

MAINE STATE LEGISLATURE

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

Volume III

Second Special Session

April 8, 2004 - April 30, 2004

Appendix
House Legislative Sentiments
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Pages 1563-2203

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
SECOND SPECIAL SESSION
37th Legislative Day
Thursday, April 15, 2004

The Speaker resumed the Chair.

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

Prayer by Reverend Carl Geores, Monmouth (retired).
National Anthem by Phippsburg Elementary School Band.
Pledge of Allegiance.
The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act To Implement the Recommendations of the Joint Standing Committee on Business, Research and Economic Development Regarding the Board of Dental Examiners Pursuant to Reviews Conducted under the State Government Evaluation Act"

(H.P. 1457) (L.D. 1958)

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "B" (S-499) in the House on April 13, 2004.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENTS "A" (S-498) AND "B" (S-499)** in **NON-CONCURRENCE**.

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

COMMUNICATIONS

The Following Communication: (S.C. 597)

**MAINE SENATE
121ST LEGISLATURE
OFFICE OF THE SECRETARY
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

April 14, 2004

Honorable Patrick Colwell
Speaker of the House
2 State House Station
Augusta, ME 04333

Dear Speaker Colwell:

In accordance with Joint Rule 506 of the 121st Maine Legislature, please be advised that the Senate today confirmed the following nominations:

Upon the recommendation of the Joint Standing Committee on Business, Research and Economic Development, the nominations of Sara Gagne Holmes and Douglas F. Beaulieu of Madawaska, for appointment to the Loring Development Authority.

Upon the recommendation of the Joint Standing Committee on Education and Cultural Affairs, the nominations of Jean Flahive, Paul J. Mitchell, Victoria M. Murphy for appointment, Barry D. McCrum, Margaret A. Weston, and Charles L. Johnson III for reappointment to the Board of Trustees, University of Maine System.

Upon the recommendation of the Joint Standing Committee on Judiciary, the nominations of Karin R. Tilberg, and Gregory M. Cunningham for appointment to the Maine Indian Tribal-State

Commission; and the Honorable Robert E. Murray, Jr. of Bangor, for appointment as a District Court Judge.

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

READ and ORDERED PLACED ON FILE.

ORDERS

On motion of Representative McKEE of Wayne, the following Joint Resolution: (H.P. 1464) (Cosponsored by Senator BRYANT of Oxford and Representatives: CARR of Lincoln, CHURCHILL of Orland, FLETCHER of Winslow, HONEY of Boothbay, LUNDEEN of Mars Hill, PINEAU of Jay, SMITH of Monmouth, Senator: YOUNGBLOOD of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214)

JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO SUPPORT THE FARM-TO-CAFETERIA PROJECTS ACT

WE, your Memorialists, the Members of the One Hundred and Twenty-first Legislature of the State of Maine now assembled in the Second Special Session, most respectfully present and petition the Congress of the United States as follows:

WHEREAS, in the past 30 years childhood obesity rates in the United States have doubled in our children and tripled in our adolescents due to poor eating habits, and obesity can contribute to increased likelihood of developing diabetes, high blood pressure, high blood cholesterol and clogging of the arteries; and

WHEREAS, school cafeterias serve millions of children breakfast, snacks and lunch every day and struggle to maintain services in light of diminished budgets at the local, state and federal levels; and

WHEREAS, in May of 2003, the Economic Research Service of the United States Department of Agriculture released an evaluation of the Fruit and Vegetable Pilot Program, which, according to the report, worked to change immediately children's fruit and vegetable consumption, improve children's health, create a healthier school environment and supply a positive model for children's diets; and

WHEREAS, agriculture sustains rural communities, protects open space, creates scenic vistas and protects water recharge areas; and

WHEREAS, the northeastern states have a traditional system of small and midsized producers of agricultural products located close to the towns, villages and urban centers where the majority of the 58 million consumers reside; and

WHEREAS, programs that link local farms to school cafeterias are reconnecting urban America with local agriculture in every state where they operate and providing a unique opportunity to make local agriculture relevant to the majority of the American population that now resides in urban and suburban areas; and

WHEREAS, the United States Congress is currently considering the Farm-to-Cafeteria Projects Act; and

WHEREAS, passage of the Farm-to-Cafeteria Projects Act would provide \$10,000,000 annually for grants of up to \$100,000 to school districts and nonprofit organizations to create farm-to-cafeteria projects and overcome the initial challenges schools face in purchasing locally grown food; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge passage of the Farm-to-Cafeteria Projects Act and any other legislation that will accomplish these goals: to assist schools in purchasing locally grown food, to provide more healthy and fresh foods for schoolchildren, to educate children and their families

about the foods that are grown in their own communities and to expand market opportunities for local farms, ensuring that regional agriculture continues to be viable and available to provide a safe, secure food supply to all consumers; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of the United States Department Agriculture and the Northeast States Association for Agricultural Stewardship and to each Member of the Maine Congressional Delegation.

READ and ADOPTED.

Sent for concurrence.

On motion of Representative WHEELER of Kittery, the following House Order: (H.O. 53)

ORDERED, that Representative Patricia A. Blanchette of Bangor be excused Monday, April 5th for legislative business.

AND BE IT FURTHER ORDERED, that Representative Jeremy Fischer of Presque Isle be excused Thursday, April 8th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Theodore H. Heidrich of Oxford be excused Monday, April 5th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Jeff Kaelin of Winterport be excused Wednesday, March 31st for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Louis B. Maietta, Jr. of South Portland be excused Tuesday, March 30th and Wednesday, March 31st for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Lisa T. Marraché of Waterville be excused Wednesday, March 31st, Friday, April 2nd and Monday, April 5th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Deborah K. McNeil of Rockland be excused Tuesday, March 30th, Wednesday, March 31st, Thursday, April 1st, Friday, April 2nd and Monday, April 5th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Janet T. Mills of Farmington be excused Friday, March 26th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Anita Peavey-Haskell of Greenbush be excused Monday, April 5th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Edward Pellon of Machias be excused Monday, March 29th, Tuesday, March 30th, Wednesday, March 31st, Thursday, April 1st, and Friday, April 2nd for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Anne C. Perry of Calais be excused Monday, April 5th and Monday, April 12th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Christopher Rector of Thomaston be excused Friday, April 2nd for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Maitland E. Richardson of Skowhegan be excused Friday, April 2nd and Monday, April 5th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative William T. Rogers, Jr. of Brewer be excused Thursday, April 8th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Thomas B. Saviello of Wilton be excused Friday, April 2nd for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Joshua A. Tardy of Newport be excused Thursday, April 8th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Thomas R. Watson of Bath be excused Friday, April 2nd for personal reasons.

READ and PASSED.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the following members of the Cony High School Girls Ice Hockey Club, of Augusta, upon their winning the 2004 Maine Girls High School Ice Hockey Association State Championship: players Lizzy Adams, Chelsea Clark, Sarah Clark, Crystal Edwards, Michelle Fecteau, Devon Gaslin, Kaitlin Globensky, Jessica Hitchcock, Jaime Kircshner, Jill Lizotte, Julie Lizotte, Erika Lucas, Chelsea Maurice, Tara Moulton and Danielle Sargent; and coaches Barb Gaslin, Rocky Gaslin and Paul DeSchamp. This is the club's 3rd State Championship in the last 4 years. We extend our congratulations to the club on this accomplishment;

(HLS 1417)

Presented by Representative O'BRIEN of Augusta.
Cosponsored by President DAGGETT of Kennebec, Representative LERMAN of Augusta, Representative BROWNE of Vassalboro.

On **OBJECTION** of Representative O'BRIEN of Augusta, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Recognizing:

Sabra Burdick, of Freeport, Acting Commissioner of Behavioral and Developmental Services, on the occasion of her retirement. Commissioner Burdick has provided 26 years of leadership in numerous positions in both the Department of Human Services and the Department of Behavioral and Developmental Services, including Director of the Division of Purchased and Support Services at DHS; Director of the Bureau of Income Maintenance at DHS; Director of Internal Operations at the Department of Mental Health, Mental Retardation and Substance Abuse Services; and Deputy Commissioner of Behavioral and Developmental Services. She has earned the respect and admiration of not only her state staff over the years, but also advocates and providers throughout the State. We acknowledge her dedicated service to her profession and to the State of Maine, and we extend our congratulations and best wishes to her on her retirement;

(HLS 1430)

Presented by Representative KANE of Saco.
Cosponsored by Senator BRENNAN of Cumberland, Senator MARTIN of Aroostook, Senator WESTON of Waldo, Representative DUGAY of Cherryfield, Representative CRAVEN of Lewiston, Representative EARLE of Damariscotta, Representative WALCOTT of Lewiston, Representative SHIELDS of Auburn, Representative CURLEY of Scarborough, Representative CAMPBELL of Newfield, Representative LEWIN of Eliot, Representative BULL of Freeport, Senator EDMONDS of Cumberland.

On **OBJECTION** of Representative KANE of Saco, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. I am pleased to support this recognition being accorded to a person who has represented the best of state leadership in human services for over 25 years. I have known her for most of these years. Her diverse knowledge and skill have enabled her to move across a variety of senior positions in both DHS and BDS. She has been a constant source of stability and confidence during often turbulent times. She has been a leader in the year long process of planning and developing a strategy for unification of these two department. We owe her much.

I wish you well Sabra in whatever ventures now beckon you and know that continuing to contribute to the best interest of the people of Maine will always be part of your future. Thank you and God speed.

The **SPEAKER**: The Chair recognizes the Representative from Freeport, Representative Bull.

Representative **BULL**: Mr. Speaker, Men and Women of the House. I, too, just want to rise to thank Sabra Burdick for her dedication and commitment to the State of Maine. Thank you Mr. Speaker.

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

Representative **LERMAN**: Mr. Speaker, Men and Women of the House. I also want to rise to acknowledge Sabra Burdick. In working with her she has been fair, compassionate, understanding, forward thinking and I, too, want to wish her well in her future endeavors. Thank you Mr. Speaker.

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

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

Expression of Legislative Sentiment recognizing the Cony High School Girls Ice Hockey Club.

(HLS 1417)

Which was **TABLED** by Representative O'BRIEN of Augusta pending **PASSAGE**.

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

Representative **O'BRIEN**: Mr. Speaker, Men and Women of the House. I stand here and am very pleased and honored to present this sentiment to the Cony High School Girls Ice Hockey Club. Girl's ice hockey is certainly becoming a virgining sport, if you will. There are now 17 teams or clubs, as I understand it, about half teams have clubs in the state. They Cony girls, it may be a little too early to say they are a dynasty, but they have won the state championship three out of the past four years. It is an incredible group of girls and their coaches, Rocky and Barb Gaslin, Paul DeSchamp and Ray Monister. Just the thought of me putting on that equipment and going out on the ice just makes me tired. They are an incredibly tough group of girls and also really good athletes and just all around great kids. So it brings me great pleasure to introduce them and to offer them my sincere congratulations and go get them next year.

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

Pursuant to Joint Rule 309

From the Joint Select Committee on **HEALTH CARE REFORM** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Preserve the Fund for a Healthy Maine (H.P. 1188) (L.D. 1612)

Received by the Clerk of the House on April 14, 2004, pursuant to Joint Rule 309.

READ.

On motion of Representative KANE of Saco, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

Divided Report

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-474)** on Bill "An Act To Encourage the Proper Disposal of Expired Pharmaceuticals" (EMERGENCY)

(S.P. 671) (L.D. 1826)

Signed:

Senator:

BRENNAN of Cumberland

Representatives:

EARLE of Damariscotta

CRAVEN of Lewiston

SHIELDS of Auburn

DUGAY of Cherryfield

PERRY of Calais

WALCOTT of Lewiston

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

Signed:

Senator:

WESTON of Waldo

Representatives:

CURLEY of Scarborough

LEWIN of Eliot

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-474) AS AMENDED BY SENATE AMENDMENT "A" (S-506)** thereto.

READ.

Representative KANE of Saco moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

CONSENT CALENDAR

First Day

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

(H.P. 1309) (L.D. 1787) Bill "An Act To Support the New Century Community Program" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass**

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

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

REPORTS OF COMMITTEE

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

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

UNFINISHED BUSINESS

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

Bill "An Act To Permit Video Gaming for Money Conducted by Nonprofit Organizations"

(H.P. 996) (L.D. 1354)

TABLED - April 14, 2004 (Till Later Today) by Representative CLARK of Millinocket.

PENDING - **ADOPTION OF HOUSE AMENDMENT "A" (H-830) to COMMITTEE AMENDMENT "B" (H-814)**. (Roll Call Ordered)

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. I just want to remind the House that this amendment was just a technical amendment that the committee did not see. I am adding it on to make everything line up in order.

The SPEAKER: A roll call having been previously ordered. The pending question before the House is Adoption of House Amendment "A" (H-830) to Committee Amendment "B" (H-814). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 453

YEA - Annis, Ash, Barstow, Bennett, Berube, Blanchette, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bull, Bunker, Canavan, Churchill E, Churchill J, Clark, Cowger, Craven, Cummings, Dunlap, Duplessie, Duprey G, Earle, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Grose, Hatch, Hotham, Hutton, Jackson, Jennings, Joy, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Maietta, Mailhot, Makas, Marley, McCormick, McGowan, McKee, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Muse, Norbert, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Perry A, Pineau, Pingree, Richardson E, Richardson J, Richardson M, Rines, Saviello, Shields, Smith N, Smith W, Sukeforth, Sullivan, Tardy, Thomas, Thompson, Tobin D, Usher, Walcott, Watson, Wotton, Young, Mr. Speaker.

NAY - Adams, Andrews, Austin, Beaudette, Berry, Bierman, Bryant-Deschenes, Campbell, Carr, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey B, Eder, Glynn, Heidrich, Honey, Jacobsen, Kaelin, Lewin, McKenney, Peavey-Haskell, Percy, Rector, Rogers, Rosen, Sampson, Snowe-Mello, Stone, Suslovic, Treadwell, Twomey, Wheeler.

ABSENT - Bliss, Dudley, Dugay, Gerzofsky, Goodwin, Greeley, Jodrey, Landry, Ledwin, Marraché, McGlocklin, Murphy, Norton, Perry J, Piotti, Sherman, Simpson, Sykes, Tobin J, Trahan, Vaughan, Woodbury.

Yes, 91; No, 38; Absent, 22; Excused, 0.

91 having voted in the affirmative and 38 voted in the negative, with 22 being absent, and accordingly **House Amendment "A" (H-830) to Committee Amendment "B" (H-814) was ADOPTED**.

Representative HOTHAM of Dixfield **PRESENTED House Amendment "B" (H-922) to Committee Amendment "B" (H-814)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Dixfield, Representative Hotham.

Representative **HOTHAM**: Mr. Speaker, Ladies and Gentlemen of the House. I offer this amendment as an amendment of consistency as far as I am personally concerned. You heard allusion during the debate on the Racino bill that any expansion of gambling, in my opinion, should be regarded as the term limit was regarded and has been regarded by this body. If any change in that should go back to the voters. I believe that an expansion of gambling because Racino was approved by the voters, should also go back to the voters.

I also understand for us to have a statewide vote on all non-profit organizations is probably not the best way to handle that. This amendment offers an opportunity before licensing for people in the municipalities that are entertaining the licensing of a non-profit for gambling purposes to have a say in that at their local polling place. Before the licensing procedure proceeds, it has to be approved by the municipality by a vote of the people. Also, it does not change the licensing requirement, which is similar to the licensing requirement for a liquor license in that that gets approved by the municipality and if it does not, then there is appeal to the state. None of that is changed in this. This simply puts the matter before a municipal vote before the licensing. It needs to be approved by the voters. I would hope that you would adopt this amendment and set the standard. We have an opportunity to set the standard for future gambling expansion and setting the tone and hoping that people will realize that before we expand this, we need to go back to the people. Thank you very much.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. As the Committee Chair of this committee, I feel that I should stand up and speak in favor of this amendment. We, as a committee, looked at different avenues in the last two years looking at gaming, Beano and Bingo and all sorts of gaming in our committee. As the good Representative from Dixfield alludes to, with the expansion of gambling since Question 2 was on the referendum back last November, they should have some say in the municipality. I will be supporting this amendment.

House Amendment "B" (H-922) to Committee Amendment "B" (H-814) was ADOPTED.

Committee Amendment "B" (H-814) as Amended by House Amendment "A" (H-830) and House Amendment "B" (H-922) thereto was ADOPTED.

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

Representative MILLS of Cornville **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended**.

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

The SPEAKER: The Chair recognizes the Representative from Cornville, Representative Mills.

Representative **MILLS**: Mr. Speaker, Men and Women of the House. We had lengthy debate on this yesterday morning and we had a very close vote on whether this bill should become law according to this chamber. I would urge you not to approve this bill. I would ask, as in my remarks of yesterday, in addition to the long discussion that we had about the true nature of non-profits, the 25 year old history of this state's experiment with a very similar set of gambling experiments in which we had about 700 non-profits running similar machines back in 1979 and 1980. The public became so disturbed by the prevalence of this, that the Legislature repealed the law that authorized them and there was a public referendum held at that time, initiated by the non-profits.

They were defeated two to one, which reminds us, I must say, of the margin of defeat that the casino enjoyed in November.

I would add to that one other point. Many of these non-profit organizations members belong to. I think many of us respect some of the things that they do, but I am getting an increasing number of complaints from small businesses in my community and other places I visit, from people who are trying to run commercial restaurants and bars and places to go to enjoy music and to play music and they find that they are suffering badly from unfair competition from these so-called non-profit groups of various groups, sizes and shapes. One of the elements of the unfair competition is that this state for some wacky reason permits smoking in a non-profit establishment and doesn't permit smoking in any bar, restaurant or tavern that is commercially owned where the owner is different only in the fact that he is trying to make a living and a profit. If you hold yourself out as a non-profit, you can smoke. This has not made any sense to me at all. If we pass this bill, we will be saying to these same non-profits, not only will have an exclusive franchise on smoking, but you will have a semi-exclusive franchise on video lottery terminals in direct competition with OTBs and other places that we have more deliberately legitimized in order to support the harness racing industry and that sort of thing.

We will be adding a very significant element of unfair competition to the private sector and the many small business people who are struggling to provide places of entertainment. We are putting them out of business. I suggest to you that if we pass this measure, it will be the death nail for a number of small businesses, taxpaying, profit making small businesses in this state. For that reason, I urge that you turn on your red light.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Bull.

Representative **BULL**: Mr. Speaker, Men and Women of the House. I, too, rise to urge you to vote against passage to be engrossed with all due respect to the majority of the Legal and Veterans Affairs Committee. My biggest issue and problem with this, and the good Representative from Cornville alluded to this yesterday, was that the voters of this state overwhelmingly voted against allowing our native tribes here in Maine to expand gambling by setting up casinos. I am very troubled by the conflicting message that this body would be sending if we allow other groups and entities to expand gambling when the voters of the state very strongly and very overwhelmingly said no to an expansion of gambling just about six months ago. If an expansion of gambling is not appropriate for the native tribes, expansion of gambling should not be appropriate for these non-profits. What we are talking about here is simply an expansion of gambling. We can call these machines terminals or whatever you want, but the bottom line here is this is an expansion of gambling and I think we need to be consistent and listen to the vote of the people who voted last year who spoke loud and clear that did not want an expansion of gambling here in Maine. I respectfully request you vote no on passage to be engrossed. Thank you Mr. Speaker.

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

Representative **COLLINS**: Mr. Speaker, Ladies and Gentlemen of the House. Yesterday we had a very lengthy debate concerning this bill. I am a member of a non-profit organization. In fact, I belong to a lot of them. The one organization that I stayed with for many, many years is the Rotary. Many in this chamber probably are Rotarians. We are a non-profit organization. We raise funds to do our work and to help our community. I am not going to hail the praises for a Rotary without saying that we don't have gambling to raise funds.

My Rotary club does chicken barbeques. We have a TV auction. We have gum and candy machines out in the community. I guess what I am saying is there are other means of raising funds for your non-profit organization other than video gaming machines. It is a much better image in my eyes when you raise funds throughout the community, chicken barbeques and what have you. It presents a much better image. I guess in closing I would just like to say that non-profits do a lot of good work. How they raise their funds is the question here today. I would suggest that you vote no on this LD permitting video gaming and non-profits and send a message back to these non-profits that want to do this type of activity that there are other ways of raising funds to promote the health of your community. Thank you.

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

Representative **PATRICK**: Mr. Speaker, Men and Women of the House. To the good Representative from Cornville, I agree somewhat with your explanation of businesses having an unfair advantage. As a non-smoking advocate, I had wished the bar would have been raised so that all bars, clubs, non-profits, profits would have been non-smoking. I will support that again in the future, much to the chagrin of my own personal clubs that I belonged to. Some of them have increased their memberships just because they are smoking. Hopefully next year if I get reelected I will put a bill in with that and I will get them mad at me also. I don't really think this is an expansion of gambling. It is whether or not we have these machines in most of the non-profits or a large percentage of the non-profits now. It is whether or not they are going to be legally allowed to pay out. Hopefully they are not paying out right now. If they do, they will legally be able to pay out. I am not entirely in agreement with the amendment that was just put on the bill. Having voters of the municipalities have a say in it will keep out these riff raff 700 or so crooked organizations from Connecticut or Massachusetts or New Jersey or wherever they came from before and will be able to allow our non-profits that keep the monies here in the localities in the State of Maine in the communities in Maine here in the state and they will be strictly regulated. I urge you to support passage. Thank you.

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

Representative **WATSON**: Mr. Speaker, Men and Women of the House. I was troubled by this bill and I was swayed by the arguments and the eloquence of the Representative from Cornville, Representative Mills. However, I am looking at the matter now as more of a matter of local control than anything else. Thanks to the friendly amendment offered by Representative Hotham we are now allowing municipalities to look at this issue themselves. Many non-profits, the ones I am associated with and the ones I have visited in the past are part of the community and have been part of their community for years and years and years, the veterans organizations, the VFWs, the Eagles, the Elks and what have you.

I have a hard time standing here in Augusta and telling a small town in rural Maine that its local social club that has been there and operated for 30 years can or can't do something, anything for that matter. It bothers me to do this on a statewide basis. However, I don't mind that the emphasis and the direction that this committee has taken to look at this important issue now that an amendment has been attached leaving the final decision on granting or denying a license to the local municipality, the people who are close to the organization, know the organization, who runs it, what happens to the machines and what kind of clientele are using them. They are in a much better position, certainly, than I am and I think that most of us make those

decisions. I support passage to be engrossed and I encourage you to do so. Thank you Mr. Speaker.

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

Representative **MOODY**: Mr. Speaker, Men and Women of the House. The arguments both for and against this have been very good and very eloquent. I appreciate them this morning, both the Representative from Cornville and the Representative from Bath. Something was triggered in my thinking here. When we talk about the rural communities in Maine, we have small businesses on Main Street who are pretty marginal, the mom-and-pops, struggling to go by. Every dime spent in this activity is a dime that isn't spend in a local convenience store and in a local diner, local restaurant perhaps. I think that I have been persuaded especially by the arguments of the good Representative from Cornville. I am going to vote Ought Not to Pass on this. Thank you.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. After hearing some of those comments by the good Representative from Manchester, Representative Moody, nobody knows where the extra money is going to go. You don't know if there is going to be a non-profit organization that has a VLT. If they don't, that doesn't mean that they are going to go to Main Street and spend it on a cup of coffee. They are going to go and spend it on whatever they have for entertainment. It might be for a movie. It might be for something else besides a non-profit having a VLT machine.

The good Representative from Dixfield, Representative Hotham, said that the municipalities will have local control on this. We already have them now, ladies and gentlemen. They are called gray machines. They are in the places now. The reason why they can't use the gray machines now is because it cannot be electronically hooked up to a central monitoring system with the State Police or the Department of Public Safety.

We looked at this bill last year. We did it and we brought it back again and redid some of the figures on it. The non-profit organizations do this for community service. They would just like an extra kick in their war chest just like people would like extra kicks in their war chest to make sure that they can give more money out for special programs. The University of Maine, they want a special kick in their revenue stream so they can give out scholarships. They have that in Question 2 or in 1820 with the Racino. This gives a special kick to the non-profits so they can give more scholarships to the kids that want to go to maybe the University of Maine and continue with education here in the State of Maine and not go to New Hampshire or Massachusetts or Vermont or Montana or Wisconsin or Florida.

This bill, I believe, is going to help the people in the rural communities and also all over the state. We have a maximum number of five machines. They will be able to have local control by the municipal vote if this passes. Are you people afraid to have your municipalities that elect you to have the vote to have them in your own town? I hope that you pass engrossment. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Jackson.

