not the marsh that's in danger so much at the moment, it's what's downstream. Let me tell you when the DEP in Bangor gave permission for Widewaters, the Wal-Mart company to go ahead, what they didn't know was that in 1999 the DEP had already done a study of the stream, the Pingeorwalk Stream, downstream from this property which is classified a B stream. Now, not only is it not currently meeting its B classification, it's not meeting a C classification. That stream is in non-attainment, that means it's virtually dead, no oxygen, heavy metals running into that stream. The raw paring growth is gone. The salmon come up the Penobscot in the summer to get cool and now they can't get cool because that water has warmed up to the degree that it threatens to destroy the ecology of that whole area. Do the big boxes care? Absolutely not. Why was this information not available to the DEP people in Bangor? That's a good question, so I'm struggling to understand why all this decision has been made without full information so I go across the street to the DOT to check out this road that's proposed to come in. What I learn from the DOT is that when they put the newly constructed, still under construction, I-95 interchange off Stillwater to serve the mall, they had no idea that Wal-Mart was planning to come in. They say with the I-95 interchange we're creating it cannot handle the volume of traffic. We base that on the projection of normal growth, not the growth that will happen with not only Wal-Mart but we understand now a whole new store, Lowe's I believe it's a hardware store, which will threaten the Home Quarters. The problem here is, and the reason the citizens need the opportunity to try to foster smart growth and smart development is there is no cumulative plan currently in statute, so that while one piece of property can be developed and meet the qualifications, nobody is looking at what this 18 acres of pavement, plus 14 acres more, plus, what it adds up to. We're missing that piece. We've got to put that in there so when this information comes to light, as it did in Bangor, and people start trying to take control of the area where they live, because that is their right and the planning board, which in Bangor, yes, was appointed. But they had the courage to say, folks this is not a good idea, no matter how much new money we need coming into this area and so they turned down the proposal and guess what, Widewaters comes in sues them, because they're big and because they don't care. I'm telling you, we've got to protect the people's right to petition. We've got to restructure taxes in this state so a community like Bangor is not put in this awful position and we have got to develop a comprehensive, a truly comprehensive plan for how we keep the quality of life in our communities viable, so not only do we want to continue to live there but that tourist, on whom we depend, will

continue to want to come, because Bangor, or Portland, or the other cities in Maine, these towns are not like any other municipality in America. This is about retaining not only the citizen's right to petition, this is about retaining the Maine way of life. This is about having the courage to commit ourselves to intelligent smart growth of our communities. Thank you.

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

Representative **MICHAEL:** Mr. Speaker, Ladies and Gentlemen of the House. There have been some very persuasive arguments on both sides of this issue. There are legitimate concerns that the citizens want to address when these big boxes and other developments come into town and there should be means for them to address those. At the same time there needs to be respect given to people putting their investment into projects, which I am also very sensitive to. Some folks suggested that citizens could proactively pass ordinances to correct their town government, but in fact as you know, citizens back home are not always proactive, they're often reactive, just like we are reactive here in this body. I've seen emergency bills come by all the time it seems like, we're always reacting to some emergency, we're reacting to some crisis. We don't think with foresight any more than our constituents do, so you can't always count on the great vision and wisdom in government being put into place ahead of time and quite frankly the folks don't have time to hang around the planning boards and city councils all week long keeping an eye on everything that they do, and some of towns, the stuff they do isn't very good. I would like to say there are ways that we could address the problems of the developers, just for instance, I'd like to see the process front loaded a little bit where a permit is given contingent upon site location plans being addressed and DEP permits being gotten and such, then early on in the process the developer can find out if he is going to be denied and not put the investment in. But that doesn't happen in this bill, that's not addressed in this bill, that's where we should be looking. We have a problem which we're grasping a solution which won't work, which is denying the public their very right to challenge government and so I would encourage you to vote to kill this bill. This is not the vehicle you want to address these problems. It should be addressed, it's a great project for us over the summer, but this bill does not do it.

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

Representative **MENDROS:** Mr. Speaker, Ladies and Gentlemen of the House. I want to try to clarify a couple of things for the few of us that are still in here. As I said last time when we debated this, I'm not anti Wal-Mart. Today's shirt and my tie, I actually bought there. Wal-Mart's, which is what we are focusing on here, it seems like, have run into these problems all over, yet we have over 15 in the state, they continue to come here. They don't see Maine as an evil state because they hate us and don't come here, because Maine citizens go there, like I do, and shop. When they had a petition drive to stop the big box development in Auburn, I was praying to God that they'd do that, they'd do just that and say, we don't want to go to Auburn if they're so mean, we'll go to Lewiston, because we could use the property tax revenues in my city, but unfortunately, that did not happen. The sky didn't fall, as we're all planning that its going to do, because I was kind of hoping that the sky would fall to get our property tax a little lower across the river. They continue to grow, they continue to build Wal-Mart's, it's part of the price of doing business, people might complain. Everywhere, as was pointed out, where this was attempted it was overturned. Now what if, for example, Lewiston's Wal-Mart had tried to come to Lewiston and our planning board had denied it. We as citizens,

and I can tell you I'd be out there with a clip board, could circulate a petition to send to referendum to allow Wal-Mart to come to Lewiston. That's what we're also getting rid of.

Now the other thing I want to clarify is this is being called retroactive. Going back one day, as an example I gave earlier, retroactive, if your phone gets disconnected because you forgot to pay the bill, should you not be able to pay what you owe, you just have to live without a phone for the rest of your life, because that's retroactive. We're calling retroactive like it's something terrible. It's a mistake that was made and you go back and fix it. You can't go back that far, because once a developer spends money on construction, they have vested rights, so you can't go back 50 years, you can't even go back a year, you can't even go back before the ground started to be dug up, under current law, because you have vested rights. We're not talking about somebody who started building some houses and has a development going and then all of a sudden the people don't like it and they try to change it, because that person has vested rights. Thank you.

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

Representative **MCLAUGHLIN**: Mr. Speaker, Men and Women of the House. So often we rise here and I feel like we're talking to the choir, for those of you who still have some interest in this, perhaps I can offer you another sheet of music. Very often what we have heard and pretty consistently is that this bill is going to impact the large scale retail developments that are coming to some of our communities throughout the State of Maine. I want you to know about the example that's been referenced earlier today, the example of something that happened in the Town of Yarmouth. I'm a staff person there and I work for good folks in Yarmouth, like the good Representative from Yarmouth, Representative Buck. There was a residential subdivision proposed, had absolutely nothing to do with the big box retailer. It was a subdivision. It went through the process and the town planning board turned it down. They took into account the comments from the many neighbors who expressed a host of concerns. The developer went back and redesigned the development to address those concerns, came back in with another subdivision application, went through the process, dealt with the neighbors concerns. The subdivision was approved by the planning board. Some of the neighbors were still not satisfied. They did initiate a citizen referendum that was retroactive, that would appeal the approval. That approval was given in May, it did not go to the voters, my recollection is until the following November, the developer lost at least one construction season waiting to see what was going to happen at the referendum. In their wisdom, the citizens of Yarmouth did not support the retroactive referendum, but it did have an impact. In fact there was one family that was still so opposed to that that they moved. They were one of the most strenuous objectors to that subdivision and I can tell you that the developer did strive to meet most of their concerns, if not all of them. I want you to understand that this bill does not just apply to those large scale retail developments. When we spoke about this last week, you had a salmon colored handout, it listed a very diverse group of supporters. Some of those supporters, were and are and do remain People's Regional Opportunity Program, also know as PROP, I believe you have a letter from them on a blue sheet today. Another supporter, the Emergency Shelter Assessment Committee, the Southern Maine Affordable Rental Housing Coalition and Representative Brannigan's Shalom House, this is the wide diversity of organizations that can be impacted by a retroactive clause. It gets into, not in my backyard situation and you all have heard of those NIMBYs and I will remind you that it could impact you on your own property and I've heard it said

here earlier in the morning that it wasn't about a deck. It could be about your deck, it could be about the one room addition on your house. If your neighbors don't like what you're doing and unfortunately that will and can happen, they can start a citizen's petition referendum with a retroactive clause to change the part of the ordinance that allowed you to have that building permit. I leave you with that thought. Do you want a petition drive to intervene on your property after you have gone through the prescribed process? I think not. Let me strongly encourage you to vote against the pending motion and therefore in support of what was the Majority Report out of the State and Local Government Committee. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Lessard.

Representative **LESSARD**: Mr. Speaker, Men and Women of the House. This has been a very good debate. I was on the Majority Report favoring this bill. I'm still in favor of this bill for these reasons and I have to revert back to my background and also in my other life, also the community that I come from, the Town of Topsham. Several years ago much planning was done in the Town of Topsham, businesses, homes, all these were taken into account as to where they should be located on the comprehensive plan and the planning by planning office. Zoning went into affect. How did the zoning take place? The citizens of the community met at town meeting, the citizens voted where things should happen and how it should be. From there we had growth, we're talking about a tax base, we're talking about a happy mix of growth, where it should be, municipal services. Areas that were zoned for business were kind of scared, as it should be, that's where it belongs. Homes and other locations that were zoned for that thrived, and homes were being built around the locations where businesses should be. When the so called developers came, as it should be, this is what the citizens wanted, to look at the land available to develop. This in fact took place, but wait a minute, we had homes close to where these developments should be. They took exception to that. Although the question was we don't want so called big boxes, but actually it's what's going to be there. The ordinance calls for certain things to happen on this property and this happened last fall. Citizen's initiative was started by those that were infringed upon, others signed, made it retroactive, but think about what has happened between when the planning started and when this was to be in effect. The interim period is most important. Here we're telling about overturning something the citizens had done at town meeting, not by a citizen's initiative, by x number of signatures. We had a November election we all went through last November and the question was put on the ballot and the petition was turned down. The petition was to have the zoning changed which would again be at town meeting which is in May. Now think of the interim period as to what has happened to the good jobs that could be coming our way in this development, quite a sizable development. That's where it should be. It's appropriate to have it there. The good jobs, because the local economy would be boosted by hundreds and hundreds of people working for the next year or two years in that whole complex and elsewhere when its zoned properly. That citizen's initiative was turned down, over 60 percent to about 40 percent. I inquired of some of our voters, would you mind telling me why you voted against that, or voted to have the petition turned away. It's because it was retroactive. I voted at town meeting a few years ago to have this where it belongs and now a certain few citizens want it changed retroactively. This is not right. This does not take away the citizen's initiative for petitioning. It certainly does not, but when you go back retroactive, when things have been done, a lot of money has been spent, for the betterment of the community. This is what was decided a few years ago under the



plan and the zoning. Zoning is a law in the Town of Topsham, the citizens put that law in affect, same as we do here. The citizen's initiative is fine, but don't circumvent the whole system and go back and try to stop everything because that petition is still in effect. Have your petition, have the law changed, but in the mean time things should be happening, because that's what the original law was. So I would encourage you to support this bill. Thank you Mr. Speaker.

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

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The SPEAKER PRO TEM: The Chair recognizes the Representative from Windham, Representative Tobin.

Representative **TOBIN**: Mr. Speaker, Ladies and Gentlemen of the House. This has gone on for a long time and I have just two questions to ask if I may ask them through the Chair.

The SPEAKER PRO TEM: The Representative may pose his questions.

Representative **TOBIN**: I probably know the answer to both questions. Could Yarmouth or any town pass a local ordinance that would prevent a retroactive petition? The second question is, has everyone in this body made up their mind how they are going to vote and do they need anymore information before they do so? Thank you very much.

The SPEAKER PRO TEM: The Representative from Windham, Representative Tobin has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative McDonough.

Representative **MCDONOUGH**: Mr. Speaker, Men and Women of the House. I think those are two of the most intelligent questions that have been asked today. In response to the good Representative's question, yes, the community can do that. They should do it if they feel that there's a problem and not come here to the Legislature to do their work for them. The other one I think in the background I hear a bell ringing.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Buxton, Representative Savage.

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. I understand that I'm standing between us and lunch and I know that's a pretty precarious position, I'll be very brief. The Representative from Fairfield asked a very serious question and I think we all need to ponder it and that is what should the relative rights be between the people and the developers or anyone other than the people for that matter. I want to refer the body to the Constitution of the State of Maine, section 2, in article 1, all power is inherent in the people. All three governments are founded in their authority and instituted for their benefit. They have therefore an unalienable and infeasible right to institute government and to alter, reform or totally change the same when their safety and happiness require it. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I, too, will be brief, but I couldn't let this session end without my uttering the word sprawl at least once or my good friend from Windham, Representative Tobin, would be disappointed. Some of my friends and colleagues who are involved in growth management world have said this is a smart growth bill, 796, supports predictability and consistency and I see their point. Others say that its not a smart growth bill, that it's going to remove the rights of citizens to participate in their

communities and government. At a time when we seem to be losing public involvement in our local activities and state activities, so I find myself sitting uncomfortably on a picket fence and when I get in that position I think of my friend, the Representative from Penobscot, Representative Perkins, who said when in doubt about the consequences of a piece of legislation, vote against it, and so I'm going to vote for indefinite postponement. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone Committee Amendment "A" (S-167). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 329**

**YEA** - Ash, Bagley, Baker, Berry RL, Bouffard, Brooks, Bryant, Bull, Bunker, Chick, Chizmar, Cote, Crabtree, Cummings, Desmond, Dorr, Dudley, Duplessie, Etnier, Gagne, Gerzofsky, Goodwin, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Koffman, Landry, LaVerdiere, Lemoine, Lundeen, Marley, Matthews, McDonough, McKee, McNeil, Mendros, Michael, Michaud, Murphy T, Muse C, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Perry, Pineau, Quint, Richardson, Rines, Savage, Simpson, Skoglund, Snowe-Mello, Sullivan, Tarazewich, Thomas, Tobin D, Tobin J, Tracy, Tuttle, Twomey, Volenik, Wheeler EM, Wheeler GJ.

**NAY** - Andrews, Annis, Belanger, Berry DP, Blanchette, Bliss, Bowles, Bruno, Buck, Bumps, Canavan, Carr, Chase, Clark, Clough, Collins, Colwell, Cowger, Cressey, Daigle, Davis, Dugay, Duncan, Dunlap, Duprey, Estes, Fisher, Foster, Fuller, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, Lessard, MacDougall, Marrache, Mayo, McGlocklin, McGowan, McKenney, McLaughlin, Morrison, Murphy E, Muse K, Nass, Nutting, O'Brien JA, Pinkham, Povich, Richard, Rosen, Schneider, Sherman, Shields, Smith, Stanley, Stedman, Tessier, Trahan, Treadwell, Usher, Waterhouse, Watson, Weston, Winsor, Young, Mr. Speaker.

**ABSENT** - Brannigan, Laverriere-Boucher, Lovett, Madore, Mailhot, Mitchell.

Yes, 73; No, 72; Absent, 6; Excused, 0.

73 having voted in the affirmative and 72 voted in the negative, with 6 being absent, and accordingly **Committee Amendment "A" (S-167) was INDEFINITELY POSTPONED.**

Under suspension of the rules, the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading.**

Representative **ETNIER** of Harpswell moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED.**

Representative **DUNLAP** of Old Town **REQUESTED** a division on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

Representative **TUTTLE** of Sanford **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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 Hartland, Representative Stedman.

Representative **STEDMAN**: Thank you, Mr. Speaker, a question to the Chair. Is it true we are now back to the bill as originally presented to the Committee with no amendments.

The SPEAKER PRO TEM: The Chair would answer in the affirmative.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Indefinite Postponement of this Bill and all Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 330**

YEA - Ash, Bagley, Baker, Berry RL, Bouffard, Brooks, Bryant, Bull, Bunker, Chick, Chizmar, Cote, Crabtree, Cressey, Cummings, Dorr, Dudley, Duplessie, Etnier, Gagne, Gerzofsky, Goodwin, Gooley, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Koffman, Landry, LaVerdiere, Lemoine, Lundeen, MacDougall, Mailhot, Marley, Matthews, McDonough, McKee, Mendros, Michael, Michaud, Murphy T, Muse C, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Perry, Pineau, Quint, Richardson, Rines, Savage, Simpson, Skoglund, Snowe-Mello, Stedman, Tarazewich, Thomas, Tobin D, Tobin J, Tracy, Tuttle, Twomey, Volenik, Wheeler EM.

NAY - Andrews, Annis, Belanger, Berry DP, Blanchette, Bliss, Bowles, Bruno, Buck, Bumps, Canavan, Carr, Chase, Clark, Clough, Collins, Colwell, Cowger, Daigle, Davis, Desmond, Dugay, Duncan, Dunlap, Duprey, Estes, Fisher, Foster, Fuller, Glynn, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, Lessard, Marrache, Mayo, McGlocklin, McGowan, McKenney, McLaughlin, McNeil, Morrison, Murphy E, Muse K, Nass, Nutting, O'Brien JA, Pinkham, Povich, Richard, Rosen, Schneider, Sherman, Shields, Smith, Stanley, Sullivan, Tessier, Trahan, Treadwell, Usher, Waterhouse, Watson, Weston, Wheeler GJ, Winsor, Young.

ABSENT - Brannigan, Laverriere-Boucher, Lovett, Madore, Mitchell, Mr. Speaker.

Yes, 74; No, 71; Absent, 6; Excused, 0.

74 having voted in the affirmative and 71 voted in the negative, with 6 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

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

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

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

**REPORTS OF COMMITTEE**  
**Divided Report**

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** and the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-662)** on Bill "An Act to Improve Child Development Services"

(H.P. 611) (L.D. 766)

Signed:

Senators:

LONGLEY of Waldo  
MARTIN of Aroostook  
TURNER of Cumberland

Representatives:

WATSON of Farmingdale  
CUMMINGS of Portland  
WESTON of Montville  
FULLER of Manchester  
BROOKS of Winterport  
DUDLEY of Portland  
LAVERRIERE-BOUCHER of Biddeford  
KANE of Saco

O'BRIEN of Augusta  
SHIELDS of Auburn  
NUTTING of Oakland  
DUGAY of Cherryfield

Minority Report of the same Committees reporting **Ought to Pass as Amended by Committee Amendment "B" (H-663)** on same Bill.

Signed:

Senators:

MITCHELL of Penobscot  
NUTTING of Androscoggin  
ROTUNDO of Androscoggin

Representatives:

RICHARD of Madison  
DESMOND of Mapleton  
SKOGLUND of St. George  
ESTES of Kittery  
STEDMAN of Hartland  
ANDREWS of York  
LEDWIN of Holden

**READ.**

Representative RICHARD of Madison moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Richard.

Representative **RICHARD**: Mr. Speaker, Men and Women of the House. This is a situation that the Education Committee has dealt with every year since I've been here, which makes it the third term. We can't quite seem to get it right so this year it was given to two committees to work on. We worked on it together, but we have a very divided report.

