

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

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ONE HUNDRED AND TWENTIETH LEGISLATURE
 SECOND SPECIAL SESSION
 38th Legislative Day
 Friday, April 16, 2004

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

Prayer by Reverend Paul D. Basham, Interim Minister, Penney Memorial United Baptist Church, Augusta.

National Anthem by the Honorable Leila J. Percy, of Phippsburg and the Honorable Sonya G. Sampson, of Auburn Pledge of Allegiance.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Joint Resolution: (S.P. 807)

JOINT RESOLUTION RECOGNIZING JACKIE CALCAGNI

WHEREAS, upon her well-deserved retirement and in appreciation of her years of service to the Legislature, we wish to recognize Jackie Calcagni, Legislative Payroll and Benefits Supervisor in the Office of the Executive Director; and

WHEREAS, Jackie began her state service by working for the Department of Agriculture; prior to her position as Legislative Payroll and Benefits Supervisor, Jackie also worked as a Senate Page; and

WHEREAS, during her nearly 20 years of legislative service, she has served under 3 executive directors, developing a singular ability in all aspects of personnel administration functions; and

WHEREAS, her careful attention to detail, her exceptional dedication and her good humor have made her an invaluable asset to the Legislature and a valued and vital member of the nonpartisan staff; and

WHEREAS, her efficient manner in delivering important information to Legislators and staff alike has gained her their respect and appreciation; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature of the State of Maine now assembled in the Second Special Session, pause in our deliberations to recognize Jackie Calcagni for a job done so well for so long; and be it further

RESOLVED: That We formally express our great affection and sincere thanks to Jackie Calcagni and our heartfelt best wishes to her for a happy and rewarding retirement; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be prepared and transmitted to Jackie Calcagni as a lasting token of our friendship, gratitude and respect.

Came from the Senate, **READ** and **ADOPTED**.

READ and **ADOPTED** in concurrence.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I love Jackie so much. When I was a freshman, she was on the third floor. Some of you don't know. The office used to be upstairs. You might think that filling out those little forms that you do for your paycheck is just that, but for me it was more than that. I started as a freshman always putting a smiling face on it. I would go in and give it to her myself. She always had a smile. She was always willing to listen. Since then we have just

had a great friendship. I just love her so much. I am going to miss her. If you need to know anything about your retirement, your health care or any questions or concerns, she was always willing to stop what she was doing and she was ready to listen and help. She is one of those employees that don't get enough credit and probably didn't get paid what she should have gotten paid. I think she was priceless. I hope she takes her retirement and goes fishing and does all the things she wants to do. I just want her to know that you are a true, generous, wonderful person and I hope you enjoy every day of your retirement, Jackie. I mean that from the bottom of my heart.

Non-Concurrent Matter

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

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

Majority (11) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LEGAL AND VETERANS AFFAIRS READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-814) AS AMENDED BY HOUSE AMENDMENTS "A" (H-830) AND "B" (H-922)** thereto in the House on April 15, 2004.

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

Representative CLARK of Millinocket moved that the House **ADHERE**.

Representative GLYNN of South Portland moved that the House **RECEDE AND CONCUR**.

Representative CLARK of Millinocket **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 South Portland, Representative Glynn.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise on this issue not to belabor the debate that we had previously on this item, but to point out that new information has been handed out to your desk by the Office of Program and Fiscal Review. This bill has a significant cost associated with it and is a mandate, an unfunded mandate. I would like to read to you from the information handed out to us by the Office of Fiscal and Program Review. "The requirement that voters of certain municipalities and counties must vote on whether to approve an application for licensed operator video gaming terminal constitutes an unfunded state mandate. The cost will depend on the number of municipalities and counties that receive such an application." It goes on and in the right hand column it marks it not with a dollar figure, but with the figure significant. I point this out to you because with the fiscal crisis that we are having both here at the state level and at the municipal level any unfunded mandate we pass on to the municipalities means increased property taxes at that level. I know that is something you don't want any more than it is something that I want. Now that we have this new information, I hope you join with me in agreeing that the Senate was correct in Indefinitely Postponing this item. Thank you.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. Before you, you have the non-profit bill to have VLTs in non-profits. We should do what we do with any other bill in this Legislature. We should act on it in this body and the other body and if has any fiscal impact at all sent it to the

Appropriations Table. Have Appropriations have the final say of what to do with that piece of legislation. We do it all the time, ladies and gentlemen. We do it all the time. I believe we did something last night to enact something to go on the table. I am saying to have this bill have its day in the sun down on the Appropriations Table and have the Appropriations Committee have their way of either approving it or rejecting it. It is their call. They are the ones with the purse strings, not us. I hope you vote against the Recede and Concur. Thank you.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise because I must differ, I must disagree. It is every member of this chamber's responsibility for the budget and it is every member of this chamber's responsibility for unfunded mandates that we hand on to the local level. I think it is about time we, as individual legislators collectively stood up against unfunded mandates to municipalities and realize that our actions in Augusta do have dramatic impacts back at our local town level. Yes, unfunded mandates mean property tax increases and I hope you agree and say no. Thank you.

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

ROLL CALL NO. 472

YEA - Adams, Andrews, Austin, Barstow, Beaudette, Berry, Berube, Bull, Campbell, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Dudley, Duprey B, Eder, Faircloth, Glynn, Heidrich, Jacobsen, Joy, Lemoine, Lewin, McKenney, McLaughlin, McNeil, Mills J, Mills S, Peavey-Haskell, Rector, Richardson M, Rogers, Rosen, Snowe-Mello, Stone, Suslovic, Tobin J, Trahan, Wheeler, Woodbury, Wotton.

NAY - Annis, Bennett, Bierman, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brown R, Browne W, Bruno, Bryant-Deschenes, Bunker, Canavan, Carr, Churchill E, Churchill J, Clark, Cowger, Craven, Cummings, Davis, Dunlap, Duplessie, Duprey G, Finch, Fischer, Fletcher, Gerzofsky, Goodwin, Greeley, Grose, Hatch, Honey, Hotham, Hutton, Jackson, Jennings, Jodrey, Ketterer, Koffman, Lerman, Lessard, Lundeen, Maietta, Mailhot, Makas, Marley, McCormick, McGlocklin, McGowan, McKee, Millett, Moore, Muse, Norton, Nutting, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Pineau, Pingree, Richardson E, Richardson J, Rines, Sampson, Saviello, Sherman, Simpson, Smith W, Sukeforth, Sykes, Thomas, Thompson, Tobin D, Treadwell, Usher, Vaughan, Walcott, Watson, Young, Mr. Speaker.

ABSENT - Ash, Breault, Dugay, Earle, Gagne-Friel, Kaelin, Kane, Landry, Ledwin, Marraché, Moody, Murphy, Norbert, O'Brien J, Perry J, Piotti, Shields, Smith N, Sullivan, Tardy, Twomey.

Yes, 44; No, 86; Absent, 21; Excused, 0.

44 having voted in the affirmative and 86 voted in the negative, with 21 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

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

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

COMMUNICATIONS

The Following Communication: (H.C. 396)

STATE OF MAINE

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS

April 15, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Appropriations and Financial Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 167 An Act To Fund the Matching Requirement for Maine's Successful NASA EPSCoR Award
- L.D. 1536 An Act To Authorize the State To Establish a Multijurisdictional Lottery or Lottery Games
- L.D. 1673 An Act To Provide Funding for the Commission on Governmental Ethics and Election Practices

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Mary R. Cathcart

Senate Chair

S/Rep. Joseph C. Brannigan

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 397)

MAINE STATE LEGISLATURE

AUGUSTA, MAINE 04333

JOINT SELECT COMMITTEE

ON REGIONALIZATION AND COMMUNITY COOPERATION

April 15, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Select Committee on Regionalization and Community Cooperation has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 1210 Resolve, To Establish the Intergovernmental Advisory Commission

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Dennis Damon

Senate Chair

S/Rep. Janet L. McLaughlin

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 398)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE**

April 15, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature

State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Inland Fisheries and Wildlife has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1938 An Act Prohibiting Certain Bear Hunting Practices

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,
S/Sen. Bruce Bryant
Senate Chair
S/Rep. Matthew Dunlap
House Chair

READ and ORDERED PLACED ON FILE.

ORDERS

On motion of Speaker COLWELL of Gardiner, the following Joint Resolution: (H.P. 1465) (Cosponsored by President DAGGETT of Kennebec)

JOINT RESOLUTION ENDORSING TAIWAN'S PARTICIPATION IN THE WORLD HEALTH ORGANIZATION

WHEREAS, good health is essential to every citizen of the world, and access to health information and services of the highest standard is necessary to improve public health; and

WHEREAS, the World Health Organization set forth in the first chapter of its charter the objective of attaining the highest possible level of health for all people; and

WHEREAS, the achievements of Taiwan, the Republic of China, in the field of health are substantial, including having one of the highest life expectancy levels in Asia, having maternal and infant mortality rates comparable to those of western countries, eradicating infectious diseases such as cholera, smallpox and the plague and being the first country in Asia to eradicate polio and provide children with hepatitis B vaccinations; and

WHEREAS, the United States Centers for Disease Control and Prevention and its Taiwanese counterpart agencies have enjoyed close collaboration on a wide range of public health issues; and

WHEREAS, in recent years, Taiwan has expressed a willingness to assist financially and technically in international health activities supported by the World Health Organization; and

WHEREAS, recent events regarding the rapid spread of a mysterious virus originating in Asia speak to the dire need for the direct and unobstructed participation in international health forums and programs critical to limiting the spread of various infectious diseases and achieving good world health; and

WHEREAS, the European Parliament called on the World Health Assembly, in Geneva, Switzerland, to accept observer status for Taiwan and on its member states to support the application of Taiwan as an observer to the World Health Organization; and

WHEREAS, the United States Congress has authorized the United States Secretary of State to endorse observer status for Taiwan at the World Health Assembly and President George W. Bush and members of his administration have voiced support for Taiwan's participation in the World Health Organization; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature of the State of Maine now assembled

in the Second Special Session, take this opportunity to commend and support the efforts of Taiwan, the Republic of China, on its application as an observer to the World Health Organization; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to President George W. Bush, Secretary of Health and Human Services Tommy G. Thompson, the Director-General of the World Health Organization, the Director General of the Taipei Economic and Cultural Office in Boston and the Members of the Maine Congressional Delegation.

READ and ADOPTED.

Sent for concurrence.

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

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Florence Dunbar, of Farmingdale, on the occasion of her retirement from the Maine State Legislature's Office of Legislative Information after 10 years of dedicated service. She began her service as the committee clerk for the Joint Standing Committee on Banking and Insurance during the 116th Legislature, and then as committee clerk of the Joint Standing Committee on Taxation during the 117th Legislature and as the committee clerk for the Joint Standing Committee on Insurance and Financial Services during the 118th through the 121st Legislatures. Her friendly smile and cheerful demeanor have been a welcome sight in Room 427, along with the candy jar that was rarely empty. She will be greatly missed by the committee members, legislators, legislative staff, Department of Professional and Financial Regulation staff and members of the lobby with whom she has worked. We send our heartfelt appreciation to Mrs. Dunbar for her dedication and commitment to the Legislature and wish her well in her retirement;

(SLS 665)

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

READ.