Representative **JACKSON**: Mr. Speaker, Ladies and Gentlemen of the House. I belong to the Knights of Columbus, the Rotary, Boy Scouts of America. I am an adult leader. I am also a logger. Those can all be argued that they are all non-profit organizations. What struck me in listening to the debate, I haven't had a single constituent call me and ask me to support or oppose this. Right across the river in Fort Kent in New

Brunswick, they have video gaming like this at the bowling alley. We don't have a bowling alley in Fort Kent so a lot of people go to Clair, New Brunswick to bowl. They are not going there to gamble, but while they are there, there are some people who do do that. I don't see that as something that is taking away business in Fort Kent. Maybe it would be something that the non-profits would make some money one. The argument that it is going to take business away from for-profits at least in my area, we already have it across the river within sight. I don't see that happening. I don't see anyone who is opposed to it to make the argument that it would happen. I am going to support the idea that if the Town of Fort Kent would like to have that, then they would have the opportunity to. I will be supporting this. Thank you.

Representative TARDY of Newport asked leave of the House to be excused from voting on L.D. 1354 pursuant to House Rule 401.12.

The Chair granted the request.

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

ROLL CALL NO. 454

YEA - Annis, Ash, Bennett, Berube, Blanchette, Bowen, Bowles, Brannigan, Brown R, Browne W, Bunker, Canavan, Churchill E, Churchill J, Clark, Cowger, Craven, Cummings, Dugay, Dunlap, Duplessie, Duprey G, Earle, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hatch, Hotham, Hutton, Jackson, Jacobsen, Jennings, Kaelin, Kane, Ketterer, Koffman, Lerman, Lessard, Lundeen, Maietta, Mailhot, Makas, Marley, McGowan, Muse, Norton, Nutting, O'Brien J, O'Neil, Paradis, Patrick, Pellon, Perry A, Pineau, Pingree, Richardson E, Richardson J, Rines, Saviello, Shields, Smith W, Sukeforth, Sullivan, Thomas, Thompson, Tobin D, Tobin J, Usher, Walcott, Watson, Young, Mr. Speaker.

NAY - Adams, Andrews, Austin, Barstow, Beaudette, Berry, Bierman, Breault, Bruno, Bryant-Deschenes, Bull, Campbell, Carr, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dudley, Duprey B, Eder, Faircloth, Glynn, Heidrich, Honey, Joy, Lemoine, Lewin, McCormick, McKee, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Norbert, Peavey-Haskell, Percy, Piotti, Rector, Richardson M, Rogers, Rosen, Sampson, Smith N, Snowe-Mello, Stone, Suslovic, Trahan, Treadwell, Twomey, Wheeler, Woodbury, Wotton.

ABSENT - Bliss, Greeley, Jodrey, Landry, Ledwin, Marraché, McGlocklin, Murphy, O'Brien L, Perry J, Sherman, Simpson, Sykes, Vaughan.

Yes, 76; No, 60; Absent, 14; Excused, 1.

76 having voted in the affirmative and 60 voted in the negative, with 14 being absent and 1 excused, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "B" (H-814) as Amended by House Amendment "A" (H-830) and House Amendment "B" (H-922)** thereto and sent for concurrence.

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

HOUSE DIVIDED REPORT - Majority (12) **Ought Not to Pass** - Minority (1) **Ought to Pass as Amended by Committee Amendment "A" (H-901)** - Committee on **TAXATION** on Bill "An Act To Provide Property Tax Relief for Maine Residents and Businesses and Implement Comprehensive Tax Reform"

(H.P. 844) (L.D. 1141)

TABLED - April 14, 2004 (Till Later Today) by Representative LEMOINE of Old Orchard Beach.

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

Subsequently, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

Resolve, Authorizing Professional and Occupational Licensing Authorities in State Government To Defer or Waive Continuing Education Requirements for Military Personnel (EMERGENCY)

(H.P. 1459) (L.D. 1959)

- In House, **READ** and **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on April 7, 2004.

- In Senate, **READ TWICE** under suspension of the rules without reference to a committee and **PASSED TO BE ENGROSSED** in **NON-CONCURRENCE.**

TABLED - April 13, 2004 (Till Later Today) by Representative DUPLESSIE of Westbrook.

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

Subsequently, the House voted to **RECEDE.**

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 SULLIVAN of Biddeford **PRESENTED House Amendment "A" (H-903)**, which was **READ** by the Clerk and **ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-903)** in **NON-CONCURRENCE** and sent for concurrence.

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

Bill "An Act to Define a Scope of Practice for Acupuncture"

(S.P. 97) (L.D. 263)

- In House, Minority (1) **OUGHT NOT TO PASS** Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** **READ** and **ACCEPTED** on April 7, 2004.

- In Senate, Senate **INSISTED** on its former action whereby the Majority (12) **OUGHT TO PASS AS AMENDED** Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-414)** in **NON-CONCURRENCE.**

TABLED - April 14, 2004 (Till Later Today) by Representative DUPLESSIE of Westbrook.

PENDING - **FURTHER CONSIDERATION.**

Representative COLWELL of Gardiner moved that the House **RECEDE AND CONCUR.**

Representative BRUNO of Raymond **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: 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**: Thank you Mr. Speaker. If we were to pass this legislation in this particular medical field, would they fall under the same restrictions and controls of other things that we have done to the health industry? Will we be hearing about their average drug costs and so forth for rhino horns? Would we be seeing them have certificate of needs for massage tables and other types of similar restrictions on their business?

The SPEAKER: The Chair recognizes the Representative from Cornville, Representative Mills.

Representative **MILLS**: Mr. Speaker, Men and Women of the House. We have had some lengthy discussion of this bill earlier. Just by way of readdressing the issues, since then I have had an opportunity to read this bill with greater care. I have handed out on either yellow or green paper, we ran out of yellow so some of you have green, an extract from the acupuncture bill, which identifies several fields of endeavors that will be open to additional certification. On the bottom of that same sheet you will notice an extract from Webster's Dictionary that I borrowed from the Clerk's Office.

If you will address just for moment the first line of the paragraph that is photocopied from the bill where it says that certification is required. If you will reflect back to the eighth grade when your English teacher was talking about the passive voice. I think it is interesting to note how it is employed here. It serves in an odd way a camouflage for what is really transpiring when a bill like this comes forward asking for "certification." You should ask yourself why doesn't it state who is doing the certifying? Certification is required. What does that mean? What it really means is that the state is going to set up a board and that the state in a very direct way will be certifying this scope of practice and if you read further in the statute you will find by mind count at least 13 separate procedures that the state in a very direct way will be certifying if we pass this law. What does certify mean? Merriam Webster says it means to declare something as being true, accurate, certain. It means to verify. It means to attest. It also means in its secondary definition to declare someone officially insane, but we will ignore that definition for the moment and go on to say that it also means to guarantee the quality of the worth of something. What is it that we are being asked as a state and as a Legislature to certify as true, accurate, certain and worthy? Some 13 procedures that I can't even pronounce and I asked the other day if anyone in the chamber could even explain what they are and no one could.

When you look at the other professions and you look at the medical or the osteopathic provisions, you don't see in there a listing of specific procedures that the state has asked to certify. I think there is a good reason for that. Procedures that are scientifically validated are always subject to skepticism and change. It wasn't long ago that orthopedic physicians, not only in this state, but throughout the world, were routinely doing very invasive low back surgery as a cure or an attempt to alleviate low back pain. It was very common to address low back pain with aggressive or invasive surgery. We learned from that experience over time that it doesn't work very well often times. Sometimes people would get better in the short term and then fall into more problems as life went on. Medical thinking has completely

changed about how to address this very common problem of treating low back pain. There are wholly new approaches to dealing with it just in my own lifetime of observation of this medical field. Why do we have that? Because we are all human and we experiment and we learn through trial and error and through application of the scientific method recognizing that we can be wrong and the later generations may learn from our mistakes.

This bill invites the Maine State Legislature to certify forever 13 specific procedures that I can't pronounce and I have no knowledge of whether they have any scientific validity today or whether they ever will have. It is for that reason that I urge you to vote red. Thank you.

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

Representative **ANDREWS**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak again on this issue. It is not the act of acupuncture that is the problem. I have even contemplated that treatment myself. It is the dispensing of herbal medicines. I would just ask you to remember that medications that are prescribed to us by a physician have gone through extensive testing by the Food and Drug Administration and gone through all the experimentation testing to know all the good and bad side effects that can occur with these drugs and all the interactions that may occur when they are mixed with other drugs.

These herbal medicines have not gone through that same protective measure to protect you the public. We do not have the assurances that this is actually a safe thing to give when reacting to other medications. I would just like to call that to your memory that this is the problem. It is the dispensing of herbal medications. I don't see the protection there for the consumer.

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

Representative **KAELIN**: Mr. Speaker, Ladies and Gentlemen of the House. For some reason there must be an awful lot of acupuncturists in Waldo County because I have become very conversant on this bill since I voted against it the other day. Essentially this is a pro-business bill. The reason is that acupuncturists in Maine already provide their customers, none of us are forced to go there, with Chinese herbal medicine therapies and all the other things you will see on the list, some of which I cannot explain or pronounce either. They already dispense herbal medicines that are available over the counter at the Natural Living Store or any of the other stores you may want to go to. They already do that. The other thing they do is they do formulation therapy. It means that they take these things that you can buy at the store yourself and they mix them up over here and maybe they burn them or make smoke or whatever they do. I don't participate in it myself so I don't know. These are things that they do now. Formulation therapy, there are two levels of activity. For that reason, there are two levels of licensing in this bill.

The licensing occurs by the expansion of the scope of practice for these small entrepreneurial businesses that we have in our communities. They are already providing the therapies. The point is, and I think the thing that was sent around this morning on yellow paper does a much better job of laying out the real purpose of this bill. That was my problem with it a couple of days ago. They want the scope of practice to be defined in statute so that they may be able to purchase medical malpractice insurance from the private market. I am told that that is available. You may not believe it. I may not believe it, but it is. In fact, insurers will cover these practices. The Food and Drug Administration allows these herbs to be sold in the marketplace

right now. They do not certify them as safe. I think anybody who is using these therapies absolutely in their own interest should allow their medical doctor to understand exactly what kind of therapies, extracurricular therapies or untraditional non-traditional therapies they are using.

Right now the use of these therapies and techniques are illegal. They take place all over the place. You may not want to have a needle stuck in you. You may not want to have Chinese herbs in your body. That is you right. These people need medical malpractice insurance to protect their small businesses in our community. That is the key issue here. The efficacy and the safety of these drugs is not the issue before this body, I don't believe. I don't think that taking positive action and receding and concurring on this bill, which I intend to do, in any way gives a stamp of approval on these therapies. It allows your constituents to continue to benefit from these non-traditional therapies and protects the entrepreneur so that medical malpractice insurance can be made available to these small business people. I think this is really the focus. I hope that you will follow my light and vote for this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative **PINGREE**: Mr. Speaker, Men and Women of the House. I don't actually have a lot to add to the good Representative from Winterport because he made a lot of the important points about this bill. I missed some of the debate on it. I think some valid points were brought up. The point is that some of the valid concerns about the drug like Ephedra that people are buying at natural food stores, this bill, whether or not it passes, people will still continue to take these herbs and use medicines without any guidance.

The Representative from Cornville raises some points about different types of practices that he can't pronounce, I can't pronounce. I think that is true with a lot of kinds of medicines in general. There are many kinds of non-traditional medicines that physicians and others endorse, including acupuncture. My own physician has a couple of times referred me to an acupuncturist from being in the Legislature too long, I think. I think that we, in the Legislature, have become fond of sometimes comparing ourselves to New Hampshire. I am really not sure why, but it is fun to sometimes poke fun at New Hampshire. I think in many ways they are more conservative than we are. New Hampshire has gone well beyond the scope of practice we are considering today, as has 27 other states. They have defined the scope of practice for acupuncture to include Chinese herbs. Obviously we don't do things because other states do them, we do them because it is the right thing to do.

The Representative from Winterport made some very good points about how this is actually a small business bill. This is actually a good consumer bill. Chinese herbs are being prescribed anyway. This bill would allow the seven malpractice insurers who are currently in the State of Maine, it would allow them to cover Chinese herbs under their malpractice insurance. This would give acupuncturists who are small business owners, there are many of them in the State of Maine, more credibility. It would give consumers more ability to hold acupuncturists accountable when they prescribe Chinese herbs.

I think this is an all around good bill. There is a strong reason why there was a 12 to 1 vote in the committee. Every House member on the BRED Committee voted in support of it after hearing the evidence on both sides.

I think some misinformation has sort of gotten out about acupuncture in general in the debate of this bill. I think a lot of people are skeptical of sticking pins in people, taking Chinese herbs. I live on a small island, as many of you know, where

people are especially conservative about things like this. A few years ago a woman moved to our island who was an acupuncturist. People made a lot of fun of her at first. They said they were not going to have needles stuck in me. I am not going to take these herbs. A fisherman with a bad back started going to this woman. Soon, every fisherman and carpenter and everybody else was receiving some kind of relief. This is a medically understood and valid practice. I think we are lending more credibility to by allowing them to have these rights covered under this bill.

The last thing I want to add is there has been some information that these people don't know what they are doing. This would allow some kind of practice for people who haven't had the proper training. My best friend growing up is currently in acupuncture school. She is about to enter her third year and is going to go onto a fourth year where she will do an entire year of herb training. It is not comparable to medical school. It is not exactly like medical school. It is a similar amount of time. She spends every weekend like her husband who is in med school studying anatomy, different types of medical practices, the way acupuncture and Chinese herbs are used and how they are prescribed.

I think that this is a very fair bill. I ask for your support.

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

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. This bill is back. Indeed both the previous speaker from Winterport, Representative Kaelin, and Representative Pingree has hit onto what all House members both sides of the aisle agreed after listening to this bill and carrying it over. We first heard this in February of 2003. All we have done in this bill is given the exact same things that have always happened under the State of Maine. Nothing has changed. We have done this for public safety. The public safety says if you have been to acupuncture school, you have a degree in part herbology, that is part of that training. It doesn't say that we endorse it. It says that different cultures have different beliefs. Some religions believe that prayer is all you need. You don't need blood transfusions. We don't laugh at that. It is a belief. For the oriental countries, this has been their culture. It has lasted them for thousands of years. For the Native Americans, they were able to work with the things that grew in nature to cure.

It is the right of Americans to get whatever medical treatment they deem necessary. We need to be sure that if we certify, I would say that the Representative from Cornville, Representative Mills, might look at that to vouch for. We are certifying that this person has attended acupuncture school and part of that training has been herbology. That is all we are saying. The state certifies them. Just the same way we certify an electrician or a plumber. I am not saying that person is good. The state doesn't say this plumber is excellent. It simply says that he or she is certified.

I can't sit here and say that every medical doctor is a good doctor. In fact, I would maintain that that is not true. There are a lot of bad doctors, a lot of bad teachers, a lot of bad ministers, a lot of bad Representatives. We just don't happen to have any bad ones from the State of Maine. I simply ask you to let them get this certification, this certificate that says that they have more training than the average person out here. Let them hand the certificate so there is some quality, some way that the average person if they choose to access this type of medicine can. This says that they can get malpractice insurance. Without it, they can't get malpractice insurance. Are we really in the business of trying to stop people because we may not be able to verify their

type of work from having a business and being able to get insurance.

There is a reason why the BRED Committee, across the aisles, endorsed this 12 to 1. Thank you.

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

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House. I am a certified nurse practitioner. I am a health care provider. Because I went to school does not give me the right to have a license to practice here in the state. I needed to pass a certification exam in order to verify the fact that I am qualified to do that. I also, because I am a nurse practitioner, do not have the ability to prescribe, dispense and even mix medicine until I received a federal license allowing me to do so. We are giving certification that only says if you have been to school you can dispense herbals, which is medicine, not only can you do that, but you can mix them, you can change them and you can dispense them. Where is the standardization? How is that person going to know in that mixture what they are taking? We are required to give them a list of what they are taking, what the side effects might be. Pharmacists will tell you that as they dispense their medicines. I have had people who have taken Chinese herbals. I will not say that they don't work. That is not my mission. I have prescribed herbals that I know work. That is not the issue. I have sent people to alternative health care systems that do work. This is not the issue. My concern is that there needs to be standardization. There needs to be the ability for the person taking that medicine to know what they are taking, because herbals are medicines and to know what the side effects are and to have that certification that guarantee that that safety will be there. I do not see that in this bill. I will again vote against this bill and I ask you to follow my light.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I was really not going to speak on this, but I have had a life experience with it so I will not sit any longer. My husband was diagnosed with colon cancer four years ago. When you are given that kind of sentence when you think you are perfectly healthy one day and you have had your yearly checkup year after year, you are devastated when you go for your yearly checkup and find out you have three months to live. That is exactly what happened to my husband when he was 55 years old.

You are put in such a tizzy. They send you out in the streets and you don't know what to do. You have been given a death sentence. You have three months to live. You have colon cancer. This is what you have to live with. You struggle to get all the information you can from the medical community. You say, my God, we will not accept this and you research everything you can. There is nothing to say that the medical doctors what they give you has no side effects. He had a colonoscopy. I had to go through all that. I guess the bottom line is he was given three months to live in a regular medical community.

My sister, thank God, knew about this doctor in Portland, Doctor May, a Chinese doctor. She had treated patients in China for cancer. We sought her out. In the meantime my husband chose to go through chemotherapy in Scarborough in the old KMart. You used to get blue light specials there. Now it has turned into a cancer hospital. You go there and you see everybody with no dignity hooked up to that life line of getting that chemotherapy treatment which is so powerful that it kills the good cells as much as the bad cells. He did that for a little while. One day he called me when I was up here doing the people's work and he said, "Joanne, when you get home tonight I want to talk to you. I have made a decision." I went home every day faithfully

and said, "What is your decision." He said, "I am not going chemotherapy anymore. I have decided I want quality of life versus quantity of life."

We sought out this doctor May in Portland. Do you know going to her he stopped the chemotherapy. He stopped all side effects that that chemotherapy gave it. It wasn't just the loss of hair, the dignity, the losing of his teeth, the losing of his weight. It was the quality of life that he was seeking. With this Chinese medicine that I had no knowledge of, she found things for him that give him that quality of life and he lived for a year and a half with quality of life, with not having to take that medicine that would knock him out and give him horrible side effects. He was able to see his grandchildren. He was able to live those last days in dignity. It opened my eyes up to other alternative medicines. I understand that that is not the issue about herbs and alternative medicine. I think that the acupuncturists provide that also. I think that this is a vehicle to enable people to seek out that and to enable the acupuncturists to get the insurance they need, the malpractice insurance.

If I hadn't lived it, if I hadn't heard about this doctor in Portland who has helped so many people, I don't think I could bring this to the floor of the House. I have really lived it and I believe that there are alternatives. There are many, many doctors that you can seek out that can help. It is not a tradition. It is not how we were brought up or how we think. The traditional medicine gives you many side effects and they send you home and you have to live with those side effects. I saw that side of it too. Thank you.

The SPEAKER: The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative **PINGREE**: Mr. Speaker, Men and Women of the House. I just wanted to respond to the good Representative from Calais. She raised some very valid points that I think are important. They are important for any field that is in the medical realm. She talked about licensing. She talked about testing. I just wanted to point out that acupuncturists do take a test for both the current scope of practice and this extended scope of practice that includes herbs. It is a national testing commission that provides this test. The passage of this exam is currently required for licensure in the State of Maine. I think some of the valid concerns about having some common medium for testing for accountability and knowledge is important. It is important both in the state and nationally. It is already being done.

The second thing I want to point out is that the Maine Board of Complimentary Health Care Providers indicates that since 1990 it has received no complaints involving oriental techniques or modalities considered under this bill. We hear on the news every night about all these herbs and fly by night people and buying them on TV. There are problems with some of the types of drugs and herbs people are taking. It is not happening by acupuncturists. There are valid concerns, but passing or not passing this bill will not address those concerns. Acupuncture is a valid licensable and testable profession. I think we are just recognizing that for the sake of these people's businesses, for the sake of their insurance and for the sake of their patients in this bill. Again, I urge you to support the current motion. Thank you very much.

Representative **BULL** of Freeport assumed the Chair.
The House was called to order by the Speaker Pro Tem.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Medway, Representative Duprey.

Representative **DUPREY**: Mr. Speaker, Ladies and Gentlemen of the House. Over the last several days on other occasions, we have heard a lot about the committee process. This is one of the bills that came out of the BRED Committee unanimously. We have always been reminded on several occasions to respect the committee process and what comes out of the committee. We heard a lot of debate on both sides of this issue. I knew very little about acupuncture before having this bill introduced to my committee. I did learn a lot about it. I feel that this is a very good piece of legislation and something that should be considered. I would urge you to follow the light of the committee. Thank you.

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

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

The SPEAKER PRO TEM: The Representative may pose her question.

Representative **ANDREWS**: Mr. Speaker, Ladies and Gentlemen of the House. For anyone on the committee, could you tell me whether the same company or type of company will be providing the malpractice insurance for these individuals as they do for the physicians?

The SPEAKER PRO TEM: The Representative from York, Representative Andrews has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative **PINGREE**: Mr. Speaker, Men and Women of the House. I am not on the committee and the committee may have more knowledge, but it is my understanding from talking to acupuncturists that there are six malpractice insurance companies in the State of Maine who cover acupuncturists. They would cover this extended scope of practice as well under the same policy if this law was to be passed. Yes, the same malpractice insurers would cover this same scope of practice if this were to become a law.

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

Representative **ANDREWS**: Mr. Speaker, Ladies and Gentlemen of the House. I don't know if my question was completely answered. I was referring to the companies that insure our physicians who operate in medical facilities at present. My concern of that is because of what has happened for the malpractice insurance for our regular physicians who are working in the State of Maine now. Two or three times in the last six years I have had to try and intervene on the part of physicians whose malpractice insurance has gone up so much due to the liturgical nature, I may not have used the proper word, of our society, in other words, the likeliness to sue. Because of that, the cost of malpractice insurance is increasing at an alarming rate for our physicians and many are choosing to leave the medical profession. My concern is the enlarging of this process to include another area where people can sue and can further drive more physicians and acupuncturists out of the State of Maine.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterboro, Representative Jacobsen.

Representative **JACOBSEN**: Mr. Speaker, Ladies and Gentlemen of the House. I think that we are overlooking on particular thing that is quite important. I was on the committee. My concern was not judging whether this was right or wrong. It is something that is being practiced. People are using it. People are quite satisfied with it. It is not perfect like anything else. Do we want our constituents going to people without insurance covering their practice? This bill would give people in the business the opportunity to have insurance. If there is a problem,

there would be something there for the patient to go after. I believe that we need to cover our constituents with at least insurance in this field. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Winterport, Representative Kaelin.

Representative **KAELIN**: Mr. Speaker, Ladies and Gentlemen of the House. If I can anyway enhance on the answers that the Representative from York has received, acupuncturists have been licensed in Maine since 1986. They have been insured for medical malpractice as acupuncturists from that period of time. I don't think that adding this additional scope of practice would in any way negatively impact the market. I guess that is really up to the market to determine. I don't think that we can do anything here in this body about whether somebody is going to sue their acupuncturist or sue their internist or their pediatrician or anything else. The point is, I think that these folks have been insured at least for the existing scope of practice at least since 1986.

The last point I want to make is, and I want to make this brief, we all have a lot of work to do on other issues, on my good friend, Representative Mills comments about certification, I will share with you what I have learned over the last couple of days. The certification at issue here is the additional certification that an acupuncturist needs for Tier II use of Chinese herbal therapies, the formulation methodology, the mixing, the burning and the smoke and all of those things, that is 450 additional accredited hours in the practice. The bill would have regulations developed that we would expect to require at least that minimal amount of educational, additional certification, that the individual practitioner has to receive in order to be licensed as a formulate therapist. Thank you very much Mr. Speaker.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Farmington, Representative Mills.

Representative **MILLS**: Mr. Speaker, Ladies and Gentlemen of the House. I don't think that voting against this bill is a vote against acupuncture or the practice of acupuncture and everything they do. I don't think that a vote against this bill is a vote against Chinese herbal medicine. I do think that a vote for this bill constitutes that state putting its infamator on the practice of moxibustion, cupping techniques, gua sha, so tia, shutsu, gugoin, tunia, zero balancing, which we really know nothing about. I have a question I guess I would pose to anyone who may care to answer through the chair. I have never seen a licensing bill that says you are licensed to do something, such as you are licensed to practice medicine, but at the same time anybody else can do it as well.

I would call your attention in particular to Paragraph 4, practice by other persons, which says, "The listing of these techniques and modalities including acupressure and gugoin may not be construed to require any person who practices the same or similar techniques or modalities to obtain the license. It may not be construed to limit, interfere with or prevent any licensed person from practicing similar techniques whether or not defined in the scope of practice of that other person's other license." That, to me, is sort of a bizarre provision. I wonder if someone on the committee familiar with this bill could answer the question. Why is it we are licensing somebody to do something that at the same time saying that anybody else can do it too? I would point out we certainly do not do this in other licensing provisions that I am aware of. We don't tell medical practitioners, doctors and surgeons that they can do medicine and surgery, but others can do it as well.