Last year the Education Committee asked the Department to form a working group that would include providers and the group came back with a unanimous recommendation to improve key areas in CDS regulations. There's been a great deal of criticism that the rates that the Department sets are not good and actually reimbursement rates are set by the Medicaid program at DHS and not by CDS. One thing we have directed to CDS was not to exceed federal laws, so they have been working under that order. Some of the major differences in these two reports, one is that those of us on the Minority felt that this should be a committee to review this that was outside the Legislature, that no legislator serve on the committee and they would bring the results back to us. That is different from the other report. There are many others who want to speak to this topic. I would urge you to support the Minority Report.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. The process of working and reporting out LD 766 has been both complex and difficult. The two joint standing committees have struggled to reach common ground without success, so we have a divided report. I did propose an amendment to include a portion of the Minority Report to create a bridge between reports, but the perspectives of each of the majority of each committee were too far apart. The Health and Human Services Committee which has jurisdiction over the vast majority of children service systems believes that CDS as it has been functioning has operational problems which go far beyond Medicaid reimbursement rate, problems which need to be carefully scrutinized and modified by the Commissioner of Education. The original bill proposed nothing short of radical surgery and that is actually moving CDS over to the Department of Human Services. This bill is a much milder effort to address the problem. It should be noted that in other states CDS is located in health and mental departments as well as education,

in fact 38 percent of the programs are in health departments, 26 in education, 19 in mental health. This bill does not relocate the program out of education, instead it places responsibility for solving the problem squarely in the hands of the Commissioner of Education and directs him to develop a plan for reorganization of CDS with input from providers, site directors, families, advisory committees and a legislative oversight committee comprised of members of both joint standing committees, Education and Health and Human Services. It also explicates very clearly the goals that should be addressed in the planning process. A substantial majority of the committee believes that the Majority Report provides a balance between the Commissioner's administrative discretion and judgment on the one hand and clear appropriate legislative oversight on the other. Remember that this is a program, which has an annual general fund budget of \$16 million plus \$4.2 million in federal funds and has operated in the majority of the joint committees with a lack of sufficient legislative oversight. That is what we are purposing to make a change in. Many of us have based our concern on the feedback we've received from local constituents and providers who have documented major problems of communication with local providers, of coordination between sites and inconsistent policies and practices from site to site.

My major concerns arose from my own personal experiences as a legislator attempting to insure communication and collaboration between Maine's four child serving departments, Education, Health and Human Services, Mental Health, and Corrections. Four years ago the 118th Maine Legislature passed landmark legislation, LD 1744, which established a strategy for coordination between the Departments of Human Services, Mental Health and Mental Retardation, Corrections and Education in the development of a statewide children's mental health system. Over a period of a year long process three of the four departments collaborated, it was minimal participation for the Department of Education. In the implementation phase all three departments entered into significant joint agreements to share staff and resources. CDS should have been a major partner in this comprehensive children's mental health planning and service development process. They were noticeable absence. Only after I personally reached out to a management staff in the Department of Education was there meaningful participation. Yet CDS is a major resource for children who need physical and mental developmental services, the Governor's budget purposes an increase of \$1.2 million and \$2.4 million respectively for the next biennium, bringing the general fund budget to \$18.5 million. It's ironic that one of the programs being featured today in the Hall of Flags is Maine's coordinated school health program. Why can't our preschool services be as coordinated as our school base services? Men and women of the House I don't have a lot of confidence that we're expending current resources in a cost effective manner nor or we serving our children and families as responsibly as we might. The Majority Ought to Pass Report would direct the Commissioner of Education to develop a plan of reorganization which would address these deficiencies and consultation with the legislative oversight committee comprised of members from both committees. It's crucial that the Health and Human Services Committee which has jurisdiction over children's services in Maine, that it remains involved in insuring that CDS is an integral component of our children's services system, whether it remains in the Department of Education or whether it is eventually moved to another department. The Majority Report is not radical surgery, but it does attempt to give a strong dose of medicine to restore health to the CDS program. Please support the Majority, reject the Minority Ought to Pass

Report and please support the Majority Ought to Pass Report. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Mapleton, Representative Desmond.

Representative **DESMOND**: Mr. Speaker, Members of the House. In the year 2000, as requested by the Education Committee, the Department of Education formed a provider site director working group, which has met monthly to resolve major policy issues affecting providers. The Provider Director Working Group has worked in good faith and has recommended unanimous consensus revisions to the CDS regulations, including resolving the major points around circumstances for providing summertime services and allowing providers under better circumstances to both evaluate and provide therapies to children. These agreed to changes to the regulations have received public comment and are being finalized this week. The working group also created a billing manual to improve flow of information and practices to maximize success and consistency in billing third party insurers. Finally, the working group created an additional process and reporting form to insure that issues around direct hires of therapists by sites include more collaborative conversations with existing providers about ability to build provider capacity. Many significant issues raised during the committee's deliberations this spring are already on the immediate agenda for the working group, including, not limited to, improving common understanding and application of state and federal special education regulations. Through joint professional development, working with Medicaid on an examination of rate setting for developmental therapy programs to insure that they remain viable, development of quality assurance indicators for providers in CDS sites alike, so that there is better accountability, documentation, and communication about performance issues on both sides and further working on billing issues relative to Medicaid and third party insurers. Instead of disrupting the whole system, which the Majority Report probably would do, we need to give the Provider Director Working Group a chance to complete its task that was requested by the Education Committee. They are doing what needs to be done, so I would hope that you would support Minority Ought to Pass as Amended. Thank you.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Estes.

Representative **ESTES**: Mr. Speaker, Ladies and Gentlemen of the House. A number of the comments that were made by the good Representative from Mapleton, Representative Desmond, were comments that I was going to be making this afternoon and I'm not going to be repeating them. You will notice that the word development is in the title of this bill and we spent plenty of time this morning and early afternoon talking about development. I'm going to try to keep my comments very short. You've received a couple of sheets that have been passed around, one advocating the Majority Report, which talks about problems that could be debated for a length of time as to whether they are real problems or not and you also received a sheet from me and I'm not going to spend the time this afternoon to read through the whole thing, but I want to hit on a couple of points. Some people may be wondering why I would be getting up and speaking on the Minority Report, number one, because of the difficulty in trying to reach a compromise between two working committees, 26 bodies, doing a public hearing and doing multiple work sessions is really difficult to come to some type of strong majority report. I did want to let people know that throughout the history of child development services, which began back in 1975 when the individuals with disabilities education act was passed, there's been a very interesting chronology for the State of Maine that has impacted the CDS system.

My involvement with CDS came back in 1987 when I was first elected to the other body and served as the Chair of the Education Committee and I would say that I probably cut my teeth on CDS along with a lot of other issues that have been kind of déjà vu these many years later. Over a period from 1987 to 1992 there was a lot of consternation over CDS and a lot of hard work that was done by my Education Committee to bring the parties together and to come to a resolution and to try to set CDS on a road where it was going to be successful and it was going to be meeting the needs of the children, which the program was designed to do. Low and behold I come back to this body, which I have enjoyed immensely in the short time that I have been here, to not only serve again on the Education Committee but to see that CDS has come up as another contentious issue relative to individuals in the Department that are involved with CDS, relative to complaints about what's happening out there with services being provided or not being provided relative to also dissatisfied providers who may be it's because they're not getting their share of the pie. When this bill came before the Education Committee, because the proposal was to move CDS to DHS, over my objections we ended up having a joint committee hearing on this bill and so the Education Committee and the Health and Human Services Committee got together for this hearing process only to have the original bill, LD 766, be offered at that hearing as a totally revised amendment. The amendment was numerous pages long, 15 pages long, and it wasn't the amendment that we had reviewed, it wasn't the amendment that people that were going to testify had reviewed and it kind of created a very confusing situation. To add to that confusion, by the sponsor's own admission the proposal wasn't going to go anywhere. Now the second gander was to revive in committee work session the utterly dysfunctional and uncoordinated interdepartmental approach that unfortunately, I was involved and help created in 1990 and 1991, the so called hick pick, which all people involved in that rebelled and against that rebellion the committee wisely squelched it in work session about a month ago. The third gambit is to do another study and this would be the sixth major study of the Child Development Services in the past 12 years. Now it is my belief because the original tense of LD 766 was to move CDS from the Department of Education to the Department of Health and Human Services and that no longer existed that the LD and the proposed amendment should have been discharged from the joint committee and referred solely to the Education Committee for final consideration. It was not allowed, over my objections, my rationale behind that was that the Education Committee has the legislative oversight and jurisdiction over the CDS program within DEC and the sole rationale for a joint referral was because the LD implicated the duties and operations of the Department of Health and Human Services and that no longer existed. Now I've raised a number of critical points in why I feel the study is unnecessary, in fact is counterproductive to the improvement of the CDS system. I just want to talk about a couple of them. In my opinion, in my experience, going back to 1987 the CDS system is in better shape and more stable and equitable both in terms of quality of services and in terms of finances than it has ever been in its history and it's serving more children. The CDS system in the Department of Education have been very responsive to legislative input over the past few years. The good Representative from Mapleton, Representative Desmond, talked about the creation of the provider director working group, which has worked in good faith and has recommended unanimous consensus revisions to the CDS regulations, which I have listed on my handout sheet. There are also many significant issues that were raised during the committee's deliberations this spring

that are already on the immediate agenda of the working group and that includes improving common understanding and application of state and federal special education regulations, working with Medicaid on an examination of rate setting for developmental therapy programs to insure that they are viable, development of better quality assurance indicators for providers and CDS sites alike so that there is a better accountability and also documentation and communication about performance issues on both sides and further work on billing issues relative to Medicaid and third party insurers. I believe that if we were not to accept the Minority Ought to Pass as Amended Report, that the joint committee process and a study has the danger of turning into an open ended venting and harassment of DOE and CDS. Without recognition of the significant developments over the past few years, without recognition of the services that we're providing to more children and also I believe that the responsible thing for the committee to do is to refer any outstanding issues to the working group and or other appropriate forms for resolution and have the Department conduct a survey of families served and providers and then report back to the joint committees in January. I believe that with everything that is on the plate for the Department of Education, from learning results, to essential programs and services, to technology endowment, there is no way that the Department of Education staff can reasonably be expected to provide time and support to an in-depth legislative study, which would not begin until late September and would have to be completed by the third week of December and for the Department to continue to commit time in good faith in making the working group actually work. At the bottom of the handout I've given you the outline of what the Minority Report does, it directs the Commissioner of Education's Provider Director Work Group and the Maine Advisory Council on the Education of Children With Disabilities to collaborate in the review of delivery of services by the second of January, to report back to the Commissioner and to report back to the Joint Standing Committees. It requires the report to address improved quality and consistency of services, professional development needs and ways to improve interagency coordination and collaboration. It also directs the Commissioner of Education in conjunction with the National Conference of State Legislatures appropriate state agencies and other qualified entities to conduct a survey of the families receiving services under the Child Development Services System as well as the providers to find out what are the real problems out there so that we can fix them. Finally the Commissioner will report all findings back to the joint committees which are also authorized in the Minority Report to introduce legislation in the next session. I strongly urge you to accept the Minority Ought to Pass Report as Amended. Thank you.

The SPEAKER: The Chair recognizes the Representative from Montville, Representative Weston.

Representative WESTON: Mr. Speaker, Ladies and Gentlemen of the House. I've spent three years now studying CDS and I still at this moment don't know how to really begin to describe to you what CDS is, but I'm going to try. Federal law tells us as a state we have to find children who are preschool who need services such as physical therapy, speech therapy, many many things. We have to find them and give them services. Right now each of our counties has a site, a CDS site, that is responsible. They have a director and they take that responsibility, find people that are therapists to do the job that's needed for these children. It has a long history and I would liken it to a house that's been put together by a group of volunteers and they do their best but finally when the house is done you realize that everything just isn't working and you try, you meet again and that's what we have done through the years since the 1980s and the 1990s, we've restudied, we've had work groups,

we've looked at it again. The first little subcommittee I was on when I was elected was a CDS subcommittee. We met three times and disbanded. It has happened over and over and over and what's being asked by the Minority Report is one more get together of all of the workmen and my concern is what will happen is the providers have an opinion, the directors have an opinion, the Department has an opinion, DHS has an opinion and they're all going to state those opinions. We're going to get together and be right back where we were when we started. What the Majority Report says is this house needs to be torn down, let's draw some new plans and let's rebuild. We rebuild on the knowledge that we've learned, on the experience that we've had and we can do it better, we can do it right. It also brings in some outside organizations, it places full responsibility on the Department of Education and the reason it does that is because that's where the federal dollars go, by law, to the Department of Education, so it's that Commissioner that has to be fully responsible. Right now it's very confused, who truly is responsible for everything. This would straighten that. It would also tie in some coordination. I don't find it easy being on the Majority Report and most of my committee members are on the Minority, but I came to the conclusion that one more study, one more get together was not going to be anymore successful than the ones in the past. Thank you.

The SPEAKER: The Chair recognizes the Representative from Manchester, Representative Fuller.

Representative FULLER: Mr. Speaker, Ladies and Gentlemen of the House. I'm rising to speak in opposition to the Minority Report and to speak in support of the Majority Report on LD 766, An Act to Improve Child Development Services. Let me say upfront that my doctor is a pediatric occupational therapist and has a private practice located in Monmouth. She employs other therapists and OT assistants, as well as an office manager. However it is a small business with 60 to 70 percent Medicaid recipients in the caseload. She has been doing pediatric OT for at least 15 years and has received special training in dealing with children's unique needs, especially autism. She is truly committed to the children and families she serves and often voiced her frustrations to me about the CDS system. She is nearing the point where she will not be able to continue to provide these services that she is so well prepared for. I met with Yellow Light Breen in the Department of Education in the fall of 1999 and discussed some of these issues with him, after which I decided to submit a bill which was accepted by the Legislative Council because it was the second year of the biennium to evaluate the accountability of the CDS system. Since I put that bill in I have been overwhelmed with letters, emails, phone calls from both providers and parents about their concerns with the services being offered and provided by CDS. I have talked to doctors with their experiences, primarily pediatricians with the CDS system and found more problems. Although in my bill in the 119th session was amended and passed, it did result in the formation of that Provider Site Directors Group that you have been hearing about in previous testimony. However, it had little affect on the problems brought to my attention by all those who contacted me. Therefore I submitted the bill before you now, although an amended version. My original proposal was to transfer to DHS, I will acknowledge that, but obviously did not become the right time to do that. What are the problems with the CDS system? The system is fundamentally flawed with 16 independent sites, each with its own board of directors, no consistent policies and procedures, no quality review or oversight. Some sites are functioning as intended, collaborating and cooperating with other agencies when the system was created, however, far too many are not. CDS is increasing providing direct services, which decreases

family choice and is pushing established providers out of operation. The most recent information I have indicated 103 therapists employed on the staff of the CDS sites and more requested for the upcoming fiscal year, with the encouragement of the Department of Education, I might add. The direct hires by the CDS sites are not meeting the need for services. In March I obtained from the Department of Education the data on waiting lists at the sites indicating there were 246 children who have been waiting for 45 to 60 days for services. There were also 242 children whose needs were not met, mostly because the CDS site claimed no provider was available or there was a lack of appropriate services. This, while the providers that are left are not receiving referrals in many areas of the state. We cannot continue to cut these providers out and expect they will be there when the site gets into a jam. From state fiscal year '98 to 2000 Medicaid data shows we have lost 63 occupational therapy providers. We have lost 52 physical therapy providers and 36 speech and language providers. Community base providers are struggling to survive. They do serve other clients, but CDS is part of their lifeblood. When they get cut out of providing services to this large group of children, they are forced to close their doors. Most serve a large caseload of Medicaid clients, the present Medicaid rate at 37 to 40 percent of usual charges for these services, they need to have full caseloads and if they're not getting referrals from CDS, they are at a disadvantage. At least two developmental therapy sites in Washington County have closed due to decreased referrals. Now a child with autism, or cerebral palsy, or downs syndrome who lives outside the Machias area must either travel long distances or go without. The tragedy for that child who goes without and the community is that the window of time is the greatest amount of skill attainment that child will ever be able to achieve has been lost if they do not receive these services. Two of our long time major providers of children's services in the Southern part of the state are planning to phase out some programs and cut back on their services. Data from the Department indicates that the average cost per client in this state fiscal year 2000 in York County was \$4,814 compared to \$2,194 in Aroostook County. Even the higher costs in York County do not explain this great disparity. Referrals to programs and resources from other departments that could enhance the services provided for the children being served by the CDS sites are not being made. CDS has been the subject as has already been noted of at least four to six studies over the last 10 years, yet study after study has failed to fix the problem, one of the reasons being that the recommendations were not implemented in many cases. The last study in 1998 contained five recommendations. One was partially implemented, three others were not and I don't have further information on the last one. When the law creating CDS was first passed in 1979 the intent was to maintain coordinated delivery systems to preschool handicapped children, collaborating with the other departments that serve children. The CDS sites were to provide case management, working with families, convening team meetings, offering choices for providers and promoting a seamless system. Taking advantage of the programs and resources of other departments. It was never intended for CDS sites to be the providers of services. I also believe, based on my previous experience with the long term care system that for the case management agency to also be the provider of services is a conflict of interest and bad public policy. The Majority Report supported unanimously by the Committee on Health and Human Services and by three members of the Committee on Education and Cultural Services, proposes to put the ball in the court of the Commissioner of the Department of Education as the lead agency, directing him to develop a reorganization plan in consultation with the Departments of Human Services and

Mental Health and Mental Retardation and Substance Abuse Services. The goals of reorganization include coordinated delivery and cost effective management of services, equitable distribution of the delivery of services with a reasonable number of geographically dispersed sites to provide reasonable access to required services in a timely manner and an appeal process. A six member legislative oversight committee from the two committees that heard and worked on this bill would be appointed to report back to the full committee during the fall with a report included the proposed reorganization plan and proposed legislation from the Commissioner no later than January 15th of 2002. The plan is to provide for implementation beginning July 1, 2002. The Majority Report also provides for consultation with outside organizations with expertise in the delivery of child development services, such as NCSL, or the Margaret Chase Smith Center, or the Muskie School, both programs based in our university systems. No funds are to be expended for this outside of systems. I'm sure many of you have received letters of support from families whose children are receiving services through the CDS system. Of course they appreciate whatever services they receive, but did they know about other options that might have better served the needs of their children. Were they given a choice of providers as required by federal law? Here are some of the excerpts from some of the information I have received from parents. Services were not implemented until 10 months after we've started working with CDS. This is due in large part to us being unaware of the support services available to us. CDS did not tell me about the speech services available, about the child development clinic, about services for children with special needs. The last area I want to emphasize is the need for intensive integrated Transdisciplinary approach for children like the person they were writing about. Another letter from a single mom with a child with autism and developmental delay, the CDS site talked to me and meets privately with the father who has not visited the child in months while being antagonistic to the mother. IDT meetings with the father told mother not to be there. I had initially requested of CDS that I be part of the beginning planning of this program. I requested to meet with his therapist prior to his services, this was ignored. Another letter, I am concerned that we are dismantling an exemplary system that was well integrated across departments, what has been lost is family supports as well as the early intervention system driven proactive approach to comprehensive needs assessment and the provision of services to support children and their support system. Having little faith or trust in the state management that focuses on reducing expenditures while presiding over deteriorating quality and accessibility of services. The joint CDS provider committee has made changes for the better, but much more needs to be changed. This is another letter from another parent. Why are young children with medical diagnosis such as spina bifida, cerebral palsy, downs syndrome, clef palate under the Department of Education. DHS and DMHMRSAS collaborate more closely then does the Department of Education with other departments. Ladies and Gentlemen, I believe the system is in crisis. What we don't need are more studies. Let's be bold and hold the Department of Education accountable for fixing the problems that plague our so called system of services for our preschool children. Let's do what we must to meet the needs of these children so they will be ready to learn when they enter our public school system. If the plate is too full for the Department of Education to pay attention to the needs of these children then we certainly need to do something to address the problems. We must address their needs during this critical child development time. I urge your vote against the Minority Report and go on to support the Majority Report on this bill and Mr. Speaker, when the vote is taken I request the yeas and nays.