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

Representative **O'NEIL**: Mr. Speaker, Colleagues of the House. I very rarely do Legislative Sentiments and even more rarely would I speak on the floor to one, for Florence, anything. The members of the committee who have served with me in the last several years can attest, she is worth a few minutes. Florence, as you leave us and you go back with your husband and your kids, Carrie and Eric, and you do your thing, go to camp, putter around the house, I am sure you will be bored stiff in no time and want back in. I just want to point out to the members of the committee that the above and beyond the call of duty standard that you set, whether it was writing a fine memo to members of the big, bad banking and insurance lobby for letting their cell phones ring or chasing them down to extract the penalty for the fine, chasing down the eight members of the committee who are often scattered around the building in other committees just so that we could take a vote or have a quorum and in general, in always being there and always being eager and for your steadfast grace and aplomb with which you have served the people of Maine. We thank you, Florence.

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

Representative **YOUNG**: Mr. Speaker, Ladies and Gentlemen of the House. Florence Dunbar has been a friend to me the three plus years that I have been here in the House. I sincerely hope, Florence, that we will continue our friendship in the years ahead. Thank you for all your service. Thank you.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. It is my pleasure to stand here today and congratulate Florence on her retirement. I think that the state and the insurance committee that she has worked for is going to be at a true loss without Florence. This year was my first term on the Insurance and Financial Committee. I will tell you that Florence has just been such a great help to me. She is so warm and kind and so gracious. Serving on the Criminal Justice Committee also, she always let me know when we were addressing a bill that was very important to my constituents or when they needed me to be there for a vote. She always kept me abreast of everything that was going on in the committee. What a wonderful lady she is. I am going to miss her. I am hoping that perhaps we can also stay close when we are both out of session. Good luck Florence, you are a super lady.

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

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House. As a freshman and Insurance and Financial Services being my first committee, Florence has really been a very stable, firm and understanding clerk. She has helped me understand what is going on. We have had some lovely conversations about gardening and some of the joys in life too to keep us in perspective. I hope she enjoys her retirement. I hope she don't get so busy she wishes she were back to work. Enjoy!

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to echo all of the warm comments for our Committee Clerk, Florence Dunbar, who has done such an exceptional job in her service to the Insurance and Financial Services Committee as well as to the folks and to the people of the State of Maine. Having served three terms on Insurance and Financial Services, it was always a reassuring thought to know that Florence was there to help out when legislators needed a helping hand to find paperwork and so forth as well as the public.

One of the marks of a great Committee Clerk is the fact that they are someone the public can depend on. Florence did that and she did that in spades. We are going to miss her terribly at the committee and good luck in your retirement, Florence.

Subsequently, was **PASSED** in concurrence.

In Memory of:

Archie Doyle, of South Portland, a longtime firefighter with the South Portland Fire Department. Even though Mr. Doyle retired in 1977, the former deputy fire chief continued to contribute as a member of the Willard Engine and Ladder Company Number 2, in which he was granted a lifetime membership. During his 33 years with the fire service, he fought in many spectacular fires and was publicly honored for his brave and helpful service. In July of 1944, he received a citation for calling in fire and rescue personnel from across the region when a military plane crashed in the Redbank Village area of South Portland, killing 15 people, including the pilot. In 1967, he emerged unscathed from a gas

explosion, which occurred when he was inspecting a home for a suspected gas leak. He also helped fight a ferocious 2-day fire in 1965 at the South Portland shipyard's welding building #25. Deputy Archie Doyle will be greatly missed by his family and friends as well as the large family of firefighters who had so much respect for his long service to his community;

(HLS 1470)

Presented by Representative MAIETTA of South Portland. Cosponsored by Senator BROMLEY of Cumberland, Representative GLYNN of South Portland, Representative BLISS of South Portland.

On **OBJECTION** of Representative MAIETTA of South Portland, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **MAIETTA**: Mr. Speaker, Ladies and Gentlemen of the House. I do these less than Representative O'Neil when it comes time to do sentiments. I just want to reflect back on Deputy Chief Doyle's years of community service to South Portland in the fire department and fire service. I had the pleasure of going into the company when I was 16 years old and that was the first time I met Deputy Doyle. The first time I met him you know who was in charge and who was going to listen to him. That was everybody in the room. He had a lot of words said about him Monday at his funeral from family and friends on some of his past experiences. Some were funny and some were very serious. One that sticks with me is this one. In South Portland we have several terminals where the oil tanks come in. They hook up to the docks and they pump their oil into the pipeline, etc. That job in the fire department normally would be for the rookie in the department to go down and check for safety violations, make sure they are hooked up to the dock properly, check for fire hoses, etc, to make sure that these foreign ships are all doing what they are supposed to do when they come to South Portland. The low guy on the totem pole on that shift would go down just for a surprise inspection anytime during the day, unless you were on Archie's shift. Archie, being the deputy chief, assumed that role. It wasn't really a surprise attack when he showed up to do the inspection, because they knew he would either be there at lunch time or at supper time so that he could sit and have a free meal. That was his job, not the rookie's job.

Archie was very much respected in the community, not just for the fire department, but with his church and the people he was around. He is going to be very much missed by everybody that knew him. It will be not only his family and friends, but the community as a whole. Thank you for listening.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Duplessie.

Representative **DUPLESSIE**: Mr. Speaker, Ladies and Gentlemen of the House. I rise also to extend my condolences to the Doyle family. Archie Doyle was a true servant of the citizens of South Portland, his beloved city. I met him early in my career in Portland, but I did work with his son, Steve, that was a Portland fire fighter. I had the pleasure to work with his son who was a lieutenant for quite a few years. His son was always telling about the proud moments of his father over the years. That is why Steve is also a fire fighter. It is a family that has a long proud history tradition through the fire service. I extend my deepest condolences to them. Thank you.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to echo the comments of my fellow legislators in expressing my deepest sympathy to both the Doyle family and their friends.

Archie Doyle led a very rich and full life and as anyone who has served on the South Portland City Council knows, as a long-time fire fighter in the community he was well respected by his peers, civic leaders, friends and family. We wish him our deepest thoughts and prayers and wish the same for his family. Thank you.

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

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

CONSENT CALENDAR

First Day

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

(H.P. 1367) (L.D. 1841) Bill "An Act To Appropriate Funds for World War II and Korean War Memorial Plaques in the Hall of Flags" 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.

ENACTORS

Emergency Measure

An Act To Implement Certain Recommendations of the Governor's Task Force on ATV Issues

(H.P. 1413) (L.D. 1912)
(S. "A" S-509 to C. "A" H-881)

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

Representative **CARR** of Lincoln **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

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

ROLL CALL NO. 473

YEA - Adams, Andrews, Annis, Austin, Barstow, Beaudette, Bennett, Berry, Berube, Bierman, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Bunker, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Craven, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dudley, Dunlap, Duplessie, Duprey G, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Greeley, Hatch, Heidrich, Honey, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Mailhot, Marley, Marraché, McCormick, McGlocklin, McKee, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S,

Moody, Muse, Nutting, O'Brien L, O'Neil, Paradis, Peavey-Haskell, Pellon, Percy, Perry A, Pineau, Pingree, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Simpson, Smith N, Smith W, Snowe-Mello, Stone, Sukeforth, Suslovic, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Duprey B, Joy, Treadwell.

ABSENT - Ash, Breault, Dugay, Earle, Goodwin, Grose, Hotham, Kaelin, Kane, Landry, Ledwin, Makas, McGowan, Moore, Murphy, Norbert, Norton, O'Brien J, Patrick, Perry J, Piotti, Sherman, Shields, Sullivan, Trahan.

Yes, 123; No, 3; Absent, 25; Excused, 0.

123 having voted in the affirmative and 3 voted in the negative, with 25 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

Emergency Measure

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

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

(H. "A" H-903)

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

Representative **JOY** of Crystal **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

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

ROLL CALL NO. 474

YEA - Adams, Andrews, Annis, Austin, Barstow, Beaudette, Bennett, Berry, Berube, Bierman, Blanchette, Bowen, Bowles, Brannigan, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Bunker, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Craven, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dudley, Duplessie, Duprey B, Duprey G, Eder, Faircloth, Fischer, Gagne-Friel, Gerzofsky, Glynn, Greeley, Grose, Hatch, Heidrich, Honey, Hutton, Jacobsen, Jennings, Jodrey, Joy, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Mailhot, Marley, Marraché, McCormick, McGlocklin, McKee, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Muse, Norton, Nutting, O'Brien L, O'Neil, Paradis, Peavey-Haskell, Pellon, Percy, Perry A, Pineau, Pingree, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Simpson, Smith N, Smith W, Snowe-Mello, Stone, Sukeforth, Suslovic, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - NONE.

ABSENT - Ash, Bliss, Breault, Dugay, Dunlap, Earle, Finch, Fletcher, Goodwin, Hotham, Jackson, Kaelin, Kane, Landry,

Ledwin, Makas, McGowan, Murphy, Norbert, O'Brien J, Patrick, Perry J, Piotti, Shields, Sullivan, Usher.

Yes, 125; No, 0; Absent, 26; Excused, 0.

125 having voted in the affirmative and 0 voted in the negative, with 26 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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

Acts

An Act To Support the New Century Community Program
(H.P. 1309) (L.D. 1787)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

An Act to Define a Scope of Practice for Acupuncture
(S.P. 97) (L.D. 263)
(C. "A" S-414)

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

On motion of Representative MARRACHÉ of Waterville, 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 Waterville, Representative Marraché.

Representative **MARRACHE**: Mr. Speaker, Men and Women of the House. We have had many votes on this bill. I just want to make sure that we think again about the fact that we will now be allowing them to certify the fact that they can give out these herbal medications and there is no regulation on these herbs like there are on prescription drugs that physicians give out. We are putting some people at risk who may not go to these people for their primary care and not go to them after they have exhausted every other avenue first. That is why I am concerned about this bill. 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. 475

YEA - Adams, Annis, Austin, Barstow, Beaudette, Bennett, Berube, Bierman, Blanchette, Brannigan, Brown R, Bull, Bunker, Campbell, Canavan, Churchill E, Clark, Cowger, Craven, Cummings, Dudley, Dugay, Duplessie, Duprey B, Duprey G, Eder, Gagne-Friel, Gerzofsky, Goodwin, Greeley, Grose, Hutton, Jacobsen, Ketterer, Lemoine, Lerman, Lessard, Lundeen, Maietta, McGowan, McKee, McLaughlin, Moody, Muse, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Pineau, Pingree, Rector, Rines, Rogers, Saviello, Smith N, Sukeforth, Suslovic, Thompson, Tobin D, Twomey, Walcott, Watson, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Berry, Bowles, Browne W, Bruno, Bryant-Deschenes, Carr, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dunlap, Faircloth, Finch, Fischer, Fletcher, Glynn, Hatch, Heidrich, Honey, Jackson, Jennings, Jodrey, Joy, Lewin, Mailhot, Marley, Marraché,

McCormick, McGlocklin, McKenney, McNeil, Millett, Mills J, Mills S, Moore, Nutting, Peavey-Haskell, Perry A, Richardson E, Richardson J, Richardson M, Rosen, Sampson, Sherman, Simpson, Smith W, Snowe-Mello, Sykes, Tardy, Thomas, Tobin J, Trahan, Treadwell, Vaughan, Wheeler, Young.

ABSENT - Ash, Bliss, Bowen, Breault, Earle, Hotham, Kaelin, Kane, Koffman, Landry, Ledwin, Makas, Murphy, Norbert, O'Brien J, Perry J, Piotti, Shields, Stone, Sullivan, Usher.

Yes, 68; No, 62; Absent, 21; Excused, 0.