It seems to me that we are not just certifying that somebody has been to school, because when somebody has been to school they put their diploma up on the wall and that speaks for itself

and it is good advertising. We are saying that they are given the state's blessing to practice these modalities that are being practiced anyway. Someone doing this with a certification will be able to advertise that the state gives its blessing to that person to do these things when the state really, us, we the Legislature, doesn't really understand what they are doing. I would suggest that that is not a proper function of the state and this bill goes too far. If there are no errors, if there have been no liability issues, if there have been no mistakes, no injuries caused by the practice of herbal medicine as has been stated by previous speaker, then why are we concerned about malpractice? When other people are doing it without a license, why are we concerned about one group and not the other? I would ask that question to the chair.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Monmouth, Representative Smith.

Representative **SMITH**: Mr. Speaker, Men and Women of the House. The answer to the question is that provision was added as an accommodation to other practices. What comes to mind is chiropractic does some of the overlay. It does not give carte blanche permission for other people to do these practices. It is to not disallow other professions that are licensed through their profession to carry on. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Waldoboro, Representative Trahan.

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

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

Representative **TRAHAN**: Mr. Speaker, Colleagues of the House. What entity, unlike the medical industry that has layers to record errors, record adverse events, ensure quality, would follow these licensed or certified individuals to ensure quality, ensure reporting of adverse events, etc.?

The **SPEAKER PRO TEM**: The Representative from Waldoboro, Representative Trahan has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. Many of the questions I cannot hear. As you know, my voice has been up and down all week, because I can't hear anything and when I can, I don't even like what I hear. I think the question was, what is the criteria for judging this and how do we do it with other boards. Basically with all boards that we deal, not through the insurance, it is the insurance that has the national health quality act. It goes through that. On regulation, professional regulation, it would be complaints from the consumer. That is where we fall, which is one of the things that we did with the licensing of the contractor and we were talking that perhaps it belongs in Public Safety.

It is the consumer. When a complaint comes in to our board, these boards correct themselves. They discipline themselves, unlike insurance where there will be a meeting of insurance. The two are totally separate. Herbs are seen as a natural ingredient. You can go to the store and buy, even in the grocery store now, it used to be just in natural stores, and vitamins are the same way. You can actually have problems with taking too much of any vitamin. Vitamin C was one for a while that was a problem. All our jurisdiction is to make sure that there is a board of regulation.

The acupuncturists came to us and said we are having trouble getting malpractice insurance because what we learn in school is not completely defined. That is the idea of inserting pins at certain pressure points and working with different natural ingredients. The chiropractors were there. There was, as

Representative Smith said, an overlay. They did a sunrise review and they put this together. There was agreement. It would be complaints coming through as a self-reporting or a group reporting and acupuncture may be going and saying this isn't right. This is what is happening. It is the same thing we do with plumbers. It is the same thing we do with the dental groups. It is different than the insurance part. The only reason the insurance came in is because that was what the acupuncturists wanted. In the insurance if there was a question about insurance, it would go to the other joint standing committee. That is not our committee of jurisdiction.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Augusta, Representative Lerman.

Representative **LERMAN**: Mr. Speaker, Men and Women of the House. I will keep my comments short. First of all, in terms of the validity or the safety of the various portions of the scope of practice that is defined, we aren't experts on many things. We rely on our committees to do the more detailed investigation of things to come back to us with reasonable recommendations for our consideration. In addition to that, the commissioner has reviewed it and has declared that there is no risk to public safety as a result of the practice of acupuncture or the administration of herbs by acupuncturists. Also, the National Institute of Health has gone on record for years as supporting this as a very legitimate and healthful practice.

In essence, where we are is a new and emerging practice within the health care field. It has been practiced for thousands of years effectively, but it was relatively new to our culture and it is just going through the evolution of being accepted and giving it the legitimacy so that people who practice it have the same availability to insurance, both bill insurances as well as receive malpractice insurance and other facets that are commonly a part of more accepted medical practices, whether you are an allopathic physician or an osteopathic physician or otherwise. This is just that evolutionary stage. This is not an endorsement necessarily of the entire practice. It is just defining the scope of practice so that as a field, if you will, it can continue to avail itself of those things that are necessary to be in business.

The other thing I would say regarding malpractice insurance is that I know one of the questions came up earlier as to whether it might drive the cost of malpractice in general up. One of the things that is attractive to acupuncture and the use of herbs is that they are relatively gentle and mild in their impact on people. They are no way near as evasive as some of those practices that are part of the typical allopathic practice. I don't think we have to be concerned about that as well.

Obviously the need for malpractice insurance is just a matter of doing business. There are very few of us that are in business that don't have some kind of general liability insurance and, in fact, in the medical profession malpractice is, in essence, that kind of general liability insurance that provides protection to the practitioners from either frivolous or serious litigation. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Monmouth, Representative Smith.

Representative **SMITH**: Mr. Speaker, Men and Women of the House. If I could add onto the answer to the questions that the good Representative from Waldoboro, Representative Trahan, brought. There might be some confusion in the body as to the purpose of the bill. I would like to point out that the profession of acupuncturists already is licensed. It is in Title 32, Chapter 113A. They are listed as a profession that is licensed by the department. The question I believe was, who oversees the activities of the acupuncturists? The answer is the Department of Professional and Financial regulation. I would like to also point

out the BRED Committee bills that have been coming through the last couple of days, I would like to note that this is one of those rare occasions when the department and the committee agree. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Marraché.

Representative **MARRACHE**: Mr. Speaker, Men and Women of the House. I am kind of glad it was kind of a long debate. I got here a little bit late. I get to at least rein in a little bit. I respect the committee process and I understand they worked very hard in this. I don't want them to take this personally and there is no malice towards anybody who practices acupuncture or does herbal medications. I do feel this is a public safety issue. The FDA does not monitor and study herbal medications the way it does medications that are prescribed by allopathic or osteopathic physicians. It doesn't have the same sort of safety standards set in place. In fact, they can only withdraw these herbal medications if there has been enough reports of bad outcomes after it has already been on the market. It is done after the fact and not before the fact. Now you have people who will be giving this out, which they can already, by the way, do. They now also have that little slip that will say that we, as a state approve of them going ahead and doing this. I think it is a little bit more further on the path toward accepting this and not worrying too much more about the public safety. That is why I oppose this. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. You have heard this morning a perceptive evaluation by two attorneys that noted the deceptive aspects of this bill and the language. You have heard from two of our Representatives who are nurses about the ill effects that some of these drugs have on patients. Let's go over exactly what currently exists. First of all, with or without this bill, acupuncturists will continue to do their acupuncture. Secondly, Chinese herbs and eastern healing practices are still available, but they remain untested and unknown to this body. Third, people have died from Chinese herbal medicine. There are well-documented cases or they simply lost their kidneys or they have damaged their liver or they have damaged their heart or some other things. I would wonder if anybody who wants to give out this stuff, they would want malpractice insurance because they are going to do malpractice.

What does this bill do? It adds to the acupuncturist's certification that Chinese herbal medicines and eastern healing practices of which none of us understand are part of acupuncture. That is not true. If we pass this, this gives the state the stamp of approval that these things are okay and they are safe. Acupuncturists say they need this for malpractice insurance. Baloney! When we had that pitch in our caucus, I asked the acupuncturists, do you or do you not have malpractice insurance for acupuncture? The answer was, yes, I do. Okay, I would say that since we don't understand it there is no evaluation of any type on this thing. This does not belong in this body. This bill is letting the state legitimize these practices when they have not been tested. They have not been certified nor have they been subjected to any acceptable scientific scrutiny. We are in an error of evidence based medicine, which you hold all other practitioners to. These eastern healing arts in no way can pass these tests. Please do not vote for this bill and protect our public.

The other thing I want to say is that these things are already available on the market. The people have access to them. The acupuncturist doesn't have to prescribe them. They can go to the market and get them any time they want. I just don't understand

the focus on all this thing. I resent the deception about malpractice insurance, etc.

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

Representative TOBIN: Mr. Speaker, Ladies and Gentlemen of the House. If Representative Berry from Belmont is listening, I wasn't going to speak on this issue. This is very near and dear to me on a personal level. Lawyers in the State of Maine, nurses in the State of Maine and doctors in the State of Maine are licensed and I don't know a darn thing about any of the three things. This body is the one that licensed them. Just because we don't understand something doesn't mean that it is wrong. My own personal experience, I have a daughter and two beautiful granddaughters that I wouldn't have if it wasn't for acupuncture and the herbs. The medical doctors in this state had given up on my daughter. At one point they had told me that they didn't think she was going to live through the night. We took her to Brigham Women's Hospital. They got her stabilized. They got her off steroids. We got her back to the State of Maine and thank God there was one medical doctor that suggested off the record that she might want to go for holistic care. She went to holistic care and they recommended that she might see the acupuncturist. In a matter of weeks her white blood cell count improved dramatically. In the meantime she had been taken off all drugs that had been prescribed by the medical profession here in the state. The MD that she was seeing on a weekly basis continued to check the white blood cell count. After seeing the acupuncturist for a couple of weeks, that white cell count improved dramatically. The acupuncturist suggested that there would be no need of seeing him weekly, but he would start seeing her monthly. Within a matter of a couple of three weeks her white blood cell count dropped dramatically. The MD was checking this weekly said, what are you doing differently? She told him that she wasn't seeing the acupuncturist as often. He suggested that maybe she should go back to the original schedule with the acupuncturist and within a matter of a couple or three weeks lo and behold the white blood cell count went up again. This was over 25 years ago. My daughter is still living. I have two granddaughters that wouldn't be here. When it was suggested that she go to acupuncture, I thought it was voodoo. I don't care if it is voodoo. I don't care what it is. If these doctors need protection of insurance, then I say that we should give it them and anything we need to do to help that profession we should do. I am voting for this. Thank you very much.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Cornville, Representative Mills.

Representative MILLS: Mr. Speaker, Men and Women of the House. The human body is a truly miraculous biochemical machine. As I think most of us in this chamber have been witnessed to, it has a tendency to heal itself and get better no matter how badly we interfere with its process through medical science, nursing, acupuncture, chiropractic, through dentistry or almost anything else. The body has a wonderful tendency to do what is best for itself in the long term and to heal itself. That aside, I need to correct, if I may, one misimpression that I think has been created by previous speakers perhaps through inadvertence. There is a process when someone wants to be licensed to do something or to have a license issued by this state and certified by the state there is a process by the state that they must go through that we have established by law. The commissioner of the Department of Professional and Financial Regulation must review the case to be made for licensing or expanding of the license then issuing a report to advise the Legislature in an expert way whether licensing or expansion of licensing seems warranted. There should be no mistake in this

case that this commissioner, Commissioner Murray, concluded after writing about a 100 page report that I have in my hand that the department recommends that the committee not adopt this proposed legislation. They said it in plain English. That is his holding.

When a lawyer doesn't go a good job, somebody can take away his license, take his sign off the door and tell him his is not free to do that anymore in our society. That is the reason we license nurses and doctors and many other people, engineers and architects. There are about 150 of these licenses that we issue in Title 32 and they are all there so that we can them away.

The commissioner said they didn't explain to me what the standards would be for either issuing or taking away. I have no clue how we could enforce this thing if you gave this license out. That is one reason, among several, that he gave for saying that this legislation should not pass. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative SULLIVAN: Mr. Speaker, Men and Women of the House. The danger of society is to take long reports out of context and try to stand up and win a debate. The question in the sunrise is that the commissioner did was is the public's safety at danger if we do not pass this bill. His conclusion was no because it was not something that you have to have this certificate for. He was asked for public safety, not for insurance. Indeed, if you are looking at public safety, his conclusion was it was not necessary. This bill came in for a group of certified people to be able to have this scope defined within statute so that they could get insurance. That is two different things. In deed, we did exactly what we were supposed to do, all 13 members of the BRED along with our analyst just like each of your committees have an analyst. We carried this bill over so that the department could spend the money. Indeed, that is how they came out. Sometimes a little knowledge is really, really dangerous. What we have to fear to quote Churchill, "Is fear itself." We are afraid of something we do not understand. Therefore, we need to protect everybody. America is about the right to choose the type of medical attention you want. It makes no difference if I believe it or not. It is the right. This is a 12 to 1 report. It has been studied for two years. I would ask each committee member here, whatever committee you are on, how you would feel with a 12 to 1 report two years. I have an Appropriations Committee that wants us to not make any changes and vote unanimously for something. Education, the Department of Health and Human Services, Criminal Justice, a 12 to 1 report. We have gone through all the hoops the law requires. We have a legal analyst. I find it insulting to the intelligence of Maine voters. I find it a slap in the face to people who truly believe that their loved ones are alive because of this. No, I don't understand it. No, I can't pronounce the words. Today, I can't even hear most of what I am doing. I know that we follow the rules. I would ask you to leave the entire report all 100 and something odd pages to find out that public safety was not in question. It was simply the allowance of people to get insurance. That is our job in BRED. Thank you.

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. 455

YEA - Adams, Annis, Ash, Austin, Barstow, Beaudette, Bennett, Berube, Bierman, Blanchette, Bowen, Brannigan, Brown R, Bull, Bunker, Campbell, Canavan, Clark, Collins, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Gagne-Friel, Gerzofsky, Glynn, Goodwin, Greeley, Grose, Hotham, Hutton, Jacobsen, Kaelin, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen,

Maietta, Makas, McKee, McLaughlin, Moody, Muse, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry J, Pineau, Pingree, Piotti, Rector, Richardson J, Rines, Rogers, Saviello, Smith N, Sukeforth, Sullivan, Suslovic, Thompson, Tobin D, Twomey, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Berry, Bowles, Breault, Browne W, Bruno, Bryant-Deschenes, Carr, Churchill E, Clough, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Faircloth, Finch, Fischer, Fletcher, Hatch, Heidrich, Honey, Jackson, Jennings, Joy, Lewin, Mailhot, Marley, Marraché, McCormick, McNeil, Millett, Mills J, Mills S, Moore, Nutting, O'Brien J, Peavey-Haskell, Perry A, Richardson E, Richardson M, Rosen, Sampson, Shields, Simpson, Smith W, Snowe-Mello, Stone, Tardy, Thomas, Tobin J, Trahan, Treadwell, Usher, Young.

ABSENT - Bliss, Churchill J, Jodrey, Landry, Ledwin, McGlocklin, McGowan, McKenney, Murphy, Sherman, Sykes, Vaughan.

Yes, 83; No, 56; Absent, 12; Excused, 0.

83 having voted in the affirmative and 56 voted in the negative, with 12 being absent, and accordingly the House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

An Act To Establish the Department of Health and Human Services (EMERGENCY)

(H.P. 1414) (L.D. 1913)

(C. "A" H-890)

TABLED - April 13, 2004 (Till Later Today) by Representative DUPLESSIE of Westbrook.

PENDING - **PASSAGE TO BE ENACTED.**

The SPEAKER PRO TEM: The Chair recognizes the Representative from Augusta, Representative Lerman.

Representative **LERMAN**: Mr. Speaker, Men and Women of the House. I am not going to repeat all the comments I made yesterday, but I will encourage you to vote against this enactment. First of all, I hope you realize the significance of this bill. This is not a routine bill. This bill has a great deal of significance. We are merging two of the largest departments that we have within state government. You are taking the Department of Human Services, which already has 2,700 employees and a budget of over \$2 billion and you are combining it with a second department BDS, which has a budget of over \$300 million and has over 1,300 employees. We are creating a mega agency. One of the complaints that has been historical regarding these departments is that they are not accessible. People call up and get transferred from one place to another. It is just not an easy place to maneuver and it is extremely bureaucratic and very impersonal. To think that by adding another 50 percent of employees, an enormous additional amount to their budget, if you think that is going to become more accessible and more user friendly, I beg to differ.

There are two big concerns I have regarding this bill. First of all, I really think that it will be a distraction from the mission that we need to pursue very vigorously. That is to really do systems design, reduce cost, improve efficiency and improve the services that people receive. I don't know if many of you have had experience with organizational mergers. I have and there is a tremendous amount of attention and resources that just goes into the combining of different cultures, separate from being able to get to the business of improving the efficiency of the organization itself. The work that needs to be done to deal with some of the very significant financial challenges that we face as a state will be distracted as a result of passage of this bill. I am very fearful of that. The second piece that clearly came out of my comments

from yesterday is that I fear there are certain populations served by these departments, which will be overshadowed and will not get the attention that it deserves. There are certain services currently being offered by the Department of Behavioral and Developmental Services that will at best be second citizens within the bigger Department of Human Services. I urge you to vote against this bill. I appreciate your consideration of my comments. Thank you.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. I appreciate my colleagues comments and many of the points that he made is exactly why we are doing what we are doing and the problems that he described make the case that current situations are untenable and it requires drastic action.

LD 1913, "An Act to Establish the Department of Health and Human Services" will reorganize and unify the two largest departments of state government, the Department of Human Services and the Department of Behavioral and Developmental Services. This is a unanimous committee report, ladies and gentlemen. It does, however, because of the complexity, deserve some explanation. It is the most ambitious reorganization of state government in many years and is designed to favorably impact the lives of thousands of adults, children and families who receive services from either department.

It is probably fair to say that nearly every Maine family will be touched in some way as a result of this initiative. The current lack of confidence and trust in our human services system is what requires this bold action. We cannot continue to do business as usual. We cannot move at slow incremental paces. Consumers and families demand decisive action. Moved by the emotions generated by the public criticism of Maine's child protective system and the feedback of consumers, families and providers of horror stories of breakdowns in communication and coordination between DHS and BDS, the Chief Executive became convinced that Maine can and should do better for our children and families.

We have all had our own experiences with breakdowns in the system. This legislation is designed to address this. Nearly a year ago the restructuring and unification council was established to organize a process for carefully examining the problems, issues, strengths and weaknesses of our human services system by reaching out to consumers, providers, advocates, department staff and others with expertise. The charge was to develop recommendations for action as well as a template of values and principles that would guide the development of a new system, emphasizing first and foremost the importance of the consumer and family approach to services where there is no wrong doer. No consumer can or should be turned away from services wherever they seek it at any point in the system. The product of this council's deliberations and recommendations of which both Representative O'Brien and I had the privilege of serving over a period of over nearly nine months is the proposed legislation, which was presented to and amended by the Health and Human Services Committee. The proposed legislation focuses primarily on the short-term objectives identified by the council, establishing the leadership of the new department under a single commissioner, unifying the major administrative functions, which are currently duplicated and costly in each department including such things as auditing, financial management, human resources, information technology, licensing, training and other activities. All of these are duplicated and costly.

The Health and Human Services Committee did not support the advisory board or the establishment of new bureaus at this

time. We did not support an advisory board to the commissioner because we felt that it was an incursion into legislative oversight and is the responsibility of the committee of jurisdiction, the Health and Human Services Committee and this Legislature.

It did not support the establishment of new bureaus at this time, because much more planning and processing needs to be carried out in order to get it right. Historically and at the present time all of our services are built in silos and don't work with one another. You have adults in multiple silos. You have children's services in multiple silos. In order to do it right and to have these bureaus organized appropriately, there has got to be a careful planning process. I will talk to you a little bit about that in a minute.

The long-range goals of the council, which focus on affecting change in the internal culture of the departments and establishing an easy to navigate community based system of services will be part of the ongoing work plan that is going to be taking perhaps several years to fully accomplish. To be successful the strategy must be based upon the empowerment of consumers and families. Consumers, families, advocates and providers must fully participate with the department and the Legislature through the Health and Human Services Committee in designing the details of a proposed new system of care. This is the area that will require careful oversight by the Health and Human Services Committee and the Legislature over this next year and over subsequent years in succeeding Legislatures.

Specific highlights of the legislation which as amended include a statement of the mission, a statement of the guiding principles again emphasizing consumers and families as the priority, outlining the programs and services to be provided, which include a range of those services currently being provided, additional services for children and family, additional services for adults, including elderly and persons with disabilities. It requires service delivery through a coordinated and an efficient administrative structure using both public personnel and contracts with agencies.

It requires the department's commissioner to submit a report with recommendations and legislation by January 31, 2005, to the Joint Standing Committee on Health and Human Services and authorizes the HHS Committee to report legislation out to the 122nd Legislature on issues regarding the establishment of the new department including the bureau structure, administrative structure and functions, program services and service delivery systems.

It is complex and it does take time. We should not underestimate the magnitude of the challenges before the committee in dealing with this proposal. We shouldn't underestimate as well its potential for enhancing the lives of Maine's most vulnerable citizens through a more coordinated, accountable and cost-effective system of health and human services. We have a unique opportunity of proposing and passing landmark legislation that is going to serve this state well for a long time.

The complexities of the task should not deter us from action, rather they should sensitize us to the need for an inclusive process for all stakeholders, thoughtful utilization of expert resources, patience and mutual trust on the part of all participants who engage in this process over this next year and longer. It is a delicate balance of boldness and caution moving forward.

The Health and Human Services Committee, as I mentioned, made significant changes in what was presented to us, which increased legislative oversight and lays out a clear step by step approach to the implementation process. The Governor's proposal is bold in terms of its goals and objectives. It appears to be appropriately cautious in terms of process and time frames for

implementation. I remind you that this is a unanimous committee report. I urge your strong support for this bill. Thank you Mr. Speaker.

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

Representative O'BRIEN: Mr. Speaker, Ladies and Gentlemen of the House. I will really attempt to be brief. I was told once that if you say that and you go beyond three minutes you are not brief. I will really try to honor that. I have to stand and say that I was very honored to serve council for the reorganization and unification of DHS and BDS. I served with Representative Kane and Senator Weston and many, many other community people. I also was the co-chair of the Committee on Children and families. That was a very incredible experience with 35 members and very compelling and emotional testimony on their experiences with the DHS and BDS system.

After many, many thousands of hours put in and compelling testimony through the summer and the fall, this council came together with six subcommittees and made over 100 recommendations. There is a report that many of you have seen with these 100 recommendations. Many of them talk about the culture that has been brought out by Representative Lerman and others. It talks about the cultures of BDS and DHS and how they are so different and how they are not necessarily family consumer friendly. Sometimes they are heavy handed and sometimes they may be retaliatory. That was an issue that was brought up over and over.

It became very clear that we are not delivering our services in the most cost effective and thus the most efficient way to our most vulnerable citizens.

I want you to know that we did hear the concerns of Representative Lerman and his constituencies. They are valid concerns. I know that people in the BDS system are very concerned about being swallowed up by DHS and those in the mental retardation arena are very concerned about being swallowed up by BDS and substance abuse has concerns. There are concerns. That is why the 100 recommendations that were offered were not adopted. They are not in this bill.

What this bill says is to merge the two departments with one single commissioner. It will require the commissioner to make recommendations, looking at this document and taking testimony from others and report back on a regular basis to the Health and Human Services Committee. I won't say it is innocuous. It is a very, very watered down version of the recommendations that were given the Chief Executive. I think the time is now. People have said to me, why now, when we have so many problems, issues with DHS and BDS? That is precisely, in my view, why we need to do it now. It will be business as usual as it has been for the eight years that I have been here, for the many, many years before that. There have been many commissions that have looked at his issue and nothing was ultimately done. Now is the time to do it. The press is looking at this. The public is looking at this. The Legislature is looking at this. I believe if we are ever to solve some of these problems with silos, with all the other issues that are problems in these systems, now is the time to do it. I would urge you to support the unanimous committee report and pass it with enactment. Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lewiston, Representative Walcott.

Representative WALCOTT: Mr. Speaker, Men and Women of the House. I will be very brief. I just wanted to add because I have heard a lot of concerns about the oversight of DHS and what will happen. I want to add that there are a lot of us on the committee that were concerned with that as well. We even went so far in the bill to put that the committee will meet over the

summer, not leaving it up to a decision of someone else whether we would need it. In the bill it sets up that we will meet to have oversight of this process and that the commissioner needs to bring back any legislation to us in January, before anything really is done. This is more of a process to set out what is going to happen as the Representatives before have said. I just want to make sure that people realize that there is a lot of oversight in this bill by the Legislature. I think that is important because I think that is something a lot of people have concerns about. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lewiston, Representative Craven.

Representative CRAVEN: Mr. Speaker, Men and Women of the House. I rise to speak in support of the passage of this bill. It is my sincere hope that today we do not unravel all the work and the many hours that the committee and many of our colleagues dedicated to bring this important bill before us. The Health and Human Services Committee is having ongoing meetings throughout the summer to oversee the development of the new agency. The opportunity to provide ongoing input in response to our constituents needs, and especially to the needs of those who receive services from mental retardation, will continue after the passage of this bill. Our constituents depend upon us to make sense of the state's bureaucracy and to make sure that its sheer complexity is not the hurdle to treatment and services. We should move forward to create a better organization with increased access and better coordination of services for our people. We should take the opportunity to take and lay a better foundation for which further services and improvements can be built. I urge you to vote in favor of this bill. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Augusta, Representative Lerman.

Representative LERMAN: Mr. Speaker, Men and Women of the House. A few quick points, first of all, I think we have all experienced as members of this Legislature that the bigger the organization, the more difficult it is to oversee. We will be creating a mega agency here. While I certainly have a great deal of respect for my colleagues on the Health and Human Services Committee and while I have no doubt about their intention and conviction to oversee what happens, the fact of the matter is, the bigger an agency is, the more difficult it is to really get at the kind of oversight that is really necessary.