Representative FULLER of Manchester **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass as Amended** 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 Farmingdale, Representative Watson.

Representative **WATSON**: Mr. Speaker, Men and Women of the House. If you'll indulge me I'll just make a few brief comments, as you may notice I am on the Majority Report and there are only three of us from the Education Committee that have joined those that are on the Health and Human Services Committee. I just wanted to add a little bit to what has been said previously in support of the Majority Report today and obviously I'm going to ask people to defeat the Minority Report.

I represent constituents that have CDS services here in Kennebec County and I'm very proud of my CDS site. I want to go on record as saying that, it's exemplary. My constituents are very well served by this county CDS site and in talking with both parents who have services for their children there and service providers in the larger community and the site director, I know that there is a collaboration and a cooperation between all three entities that I wish were replicated statewide. Unfortunately what happens here in my county doesn't happen across the state. There are good sites like mine, there are so so sites and then there are sites that some would even say are doing a very poor job with the children that they need to serve and that's unfortunate. It's unfortunate that we've come to this impasse and have this divided report before us, because having served now, this is my third term on the Education Committee, I can echo some of the comments that were made earlier by my good colleague, Representative Weston. That this is an issue that has come round and round and round, she may have served on a subcommittee, I served on a task force that came out of the 118th. That task force was one of the most frustrating endeavors that I have ever been part of. That task force was to make some recommendations for changes that were all too apparent to all of us on the committee and as you heard the good Representative Fuller from Manchester say earlier, of the several recommendations that we were finally able to eke out, not all of them have been implemented at this point in time. I find a great failing within the Department of Education and I'll put the own ness where it belongs. I think that given more of a priority and a persistence and an understanding of the issues that have been brought forward time and time again that these very issues could have been resolved long ago. I think that what we are proposing in the Majority Report that is a Committee Amendment that was suggested and crafted in some part, large part, by Senator Martin, who is now on the Health and Human Services Committee, but had previously, when I was a freshman legislator in the 117th was chair of the Education Committee for the House. He knows full well the history from those very beginnings that Representative Estes has given the history of till this moment in time of all of the difficulties that CDS has, as that primary entity in the state that we are all supportive of to service those children birth through five. I want to tell you members of this body that this is a system that's seriously flawed, that over the years of going in and tinkering we've only come up with, in my estimation, more problems then we have solved and it's time now for us, under the direction of our Commissioner of Education, seeking outside impartial input, come up with a system that is far more workable then what we have today. I have trust in the Commissioner to fulfill this obligation if we so, as a Legislature, request of him to do. That, to come back to us next session with a new plan that hopefully incorporates some of the best of the system that we've got and certainly does away

with those things that are very unworkable. Remember what the system is all about, it's to find and treat, to provide services for those children birth through five that we as a state have a lifeline responsibility for. I believe the service is vital and it should be the very best that we can afford and have the very best structure to carry out its mission. Thank you, Mr. Speaker.

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

Representative **CUMMINGS**: Mr. Speaker, Men and Women of the House. For those of you who have remained in the chamber and tried to get your head around this issue, my admiration and my sympathy goes out to you. For several months now I have tried to wrestle with what seemingly were two very close reports that could have been brought together. I was disappointed that they were not brought together. Let me simplify it, as I've had to simplify it. If I were holding in my arm today my child with downs syndrome or my child with some other major disability what would I want? Would I want the DOE to continue a fifth study? Would I want the DOE to put on the back burner the issues that are CDS that are basically the lifeline to the survival of my child? I would not. I broke from the Education Committee because I felt the appropriate measure was to be firm and go to the fundamental issues. Not to endorse a fifth study, but to go to the fundamental issues that have been reeking havoc in the system now for over a decade. Yes, there have been major improvements, but I say we must pursue for our children and the people of Maine the best, not what is good, not what can be tweaked, but what is the best. We must give the permission to the Commissioner to do this work. What was unsettling to me is the reluctance of the Commissioner to take this on. I admire his leadership skills, but I was disappointed not to seize the opportunity to make real change. In front of you, you have a Minority and Majority Report. The Majority Report demands that change and its time has come. I hope you can support us.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Estes.

Representative **ESTES**: Mr. Speaker, Ladies and Gentlemen of the House. I could spend probably a good half hour refuting comments that were made from the good Representative from Manchester, Representative Fuller, based on the pink sheet that you passed out, which I believe has many errors and many misleading statements, but I would be too lengthy in going point by point, as there are ten points there. I also would like to say that we have been spending a lot of time talking about what is not before us instead of the Minority Report and there have been references made to the Minority Report being another study. It is not another study. It is taking what has been done in the last few years and allowing it to be responsive to the legislative impact that allowed the creation of the Commissioner's Provider Director Work Group working along with the Maine Advisory Council on the education of children with disabilities. To collaborate and review on the delivery of services and what the problems are out there and to report back to the Commissioner and to the joint committees in January. Where there is a study, is in the other report and it would be an internal study along with the Commissioner of Education which would be completed in less than a three month period. I don't understand what we're going to get out of that that would not be more production than what I think is the reasonable approach of the Minority Ought to Pass as Amended. The other thing that I rise again for the second time and hopefully the last time is that I've been completely flabbergasted by the process. When the original bill no longer had the implication of transferring CDS from the Department of Education to the Department of Health and Human Services, it should have reverted solely to the committee of jurisdiction,

which is the Education Committee, it didn't. The work sessions were very painful and very frustrating and a proposal that I made and a proposal was rejected and then several weeks ago while we were conducting debate on the floor and we were trying to meet in the room and we were continually being called down to vote, either in this body or the other body, we were going nowhere when all of a sudden, poof up came this idea that was not on paper. It was just off the top of someone's head and that idea became the Majority Report. I've tried to work with members of the Majority with what I came up with as the Minority Report and it was to no avail, in fact there were several occasions when there were suppose to be work sessions and the work sessions never materialized. If you really look at the comparison between the two, we're probably 75 percent, 80 percent on the mark in terms of what we want to accomplish. But I will reiterate the words of the good Representative from Portland, Representative Cummings, the bottom line concern is what is best for those children who are identified with disabilities. I think we need time for the process to work a little longer, to come back in January with what is requested in the Minority Report and then if we need to sink the teeth in to the Department, the joint standing committees will be able to do that and make the changes that need to be changed in order to resolve what problems may still be out there. Again I urge you to vote for the Minority Ought to Pass as Amended Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Mapleton, Representative Desmond.

Representative **DESMOND**: Mr. Speaker, Members of the House. I agree that we do not need another study and that is exactly what the Majority Report involves. The Department of Education is involved in this working group and as Representative Estes stated, it is a working group, it is not a study. As I said, the CDS system is in better shape and more stable and equitable both in terms of quality of services and in terms of finances, then it has ever been in its history. Let's not yet have another expensive study and let the new Provider Director Working Group do the work that we have been wanting for several years. The group has moved the process to a higher level in the last two years. The Minority Report will let them finish that work that is needed to make CDS a viable service for the children all over Maine. Support the Minority Report that allows the working group to finish their work. There is no way an outside group can finish a study and have it ready for next session. We will be right back where we started in the last 10 years or more. Thank you.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Laverriere-Boucher.

Representative **LAVERRIERE-BOUCHER**: Mr. Speaker, Men and Women of the House. All I want to say about CDS is it's not working properly in all counties. I know it's not working in York County. It needs to be overhauled. How can a statewide program work effectively if it has 16 different boards of directors? At times one board is difficult enough to manage and implement oversight, how can CDS function with 16 different boards of directors, one in each county. Please support the Majority Report and not the Minority. Thank you.

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Ledwin.

Representative **LEDWIN**: Mr. Speaker, Ladies and Gentlemen of the House. I just need to tell you why I am on the Minority. We're heard about reports, reports, reports and it's true there have been several reports since 1975. However, they have all been internal reports and in the Minority Report you'll notice that the National Council of State Legislatures will be involved in a survey. We need somebody outside the box, we need

someone else to come and take a look at the problem and not just keep going around and around. I'm sure you'll recognize by hearing all of us on the two committees, that we recognize that there are problems, but that doesn't mean that we need to knock down everything and start over. You've also heard that some children are being very well serviced by CDS. We just need to find out where the problems are and then work on that. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Montville, Representative Weston.

Representative **WESTON**: Mr. Speaker, Ladies and Gentlemen of the House. It pains me to say anything counter to my dear friend from Holden, but I just want to turn your attention to the Majority Report, to section three, outside consultations, because there you will see that National Council of Churches, the Muskie Institute, and others are going to be involved in the Majority Report. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Minority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 331**

YEA - Andrews, Annis, Ash, Belanger, Berry DP, Bouffard, Bruno, Carr, Chizmar, Clough, Collins, Colwell, Cote, Crabtree, Cressey, Daigle, Desmond, Dunlap, Duprey, Estes, Fisher, Foster, Glynn, Gooley, Heidrich, Honey, Kasprzak, Labrecque, Ledwin, Marley, Matthews, McKenney, McNeil, Mendros, Morrison, Murphy E, Murphy T, Peavey, Perry, Pineau, Pinkham, Richard, Rines, Rosen, Skoglund, Stanley, Stedman, Thomas, Tobin J, Treadwell, Tuttle, Waterhouse, Wheeler GJ.

NAY - Bagley, Baker, Berry RL, Blanchette, Bliss, Bowles, Brannigan, Brooks, Bryant, Bull, Bumps, Bunker, Canavan, Chase, Chick, Clark, Cowger, Cummings, Davis, Dorr, Dudley, Dugay, Duncan, Duplessie, Etnier, Fuller, Gagne, Goodwin, Green, Hall, Haskell, Hatch, Hawes, Jacobs, Jodrey, Jones, Kane, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, MacDougall, Mailhot, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, Michael, Michaud, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Perkins, Povich, Quint, Richardson, Savage, Schneider, Sherman, Shields, Simpson, Smith, Snowe-Mello, Sullivan, Tarazewich, Tessier, Tobin D, Tracy, Trahan, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Winsor, Young.

ABSENT - Buck, Gerzofsky, Hutton, Lovett, Madore, Marrache, Mitchell, Mr. Speaker.

Yes, 53; No, 90; Absent, 8; Excused, 0.

53 having voted in the affirmative and 90 voted in the negative, with 8 being absent, and accordingly Minority **Ought to Pass as Amended Report was NOT ACCEPTED.**

Subsequently, the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-662) was READ** by the Clerk and **ADOPTED.**

Under suspension of the rules the Bill was given its **SECOND READING** without **REFERENCE** to the Committee on **Bills in the Second Reading.**

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-662)** and sent for concurrence.

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

Ten Members of the Committee on **EDUCATION AND CULTURAL AFFAIRS** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-671)** on Bill "An Act to Implement the Recommendations of the Task Force on the Maine Learning Technology Endowment"

(H.P. 1261) (L.D. 1712)

Signed:

Senators:

MITCHELL of Penobscot  
NUTTING of Androscoggin  
ROTUNDO of Androscoggin

Representatives:

RICHARD of Madison  
DESMOND of Mapleton  
SKOGLUND of St. George  
ESTES of Kittery  
CUMMINGS of Portland  
WESTON of Montville  
LEDWIN of Holden

Two Members of the same Committee report in Report "B" **Ought Not to Pass** on same Bill.

Signed:

Representatives:

STEDMAN of Hartland  
ANDREWS of York

One Member of the same Committee reports in Report "C" **Ought to Pass as Amended by Committee Amendment "B" (H-672)** on same Bill.

Signed:

Representative:

WATSON of Farmingdale

**READ.**

Representative RICHARD of Madison moved that the House **ACCEPT Report "A" Ought to Pass as Amended.**

Representative ANDREWS of York **REQUESTED** a roll call on the motion to **ACCEPT Report "A" Ought to Pass 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 Madison, Representative Richard.

Representative **RICHARD**: Mr. Speaker, Men and Women of the House. I will be very brief. As most of you know, this is in the budget bill and what we have in Report A is exactly what is in the budget bill which has already been passed.

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

Representative **ANDREWS**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative **ANDREWS**: Mr. Speaker, Men and Women of the House. I do believe that last week when we had budget items that had been approved that the corresponding bills were then indefinitely postponed. Is that correct?

The SPEAKER: The Chair would answer in the affirmative.

The same Representative moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED.**

Representative DUNLAP of Old Town **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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 Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. I think the motion that is before us is appropriate. This issue raised a lot of concerns in terms of the funding and the direction in the previous Legislature and it's been an issue on the fringes ever since last December and I think what the Representative from York has done with her motion is point out very correctly that this Legislature has been disenfranchised from having a discussion or debate on this issue that with its inclusion in the budget, it is no longer before us, so if you needed information about the policy, if you wanted to debate the policy, it's moot, it no longer exists, you've been disenfranchised and we might as well vote to indefinite postpone because it doesn't mean anything anymore.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. I would encourage you to vote to indefinitely postpone the recommendations of the task force on the Maine Learning Technology Endowment. I could probably talk about this for three hours but I won't, I've already worn out your ears anyway as I've talked about this over the past two years. I'm here today to speak for District 79, I'm here to speak for the nine out of ten people who told me on the campaign trail that this was not something that they thought that we should be doing. It is also something that I believe, as an educator, that is ill conceived and I have several reasons that I would just like to briefly summarize for you.

First of all you were sitting and listening to the Chief Executive when he talked about his proposal for 15 minutes when we supposedly sat on our hands according to the press, I don't quite remember that, but I do remember his quote. He said we should be like Wayne Gretski. Maine should not be skating to where the puck is, but should skate to where it is going to be. I thought about that on my way home. Would that had been the luxury to live in a state that could skate to where the puck was going? We've been trying to just skate in a poor state. It's been very hard for me to sit back and to watch the happenings of the past two years, because it is so much like something that happened about five years ago. That also, in my opinion, was an ill conceived, top down educational policy. I do not believe that policy should originate at the top unless it has the unpinning of the community of parents, the community of teachers and the community of students and neither the one in 1995, nor the one now before us has that kind of underpinnings. To me it is a promotion of an economic agenda through our schools. It is exhausting our financial and human resources through the dictation of this policy. I have felt that it was full speed ahead with no recognition of the 150 people and myself sitting here. I feel that it ignores communities and their own discreet needs. We were not involved in the preparation of this and now according to this Committee Amendment, an advisory board will be set up that does not acknowledge us either and that advisory board will include some legislators, it will include a member of the state board of education, someone from higher ed, someone from possibly economic development, from PUC, but not one K-12 teacher where this technology will be.

The Chief Executive talked about access, but Maine is 13th in the country for access to technology. He talked about the importance of one on one access to technology for students. One on one access is extremely important. I think as one of my colleagues suggested that one on one access to textbooks is extremely important, one on one access to teachers is sometimes important too. It is fiscally irresponsible, we cannot

talk about the tremendous shortfall on the one hand and the expenditures of these funds on the other. We have legitimate one time requests, many people have said to me, well what are you going to do with one time money. I'm sure you have a list and I have list and it does include school construction repairs, even cost overruns on this building here, but there are also school concerns too, that you have heard, hidden and unanticipated costs, just as the ATM technology, which was one of those top down educational policies that was somehow going to provide access to all students in all high schools of the State of Maine. It has not succeeded and there have been hidden and unanticipated costs and our general fund is being raided every year. We didn't anticipate any of that and that's money that could be going into GPA. It could be going into all the ongoing things that I have just delineated. Schools are worrying that this plan will derail, or circumvent their already existing technology plans. Some schools are saying, why I have a cart of I books and I'd simply like to buy another cart of I books, but if I've got to provide one on one access for everybody before I can access that money, is that equity?

There is a growing resentment in my district of this mandate. It is not only a mandate about where we should go in technology, but it's also a mandate about pedagogy. It ignores teachers. I was sad to learn that the Education Committee never received, survey of computer use by Maine teachers. But I was fortunate to get a copy and contrary to what we were being told, it's not access that teachers are talking about. Teacher's are talking about having the time themselves in order to educate themselves, in order to create programs in learning technologies. I attended one of those demonstrations downstairs. It was given by a person who had a master's degree in learning technology and it was about the Civil War and how Maine relates to the Civil War. I asked the teacher how long did it take you to create this for us and her reply was only two and a half hours. Now she had a Masters in learning technology so I tried to quickly compute how long it might take me to put together something on Shakespeare or Thoreau and I determined for that 30 minute lesson, 45 minute lesson, I could have spent six hours. The pedagogy is not ready for these technologies. The plan is weak. There's a lack of clarity in the plan regarding alternative equivalent option. I've asked person, after person, after person and nobody seems to say the same thing to me about that. There is that inadequacy of the advisory board and by the way, that advisory board is going to establish standards. It is given the power to evaluate the progress and the level of achievement for students, it's given that same power to evaluate teachers, to measure the impact on parents. It does not insure equity.

The final thing I'd like to say is this an appropriate way to spend our funds? Does it deal with the appropriate way to educate students? No one is an expert on how to live a life and it's been shown that visual stimulation is a very poor way to teach the very things that the plan says its going to teach critical thinking skills and problem solving. I think that we are going to be extremely busy providing what the fund will not provide us the money for and that is the ongoing support we're going to need on a daily basis in order to keep 7th and 8th graders engaged. The increased time of booting up, viruses, problem solving, software, upgrades. I can only think that we're going to probably have to have at least one staff person doing that that we're going to have to pay for. That same thing happened with ATM technology. They said it was about equity. You can have this \$90,000 equipment, but they did not give us a classroom, they did not give us a teacher, they did not give us the E rate and so consequently today, five years later, we've spent an extra \$5 to \$6 million from the general fund to prop up six schools who have ongoing out of sequence transfer mode capacity for video

interactive technology. Most people I speak to don't even know that that exists, but a \$15 million bond and \$5 million of general funds in the past year have been being spent on this top down technology that you and I are not using in our schools. Finally I would just like to say that there have been numerous quests for raising student learning, Thomas Edison thought that the motion picture was going to cause us all to give up our textbooks. Many other technologists have promised similar things. When I was in college I remember we had reading machines that were suddenly going to make us better readers. I don't mind spending money on technology, but if we're going to spend it, make sure that we all have equal access to it. Make sure that we honor communities and schools and their ongoing already established, clearly articulated plans for technology in their communities and make sure that we are addressing the needs that actually exist in the classroom. I would urge you to indefinitely postpone this bill and all of its accompanying papers.