68 having voted in the affirmative and 62 voted in the negative, with 21 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

An Act To Require Law Enforcement Agencies To Adopt Policies Concerning Recording and Preservation of Interviews
(S.P. 286) (L.D. 891)
(H. "A" H-880 to C. "A" S-405)

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

On motion of Representative MILLS of Farmington, was **SET ASIDE**.

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

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

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-405)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "B" (H-940)** to **Committee Amendment "A" (S-405)** which was **READ** by the Clerk.

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

Representative **MILLS**: Mr. Speaker, Men and Women of the House. This relates to the amendment that we made last Monday on this bill. It reincorporates that amendment plus adds a mandate preamble, which is required, because it is technically a mandate. It is a bill where we are requiring the police departments with the help of the Criminal Justice Academy to develop a policy with respect to video taping, audio taping interrogations of serious crimes and adopting policies with respect to preservation of investigative notes.

As you can see from the amendment, while the exact cause cannot be determined, the fiscal note says that the cost of developing written policies is not expected to be significant. We are adding a mandate because it is required. We do not expect for there to be any cost to the department. This is the same procedure we have done in requiring the adoption of policies, model policies with the help of the Criminal Justice Academy on the use of force, dealing with persons exhibiting deviant behavior, police pursuits, domestic violence, etc. I ask for your vote in favor of this amendment, which reincorporates the amendment we did Monday as well.

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative **CARR**: Mr. Speaker, Men and Women of the House. I just wanted to make a brief comment on this. The other day I spoke in opposition to this, because I was concerned about the change in the rules of evidence and the possibility of legal problems as it relates to fruits from the poisonous tree and having evidence dismissed. Although this is a mandate, I will be voting in favor of it. I ask that you do the same. It is much more acceptable to have this. In most cases agencies presently have these rules already in place and policies already in place. I would ask that you vote for this. Thank you Mr. Speaker.

House Amendment "B" (H-940) to Committee Amendment "A" (S-405) was ADOPTED.

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **House Amendment "A" (H-880) to Committee Amendment "A" (S-405) was ADOPTED.**

On further motion of the same Representative, **House Amendment "A" (H-880) to Committee Amendment "A" (S-405) was INDEFINITELY POSTPONED.**

Committee Amendment "A" (S-405) as Amended by House Amendment "B" (H-940) thereto was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-405) as Amended by House Amendment "B" (H-940) thereto in NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

An Act To Amend the Laws Relating to Property and Casualty Insurance and To Authorize the Superintendent of Insurance To Establish a Mandatory Market Assistance Program

(S.P. 692) (L.D. 1853)
(H. "A" H-908 to C. "A" S-489)

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

On motion of Representative DUPLESSIE of Westbrook, was **SET ASIDE.**

Representative O'NEIL of Saco **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 Saco, Representative O'Neil.

Representative **O'NEIL**: Mr. Speaker, Men and Women of the House. Not to slow down the train, but this is a very, very important item that has kind of gone under the radar screen for most of us. I would suggest to you that for all of those in the House that have received phone calls over the last couple of years and e-mails from constituents concerned about property and casualty insurance, more specifically homeowner's insurance and the difficulty in attaining and maintaining the same. This is a beautiful piece of work where we incorporated three different bills, a pro-consumer bill that was brought to us, a pro-regulator bill that was brought to us and a pro-industry bill that was brought to us. We gave the industry better market conditions for insurers to rate and write risk. We gave the regulators a market assistance plan that gives previously hard to insure risks with necessary insurance. Third, we gave consumer protections in getting and keeping coverage.

To spare you the details on it, I would ask that as we finish up our work here this spring, this is a good one for your legislative aide to summarize for you to bring back to your district. Thank you Mr. Speaker.

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. 476

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

NAY - NONE.

ABSENT - Ash, Bennett, Breault, Bunker, Earle, Eder, Goodwin, Kaelin, Kane, Koffman, Landry, Ledwin, Makas, McGowan, Mills S, Murphy, Norbert, O'Brien J, Perry J, Piotti, Rines, Shields, Smith W, Sullivan.

Yes, 127; No, 0; Absent, 24; Excused, 0.

127 having voted in the affirmative and 0 voted in the negative, with 24 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act To Further Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners and the Recommendations of the Commission To Improve Community Safety and Sex Offender Accountability

(H.P. 1409) (L.D. 1903)
(H. "B" H-884 to C. "A" H-860)

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

On motion of Representative MILLS of Farmington, was **SET ASIDE.**

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

Representative **MILLS**: Mr. Speaker, Men and Women of the House. I rise simply to acknowledge and express our appreciation to the good work of two excellent commissions who worked during the fall of last year and into the session this year, those being the commissions indicated in the title of (10-7), the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners and the Commission To Improve Community Safety and Sex Offender Accountability. I was privileged to serve on the first commission along with Representative Grose and Senator Strimling and other good people, including the Chief Justice of the Maine Supreme Court and members of the Superior District Court, members of the

defense bar, District Attorney Everett Fowler representing the eight DAs and chaired by former commissioner Donald Allen, former commissioner of Corrections. That commission worked so diligently. I have been privileged to serve on many, many boards and commissions in the last 30 years. I have to say that this one tackled a huge subject in a very short time. This body, the Legislature as a whole, has given us the courtesy of continuing our work. In the coming months we have much to do in tackling difficult issues of mental health of inmates and people on probation and people committing crimes in this state, mental health issues and substance abuse issues and how we deal with people with substance abuse issues in our prison systems and on probation and parole. We appreciate the courtesy of being able to continue that work. We tackled huge issues last fall. You have kindly acknowledged our work and supported our legislation. I just want to acknowledge the good work of Representative Grose and Senator Strimling in the other body and the other members of the commission on which I was privileged to serve this past fall and winter.

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

Representative FAIRCLOTH: Mr. Speaker, Men and Women of the House. I just wanted to rise in support of this measure and to note the pink sheets distributed to your desks, which summarize some of the work of the Commission to Improve Community Safety and Sex Offender Accountability. We worked six months on this legislation. It is broad based and delves into many areas of this complicated area of law. I was proud because we worked with prosecutors, defense attorneys with advocates for victims of sexual assault and with Justice Atwood and many others. I never had a prouder experience serving as House Chair. We worked on contentious issues and never had a raised voice and achieved unanimity or near unanimity on every single issue. I include Representative Greeley, of course, in that and Senator Hatch.

I do want to note that I am very thankful because now these are joined with the positive vote I did receive on H-875 and that was intended in the spirit of compromise. I will continue as I have to work with defense attorneys, prosecutors, probation, service providers and others to continue that spirit of compromise with regard to all these criminal law issues.

Finally, I would note that because of all the discussions with this issue, it was not so much emphasized that the primary concern that I have with regard to the sex offender and sex crime issue is that of prevention. While we have criminal penalties that are created or increased under this legislation, to me, working on prevention and working on treatment for sex offenders is most important. We have a charge to continue with an analysis of that effort in the coming months through another body. I hope that we can work toward substantive efforts toward prevention in the future. Thank you.

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

Representative BLANCHETTE: Mr. Speaker, Ladies and Gentlemen of the House. I, too, have to stand to say a few thank yous for the passage of this bill. I can tell you without any doubt at all in mind that you will never have a stronger advocate in the House for children's rights to be protected than Representative Faircloth from Bangor. He has spent a great deal of his life advocating for the safety of children. I do believe he always will. This was the nature of his make up and it is a plus for this legislative body and most definitely a plus for the citizens of Bangor. I would like to say, thank you Representative Faircloth for all of your hard work and your diligence. We disagreed, but I hope we can put this disagreement behind us and move on.

To the rest of the members of both of these commissions and most assuredly to my Criminal Justice, Public Safety Committee, I cannot say thank you enough for the hard work and the dedication that you have put into working both of these bills. This is a good piece of legislation. It is a good move for the State of Maine. I thank you sincerely from the bottom of my heart for your support and passage of this bill. Thank you.

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 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:

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.

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Preserve the Fund for a Healthy Maine

(H.P. 1188) (L.D. 1612)

TABLED - April 15, 2004 (Till Later Today) by Speaker COLWELL of Gardiner.

PENDING - **FURTHER ACTION**.

On motion of Representative RICHARDSON of Brunswick, **TABLED UNASSIGNED** pending **FURTHER ACTION**.

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-756)** - Minority (5) **Ought to Pass as Amended by Committee Amendment "B" (H-757)** - Committee on **TAXATION** on Bill "An Act To Conform the Maine Tax Laws for 2003 to the United States Internal Revenue Code" (EMERGENCY)

(H.P. 1229) (L.D. 1651)

TABLED - March 11, 2004 (Till Later Today) by Representative DUPLESSIE of Westbrook.

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

Subsequently, Representative DUPLESSIE of Westbrook **WITHDREW** his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

The same Representative moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

Representative JOY of Crystal **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

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

ROLL CALL NO. 477

YEA - Adams, Andrews, Austin, Barstow, Beaudette, Berry, Bierman, Blanchette, Bliss, Bowen, Bowles, Brannigan, Browne W, Bruno, Bryant-Deschenes, Bull, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Cowger, Craven, Cresse, Crosthwaite, Cummings, Curley, Daigle, Davis, Dudley, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Goodwin, Greeley, Grose, Hatch, Heidrich, Hutton, Jacobsen, Jodrey, Joy, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lewin, Maietta, Mailhot, Marley, Marraché, McCormick, McGowan, McKee, McKenney, McLaughlin, McNeil, Mills J, Moody, Moore, Muse, Norbert, Norton, Nutting, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Pineau, Pingree, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Simpson, Smith N, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - NONE.

ABSENT - Annis, Ash, Bennett, Berube, Breault, Brown R, Bunker, Courtney, Dugay, Gerzofsky, Glynn, Honey, Hotham, Jackson, Jennings, Kaelin, Kane, Landry, Ledwin, Lundeen, Makas, McGlocklin, Millett, Mills S, Murphy, O'Brien J, Peavey-Haskell, Perry J, Piotti, Shields, Smith W.

Yes, 120; No, 0; Absent, 31; Excused, 0.

120 having voted in the affirmative and 0 voted in the negative, with 31 being absent, and accordingly the Minority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "B" (H-757)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "B" (H-757)** and sent for concurrence.

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

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)

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

- In Senate, Senate **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**.

TABLED - April 15, 2004 (Till Later Today) by Speaker COLWELL of Gardiner.

PENDING - **FURTHER CONSIDERATION**.

Representative SULLIVAN of Biddeford moved that the House **RECEDE AND CONCUR**.

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

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. There is a song that goes, know when to fold. I am going to fold on this one, because there are too many good things in this bill. The one thing that both sides of the aisle on this committee agreed to that of all the boards, there are over 100 boards that we regulate, we would not grow the size of the boards. They were expensive and we didn't need to do that. We had an extremely dysfunctional board. They had money problems. They had in-house fighting. According to testimony in many cases they had bias from one group of professionals to another.

The BRED Committee worked in a tremendously bipartisan fashion. We created many, many different changes. The Representative lead from Gray, Representative Austin, worked hard to make sure there was a sunrise piece in there for a group she felt she really needed to have it. All of us worked hard to hear the groups that felt that they were being abused, not in the sense of physical or sexual, but just the accreditation as professionals.

We created subcommittees where they felt they had a chance to regulate their own in a particular profession. We took for the dental hygienists. We took 1,200 people and gave them a real say in the voice of their profession. We made it so they didn't have to ask permission to do charity work on their days off. Can you imagine being asked permission? Many of those dental hygienists have been to the small communities for children and schools. However, when we put this bill out, we added another dental hygienist to the board and we took from five dentists to four. The lobbyists were out. They were out in full fashion. They said that only the dentists could really be in charge. They needed to have this super majority. I am not willing to give up the good things in this bill so we will grow government and we will add another dentist to the board.