Second, in regards to Representative O'Brien's comments regarding business as usual, I think that one of the good pieces of information to consider at this time is that it will not be business as usual whether the unification goes forward or not. The fact of the matter is that this particular Governor has much more interest in the services provided by both DHS and BDS than previous Governors have.

I don't know if I mentioned this, but at one point I was a candidate for the Commissioner of BDS. I can tell you that the priority of the administration at the time was all about getting out of the consent decrees and wasn't concerned about other aspects of the functioning of that organization like coordination, like improving the quality of services, like creating certain efficiencies and cost effectiveness. I have no doubt whether the unification takes place or not, that the good news is that some of the things that we are all concerned about in terms of effectiveness and coordination and cost effectiveness and fairness will be addressed.

The third point I will make is that I really have a great deal of respect and admiration for the work done by the advisory council. I, in fact, know professionally and personally many of the people who participated. One thing to remember is that all the major recommendations, included in the work of the council can be put

forth, can be implemented whether the unification takes place or not. All the work that has been done, all the thought that has been put into the situation, all the good recommendations that have been made are not contingent upon the value that the State of Maine would get from implementing those recommendations is not contingent upon unification, but both the departments operating independently could go forward, embrace and put into effect those recommendations. Thank you very much, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bucksport, Representative Rosen.

Representative ROSEN: Mr. Speaker, Colleagues of the House. I would just like to remind the membership that one year ago this month more than two-thirds of the membership of this Legislature voted a biennial budget that put \$5.8 million in savings in the '05 fiscal year resulting from the creation of the new department. The clock starts ticking July 1. We need to get cracking if we are going to actually realize \$5.8 million in savings that we booked a year ago in the '05 fiscal year. Thank you.

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. 109 voted in favor of the same and 17 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

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.

The House recessed until the Sound of the Bell.

(After Recess)

The House was called to order by the Speaker.

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

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Pursuant to Statute

Department of Conservation

Representative McKEE for the **Department of Conservation** pursuant to the Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Chapter 23: Standards for Timber Harvesting To Substantially Eliminate Liquidation Harvesting, a Major Substantive Rule of the Department of Conservation (EMERGENCY)

(H.P. 1466) (L.D. 1962)

Be **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **AGRICULTURE,**

CONSERVATION AND FORESTRY and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

ENACTORS
Acts

An Act To Establish the Gambling Control Board To License and Regulate Slot Machines at Commercial Harness Racing Tracks

(H.P. 1342) (L.D. 1820)

(S. "C" S-515 to C. "A" H-868; S. "A" S-519)

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

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

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 House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-868)** was **ADOPTED**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Senate Amendment "C" (S-515)** to **Committee Amendment "A" (S-868)** was **ADOPTED**.

The same Representative moved that **Senate Amendment "C" (S-515)** to **Committee Amendment "A" (S-868)** be **INDEFINITELY POSTPONED**.

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

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. We have before us LD 1820, which is the gambling regulatory bill put forward by the Executive. This bill we have considered and we have worked on. However, after the committee has voted the recommendation and after the good work and debate that we have, when this bill went down to the other body a very dilatory, in my opinion, amendment was put on the bill that changes the face of the gambling regulatory act. What it does is rather than have strong regulatory control policy set by the Legislature, it defers that to be set by a committee. It is going to be negotiated, a negotiable item. From the very start when the Governor and the Executive presented this bill to the Legislature and the Legal and Veterans Affairs Committee negotiated and debated this bill, there was one item that was clear in everyone's mind, which was this was going to be a regulatory bill, a strong regulatory bill. It would be regulating the industry of having slot machines in Maine. What we have seen with the amendment from the other body is a weakening of that. It is taking away some of that regulatory teeth in an attempt to persuade Penn National to go forward with the Racino in Maine. I have to say that if I was running a convenience store and one of my clerks didn't want me to count the change, I would be questioning why they didn't want me to count the change in the cash register. Likewise, I would have to say that if a business wants to have slot machines comes to Maine and doesn't want a strong regulatory bill in place, it makes me question why exactly they don't want those strong regulations.

The motion we have before us will strip that amendment from the other body and bring us back into the strong regulatory position we were when this left this chamber last time. When the vote is taken, I request the yeas and nays.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE Senate Amendment "C" (S-515)** to **Committee Amendment "A" (S-868)**.

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 Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House. The reason why we have the amendment before us now is because what it does is it has the board look at a monitoring system. The gaming board for slot machines is going to be established under LD 1820. They are going to look at the monitoring system. I don't know about any of you in this body, but I certainly am not an expert on monitoring systems on gaming issues or slot machines. I cannot give the appropriate and adequate details of a monitoring system that we need in the State of Maine for slot machines. That is not my expertise. I don't think it is anyone else's expertise in this body either. About Penn National and if we don't have this amendment, they are going to walk and things like this. That is totally untrue. All this amendment does is have the board, which is appointed by the Chief Executive, and confirmed by the Senate, these people have the opportunity to look at a monitoring system for the State of Maine. They have to have this done by September 30, 2004. That is in the bill now. They need to have the monitoring system and the board up and running by September 30, 2004.

We, as a committee, have looked at this long and hard. We have looked at a one-tier system, a two-tier system, a T1, T3. You can have all kinds of scenarios to this. Like I said and what I want to get straight across to everybody is that we are not experts in monitoring systems for the State of Maine for gaming. I hope that you will follow my light. Thank you Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of Senate Amendment "C" (S-515) to Committee Amendment "A" (S-868). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 456

YEA - Andrews, Austin, Berry, Clough, Collins, Cressey, Crosthwaite, Curley, Daigle, Dudley, Eder, Glynn, Kaelin, Lewin, McKenney, McNeil, Mills S, Murphy, Peavey-Haskell, Rogers, Snowe-Mello, Stone, Suslovic, Trahan, Vaughan, Wheeler, Woodbury.

NAY - Adams, Annis, Ash, Barstow, Beaudette, Bennett, Berube, Bierman, Blanchette, Bliss, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Courtney, Cowger, Craven, Cummings, Davis, Dugay, Dunlap, Duplessie, Duprey B, Duprey G, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Maietta, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKee, McLaughlin, Millett, Mills J, Moody, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Rector, Richardson E, Richardson J, Richardson M, Rines, Rosen, Sampson, Sherman, Shields, Simpson, Smith N, Smith W, Sukeforth, Sullivan, Sykes, Tardy, Thomas, Tobin D, Tobin J, Treadwell, Twomey, Usher, Walcott, Watson, Wotton, Young, Mr. Speaker.

ABSENT - Bunker, Earle, Goodwin, Greeley, Landry, Ledwin, Moore, Piotti, Saviello, Thompson.

Yes, 27; No, 114; Absent, 10; Excused, 0.

27 having voted in the affirmative and 114 voted in the negative, with 10 being absent, and accordingly the motion to **INDEFINITELY POSTPONE Senate Amendment "C" (S-515)** to **Committee Amendment "A" (S-868)** **FAILED**.

Subsequently, **Senate Amendment "C" (S-515)** to **Committee Amendment "A" (S-868)** was **ADOPTED**.

Committee Amendment "A" (H-868) as Amended by **Senate Amendment "C" (S-515)** thereto was **ADOPTED**.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. Now that the gambling regulatory authority has been weakened, I feel very strongly that I, like others, would like to go on the record opposed to a measure. I ask for a roll call.

Representative **GLYNN** of South Portland **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended**

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

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. I just want to reassure everybody that the gaming monitoring system has not been weakened. It is going to be looked at by the Gaming Control Board with the understanding that the Department of Public Safety and the administration, along with the Gaming Control Board will look at a monitoring system that is right for the State of Maine. What we have in the bill might also be the same monitoring system that the board might decide on. Nobody knows that. We are not experts on this. It is not diminishing the monitoring system here for LD 1820. Thank you.

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

ROLL CALL NO. 457

YEA - Adams, Annis, Ash, Austin, Barstow, Bennett, Berube, Bierman, Blanchette, Bliss, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Courtney, Cowger, Craven, Cressey, Cummings, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey B, Duprey G, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Maietta, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKee, McKenney, McLaughlin, Millett, Mills J, Mills S, Moody, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Sampson, Sherman, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Sukeforth, Sullivan, Sykes, Tardy, Thomas, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Watson, Wotton, Young, Mr. Speaker.

NAY - Andrews, Beaudette, Berry, Clough, Collins, Crosthwaite, Curley, Daigle, Eder, Glynn, Lewin, McNeil, Murphy, Rosen, Stone, Suslovic, Wheeler, Woodbury.

ABSENT - Bunker, Earle, Greeley, Landry, Ledwin, Moore, Piotti, Saviello, Thompson.

Yes, 124; No, 18; Absent, 9; Excused, 0.

124 having voted in the affirmative and 18 voted in the negative, with 9 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-868) as Amended by Senate Amendment "C" (S-515)** thereto and **Senate Amendment "A" (S-519)** in concurrence.

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

ENACTORS

Acts

An Act To Ensure the State's Commitment to Former Students Who Were Physically or Sexually Abused at the Governor Baxter School for the Deaf or the Maine School for the Deaf

(S.P. 614) (L.D. 1682)

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

On motion of Representative **MURPHY** of Kennebunk, was **SET ASIDE**.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. As I read the title of this enactor, it is always interesting titles and what they say or do not say. I am looking at the word commitment and what actually does that word mean in terms of what the Legislature and the State of Maine will do in reference to these youngsters who had been under our responsibility. More than 20 years ago as a young legislator, I had been appointed by Governor Brennan, as a legislator on the visiting committee, following the tragedies and scandals that occurred at our school with children that were under our care. To summarize, they were isolated. They were attacked. They were intimidated. As I begin to look at this bill, it appears to be a feel good bill. As I look at it on the screen, it appears to be straightforward and says \$6 million to be able to continue meeting our commitment. As I look at it a little closer, I see that everything is dependent upon the budget. When I look at the budget, there are no monies appropriated for our commitment. It makes reference in Section BBBB-4 that we will keep our commitment if there is an unappropriated surplus. It indicates that it is a second priority. I am not sure where it falls among all the other unappropriated surplus priorities.

Mr. Speaker, a question, as we look to keep our commitment to these youngsters, a commitment that is more than 20 years old, please tell me specifically within the budget and the budget language how much money is being committed to these youngsters?

The **SPEAKER**: The Representative from Kennebunk, Representative Murphy has posed a question through the Chair to anyone who may care to respond. Seeing no one, the Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. I have always followed a practice that imposing a question and wanting to know precisely what will my vote do or not do and when I do not receive an answer, then I would like to be able to vote. Therefore, Mr. Speaker, I request a roll call.

Representative **MURPHY** of Kennebunk **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

The **SPEAKER**: The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative **PINGREE**: Mr. Speaker, Men and Women of the House. Just in answer to the good Representative's question, we did put \$3 million in the budget.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Bowles. For what reason does the Representative rise?

Representative **BOWLES**: Point of Order, Mr. Speaker.

The SPEAKER: The Representative may state his Point of Order.

Representative **BOWLES**: Thank you Mr. Speaker. I apologize to the Representative for interrupting her. However, a roll call was requested before the good Representative was recognized.

The SPEAKER: The Chair would answer in the affirmative. The Chair just hasn't ordered the roll call. We will have an opportunity for countless roll calls tonight, I suppose.

The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative **PINGREE**: Thank you Mr. Speaker. In answer to the question, there is \$3 million in the budget in the appropriated surplus. I believe it is a second priority. I can't remember the technical title of the first priority, but it was a unanimous vote of the Appropriations Committee to enact this bill. It is our feeling on both sides of the aisle that this is an awful situation that the state needs to address. We hope that as a committee we will be able to continue to make a commitment to this before we get out of here. Thank you Mr. Speaker.

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

Representative **CUMMINGS**: Mr. Speaker, Ladies and Gentlemen of the House. Let me use this opportunity to reinforce what Representative Murphy has said. Many of us on the Education Committee and other committees in this Legislature have listened first hand to the suffering that the people, the students, now adults at the Baxter School experienced in the '70s, part of the '60s and part of the '80s. One of the most memorable pieces of testimony came when desperate to get the State Department of Education in 1979, students wrote to the Department of Education begging them to step in and stop the mental and physical and sexual abuse at that school. Unwisely they send that letter directly to the principal of the Baxter School. He brought 106 deaf students down to the gym at 9:30 at night and ripped that letter up in front of them and said if they ever were to report any of the abuses to anyone, that further physical and other abuses would happen. I hope that the Appropriations Committee and this Legislature will remember the pain that we oversaw for years and did nothing.

The SPEAKER: The Chair recognizes the Representative from Bucksport, Representative Rosen.

Representative **ROSEN**: Mr. Speaker, Men and Women of the House. To clarify in response to the question that was posed by the good Representative from Kennebunk, as Representative Pingree mentioned, the \$3 million in LD 1919 that appears before us and we will be discussing later tonight does appear in the cascade. For folks that may not be familiar with how a cascade in a budget works, it is, in fact, as stated an unappropriated surplus that if available at the end of the '05 fiscal year and if after funds have already flowed through the mechanism that we have in place not that provides for funding to the Budget Stabilization Account and others and then after that if there are funds left over, then they will spill over into this cascade. The first priority in the cascade is replenishment of some money in the Micro-Enterprise Fund and the Baxter Victim's Fund money is second in line.

Generally the way this works is after the close of the books on the '05 fiscal year sometime in '06 once those books are reconciled and we determine the status of the balances at the

end of the year of the funds are available, then they would be distributed at that time.

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. If I can translate what I just heard, because previously I heard the money is in the budget, it will be taken care, \$3 million. A translation of what I just heard is if when we get to the end of the year and we have the money, then we will be able to make our commitment. As you campaigned and as you have talked with your constituents, you have talked that you are the person that has the ability to make the priorities, set the priorities. Twenty some years later after these kids were attacked and at a time when they would have naturally reached out to their parents, the administration that was abusing them shut them off from contact with the families, urging them that they have to be independent. They have to stand on their own feet. That administration within the school knew if they came down, then the families would find out and it would all come crashing down on the administration and these kids could be freed from the restraint and the abuse they were suffering. When I look at (10-1) and it says \$6 million, we are keeping our commitment. The reality is we are only keeping our commitment if we have money left over. It is the second priority. That is a sham. That is feel good. That is not right.

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

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

The SPEAKER: The Representative may pose his question.

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. Is the House currently debating LD 1919 or LD 1682?

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

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. We should be right now in a position of feeling pride at passing this piece of legislation to help these poor victims. Instead, somehow, I think when the vote is taken, despite the fact that probably all of us are going to vote for it, I think we should truly be feeling shame. We should be ashamed that it is has taken this long, ashamed that it is apparently going to take even longer, ashamed that we are putting these poor victims behind providing money for an economic enterprise fund. Over the years there has been no stronger defender of the Micro-enterprise Fund than me.

THE SPEAKER: The Representative is debating other matters than what is before the House. The bill before the House is LD 1682. We can recess so that members can read that bill. What we are debating is LD 1682. The Representative will confine his debate to the bill before us. The Representative may proceed.

Representative **BOWLES**: Thank you Mr. Speaker. May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **BOWLES**: Mr. Speaker, since this bill is about funding for this program, is it not proper to be debating the source of that funding?

The SPEAKER: The Representative knows full well that the issue is in the budget. Out of respect for the time and the other members in the body, the Chair would hope that the Representative would wait. We will have plenty of debate on the budget in a matter of moments.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. I understand the dilemma some of you are facing because you look at the title of this bill and you may be fearful that people will misunderstand your commitment to the victims of the school. I think it is important on this roll call and I plan on casting one red vote, even if it is the only red vote. As one of close to a handful of my last vote in this Legislature, I could not in good conscience after 20 plus years, after that initial face to face contact with these victims. They are looking to the state for help. We spend so much time in this Legislature talking about students and other institutions. This is one of our institutions. They are our kids. They are our responsibility and we failed. Twenty years later we still haven't kept that commitment. Even if I am the only red vote here today, I think they need to hear that this is a sham and it is feel good and there is no guarantees that these victims are going to get the funds that are entitled to them.

The SPEAKER: The Chair recognizes the Representative from Waterford, Representative Millett.

Representative **MILLETT**: Mr. Speaker, Ladies and Gentlemen of the House. Very briefly, the purpose of the Appropriations Committee reporting this bill out knowing that it was not an affordable package and in its present form probably would cause some confusion among you was to simply position on the Appropriations Table so that later in this session we might look at it as a vehicle in concert with what is in the Committee Amendment and other floor amendments to LD 1919, which are before you, in order that we might all agree on the extent of our commitment, the timing of our commitment and the magnitude of money that we are able to put together. I just wish to let everybody know that this is not an intent to slip something by you, but simply a means of getting a vehicle to the Appropriations Table. Thank you.

The SPEAKER: 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. 458

YEA - Adams, Annis, Ash, Austin, Barstow, Beaudette, Bennett, Berube, Blanchette, Bliss, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bryant-Deschenes, Bull, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Craven, Cummings, Curley, Daigle, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Grose, Hatch, Honey, Hotham, Hutton, Jackson, Jacobsen, Jodrey, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Tardy, Thomas, Tobin D, Tobin J, Trahan, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Andrews, Berry, Bierman, Bruno, Cressey, Crosthwaite, Duprey B, Heidrich, Joy, Kaelin, Lewin, Maietta, Murphy, Treadwell, Vaughan.

ABSENT - Bunker, Earle, Goodwin, Greeley, Jennings, Landry, Ledwin, Moore, Piotti, Thompson.

Yes, 126; No, 15; Absent, 10; Excused, 0.

126 having voted in the affirmative and 15 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. **ORDERED SENT FORTHWITH.**

An Act To Protect Public Health and the Environment by Providing for a System of Shared Responsibility for the Safe Collection and Recycling of Electronic Waste

(H.P. 1402) (L.D. 1892)
(S. "A" S-516 to C. "A" H-861)

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

On motion of Representative BRUNO of Raymond, was **SET ASIDE.**

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

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

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. Those of you who have known me for a couple of years won't be surprised that I continue to stand up and speak on this issue. It is probably a lot to ask those of you who as recently as yesterday voted for this bill to vote against it tonight. I will remind you that we have a distinguished member of Congress for over 30 years who did that for an entire career and people think that that is okay now.

I want you to understand about this bill so that however you feel about it, you won't go home being mislead or incomplete in what this encompasses. This is not just a bill about households. This is a bill requiring recycling on electronic equipment or they cannot be sold in the State of Maine. It is not just about television sets, although certainly television sets and computer monitors will by far be what we think about as the largest waste stream. This bill will seek to ban cash registers, laptop computers, portable video games, video cameras, video phones, exercise equipment, display gauges for use in weather stations, marine electronics like fish finders. Yes, ladies and gentlemen, is a covered electronic devise. If you have a bait shop somewhere in your district and it sells a bunch of worms, bunch of lures and a little fish finder in the corner, they better be sure which one they are selling. The DEP is not going to know they are out there. They are not going to tell them what brand, but should they sell the wrong one, it is a \$10,000 fine that they are liable to.

It exempts automotive equipment, but it does not exempt diagnostic equipment. Every garage or service station buying diagnostic equipment, those are all covered electronic devices, which the default will be the manufacturer must, wherever they are located in this world, come up with a recycling plan, get it approved by the State of Maine in order to be allowed to sell. There are no exemptions in this bill. There are no provisions for an exemption should the commissioner decide that an electronic devise is unfeasible or a recovery system impractical. Everybody is in and that is final.

Just so you know how many people we are talking about, there are 267 manufacturers of television sets of alone. There are hundreds and hundreds of other manufacturers of the other devices I have listed and some that I just won't spend all night long going through.

What we have here is a system that sounds wonderful in theory. It is a disaster in practice. It will make a headline saying that Maine is now the only state to have forced a manufacturer take back, but you can all understand that in 2006 when products are banned, when there is widespread non-compliance or some combination of the two, Maine retailers will be hurt by this, Maine consumers will be hurt by this, our reputation as a government that knows what it is doing will certainly get hurt by this. Those who support this, I hope will be harmed also when the public sees what thoughtfulness we did not put forward. For that reason, I urge you to vote against the pending motion. Thank you.

The SPEAKER: 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. 459

YEA - Adams, Andrews, Ash, Barstow, Beaudette, Bennett, Blanchette, Bliss, Brannigan, Breault, Brown R, Bull, Campbell, Canavan, Cowger, Craven, Cummings, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Eder, Faircloth, Gagne-Friel, Gerzofsky, Glynn, Grose, Hatch, Hotham, Hutton, Jackson, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McGowan, McKee, McLaughlin, Mills J, Mills S, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Rector, Richardson J, Rines, Rosen, Sampson, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Trahan, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Browne W, Bruno, Bryant-Deschenes, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Duprey B, Finch, Fischer, Fletcher, Heidrich, Honey, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Lewin, Maietta, McCormick, McKenney, McNeil, Millett, Moody, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Richardson E, Richardson M, Rogers, Saviello, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Treadwell, Vaughan, Young.

ABSENT - Bunker, Earle, Goodwin, Greeley, Landry, Ledwin, Moore, Piotti, Thompson.

Yes, 82; No, 60; Absent, 9; Excused, 0.

82 having voted in the affirmative and 60 voted in the negative, with 9 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

An Act To Promote Intergovernmental Cooperation, Cost Savings and Efficiencies

(S.P. 767) (L.D. 1930)
(S. "A" S-517 to C. "A" S-510)

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

On motion of Representative BOWEN of Rockport, was **SET ASIDE.**

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 House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-510)** was **ADOPTED.**

The same Representative **PRESENTED House Amendment "A" (H-925) to Committee Amendment "A" (S-510)** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Bowen.

Representative **BOWEN:** Mr. Speaker, Ladies and Gentlemen of the House. When this bill was debated yesterday there was some concern expressed about a particular provision of the bill. My friend from Crystal, Representative Joy, expressed concern with the whole thing. My amendment deals only with the part that seemed to draw the most opposition. That was Section 9 of this bill. What that section does is it allows county commissioners to begin a county charter process without the vote and the consent of the people of the county. Right now if you are to enact a county charter, begin a county charter process, you need a vote of the people of the county. This would remove that provision and allow county commissioners to simply begin a charter process. People would still need to approve the charter, ultimately.

My recollection of the discussion of this element of the bill was we were looking for ways to reform county government, which everybody believes needs to happen. The charter process is generally agreed is a good process for going through to look at how to change county government. Trying to get a county charter even off the ground is a hard process to do. It takes a vote of all the people of the county to even convince them that they even ought to try to do a charter. It was seen, because part of the committee's responsibility was to define barriers, this was seen as a barrier to changing county government.

As the Representative from Raymond, Representative Bruno, and others made clear yesterday, that barrier that we were speaking of is the will of the people who live in the county. To my mind, that is a fully appropriate barrier to have. This was not particularly a piece of this bill that I was thrilled with, but because there are other parts of the bill that I was very enthusiastic about, it made its way in there.

My feeling is if county reform or any kind of government reform is going to happen, then you need the will of the people who are going to live there behind it or you are not going to make any progress, even starting off. I think a lot of people in this body share the opinion that that is a barrier that should remain and because it is important to me, quite frankly, that this piece of legislation have some broad bipartisan support because I think there are some good things in it. I would ask the body to adopt this amendment and strip out this piece of this bill that is the piece that does not have wide support, move forward with the remainder of the bill, which I think holds some great promise for changing how we do government in this state. Thank you Mr. Speaker.

Representative McLAUGHLIN of Cape Elizabeth moved that **House Amendment "A" (H-925) to Committee Amendment "A" (S-510)** be **INDEFINITELY POSTPONED.**

Representative JOY of Crystal **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-925) to Committee Amendment "A" (S-510).**

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 Raymond, Representative Bruno.

Representative **BRUNO:** Mr. Speaker, Men and Women of the House. When I was looking at the roll call last night on this bill, I noticed that there were 15 members in the Cumberland County delegation who thought it was okay to disregard what the Cumberland County voters told us last November. This amendment simply corrects and goes along with what those

people in Cumberland County told us. We will tell you when we are ready to open up a charter commission. I hope you stick with the will of the voters in Cumberland County. Thank you Mr. Speaker.

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

Representative **BARSTOW**: Mr. Speaker, Men and Women of the House. Let me first begin by saying that I appreciate the support that this legislation received yesterday and the understanding that my colleagues here in the full House had for the committee process. I talked a lot about the content of this bill yesterday and today I would like to speak about the process.

As many of you may know, this was a 13 to 2 committee report, including the good Representative from Rockport who was on the prevailing side with the Ought to Pass as Amended version. I would continue to ask for the support of my colleagues to support this Indefinite Postponement. We have worked for several weeks on this piece of legislation. We took several straw votes on many of these provisions and found that this was going to be the best final diverse product that we could present here. I would encourage my colleagues to follow my light, support the Indefinite Postponement of this House Amendment. I would further request, Mr. Speaker, that the Clerk read the Committee Report.