The SPEAKER: The Chair recognizes the Representative from Mapleton, Representative Desmond.

Representative **DESMOND**: Mr. Speaker, Colleagues of the House. The Education Committee reported 10 to 3 in favor of LD 1712. Now I like the quote of Wayne Gretski, we need LD 1712 to help us do exactly that, take us where the puck is going. Schools need to get involved in technology. Technology is here and if we don't get involved we're going to be way behind. Maine has often been a leader for innovative, independent thinking. Maine has the opportunity to be such a leader once again by offering technology training to our young people. It is essential that we prepare them for their futures. This plan would allow these students without computers at home to compete more favorably with those who do. Local school systems will set their own policy for home use. The Executive Director of the Maine Mathematics and Science Alliance made the point that the content in science changes so rapidly in many resources and knowledge databases are on the web and are not published in books. The resources now available on the web are real and connect science to the student's world. Real time investigations can be conducted and done more accurately as never before with the aid of technology. The task force report includes a strong commitment to professional development. Essential to the strength of the plan is its funding by use of an endowment. If outside investment is to take place it is important that the endowment stay intact. This endowment assures the continuity of the learning technology plan. This is a tremendous opportunity for the students of Maine and the economic future of Maine.

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative **STEDMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I hope you will join me in the move to indefinitely postpone this bill and all its accompanying papers. You can see that I'm on the Ought Not to Pass Report and for all the reasons that were given by the good Representative from Wayne, Representative McKee, I would say that this could also apply to the Part I Budget, but that is not going to happen. In his presentation of this proposal the Chief Executive said that he hoped one day that the computer, or the laptop, the technology will be an extension of the right hand of every student in the state and all I can say is that I'm very glad that I'm left handed because I have another trained hand to do other things with, besides just being technology literate, so I hope you will join me in indefinitely postponing this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Richard.

Representative **RICHARD**: Mr. Speaker, Men and Women of the House. I would just like to comment on two or three remarks

that were made. It was said technology is here. It certainly is, I can see four laptops right in front of me. It was commented on the professional development, that is in the bill. The professional development will be provided and it's also in the bill that if a school does not want to take the laptops, you opt into this program, you don't have to do it. There's nothing that says you have to do it and if you have a technology program and you want to do more with the technology program that you have then you can work on that rather than taking the laptops. There is a lot of confusion still. Thank you, Mr. Speaker.

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

Representative **BAKER**: Mr. Speaker, Men and Women of the House. I think there is one serious issue here and that is does the technology really improve learning? The fact is there is absolutely no data out there that says laptops improve student learning in history, in math, in science, in writing, it simply isn't there. Now the Education Department will cite a lengthy study if asked and that study is called Powerful Tools for Schooling, Second Year Study of the Laptop Program. They are very positive about laptops and their affect on learning, but I think its important to note that that study was funded by Microsoft and Toshiba. So in other words the studies that we are getting touting the success of these programs are being produced by the vendors themselves. We long have understood what happened when the tobacco industry put out its own studies, so I think we have to look elsewhere and in fact these industry supported studies are basically unreliable. Once you weed those studies out there is really no claim that computers have a significant effect on learning. What they do is effect the understanding of the computer. That makes sense, but in truth all those brilliant 20 and 30 something's out there who understand computers and are creating the new age did not learn it in the 7th grade with laptops. Most big companies will tell you they can train their workers in two to three weeks. Maybe it's not rocket science but it certainly can be learned. So to give our 7th and 8th graders laptops means we are really saying, this is going to make learning better and I have to tell you, not proven and if we are thinking about setting aside \$50 million for a purpose that's untried and untested, I think we are foolish. This is not an area that we need to lead the way. Our Governor is a fine man, but he is not an educator and this plan has not come out of the schools. It has not come out of those who understand pedagogy and who understand learning. Interestingly a parent of a child in a school in Seattle, he's actually a computer engineer and this man's name is Doug Schuler, he says the case for laptops has never been made. If there is an academic deficit, if the students can't do critical reasoning and they can't analyze, these capabilities have nothing to do with a piece of machinery. Laptops are a distraction, a PR exercise. I think we have to understand that in fact the companies pushing them have in fact saturated the business market so they have turned to the school. We don't need to feed that. I'm sorry that the business markets are saturated right now, but we've listened to a lot of technological utopianism as we watch the dot.com tank. The whole market's affected right now and yes, there's a great need to boost that industry, but folks we need to be very careful about conflating education and business. Those two things are not one and the same. At the university, and as a faculty member there for some 25 years, I have watched what's happened to our university system when technology has gotten confused with education. We would shutter to know the millions that have been poured into a system called distance learning in this state, as the end all and be all of education. The reality is you try to get the facts and figures on how many students have actually completed courses at the university, it's impossible under distance learning.

The desire to use that system is so strong that you may be a student trying to get live classes, but on a campus you have to take the distance learning courses, because its about supporting a technology, not supporting learning. For 20 years the state university system has been working with technology and all but one of our seven campuses are still third and fourth rate. This does not improve the quality of learning. I dare say it will not improve the quality of learning in our schools. I think we need to be very, very careful that we're not feeding an industry which is all well and good, but please let us not do this under the guise of education. Thank you.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I fully intended to speak on this issue. I spent two or three years teaching adult ed, teaching computer literacy. I've made a fair amount of money designing web pages and quite a bit of experience with computers and I'll tell you the people who seem to me to excel the most are the ones that are self taught. Who learn on their own, really have the interest, and then went and got more education to get better at it. What I've found in our technological age is that technology via the Internet or any computer type learning is learned best without outside interference, without bureaucrats telling you what works and what doesn't. There's very little bureaucratic interference in the Internet, there was none, there's very little now. It's successful, the Internet technology. Computers are successful because they're fun, people want to learn more and they enjoy it. Once we get involved and we have somebody at the top telling kids this is the future, this particular item that was chosen by this stack of bureaucrats is the best way to go. We hear it laptops. Well maybe there's five or six laptops in the House, but there's probably 10 to 15 palm pilots or equivalents, some would say that's the future, that's what they should be learning. Who's going to guess that? Is someone going to say well this is the best technology, this makes the most sense, let's go with this, because all our studies show that everybody in this House should own a BETA, not a VHS because BETA technology is far better. Hopefully you remember the BETA and how great that was suppose to be and our laser disks, the original ones that had movies on them that were supposedly better then VHS type VCRs. Those were flops, but I can guarantee you that the people who promoted that could have very easily spent money in the right places and gotten bureaucrats on some group to give those out to kids in some state and have all the kids in that state be backwards and not know how to use the technology that's really being used. That's why it doesn't work when you interfere and tinker with it. To allude to analogy made by the Governor and the good Representative McKee, about Wayne Gretski going to where the puck is going to be. The problem is in Maine schools, if Wayne Gretski were a Maine school, he wouldn't have skates on his feet, because in our school, the roofs leak, you can put your hand through walls, they're falling apart, so Wayne Gretski would be running on the ice trying to get to that puck. To end I would like to pose a question through the Chair.

The SPEAKER: The Representative may pose his question.

Representative **MENDROS**: When a constituent comes up to me and asks me why I voted for laptops and then voted to raise taxes to pay for other things, what should I tell them?

The SPEAKER: The Representative from Lewiston, Representative Mendros has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative **DAIGLE**: Mr. Speaker, Men and Women of the House. I have a proposed response for my good friend from Lewiston, Representative Mendros, you can say he did the same

thing as my father when I was a kid, but my parents took their looted income and they bought us a set of encyclopedias to have in the house. Our roof was leaking. Our car was in disrepair. I had holes in my walls and we had government cheese in the refrigerator, but they felt that it was important to buy a learning tool. It was important to have it in our house so it was in our lives every single day and I think that decision was very prudent and I think it part of why I became what I am today. Mr. Speaker may I continue?

The SPEAKER: The Representative may continue.

Representative **DAIGLE**: The only comments I want to make is first of all we talked about pedagogy, well I don't know what that means either. I don't know how even know how to say it, so perhaps at some point that could be explained behind the glass. But I will say that in my business life, I have seen the introductions of computers several times, in several different venues. All of them were met with the very same anxiety, the very same concerns about, is this a waste of money, there are other things that should have come first and finally the visionaries among us said, let's do it. Let's just do it and after it was over, in hindsight in every single situation that I can recall, the only regret was we didn't do it sooner. With that said, I would encourage everybody in this body to vote in favor of the pending motion to indefinitely postpone this bill, because this whole debate is a symbolic gesture given that its already in the budget and passed and if we do indefinitely postpone this thing and kill it, nobody can come around and try to amend it to make it more problematic for those of us who look forward to the program. Thank you.

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

Representative **QUINT**: Mr. Speaker, Men and Women of the House. The district that I represent is on the peninsula of Portland, medium income for most of the families there is a little over \$13,000. In reviewing this proposal, I've never once heard or was it suggested that laptops were to replace education. My understanding is that laptops are to be tools to be used to compliment the educational process. It's about providing access to information. It's about skill building, it's about developing confidence in the students and that when they graduate they will have taken what they need and every student takes a little bit something different and they will be able to go on and repeat, either in higher education or in the job market, but one of things I know for sure is that many of the kids in my district won't have that opportunity, because they don't have access to laptops. They can't buy them, they can barely put food on the table and they probably couldn't buy a set of encyclopedias either. Many of you don't know that at the Maine Youth Center, they put in a learning lab that was developed by Seimore Peppert for youth as an alternative educational approach. That program, although the final results are not in yet, I know a couple of students that have participated in that and it literally has turned them around. Not because it replaced education, not because it replaced books, but because it engaged them. It engaged them in a way that no other teacher, parent, judicial system could. So I think it's important to remember that for those of us who come from districts where there are computers and colleges that have them and that have the luxury of struggling of how to do, or implement the technology within their schools, there are many schools that don't have that luxury and those difficulties. Very much an issue about those who have, and those who have not. Like a previous speaker said, it is up to the schools decision, it's optional. Many schools already have them, and perhaps already have a plan for their school districts, but some school districts don't, particularly those who have leaking roofs and all of those things that have been mentioned that they are struggling with too. But that should

mean that if we have the opportunity to provide technology to every student and if their school district thinks its appropriate that it should not be done. I ask you not to support the pending motion. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Kittery, Representative Estes.

Representative **ESTES**: Mr. Speaker, Ladies and Gentlemen of the House. I'm going to just preface what my real reason for standing is by saying that I came into this Legislature as a skeptic about the so called technology endowment and spent a great deal of time talking with members of my school committee and fellow teachers and our technology people. We took our concerns to the Department and to the Governor and they were answered in the Education Committee work sessions and answered very satisfactorily and I became a big proponent of this legislation, which really doesn't have any reason to be before us other than it was voted out of the Education Committee kind of as gesture on where members of the Education Committee stood. I could go on and talk about the application of technology in the classroom, I've had some tremendous experiences. It's a terrific tool and as a teacher I become a facilitator more than a teacher and often times I get taught more than I ever expected to know from my students in terms of how to use that technology. The real point of my standing is that I'm holding in my hand right now the status of LD 300 which was the budget bill and what happened in the budget bill was that the language in this bill that is currently before us was taken and rolled into LD 300 and so it's really a moot point and we enacted it on the 25th of May, which was a Friday, the Senate enacted it on the 25th of May, which was a Friday, and the Governor signed it as an emergency as of yesterday. So we can continue talking and talking and talking about this but for the sake of time and other items that are on the calendar, I would urge you to vote the indefinite postponement as soon as possible.

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

Representative **ANDREWS**: Mr. Speaker, Men and Women of the House. The reason why I put forward the motion to indefinite postpone is the same reason why I'm on the Ought Not to Pass on this bill. This bill was brought in front of our committee as written after the budget was passed. Now on every other budget item that was passed, the original bills were indefinitely postponed and yet we're asked to bring a bill forward on something that's already in the budget. I have a problem with one item being treated one way and another item being treated the other way. I just wanted to be on record as to why I did an indefinite postpone.

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

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. I agree with what has been said by my good friend from Kittery, Representative Estes, and also my good friend from Arundel, Representative Daigle, in everything they have said. I have been very quiet on the whole issue of the technology endowment, but I have come to believe that this is in fact a century event. I think it's a very important program and I've been given to think this through long and very careful consideration. When this proposal first came before us, I was one of the first ones to howl out in great laughter about the whole idea. As the discussion has moved on, and rolled on, and on, and on, I've thought about my own incredulousness at this and also some other epiphanies, if you will, about some of the things I've dealt with in technology in trying to move forward on technology and some of those statements that have been made to me about why we don't need technologies, things are just better the way we've always done them. One example of that,

it's actually the Representative from Rockland, Representative McNeil, has heard the seminar I have, so I'm sure she will be very familiar with it. One example of technology and how it changes and how people are resistant to that change, I think is evident in the beginning of the 20th century when there was a move afoot within the United States Navy to change the way gunnery officers on naval ships aimed their guns and it sounds pretty innocuous. It was a pretty big flap at the time because the way they had done it had not changed significantly since artillery was put on board naval ships. A gunner would sort of compensate for the roll of the ship and time it and light the fuse and the gun would go off and there is about a one and a hundred chance they would hit the target and an enterprising naval officer reworked some of the guns so they could actually be aimed and moved so they could be aimed continuously and it increased their hit ratio to 90 percent. When he brought that evidence to the senior command he was told we fire a thousand practice shells, we hit it 115 times, no ship afloat can withstand 115 hits, that was the response and it finally took the intervention of the Secretary of the Navy, Theodore Roosevelt, to implement that plan to go from hitting it 115 times out of a 1,000, to about 997 times out of a 1,000. I think you can see the analogy there. I think we have something that is right in the target here. I agree with my good friend from Arundel that I grew up in very poor circumstances, went to the exact same situation where my parents made the investment for an encyclopedia Britannica to make sure we had the resources that we needed to do our studies and we lived off the land a good part of the year. I would urge you to oppose the indefinite postponement motion even if it is symbolic and it is already done in the budget, but I think this is something that certainly deserves our acclamation.

The **SPEAKER**: The Chair recognizes the Representative from St. George, Representative Skoglund.

Representative **SKOGLUND**: Mr. Speaker, Ladies and Gentlemen of the House. I can't miss the opportunity to speak in favor of an education bill this session, even though people say how can you favor this computer bill knowing your general proclivities. Well I agree with my good friends, Representative Baker and Representative McKee, this is being pushed by gigantic companies. It is part of a corporate plan and I think we should recognize that, face it and make adjustments for it. A person who can't use the computer now is just as disadvantaged as a person who couldn't read 40 years ago, and I'm serious about that. This is a tremendous change, the use of computers. Now the use of computers is no substitute for memorization. It's no substitute for understanding and it is no substitute for real education, but it is probably the greatest breakthrough in the spread of information since printing, so it is something entirely different and we have to approach it differently and we have to approach very carefully and with understanding that it is a dangerous thing. It can be used only for purposes of making money and for corporate interest, or it can be used to access information much faster. I was watching the history program on television, one of those call in programs and someone called in, I think it was Slinger, the historian and asked him where they could find certain information, Mr. Slinger advised them to get on the Internet and look up the Library of Congress Index on that topic. We have to be able to do that if we going to be in the running at all as educated people who deal with information. I think the idea of the endowment is what really sells me on it, if it doesn't work, if there is an endowment, we will still have that money left and as far as the schools having leaky roofs, that's because we choose to let them leak. We could remedy that situation if we wanted to spend the money on it, but it's our choice not to, so I am in favor of learning technology. I am not unaware of its dangers, but I don't see any reason for not risking

it anymore then we should have resisted the spread of printed material or teaching people to read. I think this is part of our culture now and the better use we make of it the quicker the better off we're going to be. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Lewiston, Representative Bouffard.

Representative **BOUFFARD**: Mr. Speaker, Men and Women of the House. I'm not an educator, I'm not an expert on this subject and I'm almost computer illiterate. Two years ago when the Executive proposed this, I got a call from my son who lives in California. I'll tell you a little bit about my son in California, he's a systems engineer. He was working for the Rockwell Corporation, which is now the Grelling Corporation, they are the ones who are putting up the space station. And his phone call to me was this, what a great idea that your Governor has of giving laptops to every 7th grader. At that time I told him, well you might think it's a great idea, but it doesn't seem like anybody in the Lewiston, Auburn area agrees with you. They don't think that 7th graders should have laptops. But a committee was formed and its been revised a little bit so I think that technology, if its used properly, as Representative Skoglund said, that it is the tool of the future. It is what our kids are going to be walking into.

Now as far as visuals not being a learning tool, I worked 29 years for a billion dollar corporation and let me tell you from the first day that I went to work for them, they kept saying the way to sell insurance is to use visuals. You had a proposal, you showed people exactly what its going to do and low and behold, you know what is happening. Today, these same insurance agents walk into your home with a laptop computer, they slip in a little disk and they show you everything you want to know, so nobody is going to tell me that this technology fund is something that we shouldn't have. I really believe that this is the way of the future and let's not indefinitely postpone a good thing. Let's let this thing progress for a change, instead of regressing. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Bangor, Representative Baker.

Representative **BAKER**: Mr. Speaker, Men and Women of the House. None of us can disagree with the statements that have been made here. Technology is here, that is not the issue. Technology is here and Maine is one of the top states in the nation in computer access. Sixty some percent of our homes have computers and that was some months ago that that study came out. That number increases every day, it's like televisions they are here, they will be in every home. So its not about whether our school children are going to have access to computers, it's the question is a laptop for every 7th and 8th grader the way to go? Is that the best use of technology? I have listened to some of the good Representatives here today talk about they themselves not being computer literate and that somehow we can't miss this opportunity. Our children must be computer literate and most of them are, certainly my five-year-old grandsons are more computer literate then I ever hoped to be, but I think that begs the question or whether or not if this is a preferred means of learning and teaching. That's another whole issue and we cannot base that on anecdotal evidence. We need real studies. Now I'd like to quote from Larry Kubin who is a former high school teacher, former superintendent and author of a book called *Teachers and Machines, Classroom Use of Technology Since 1920*. Something of an authority, he says, computers in schools have been oversold. The high expectation of vendors, corporate executives, and techno enthusiasts have not been met in greater efficiencies in teaching and learning, revolutionizing of classroom instruction, or higher achievement that can be attributed to the uses of computers. We should not be micro-managing the schools. Embarking on this project when the evidence is not yet in that says this is the way to go. In fact,

Microsoft's own study points out the fact that computers and laptops do nothing to increase achievement tests scores. That's Microsoft's own study.