To my committee members, we still did a good job. We began to attack a problem that existed and I want to publicly on the record thank the BRED Committee, all of you, for working so hard on this bill for two years. Thank you, Mr. Speaker.

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

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

MATTERS PENDING RULING

HOUSE DIVIDED REPORT - Majority (9) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-906)** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Ensure the Economic Viability of the Harness Racing Industry"

(H.P. 472) (L.D. 642)

TABLED - April 14, 2004 by Speaker COLWELL of Gardiner.

PENDING - **RULING OF THE CHAIR**.

THE SPEAKER: Section 402 of Mason's reads in its entirety, "Amendments must be germane. Every amendment proposed must be germane to the subject of the proposition of the section or the paragraph to be amended and secondly to determine whether an amendment is germane, the question to be answered is whether the question is relevant, appropriate and in a natural and logical sequence to the subject matter of the original proposal. To be germane the amendment is required only to relate to the same subject. It may entirely change the effect or be in conflict with the spirit of the original motion or measure and still

be germane to the subject. Fourth, an entirely new proposal may be substituted by amendment as long as it is germane to the main purpose of the original proposal. Fifth and finally, an amendment to an amendment must be germane to the subject of the amendment as well as to the main question."

LD 642, which is the bill that is before us. It is "An Act To Ensure the Economic Viability of the Harness Racing Industry". It proposes, among other things in the bill an amendment to Title 17, Section 3140A, to authorize the issuances of license and licenses to operate high-stake beano or high-stake bingo. That is found on Page 1, Line 13 through 35 of the bill.

House Amendment 906 proposes an amendment to that same section of the statute to authorize the issuance of a license to a federally recognized Maine Tribe to operate high-stakes beano on non-Indian territory. That is found on Page 1, Lines 32 through 48 of the bill.

The Chair would rule that the amendment is germane.

Subsequently, the Chair **RULED** the amendment was properly before the body pursuant to Section 402 of Mason's Manual and House Rule 506.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. This bill that was originally presented to the Legal and Veterans Affairs Committee was a bill dealing with the economic viability of the harness racing industry. The Minority Report, which has been moved and that we just heard about from the Speaker, what it proposes to do is completely erase the bill and deal with the issue of allowing not all of the tribes, but one of the tribes to be able to relocate their high-stakes Indian bingo game off from their Indian Nation land and onto regular land.

This matter is further complicated by the fact that this bill was a carryover bill from the last session and when it came forward to Legal and Veterans Affairs Committee, even though the underlying purpose of the bill was completely altered and changed, we did not have a new public hearing on the bill. Nobody knew and was able to come and testify that we were talking about relocating high-stakes bingo games off from tribal land, and onto civilian land including the tribes. They weren't able to participate in it.

The product that was put out in this Minority Report was a product that does not extend the same rights to all tribes. It treats the tribes differently. Only one tribe has been profiled to be able to do this. The other tribes will not be able to. Those towns in the surrounding areas that now can have the Indian high-stakes bingo game relocated to their town were not aware, were not informed, didn't receive public notice, didn't participate in the proceedings, but yet this bill is still in front of us.

Unlike most of the bills dealing with gambling issues on Legal and Veterans Affairs Committee, oddly enough, I found myself on the Majority Report. The Majority Report was Ought Not to Pass. It was Ought Not to Pass for a whole lot of reasons because of its expanding gambling in the State of Maine, because of this new precedent and policy, because of the fact that this didn't have a proper public hearing. For all of those reasons, I urge you to reject this Minority Report and move on to the Majority Report, Ought Not to Pass and I would ask two things, the first is a roll call and I would ask the Clerk to read the committee report.

Representative **GLYNN** of South Portland **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

The same Representative **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House. The amendment to this bill refers to the Passamaquoddy Tribe of whom two reservations are on either side of the Calais area. This is not something that is done by surprise. There has been a lot of work with the tribes in the towns to find some way to work jointly on some economic development. Certainly there has been a long history of trying to get a casino in the area of Calais working with the tribes and at this point this is a venture that I have received calls from members of the city council asking me to support this bill so that we can work with the tribes for an economic development piece that is going to help our area.

We have a severe unemployment problem. In the two years that I have been here, in the area that I come from, we haven't lost a mill, but we have lost businesses. We have had a particle board mill that had shut down, came back with fewer people. We had a telecommunications business leave the area. We had Ames leave the area. We have an unemployment rate that ranges between 13 and 15 percent and that has been there in the two years I have been here. We are looking for ways to develop our economy, to bring people into the area, to develop the businesses and also to bring people to the wonderful things that we have here. We look at this as a joint venture. We look at this as two people working together for the benefit of all. I ask that you consider this and that you vote yes on the Minority Report. Thank you.

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

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. With the utmost respect for my distinguished colleague from Calais, Representative Perry, I have to disagree with this. I voted with the majority Ought Not to Pass for a number of what I feel are very valid reasons. First of all, I feel very, very strongly about the fact that I cannot offer one tribe in this state a privilege that I cannot offer the other one. The Penobscots, which are in my district, my neighbors, I live with these people, I work with these people and I respect these people, are restricted to their high-stakes bingo to be on Indian land. This has worked out very, very well for them. We fought many an issue in the last session of this body to make sure that they were able to have their seven super bingos on the Indian Reservation every year and to maintain their own rule. This has worked out very well for them. I believe the good Representative Loring from the Penobscot Nation always pointed out to us that this is the majority of the money that runs their social programs for the tribes. It is very justifiably so.

On the flip side of this, I am going to throw in the very selfish nature of my opposition outside of the fact that I don't want to pit one tribe against the other in special privileges. The fact that I have in the City of Bangor and in adjacent towns every day of the week, Monday through Friday, bingos being run by non-profit organizations that do, in fact, support a number of worthwhile charities that we all believe in. My bingos and my local benevolent societies support nursing scholarships. They support food cupboards. They give scholarships for college tuition to people. If we had high-stakes bingo, which I would not say that the Penobscot Nation would be lax if they didn't want to move down to the harness racing racing and operate a super bingo. You have a captive audience. It is a good way to increase your income. I would have to oppose that because it would kill my local bingos and my charities in the area depend on that.

You need to think of what is happening with this. The Penobscots have very, very, very successfully raised money over the years with their high-stakes bingo. They have worked at it. They have persevered. They have fought for the right to do this. The majority of their players that will come up to the island to play seven times a year either come in the providences in Canada by bus or come up from New Hampshire, Massachusetts and Connecticut, which was one of the reasons that we allowed the Penobscots to still allow smoking while they had their high-stakes bingo. These people that are coming in from the provinces in Canada and from other states are awarded these same privileges. Please do not make the mistake, it would a very, very bad mistake to pit one tribe against the other in this state. They are equal. If you afford the Passamaquoddy the right to go off reservation to operate a high-stakes bingo parlor, you have to allow the Penobscots the same privilege. Please do not do that. There are a lot of other non-profit societies that depend on the bingo that they make to support your neighbors, your friends and the people that need the help the most. Thank you Mr. Speaker.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. I wrestled with this issue very much, especially on my drive home 2 ½ hours north last Thursday evening. I was the one that proposed the amendment to say 45 miles from either Pleasant Point or Indian Township and no closer than 75 miles to Indian Island. That would put it in the location of either Calais, Maine or in Machias, Maine. The Passamaquoddy's in my feeling, my own beliefs, are not created equally because they can't make any money where they are now in high-stakes bingo. The Penobscots, which are in Old Town bring in close to \$250,000 to \$300,000 on the seven weekends that they have beano. The reason why I know this is because we get financial statements every year for the last eight years that we have been here. When we first took this up, like I said, I was the drafter of this amendment. I voted with the majority. Back then it was Ought to Pass as Amended. Last Thursday when we took this back up, we had people reconsidering in my committee. I let anyone reconsider anything. I don't care if you are a Democrat, Green or Independent or Republican. I let them reconsider no matter what. I voted with the Majority Ought Not to Pass. Like I said, driving home last Thursday evening, this is going to be the only time that I am going to change my vote from the committee report.

I cannot sit here and vote against somebody that is losing some economic viability just because they cannot operate on their homeland. Like I said, this will be done with the cooperation of the municipality. Local control, if the town or city of Calais agrees with placing a high-stakes beano or bingo facility in their town, they have to approve it. If they don't, then they don't go there. It is same thing with Machias. It is either going to be one or the other. It is not going to do both. If this bill passes, the Passamaquoddy will have to choose between locations. I think everybody knows here that it is probably going to be Calais because that is the economic thruway for Washington County.

Yes, the Penobscots would like to have them go off the reservations to Bangor. It is a much bigger facility and will attract more people. In my mind right now, we have to look at one of the tribes that is not successful in raising money for beano and that is the Passamaquoddy. I don't think we are pitting the tribes against each other. If they don't like this, then they come back and put in bills next year. Like the good Representative from South Portland said, this bill never had a public hearing. LD 642 had a public hearing last year. We amend bills in the committee

process that don't have public hearings for amendments. This bill is totally different. They come out due to amendments. We don't have to go back out to the public for public hearings. We don't do that. Do we do that with Dirigo Health? I don't think so. Do we do that with Racino? No. Do we do that with other bills that we have in the Legislature? Think the errors bill. That changes a lot of bills. Do we go back out in public hearing? That is not the process up here. Somebody that knows the process knows that. You have a bill that is presented to them from the legislator to the committee. After you present that bill, it is no longer your bill. It is the committee's bill. They can do whatever they want with that bill. I have seen a bill that I put in that I wanted to pass one way, it came out totally different. I had to kill my own bill, vote against my own bill because there was nothing I liked in that bill. You never know about the legislative process.

Like I said, all this does is help the Passamaquoddy make their living a little bit better in Calais, Maine. Like I said, just one thing to remember, the municipality will have the alright say in this. If they vote no, they do not go there. I hope that you join me in supporting the Minority Ought to Pass as Amended Report. Thank you.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. We have a couple of issues here. The first issue is dealing with the public notice that the good Chair of Legal and Veterans Affairs just spoke about. If you look up on the board, the name of this bill is to ensure economic viability of the harness racing industry. Who out in the public would have had any clue that what we would be debating now is the sole ability of tribal high-stakes bingo games to be able to relocate off from their reservation. That has absolutely nothing to do with this title. After the decision was made by the committee to use this as a vehicle for this purpose there was no new public hearing and the interested parties weren't part of the process. That is very disappointing. It is actually very frightening. I hope it is not a new trend in the Legislature.

We have two issues that become key with this piece of legislation. One, is it good public policy to have the tribes have it both ways to say that they have an exclusive on these high-stakes bingo games because they are sovereign nations and they should be able to do what they want on their land, which is something I agree with. They should be able to do what they want on their land and now be able to locate off from their land onto non-tribal land these activities that are illegal for anyone else to do, run a high-stakes bingo game. The second issue that we deal with in this bill is it correct and is it appropriate for us through profiling determine that one tribe should have rights and other tribal nations in Maine should not have rights.

I pose this question to any member of the chamber that would like to answer, preferably someone on the Minority Report that we are debating, that question would be, for what purpose and reason would we discriminate against one tribe over another and allow them to locate their high-stakes bingo games off from reservation while making the conscience decision to exclude other tribal nations?