Representative **BARSTOW** of Gorham **REQUESTED** that the Clerk **READ** the Committee Report.

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-925) to Committee Amendment "A" (S-510). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 460

YEA - Adams, Ash, Barstow, Beaudette, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Lerman, Lessard, Mailhot, Makas, Marley, Marraché, McGlocklin, McKee, McLaughlin, Mills J, Moody, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey B, Eder, Fletcher, Glynn, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lewin, Lundeen, Maietta, McCormick, McGowan, McKenney, McNeil, Millett, Mills S, Murphy, Muse, Norbert, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Vaughan, Young.

ABSENT - Earle, Goodwin, Greeley, Landry, Ledwin, Lemoine, Moore, Piotti, Thompson.

Yes, 73; No, 69; Absent, 9; Excused, 0.

73 having voted in the affirmative and 69 voted in the negative, with 9 being absent, and accordingly **House Amendment "A" (H-925) to Committee Amendment "A" (S-510) was INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (S-510) as Amended by Senate Amendment "A" (S-517) thereto was ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-510) as Amended by Senate Amendment "A" (S-517)** thereto in concurrence.

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

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

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

UNFINISHED BUSINESS

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

Bill "An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2004 and June 30, 2005" (EMERGENCY)

(H.P. 1420) (L.D. 1919)

TABLED - April 14, 2004 (Till Later Today) by Representative **BRANNIGAN** of Portland.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-904).**

Representative **TRAHAN** of Waldoboro **PRESENTED House Amendment "B" (H-910) to Committee Amendment "A" (H-904)**, which was **READ** by the Clerk.

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

Representative **TRAHAN**: Mr. Speaker, Ladies and Gentlemen of the House. You may recognize this amendment. I presented it on a previous budget. It is identical to the one that I gave to you earlier this session. I bring it to you for several reasons, but I will begin with the most important. This legislative session has been probably one of the most brutal in this state's history. We have seen scandals beginning with checks.

The SPEAKER: Would the Representative please defer for a minute? Does the Representative know what the filing number of his previous amendment was?

Representative **TRAHAN**: Mr. Speaker, I believe it was (H-910).

The SPEAKER: The previous amendment that you said was identical to this one that was presented.

Representative **TRAHAN**: No, I don't, Mr. Speaker.

The SPEAKER: The Representative will have to defer. The Chair may have to rule that your amendment is improperly before the body if it is identical to the previous amendment. We will give you that opportunity.

The Chair recognizes the Representative from Bucksport, Representative **ROSEN**.

Representative **ROSEN**: Mr. Speaker, Members of the House. We have before us the sixth budget that we have dealt with this session. I certainly don't have to tell the men and women of this chamber the financial difficulty.

Subsequently, Representative **TRAHAN** of Waldoboro **WITHDREW House Amendment "B" (H-910) to Committee Amendment "A" (H-904).**

The SPEAKER: The Chair recognizes the Representative from Bucksport, Representative Rosen.

Representative ROSEN: Mr. Speaker, Ladies and Gentlemen of the House. I was reminding us all that we have before us the sixth budget of this session. It is a reminder, although we don't need one, of the financial difficulties we have had with finances and stabilizing budgets during the last couple of years.

It is a 292 page document. Originally the objective here was, of course, to deal with the shortfall that we are facing in the '05 fiscal year. As you can see by the size and the weight of the document, it has expanded and it has become a rather extraordinary catch all. We are facing a situation that if you really look at us as a ship of state where the ship of state continues to take on water faster than we are able to bail it overboard and we have had two holes in the hull of this ship that have allowed that water to pour in. One of them occurred a few years ago as the recession began and we, like many other states, experienced a rapid and sudden drop off of revenue to the treasury when the stock market collapsed and capital gains revenue stopped pouring in. Fortunately we have recovered from that situation and that hole has been patched. If you look at revenue growth now, it is very healthy. We are experiencing about 8 percent revenue growth this year versus actual numbers last year. That issue really has been taken care of.

The second gaping hole in the hull of the ship of state really was not caused by us striking an external factor, like economic conditions around the capital gains situation and the market, but was caused by an internal explosion that blew the hole out through the hull. It was really a result of our own state policies that continue in place today. As you know very well, we are dealing with a Medicaid shortfall. That Medicaid shortfall comes to us in a variety of ways. If you recall, we really need to step back for a minute and go back to a year ago when we adopted the biennial, the two-year biennial budget when we came into this session and we were facing a \$1.1 billion shortfall and we had a series of assumptions that were presented to us around the growth of the Medicaid Program, the utilization of the Medicaid Program and, of course, we found out later one that those bases that were used to assume the growth of the program were woefully underestimated.

We put in place and we brought to you a budget that earned two-thirds support to fund state government for these two years that had built in a series of savings mechanisms that were designed to help contain and control the growth in the program. Unfortunately, we have not realized the fruits of those efforts. To give you an example, we passed what is commonly known as the mental health parity bill and a year ago we booked \$5.6 million of savings in the budget that we would receive as a result of that. A few months later we were told that those savings were unachievable. We accepted from the administration an initiative that would have saved \$2 million from mail order pharmacy a year ago and we were told later in the fall that those savings are unachievable.

We have a policy in place to provide universal access to health to more and more Mainers. That policy requires that we continually expand the populations that may be eligible to come into the Medicaid Program. That policy is a cornerstone of this administration and of many in this chamber. I am not here to argue or debate that policy, but simply to point out that our attempt to try to achieve that promise of opening up the program, increasing eligibility, bringing more and more people into the program, is becoming more and more difficult to fulfill.

We put in place a series of one-time plugs. We said that we will lease the wholesale liquor business and that will give us about \$100 million. We will reamortize our state debt. That is a one-time savings. That will provide us about \$100 million. We received an amendment that came to us from our own Senator that was attached to a federal fiscal relief bill. That provided us a one-time \$106 million. The hope was a year ago that those one-time plugs would give us a little breathing space and would allow us the opportunity to restructure and redesign the program so that once we move back into ongoing revenue, we had been able to avoid what was coming before us. Unfortunately, we have not been successful and we are once again facing, or I should say that the next incoming Legislature is facing another \$1 billion shortfall.

I would just like to summarize a few of the components of LD 1919. It is a big document and even though there is a summary sometimes it is difficult to go through all of that. The bill, unfortunately, raids a series of protected dedicated revenue funds. It rewrites major portions of Maine's tax code. It creates 20 new positions at Maine Revenue Services to implement those changes. This bill takes away \$2.9 million in property tax relief programs. It fails to fully fund the plan that deals with the dangerous condition of prisoner overcrowding in our correctional system. I think we were all convinced on the committee by the department and by the administration and by the people in the Chief Executive's Office of the crisis that is pending in our correctional facilities.

The Majority Budget does not fund the three initiatives intended to move the state toward compliance with our mental health system consent decree. The budget raises millions of dollars by increasing fees on Maine's business. This budget is filled with too many changes of law impacting multiple policy areas. They have absolutely no fiscal impact on the '05 fiscal year. They do not belong in a budget bill. This inclusion is an abuse of the budget process, in my opinion.

As proposed this budget pinches taxpayers. It puts the bite on business, municipal government, service providers in the medical field, Medicaid clients and almost everyone is asked to step up and make some sacrifice to deal with the shortfall, except one entity, which is core state government. Core state government does fairly well in this budget. This budget adds almost 100 newly authorized positions. It includes \$3.5 million for state employee reclassifications and salary range changes. It restores all the merit salary step increases that had been held back to balance the budget previously. It classifies aspects of the state health plan for retired state employees as solemn contractual commitments, creating a profound and huge future obligation.

Mr. Speaker, it is our intent to introduce a series of amendments, eight to be exact, from the members of the Appropriations Committee that when pieced together I think will provide the men and women in this chamber a fair, reasonable alternative to the design and the concept that currently exists in LD 1919. I hope you give serious consideration to these amendments. I think you will find that they do address the concerns that many of us share around the delivery of services and improving quality in the Medicaid Program.

Representative ROSEN of Bucksport **PRESENTED House Amendment "X" (H-941) to Committee Amendment "A" (H-904)**, which was **READ** by the Clerk.

The same Representative **REQUESTED** a roll call on the motion to **ADOPT House Amendment "X" (H-941) to Committee Amendment "A" (H-904)**.

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 Bucksport, Representative Rosen.

Representative **ROSEN**: Mr. Speaker, Men and Women of the House. If you have had the opportunity to take a look at House Amendment "X", you will see that it is fairly extensive, but really very simple in its concept. It has basically two significant components in it. The first is a mechanism, a very rational mechanism, that will generate \$9 million in savings in the Maine Care Program and also as a result it will strengthen, I think the Dirigo Health product that is about to be embarked. On the other side we take that \$9 million in savings and put in place a series of restorations for funding in certain cases. It is designed in a way so that you can consider this as a plug in this budget. You can extract the items that are outlined in this amendment and you can simply move this amendment in as a nice neat fit and provide, as I said, improved services.

The \$9 million in savings essentially comes from taking a population that are eligible under the Medicaid Program called S Chip parents and by moving the S Chip parents into the Dirigo Health Plan, you provide a very stable, a very predictable population of men and women that offer an opportunity that enhance employer match coming into the Dirigo Program they are an ideal population because they tend to be primarily young folks, parents of young children, that are suited very well for the beneficial emphasis of Dirigo when it comes to preventative medicine and improvement of lifestyle and generates \$9 million of savings to be used to address several key issues.

One, corrections and court security. LD 1919, unfortunately does not fully fund the original request that was in the bill to deal with the overcrowding in Maine's correctional facilities. We are deeply concerned about that. We think that does present a real and present danger. It is a serious situation and it does need to be addressed. This amendment will fully fund and restore \$1.2 million and take us back to the original request. It also includes \$194,000 to deal with the issue of court security. You have heard, I think, from the Chief Justice. The argument has been laid before us repeatedly of her deep concern of court security issues.

The second major theme of this amendment is to address the property impact of LD 1919. It restores \$2.9 million in the bill of negative property taxpayer impact. LD 1919 takes \$1.2 million of revenue sharing from the communities. It fails to fund \$933,000 in the Circuit Breaker Program, which is due to taxpayers that file for that relief last December. It fails to fund \$700,000 in general assistance shortfalls, general assistance aide to the communities. This amendment, this \$2.9 million moves back into the budget, fulfills those commitments and addresses the property tax impact that currently sits in LD 1919.

The third item, this amendment provides \$1 million in the Baxter Victims Relief Fund. This is \$1 million that would move into the fund and be available the first day of the fiscal year, starting in July of this summer. LD 1919 takes \$1.04 million out of the E-911 account. We are strongly opposed to the transfer of this million dollars out of the E-911 account. We heard in no uncertain terms from the policy committee that they felt that that was the wrong direction to go and had a variety of unintended consequences that would resound through the system. We feel that their concerns that were expressed to us were serious and need to be taken seriously. We restore the million dollars in the E-911 fund.

The fifth issue surrounds the AMHI consent decree. As you know, we have a longstanding consent decree with the former patients of AMHI that the state is obligated to fulfill. We currently are in receivership. We had in the original LD 1919 a series of

proposals of additional spending that was designed to move us along the path of compliance in addressing the real and serious need of finally, once and for all, complying with the terms and conditions of this consent decree. Unfortunately, in the Majority Report that is before you, that additional funding is removed. We know that is a concern of both sides and we know it is of high priority of both sides. We feel that we have been able to design a mechanism of restoring that money. Again, we think you will find it appealing and hope you give it serious consideration.

There are a series of small fees that are in this original proposal. They are fees on eating and lodging establishments. These are fees for food inspection. A working group had developed a plan hoping to be able to find funding to increase the numbers of inspectors in state government because the food industry was very concerned that there were not enough inspectors to keep the industry safe and secure. They voluntarily presented to the government of the State of Maine a willingness to accept increases on these inspection fees in exchange for more inspectors to come out and keep the industry safe and secure.

The bill that is before us, unfortunately, accepts some of those increases in the fees, but does not address the need and does not put in place any additional inspectors. For example, the fee for your local school moves from \$40 to \$100. The municipality moves from \$10 to \$60 and for other institutions \$125 to \$150. In total it is only \$255,000. It is not a tremendous amount of money in the scope and size of this budget. I think it is an irritant to those schools and communities and local operators and they are particularly insulted that the fee increases went in place and they did not receive the inspectors. We repeal those fees in this amendment.

We include \$1 million for the New Century Fund. It is a very successful, very well designed, very popular mechanism of funding cultural agencies. Unfortunately they have exhausted their funds. There is a bill before us, which we dealt with in the Legislature to increase the level of funding. We have not been able to find the resources to do that. We feel it is particularly important to allow and provide them a continuum so we include \$1 million of funding for the New Century Fund.

Finally, this amendment includes \$32,000 for the Math and Science Magnet School in Limestone. It is a restoration of a reduction that they suffered in the previous budget. I hope you give this serious consideration. I know that the mechanism in play here is to automatically indefinitely postpone these budget amendments and to call for support to reject them. I think this is well designed. I think and hope that it rises above that reaction. I hope you are willing to accept it.

Representative BRANNIGAN of Portland moved that **House Amendment "X" (H-941) to Committee Amendment "A" (H-904) be INDEFINITELY POSTPONED.**

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

Representative **BRANNIGAN**: Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the set up that helped me to make that statement. Mr. Speaker, this budget that is presented, the budget that we are in the process of dealing with amendments to, is a budget of responsibility of the whole. We had to deal with the whole package of cuts, pain and difficulty. We worked sometimes together. Too bad that we couldn't have done all of these things together, but we had to do what had to be done in order to pull a balanced budget together and to protect the most difficult cuts, to change them enough so that people who are ill, people who are physically handicapped, people who are elderly and poor, would not be affected to the point of something that we could not stand, something that we could not

keep our head high and protect. We, the budget of the majority, is a budget that has been balanced, not only in its bottom line, but balanced in its approach to caring for people, balanced in facing the difficulty of a reduced economy, reduced federal funding in Medicaid, of our desire and efforts to make available drugs, medical care, etc. to the people of Maine. We are pleased with this budget. We are presenting it. This amendment is only a partial piece, which does not fit in the budget. Thank you Mr. Speaker.

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

Representative DUDLEY: Mr. Speaker, Men and Women of the House. I agree with the Representative from Bucksport when he says that this amendment will strengthen Dirigo Health, if by strengthen he means weaken. The truth is that the effect of this amendment would be to block the expansion of the parents of kids enrolled in the Cub Care Program. That expansion is slated to go in the next fiscal year from 150 percent of the federal poverty level to 200 percent of the federal poverty level. It is a vital component of the Dirigo Health Program. To prevent that from happening is just going to continue to add to the cost shift problem for health providers.

I am encouraged to see the Representative from Bucksport to go on such a very impressive spending spree. I agree with many of his priorities here. I would say that the people who are going to pay for it will be Maine's employers. They will be the ones left holding tab for all these things, many of which I would like to do. I don't think we are prepared to do that to them, take away the promise of relieving the incredible burden of the cost of health care from them and instead adding to them on their backs, the costs of these programs. For those reasons, I will be supporting the motion to Indefinitely Postpone. Mr. Speaker, when the vote is taken, I request the yeas and nays.

Representative DUDLEY of Portland REQUESTED a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "X" (H-941) to Committee Amendment "A" (H-904)**.

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 Bangor, Representative Faircloth.

Representative FAIRCLOTH: Mr. Speaker, Men and Women of the House. I rise in support of the Indefinite Postponement motion. We, on the Appropriations Committee, were charged with making tough choices in fiscally conservative times and, in fact, did so. Please note that we reduced Medicaid spending by nearly \$60 million general fund dollars in this '05 budget. This is a major and significant amount and has a major and significant impact going into the next biennium to the tune of being the major factor in reducing the structural gap significantly so that it is projected that the structural gap was reduced to the tune of approximately \$200 million. We made permanent changes. For those who are interested in exciting and scintillating reading, I would direct you to Part MMM of the budget, which lays out the language for Maine Care Basic and the cuts that we made. They are appropriate. They are fiscally conservative. They reduce or manage benefits in a way that makes sense and does it in an intelligent way. All this is in an important context, by the way. If you look at private insurance premiums in the small group market in 2002 and 2003, those we are increasing by 35 percent and 21 percent respectively in those years. That has not been the increase of our program in Maine Care here in the State of Maine and yet we went forward with rather significant economizing and significant reductions in spending on this program. I think it was a good idea. I think it will help us when we face the next

biennium. I must say that when we look at our low-income population we, in the Democratic majority, made a decision that they participated in a significant way. We think we did it in a responsible and compassionate way, but there is not question that we had the responsibility to govern and thus we made these important changes with regard to Maine Care. Thank you.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Mr. Speaker, Ladies and Gentlemen of the House. It is hard for me to sit here and talk about being fiscally responsible. You may have reduced the structural gap by \$200 million. So that is \$734 million versus \$934 million. If you take that as a percentage of deficit spending, that is 13.5 percent, ladies and gentlemen. How is that fiscally responsible? Many people criticize the federal budget that has a \$500 billion deficit, oh my God, the sky is falling. That is a 4.8 percent structural gap. Which is it? Is 4.8 percent really bad? Is 13.6 percent even worse? How is it fiscally responsible? You came in with a billion dollar gap last year and you almost have a billion dollars this year. I will guarantee you by the end of '05 you have over a billion dollar gap. You don't make tough choices, even though you think you do.

Maine people aren't ignorant. They are not stupid. A fee is a tax. A fee is a tax is a tax. You tax business mercilessly in this budget. There are \$2.5 million worth of new fees and we haven't even gotten to tax reform yet. You blame the budget problem on federal funds not coming in. You have \$108 million or did you forget about that. You were told that this is what you have to have for the next 18 months, an enhanced match, but we just spend like crazy around here, even though we know it is going to expire in 18 months.

We increased Maine Revenue Service penalties to prime plus 3 percent. Pretty soon we will have loan sharks out in the parking lot, because that is about where we are getting to. We are willing to pay an advisory committee on family development accounts so they get reimbursed expenses, yet we are not willing to fund the Baxter School Compensation Fund. We are willing to put the Micro Enterprise Fund ahead of that. They just got a million dollars last year folks. Yet, people who are abused in the '60s, '70s and '80s you say you get back in the bus. We don't even want to know about making positions anymore. We are going to repeal the statute that says you have to report to the Appropriations Committee all the vacant positions every six months. We don't even want to know about that any more.

We finally make the correction on paying off the Retiree Health Insurance Fund to 2004. I remember last year we were told it is only a one-day loan. We had the second supplemental budget in three months and yet we only give GPA \$9.2 million. When you consider what they lost last year, it is a 1 percent increase. Where is our commitment to education that we all say we have?

Then we have mental health parity. All that savings we were going to get last year, we got none of it. It wasn't anyone's fault, but the insurance company. It was their fault. This budget is not well structured. It doesn't do anything going forward and the 122nd legislature is going to have to make really tough decisions, not play this shell game that this budget does and the last budget did. We are talking tough decisions, because we are going to have tax pieces that are going to pass in the public because they are sick and tired of us not doing anything and playing a silly game up here with numbers. We call fees fees, when they are really taxes. Maine people are going to have to pay more to live in this state.

The SPEAKER: The Chair recognizes the Representative from Hodgdon, Representative Sherman.

Representative **SHERMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I am rather tired and I don't know how many amendments we are going to have. It would seem to me from what I have heard from both sides that nothing is really going to change here. It will take us a few minutes to say yes or no, the budget stands.

I would like to pose a question through the chair to anyone on the budget committee that would like to answer it. Is there anyone on the budget committee that really, seriously thinks this budget will stand until November 6? May I go get a cup of coffee when this is answered?

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

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. We have lived through this supplemental budget for the past month. It is true, as some speakers have said, that we cut programs. We did add fees and we did use one-time monies to balance the budget. When I look back and reflect as I read some of the editorials around the state, they all say this on balance is a budget that lawmakers should support. You might ask why. Some of us call these cuts savings. If you had to look the people in the eye that came before the Appropriations Committee, it wasn't such a sanitary word as savings that would have jumped out at you. It would have been those poor folks that came in and had no place else to go, no other place to find hope, no other sanctuary, but in this House. So, we can be faulted tonight for supporting a budget, which adds modest fees, which unfortunately makes cuts in programs, reconfigures, remodels and also uses one-time monies. Yes, we are guilty for standing up for those who can't stand up for themselves, for doing what we can for people who can't do for themselves. I am proud tonight to be able to support this budget. Some may scoff at it, but to me it is the best, as the *Portland Press Herald* said, as we can possibly do under our present circumstances.

I am going to ask you tonight to Indefinitely Postponing this amendment. Maine people are depending on us to stand up for them. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Bucksport, Representative Rosen.

Representative **ROSEN**: Mr. Speaker, Men and Women of the House. Just to respond to some of the questions and comments pertaining to this amendment that is before us. I think it is important to clarify a couple of key points. First of all, the original LD, LD 1919, called for the total elimination of services, 15 categories of service, wiping out the delivery of that entirely. The reaction to that proposal is what generated a great deal of the response that people have described during our hearings, the people that attended the hearings and the people who testified. Both caucuses, all members of the committee, were opposed to the total elimination of those services, the total elimination of brain injury services and the rest of them. Both sides asked the administration to reconfigure that proposal and to come back with a new design of what they call Maine Care Basic. The administration did that. We accepted that proposal that came back. It was some modification and some adjustment. The proposal that is in this budget around Maine Care Basic is very close to the position that we took. We felt it was important to continue to look for more savings. Looking ahead and realizing that there is a cost to delivering the promise of saying that these services will be provided on an ongoing basis. If we make the promise that populations are eligible to receive service, men and

women in certain categories are eligible to receive service, if we make the promise to providers that we will reimburse you so that you can deliver the service, then we have an obligation to make sure that that system is strong and stable and consistent and reliable and predictable.

The additional savings that are generated in this amendment do not remove people from receiving services. They don't deny anyone access. It is a reasonable and efficient move. It is not a draconian step. It helps to stabilize this program as we move forward and to be able to achieve the targeted savings that the Chief Executive had placed in the original proposal of closer to \$80 million rather than the \$53 million that we have in the Majority Report. I happen to think that that is an important goal. It can be done in a humane and reasonable way that stabilizes the program and helps us move forward.

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

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. I am so glad that my good friend from Brunswick, Representative Richardson, talked for just a couple minutes about the poor people that came in front of Appropriations in desperate need of services and how heart wrenching it was for the Appropriations Committee to have to sit there hour after hour after hour and listen to those people. Included among that group were the victims of abuse at Baxter. Twenty or 30 years ago these people were victimized by the authorities at Baxter School. More recently they have been victimized by this Legislature and our inability or unwillingness to fund an adequate compensation amount to provide for those people.

Just a few minutes ago nearly all of us voted unanimously our support for \$6 million of funding for those people. A handful of people here voted red, but it was well understood that there was supportive also and cast a vote which was meant in protest.

About a month ago there were 25 people on the waiting list who had already been qualified, already gone through the review process and who already had a claim awarded to them and we could not fund it. This month another eight or 10 people were to be added to that list. Just to fund the amount necessary to compensate those people that we added last month and expect to add this month, it would require about \$2.8 million.

You are going to have two opportunities tonight and this is the first one to live up to the promise that you made just 20 minutes ago when you voted green on LD 1682. You can't walk away from that promise. In good conscience you can't leave here without fulfilling that promise. I wish that the amount in this amendment were greater than it is. It is only \$1 million. It falls far short of even the \$2.8 million that we should be funding at a minimum at this point in time. By the way, we anticipate another \$6 million of liability next year and \$6 million worth of liability in the year following that.

We talk about people that need help. We talk about people to whom we owe an obligation. To whom do we owe an obligation greater than the people who were the victims of our own system? You have an opportunity to partially correct that wrong by supporting this amendment. I hope you will consider that carefully.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Belmont, Representative Berry.

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I have two issues here that I want to address. The first of those issues deals with the taking of 911 monies from the PUC. The Utilities Committee came to the Appropriations Committee and made it very clear the consequences of taking this money. The consequence of taking this money means that the federal government is going to recognize that the taking of funds that are ratepayer funds dealing with 911 is going to cease the federal support of wireless monies to complete the last part of E-911. Unless something is done in this budget and the proposed amendment deals with that, then that issue must be addressed before and to maintain the funds from the federal government supporting, as I said, the last piece of 911, which is the wireless identification.

The second question that I would like to pose to someone here, he'll get back to us in a minute, in Part EEE, there is a stated energy savings of three quarters of a million dollars. Ladies and gentlemen, the standard offer will be issued next year again for electricity. I think I can guarantee you that you are not going to save \$1 million. I don't think it is a secret to any member of the Utilities Committee that the cost of electricity in the State of Maine next year is going to go up. My question is, where do you intend to realize this three-quarters of a million dollars in savings in this account? Thank you Sir.