What we need I think for our school students are first-rate computer labs in every single school. We don't yet have those, that what we need and we need people in the schools trained and savvy and right up to date. We do need technology in the schools and we need computers in the schools, but what we need are first-rate computer labs, that's a manageable goal. It is nowhere proven that a laptop for every 7th and 8th grader is the way to go, no matter how much it might represent feel good legislation to us. Until we're ready to tackle the serious issues in our school, which include the funding of new teachers, the fact that we do not have up to date textbooks in every classroom and the good Representative, Representative Skoglund, suggest we have leaky roofs because we choose to, I would suggest that this body needs to get responsible. I'm sorry it's the Governor's pet project, but we need to get responsible about how we're going to fund our teachers and our schools to provide the best learning possible. I fully support all that the Representatives have said today about how grateful that they have been that their parents provided them with a good set of encyclopedias. I concur, I am very grateful that my parents provided me with a good set of encyclopedias, but that is not the same thing as a laptop for every 7th and 8th grader. Those are two different things and I would opine that kids already have 24-hour access to learning. It's called books. I would like now to propose a question through the Chair, if I may?

The **SPEAKER**: The Representative may pose her question.

Representative **BAKER**: The good Representative from Arundel, Representative Daigle, stated that our debate on this bill is symbolic, if he is correct then why is this bill before us? I understood that passage of the bill would insure the implementation of the endowment, but if we kill this bill, the proposal would fail. I would appreciate clarification. Thank you.

The **SPEAKER**: The Chair would answer that if this legislation is indefinitely postponed then the existing law would continue regarding this matter.

The **SPEAKER**: The Chair recognizes the Representative from Kittery, Representative Estes.

Representative **ESTES**: Mr. Speaker, Men and Women of the House. If we go back several weeks ago when the budget was being comprised, out of the hands of the Appropriations Committee one of the things that was being looked at and negotiated was how much money would remain in the technology endowment fund. At the time the Education Committee was working on doing the final refinement of this bill, LD 1712, and we were almost there. We were within a few T's to cross, a few I's to dot and a few periods to make and what ended up happening was one given evening, it was a decision that was out of our hands and the unique appropriation process that the language that the Education Committee had been working on was taken and was put into LD 300, the appropriations bill, in tact. The next day when we came back to work the bill, that was the exact comment that I made to our committee members. There's no sense in us working on this bill anymore because it has already become part of the budget and our legislative analysis confirmed that and others confirmed and so on Friday, May 25th when we had that vote on the budget bill, we in effect endorsed the technology endowment program as it is currently stated in Committee Amendment "A." Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Farmingdale, Representative Watson.

Representative **WATSON**: Mr. Speaker, Men and Women of the House. I was in the chamber to hear the question put to the chair by Representative Baker of Bangor, because I had some

confusion also in regards to this already having been signed into law through the budget process last evening by the Chief Executive. As some of you may be aware if you've looked at your calendar at the divided report out of the committee, I am alone, Ought to Pass member of the Education Committee as Amended and the Speaker in explaining to all of us, myself included what could happen if we defeat the indefinite postponement that's before the body. It would be an opportunity to obviously amend the law that's already signed into law as part of the budget. I just wanted to explain that to people that if there is a show of support for not passing this indefinite postponement, we could move on with this legislation. If we indefinitely postpone, my understanding is that it will not obviously be able to be amended at all. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. I think I'm truly confused by this. If I'm not the only one, I'll continue. I was led to believe that for those of us who did oppose the learning technology endowment that if we voted for the budget that it was still possible to come back and to amend this language and to vote it down, that what we do on the floor of this House takes precedence over what has previously been stated. Now I assume I have been wrong. I simply do not know how there is any other thing that can happen here today except that is when, when, when. If I am wrong, I would like to pose a question to the Chair, is where does one vote against and for that vote to matter?

The Speaker: The Chair would answer to the Representative, a procedural matter. That the pending question is indefinite postponement of this bill. If this bill is indefinitely postponed the status-quo which was as the Representative mentioned adopted in the budget will prevail. If indefinite postponement does not prevail and Committee Amendment "A" does prevail, again it's the Chair's understanding that that language is identical to the language in the budget, however if Committee Amendment "A" is amended or if another Committee Report is adopted by this chamber, that would provide an opportunity for the body to vote for changes in the existing law of any sort. The pending motion is indefinite postponement.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. The only way that one can vote against Committee Amendment "A" is to amend it, to vote simply against it. If those voting against Committee Amendment "A" were to prevail, it wouldn't matter.

The SPEAKER: The Chair would answer in the affirmative to the first part of the Representative's question. That the way to impact the existing law is to amend. The current question before the House, which is the limit of the debate that we may have before the House. However, is indefinite postponement of the bill and all accompanying papers.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. There was a time when we didn't have computers, I don't know how we survived. We actually got to go play outside when we came home from school. We actually talked to our neighbors without e-mailing. We actually gave jobs to the postal service and now we are living where the Executive says this is progressive, this is visionary, and we must give all our children a chance for the future. This opens the door to everything you'd possibly want to know. But I remember when my parents invested in encyclopedias and I remember when a trip to the library was also a social event. I would like to go on record

opposed to the endowment fund, because the infrastructure of our schools is falling apart. In Biddeford we have trailers. The Mayor of Biddeford now calls it the trailer park. She now has a trailer park, because that's what's happening to our schools. Instead of putting the money into the infrastructure we are putting all our eggs in one basket for this technology, something we just can't live without.

Well my computer broke and I have yet to have it fixed. People call me on the phone, they write to me, they still can communicate with me and life hasn't stopped. My grandchildren can go out and play in the fresh air. They don't have to worry about getting behind that screen and just looking at that for hours. That's what's happening to the teenagers when they get home from school, they get on the Internet, they get on e-mail, they do their homework, they have all the technology, but they spend a lot of time just doing foolish things, things that they could be doing outside in the fresh air. People in offices behind those computers all day long now having carpal tunnel problems. You know, you can't stop progress, that's the way of the future, but there's something to say about libraries and books and other ways of doing things and I am opposed to the \$30 million that the Executive put in it while infrastructure in the schools and lack of books in the schools and lack of teachers getting paid what they deserve is not going on. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of this Bill and all Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 332

YEA - Andrews, Annis, Belanger, Berry DP, Berry RL, Blanchette, Bliss, Bowles, Brannigan, Bruno, Bryant, Buck, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Crabtree, Cressey, Cummings, Daigle, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duprey, Estes, Etnier, Fisher, Foster, Fuller, Gagne, Glynne, Goodwin, Haskell, Hawes, Heidrich, Honey, Jodrey, Jones, Kasprzak, Koffman, Labrecque, Landry, LaVerdiere, Ledwin, Lemoine, Lessard, Lundeen, MacDougall, Mailhot, Marley, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKenney, McNeil, Mendros, Michael, Morrison, Murphy E, Murphy T, Muse C, Muse K, Nass, Norbert, O'Brien JA, O'Neil, Paradis, Patrick, Peavey, Perkins, Perry, Pineau, Pinkham, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Shields, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Stedman, Sullivan, Tarazewich, Thomas, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young, Mr. Speaker.

NAY - Bagley, Baker, Bouffard, Brooks, Dorr, Duplessie, Gerzofsky, Gooley, Green, Hall, Hatch, Jacobs, Kane, Laverriere-Boucher, McKee, McLaughlin, Michaud, Norton, Nutting, O'Brien LL, Sherman, Tessier, Twomey, Usher, Volenik, Watson.

ABSENT - Ash, Hutton, Lovett, Madore, Marrache, Mitchell.

Yes, 119; No, 26; Absent, 6; Excused, 0.

119 having voted in the affirmative and 26 voted in the negative, with 6 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

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The House recessed until the Sound of the Bell.

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(After Recess)

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The House was called to order by the Speaker.

**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.

An Act to Protect Nongroup and Small Group Insureds  
(H.P. 765) (L.D. 984)  
(C. "A" H-617)

TABLED – June 4, 2001 (Till Later Today) by Representative O'NEIL of Saco.

PENDING – **PASSAGE TO BE ENACTED.**

On motion of Representative O'NEIL of Saco, 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-617)** was **ADOPTED**.

The same Representative presented **House Amendment "B" (H-688)** to **Committee Amendment "A" (H-617)** which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative **O'NEIL**: Mr. Speaker, Men and Women of the House. We engrossed this the other night with the Committee Amendment, which was H-617. We found a couple of technicalities that were wrong with it and we also found that when we fixed one of the technicalities it chopped the fiscal note in half. Please accept it.

House Amendment "B" (H-688) was **ADOPTED**.

**Committee Amendment "A" (H-617)** as Amended by **House Amendment "B" (H-688)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-617)** as Amended by **House Amendment "B" (H-688)** thereto in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

**HOUSE REPORT – Ought to Pass** pursuant to Joint Order (H.P. 1358) – Committee on **BANKING AND INSURANCE** on Resolve, to Require Further Study of the Effect and Cost Impact of Mental Illness on the State and Private Health Insurance (EMERGENCY)

(H.P. 1364) (L.D. 1821)

TABLED – June 4, 2001 (Till Later Today) by Representative O'NEIL of Saco.

PENDING – **ACCEPTANCE OF COMMITTEE REPORT.**

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

The Resolve was **READ ONCE**.

Under suspension of the rules, the Resolve was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Representative **DUDLEY** of Portland **PRESENTED House Amendment "A" (H-684)**, which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Portland, Representative Dudley.

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. Just to explain to you folks what this Amendment does, it clarifies what the Committee is asking the Bureau of Insurance and the Department of Human Services, and the Department of Mental Health to do as they study the issue of mental health coverage in insurance policies. It just tries to direct that the study takes into account the cost to the public, to the state for coverage of mental health illness that isn't covered by private pay.

The **SPEAKER**: The Chair recognizes the Representative from Newport, Representative Kasprzak.

Representative **KASPRZAK**: Mr. Speaker, May I pose a question through the Chair?

The **SPEAKER**: The Representative may pose his question.

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. Could someone tell me if this is the Committee Amendment, the Committee Report that we are adopting, or is it an amendment on the Committee Report?

The **SPEAKER**: The Representative from Newport, Representative Kasprzak has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Dudley.

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. This is an amendment to the Committee Amendment, it's a House Amendment.

House Amendment "A" (H-684) was **ADOPTED**.

The Resolve was **PASSED TO BE ENGROSSED** as Amended by **House Amendment "A" (H-684)** and sent for concurrence. **ORDERED SENT FORTHWITH**.

An Act Regarding the Use of Tokens or Tickets for Games of Chance at Agricultural Fairs (EMERGENCY)

(H.P. 1359) (L.D. 1814)

TABLED – June 4, 2001 (Till Later Today) by Representative COLWELL of Gardiner.

PENDING – **PASSAGE TO BE ENACTED.**

The **SPEAKER**: The Chair recognizes the Representative from Lisbon, Representative Chizmar.

Representative **CHIZMAR**: Mr. Speaker, Men and Women of the House. I rise in opposition to enactment of LD 1814. Last year LD 2462 gave the agricultural fairs the option of using tokens or wait until this year to do so. This LD passed 134 to 5 and is now public law. Public law grants the exceptions by permitting the non-profits to conduct games of chance to benefit the purposes of non-profits. Supporters of the bill last year were concerned that the fairs were essentially taking the fair gaming license and turning it over to the for-profit at the request of the fairs in exchange for tokens. These concessions go beyond what other games of chance licenses are permitted and specific chances have been made for the agricultural fairs that are not available to other licensees.

I'd like to share with you some figures, both gross and net from last years fair receipts. Bangor Fair runs for 11 days. The Bangor Fair grossed \$720,000, the net receipts that they reported were \$32,700. That's a difference of \$764,000 and it sure would have bought a lot of tokens. What is traditionally known as Maine's biggest fair, Fryeburg, did not fair as well as the Bangor Fair did, for they only grossed \$267,000 and they only netted \$44,000 and that again, men and women of the House; would buy a lot of tokens. The reason given for not using tokens was in defense of the small fairs saying that they could not afford to pay for the tokens. Well, men and women of the

House, the majority of the smaller fairs did not run games of chance last year and the only opponent was Fryeburg and Skowhegan and I am at a loss as to see why. I have a lot of questions, but I don't have any answers. I wish to ask you to oppose the pending motion and let Public Law 716 do its job.

Representative CHIZMAR of Lisbon moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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 Sanford, Representative Tuttle.

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. I would encourage you to defeat the pending motion. As many of you know the history of this issue. The Legal and Veterans Affairs Committee has reviewed the issue that brought this bill to the Committee last session and this session. Now I know you will probably hear from people that will speak after me that agricultural fairs have stated their reporting requirements without tokens are enough to show accountability and I agree with everything passed last year except the tokens. They are concerned about the impact of the use of tokens will have on fairs, particularly the small ones, like in my area, because of labor availability, revenue in decline as most of us know. They also have expressed concern that they have received no training regarding the law change. The Fair Association is conducting a workshop and the state police have been invited. The state police have also stated that they will be involved with this assistance, that's why it's important that I think we give them one more year to do those deliberations and I think by allowing them that option to do that. There was a brief discussion about the cost of tokens and the possibility of allowing fairs to share the cost. The state police would be willing to work with the fairs on this issue. It was also mentioned at the public hearing that there was some discussion by the Fryeburg Fair regarding a New Hampshire non-profits such as the Conway Fire Department are presently involved with their fire organization. The current law requires the Departments, fair representatives and the state police to issue a report on November 15th of 2003.

Representative Muse from Fryeburg expressed interest in this date being moved up to next year. That's why this bill is before us. All this bill does, it gives the fairs an additional year to use the cash and tokens. In my opinion, it will allow the state police and the fairs to work out an effective compromise and that's why I'm asking for your support, ladies and gentlemen. I hope that we will defeat the present motion, pass the bill in enactment. I have confidence that the fairs can work this compromise out and I'm hoping that you give us a chance.

Representative **STEDMAN** of Hartland **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 Bath, Representative Mayo.

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. The current legislation under which we are operating in this particular situation was the product of a lengthy, and I would repeat lengthy compromise, in the 119th Legislature. It originally started out with the state police indicating that the fairs were operating illegally in this particular arena. They did something for the fairs that has not been done for any other groups, non-profit groups, and that is to allow a lot of this to continue, but to have better accountability. The idea of tokens was a compromise that was accepted by all. Now we find

ourselves in the 120th Legislature with people not liking the compromise that was agreed to. Ladies and gentlemen of this body, this bill LD 1814, which you have before you tonight, is strongly and I would repeat and underline strongly opposed by the state police and the Chief Executive of this state. The compromise was done as far as those groups are concerned, it is over. The compromise took place in the 119th. This is a major compromise and a major concession. I would urge you to support the motion of the good Representative from Lisbon in indefinitely postpone LD 1814. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Gorham, Representative Labrecque.

Representative **LABRECQUE**: Mr. Speaker, Ladies and Gentlemen of the House. We pass many legislations in this body that affects adversely at least 50 percent of the people that we try to help. Last year as has been reported, we tried to address an issue that the state police have had for some time and that deals with the types of gambling that goes on at state fairs. Did we carve out something special for fairs in that they are non-profit and we do not allow any other non-profit agency this opportunity, yes, we probably did, but you need to realize that state fairs only run once a week or one time once a week in a whole year. Sometimes its not even a whole week. When we started to address this issue again in this committee, we were told by various fairs that they were having problems and that the tokens created for them a financial situation that they could not afford. We asked for reports, financial reports. We asked for them from the fairs. I've asked them from the state police. I've asked them from the Agriculture Department. I have not seen them yet. I am on the opposite side of this, because I as has been expressed would like to have an opportunity to see the financial reports and to really understand if there are thousands of dollars being lost somewhere on gambling at these fairs. I need to see proof that that happens before I put a financial burden on the fairs here in Maine. All this bill does is allow them this summer another sunset period, they have to come back to us in January 2002 and report and at that time we will have an opportunity to see what this financial burden is. I ask you to please not support the present motion. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Lebanon, Representative Chick.

Representative **CHICK**: Mr. Speaker, Ladies and Gentlemen of the House. First off, I will say for the benefit of those present here this evening that I currently serve as President of the Maine Association of Agricultural Fairs. As I speak to you this evening about this matter, if there is anything that I say that you doubt I would welcome you to bring it up. I will say that I have full confidence in the ability of each Maine Fair, through their officers, to conduct their fairs within the statutes and they may be observed by the public safety people. I will also say that each one of these fairs have people with years of experience and they are for the most part citizens in each community that are business people, farmers and fully capable. This matter of talking about what public safety views the fairs as being is no different than any other statute that we have to abide by. If it is our automobiles, our income tax, whatever. I am confident that is the fairs are allowed, and I would certainly ask you to defeat this present motion and allow the fairs to conduct their business using money or tokens in conducting the games of chance. Now for you that have gone to fairs, and I'm sure many of you have from when you were real young, everything inside that fairground doesn't come under the games of chance. If you go in and watch somebody knock down three milk bottles with a baseball, that isn't a game of chance, but where there's money involved would be a game of chance. People talk about the Fryeburg Fair and people from Conway or whatever, in the public hearing the



statement was made by a person that is charged with that business to answer questions for the Committee, that people that are members of the Fryeburg Fair and reside in Conway would be allowed to take part in this matter of running the fair and the games of chance. I will also say to you that I asked for a report from last years fairs and Representative Labrecque wanted a copy also and I was told that the person that would do this work was on leave and as yet I have not received this report. However, some of the people that I talked with at the fairs and I visit a lot of them, the amounts of money that you hear kicked about, I didn't hear anything about this, some of these fairs, and I could name a few, that use different methods of games of chance, I don't remember anyone told me they lost money, but I can tell you that some of them didn't make \$1,000 from the games of chance. There's one I'm sure of, the one I take part in at Acton Fair,. So here this evening, I'd really please try to help the Maine fairs, they are something that provides to me some of the greatest entertainment that you can attend in the State of Maine. Of course I might be prejudice, I've been going ever since I first went over the top of the hill to Acton Fair and I saw Munson Lake and the pine trees in a Model-T Ford and three or four miles up the road I came to the main gate and over the top was Union Park Trotting, so even today as I go over the hill and see Munson Lake and the pine trees, I think I'm somewhere near Acton Fair. I've served there as a director for a lot of years. I've taken part in about all of the different things that you would do at a fair. I've pulled cattle, I've showed cattle, I've had charge of showing cattle, charge of showing draft horses, race horses, worked in my father's lunch stand and I have a great respect for the people that I've seen over the years that take part and operate these Maine fairs and this evening realizing that in this body and in the other body there have been favorable votes on this matter and I would ask you tonight to please support us in the Maine fairs. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Patrick.