The SPEAKER: The Representative from South Portland, Representative Glynn has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Rumford, Representative Patrick.

Representative **PATRICK**: Mr. Speaker, Men and Women of the House. I, myself personally, don't look at it as discrimination. You may look at it as discrimination, but I think I am looking at it at the stand point and I was on the Minority Report, is I think this is a golden opportunity, as the good Representative from

Calais said, for a community in the State of Maine to partner with one of the tribes, one of the tribes that are doing less fortunate than the other. From what I understand of the Penobscot Nation, they have done great. They have done real well and I am proud of their high-stakes bingo. I believe they have seven, if I am correct. They can go to thirteen. I can't remember if it is by the legislative process or if they want to. They have the opportunity to expand a profitable well-run bingo. We have another tribe who hasn't been quite successful in business because of where their location is, but you have a golden opportunity for us to partner with one over the other at this time because one is doing a little bit worse than the other. I don't look at it as discrimination. I look at it as a golden opportunity for a community that is holding out their hand saying, I want to have an economic development tool with you if we let them. I only know both Representatives from the Indian Nations a little bit. I am getting to know them a little bit more now. The good Representative from the Penobscot Nation, I didn't particularly like her smoking in bingo, but I respect that 100 percent. She came up with good reasons and they believe that their bingos are going to be more profitable as a result of smoking. I guess I don't have any qualms with that. The independence of the Indian Nations I think is extremely important. The Passamaquoddy's say they don't care whether they have smoking or non-smoking, but what they are asking for and the good Representative from the Passamaquoddy Nation is asking and has asked me and the good Senator from Bath to give them a chance.

I was actually going to vote with the majority on this decision because I thought there was a possibility that maybe it would be extremely conflicting with the other tribe. To my understanding, it is not severely conflicting. I have no qualms. I don't believe it is in my estimation discriminating. In fact, I feel proud to stand here to say I am willing to give that community an opportunity to work with the nations. If this works out, I will support other legislation down the road for either tribe to better themselves. I think we have held them back in a lot of respects in other ventures so I am willing to take it upon myself. I will be voting green. I urge you to vote green also. Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. I was intrigued by the question posed by the Representative from South Portland, Representative Glynn, and even more intrigued by its answer. I have been listening to this debate with great interest. I have heard land described as tribal land versus regular land versus civilian land. I am not a member of the Penobscot Nation, Mr. Speaker, if I were, I would be turning a little bit green right about now. The fact of the matter is, historically, before our time on this continent it was considered land by the tribes, not anyone's in particular, but everyone's. Now that we are speaking in the parlance of containment and who does what on their parcel, the issue of partnership does intrigue me, Mr. Speaker. I would request to pose a question through the chair.

The SPEAKER: The Representative from Old Town may pose his question.

Representative **DUNLAP**: Thank you Mr. Speaker. Why is it not desirable for the City of Old Town to have the opportunity to partner with my constituents in the Penobscot Nation?

The SPEAKER: The Representative from Old Town, Representative Dunlap has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. In response to the good Representative's

question, this item was discussed and debated in committee when we took the original vote. The short answer was there were considerations regarding the Racino in Bangor. The statements that were made by committee members at that point in time was if we were to open this up to the tribe that is located closest to Bangor, this would allow the facility to be located near the Racino, which would go into direct competition.

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

Representative **CURLEY**: Mr. Speaker, Men and Women of the House. I remember when the Health and Human Services Committee banned smoking in bingo parlors. We listened to the tribes and we did not want to have a negative impact on any kind of economic opportunity so we allowed them to continue smoking for high-stakes bingo. May I pose a question through the Chair?

The SPEAKER: The Representative may pose here question.

Representative **CURLEY**: Mr. Speaker, Ladies and Gentlemen of the House. My question to anyone who could answer is, if we have geographic expansion of high-stakes bingo, does it also take the allowance of smoking with it? Are we then going to allow other bingo parlors in the area to also have smoking or will the expansion of high-stakes bingo also not be allowed to smoke like everyone else under those same rules? Thank you.

The SPEAKER: The Representative from Scarborough, Representative Curley has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative **COWGER**: Mr. Speaker, Men and Women of the House. Although it is not particularly debatable at this point, if we do accept the Minority Ought to Pass as Amended Report, there is an amendment that would address exactly that issue that I will be offering.

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

Representative **TOBIN**: Mr. Speaker, Ladies and Gentlemen of the House. I know when a question is posed through the chair it is sometimes a trick questions and sometimes the person that asks the question already knows the answer. Having operated beans and non-profit groups for many years, I know how restrictive Maine state law is on beans. I am just wondering if this is not on reservation land or Indian land, which law will take affect? Will it be Maine state law or will it be tribal law? Who will do the enforcement of this? Thank you Mr. Speaker.

The SPEAKER: The Representative from Windham, Representative Tobin has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. It would be the state.

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

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

The SPEAKER: The Representative may pose his question.

Representative **TOBIN**: Mr. Speaker, Men and Women of the House. How do we get around the high limit stakes then? Maine state law and beans limits the amount of payoff.

The SPEAKER: The Representative from Windham, Representative Tobin has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Crystal, Representative Joy.

Representative **JOY**: Mr. Speaker, Ladies and Gentlemen of the House. I am intrigued by a lot of the debate that is going on

here. I keep hearing about the good Representative from South Portland saying it has never had a public hearing. If he would look at every one of the amendments that come across our desk that have somebody's name signed on them, many of which these amendments replace the bill, none of those have had a public hearing. Consequently the point that he is making really is lost in the whole shuffle of paper.

The idea of not being able to put something like this into affect, ladies and gentlemen, we have all kinds of special and private laws already on the books. This would be merely putting another one in there. I think it is a tremendous economic opportunity. I don't think it is going to hurt any of the local charity bingos. The ones that are operating in Bangor right now are already operating within a few miles of a high-stakes bingo on the Penobscot lands.

I was tempted to stand and I guess I will quote one of my grandmothers who loved to quote Shakespeare. With all of the complaints that were registered about the bingo parlor by the good Representative from Bangor, Representative Blanchette, Shakespeare had a quote and he said, "Me thinks the lady doth protest too much." I would leave you with that. I would hope you would support the Passamaquoddys in their efforts to try to get some economic development. Thank you Mr. Speaker.

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

Representative **MOORE**: Mr. Speaker, Men and Women of the House. From the Passamaquoddy people, speaks in Passamaquoddy, thank you for allowing me to sit in your house today and to share with you what we have to say. This bill is important to our people and important to the tribe. It is important in a number of ways. I appreciate the concerns that were expressed. Our people are thankful for the support that we have received. When we come here to undertake an effort like this, we have to think about it. We discuss it and we debate it for many, many hours. We have to decide whether or not it is even worth coming to ask. In that process, we can't help but bring up all of the times our people come and ask. We can't help but thinking about the times when our people had nothing and they came here to ask. We have to reflect upon the times when we came here literally with our hand out looking for something, asking for something.

Today, we come and we ask. We have our hand extended, not with our palm out. We come here extending our hand in the form of a handshake and we ask again, work with us. Help us so that we can work with the greater community of Washington County.

This measure before you is not so much a Passamaquoddy bill. It is not so much Indian legislation as it is Washington County legislation. It is a measure that will benefit the community, the greater community of Washington County, whether it be Calais or Machias. One of those municipalities stand to benefit from this as much as we do. They will benefit greatly. They have the facilities. There are many vacant buildings in any of those towns. There are many vacant parking lots. We hope to fill one of those buildings at least on a number of a weekends within a year. We hope to fill those hotels. We hope to fill those parking lots. Right now we cannot do that. Right now those parking lots and buildings will remain empty. This is not something that is going to make my people terribly or independently wealthy. This is something that is going to benefit the greater community of Washington County. This is something that is going provide as many jobs in Calais or Machias as it would on the reservation. Those communities stand to benefit equally.

I would ask you to support this legislation and give us the opportunity to work with our neighbors and give us a chance to demonstrate that we are good neighbors and give us an opportunity to look to the State of Maine as a partner. Give us an opportunity to say to our children that are growing up that there is hope for our tribe in this state. One day maybe the 50 percent unemployment will go down. That is the number in our communities.

This is not an expansion of gambling at all. Apparently the tribes are authorized to conduct up to 26 weekends per year. We are nowhere near that. This state authorized that. This body authorized that. It will be years before we reach that capacity. When the time comes and the tribe decides that it may wish to expand gambling, it will come before this body. It will come to this state and it will up to the state to authorize that.

On behalf of the Passamaquoddy people, I wish to say, speaking in Passamaquoddy, thank you for allowing me to speak to you today.

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

Representative **LORING**: Mr. Speaker, Men and Women of the House. The Penobscot Nation does not wish to stand in the way of the Passamaquoddy getting their facilities and being able to build it off their reserve. We think that is a great economic tool for them. We also feel that it would be a great economic tool for us as well. We would like to go on and we would like to see this pass and we would like to see the next amendment that would include us in the bill. I will say that it has not been a very successful year for the tribes as far as gaming goes, in general. I would hope that you might help us out economically and allow us this small tool. Thank you.

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

ROLL CALL NO. 478

YEA - Austin, Beaudette, Bennett, Bierman, Bowles, Brannigan, Browne W, Bruno, Campbell, Canavan, Clark, Courtney, Cowger, Craven, Dugay, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Fletcher, Gagne-Friel, Gerzofsky, Goodwin, Hatch, Hutton, Jackson, Jacobsen, Joy, Ketterer, Koffman, Lerman, Lessard, Lundeen, Mailhot, Marley, Marraché, McGlocklin, McGowan, Moody, Norbert, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Pineau, Pingree, Richardson J, Richardson M, Rines, Rosen, Saviello, Simpson, Sukeforth, Sullivan, Sykes, Tardy, Thompson, Tobin J, Usher, Vaughan, Walcott, Wheeler, Wotton, Mr. Speaker.

NAY - Andrews, Barstow, Berry, Berube, Blanchette, Bliss, Bowen, Bryant-Deschenes, Bull, Carr, Churchill E, Churchill J, Clough, Collins, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dudley, Faircloth, Finch, Fischer, Glynn, Greeley, Grose, Heidrich, Honey, Jennings, Jodrey, Lemoine, Lewin, Maietta, McCormick, McKee, McKenney, McLaughlin, McNeil, Mills J, Mills S, Moore, Murphy, Muse, Norton, Nutting, Rector, Richardson E, Rogers, Sampson, Smith N, Snowe-Mello, Stone, Suslovic, Thomas, Tobin D, Trahan, Treadwell, Twomey, Woodbury, Young.

ABSENT - Adams, Annis, Ash, Breault, Brown R, Bunker, Hotham, Kaelin, Kane, Landry, Ledwin, Makas, Millett, O'Brien J, Peavey-Haskell, Perry J, Piotti, Sherman, Shields, Smith W, Watson.

Yes, 69; No, 61; Absent, 21; Excused, 0.

69 having voted in the affirmative and 61 voted in the negative, with 21 being absent, and accordingly the Minority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-906)** was **READ** by the Clerk.

Representative COWGER of Hallowell **PRESENTED House Amendment "A" (H-912) to Committee Amendment "A" (H-906)**, which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative **COWGER**: Mr. Speaker, Colleagues of the House. This is intended as a friendly amendment. It is intended to address that issue of smoking in beano and bingo halls. As you know, just last year we passed a bill to not allow smoking in all beano and bingo halls across the State of Maine, except for high-stakes beano halls and that is what this amendment is here to address.