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

Representative **BRANNIGAN**: Mr. Speaker, Men and Women of the House. This is part of the original budget presented to us by the Executive. He is well informed about such measures that are therefore accepted by the majority. Also, the federal government has been contacted relative to the dire predictions made a few minutes ago and I believe that the administration feels that federal funds will not be cut off by our actions. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative **JOY**: Mr. Speaker, Ladies and Gentlemen of the House. Maybe I am laboring under misapprehension, but in '03 supposedly we passed a budget for '04-'05. I was assured that we didn't need to change the method in which we do our budget because we had passed four successful budgets and now, Mr. Speaker, we have two more on top of that. I have a question if I may pose it, did we or did we not pass a budget that was supposed to carry us through this biennium? Number two, since when does \$2.5 million meet the definition of the word modest?

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "X" (H-941) to Committee Amendment "A" (H-904). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 461

YEA - Adams, Ash, Barstow, Beaudette, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessis, Duprey G, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Jennings, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McGowan, McKee, McLaughlin, Mills J, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis,

Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cresse, Crosthwaite, Curley, Daigle, Davis, Duprey B, Fletcher, Glynn, Goodwin, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lewin, Maietta, McCormick, McKenney, McNeil, Millett, Mills S, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Young.

ABSENT - Earle, Greeley, Kane, Landry, Ledwin, Moore, Piotti, Thompson.

Yes, 78; No, 65; Absent, 8; Excused, 0.

78 having voted in the affirmative and 65 voted in the negative, with 8 being absent, and accordingly **House Amendment "X" (H-941) to Committee Amendment "A" (H-904)** was **INDEFINITELY POSTPONED**.

Representative O'BRIEN of Augusta **PRESENTED House Amendment "S" (H-934) to Committee Amendment "A" (H-904)**, which was **READ** by the Clerk.

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

Representative **O'BRIEN**: Mr. Speaker, Ladies and Gentlemen of the House. I am glad I was able to jump up and get in early on these amendments before everyone either leaves or falls asleep. I hope that doesn't happen during my brief remarks. Several have said that this is a very difficult budget. It certainly is. It was an extremely difficult budget and some very, very tough choices had to be made. It all boils down to a matter of priorities. We, the minority members on the Appropriations Committee, had a set of priorities that are somewhat different than the Majority Report. My amendment innumerates some of those. We fund several programs that were either not funded to the extent we are in the majority budget or were eliminated totally. I will get to how we propose to fund those.

The first initiative that we appropriated funds for was we appropriated \$5 million to restore the deappropriation and deallocation resulting from initiating the voluntary, a questionable word, pharmacy mail order drug program for Maine Care and the low cost drugs for the elderly. What this is is a program that will be effectively shipping \$100 million annually out of the State of Maine to a Wal Mart business, a Wal Mart distribution center in Arkansas. We talk every day about keeping, maintaining and bringing new business to the State of Maine. In this one program we are shipping out over \$100 million a year. Aside from the fact that we don't even need to get into the fact of what we have done to our local pharmacies and our local pharmacists. That goes without saying.

The second program that I will speak on briefly is mental health services in the community. We fund several programs, mental health programs, that in the opinion of the court master, former Chief Justice, Judge Wathan, in his eyes these were very, very important. They are not in the majority budget. We are, as everyone knows, under a consent decree. The ones that we are funding are appropriating funds for the Peer Support Services for \$200,000. This is in the original proposal from the Chief Executive, by the way. It was taken out by the majority. We appropriate funds to maintain the funding for the social clubs at the 2003-2004 level of \$200,000 and, again, this was in the original Chief Executive's proposal, we appropriate funds for

housing initiative to persons with mental illness at the amount of \$1.6 million.

The third is an issue that has been talked about at length here this evening. We fund at the level of \$2 million in this amendment the money for the Baxter Compensation Fund. We have a legal obligation and we certainly have a moral obligation. It seems as though everyone in this room, by the vote this evening, agrees with that. This amendment funds this is July in '05 as opposed to the majority amendment if there is an unappropriated surplus, it is the second priority and it will be funded in '06. They need the money now.

How do we propose to fund these programs, the nine million in programs? Currently in the Maine Care Program there are 500 to 700 people coming onto the Maine Care rolls every month. It is way beyond the expectations that were originally given. We need to somehow cut that until we can catch up. What we propose to do in this amendment is similar to a block grant. We propose that coverage is limited to 20,000 persons. There are approximately in the non-categorical account, 19,000 persons. We propose to have the Department limited to 20,000. As people will come off and come back on, keep this going until enrollment decreases to a level that makes reopening the enrollment feasible. The savings from that capping of expansion will fund these very, very much needed programs that I have just mentioned that are not in the majority budget and are priorities for the minority and I know are priorities for the many on the other side. I would ask you to seriously consider this amendment and I would ask for a roll call.

The same Representative **REQUESTED** a roll call on the motion to **ADOPT House Amendment "S" (H-934) to Committee Amendment "A" (H-904)**.

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 Portland, Representative Brannigan.

Representative **BRANNIGAN**: Mr. Speaker, Men and Women of the House. I was glad to yield to the Representative from Augusta, Representative O'Brien, gladly. Unfortunately, I have to move Indefinite Postponement of House Amendment "S" to Committee Amendment "A."

Representative **BRANNIGAN** of Portland moved that **House Amendment "S" (H-934) to Committee Amendment "A" (H-904) be INDEFINITELY POSTPONED**.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Portland, Representative Brannigan.

Representative **BRANNIGAN**: Mr. Speaker, Men and Women of the House. There are many pieces to the amendment. Certainly the mail order that is not something new in our state and is done through many, many different mail order houses. It is something that is going to be expanded. It is something we did a lot of soul searching about as far as business is concerned in this state. This is an experiment of a large order. It is an experiment which brings in tremendous discounts to the state and to the people of this state. In the end we decided that we would go with this approach on a voluntary basis. However, we did set aside funds to protect small pharmacies, pharmacies that cooperate in all of the different programs that the State of Maine has. We believe that this was the correct way to go.

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

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. With respect to the non-categorical cap that my good friend from Augusta mentioned as part of her amendment, again, non-categorical are adults who don't have children and who don't have a disability and who aren't elderly, but they are very poor.

Currently they are eligible for State Medicaid coverage, Maine Care, under what is called the non-categorical waiver up to 100 percent of the federal poverty level. There are currently, not quite, but pretty close to 20,000 people currently enrolled in that program. We are brushing right up against the cap that the Rep from Augusta proposes in her amendment. I would say that the effect of this would be to prevent the expansion of the non-categorical waiver program that was endorsed by, I think, more than two-thirds of us last year when we supported the Dirigo Health Program. An important part of the Dirigo Health Program is an expansion of Medicaid coverage, both on the non-categorical side as well as what we were discussing before in Amendment "X" the parents of children who are covered currently under Cub Care from 100 percent to 200 percent of the federal poverty level.

The point here is to try and get at people who don't have health insurance so that they can get treatment early so that we can somehow begin to maintain the quality of their health and get our arms around the ever increasing problem of the health care cost crisis. This non-categorical expansion is part of that. Because I think Dirigo is the best hope we have to control the health care cost crisis, I must support the motion to Indefinitely Postpone.

Representative **DUDLEY** of Portland **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "S" (H-934) to Committee Amendment "A" (H-904)**.

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 Waterford, Representative Millett.

Representative **MILLETT**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to make two quick points in response to the comments that have been made subsequent to the presentation of this amendment. First of all, this is an attempt to place a cap in law and in budget that is already a part of law. I would like to point out on Page 2 of the amendment in Paragraph 2, near the top of the page, when those of you in the 120th approved the non-categorical waiver that the Representative from Portland, Representative Dudley, refers to, you did so with a less than clear understanding of how many people might be eligible under this waiver and you wrote language saying that when the actual participation level and the cost thereof reached a level of the budget for this program, then the commissioner of DHS would be obligated to stop the accepting of further enrollees and to by a 30 day notice inform those people that they could no longer qualify until there was room within the budget for this program.

The unfortunate problem is that the account that pays for this category waiver and many other Maine Care services is a huge accumulation of Medicaid seed accounts for enrollments in various categories of service that pushes, at times, \$400 million a year. There is no subdivision within that account to give the commissioner, past or present, the authority and the ability so say that is what I have available for this particular program.

Further, there is a limit in federal law under the Disproportionate Share Hospital Program that funds this kind of waiver, this optional waiver that Maine has chosen to participate in. We are pushing that limit, the overall limit for the State of Maine under this waiver in that category is \$100 million. The calculation that leads to the savings of approximately \$9 million, you will find on the top of Page 3 in the general fund, all other line, totaling \$36,864,000. That is an actual calculation of the maximum that we can allow in this program and not push it beyond the federal authorization. That is what we have done. We have chosen a reasonable number of 20,000 that does not

throw anyone off, allows for the movement in and out of the program, which Representative O'Brien referred to, and which we have been told by folks from DHS and the Governor's Office of Health Policy and Finance is quite common. This group of people and the Representative from Portland is right, some of them are working poor and some of them have disabilities of one type or another and many of them move into this program for a very short period of time until they are eligible to qualify under a different program, particularly in the disabled area under SSI. It is a constantly moving population. We are not being inhumane in the calculations that are before you. We are attempting to manage as the 120th Legislature intended for the State of Maine to do so and to give them the tools to manage.

The second thing, in reference to the concept that the voluntary mail order program is an experiment as characterized by our good House Chair, it is, in fact, an experiment, but it is a huge gamble at the same time. It is an economic gamble of major proportions that we all talk about not wanting to see happen. It is that notion of the giant sucking sound of \$100 million and all of the jobs that it supports leaving the State of Maine as a potential outcome of that voluntary mail order program.

We have tried to step back and say that we know there are people in rural areas who are elderly, poor and don't have the transportation options to get to a pharmacy who might take advantage of a mail order program. We would like to do that in a design fashion that involves participants from various categories of consumers, providers, pharmacists, the departments, etc., and that is the reason for the working group that is created on Page 2 of the amendment at the bottom.

I wish to just leave you with this notion. This is not a wild scheme. This is a designed program intended to give you the tools to manage within the law as it now exists to not throw people out, but to keep opportunity and movement in the cap to allow people who are needy to come into the program and on the voluntary mail order program, we are trying to do this in a designed fashion that makes sense, not throw it out there and let the consequences fall negatively upon this fragile economy of ours.

Finally, once again, the attempt to fund the Baxter Compensation Fund and the victims who are so tragically affected by the events of the '70s and '80s, we are trying to do this in an upfront way. We debated earlier when to do it and whether we were over promising. This is hard money. This is money that would be available in less than three months to address that waiting list of people who are waiting for compensation and are justly due it. Please don't characterize this as inhumane and not well thought out. To the contrary, it is very well thought out. I urge your serious consideration of it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Scarborough, Representative Curley.

Representative **CURLEY**: Mr. Speaker, Men and Women of the House. I rise in opposition of Indefinite Postponement of this amendment. I will speak very briefly to it. I was really pleased when Representative O'Brien brought this forward. It is talking about really protecting the Medicaid System that we have. We can Indefinitely Postpone this measure and I am sure we will, but I don't think we can Indefinitely Postpone the Pac Man that is gobbling up the state budget, which is the expansion of Medicaid. We currently have 330,000 people in our state receiving some kind of service funded by Medicaid. Medicaid is a federal state partnership for people at the poverty level. I am so sad to think that there are one out of every four people in my state, the state that I love, receiving services for people at the poverty level. Who could believe that we would come to this? Tonight we are

trying to make some attempt to manage the funds that we have so we can keep promises to the people that we have already made them to. Some would say that this is heartless to cap the enrollment in the non-categorical. What is heartless is having people come to us and beg to keep the services that we have already promised them. That is what we went through in March and that is what we went through in January. That is heartless and heart breaking. This amendment is one of the first things that I have seen that does not reduce services for anyone, but tries to manage the money we have, but still provide the service.

I don't think the people of Maine want to be on Medicaid. I don't think they want to be on handouts. Please, vote against this proposal and let's do something to protect the people that we have made promises to already. Thank you.

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

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. Just to clarify, I don't think any of us did accuse this proposal of being heartless. I certainly don't consider it heartless. I understand what motivates it and I have every respect for my colleagues on Appropriations from the other side of the aisle.

I did want to point out to the attention of Representative Millett a drafting error in the House Amendment where it does speak about the non-categorical capped at 100 percent of the federal poverty level. If you look at a current version of Title 22, Section 3174G, it does say in here 125 percent, which reflects the change under the Dirigo Health Program.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterford, Representative Millett.

Representative **MILLETT**: Mr. Speaker, Ladies and Gentlemen of the House. If there is a drafting error, I don't think it affects the debate before us. I do not think there is, Representative Dudley, and I appreciate the focus that you are giving this. We do not touch the expansion from 100 to 125 percent in this amendment. Unlike in the budget before you which delays by three months that expansion, this is the focus on the current up to 100 expansion that was authorized back in the fall of 2002.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "S" (H-934) to Committee Amendment "A" (H-904). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 462

YEA - Adams, Ash, Barstow, Beaudette, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Eder, Faircloth, Finch, Fischer, Gerzofsky, Grose, Hatch, Hutton, Jackson, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McGowan, McKee, McLaughlin, Mills J, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey B, Fletcher, Glynn, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lewin, Maietta, McCormick, McKenney, McNeil, Millett, Mills S, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Snowe-Mello, Stone,

Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Young.

ABSENT - Brown R, Churchill J, Earle, Gagne-Friel, Goodwin, Greeley, Jennings, Kane, Landry, Ledwin, Moore, Piotti, Shields, Sukeforth.

Yes, 77; No, 60; Absent, 14; Excused, 0.

77 having voted in the affirmative and 60 voted in the negative, with 14 being absent, and accordingly **House Amendment "S" (H-934) to Committee Amendment "A" (H-904) was INDEFINITELY POSTPONED.**

Representative BRANNIGAN of Portland **PRESENTED House Amendment "T" (H-935) to Committee Amendment "A" (H-904),** which was **READ** by the Clerk.

The **SPEAKER PRO TEM:** The Chair recognizes the Representative from Portland, Representative Brannigan.

Representative **BRANNIGAN:** Mr. Speaker, Ladies and Gentlemen of the House. This is purely a technical amendment. A number was put in incorrectly, 185 percent and it should have been 150 percent. This just corrects that technical error. Thank you Mr. Speaker.

House Amendment "T" (H-935) to Committee Amendment "A" (H-904) was ADOPTED.

Representative BRANNIGAN of Portland **PRESENTED House Amendment "Q" (H-932) to Committee Amendment "A" (H-904),** which was **READ** by the Clerk.

The **SPEAKER PRO TEM:** The Chair recognizes the Representative from Portland, Representative Brannigan.

Representative **BRANNIGAN:** Mr. Speaker, Ladies and Gentlemen of the House. There is section in the budget which this amendment clarifies. When we the Executive suggested and we, the majority, agreed to take a fund of \$89 million that had been attempted to be raised for retiree health. There was an attempt to get to an actuarial position where we could leave a pay as you go for retiree health and to move to an actuarial sound fund. That would have taken billion dollars. Apparently some hoped there was going to be a billion dollars at some point, given that things have changed greatly. It is a decision that we would not be able to reach an actuarially sound basis. We decided that this would be taken for this budget.

What has happened is state workers were concerned. They had seen that possibly this fund would have been saved or kept for the needs of retiree health in the future. In order to give them some security as to their future, the Retiree Health Plan, we inserted a section that this piece amends. That section allowed them to be sure that we would not change retiree health in a way that would be bad for our state workers. However, this amendment clarifies that section. It was believed that this tied our hands way beyond anything that we believed needed to be done. This section makes clear that we can change retiree health. We can change it as long as we change the health plan for the present workforce. They are kind of joined at the hip. If we increase the workforce health benefits, then the retiree's benefit will go up. If we need to decrease because of other times, then the retiree workforce, their health care benefit will go down.

It is very important to me that we make this very clear and this amendment does. I feel comfortable in this whole insertion into our budget and into our law. I think terrible things have happened over the years to people's pension plans. I think many in the industry have failed to keep their promises to their retired workers. People have lost their health plans. That did two very bad things. One, it was bad for the people who lost and it certainly was bad for our health situation in this country as people were no longer cared for by the plans that they expected, the plans that they had earned. This does what we all, I am sure,

intend to do, continue to keep a strong retiree health plan. I hope that you will accept this amendment as a clarifying amendment. Thank you Mr. Speaker.

The **SPEAKER PRO TEM:** The Chair recognizes the Representative from Cornville, Representative Mills.

Representative **MILLS:** Mr. Speaker, Men and Women of the House. I don't rise this evening to oppose the amendment that is lying before you, but to say that the amendment doesn't cure the issue that is raised by the insertion of this entire section in the budget. Part DDDD is one of a number of sections in this budget that has no fiscal impact whatsoever on fiscal year 2005, but has enormous policy implications for the future of the state. This one in particular more than any other budget deserves its own special bill to be heard in the labor committee and to be debated on the floor of the House and Senate and to be signed by the Governor as a separate bill if it passes. It raises immense financial implications for the physical integrity of state government.

I have handed out for all of you to look at a green sheet of paper, which is an extract from an actuarial valuation of the unfunded liability for health care for retirees, both state employees and retired teachers and retired state employees. You will note from the number that is circled on this form and from the arrow that is drawn that the unfunded actuarial liability for retiree health insurance for state workers only is on the order of \$632 million and that was last summer's figure. It is a greater figure now. The unfunded liability for teacher retirees is another \$380 million. The total of the two exceeds \$1 billion. To put this into perspective, the entire amount of money that is necessary to fund pensions for both of these groups is on the order of \$7 billion. We have about \$5 billion put away toward that effort. We are down by about \$2.2 billion on what we call the unfunded actuarial liability for ordinary pensions.

In parallel to pensions, we have this obligation that we create and we fund to pay for retiree health benefits. I think to put it further into perspective, it is useful to say that the current valuation of that obligation is about one-seventh of the pension system in parallel to it, but separate from it. We really have 200 takings, if you will, that we make to retired people that work for state government or who work for our school systems and about one-eighth of that in total is in the health insurance line and the other seven-eighths is over on the pension side.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

The **SPEAKER:** The Chair recognizes the Representative from Cornville, Representative Mills.

Representative **MILLS:** Mr. Speaker, Men and Women of the House. Several years ago there was an issue that arose an interesting set of legal cases that spun out of it about the status of retiree pensions. The retired state employees and teachers became quite concerned about whether their pension rights were vesting as they were accruing. We have to come to loose accommodation on that by passing, first of all, a Constitutional Amendment that requires us to fund completely those obligations. We are on a schedule dictated by the Constitution to pay for the unfunded liability to make sure that we have cash in the bank to meet the obligations that we have created on the pension side. We went further. In a bill that I sponsored six or seven years ago we made a commitment that the state would be bound under the contract clause of the Constitution to pay to vest these pensions as they accrued so that people would know that we could not diminish pension money except on a prospective basis going

forward. We have deprived ourselves, in another way of speaking, of the right as a Legislature to reduce benefits except on the completely prospective basis for vested people.

Over on the health care side about six years ago we started to put aside money to fund the other side of the retiree rights, if you will, to try to fund health care benefits because they are a major obligation of the state and we started to put money away and we had succeeded as you will see from this sheet as of last summer in putting away some \$77 million and I think that number has risen to closer to \$80 or \$90 million in current times.

This budget says that we give up, even though we have been able to put aside about 8 or 9 percent of the unfunded liability for health insurance. This budget says that we give up. We are going to take all that money out and we are going to spend it to meet Medicaid and other current commitments of state government because we just don't think we are going to make it. Then it goes to another stage. In this particular section, DDDD, that is the grade that it deserves, DDDD says that even if we are not putting aside any money, we are going to make a solid contractual commitment under the Constitution of the State of Maine and under the federal Constitution to say that we can never adjust those benefits except in proportion to how we adjust benefits for active employees and we are also guaranteeing that retirees will be vested in terms of the degree of money contribution that must be made toward their premiums, which at present is 100 percent. I don't know how this thing will spill out in the future. I don't know what this thing means entirely. It could mean that we are incurring this evening by passage of this budget an obligation closely analogous to a bond obligation of some \$632 million. I don't think that I am overstating it by saying that. It is highly disturbing because we don't have any money aside to meet that obligation. The entire general fund bond obligation of this state is only a half a billion dollars. It is less than this amount. I think it is fair to say that this one provision, DDDD, may be more significant by several factors than everything else that is in this budget. I don't know what implications it has for our bond rating. I know that our pension unfunded liability has implications for it and is being mentioned and has a bearing on it. I don't know what passage of this will do, but I do know that this bill deserves its completely separate, full, fair and adequate hearing and exploration by experts and by actuaries and by attorneys and by people who could bring light to bear on this provision in front of the Labor Committee, which has the expertise to deal with it.

It is highly improper to include this measure in the budget. I do not object to the effort to clarify what it means. All that it does is to clarify what it means. What it does mean is what disturbs me. I think this particular provision represents a very significant abuse of majority power.

The House recessed until the Sound of the Bell.

(After Recess)

The House was called to order by the Speaker.

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

Representative DAVIS: Mr. Speaker, Men and Women of the House. In 1999 I was on the Labor Committee with Representative Mills. I was his seatmate and I remember this

very well. I agree with what he said. The approach has been used in the past to produce the benefit to Maine retirees. This provision is modeled on the legislation enacted on bipartisan support in 1999, which amended 5 MRSA 17801 to extend contractual protection to certain elements of the basic benefits available for state retirees. The 1999 law was proposed by Representative Mills who survived the early drafts on his part. I just wanted to briefly say I agree with him. I understand if we leave pension funds and health funds alone, they will be healthy. If we do away with them or borrow from them, they won't be healthy. I would like to thank the good gentleman from Cornville for bringing it up. He stated it much more eloquently than I have, but nonetheless, I agree with him. Thank you very much.

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

Representative FAIRCLOTH: Mr. Speaker, Men and Women of the House. I thank the good Representative from Cornville for giving the overview that he did. I do want to note that House Amendment "Q" does offer some important narrowing and clarification language. First of all, the overview was beneficial. I want to just remind folks that this does not relate to teachers, just the state employees. It does not relate to pensions. It does relate to health insurance. When the good Representative from Cornville stated that it is whether or not we ever adjust benefits, that is a key factor here. That is exactly right because we have tremendous leeway in two ways to reduce any future obligations on the part of the state. One, the state can cut benefits to the health plan itself so long as it keeps those cuts coequal with the active and retired employees, which could result in tremendous saving if, we as a policy matter, chose to do so. Secondly, we could prospectively create savings by imposing or decreasing, I should say, the state's share of the premium. We have complete leeway to do that as long as it is prospective, that is to say where the employee has yet to vest at the five-year line. We can do that disparately between retirees and active employees. The only thing that this really does is what has been our current policy. The state will keep its commitment to the percentage at the time the person vests that the state is committed to at that moment, which is a reasonable thing to do in the first place. Finally, as far as using the actuarial method, we use the pay as you go method and, in fact, when DAFTS did their survey of over 30 states, all of the 30 states said they used the pay as you go method just as we do. They couldn't find any states that used this other method. We are typical in the way we handled this compared to other states. We have leeway if we want to create future savings. We support the adoption of the amendment. Thank you.

Subsequently, **House Amendment "Q" (H-932) to Committee Amendment "A" (H-904) was ADOPTED.**

Representative TRAHAN of Waldoboro **PRESENTED House Amendment "B" (H-910) to Committee Amendment "A" (H-904),** which was **READ** by the Clerk.

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

Representative TRAHAN: Mr. Speaker, Ladies and Gentlemen of the House. I present this amendment to you tonight for a couple of reasons. First and foremost, to honor those people in this chamber who worked with me and worked in good faith on this initiative, the Office of Program Evaluation and Government Accountability. I rise to honor the Speaker for his work in an agreement that unfortunately hasn't been fulfilled, but for those reasons in particular. Secondly, I rise to try to restore some integrity to a program that I believe it. I believe it could change the state. I believe it could alter the way that we govern into the future. This amendment before you restores some language to the OPEGA statute that has been deleted over a

period of going on three years now. When this program was first offered out of committee, it was a unanimous committee report. I believe it was good product, but over the time that has passed to today, it has been changed, altered, blocked, you name it, it has been done to it. We all know that how that process occurred. We know the things that have happened, most of us.

There is one thing in particular that has always hurt me personally. I believe it hurt this institution and hurt the Speaker and those OPEGA supporters. It is a quote from the newspaper. I am going to ask you to refer back to a couple of articles I gave to you. I gave you the OPEGA statute from John Turcotte of Florida to change the statutes. You have that. I don't care if you read it or not, I just want you to have it. You also have an amendment before you on the budget last year that is in parenthesis. You have an article I gave you out of the *Kennebec Journal*. In that article is a quote and it is, "The Senate President has said she disagrees with attempts to change language that governs the office. In particular, she fears a proposal that would give investigators access to confidential information. She has been clear from the start about her stand on her program and that proponents are trying to make changes after an agreement has already been reached." That is key, ladies and gentlemen. That was 2/19/04 article in the KJ.