Representative **PATRICK**: Mr. Speaker, Men and Women of the House. This is one of the few bills that I'd kind of really like to get up and talk about a little bit because I have no baggage. I don't have a fair in my district. I have no experience from the 119th Legislature, otherwise then what I've learned, it was great enlightening. I'm also on the 8 to 5 Ought Not to Pass Report. There's a lot of things I learned during that committee and the one thing that I did learn is about the bill in the 119th is the bill was passed and I don't believe there was intent of compliance by the fairs. I really think they hoped that this would go away and I had been under the assumption that these small fairs would be adversely affected and some of the facts that were eluded to by our Representative from Lisbon is some of the small fairs don't even have games of chance so I guess I don't feel quite as bad as I did for the small fairs.

I go to the fairs for enjoyment and I'm one of the few that do like to gamble and yes, I do like to use coins versus tokens, but when I go to Las Vegas the rules they have there they have tokens and if you want to you can actually buy one for \$5.00 because I guess theirs are a little more expensive. Being a member of a fraternal club, we also have hunters nights, fishermen's nights, casino nights and we ourselves buy tokens by the thousands that are almost like a pachinko chip with our FOE number on them and no one seems to walk away with them and that's some of the worries I've heard on this, but through this whole process the law of the 119th gave them the opportunity that fair association people can run their events with cash, non-profits from anywhere in the state could be hired to get a percentage of the profits, give the percentage to the fairs and help their own profits by doing this. Fryeburg is close to New

Hampshire and I guess there is not a non-profit big enough but I bet you if they put an ad in the paper there'd be non-profits from all over the state trying to make several thousand dollars for good charities. Listening to the facts of the matter by both parties, our state police and the fair association, I would have liked to have been there two years ago because it must have been really exciting and heated because when the smoke cleared and you sit through all the wheat and chaff, the compromise that was struck in the 119th was all compromise by the state police. They wanted to meet them half way, but they met them three-quarters of the way. Our committee asked the two parties to sit down again this year to see if they could come to a compromise and work things out. The same thing, no compromise. The only compromise they wanted was for the state police to back off from their stance and listening to what they were trying to do. The only intent of the law is to try to help the fairs themselves retain a lot more of their money. In our fraternal club we don't let our people handle money, because for some reason it seems to disappear. If you have tokens and you cash them in at the end of the night, it always seems that we always ended up with a little bit more money. There was a problem with the possibility of tokens costing several thousand dollars, but I talked to one of the other Representatives on the committee from Oxford, and said, wow, it would be kind of novel if you can go to one of these places where you can get rolls of tickets for \$7.00. Probably it cost another \$50.00 to have a stamp, whether it says Fryeburg Fair, the year 2000. To have the dates on that stamp, you'd need two colors, probably yellow for a dollar and red for twenty-five cents and that would handle that, and if people throw them away, well you haven't lost anything because they're disposable chips. You can tickets.

When you really get to think about it, if any of you have ever gone to a fair, carnival, or anywhere, do you ever see any of the carnival rides or anything handle cash? They don't. They give you tickets. You know why, because they don't trust their own people. All the law was doing was asking the people to take control of their own matter. I have nothing to gain, nothing to lose, I want to see the fairs institute the rules that were put forth on the 119th because I really believe that this will help them out. Some of the testimony was that what they were to do was to devise safe financial practices in what they were doing was give each group, just for instance say like \$50.00 They run their games after two hours they take all the money back, put it in a safe, give another group \$50.00, go out play for two hours, cash back in. It's kind of funny, after the smoke cleared, they seemed to have a lot more money. This isn't what I made up, this is what I heard at our committee. I know if I was going to the carnival, I wouldn't use money. I like to buy those tickets or a bracelet, but the gambling events you have to have either a token or a ticket and I believe that tickets are as safe as can be.

Some of the things I also heard were during the course of the debates and I hope someone gets up and says I was all wet. The one thing I do have is pretty good hearing, is that during the course of the things in the investigations that were done in the past that state police would notice that the amount that fairs would get probably would be in the range of \$1,000 of the fair in that the moneys, the quarters would be lugged out in five gallon pails. Well I guess they could probably lug out five gallon pails but they would have to come to the cashiers window and I don't think I've ever met anyone that's gone to a fair at one of those Chuck of Luck or some of those games and come back with a pail full of quarters. All this is doing, the whole bill on 119th is to help the fairs make money. Help them hang on to their own money. I don't want to see anything anymore adverse to any fair because I think these are some of the greatest people in the State of Maine, agricultural people are great, they've done a

good job over the years, but if they can't hang onto their money, I don't mind imposing a little rule to help them hang onto their money, so with that I would urge you to vote indefinite postponement. Thank you.

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Representative DUNLAP of Old Town assumed the Chair.  
The House was called to order by the Speaker Pro Tem.

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The SPEAKER PRO TEM: The Chair recognizes the Representative from Fryeburg, Representative Muse.

Representative **MUSE**: Mr. Speaker, Men and Women of the House. I rise, and I'll be brief. I've been involved with the Fryeburg Fair for about 16 years now and I had to reply to the good Representative from Rumford. There were some things that were said that I think we need to look at. First of all, I'd like to say that in terms of compliance, the fairs have complied with the work that was done last year by the 119th. It was good work and I would like to make it clear that the concerns that were expressed with the fair, were not so much with the fair as it was with the operators and the work that was done by the 119th asked the fairs to become accountable and in fact they did. Our fair was one that employed two people who worked all week long, all day long, they would hand out banks, they would take banks back in. All of the accounting was done by the fair and the reports were compiled and sent to the state police. I think there's been some note here in terms of the cost of tokens and I think we need to look a little bit beyond just the cost of tokens. In addition to the cost of tokens, \$5,000 to \$10,000, you also have the cost of booths. You have the cost of the people to run the booths and the lack of income from the people who are no longer going to be able to simply walk by, stop and play a game of chance. The process is a little bit flawed and that you have to go and find a booth, get a token, play a game, if you win go back and cash the token in. We anticipate loss because of that, but we haven't really had time to prove it. We're asking for one more year and I don't think that's a lot to ask at this point. There's been some math that's been tossed out tonight in terms of how much the fairs make and I think it's important that you know how much some of the fairs lose. Our fair just a short time ago wrote checks over \$100,000 to help some of the fairs that did not do as well as we did. We're blessed, we have a good crowd, we have a wonderful fair, but we, too, would like to hang on to some of the money. We don't want to have to subsidize fairs on a year by year basis, so I would state that the accountability does exist, perhaps it can be better, I don't think that the use of the tokens will help things and I ask that you vote against the impending motion. Thank you, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Presque Isle, Representative Duncan.

Representative **DUNCAN**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to just mention the fact that I am a director of the Northern Maine Fair, and our fair did comply last year. We had one person, he had the keys to the machine, he was the only one that unlocked the machines and took the money out and counted the receipts along with a member of the Carney Association. So I'm asking you also to support the fairs, 26 fairs out of the 27, one spoke neither for nor against, but the other 26 all want to use cash one more year and I'm asking you for your support and asking you to defeat the pending motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lewiston, Representative O'Brien.

Representative **O'BRIEN**: Mr. Speaker, Men and Women of the House. I was fortunate enough to be part of that small group

that met with the fair operators, Sergeant Poulin from the State Police that is specially assigned to this area of gambling and anyone else that was interested from Legal and Vets. We were there because the state police had cleared identified a problem. As you know, you cannot just go out and set up any kind of a gambling endeavor in the State of Maine. The state police have rules and laws that they are going to have to have people abide by. The fairs are non-profit organizations as they were set up to be to help the communities as we know, for years and years and years. The fairs in all of the communities starting in July, going through August, going through September until we hit that great October Fryeburg Fair. I don't think anyone who has ever gone to a fair as a youngster would say that they didn't enjoy it as an adult and continue to go back. What we're talking about is whose been making the money off the games of chance and the rides at the fair when cash money is used?. That's what it breaks down to, whose really been making the money, so the state police with even the legal arm of the fairs as well as an ombudsman for the fair, wonderful, wonderful people, all of them. We didn't try to do this like over a night or over an afternoon, or just over coffee and one biscuit in the morning. We spent many meetings at this, allowing all parties to voice where were they coming from, what needed to be worked out, identify it, write it down, then we will discuss it. The final thing is this, if the fair is going to have all of its people running the games of chance, cash can be used, if you're going to have someone else running them, it's tickets or tokens, not cash money. Even I have pockets in my slacks. No way do you use cash money unless you are actually one of the fair people, this was the decision made agreed to and believe me the state police continued to watch what was happening and they didn't blow anybody out of the water, they didn't hold anybody's feet to the fire, but they still noticed what was going on. We can't hold this back now. The agreement was that this is what would happen at the fairs when there were games of chance and as you know, an agreement is an agreement, a decision is a decision, a handshake has to stand for something. This is what we have here, please go along with indefinite postpone. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative Muse.

Representative **MUSE**: Mr. Speaker, Men and Women of the House. I rise in opposition to the pending motion. I spent many years working at the Fryeburg Fair, I don't recall ever inspecting a barn, but I was there and I worked for the Fryeburg Fair Police. They actually have their own legitimate police department that works for about 10 days during the year and then they disappear. Every single year at the start of the fair that police department gets together and they talk about how the week is going to unfold and what's going to happen and who's doing what and what new laws have been enacted and how they'll be enforced and we'll carry them out. It's a very well organized group of individuals, people who actually take vacation time from their jobs, most of them as police officers actually from around the country. I could never quite understand that, actually people from California, worked for police departments in California that take vacation time to come and work for the Fryeburg Fair Police.

Our cultural fairs are very much a part of what makes Maine what it is. I recall, and thankfully speaking to a minority of the membership in this room. Just a couple of months ago we talked about elephants and that slippery slope was brought up that if we passed that bill, it might actually impact our agricultural fairs and people voted against that bill for that reason. Well this is a bill that is going to take money directly out of the pockets of the fairs. They've asked for one year to come back and give information to this body, I don't think that's asking for a whole lot. I hope that we can oppose the pending motion.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Bath, Representative Mayo.

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. Not to prolong this interesting discussion or debate a great deal longer but I would like to put two further bits of information on the record. One would be that in the year 2000 according to the information given to us by the Department of Agriculture, the following fairs did not have any gambling: the Union Fair, Topsham Fair, North Waterford, Monmouth, and Acton. The other interesting bit of information that we were given is that in the year 2000 was one of the fairs in the state, the Windsor Fair decided that it would experiment and go with the tokens and a very interesting thing happened. The difference between the gross and the net, because they were running their own games of chance, as they had to, was less than \$1,000 as opposed to what we heard on the Bangor Fair that it approached \$700,000. Bear in mind that the majority of the committee is not saying that the fairs are doing anything illegal. It is the people who come on to the fair grounds and run the games of chance that are taking the money away from the fairs. It was the contention last year when this body passed the legislation and it is the contention of the majority of the committee this year. Tokens will, in fact, lead to an increase in the income of the fairs of the State of Maine. I urge your support of the indefinite postpone motion.

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

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. It must be a full moon, briefly, just a few points of clarification. Tokens are essentially, as we've heard, another form of currency, which will be no easier to count than cash will. It was mentioned at the hearing that tokens are a substantial cost. You're talking anywhere from 5,000 to 10,000 per fair, Fryeburg estimates its going to be \$15,000. Now fair goers are not big gamblers, they participate in games of chance on a small time basis. Let's not treat fairs like they're Allophone. Let's give them another year. Let's work this thing out. I think it's a reasonable thing to do. I ask you to defeat the pending motion.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Lisbon, Representative Chizmar.

Representative **CHIZMAR**: Mr. Speaker, Men and Women of the House. The good Representative from Sanford just quoted you a price of \$5,000 to \$10,000 from the Fryeburg Fair. That is their estimate. I can tell you that tokens will be no more than 18 cents apiece. Thank you.

The **SPEAKER PRO TEM**: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone this Bill and all Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 333**

**YEA** - Baker, Blanchette, Bouffard, Brooks, Bull, Carr, Chizmar, Cote, Cowger, Cummings, Daigle, Davis, Dudley, Duplessie, Estes, Fuller, Green, Hall, Hatch, Laverriere-Boucher, Lessard, Mayo, McKee, Michaud, O'Brien LL, Paradis, Patrick, Peavey, Pineau, Povich, Richardson, Tracy, Twomey, Watson, Wheeler EM.

**NAY** - Annis, Belanger, Berry DP, Berry RL, Bliss, Bowles, Brannigan, Bryant, Buck, Bumps, Bunker, Canavan, Chase, Chick, Clark, Clough, Collins, Colwell, Cressey, Desmond, Dorr, Dugay, Duncan, Dunlap, Duprey, Etnier, Fisher, Foster, Gagne, Gerzofsky, Glynn, Goodwin, Gooley, Haskell, Hawes, Heidrich, Honey, Jacobs, Jodrey, Jones, Kane, Kasprzak, Koffman, Labrecque, Landry, LaVerdiere, Ledwin, Lemoine, Lundeen, MacDougall, Mailhot, Marley, Matthews, McDonough, McGlocklin, McGowan, McLaughlin, McNeil, Mendros, Michael,

Morrison, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Neil, Perkins, Perry, Pinkham, Quint, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Smith, Snowe-Mello, Stanley, Stedman, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Trahan, Treadwell, Tuttle, Usher, Volenik, Waterhouse, Weston, Winsor.

**ABSENT** - Andrews, Ash, Bagley, Bruno, Crabtree, Hutton, Lovett, Madore, Marrache, McKenney, Mitchell, Murphy E, Richard, Rines, Skoglund, Wheeler GJ, Young, Mr. Speaker.

Yes, 35; No, 98; Absent, 18; Excused, 0.

35 having voted in the affirmative and 98 voted in the negative, with 18 being absent, and accordingly the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

Representative **TRACY** of Rome **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**: A roll call has been ordered. The pending question before the House is Enactment. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 334**

**YEA** - Annis, Belanger, Berry DP, Berry RL, Bliss, Bouffard, Bowles, Brannigan, Bryant, Buck, Bumps, Bunker, Canavan, Chase, Chick, Clark, Clough, Collins, Cowger, Cressey, Desmond, Dorr, Dugay, Duncan, Dunlap, Duprey, Etnier, Fisher, Foster, Gagne, Gerzofsky, Glynn, Goodwin, Gooley, Hall, Haskell, Heidrich, Honey, Jacobs, Jodrey, Jones, Kane, Kasprzak, Koffman, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lundeen, MacDougall, Mailhot, Marley, Matthews, McDonough, McGlocklin, McGowan, McLaughlin, McNeil, Mendros, Michael, Morrison, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Neil, Paradis, Perkins, Perry, Pinkham, Richardson, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Smith, Snowe-Mello, Stanley, Stedman, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Trahan, Treadwell, Tuttle, Twomey, Usher, Waterhouse, Weston, Winsor.

**NAY** - Baker, Blanchette, Brooks, Bull, Carr, Chizmar, Cote, Cummings, Daigle, Davis, Dudley, Duplessie, Estes, Fuller, Green, Hatch, Hawes, Lessard, Mayo, McKee, Michaud, O'Brien LL, Patrick, Peavey, Pineau, Povich, Quint, Tracy, Volenik, Watson, Wheeler EM.

**ABSENT** - Andrews, Ash, Bagley, Bruno, Colwell, Crabtree, Hutton, Lovett, Madore, Marrache, McKenney, Mitchell, Murphy E, Richard, Rines, Skoglund, Wheeler GJ, Young, Mr. Speaker.

Yes, 101; No, 31; Absent, 19; Excused, 0.

101 having voted in the affirmative and 31 voted in the negative, with 19 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

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

**SENATE PAPERS**

**Non-Concurrent Matter**

Bill "An Act to Repeal the Presidential Preference Primary Elections"

(H.P. 960) (L.D. 1273)

Majority (11) **OUGHT TO PASS** Report of the Committee on **LEGAL AND VETERANS AFFAIRS READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED** in the House on May 29, 2001.

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

Representative TUTTLE of Sanford moved that the House **INSIST**.

Representative GLYNN of South Portland **REQUESTED** a roll call on the motion to **INSIST**.

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

Representative LABRECQUE of Gorham moved that the House **RECEDE AND CONCUR**.

On motion of Representative CLARK of Millinocket, **TABLED** pending the motion of Representative LABRECQUE of Gorham to **RECEDE AND CONCUR** and later today assigned.

**Non-Concurrent Matter**

Bill "An Act to Guarantee Girls Equal Access to Sports Teams"

(H.P. 1281) (L.D. 1741)

Minority (3) **OUGHT TO PASS AS AMENDED** Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-623)** in the House on May 29, 2001.

Came from the Senate with the Majority (10) **OUGHT NOT TO PASS** Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS READ** and **ACCEPTED** in **NON-CONCURRENCE**.

Representative WATERHOUSE of Bridgton moved that the House **RECEDE AND CONCUR**.

Representative NORBERT of Portland **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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

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

**ROLL CALL NO. 335**

**YEA** - Berry DP, Berry RL, Bouffard, Bowles, Bryant, Buck, Bumps, Bunker, Carr, Chase, Clough, Collins, Cressey, Daigle, Duprey, Estes, Etnier, Fisher, Foster, Fuller, Gooley, Heidrich, Honey, Jacobs, Kane, Kasprzak, Labrecque, Landry, LaVerdiere, Ledwin, Lemoine, Lessard, Mailhot, Matthews, Mayo, McLaughlin, Muse C, Muse K, Nass, Nutting, O'Brien JA, Peavey, Pineau, Pinkham, Schneider, Shields, Stanley, Stedman, Tessier, Tobin D, Tobin J, Trahan, Treadwell, Tuttle, Waterhouse, Weston, Wheeler EM.

**NAY** - Annis, Baker, Belanger, Blanchette, Bliss, Brannigan, Brooks, Bull, Canavan, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Davis, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Gagne, Gerzofsky, Glynn, Goodwin, Green, Hall, Haskell, Hatch, Hawes, Jodrey, Jones, Koffman, Laverriere-Boucher, Lundeen, MacDougall, Marley, McDonough, McGlocklin, McGowan, McKee, McNeil, Mendros, Michael, Michaud, Morrison, Murphy T, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perkins, Povich, Quint, Richardson, Rosen, Savage, Sherman, Simpson, Smith, Snowe-Mello, Sullivan, Tarazewich, Thomas, Tracy, Twomey, Usher, Volenik, Watson, Winsor.

**ABSENT** - Andrews, Ash, Bagley, Bruno, Crabtree, Duncan, Hutton, Lovett, Madore, Marrache, McKenney, Mitchell, Murphy E, Perry, Richard, Rines, Skoglund, Wheeler GJ, Young, Mr. Speaker.

Yes, 57; No, 74; Absent, 20; Excused, 0.

57 having voted in the affirmative and 74 voted in the negative, with 20 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

On motion of Representative NORBERT of Portland, the House voted to **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**. Sent for concurrence.