I accepted last year the exception we carved out. The good Representative Loring made a case for existing facilities that invested large amounts of dollars to allow smoking in existing high-stakes halls. All that this amendment would do is say it is inappropriate to build a brand new facility off tribal land and to allow smoking in that facility. This amendment would require new facilities to also be smoke free. I hope that we would all support this as a friendly amendment. Thank you.

House Amendment "A" (H-912) to Committee Amendment "A" (H-906) was **ADOPTED**.

Representative DUNLAP of Old Town **PRESENTED House Amendment "B" (H-942) to Committee Amendment "A" (H-906)**, which was **READ** by the Clerk.

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

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. This is a technical amendment that clarifies an omission in the Committee Amendment, which excluded the Penobscot Nation.

Representative CLARK of Millinocket moved that **House Amendment "B" (H-942) to Committee Amendment "A" (H-906)** be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-942) to Committee Amendment "A" (H-906)**.

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 the Penobscot Nation, Representative Loring.

Representative **LORING**: Mr. Speaker, Men and Women of the House. The Penobscot Nation depends, as you know, on income from its high-stakes bingo for the tribal government services that it renders. The economy in this state, as we all know, is in trouble. Right now if we look at a high-stakes bingo facility being build in Calais, that inevitably would take away some of the players from the Penobscot high-stakes bingo. It would take a lot of the Canadian players away from our bingo. We are concerned with that. That is why we would like to be included on this bill. We would like to have the same opportunity to partner with a surrounding town that is a willing home and the same opportunity as the Passamaquoddy would be allowed. I think it is a fairness issue. I think that each tribe deserves the same economic tools. I thank you.

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

Representative **BLANCHETTE**: Mr. Speaker, Men and Women of the House. It has happened. Exactly what I said would happen previously. It is only fair that you support removal of this restriction that would prevent the Penobscots from operating high-stakes bingo. I know it is going to hurt my local

beano halls, but fair is fair. This Legislature has the authority legally, morally, you do not have the right to interfere in tribal business. This is exactly what you are doing if you are going to pit one tribe against the other by giving special treatment to one tribe against the other. This is not being a good neighbor to either of the tribes. We need to defeat this Indefinite Postponement motion and move on to accept House Amendment "B." Thank you.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise because this does open up several concerns and I would like to just express them. The committee did a very poor job as to identifying exactly what we were talking about when we were talking about tribal land and what that really means. What I mean by that is we have discussed on the floor two tribes. I understand that we have several tribes in Maine. I also understand that we have enacted a number of state laws that allow tribes to buy land in other municipalities. How these laws all come to work together will be an education for all of us. I seem to remember during the issue of a casino that suddenly we had a tribe considering purchasing tribal land down in the City of Sanford to have a casino. Could we, in fact, end up with a scenario where maybe my town or your town we could have the tribe buy, I don't know, some land and then have a radius around that Indian Nation land that they could, in fact, locate a high-stakes bingo. I don't know the answer to that question, but I need to tell you that I would certainly need to know what the answer is before I start opening this up, which is essentially having, as I see it, an Indian high-stakes bingo game operating anywhere in Maine.

We also have the issue of fairness. If we are not going to have Mainers have the ability and municipalities have the ability and non-profits have the ability to have a high-stakes bingo game, it starts to call into question where we are headed with these amendments. We are really opening up this high-stakes bingo to allow high-stakes bingo for this one sector for the tribal nations and while I think it was a sound argument to allow that on tribal land, it starts to become significantly weaker now that we are opening it up to the degree and the magnitude that we are opening it up. Clearly when folks came to testify in front of the Legal and Veterans Affairs Committee on the issue of the viability of the harness racing industry in Maine, I am sure none of these topics were on their mind. Thank you.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. Don't get this wrong. I am played out. I am drained from the gaming issues that we have in the state that we are proposing, the Racino, casino, high-stake beano, liquor laws, privatizing of the liquor business. The only thing I was trying to do was to make sure that one tribe would be able to have the same tools and economic viability that the other one has right now.

When we heard this bill last session in the First Session of the 121st Legislature, we talked about high-stakes bingo or beano for Scarborough Downs and Bangor. Those were the only two commercial tracks here in the state. We had a public hearing on that. We also has the public hearing on the referendum for the Racino. The reason why we didn't have the public hearing on the referendum for the casinos and it went to Judiciary, to answer Representative Glynn's question, is because of the Indian Land Claims that happened back in 1980.

When we look at tribal land, the sovereign land, what this bill would do is have them be able to go off sovereign land to either

Calais or Machias. The one in Old Town is very, very economically viable now. They bus players. They put them over night. They even cash checks for these players. Some of them have bounced. It is in the financial reports that I have seen in the last seven or eight years. I think most of this body has seen them. If it would make any difference, we could try to amend the bill to make sure that they cannot operate during the same weekends.

We are talking about economic viability. Let's get some economic viability in northern Maine where we need it, not in southern Maine. Let's put jobs in northern Maine where we need them instead of having people commute an hour or two or three hours each way. We are trying to make sure that the Passamaquoddy will be able to sustain their tribes and their nation by having high-stakes bingo. They are already licensed, but they can't operate. They already have the license, but as I said, they cannot operate.

All it does is have the municipalities vote on that, up or down. If they approve it, they can have it. If not, see you. It is just like with any other municipality vote that we did last time on another bill dealing with non-profits. The good Representative from Dixfield put that amendment on and made it so some people would vote for it. That is what we did in the committee. We discussed this. It took about an hour and a half or two hours to discuss the whole ramifications of this bill, the amendment that I proposed and also the Penobscots. Yes, we had to look at the Racino question. I can guarantee you one thing, ladies and gentlemen, the Racino is up and running in Bangor by January and if Penn National who is the operator now still has an agreement with Scarborough Downs and they want to put on in Scarborough Downs in three to five years, it won't be successful. Do you know why? There is a casino going in Boston. There is a casino going in in New Hampshire. We are a day late and a dollar short.

I will probably have the legacy when I leave here in another 24, 48, 3 hours or 30 weeks that I will be the gaming legislator of the Maine Legislature. I am just trying to make sure that the people of the state have regulatory authority with local control and be able to do what is right for the people of the state. With economic development, we have to do this. If I could make the amendment possible, I could have them go to Millinocket. Who wants to go to Millinocket when you have 250,000 go to Baxter State Park year in and year out? Nobody. They say that it is not economically viable. I hope that you indefinitely Postpone this amendment. Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. A couple of years ago we had entertained in this body a proposal for a local option sales tax. My greatest reservation about that proposal was how it could pit community against community. The advantages derived from such proposals by coastal communities as opposed to those communities farther inland. It would be difficult for those communities inland without the economic advantage leveraged by the local option tax to really see to the fullest fruition the ideas and promise of economic development. My concern with this bill as it stands is exactly the same. You are going to set into motion a competition between two tribes that down the road will be debated most viciously in this chamber. If you don't do it now, you will be asked to do it later when the interests and the stakes will be much higher for one tribe to maintain an economic advantage over the other. We are talking about a rather limited economic supply of gamblers, people who are going to go to beano halls and go to Racinos or whatever. Not everyone is

going to do that. It is a limited growth industry. At this time, it is an area of opportunity. That is why we have been having these debates. I don't anticipate that if we pass this legislation with the proposed amendment on it that the City of Old Town will be rushing forthwith to try to partner with the Penobscot Nation.

In 10 years when we are all gone from here, what will the debate look like if the Passamaquoddy Tribe is successful, especially if they are successful in drawing away players from Indian Island and Indian Island is further drained by the success of the Racino in Bangor. At that time what are we going to say then when the Penobscot Nation comes to us beleaguered looking for some redress because then the economic stakes of those getting the money will be much, much higher. It is easier, I believe, to do this now, to begin on a fair basis with everyone starting at the same point than it is to try to go back later and try to correct past mistakes.

I would urge defeat of the pending motion and I would ask the House to go on and adopt House Amendment "B."

The SPEAKER: The Chair recognizes the Representative from Oxford, Representative Heidrich.

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

The SPEAKER: The Representative may pose his question.

Representative **HEIDRICH**: Mr. Speaker, Men and Women of the House. Several years ago there was land down in the Albany Township that was left to the tribe. In this bill would that be possible that they could build on that land if this bill passes? If anybody can answer that question for me, I would appreciate it? Thank you.

The SPEAKER: The Representative from Oxford, Representative Heidrich has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. No, you cannot. It is only on federally recognized sovereign land. Albany is not a federally recognized sovereign land.

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

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. I don't have a dog in this hunt. I just want to correct two misstatements that I have heard during the debate. The first is, my good friend from Millinocket, while I wouldn't trade Sanford's unemployment rate with Millinocket, I want to assure my good friend that not all parts of southern Maine are enjoying economic prosperity. The unemployment rate in Sanford is 50 percent higher than that of the rest of the state. We certainly are struggling economically as well.

The second misstatement that I just want to address is a statement that was made about tribal ownership of land in Sanford during the casino proposal. While it is true that that land would have been owned by the tribes in the Town of Sanford, it is not true that it would have been tribal land. Those are not the same things.

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

Representative **PATRICK**: Mr. Speaker, Men and Women of the House. I just want to touch upon briefly the reasons why I am going to vote to indefinitely Postpone. The Penobscots, I believe, they run seven high-stakes bingo right now. They are very lucrative. I am glad they are. They also have the ability where they have a captured audience that comes to a location to expand it to 13 bingos. The reason I am supporting the opposite is because I believe the other tribe are not going to have 20 bingos. They are probably going to have five or six or seven

themselves to try to get themselves a little money. One has an opportunity. It is the same thing as a situation that happened in my own hometown of Rumford. One of the best bingos in town happens to be on Sunday evening. Another organization of another non-profit decided to have one Sunday afternoon. Guess what? Both of them suffered and one of them ended up going under and losing money and the other one did recover. You can only have, like the good Representative from Old Town says, a certain amount of bingos before it is totally saturated. I think the logistics of the state will allow both of them to flourish. On the other hand, one can increase what is already a quality program and the other one can get one started. That is the reason I would support Indefinite Postponement.

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

Representative **LORING**: Mr. Speaker, Men and Women of the House. This is the most I have risen in my eight years since I have been here. The reason that we would like to be included and have the same economic tool as the Passamaquoddy is very simple. Once the high-stakes bingo starts operating in Calais or Eastport or wherever, that market will be diverted. The Canadian players will be diverted to Calais or Eastport and we will lose that piece of the market. We want to be on the same economic footing as the other tribe and we want to be treated fairly. It is as simple as that. Thank you.