In front of you is an amendment from that so-called agreement in the Part II budget made last year. Refer back to that quote that I just gave you. This amendment, which was adopted was written by the Senate President's Office and worked on by the Speaker of the House and his staff. It states that the Joint Legislative Committee established to oversee program evaluation and government accountability, matters pursuant to the Maine Revised Statutes, bla, bla bla.

The Chair reminded Representative TRAHAN of Waldoboro that it was inappropriate to question the motives of members of the other body.

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

Representative TRAHAN: I'm sorry Mr. Speaker. Referred to in this section as the committee shall review and determine the types of confidential information the committee will require in order to fulfill the purposes set forth in Title 3. The committee shall report its findings and recommendations together with any implementing legislation to the Second Regular Session of the 121st Legislature. Ladies and gentlemen, the proof is in front of you. The people in this chamber when they negotiated and made a deal on this legislation did so in good faith. It sits in front of you to prove that good faith agreement. I was very hurt when that came out in the paper.

I firmly believe now that this legislation which passed and has been funded and now needs a director has been undermined to the point where it can't be successful in this session. That saddens me deeply because of all the problems we have had over the last two years. I believe this could have been a wonderful tool that this Legislature could have used to evaluate programs and make a better government.

The reason why I am here today is to offer this amendment as sort of a last resort. To restore the integrity of the statute. We can't change what has already happened. We can't go back. I don't think what we are going to continue to do this year is going to help this office. I am asking you to restore the integrity of the statute. It is sort of a consolation, you might say or some bit of salvage to what could have been a wonderful program.

Ladies and gentlemen, I hope that I can come back here next year. I hope that I am re-elected, but as all of you, it is not guaranteed. I hope that if I fail tonight and if this program goes forward and it is crippled and it fails, that you remember that I

gave every ounce of my strength in the hopes that this could be successful into the future. I am saddened for this institution tonight because we missed a great opportunity.

In my time here I have never enjoyed more the relationships that I developed with the Representative from Old Town as we traveled over the country trying to get this thing done right and with the Speaker in his office night after night trying to figure out a way to get this done. I know I grew on your nerves Representative Dunlap, but I believe it was for a good cause.

Ladies and gentlemen, this chamber is almost empty in frustration from some members. I am saddened by that as well. I can't change it. I can tell you this, I will never leave my chair. I will always come here for my constituents. I will support them by being here and fighting every breath that I have. If it means that I do this until I am 98 years, then so be it. Thank you.

Representative FAIRCLOTH of Bangor moved that **House Amendment "B" (H-910) to Committee Amendment "A" (H-904) be INDEFINITELY POSTPONED.**

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

Representative FAIRCLOTH: Mr. Speaker, Men and Women of the House. I just want to say that while I respectfully move Indefinite Postponement, I think there is merit to the OPEGA concept. It is getting late and as the Representative Trahan has noted, the chamber is emptying out and we are getting near a time where people are tired. I have said many times how much I respect the members of the Appropriations Committee on both sides of the aisle. I want to say something about Representative Trahan and his proposal even though I strongly disagree with it here. He has always been soft spoken. He never shouts. He never engages in personal attacks. He speaks on the merits of the issues he raises. I want to thank him for that. I think he is tremendously effective, even though I hope he is not so effective right now. I thank him because I think he epitomizes one of the things I am most proud of about serving in the House of Representatives from people on both sides of the aisle. We can disagree honorably on different issues and still work together. Even though I strongly move to Indefinitely Postpone and feel it is not appropriate to have this amendment in this budget, I want to commend him for his efforts and his actions. Thank you.

Representative COWGER of Hallowell **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-910) to Committee Amendment "A" (H-904).**

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 Indefinite Postponement of House Amendment "B" (H-910) to Committee Amendment "A" (H-904). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 463

YEA - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Bull, Clark, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Faircloth, Finch, Gerzofsky, Grose, Hatch, Hutton, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marraché, McGlocklin, McKee, McLaughlin, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Richardson J, Sampson, Simpson, Smith N, Smith W, Suslovic, Thomas, Thompson, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Austin, Bierman, Bowles, Breault, Bruno, Bryant-Deschenes, Canavan, Clough, Courtney, Crosthwaite, Davis, Eder, Fletcher, Gagne-Friel, Glynn, Honey, Hotham, Jackson,

Marley, Millett, Mills S, Rector, Rines, Rogers, Rosen, Saviello, Snowe-Mello, Sullivan, Tardy, Tobin J, Trahan, Twomey, Young.

ABSENT - Andrews, Annis, Beaudette, Berry, Berube, Bowen, Brown R, Browne W, Bunker, Campbell, Carr, Churchill E, Churchill J, Collins, Cressey, Curley, Daigle, Duprey B, Earle, Fischer, Goodwin, Greeley, Heidrich, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Kane, Ketterer, Landry, Ledwin, Lewin, Maietta, McCormick, McGowan, McKenney, McNeil, Mills J, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Piotti, Richardson E, Richardson M, Sherman, Shields, Stone, Sukeforth, Sykes, Tobin D, Treadwell, Vaughan.

Yes, 62; No, 33; Absent, 56; Excused, 0.

62 having voted in the affirmative and 33 voted in the negative, with 56 being absent, and accordingly **House Amendment "B" (H-910) to Committee Amendment "A" (H-904) was INDEFINITELY POSTPONED.**

Representative SNOWE-MELLO of Poland **PRESENTED House Amendment "D" (H-914) to Committee Amendment "A" (H-904)**, which was **READ** by the Clerk.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I was very dismayed when I read in the budget that the very thing that we opposed last year is being put back into the budget. Last year the Criminal Justice Committee reported out a bill that was overturned to increase the fines and forfeitures and penalties imposed by this state by the courts by 10 percent. As you know in the last budget, the courts had doubled the fines. I felt as a committee member at that time that that was just too much to do. I felt that extra money would really add an extra burden on the folks back home. I see in this budget that a 5 percent increase has been put on by the courts. There is also an increase on OUIs.

I will tell you that this is just plain wrong to do this. Folks back home can't afford this. Some people don't know you can fight these fines. You can actually go to the court and ask for them to be lowered. Even if they are lowered, many people, they only have 30 days to pay the fines, ladies and gentlemen. Many people don't have the money. Increasing it by 5 percent is not right, especially after we just doubled them last year. I don't believe that increasing the fines on OUI is the way to go either to be able to put money in the general fund. It is just plain wrong. We are trying to keep people out of jail. We just debated this. We just talked about it. We have a problem with folks in prison and in jail because of overcrowding. What do you think happens when folks don't pay their fines? What happens? They wind up in jail. Folks that have a drinking problem, ladies and gentlemen, usually don't have the extra money to go around. They are usually struggling to pay for their problem. This is the wrong thing to do.

I know that you are going every where and any where to get money, but why does it have to be on the backs of our people back home? Why? I ask you to please support this amendment.

Representative BRANNIGAN of Portland moved that **House Amendment "D" (H-914) to Committee Amendment "A" (H-904) be INDEFINITELY POSTPONED.**

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

Representative **BRANNIGAN**: Mr. Speaker, Men and Women of the House. These fines were proposed in the original budget. They were proposed to be used to fund the additions in corrections, which were much needed. I believe that we need to keep this type of revenue to offset that type of expense. Thank you Mr. Speaker.

Representative COWGER of Hallowell **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "D" (H-914) to Committee Amendment "A" (H-904).**

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 Indefinite Postponement of House Amendment "D" (H-914) to Committee Amendment "A" (H-904). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 464

YEA - Adams, Ash, Barstow, Beaudette, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McKee, McLaughlin, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Austin, Bowles, Bruno, Bryant-Deschenes, Carr, Clough, Courtney, Davis, Fletcher, Glynn, Honey, Hotham, McCormick, McKenney, Millett, Mills S, Rector, Richardson E, Rogers, Rosen, Snowe-Mello, Tardy, Tobin J, Trahan, Young.

ABSENT - Andrews, Annis, Berry, Berube, Bierman, Bowen, Brown R, Browne W, Bunker, Campbell, Churchill E, Churchill J, Collins, Cressey, Crosthwaite, Curley, Daigle, Duprey B, Earle, Goodwin, Greeley, Heidrich, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Kane, Landry, Ledwin, Lewin, Maietta, McGowan, McNeil, Mills J, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Piotti, Richardson M, Sherman, Shields, Stone, Sukeforth, Sykes, Tobin D, Treadwell, Vaughan.

Yes, 75; No, 25; Absent, 51; Excused, 0.

75 having voted in the affirmative and 25 voted in the negative, with 51 being absent, and accordingly **House Amendment "D" (H-914) to Committee Amendment "A" (H-904) was INDEFINITELY POSTPONED.**

Representative CLARK of Millinocket **PRESENTED House Amendment "I" (H-920) to Committee Amendment "A" (H-904)**, which was **READ** by the Clerk.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. This amendment, House Amendment "I", removes \$30,000 allocated to the personal services line in the Office of the Public Advocate and reallocates that amount to be distributed pursuant to the Regional Education Cooperative Agreement among the towns of Millinocket, East Millinocket and Medway. We had a vision study on September of last year where the towns go together and looked at the vision for the whole communities. We have a 50 year vision and \$30,000 is supposed to come from the State Planning Office, which we have not received yet. All this does is reallocate from \$30,000 from the Public Advocate to the regional and cooperative districts. Thank you.

Representative BRANNIGAN of Portland moved that **House Amendment "I" (H-920) to Committee Amendment "A" (H-904) be INDEFINITELY POSTPONED.**

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

Representative **BRANNIGAN**: Mr. Speaker, Ladies and Gentlemen of the House. Certainly we have great sympathy for the needs in Representative Clark's area and the Appropriations Committee has in the past done things as we could to help that area, but there is no funding in the budget for this that we feel is appropriate. Therefore, I moved Indefinite Postponement. Thank you.

Representative MAILHOT of Lewiston **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "I" (H-920) to Committee Amendment "A" (H-904)**.

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 Indefinite Postponement of House Amendment "I" (H-920) to Committee Amendment "A" (H-904). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 465

YEA - Ash, Austin, Barstow, Beaudette, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Canavan, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Glynn, Grose, Hatch, Hutton, Ketterer, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McKee, McKenney, McLaughlin, Mills S, Moody, Norbert, Norton, O'Brien L, Patrick, Percy, Perry A, Perry J, Pineau, Pingree, Richardson J, Rines, Sampson, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Trahan, Usher, Walcott, Woodbury, Wotton, Mr. Speaker.

NAY - Adams, Bowles, Bruno, Bryant-Deschenes, Bunker, Carr, Clark, Clough, Courtney, Davis, Duprey G, Fletcher, Goodwin, Honey, Hotham, Jackson, McCormick, Millett, Paradis, Pellon, Rector, Richardson E, Rogers, Rosen, Saviello, Snowe-Mello, Tardy, Tobin J, Twomey, Wheeler, Young.

ABSENT - Andrews, Annis, Berry, Berube, Bierman, Bowen, Brown R, Browne W, Campbell, Churchill E, Churchill J, Collins, Cressey, Crosthwaite, Curley, Daigle, Duprey B, Earle, Greeley, Heidrich, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Kane, Koffman, Landry, Ledwin, Lewin, Maietta, McGowan, McNeil, Mills J, Moore, Murphy, Muse, Nutting, O'Brien J, O'Neil, Peavey-Haskell, Piotti, Richardson M, Sherman, Shields, Stone, Sukeforth, Sykes, Tobin D, Treadwell, Vaughan, Watson.

Yes, 68; No, 31; Absent, 52; Excused, 0.

68 having voted in the affirmative and 31 voted in the negative, with 52 being absent, and accordingly **House Amendment "I" (H-920) to Committee Amendment "A" (H-904) was INDEFINITELY POSTPONED**.

Representative TWOMEY of Biddeford **PRESENTED House Amendment "J" (H-921) to Committee Amendment "A" (H-904)**, 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. I know what the procedure is, but I felt very important about this issue. I am calling this Jason Caron's amendment. We received many, many e-mails in the course of being here and none has moved me as much as this one has. What this amendment does is it puts \$400,000 back in Alpha One. I would like to read the letter.

It is to the Governor. "Governor Baldacci, I am writing to you because I am concerned for my mother and grandmother. I am also very concerned about many other people in my life. My

name is Jason. I am an eighth grade student at Biddeford Middle School. I am 14 years old. The cuts you are suggesting for the budget are going to drastically hurt my family. Why can't you cut the budget for the laptops instead? We were only supposed to have them for one year. I have had mine now for two. The school said we might be bringing them up to the ninth grade with us. If that happens, you and the government will be purchasing more new laptops for all the new seventh graders throughout the state, which is \$1,500 per each laptop. In my school alone there are 300 plus students in seventh grade at Biddeford Middle School. That is \$450,000 for laptops. You do the math. If you want to save money, there is a way. Please don't get me wrong. I like my laptop. When I am done my work I play games and use e-mail and stuff. Half the time I could have done the same work with the school library computers or in the in-class computers or the public library computers. The kids here in Biddeford aren't allowed to bring our laptops home. It is just as easy to do it the other way.

My mom has a personal care attendant through Alpha One's Attendant Services Program and so does my Nana. My mom is a single parent. She is all I have for a parent. She needs help doing some stuff. The PAs help her. They do not even get benefits, vacations or sick time.

The cuts you are proposing will cause my mom to lose anywhere from eight to 17 hours a week in helper time. It will cause all the people on the program to lose that much assistance time. Why would you want to make life more difficult for so many people like my mom and Nana or people like I saw on the news? My Nana needs this medication that is used with Hodgkins Lymphoma to fight her disease and Maine Care refuses to allow her the three more treatments that may save her life.

Because of the current budget cuts, my grandmother may die before she reaches 65. My mom needs an experimental amino-therapy that was covered by Maine Care. It might not be now so that she can maybe walk again. That would be amazing because I have never seen my mom walk. She has been in a wheelchair my whole life.

If you could please find a different place to get the funds to fix the deficit, please do that instead. Respectfully, Jason Caron"

He has written many letters to the Governor and has not had any replies. This letter and this young man has touched my heart. This is just one reason I am doing this. I have other constituents in my district who are in wheelchairs who depend on Alpha One. While I have great, great, great respect for the Appropriations Committee and all the hard work they have done and the restorations that they have put back in this program, it is still not fully funded 100 percent.

For Jason, if you are still up and listening to this, this is for you. I have heard your voice. I care and my light is shining for you tonight Jason. Thank you.

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

Representative **EDER**: Mr. Speaker, Men and Women of the House. I may not be very bright, but I have noticed a pattern in the past several budgets that I have been here and witnessed. It is a pattern of going after the most vulnerable people in our state. The deception that is being played on the most vulnerable people in our state goes like this. Several times now, you know the drill, we are going to completely cut this program. The calls and the e-mails and the letters pour in, letters like the one read by the good Representative from Biddeford. They are very heartfelt and heartbreaking letters. My heart goes out to the members of the Appropriations Committee who had to sit there while all of these people filled the halls of the Civic Center to beg for the programs that gave them a quality of life. Then rather than focusing on

cuts, which is what these are, we are told that the budget has been partially restored, partially refunded. I know that the members of the Appropriations Committee worked hard and if they could have it any other way, they would fully fund those programs.

Mr. Speaker, I would like to say that I find it very disturbing that for several budgets now we have attacked the weakest people in the state while we continue to fortify the Fortune 500. Mr. Speaker, I think that the real political will would be to have the will to stand up against the sustained business lobby rather than to have to suffer and rally only members of the committee that had to suffer the horrible stories from all of the people who will be so badly affected by these cuts. Mr. Speaker, I ask you if you would please think about this continued pattern of turning on the most vulnerable people in the state. What I believe in is a safety net for all of us, because some day, God forbid, we could be in the position of these people who so sorely need these programs. Men and women of the House, I ask for your light tonight. Thank you.

Representative BRANNIGAN of Portland moved that **House Amendment "J" (H-921) to Committee Amendment "A" (H-904) be INDEFINITELY POSTPONED.**

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

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House. We appreciate the hard felt presentation of both the previous speakers. We worked hard to restore a great deal of the cuts to this population. Certainly they were the most moving group that came before us when thousands came before us. We worked very hard with Alpha One to take care of serious issues that they were having in the movement back again from Labor to the Department of Human Services. We will watch that very carefully. We appreciate the concern of everyone. Thank you.

Representative TWOMEY of Biddeford **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "J" (H-921) to Committee Amendment "A" (H-904).**

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 Indefinitely Postpone House Amendment "J" (H-921) to Committee Amendment "A" (H-904). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 466

YEA - Austin, Barstow, Blanchette, Bliss, Bowles, Brannigan, Breault, Bull, Clark, Courtney, Cowger, Cummings, Dudley, Dunlap, Duplessie, Faircloth, Finch, Fischer, Gagne-Friel, Hutton, Lemoine, Lerman, Lessard, Mailhot, Makas, Marley, Marraché, McKee, McKenney, McLaughlin, Mills S, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Percy, Perry A, Perry J, Pineau, Pingree, Richardson J, Sampson, Simpson, Smith N, Smith W, Suslovic, Tardy, Thomas, Thompson, Usher, Watson, Wheeler, Woodbury, Mr. Speaker.

NAY - Adams, Beaudette, Bennett, Bruno, Canavan, Clough, Craven, Davis, Dugay, Duprey G, Eder, Fletcher, Glynn, Goodwin, Grose, Hatch, Honey, Hotham, Jackson, Ketterer, Lundeen, McCormick, McGlocklin, Millett, Pellon, Rector, Richardson E, Rines, Rosen, Saviello, Snowe-Mello, Sullivan, Trahan, Twomey, Walcott, Wotton, Young.

ABSENT - Andrews, Annis, Ash, Berry, Berube, Bierman, Bowen, Brown R, Browne W, Bryant-Deschenes, Bunker, Campbell, Carr, Churchill E, Churchill J, Collins, Cressey, Crosthwaite, Curley, Daigle, Duprey B, Earle, Gerzofsky, Greeley, Heidrich, Jacobsen, Jennings, Jodrey, Joy, Kaelin,

Kane, Koffman, Landry, Ledwin, Lewin, Maietta, McGowan, McNeil, Mills J, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Piotti, Richardson M, Rogers, Sherman, Shields, Stone, Sukeforth, Sykes, Tobin D, Tobin J, Treadwell, Vaughan.

Yes, 57; No, 37; Absent, 57; Excused, 0.

57 having voted in the affirmative and 37 voted in the negative, with 57 being absent, and accordingly **House Amendment "J" (H-921) to Committee Amendment "A" (H-904) was INDEFINITELY POSTPONED.**

Representative MILLETT of Waterford **PRESENTED House Amendment "F" (H-917) to Committee Amendment "A" (H-904),** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Waterford, Representative Millett.

Representative MILLETT: Mr. Speaker, Ladies and Gentlemen of the House. This is a very straightforward amendment. It reflects an attempt to respond in I believe a rather gentle fashion the concern that many of you expressed to me from both sides of the aisle following the printing of LD 1919. As you know as referenced by comments by the Representative from Bucksport, Rep Rosen, earlier at the same time we were attempting to redesign Maine Care Services and try to live within our budgeted resources, this bill did propose originally 96 positions in addition to what we had as a head count coming in. The bill before you still assumes a growth of 56 positions even after we had netted out 31 positions that were eliminated in response to a \$5.8 million cut pursuant to the pending unification of BDS and DHS. What this simply does is ask the Commissioner of the Department of Administrative and Financial Services to report monthly to the Appropriations Committee on a status update as to where we are with filled positions and to evolve a plan over the months between now and the next session so that we could get back to the level of staffing that we were at prior to this amendment and to actually effectuate that reduction by the year 2005-2006.

I thought about trying to quantify this in terms of dollar savings and specific deadlines to be met. I didn't feel I could do that and the staff was right out straight. This approach is simply one of asking for a plan to begin to downsize the staffing, to live within our resources and to move forward without continuing to increase the size of government as we try to struggle with very little growth in our resources. I hope you can support it.

Representative BRANNIGAN of Portland moved that **House Amendment "F" (H-917) to Committee Amendment "A" (H-904) be INDEFINITELY POSTPONED.**

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

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House. It certainly is the hope of the majority to have reductions and efficiencies in the workforce. It is not our intention to do away with all of the new personnel, the new positions that have been hired. Many of them bring in revenue. Many of them serve people in need. We certainly will work with the Representative from Waterford, Representative Millett, as we meet on a fairly monthly basis. We will join him in quizzing the administration as to the workforce, but it is not our intention to defund. Thank you Mr. Speaker.

Representative MILLETT of Waterford **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "F" (H-917) to Committee Amendment "A" (H-904).**

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 Indefinite Postponement of House Amendment "F" (H-917) to Committee Amendment "A" (H-904). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 467

YEA - Adams, Ash, Barstow, Beaudette, Blanchette, Bliss, Brannigan, Breault, Bull, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lunde, Mailhot, Makas, Marley, Marraché, McGlocklin, McKee, McLaughlin, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Richardson J, Sampson, Saviello, Simpson, Smith N, Sullivan, Thomas, Twomey, Usher, Walcott, Watson, Wheeler, Wotton, Mr. Speaker.

NAY - Austin, Bowles, Bruno, Carr, Clough, Courtney, Davis, Fletcher, Glynn, Goodwin, Honey, McCormick, McKenney, Millett, Mills J, Mills S, Rector, Richardson E, Rosen, Smith W, Snowe-Mello, Tardy, Trahan, Young.

ABSENT - Andrews, Annis, Bennett, Berry, Berube, Bierman, Bowen, Brown R, Browne W, Bryant-Deschenes, Bunker, Campbell, Churchill E, Churchill J, Collins, Cressey, Crosthwaite, Curley, Daigle, Duprey B, Earle, Greeley, Heidrich, Hotham, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Kane, Landry, Ledwin, Lewin, Maietta, McGowan, McNeil, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Piotti, Richardson M, Rines, Rogers, Sherman, Shields, Stone, Sukeforth, Suslovic, Sykes, Thompson, Tobin D, Tobin J, Treadwell, Vaughan, Woodbury.

Yes, 68; No, 24; Absent, 59; Excused, 0.

68 having voted in the affirmative and 24 voted in the negative, with 59 being absent, and accordingly **House Amendment "F" (H-917) to Committee Amendment "A" (H-904)** was **INDEFINITELY POSTPONED**.

Representative GLYNN of South Portland **PRESENTED House Amendment "G" (H-918) to Committee Amendment "A" (H-904)**, which was **READ** by the Clerk.

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

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. I have before the body a very simple amendment dealing with a very large issue that is going to affect all of our communities to a very large extent. That is the proposed cut by the Appropriations Committee of \$4.3 million for mental health services in the State of Maine. I urge people to open up your majority budget and turn to Part FF and take a look at what exactly is being done to mental health services in Maine. I will first begin by saying that I have been involved with medical billing now for probably the last 15 years and I work for a community mental health center. I get an opportunity to speak to a lot of folks in the profession from agencies statewide who service a lot of your clients.

The proposal in the budget is simply to raid money directed at mental health services and leave a large hole in that population. What is done is it takes approximately \$1.5 million out of the budget, which is used for matching federal funds. It levies \$2.8 million in federal matching funds for a total of \$4.3 million. That money is used to provide direct care services for Maine Care clients and for other clients receiving these services.

To make up for it, the Majority Report proposes to establish a committee and the purpose of the committee is to convene this work group to go out and teach behavioral health services agencies how to bill insurance companies. I want to repeat some

of the language that is in this amendment proposed by the Majority Report that I hope to strike.

The initiative provides for the deappropriation of funds associated with mental health parity provisions. The purpose of this is to defund mental health parity. What they hope to do with the Majority Report is by teaching non-profits and community mental health to bill insurances that somehow or other they are going to go out and build this cash cow, the insurance companies, get all the money that they have been deprived and that somehow is going to make these agencies whole. I have to tell you that is false. It is a false premise and I have been speaking with several non-profit agencies and it is false. It is going to leave quite a hole out there in our communities.

What is going to happen is, for instance, a service that is presently billed by one of these agencies may be an emergency service or some other service that may cost \$100 an hour to provide that service to a client that has been recognized. What is going to happen is instead of funding through the traditional ways that have been provided for in the past up until presently, they are going to bill the insurance company. Well, we have a mental health parity law on the books and there is a basic misunderstanding by those that serve on Appropriations of what mental health parity really is, as evidenced by this report. That misunderstanding is that parity means they pay the same dollar amount as Maine Care. That is false. Insurance companies do not pay the same amount of money as Maine Care. In fact, if it is usually customary to be half that rate. What happens is the service that is presently reimbursed to one of these agencies at \$100 an hour, they are going to find that they are paid \$40 an hour or \$50 an hour. Those cuts in reimbursement are going to materialize in cuts in service delivery.