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

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

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-683)** on Resolve, to Provide Adequate Reimbursement for Durable Medical Equipment

(H.P. 872) (L.D. 1151)

Signed:

Senators:

LONGLEY of Waldo  
MARTIN of Aroostook  
TURNER of Cumberland

Representatives:

FULLER of Manchester  
BROOKS of Winterport  
DUDLEY of Portland  
KANE of Saco  
LAVERRIERE-BOUCHER of Biddeford  
DUGAY of Cherryfield  
LOVETT of Scarborough  
NUTTING of Oakland  
O'BRIEN of Augusta

Minority Report of the same Committee reporting **Ought Not to Pass** on same Resolve.

Signed:

Representative:

SHIELDS of Auburn

**READ.**

On motion of Representative KANE of Saco, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Resolve was **READ ONCE**. **Committee Amendment "A" (H-683)** was **READ** by the Clerk and **ADOPTED**.

Under suspension of the rules the Resolve was given its **SECOND READING** without **REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-683)** and sent for concurrence.

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

Reference is made to Bill "An Act to Exclude Credit Balances Between Business Associations from Unclaimed Property"

(H.P. 1088) (L.D. 1457)

In reference to the action of the House on June 5, 2001, whereby it Insisted and Joined in a Committee of Conference,

the Chair appoints the following members on the part of the House as Conferees:

Representative LaVERDIERE of Wilton  
 Representative MUSE of South Portland  
 Representative MADORE of Augusta

**ENACTORS**

**Emergency Measure**

An Act to Require Reporting on Children's Crisis Services  
 (H.P. 493) (L.D. 633)  
 (H. "A" H-655 to C. "A" H-646)

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. 123 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Emergency Measure**

An Act to Implement the Recommendations of the Department of Environmental Protection on Ambient Water Quality Criteria for Mercury

(S.P. 393) (L.D. 1308)  
 (H. "A" H-638 to C. "A" S-276)

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. 102 voted in favor of the same and 19 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Resolves**

Resolve, to Ensure Comprehensive and Accurate Medical Eligibility Assessments

(H.P. 161) (L.D. 172)  
 (C. "A" H-660)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Resolve, to Increase Medicaid Reimbursement for Certain Providers

(H.P. 172) (L.D. 183)  
 (C. "A" H-659)

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

On motion of Representative FULLER of Manchester, was **SET ASIDE**.

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-659)** was **ADOPTED**.

The same Representative presented **House Amendment "A" (H-679)** to **Committee Amendment "A" (H-659)** which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Manchester, Representative Fuller.

Representative **FULLER**: Mr. Speaker, Ladies and Gentlemen of the House. Committee Amendment "A" which is

what we came out with on this bill increased all Medicaid fee based providers up to 70 percent of usual customary charges. I agree that all these providers need a fee increase, but the fiscal note to do this was \$4.8 million and \$15.2 million for each of the years of the biennium. It's evident to me this will not be funded. H-679 is an amendment to limit the fee increases to physical therapist, occupational therapist, speech and language pathologist and audiologist, as was proposed in LD 183 before the Committee Amendment. The Medicaid rate for these providers has been at 37 to 41 percent of usual and customary charges. They have not had a fee increase since 1991, 10 years, the longest of any providers. The fiscal note for this amendment would be \$62,000 in fiscal year 2002 and \$127,500 in 2003. I urge your support on this amendment, which would address this inequity in the Medicaid payments for these providers. Thank you.

House Amendment "A"(H-679) was **ADOPTED**.

**Committee Amendment "A" (H-659)** as Amended by **House Amendment "A" (H-679)** thereto was **ADOPTED**.

The Resolve was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-659)** as Amended by **House Amendment "A" (H-679)** thereto in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

**ENACTORS**

**Acts**

An Act to Ensure Appropriate Audit Procedures  
 (H.P. 211) (L.D. 246)  
 (C. "A" H-664)

An Act to Permit Foster Parents to Purchase Group Health Insurance

(H.P. 275) (L.D. 353)  
 (H. "A" H-644 to S. "A" S-264)

An Act to Address the Crisis in Personnel, Insurance and Heating Costs in the Provision of Community Mental Health Services

(H.P. 956) (L.D. 1270)  
 (C. "A" H-669)

An Act to Implement the Recommendations of the Task Force on Educational Programming at Juvenile Correctional Facilities

(H.P. 982) (L.D. 1306)  
 (C. "A" H-667)

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.

An Act to Offer Greater Financial Incentives Promoting Quality Child Care

(S.P. 48) (L.D. 216)  
 (C. "A" S-291)

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

On motion of Representative BOWLES of Sanford, 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. 336**

YEA - Annis, Baker, Belanger, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bryant, Bull, Bumps, Bunker, Canavan, Carr, Chick, Chizmar, Clark, Collins, Colwell, Cote, Cowger, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Glynn, Goodwin, Green, Hall, Hatch, Hawes, Honey, Jacobs, Jones, Kane, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Mailhot, Marley, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Mendros, Michael, Michaud, Muse C, Muse K, Nass, Norbert, Norton, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Pineau, Povich, Quint, Richardson, Rosen, Savage, Schneider, Shields, Simpson, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Trahan, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Mr. Speaker.

NAY - Berry DP, Bowles, Buck, Chase, Clough, Cressey, Duprey, Foster, Gooley, Haskell, Heidrich, Jodrey, Kasprzak, Labrecque, MacDougall, Morrison, Murphy T, Nutting, Pinkham, Sherman, Stedman, Treadwell, Waterhouse, Wheeler EM, Winsor.

ABSENT - Andrews, Ash, Bagley, Bruno, Crabtree, Hutton, Lovett, Madore, Marrache, McKenney, Mitchell, Murphy E, Perry, Richard, Rines, Skoglund, Wheeler GJ, Young.

Yes, 108; No, 25; Absent, 18; Excused, 0.

108 having voted in the affirmative and 25 voted in the negative, with 18 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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An Act to Eliminate the Marriage Penalty Under the Income Tax Laws

(H.P. 475) (L.D. 615)  
(C. "A" H-657)

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

On motion of Representative DUPREY of Hampden, 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. 337**

YEA - Annis, Baker, Belanger, Berry DP, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Bryant, Buck, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Cressey, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Duprey, Estes, Etnier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Glynn, Goodwin, Gooley, Green, Hall, Haskell, Hatch, Hawes, Heidrich, Honey, Jacobs, Jodrey, Jones, Kane, Kasprzak, Koffman, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, MacDougall, Mailhot, Marley, Matthews, Mayo, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Mendros, Michael, Michaud, Morrison, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Pineau, Pinkham, Povich, Quint, Richardson, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Snowe-Mello, Stanley,

Stedman, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Twomey, Usher, Waterhouse, Watson, Weston, Winsor, Mr. Speaker.

NAY - Smith, Volenik.

ABSENT - Andrews, Ash, Bagley, Berry RL, Bruno, Crabtree, Hutton, Lovett, Madore, Marrache, McDonough, McKenney, Mitchell, Murphy E, Perry, Richard, Rines, Skoglund, Wheeler EM, Wheeler GJ, Young.

Yes, 128; No, 2; Absent, 21; Excused, 0.

128 having voted in the affirmative and 2 voted in the negative, with 21 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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**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 (7) **Ought Not to Pass** – Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (H-642)** – Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Hold Petition Circulators to the Same Standards as Political Candidates"

(H.P. 1000) (L.D. 1337)

TABLED – May 31, 2001 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING – Motion of same Representative to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

Representative TUTTLE of Sanford **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass as Amended** 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 Sanford, Representative Tuttle.

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. It's my hope that you would support the pending motion. We had a previous debate where we had talked about letting the people decide and I think that in this case we are allowing the people to decide by voting for this bill. The amended version of the bill, since we changed the title, it prohibits the collection of the direct initiative within 50 feet of the voting place, from the original 250 feet, if approved by the voters in the year 2002. Now many of you know, Maine is only one of two states that allows petitioners in the polls and Montana is the other one. Before 1997 Maine did not allow petitioners at the polls. The law was changed and I guess the rest is history. In my opinion this institution has paid a very high price as has the people of the state.

Now we had passed out a number of editorials, one from the *Bangor Daily News* that I had passed out and another issue was passed out by the good Representative LaVerdiere. I'd ask that you review those and I will paraphrase briefly in the editorial, it says one of the reform measures under consideration LD 1337 would move petition gathering from the poll to 50 feet. It says the same buffer zone as presently existed for political candidates. The point is that the proposal is not as some truly irate opponents allege at the public hearing. To make petitioners stand in the road or the swamp the sanctity of the voting process has come before, way before the convenience of the single gatherers. Now if you look on the back of the editorial, it says since 1910. According to the Secretary of State's Office, Maine voters have faced 42 citizen initiatives, the great majority of

those have come within the last 20 years, as political activists have seized on the initiative process to accomplish what they can't through the legislative process. The referendum process has become a run around our system of representative government, to often reducing complex issues, as many of us know, to confusing or outright deceptive yes or no questions. Far too many citizens mark such ballots with only the vaguest idea of the consequences. Ladies and gentlemen of the House, as many of you know, I have over the years been involved in the initiative process. I know we had a bill earlier dealing with the municipal level, which I did vote for, because I thought that the system had gotten out of balance there, but what I'm telling you, it's the system the way the state sets it up now is out of balance. I'm hoping that by passing of this measure that we will get the system back in balance.

We did receive a number of information from the public hearing, a number of people did testify in favor of the bill. We got letters from former Governor Kenneth Curtis, former Governor John McKernan, the Sportsman's Alliance of Maine, the Farm Bureau, the Maine Forest Products Council, the Maine Snowmobile Association, the Maine Bow Hunters Association, the Maine Osteopathic Association, the Workers Compensation Coordinating Council, the Maine Merchants Association, the Maine Professional Guides Association, the Wild Blueberry Commission of Maine, and the Maine Grocers Association. Not the usual people that you think might be involved in this issue. When I think that usually people of what I consider moderate public policy perspectives. Now there have been a number of polls for those of you who might ask on how the average citizen feels, it said, would you favor or oppose making signature gathering stand from the polling place instead of right next to the ballot boxes. Out of that 27.6 percent strongly favor, 30.7 percent favor somewhat. The second question, would you favor or oppose requiring certain percentage of signatures. That's something you've already previously dealt with.

From the last question that was given to committee, it said the current process is being abused and there should be reforms that set a higher requirement to get referendum questions to the ballot of 57 percent of the people voted in favor of. At the public hearing we received testimony in favor from the Maine Municipal Association. It said the Maine Municipal Association voted in favor of LD 1337, because it would enhance the integrity of the election process. Municipal officers believe the presence of circulators in the polling place degrades the voting process by enabling individuals to essentially lobby a voter and advocate on behalf of a particular issue. It said also municipal officers believe that the absence of petition circulators from the polling place will relieve election clerks and wardens of the added responsibility of monitoring this activity. As you are all aware, election personnel have many other election-day responsibilities that should take precedence over monitoring such activities.

We received testimony from the Sportsman Alliance of Maine it said, that the citizen initiative is no longer a Maine event, as many of us know. This Legislature has an opportunity to take the process away from national special interest groups and put Maine people back in charge. The Sportsman's Alliance of Maine supports these reforms of the citizen initiative process because we are all well aware of the damage that certain anti-hunting and trapping groups are doing to our outdoor heritage all over the country. Unfortunately, these groups are now active in Maine. It said in the letter that they would ask two things, first they would ask that they demonstrate statewide support on the gathering of signatures. We would ask that they stay out of Maine polling places and respect the important right to vote that's carried out there. No Maine citizen should be intimidated and dissuaded from voting because they have to run the gauntlet of

petitioners at their polling place. Let those petitioners walk our neighborhoods in Mount Vernon, Milbridge, Milo, Madawaska when it's time for thoughtful dialogue and consideration of these proposals. That's all we ask and let's make the citizen initiative process a Maine event again. I would agree and I would ask that we send this out to vote. Let the voters decide and I would ask that you support the pending motion.

Representative TRACY of Rome moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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 Freeport, Representative Bull.

Representative **BULL**: Mr. Speaker, Men and Women of the House. I rise in strong support of the pending motion here tonight. One of the pieces of paper that just came across your desk which hopefully hasn't already hit the recycling bin, is a photocopy of current law. This to me is the fundamental reason why this bill should be indefinitely postponed. Current law is sufficient already to give the wardens the power and the responsibility to deal with petition collectors within the polling place. Chapter 21A, section 662 under the wardens, subsection 4, says the wardens may select and designate a specific location at the voting place assessable and observable by the voters for the collection of signatures may take place. Persons collecting signatures at the polls may make arrangements with the clerk prior to election day, and the warden on election day. The warden may limit the number of persons collecting signatures to one for each specific question, candidate or issue. It also goes on to say that persons collecting signatures may not solicit a voters signature until the voter has completed voting. The warden may direct removal under subsection 2, paragraph A, of any person collecting signatures who do not comply to the requirements of this subsection.

Reading that, ladies and gentlemen, I kind of question why we need to be changing this law. Seems to me perfectly clear that current law is sufficient. It gives the wardens the tools necessary in order to police and monitor the collection of signatures for petitions in the voting places. So I'm wondering what is the problem here, why is this bill before us. I must say this is my third term here and this is the third time I have seen this bill. I think we only need to look at the last election where we had the two citizen initiated referendums. The one dealing with forestry and the gambling initiative, dealing with Scarborough Downs, and they both were defeated and there's not an overwhelming number of citizen initiated petitions that have been passed by the voters. The voters are intelligent, they are selective and they understand what the issues are. I represent two towns, the Towns of Freeport and Pownal, and I've talked to my wardens and my clerks in both these towns and both have reported that there is not a problem. In Freeport we vote in the gymnasium at the high school. You come in through the hallway and it opens up in the gym and the signature collectors are over here on the side. If you come out you can stop by and talk to them and sign if you want, but if you choose not to, you simply walk by them. We have a very, very tough warden in Freeport, believe you me, I've been spoken to on a couple of occasions by her and she put me right in my place. She is not afraid to put these people in their place if they are not acting properly. In Pownal it's a little different, it's in a small hall call Mallard Hall, you come down a narrow hallway and it opens up into this room, maybe 60' x 80', 80' x 100', not a huge room and the polling place is right ahead. There's a collection of people arrayed

along the side there, everything from people collecting signatures for petitions, but also the local historical society, local groups having bake sales, all sorts of other groups. It's a community event. People come in there they grab something to eat, they talk to their friends to see what's what, read the petitions, sometimes they sign and sometimes they don't. So I'm not really sure what the issue is here.

With all due respect to the proponents of this bill, I have heard that there are some issues in some towns. I would argue again that the issue here is not to throw the petition collectors out on the street, it is simply to enforce the laws that are already on the books and to give the wardens the training that they need to enforce the laws. There's a bill that's been passed by this House and it's sitting on the Appropriations Table that would help in that training, L.D. 1337, sponsored by the good Representative from Fairfield, Representative Tessier, dealing with the training of voter registration clerks, which would require a training session, sponsored by the Secretary of State, at least once every two years, in regard to the conduct of elections. So we have a bill sitting down on the Appropriations Table right now that would help address some of this issue if lack of enforcement is the problem.

Even as amended, I see this bill as being too restrictive. Fifty feet in Pownal would put the people collecting the signatures, I'm not very good at distances, would either put them in the middle of Route 9, or somewhere near the cemetery. We're not in Chicago, so we don't usually go after dead people to get things on the ballot here and I don't think we should be encouraging that. I would simply argue that current law is perfectly sufficient on this issue. Current law allows the wardens a great deal of power to monitor and to even expel people collecting signatures in the polling places. I don't see the pressing issue here and I see this as unduly restrictive to the citizen's process. So I would encourage you to support the indefinite postponement. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. As usual my good friend, the Representative from Freeport, is 100 percent right. I agree with him entirely on every issue. In fact, if you were to look at my notes, you would have gone right down and clicked off each and every one of them. But I do feel compelled to speak briefly on this issue. I do think this is an issue hunting for a problem. I might relate this story in my home town, that when we have petition signature gatherers in the town hall and we walk in and they're at the table the back and nobody's bothered by that. We have a warden to take care of anything that happens and like the good Representative said in his town, they have baked goods in the back and you can go up and buy some of those and you can see what they have on the table to sign whether you want to sign it or not. The people did turn down all those referendum items that were on the ballot last time around, so I trust their judgment, I trust the people's judgment. I understand there are some complicated issues, but somehow the people manage to weed through those issues and come to a conclusion and I thought in this last time around, they came to all those good conclusions, 100 percent.

As far as SAM and the hunters supporting this issue, I understand that, I've talked to hunters in my area and they were concerned that people moving up from out of state that didn't have a hunting tradition would put something on a referendum to take away the hunting rights. I told them that that fear does not warrant a truncating of democracy. Also I think that those fears are very much unwarranted because of the strong numbers of hunters we have in the state and the strong hunting tradition. I

don't see that ever happening and certainly it doesn't warrant proceeding with this measure tonight.

The other thing that I get a lot from the people back home, when they come up to me and they talk about referendums, they say why do you people send us referendums? We send you up there to make decisions, don't send them back for us to make them. Thank you.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. The way I look at this is when people go in to vote, people collecting signatures already know that they're registered to vote. The way my home town does it, you go in the gymnasium you vote, you come around and put in your ballot and there they are. It's like someone at a store. As you go through the checkout line asking you for another dollar or two. Maybe the election wardens aren't doing their job, but the way I go out and collect signatures is I go out and I let anyone sign it, I don't care if they are democrat, independent, or republican. I'll let anyone sign it. What this does is it says that you already know they are a registered voter, what's the harm of putting them out 50 feet. What's the harm in this, ladies and gentlemen, let's work like everybody else does. If you want signature go out and get them, like we do, or some people don't even have to do that, they just go out and send a thing back home and have people just fill it out, so people don't even know if they're registered to vote, some people don't even know if they're from the same area, or from the same district. What we've got to do is make what's fair, fair.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. First off, we begin by saying I'm not afraid to let the people vote and decide when we send out. When people get signatures we've heard that the wording on those referendum questions is odd and sometimes its confusing when some branches do it. Well the people elected us. The people in my district, I know, are brilliant because they elected me and I assume that everyone else in here must think that the people in their district are pretty smart to elect them. I trust them, but when someone goes out and gets signatures and puts something on the ballot, they'll make the right decision.

I've heard some other points I need to get at. The sanctity of the voting place. Well this country used to be run on caucuses and town meetings where people would be in there yelling and screaming at each other and trying to change each others vote right up to the last minute. That's what we were founded on. There is no historical sanctity of the voting place, that actually came later. Now it was asked what's the harm of sending them out 50 feet. Everyone that I've ever seen collecting signatures in Lewiston or just about everyone when I go around, is little old ladies, little old grandmothers. What's the harm of having that lady stand out in the cold in November,. I think the answer to that is pretty obvious. What's the danger as the good Representative from Freeport pointed out of having them stand in the middle of Route 9. Well if they stand in the middle of Route 9, they'll probably end up in that cemetery.