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

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. This is a fairness issue. This is a human rights issue. These people have a right to be treated equally. If we need to interfere in their governing of their life at all, we need to treat them as equals. I cannot stand here in all honesty and tell you that the high-stakes beano that goes on in Indian Island has made the Penobscots extremely wealthy. If it had made them wealthy, I don't believe that the good Representative from the Penobscot Nation would be standing here asking for the same treatment that we have given the Passamaquoddy. They need the money. Their economic package has dropped up there. They used to have a big industry up there. If it is still there, it is very, very downsized and diminished. It would be great for the tribe if they could take the opportunity to move south of Old Town and capture some of the three million people that come through my town to head to Acadia National Park. You know what, I am not really opposed to that. I think it is the humane and fair thing to do. Maybe I do protest too much. Human rights are human rights, whether it is one tribe or another. They need to be treated as equally and as fairly as every one of us setting in this House of different nationalities, race or religious beliefs wants to be. This is what it is all about. 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 so that we understand the new economic development foundation that now has been created in the Bangor region that has been brought to us by the voters of the State of Maine, the voters of the City of Bangor, the members of this Legislature, we now are able to provide apparently as the new economic base moving into the future in my region, gaming. We will have the Racino. We will have a very large OTB. We passed video gaming. We have a large and successful high-stakes bingo operation. We are moving the budget through the Legislature to bring in the multi-state Powerball. Apparently now the great economic foundation at least for my region moving ahead is gaming.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-942) to Committee Amendment "A" (H-906). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 479

YEA - Adams, Barstow, Berry, Berube, Brannigan, Browne W, Bruno, Bull, Campbell, Churchill E, Churchill J, Clark, Craven, Davis, Dudley, Dugay, Duplessie, Fletcher, Gagne-Friel, Goodwin, Greeley, Heidrich, Honey, Jacobsen, Koffman, Lemoine, Lundeen, Mailhot, Marley, McLaughlin, Millett, Mills J, Moody, Moore, Murphy, Muse, Norbert, Nutting, O'Neil, Paradis, Patrick, Pellon, Richardson J, Richardson M, Rogers, Rosen, Sykes, Tardy, Tobin D, Tobin J, Treadwell, Wheeler, Woodbury.

NAY - Andrews, Austin, Beaudette, Bennett, Blanchette, Bliss, Bowen, Bowles, Bryant-Deschenes, Canavan, Carr, Clough, Collins, Courtney, Cowger, Cresse, Crosthwaite, Cummings, Curley, Daigle, Dunlap, Duprey B, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gerzofsky, Glynn, Grose, Hatch, Hutton, Jackson, Jennings, Jodrey, Joy, Ketterer, Lerman, Lessard, Lewin, Maietta, Makas, Marraché, McCormick, McGlocklin, McGowan, McKee, McKenney, McNeil, Mills S, O'Brien L, Percy, Perry A, Pineau, Pingree, Rector, Richardson E, Rines, Sampson, Saviello, Simpson, Smith N, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Thomas, Thompson, Trahan, Twomey, Usher, Vaughan, Walcott, Wotton, Young.

ABSENT - Annis, Ash, Bierman, Breault, Brown R, Bunker, Hotham, Kaelin, Kane, Landry, Ledwin, Norton, O'Brien J, Peavey-Haskell, Perry J, Piotti, Sherman, Shields, Smith W, Watson, Mr. Speaker.

Yes, 53; No, 77; Absent, 21; Excused, 0.

53 having voted in the affirmative and 77 voted in the negative, with 21 being absent, and accordingly the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-942) to Committee Amendment "A" (H-906) FAILED.**

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. While I did support the last amendment because I believe that all of the tribal nations should be treated the same, under our public policy this is still poor public policy for Maine.

I would like to remind everyone that the bill that we have been debating is the harness racing industry and the viability of it.

On **POINT OF ORDER**, Representative CLARK of Millinocket asked the Chair if the remarks of Representative GLYNN of South Portland were germane to the pending question.

The Chair reminded Representative GLYNN of South Portland to stay as close as possible to the pending question.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. This amendment, which expands the gambling of high-stakes bingo games off from tribal land now statewide is a far departure from the original bill.

As a result, I think that this chamber has drifted and we are enacting very poor public policy. I hope that you will join me in defeating this new posture of the chamber and distinguish the difference between treating all of the tribal nations the same, which we did in our last vote from whether or not this is good public policy for Maine, which I believe this is not. Mr. Speaker, when the vote is taken, I request the yeas and nays.

Representative GLYNN of South Portland **REQUESTED** a roll call on the motion to **ADOPT House Amendment "B" (H-942) to Committee Amendment "A" (H-906).**

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "B" (H-942) to Committee Amendment "A" (H-906). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 480

YEA - Bennett, Blanchette, Bliss, Bowles, Canavan, Cowger, Craven, Dugay, Dunlap, Duprey B, Eder, Faircloth, Finch, Fischer, Gerzofsky, Grose, Hatch, Hutton, Jackson, Joy, Ketterer, Lerman, Lessard, Makas, Marraché, McGlocklin, McKee, McNeil, Norbert, O'Brien L, Percy, Pineau, Pingree, Rines, Sampson, Simpson, Smith N, Sullivan, Thomas, Thompson, Tobin J, Vaughan, Walcott.

NAY - Adams, Andrews, Austin, Barstow, Beaudette, Berry, Berube, Bierman, Bowen, Brannigan, Browne W, Bruno, Bryant-Deschenes, Bull, Campbell, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dudley, Duplessie, Duprey G, Earle, Fletcher, Gagne-Friel, Glynn, Goodwin, Greeley, Heidrich, Honey, Jacobsen, Jennings, Jodrey, Koffman, Lemoine, Lewin, Lundeen, Maietta, Mailhot, Marley, McCormick, McGowan, McKenney, McLaughlin, Millett, Mills J, Mills S, Moody, Moore, Murphy, Muse, Nutting, O'Neil, Paradis, Patrick, Pellon, Perry A, Rector, Richardson E, Richardson J, Richardson M, Rogers, Rosen, Saviello, Sherman, Snowe-Mello, Stone, Sukeforth, Suslovic, Sykes, Tardy, Tobin D, Trahan, Treadwell, Twomey, Usher, Wheeler, Woodbury, Wotton, Young.

ABSENT - Annis, Ash, Breault, Brown R, Bunker, Hotham, Kaelin, Kane, Landry, Ledwin, Norton, O'Brien J, Peavey-Haskell, Perry J, Piotti, Shields, Smith W, Watson, Mr. Speaker.

Yes, 43; No, 89; Absent, 19; Excused, 0.

43 having voted in the affirmative and 89 voted in the negative, with 19 being absent, and accordingly the motion to **ADOPT House Amendment "B" (H-942) to Committee Amendment "A" (H-906) FAILED.**

Representative GLYNN of South Portland **REQUESTED** a roll call on the motion to **ADOPT Committee Amendment "A" (H-906) as Amended by House Amendment "A" (H-912) thereto.**

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of Committee Amendment "A" (H-906) as Amended by House Amendment "A" (H-912). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 481

YEA - Beaudette, Bennett, Bowles, Brannigan, Bruno, Campbell, Canavan, Clark, Cowger, Cressey, Dugay, Duplessie, Duprey B, Earle, Eder, Fletcher, Goodwin, Hatch, Hutton, Jackson, Jennings, Joy, Ketterer, Koffman, Lessard, Lundeen, Marley, McGowan, Moody, Norbert, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Pineau, Pingree, Richardson E, Richardson J, Rosen, Saviello, Simpson, Smith N, Sukeforth, Sullivan, Tardy, Thompson, Tobin J, Usher, Vaughan, Walcott, Wotton, Young, Mr. Speaker.

NAY - Adams, Andrews, Austin, Barstow, Berry, Berube, Blanchette, Bliss, Bowen, Browne W, Bryant-Deschenes, Bull, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Craven, Crosthwaite, Cummings, Curley, Daigle, Davis, Dunlap, Duprey G, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Glynn, Greeley, Grose, Heidrich, Honey, Jacobsen, Jodrey, Lemoine, Lewin, Maietta, Mailhot, Makas, Marraché, McCormick, McGlocklin, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moore, Murphy, Muse, Norton, Nutting, O'Brien L, Rector,

Richardson M, Rines, Rogers, Sampson, Sherman, Snowe-Mello, Stone, Suslovic, Sykes, Thomas, Tobin D, Trahan, Treadwell, Twomey, Wheeler, Woodbury.

ABSENT - Annis, Ash, Bierman, Breault, Brown R, Bunker, Hotham, Kaelin, Kane, Landry, Ledwin, Lerman, McKee, O'Brien J, Peavey-Haskell, Perry J, Piotti, Shields, Smith W, Watson.

Yes, 55; No, 76; Absent, 20; Excused, 0.

55 having voted in the affirmative and 76 voted in the negative, with 20 being absent, and accordingly the motion to **ADOPT Committee Amendment "A" (H-906) as Amended by House Amendment "A" (H-912) thereto FAILED.**

Representative GLYNN of South Portland **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 items were taken up out of order by unanimous consent:

UNFINISHED BUSINESS

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

SENATE DIVIDED REPORT - Majority (7) Ought to Pass as Amended by Committee Amendment "A" (S-386) - Minority (6) Ought Not to Pass - Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Support Domestic Businesses in Publicly Funded Construction Projects"

(S.P. 217) (L.D. 608)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-386).**

TABLED - April 7, 2004 (Till Later Today) by Representative McLAUGHLIN of Cape Elizabeth.

PENDING - Motion of same Representative to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

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

The Bill was **READ ONCE. Committee Amendment "A" (S-386) was READ** by the Clerk and **ADOPTED.**

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-386) in concurrence. ORDERED SENT FORTHWITH.**

HOUSE DIVIDED REPORT - Majority (12) Ought Not to Pass - Minority (1) Ought to Pass as Amended by Committee Amendment "A" (H-885) - Committee on TAXATION on Bill "An Act To Reinstate a Milk Handling Fee" (EMERGENCY)

(H.P. 274) (L.D. 345)

TABLED - April 12, 2004 (Till Later Today) by Representative LEMOINE of Old Orchard Beach.

PENDING - ACCEPTANCE of the Majority OUGHT NOT TO PASS Report.

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

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

SENATE DIVIDED REPORT - Majority (7) Ought to Pass as Amended by Committee Amendment "A" (S-474) - Minority (3) Ought Not to Pass - Committee on HEALTH AND HUMAN SERVICES on Bill "An Act To Encourage the Proper Disposal of Expired Pharmaceuticals" (EMERGENCY)

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

- In Senate, 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.

TABLED - April 15, 2004 (Till Later Today) by Representative **KANE** of Saco.

PENDING - Motion of same Representative to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

Representative **CURLEY** of Scarborough **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

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

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

ROLL CALL NO. 482

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

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

ABSENT - Annis, Ash, Breault, Brown R, Bunker, Goodwin, Hotham, Kaelin, Kane, Landry, Ledwin, McKee, Moore, O'Brien J, Peavey-Haskell, Perry J, Piotti, Shields, Smith W, Usher.

Yes, 72; No, 59; Absent, 20; Excused, 0.

72 having voted in the affirmative and 59 voted in the negative, with 20 being absent, and accordingly the Majority **Ought to Pass as Amended Report** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-474)** was **READ** by the Clerk.

Senate Amendment "A" (S-506) to **Committee Amendment "A" (S-474)** was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (S-474) as Amended by Senate Amendment "A" (S-506) thereto was **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-474) as Amended by Senate Amendment "A" (S-506)** thereto in concurrence. **ORDERED SENT FORTHWITH**.

An Act To Streamline the Sales Tax Credit for Worthless Accounts To Eliminate Unnecessary Burdens on Certain Maine Businesses and Consumers

(S.P. 646) (L.D. 1714)

(C. "A" S-451)

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

PENDING - Motion of same Representative to RECONSIDER whereby the Bill was **PASSED TO BE ENACTED**.

Subsequently, with unanimous consent of the House, Representative **DUPLESSIE** of Westbrook **WITHDREW** his motion to **RECONSIDER** whereby the Bill was **PASSED TO BE ENACTED**.

The Bill was sent to the Senate.