What are some of the ramifications of this if, in fact, they are able to implement full billing system and several of the agencies currently are billing insurance companies. Several are, but several aren't. What is going to happen is they will have to make an individual decision as businesses and organizations to either one, turn clients away or number two, what they are going to do is they are going to refuse clients who have just insurance. We see that presently that there is an unserved population that presently is not served through their insurance and that gap between what insurance reimburses, they apply it to grants through the state. They also look to county government asking for subsidy and municipal governments.

Those sources have also dried up. More and likely the scenario that is going to transpire is that a lot of people are going to lose their services. A lot of people are going to be turned away. I don't think that is something anyone here would like to see. I find it more than ironic that having served here, this is my third term, I have heard the argument again and again by members of the Health and Human Services Committee, as well as the Appropriations Committee, stand up and make the statement, you know what, we have to provide these monies so that we get the federal match. This is so important and to leave that federal money on the table, what a stupid thing to do. A million five levies another \$2.8 million, \$4.3 million, gee, we should take that money and look at all the people in need we can serve. Instead what we are doing is to plug the budget deficit. We are taking these services away. We are turning away the \$2.8 million federal match and passing onto the mental health providers and those businesses in those communities no reimbursement mechanism for their clients and thus their clients are going to have major service reductions and be turned away.

I hope we really think long and hard before we do this type of a cut as to what it is going to do and what the social ramifications of not serving these clients are going to mean. I hope that we

consider strongly a type of budget philosophy that balances its budgets on absolutely every other organization in the State of Maine. We see it with the hospitals. We have balanced our budget here at the state on them. We have balanced it on the schools. We have balanced it on the municipalities, which is driving up the property taxes. Now we are balancing it on the social service agencies that we have in the past made such painstaking efforts to protect. I urge you to vote for this amendment.

Representative DUDLEY of Portland moved that **House Amendment "G" (H-918) to Committee Amendment "A" (H-904) be INDEFINITELY POSTPONED.**

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

Representative DUDLEY: Mr. Speaker, Men and Women of the House. The language that House Amendment "G" seeks to strike out of the budget allows us to achieve general fund savings that we enacted when we accepted the biennial budget last year, relative to the mental health parity provision. The language that is in this budget was recommended by the Insurance and Financial Services Committee and was accepted, if I am not mistaken, unanimously by the Appropriations and Financial Affairs Committee before we closed the budget last week. It sets up a stakeholders group, a working group to work through the very types of issues that Representative Glynn mentioned were his concerns. I would say that this isn't a new cut. This isn't a new cut. These are savings that we already booked. We booked it in last year's budget. It was a million and a half dollars. What this language seeks to do in a very intelligent way by engaging all stakeholders is to find the appropriate ways to achieve the savings that we acted upon, rather that we enacted, last year in last year's budget.

I would add that these same providers were also very strong supporters of the mental health parity legislation. This is a very appropriate approach to achieving those savings that we booked last year. I would add that House Amendment "G" leaves the budget out of balance. We need to cut somewhere else if we accept what the Representative from South Portland proposes. I urge you to support the motion to Indefinitely Postpone.

Representative GLYNN of South Portland **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "G" (H-918) to Committee Amendment "A" (H-904).**

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 Indefinite Postponement of House Amendment "G" (H-918) to Committee Amendment "A" (H-904). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 468

YEA - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duprey G, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hutton, Jackson, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McKee, McLaughlin, Mills J, Moody, Norton, O'Brien L, O'Neil, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Richardson E, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Austin, Beaudette, Bowles, Bryant-Deschenes, Carr, Clough, Courtney, Davis, Fletcher, Glynn, Hatch, Honey, McKenney, Millett, Mills S, Rector, Rosen, Snowe-Mello, Tardy, Trahan, Young.

ABSENT - Andrews, Annis, Berry, Berube, Bierman, Bowen, Brown R, Browne W, Bruno, Bunker, Campbell, Churchill E, Churchill J, Collins, Cressey, Crosthwaite, Curley, Daigle, Dugay, Duplessie, Duprey B, Earle, Eder, Goodwin, Greeley, Heidrich, Hotham, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Kane, Ketterer, Landry, Ledwin, Lewin, Maietta, McGowan, McNeil, Moore, Murphy, Muse, Norbert, Nutting, O'Brien J, Paradis, Peavey-Haskell, Piotti, Richardson M, Rogers, Sherman, Shields, Stone, Sukeforth, Sykes, Tobin D, Tobin J, Treadwell, Vaughan.

Yes, 70; No, 21; Absent, 60; Excused, 0.

70 having voted in the affirmative and 21 voted in the negative, with 60 being absent, and accordingly **House Amendment "G" (H-918) to Committee Amendment "A" (H-904) was INDEFINITELY POSTPONED.**

Representative BRANNIGAN of Portland **PRESENTED House Amendment "V" (H-937) to Committee Amendment "A" (H-904),** which was **READ** by the Clerk. The SPEAKER: The Chair recognizes the Representative from Portland, Representative Brannigan.

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House. This is an appropriation of \$32,000 for the school in Limestone that many, many people in this body as well as others have been interested in restoring this piece of money. The reason I am doing it, not only at the request of Representative Smith of Van Buren and Representative Young of Limestone and Representative Fischer of Presque Isle and all the members with Representative Cummings from the Education Committee. Not only have these people been insistent, persistent in hoping that this would happen, but I believe it would have happened in the Appropriations Committee. It was in front of us. Two things were missing. We weren't as aware as we could have been that the entire unanimous vote of Education Committee had been made and that an appropriation, money, to do this was approved by the Chief Executive from a source and by the Education Committee. I hope you will vote with me to appropriate a small amount to this very special school. Thank you.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative Young.

Representative YOUNG: Mr. Speaker, Men and Women of the House. The amendment phases back into the budget of the Maine School of Science and Mathematics \$32,000 that was taken out of their '04-'05 budget. It is \$32,000 that we are dealing with here tonight. It is a very small amount. We are used to millions and billions. To that small school, that could be millions. The arrangement the school has on those buildings that they use is if something breaks down, you have to fix it financially. The buildings were built there around the time that the Loring Air Force Base was there, which would make them over 40 years old. We all know if you have a home or whatever business, after 40 years, eventually things start to go. Recently it was the boiler in the resident's hall this winter. That was \$18,000. I don't believe that she had budgeted for things like that. Prior to that the sewer going into the hall had let go. That was there responsibility to come up with those funds. I believe it was 116th that voted this charter school in. I always have a problem. This is not the first time I had to speak for this \$32,000. I really have a problem. We created something that is a tremendous success. I don't have to tell you this. You know this. You read it in the paper. These young people that are going there are fantastic. Their hair may be every color of the rainbow. Their clothes are a disaster, but what is in that mind is tremendous. They are just like a sponge after knowledge. I cannot encourage you enough to always in the future try to stay with the funding.

I was disappointed to say that this shows in the amendment that it is a one-time funding. That will be somebody else's problem. Just a few statistics. The graduating class is 57. Fifty-six are going on to college. One young lady is going into the Air Force. It would be nice for me to tell you 100 percent are attending colleges in Maine, but they are not. About 50 percent are and I understand this is average. The enrollment for '04 and '05 right at this time stands at 140. The hour is late and the day is long. I won't prolong this. I do wish to thank Representative Brannigan and all of my fellow legislators that worked to get this presented. On behalf of these students and their teachers, the director, I thank you.

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

Representative DAVIS: Mr. Speaker, Men and Women of the House. I am going to vote for this as a monument to the courage of Representative Young. She has advocated this for a long, long time. She is not going to be back next year. Please, please, let's vote for this. Thank you.

House Amendment "V" (H-937) to Committee Amendment "A" (H-904) was ADOPTED.

Representative SNOWE-MELLO of Poland PRESENTED **House Amendment "U" (H-936) to Committee Amendment "A" (H-904)**, which was READ by the Clerk.

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

Representative SNOWE-MELLO: Mr. Speaker, Ladies and Gentlemen of the House. This amendment removes the 5 percent service provider tax imposed on private non-medical institution services and the increase in the tax on hospital operating revenues imposed pursuant to Committee Amendment "A." This also repeals the tax imposed against each hospital residential treatment, faculty and nursing homes located in this state. Thank you. When the vote is taken, I ask for a roll call.

The same Representative REQUESTED a roll call on the motion to **ADOPT House Amendment "U" (H-936) to Committee Amendment "A" (H-904)**.

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

Representative PINGREE of North Haven moved that **House Amendment "U" (H-936) to Committee Amendment "A" (H-904) be INDEFINITELY POSTPONED.**

The SPEAKER: The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative PINGREE: Mr. Speaker, Men and Women of the House. Just briefly, this amendment speaks to the tax and match proposal against PNMI's and hospitals. I think one of the positive points of this budget, especially after the last supplemental budget was that the hospitals came to the table and said that we understand why a tax and match is important. Doing the hospital tax and match will help prevent against much deeper cuts in this budget and in the future. They came to the table and we negotiated fairly. We moved in critical access, hospitals and a few other important elements the Hospital Association was concerned with. The same is true with the Private Non-medical Institutions. They are not all completely happy with this, but they are willing to do it in these circumstances. They came to the table and we negotiated this agreement. I think these two pieces are essential to balancing this budget. These pieces are essential to not making deeper cuts to people and Medicaid and programs. I just would like to say that the hospitals really were very positive about this process. Again, I am sure it is not easy for them, but they understand that

this is important and they came to the table and they agreed to this. Thank you Mr. Speaker.

The same Representative REQUESTED a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "U" (H-936) to Committee Amendment "A" (H-904)**.

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 Indefinite Postponement of House Amendment "U" (H-936) to Committee Amendment "A" (H-904). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 469

YEA - Adams, Ash, Barstow, Beaudette, Bennett, Blanchette, Bliss, Brannigan, Bull, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Jennings, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McKee, McKenney, McLaughlin, Mills J, Moody, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Richardson E, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Austin, Bowles, Breault, Bruno, Bryant-Deschenes, Carr, Clough, Courtney, Davis, Fletcher, Glynn, Honey, Millett, Mills S, Rector, Rosen, Snowe-Mello, Tardy, Trahan.

ABSENT - Andrews, Annis, Berry, Berube, Bierman, Bowen, Brown R, Browne W, Bunker, Campbell, Churchill E, Churchill J, Collins, Cressey, Crosthwaite, Curley, Daigle, Duprey B, Earle, Goodwin, Greeley, Heidrich, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Kane, Landry, Ledwin, Lewin, Maietta, McGowan, McNeil, Moore, Murphy, Muse, Norbert, Nutting, O'Brien J, Peavey-Haskell, Piotti, Richardson M, Rogers, Sherman, Shields, Stone, Sukeforth, Sykes, Tobin D, Tobin J, Treadwell, Vaughan, Young.

Yes, 78; No, 19; Absent, 54; Excused, 0.

78 having voted in the affirmative and 19 voted in the negative, with 54 being absent, and accordingly **House Amendment "U" (H-936) to Committee Amendment "A" (H-904) was INDEFINITELY POSTPONED.**

Representative MILLETT of Waterford PRESENTED **House Amendment "W" (H-938) to Committee Amendment "A" (H-904)**, which was READ by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Waterford, Representative Millett.

Representative MILLETT: Mr. Speaker, Ladies and Gentlemen of the House. I present this amendment, frankly, against my better judgment for in this environment where no good idea goes unpunished, I feel that there is an opportunity here to extract a bit a good government out of this debate. I hope that you would give this one serious consideration. I handed out a sheet earlier this evening that has general fund revenue and expenditure history over a 20-year period. I won't take the time tonight, but I would love to talk with any of you individually about it. It shows in tabular form and graphic form the difficulty of state government weathering the storms of economic ups and downs. Having served during that economic downturn in the early '90s, I know full well the difficulty of a shipless state being kept afloat in times of declining revenues. I found it difficult then and I tried to do what I thought was right. I found it even more troubling when people, after the fact, looked in the rear view mirror and found fault with everything done in the effort to try to keep the state in the black in the face of a really serious economic downturn.

I have never felt comfortable with those who felt good about scapegoating and blaming others for difficulties when they had no

better ideas to put forth. I ran again this time with the idea and the knowledge that we were facing a similar problem. I knew from what had gone on in the late '90s and early 2000, 2001 that this ship of state was headed for rough water. Monies were being spent in the hundreds of millions of dollars in excess of the revenues coming in at that particular time frame. It was inevitable and it occurred abruptly in the spring of 2002. You will see the places on the graph that I have handed out where revenues fell dramatically short of income, expenditures committed. I would like to try to do something here in this session as the curtain comes close to drawing to a close that would leave us in better shape for the next Legislature and for the biennium that begins less than 15 months from now.

I would like to do some things that give us some pride as we leave here this month in knowing that we recognize the serious problem, we grappled with it and we tried to do the right thing. We tried to exercise fiscal discipline. We tried to earn our goal of being called fiscally responsible and we tried to look through the long-term lens and take steps, even small steps toward preparing for that structural gap that we know is looming.

In this budget I propose to do two things that I think are reversing wrong trends that we have gotten in the habit of this calendar year. That is to tack on cascades at the close of fiscal years still pending and attempt to promise commitments of spending to appease those who feel that they have been aggrieved when their spending growth has been reduced or they may have actually suffered a reduction in appropriation. It is called a cascade because it is really waiting until the books are closed and into late July of the year and hoping there will be enough money left after we do what we tried to do a year ago by setting up a budget stabilization fund and then commit it. In other words, spending that money rather than holding onto it to prepare for the future. We did that in Chapter 513 in January. I thought it was a bad precedent then. We did it again in Part HHH and in BBBB here in this budget. We are now even booking spending and promising in a rather, I think, hypocritical fashion that monies might be available in the summer of 2005. One of the purposes that we have tried to promise it for is the Baxter Compensation Fund victims. This, to me, is the wrong way to plan to run a ship of state. It is akin to the single wager in a family living hand to mouth and having taken each weekly paycheck, paid the bills that they had to pay and have a little bit of food on the table, seeing \$25 or \$30 left in their pockets as they neared the end of one month and just spending it for the sake of getting rid of it, knowing next month represented a challenge that they could not possibly meet. That is exactly what we are doing.

I started by saying, let's get out of that habit and to actually make a commitment to those of you who felt an obligation to those promises that were made even without the knowledge you could fulfill them. I sat back and I said, what can we do to invest in the future, both for our youth and for those who are looking for people, skilled people, to employ? I tried to put together a higher education and public education package. I have done so on pages two and three of the bill in which I put forth a quarter of a million dollars in scholarship assistance for those who are deserving and through FAME could qualify for loans to go onto higher education. Recognizing that the university took a rather significant cut in this appropriation in this biennium, I put \$500,000 back in an effort to say, you have been through tough times. You are developing a strategic plan. It is important to actually plan for the future. Enrollment interest is up. Let's give them the capacity to continue to do the good job they are doing.

Similarly, I took \$250,000 and assigned it to the Maine Technical, now Community College System in recognition that they, too, have an extremely popular set of programs that are

producing workers who find jobs here in Maine and contribute to our economic recovery.

Lastly, I attempted to respond to what we have all been talking about. I don't want to go home this session without doing something for property tax relief. I recommended and I know how vulnerable I am, I know how risky this is, putting \$7 plus million into a property tax relief reserve account with the hope and expectation that we wouldn't squander it. You would see it as a good gesture to try to do something right and to pay for it, not to wait and hope we will have the money down the road, but to pay for it. That is hanging out there in the last part of the bill.

How did I come up with this and why didn't I put it forward in the committee? Well it is an idea I have been thinking about for months, even years now. I listen to economists. I am sure you all do. I have my mortgages that I worry about. I have learned and heard and talked and thought about the notion of rather than going to monthly payments on your mortgage if you could just get in the habit of doing twice monthly payments, you would find your interest obligation declining so much more rapidly. You would get out from under your long-term burdens in a much shorter time frame.

I came up with the idea that looking ahead of mid to late June, we will be going to the rating agencies and to the bond houses for rating of a \$130 million bond sale, which we, under normal circumstances, would sell the bonds, most of them non-taxable and some taxable and we would commit to two interest payments, one six months down the road and another one at the end of the following year and then we would push our principle payment off until the very end of that year upcoming. Consequently we made no principle payback for a full year. The concept embodied here is to start doing this early, to make our payments twice a year starting in January and actually keeping our interest obligations current biannually, one in January and one in July and shortening the bonding period. I was able to do both of these things, pay up front aggressively, shorten the borrowing period from 10 to nine years and save \$8.1 million in this year's fiscal year '05 planned budget.

Not only that, this is an idea that I think is worthy of trying in the future, even if you shoot me down tonight. I can prove that we can save up to \$4.4 million in interest over this time period because of that early start on paying down the principle. In other words, we let that interest kick in early and we see it decline much more rapidly.

As a third benefit, the highway fund benefits to tune of over \$900,000 because they have \$13 million in the package to go out in June.

I put this forward with the knowledge that I am probably cutting off my nose to spite my face. I know it will be indefinitely postponed. I am sure that somebody is going to say this is a great idea, but let's ignore him and let's ignore that party and let's say, let's make a partisan move on that money and shove it over here and we will spend it for something and we will forget about the long-term. We will do the short-term feel good stuff that we tend to be doing routinely here this year, particularly.

I am not trying to be critical. I felt we did some good things last year. I felt January was a disaster, purely and simply. I was somewhat encouraged when our Chief Executive recognized in the face of what was done in January and the structural gap information that came out in March that we needed to step back and redesign some of our programs that had the high escalation curve. We had to look at that gap because we know it is going to be horrendous in '06 and '07 and plan for it and begin to do some things that do that. I am trying to do my part here. This is an attempt at good government. It will start making some good fiscal long-range planning decisions that will help save money. I

am not recommending that we spend it just to get rid of it. I am trying to say that these ideas taken together represent a good government approach.

I know I am preaching to an audience that probably has their minds made up. Whether it is my amendment or my idea or yours, think about it please. Don't reject it out of hand as some bad idea because it has come from somebody with a long-term fiscal vision. Thank you.

Representative BRANNIGAN of Portland moved that **House Amendment "W" (H-938) to Committee Amendment "A" (H-904)** be **INDEFINITELY POSTPONED**.

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

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House. Certainly we have to have great respect for Representative Millett from Waterford and the sincerity with which he is presenting this amendment. I have a feeling there are some here that will want to look at these ideas. We certainly would like to give the money to these thoughtful places of growth in the loans and for scholarships for the university. We would have liked to have done that then and to community colleges where it is so important. I wouldn't want to say that he tried to curry favor with the Senate Chair, but he does include the university. I think that some of this would need to be seen by the Transportation Committee dealing with highway and we do feel that the property tax is something I believe is being done separately from the budget. Representative Millett, I do this with no desire or no pleasure. Thank you.

The Chair ordered a division on the motion to **INDEFINITELY POSTPONE House Amendment "W" (H-938) to Committee Amendment "A" (H-904)**.

Representative MILLETT of Waterford **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "W" (H-938) to Committee Amendment "A" (H-904)**.

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 Bath, Representative Watson.

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

The SPEAKER: The Representative may pose his question.

Representative WATSON: Mr. Speaker, Men and Women of the House. Can anyone from Appropriations or Taxation tell me off the top of their head why this idea would not work or why shouldn't this receive further consideration?

The SPEAKER: The Representative from Bath, Representative Watson has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Brannigan.

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House. I am not saying that this idea if you are talking about the way bonds are paid, I am not sure that it won't work. If Representative Millett says it will work, it will. This is a major piece. You have looked at the amendment itself that does lots of pieces with thoughtfulness, but it is just not part of this budget. I hope, as I said before, that people will think about this and use it wisely and not skim it off as the Representative was fearful might happen.

The SPEAKER: The Chair recognizes the Representative from Cornville, Representative Mills.

Representative MILLS: Mr. Speaker, Men and Women of the House. I think the message that is being delivered by the good Representative from Waterboro is very simple. He is trying to instill in the majority some sense of regret that the minority was

not invited to this dance. Even in the search for revenue we Republicans have ideas of our own that are worthy of consideration. I must reflect again as I did the last time we passed a budget out of this chamber that it is a shame that we couldn't close the Appropriations Committee door and shut off the mike and put a budget out of the room. I think the 13 of us could have done it and could have done a better budget, frankly, than the one we have before us.

Incidentally, just for the historical record here, the full and complete name of the cascade is the Cascade of Broken Dreams. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "W" (H-938) to Committee Amendment "A" (H-904). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 470

YEA - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Bull, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Jennings, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, McGlocklin, McKee, McLaughlin, Norton, O'Brien L, O'Neil, Paradis, Pellon, Perry A, Perry J, Pineau, Pingree, Richardson J, Rines, Saviello, Simpson, Suslovic, Thompson, Twomey, Usher, Walcott, Wheeler, Wotton, Mr. Speaker.

NAY - Austin, Beaudette, Bierman, Bowles, Breault, Bruno, Bryant-Deschenes, Bunker, Carr, Clough, Courtney, Davis, Eder, Fletcher, Glynn, Honey, Marley, Marraché, McCormick, McKenney, Millett, Mills J, Mills S, Moody, Percy, Rector, Richardson E, Rosen, Sampson, Smith W, Snowe-Mello, Sullivan, Tardy, Thomas, Trahan, Watson, Woodbury.

ABSENT - Andrews, Annis, Berry, Berube, Bowen, Brown R, Browne W, Campbell, Churchill E, Churchill J, Collins, Cressey, Crosthwaite, Curley, Daigle, Dugay, Duprey B, Earle, Goodwin, Greeley, Heidrich, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Kane, Landry, Ledwin, Lewin, Maietta, McGowan, McNeil, Moore, Murphy, Muse, Norbert, Nutting, O'Brien J, Patrick, Peavey-Haskell, Piotti, Richardson M, Rogers, Sherman, Shields, Smith N, Stone, Sukeforth, Sykes, Tobin D, Tobin J, Treadwell, Vaughan, Young.

Yes, 59; No, 37; Absent, 55; Excused, 0.

59 having voted in the affirmative and 37 voted in the negative, with 55 being absent, and accordingly **House Amendment "W" (H-938) to Committee Amendment "A" (H-904)** was **INDEFINITELY POSTPONED**.

Subsequently, **Committee Amendment "A" (H-904) as Amended by House Amendments "Q" (H-932), "T" (H-935) and "V" (H-937)** thereto was **ADOPTED**.

Representative BRUNO of Raymond **OBJECTED** to suspending the rules in order to give the Bill its **SECOND READING WITHOUT REFERENCE** to the Committee on Bills in the **Second Reading**.

The Bill was assigned for **SECOND READING** later in today's session.

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

BILLS IN THE SECOND READING House as Amended

Bill "An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper

Operations of State Government for the Fiscal Years Ending June 30, 2004 and June 30, 2005" (EMERGENCY)

(H.P. 1420) (L.D. 1919)

(H. "Q" H-932, H. "T" H-935 and H. "V" H-937 to C. "A" H-904)

Was reported by the Committee on **Bills in the Second Reading** and **READ** the second time.

On motion of Representative MILLETT of Waterford, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended**.

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

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

ROLL CALL NO. 471

YEA - Adams, Ash, Barstow, Beaudette, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Faircloth, Finch, Fischer, Gagne-Friel, Grose, Hatch, Hutton, Jackson, Jennings, Ketterer, Koffman, Lemoine, Lerman, Lessard, Mailhot, Marley, Marraché, McGlocklin, McKee, McLaughlin, Mills J, Moody, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Richardson J, Rines, Sampson, Simpson, Smith N, Smith W, Suslovic, Thomas, Thompson, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Austin, Bierman, Bowles, Bruno, Bryant-Deschenes, Carr, Clough, Courtney, Cressey, Crosthwaite, Curley, Davis, Eder, Fletcher, Gerzofsky, Glynn, Goodwin, Honey, Jodrey, Lundeen, McCormick, McKenney, Millett, Mills S, Nutting, Rector, Richardson E, Rosen, Saviello, Sherman, Snowe-Mello, Tardy, Trahan, Twomey.

ABSENT - Andrews, Annis, Berry, Berube, Bowen, Brown R, Browne W, Campbell, Churchill E, Churchill J, Collins, Daigle, Dugay, Duprey B, Earle, Greeley, Heidrich, Hotham, Jacobsen, Joy, Kaelin, Kane, Landry, Ledwin, Lewin, Maietta, Makas, McGowan, McNeil, Moore, Murphy, Muse, Norbert, O'Brien J, Peavey-Haskell, Piotti, Richardson M, Rogers, Shields, Stone, Sukeforth, Sullivan, Sykes, Tobin D, Tobin J, Treadwell, Vaughan, Young.

Yes, 69; No, 34; Absent, 48; Excused, 0.

69 having voted in the affirmative and 34 voted in the negative, with 48 being absent, and accordingly the House Paper was **PASSED TO BE ENGROSSED as Amended** by **Committee Amendment "A" (H-904) as Amended by House Amendments "Q" (H-932), "T" (H-935) and "V" (H-937)** thereto and sent for concurrence.

On motion of Representative **CURLEY** of Scarborough, the House adjourned at 10:51 p.m., until 9:00 a.m., Friday, April 16, 2004 in honor and lasting tribute to Donald A. Thurlow, of Scarborough.