We also heard from our Executive that it's easy to come in and just get signatures and we need to make it a little more difficult. Well if it is so easy then I suggest he get his people, take some of his money from the deal with CMP and hire people, go out and get signatures and send this out to referendum, rather than have us send it out to referendum. He also said that we have too many initiative petitions on the ballot and he's afraid we're going to end up like California. So why is this proposal going to send another question out to the people. It's also been



said that we should be the same. See that's the name of the bill, hold petition circulate same standards. Yet I know a lot of people in this chamber got their signatures during the presidential primary in February. So we were, or people on our behalf, were collecting signatures at the polling place. It also says same standard, but I didn't need to get 10 percent of the people that voted in my district in 1998 to sign my petition. I only needed 25. Under that rule, if we were held to the standard I would need 400 and anyone who wanted to run for Governor would need 41,000, just like putting something on a ballot. That's the same standard, that's what the title claims, but it's not really true.

Finally to the people at SAM. Our constitution gives us certain rights, the right to keep and bear arms, the right to free speech, the right to petition. I support all three of those rights, I strongly support the right to bear arms and I strongly support the right to petition. I find it hypocritical to support one and not the other. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Matthews.

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. First of all my good friend from Sanford, Representative Tuttle, and I go back a long way. He always has as his first goal his constituents and the citizens of the State of Maine, but I at times have to rise and disagree with him and this is one of them. This particular bill, as I see it, has only one problem, only one, the Maine Constitution, the right of petition. Although we heard another bill dealing with this issue earlier today, I want to repeat what was said on that earlier bill because I think it's quite applicable now. All power is inherent in the people. All free governments are founded in their authority and instituted for their benefit. They have, therefore, an unalienable and indefeasible right to institute government, to alter, reform or totally change the same when their safety and happiness require it. It is the initiative process that gives the people a practical mechanism to exercise their right to alter, reform, or totally change. The initiative process is nothing more or less than the exercise of free speech and publication rights. What is an initiative, if it is not one of the purest forms by which an individual citizen and the citizenry as a whole may not only speak, write and publish his sentiments, or her sentiments on a subject, but may make through peaceable means the very changes in law and social order that the speech is directed toward, the right of petition.

We're not California, we're not New York, we're not Connecticut, we're Maine. We have a unique Constitution in Maine and that Constitution has more than tested the trials and tribulations of time. It has stood the test and the people stand behind the Constitution. They like their government. They like to have access to their government. We have one of the highest turnouts in elections at the polls of any state in the nation. We're very proud of that and most of the time here in this statehouse we do things to try to increase public participation in their government, not limit it and that's what our Constitution says, the right of petition shall not be infringed upon, the right of the people to impact decision making, to have access to their government. This is a bad bill. I've received a number of e-mails, and calls and letters and I'm really pleased I have. I've talked to my constituents on the streets in Winslow and I'm glad that I have. I want to tell you before I got here when I heard this was coming I was ready for it, ready to vote against it. It's not good legislation. It's not good government and it needs to be defeated.

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

Representative **COTE**: Mr. Speaker, Ladies and Gentlemen of the House. If you look at your divided report on this issue, I'm

for the indefinitely postponement and the reason why is that I have three voting places in my district. One voting place this will put them outside in the street. The other one will put them outside in the parking lots and the other one will put them outside in the woods. So either way you look at it, it's a bad bill. It will put them everywhere else but where they should be put at. I don't have a problem with them being at my polls and this is my third year. I don't have a problem with it. My voters, they come in one door, go around and when they come out the other way, there they are, sitting. They're not nowhere near them. My constituents don't have a problem with it. My wardens, they're just as strict as Representative Bull's. They don't like what they see, they let you know about it. I have been told many a times. So we don't have a problem with them being there. If there was, believe me the wardens would say something or do it, put them out, but not in the streets, not in the driveways, not in the woods, just in another section of the building. So really there's no sense to have this bill. It's a bad bill, that's why I went Ought Not to Pass, and as my fellow colleague had stated earlier, it's going against the Constitution of the United States. I urge you to vote for indefinite postponement. Thank you.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. I'm going to vote for the pending motion on this. Personally, I just wanted to share a couple of thoughts. I came in here bristling a few years ago and I was going to change this law and get the petitioners out of the polling building. After observing a few things and in the 118th I was a cosponsor of a bill to get people 250 feet out. I have a copy here and I got so much flak from my constituents that I backed off a bit and amended it in the committee to get them just out of the building a little way, just out of the building and I got so much flak still from my constituents that I voted against my own amendment. So then it comes along again, somebody else submits it, Senator Kieffer and others in the 119th, very same thing, 250 feet, here it is, and I didn't say a word that time. I have heard from my people back home and it isn't just the Green Party and others which we have a lot in my district, but regular old grass roots folks that have been there forever. I do need to relate a very quick story that leads to some people having concern and mine too. Originally, about them being in the polling place, because I saw some confusion in the Town of Blue Hill. There were four, people go upstairs in the town hall and vote then they go down in this mezzanine, halfway down the stairway and there were four petition tables there. I watched this one little old lady and as Representative Mendros said, there are a lot of little old ladies, maybe she wasn't so old. Maybe she was just about my age, but she comes down after voting and said, now dearie what do we have here, and she was trying to be friendly I feel and she looked at this one. It was back in the days, you remember the cruise missile situation in Maine where the military was flying cruise missiles over Maine real low and there were people out there trying to ban that practice. This petitioner had a table there and it said, cruise missiles, are you aware that cruise missiles are flying back and forth criss-crossing Maine at low level and in smaller print, do you want this to keep going on or some such thing. Well this little old lady, that I saw there, she looked at the sign, she looked at the list of people signing up and after awhile she said, you know dear, that sounds like a lot of fun, but you know I wouldn't be able to go even if I won.

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

Representative **DAVIS**: Mr. Speaker, Ladies and Gentlemen of the House. I agree with Representatives Cote, Mendros, Matthews, Bull, Waterhouse and Perkins, I'm going to vote to

indefinitely postpone. In West Falmouth if you were 50 feet away from the polling place, you'd be in the street. I've paced this off because the warden made me remove my campaign signs on election day, so I have paced it off. In Falmouth Foreside, you'd be in a gully in the woods, so every voting place is different. I think they have a right to gather their petitions. Democracy sometimes is a little messy and unruly, but that's the way it is, so I'm going to vote for the indefinite postponement.

The **SPEAKER**: The Chair recognizes the Representative from Topsham, Representative Lessard.

Representative **LESSARD**: Mr. Speaker, Men and Women of the House. I can see where this debate is going and its fine, I will vote for indefinite postpone. People have mentioned their home town. I've yet to mention my home town of Topsham. Quite well known if you've read the newspapers in the last four or five years about petition gathering irregularities, etc., but the system works. The law is in place, the wardens do their job, the clerks do their jobs. In my former vocation is Chief of Police, I was called to a polling place because of activist, which is good, but who were not following the rules of the warden. I had to approach the people, physically move the table to where it was appropriate as the people left the polling place. There was a lot of discussion on it. I felt as Chief I should do it, not members of the police department and this I believe was appropriate. The law works, it's in place now and if the wardens do their job, which I'm sure they do, with the assistance from everyone around, we can get by this.

The **SPEAKER**: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. I usually ask for indefinite postponement of bills, but I would like to speak on this. Being a former assistant town clerk of the Town of Rome and warden, election warden, like I said in the previous debate a few weeks back, I never once had any problems, or have seen any problems, or had any complaints from anybody with petitioners. As a matter of fact, I believe that the only complaint that I ever received or heard from it was from a petitioner. It was from the good Representative Meares, who was outside the door getting democrats for my petition for re-election to run for public office. One time we happened to be out to Shaw's Supermarket in Waterville, the wife and I, we were out getting our staples because we don't have any stores in the Town of Rome, and there were some petitioners out there and they were petitioning for term limits and I stopped and talked to them and I asked them why they were petitioning for term limits when people in the State of Maine already overwhelmingly imposed them on the state legislators and they said, no, no, this is for federal level and I said no thank you, I'm not interested in that, and I just walked off, so I never felt intimidated there either, and for people to say that they feel intimidated that when they go into the voting place to vote, when these petitioners are in there if they were intelligent enough to make that rational decision on who they want to represent them as government officials, I would say that they should be able to make that rational decision not to be intimidated by those people, so I would urge you to vote for the pending motion. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from North Berwick, Representative MacDougall.

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. I, too, will be voting for the indefinite postponement. There was a handout that came across our desks earlier in the debate, and it's a piece from the Ellsworth American and one of the paragraphs in that piece says that since 1910, according to the Secretary of State's Office, Maine voters have faced 42 citizen's initiatives and that the great majority of

these have come within the last 20 years. As political activists have seized the initiative process to accomplish what they couldn't do through the Legislative process. I would submit to you, ladies and gentlemen of the House, that it has also been a method by which to take care of what the legislative bodies did do while they were here, it goes both ways, ladies and gentlemen. It's a safety valve, a very important one, a very important check and balance. I would urge you to vote with me when we do take the vote. Mr. Speaker I would like to ask a question through the Chair, if I could.

The **SPEAKER**: The Representative may pose his question.

Representative **MACDOUGALL**: To anyone who could answer, how many citizen initiatives are proposed for the ballot this year?

The **SPEAKER**: The Representative from North Berwick, Representative MacDougall has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Auburn, Representative Michael.

Representative **MICHAEL**: Mr. Speaker, Ladies and Gentlemen of the House. There are no questions on the ballot this year. All four organizations which petitioned failed to make the ballot, even using the polls.

The **SPEAKER**: The Chair recognizes the Representative from Lewiston, Representative Bouffard.

Representative **BOUFFARD**: Mr. Speaker, Men and Women of the House. Now that everybody's given their version, I think a lot of us are missing the point here. I can recall there were times when people were asking past petitions they would be at the malls collecting signatures. It created such a disturbance there that the mall owners decided that they wouldn't allow it any more. The other problem there was with that is that people from all over the area were going to the certain malls, so now they needed 50 different petitions for the 50 different towns that the people were representing. By having the petitioners going to the polls, what it does we're doing their work for them, because now they only need one petition it's that ward's petition. That's the only one that they need. I've never signed anything at any public place and I never will. If people aren't decent enough to come to my home and ask for my signature and explain to me exactly what it is that I'm signing for, then they don't get my signature. That's why that when they are asked to go to fill out our papers we have to go door to door and lately now with the clean elections, you even have to solicit some money, now why is it that petitioners don't do the same thing? No, they take the easy way out. We'll just sit over there at the polls and get everybody that comes in to sign their petition. This is a good bill and I think a lot of us are missing the point that in order to get a good law, it takes a little bit of work. That's why I am not going to vote for the indefinite postponement.

The **SPEAKER**: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I thank my good friend from Lewiston, Representative Bouffard, but I disagree. We go to the polls to get petitions because that's where politics happens. That's where people engage in politics. It is so hard for people to come out to vote in the first place that we shouldn't discourage it. This is where we gather and in my town, my little seniors love it when someone is sitting at a table, and they have something, they're so interested, what is this about, oh, explain it to me. They feel involved, they feel part of the process. It's truly where people count. It's all about democracy and for us to go door to door to get our petitions signed or our money collected for clean elections when we're running for office. I think it's comparing apples and oranges. We want to seek public office, we have to be accountable. We get paid for this, we get health insurance.

There is a difference when people are circulating petitions for something. You don't have to sign, but you can listen and you can engage and that's where politics happens. It's great, it's terrific. Let's get rid of this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lebanon, Representative Chick.

Representative **CHICK**: Mr. Speaker, Ladies and Gentlemen of the House. I rise this evening to share with you some of my experiences even before I was old enough to vote in observing town meetings and later state elections, federal elections and as I stand here tonight, I am mindful of the people that I've seen that served as moderators when they were in charge, now the warden is in charge. I've served as a moderator. I've dealt with registrars, getting checklists and I can only say to you that if I didn't stand and speak about these people that I've seen during my life. Now some of them, I saw them as babies and they've grown up to be registrars and wardens and they were taught not by some agency, they were taught that were doing the job, town clerks, and currently I would see balloting in three different places as far as my district was concerned and I have never seen anyone that had some problem that were not taken care of on the spot. I've had occasion to see town halls get on fire and have to move an election during the election across the street to a church. I can remember another time when a severe thunderstorm caused the process to be held up for a time and to be here this evening, I wish to report to you that I see no need for change. I've never seen a problem with anyone collecting signatures, up into and including the last election where in Lebanon and Springvale, and Sanford there were some record turnouts. They were all taken care of, so I would certainly recommend here tonight that we indefinitely postpone this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I feel so strongly on this issue. We really don't need too many more people to speak on it. I understand, but as I said, I am a believer in our system and the way it works. I have had friends and family who have come to Maine and one thing that my family and friends have noticed is that the people of this state take part in their government and that Representatives are truly accessible to their constituents. People who have moved to this state are truly amazed and impressed with just how much the people can express and fight for their rights here in this state. We should count every blessing that we have in this state, because our government allows for the collection of signatures at the polling places. So what, if other states are not doing this, they're missing the boat, we're not. I think it's a really good thing that we continue to allow our people to do this. I can't tell you how many times I've done it myself and one thing I have noticed is the excitement that's generated. People actually and if you see three or four petitions lining up, they come right to the table and say, what's going on today, what do you have for me to sign or not sign and they love it. It's a rarity that somebody will pass by and seem disgruntle or upset. I believe strongly that we need to keep this in place. It's important to our people, to allow the people of this state to have a voice. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is the Indefinite Postponement of this Bill and all Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 338**

YEA - Annis, Baker, Berry DP, Berry RL, Blanchette, Bliss, Bowles, Brannigan, Brooks, Bryant, Buck, Bull, Bumps, Bunker, Canavan, Carr, Chick, Chizmar, Clark, Clough, Collins, Colwell,

Cote, Cowger, Cressey, Cummings, Davis, Desmond, Dorr, Dudley, Dugay, Duplessie, Duprey, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Glynn, Gooley, Green, Hall, Haskell, Hatch, Hawes, Jacobs, Jones, Kane, Kasprzak, Koffman, Landry, Laverriere-Boucher, Lemoine, Lessard, Lundeen, MacDougall, Mailhot, Marley, Matthews, McDonough, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Mendros, Michael, Michaud, Morrison, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Pineau, Pinkham, Povich, Quint, Richardson, Rosen, Savage, Schneider, Simpson, Smith, Snowe-Mello, Stanley, Stedman, Sullivan, Tarazewich, Thomas, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Twomey, Volenik, Waterhouse, Watson, Wheeler EM, Winsor, Mr. Speaker.

NAY - Belanger, Bouffard, Chase, Daigle, Dunlap, Foster, Heidrich, Honey, Jodrey, Labrecque, LaVerdiere, Ledwin, Mayo, Sherman, Shields, Tessier, Tuttle, Usher, Weston.

ABSENT - Andrews, Ash, Bagley, Bruno, Crabtree, Duncan, Estes, Goodwin, Hutton, Lovett, Madore, Marrache, McKenney, Mitchell, Murphy E, Perry, Richard, Rines, Skoglund, Wheeler GJ, Young.

Yes, 111; No, 19; Absent, 21; Excused, 0.

111 having voted in the affirmative and 19 voted in the negative, with 21 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

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

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

**ENACTORS**

**Acts**

An Act to Establish a Single-payor Health Care System  
(H.P. 964) (L.D. 1277)  
(H. "C" H-680 to C. "A" H-514)

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

On motion of Representative GLYNN of South Portland, was **SET ASIDE**.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion and I urge my colleagues to join with me in opposing this bill. This is 100 percent. A \$6.8 billion bill, we are talking about an expenditure without a funding mechanism in place, leaving it up to future people to come in and amend the bill. We're really headed down the wrong track. When we really look at how to address the health care system in Maine. It's not really a funding problem we have, solely, it is also an expenditure problem and to look solely at the funding side, i.e. single payor. That single payor being the taxpayers of the State of Maine and not look at the expenditure side, I think is a failed approach and it is a band-aid approach. When we're done, and if in fact this does pass and reach the Executive's desk and the Executive does enact it, if that does in fact happen, we are absolutely setting ourselves up in a situation where we'll be going alone. We'll become a magnet state as has been stated in previous floor speeches by members of this body. The fiscal note of this bill includes a factor of 10,000 people or anticipated to migrate to Maine to take advantage of free health care on the backs of the good people,

the taxpayer of the State of Maine. Please join with me in opposing this and Mr. Speaker when the vote is taken, I respectfully request the yeas and nays.

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. 339**

**YEA** - Baker, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hawes, Jacobs, Jones, Kane, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, McDonough, McGlocklin, McGowan, McKee, McLaughlin, Michaud, Muse C, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perkins, Pineau, Povich, Quint, Richardson, Savage, Simpson, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tracy, Tuttle, Twomey, Usher, Volenik, Watson, Mr. Speaker.

**NAY** - Annis, Belanger, Berry DP, Bowles, Buck, Bumps, Carr, Chase, Chick, Clough, Collins, Cressey, Daigle, Davis, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, MacDougall, Matthews, Mayo, McNeil, Mendros, Michael, Morrison, Murphy T, Muse K, Nass, Nutting, O'Brien JA, Peavey, Pinkham, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stedman, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor.

**ABSENT** - Andrews, Ash, Bagley, Berry RL, Bruno, Crabtree, Estes, Goodwin, Hutton, Lovett, Madore, Marrache, McKenney, Mitchell, Murphy E, Perry, Richard, Rines, Skoglund, Wheeler GJ, Young.

Yes, 76; No, 54; Absent, 21; Excused, 0.

76 having voted in the affirmative and 54 voted in the negative, with 21 being absent, and accordingly the Bill was

**PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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**Acts**

An Act to Address Issues in the Maine Health Insurance Market

(S.P. 573) (L.D. 1745)  
(C. "A" S-274)

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.

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

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The **SPEAKER**: The Chair recognizes the Representative from Saco, Representative Kane who wishes to address the House on the record.

Representative **KANE**: Mr. Speaker, Men and Women of the House. With respect to Roll Call 321, yes, 322, no, 323, yes, 324, yes, 325, yes, 326, yes, 327, yes, 328, yes.

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The **SPEAKER**: The Chair recognizes the Representative from Lewiston, Representative Mendros who wishes to address the House on the record.

Representative **MENDROS**: Mr. Speaker, Men and Women of the House. With respect to Roll Call 327 on L.D. 901, if I had been present I would have voted no and debated the issue. Roll Call 328, if I had been present I would have voted yea.

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On motion of Representative **PATRICK** of Rumford, the House adjourned at 9:53 p.m., until 9:00 a.m., Wednesday, June 6, 2001.