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

ENACTORS

Emergency Measure

An Act To Revise the Fish and Wildlife Laws To Complement the Recodification of Those Laws

(H.P. 1421) (L.D. 1920)

(H. "A" H-915 to C. "A" H-858)

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

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

ORDERS

On motion of Representative **CLOUGH** of Scarborough, the following Joint Order: (H.P. 1467)

ORDERED, the Senate concurring, that Resolution, "RESOLUTION, Proposing an Amendment to the Constitution of Maine To Control State Spending Based on Certain Guidelines," H.P. 555, L.D. 749, and all its accompanying papers, be recalled from the legislative files to the House.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Scarborough, Representative **Clough**.

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. I would appreciate your support of this Joint Order to recall LD 749 and all its papers from the legislative files. A few weeks ago the Republicans brought forth a plan to address what some refer to as a tax problem, but recognizing it as what it really is, a spending problem, we brought forth a plan to slow the rate of growth in spending at all levels of government

in Maine, state, municipal and county. As this requires a Constitutional Amendment, we ask your support in recalling LD 749 to allow us to properly present our plan before this body for your consideration. I would ask your support and I would request a roll call.

Representative CLOUGH of Scarborough **REQUESTED** a roll call on **PASSAGE**.

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 Old Orchard Beach, Representative Lemoine.

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. Here we are at 6 o'clock on what is probably the last day of the session. Representative Clough and I have walked many miles together over the last two years and have made great strides in what we have brought forward in tax policy in the state. The hour is late. The day has come and gone. This path has been tried before. The time for this motion is gone and we should move on to deal with the rest of the issues that this Legislature has to face before the end of session. I will be, therefore, voting against the motion to Recall and hope that my colleagues will follow me.

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

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

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. To the good Representative from Old Orchard Beach, the Chair of the Taxation Committee, does that mean that any negotiation on tax reform is done?

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

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. As a trial attorney, we are not yet in the courthouse. The judge has not ruled. I guess some of the judges have ruled if I see the latest bulletin, but sure, the time is not gone. The hammer has not gone down. There is always room for further discussion. I hope very much that we can continue and find some common ground that we all can bring to the state and the people of this state. It cannot be through pulling off bills that have come and gone and we must move forward, not backward. Thank you.

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. Not being an attorney, but I am trying to interpret. I think the answer was yes.

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

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. The answer is yes. At any break I would be happy to talk to the Representative.

The **SPEAKER**: The Chair recognizes the Representative from Eliot, Representative Lewin.

Representative **LEWIN**: Mr. Speaker, Men and Women of the House. With all due respect to all the colleagues in this room, I believe we have wiled away many hours here doing bloody little for the taxpayers of Maine. I think we could take a little look at this. Thank you.

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

Representative **BOWEN**: Mr. Speaker, Men and Women of the House. Before we get to this, I want to say a quick word. I want to encourage us to adopt this Joint Order. I suspect that we won't, but I want to speak on it and give a little bit of a history.

In my inexperience I had great hope at one point that the vote that we were about to take was going to go a different way than I anticipate it will take. I came into this session committed to getting something done on property tax. I believe I have shared with this body before that my Town of Rockport was rocked with a near tax revolt this summer, skyrocketing evaluations and plummeting state school funding is driving taxes through the roof. I came in here in January only wanting to do one thing, which was to do something on property taxes. I asked around to see if there was interest in forming a bipartisan group to look at this issue. Soon enough, we got a little group going, which we called the Coastal Caucus, but we had folks in it from all over the state. We didn't discriminate. This was a concern of people all over this state. We did a lot of talking and we did a lot of thinking and the good Representative from Yarmouth, Representative Woodbury, did a lot of calculating and the good Representative from Cornville, Representative Mills, did a lot of writing and editing and rewriting. We came up with some ideas.

We went down and moved in with the rural caucus for a couple of weeks, some 7 o'clock meetings down there and after a bit we came up with a plan. In a true bipartisan spirit, it was a plan that a lot of us had issues with different pieces of it, but we agreed as a group that we would move forward. It required that those of us who were disinclined to raise taxes would agree to do so in exchange for which those of us where were disinclined to support a constitutional spending cap would agree to do that. We agreed to do this because many of us could envision how meaningful it would really be for this body, this institution, this state, for all of us to stand on those stairs down there as one big group and say that because of the great importance of this issue and because there are ballot issues out there that are disastrous for the state if they are to pass. We are going to put aside the partisanship and we are going to work together and walk out of here with a deal that we maybe don't all love, but we all think is right for the State of Maine.

It didn't quite work out that way or at least it doesn't appear as though it is going to. I probably should have known better. I remember the Representative from Cornville, Representative Mills, said it all. He told us, the rural caucus, one morning that he enjoyed working with all these freshman legislators because, if I recall properly, we didn't understand the limits of the institution. I thought that was a great phrase. For me, this vote that is about to come is a watershed, I think. There is the potential for this little group of ours to part company at this point and go in some separate ways.

I think we can take some solace in the work we did. It is still alive. The document from the Senate Democrats appears, quite frankly, to have been lifted verbatim out of our plan, minus one big piece. The good Senator Gagnon was even good enough to give us some credit in the paper.

On **POINT OF ORDER**, Representative **BULL** of Freeport asked the Chair if the remarks of Representative **BOWEN** of Rockport were germane to the pending question.

The Chair reminded Representative **BOWEN** of Rockport to stay as close as possible to the pending question.

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

Representative **BOWEN**: Mr. Speaker, Men and Women of the House. What I am trying to get to is I am hoping that this vote goes in support of this motion and in support of this Joint Order and that we can move forward with a bipartisan plan. I

encourage us to at least try one last time before we walk out of here. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Old Orchard Beach, Representative Lemoine. 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 **LEMOINE**: Mr. Speaker, Men and Women of the House. To set the record straight, I think I mistakenly answered the question earlier from the Representative in the other corner. If the question is, is the time to negotiate over, then the answer is no. That is why I said we can meet at our convenience as soon as possible. I am open to continuing to try to find common ground.

The **SPEAKER**: The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to remind some of the members of this body that over the past two or three weeks we have had meetings called in our committee, the Taxation Committee to transact some remaining business, only to be dismissed after a very short period of time or perhaps handling one item. It is not surprising that we couldn't get to the point where we would be better prepared for this. I ask for you to take that into your thinking as you consider whether or not you would allow us to bring this back and present our plan. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Sanford, Representative Courtney.

Representative **COURTNEY**: Mr. Speaker, Ladies and Gentlemen of the House. I also have had the pleasure of serving on Taxation under the chairmanship of Representative Lemoine. It has been a pleasure. He has always been able to maintain his cool under excruciating pressure at times. This year is where tax reform turns into one party tax reform. This is where my party is no longer a part of it. This is such a key element to our future success for tax reform. I realize how the vote is going to go. I understand that very clearly. There is no way, no matter what you do in the next few days for tax reform, there is no way that you can spend yourself out of this problem that we have.

The unique thing about a constitutional spending cap is you can slow the rate of spending. You can take those excess revenues and you can provide tax reform without increasing the sales tax. You can provide it without increasing the sin taxes. You can provide it without increasing the snack tax. There are millions of ways to raise money, but if you look at the whole picture and you really act responsibly going forward and you put clear restrictions and you put a safety net as the constitutional proposal would do for emergency circumstances, you have an opportunity to do things for this state that we can only dream of.

Ladies and gentlemen, I think this is maybe the one chance that we have to vote to really bring true tax reform to the State of Maine. Thank you.

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

Pursuant to Joint Rule 404, this Joint Order requires the affirmative vote of two-thirds of those present for passage.

ROLL CALL NO. 483

YEA - Andrews, Austin, Bennett, Berry, Berube, Bierman, Bowen, Bowles, Browne W, Bruno, Bryant-Deschenes, Campbell, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dugay, Duprey B, Fischer, Glynn, Greeley, Heidrich, Jacobsen, Jodrey, Joy, Lewin, Maietta, Marraché, McCormick, McKenney, McNeil, Millett, Mills S, Murphy, Muse, Nutting, Rector, Richardson E, Richardson M,

Rogers, Rosen, Saviello, Sherman, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Walcott, Watson, Woodbury, Wotton, Young.

NAY - Adams, Barstow, Beaudette, Blanchette, Bliss, Brannigan, Bull, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Gagne-Friel, Gerzofsky, Grose, Hutton, Jennings, Ketterer, Lemoine, Lessard, Lundeen, Mailhot, Makas, Marley, McGlocklin, McLaughlin, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Pingree, Richardson J, Rines, Sampson, Simpson, Smith N, Suslovic, Twomey, Usher, Wheeler, Mr. Speaker.

ABSENT - Annis, Ash, Breault, Brown R, Bunker, Carr, Churchill E, Fletcher, Goodwin, Hatch, Honey, Hotham, Jackson, Kaelin, Kane, Koffman, Landry, Ledwin, Lerman, McGowan, McKee, Mills J, Moore, O'Brien J, Peavey-Haskell, Perry J, Pineau, Piotti, Shields, Smith W, Sullivan.

Yes, 65; No, 55; Absent, 31; Excused, 0.

65 having voted in the affirmative and 55 voted in the negative, with 31 being absent, 65 being fewer than two-thirds of the membership present, the Joint Order **FAILED PASSAGE**.

On motion of Representative CLOUGH of Scarborough, the following Joint Order: (H.P. 1468)

ORDERED, the Senate concurring, that Resolution, "RESOLUTION, Proposing an Amendment to the Constitution of Maine To Require a Vote of 2/3 of Each House of the Legislature To Enact or Increase a Tax," S.P. 280, L.D. 801, and all its accompanying papers, be recalled from the legislative files to the House.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. Most of the remarks I made previously would apply to this Joint Order. I would remind you that 14 states require a super majority to raise taxes and they have had stronger economic growth than other states. For that reason, I am requesting that we recall LD 801, which would require a two-thirds vote of each House of the Legislature to enact or increase a tax so that we may have a chance to debate that on the floor and apply it to a tax package. I request a roll call, please.

Representative CLOUGH of Scarborough **REQUESTED** a roll call on **PASSAGE**.

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 Old Orchard Beach, Representative Lemoine.

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. It is now even later than it was a few moments ago. For the same reasons that I said before, the time for this has passed. Let's move on and see if we can work together and find common ground in a different area. Thank you.

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

ROLL CALL NO. 484

YEA - Andrews, Austin, Bennett, Berry, Berube, Bierman, Bowen, Bowles, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dugay, Duprey B, Fletcher, Greeley, Heidrich, Honey, Jacobsen, Jodrey, Joy, Lewin, Maietta, McCormick, McKenney, McNeil,

Millett, Mills S, Murphy, Muse, Nutting, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Wotton, Young.

NAY - Adams, Barstow, Beaudette, Blanchette, Bliss, Brannigan, Bull, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Earle, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hutton, Jackson, Jennings, 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, Pineau, Pingree, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Suslovic, Thomas, Thompson, Twomey, Walcott, Watson, Wheeler, Woodbury, Mr. Speaker.

ABSENT - Annis, Ash, Breault, Brown R, Bunker, Duprey G, Eder, Goodwin, Hatch, Hotham, Kaelin, Kane, Landry, Ledwin, McGowan, Mills J, Moore, O'Brien J, Peavey-Haskell, Perry J, Piotti, Shields, Smith W, Sullivan, Usher.

Yes, 61; No, 65; Absent, 25; Excused, 0.

61 having voted in the affirmative and 65 voted in the negative, with 25 being absent, 61 being fewer than two-thirds of the membership present, the Joint Order **FAILED PASSAGE**.

CONSENT CALENDAR

First Day

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

(S.P. 350) (L.D. 1021) Resolve, To Renew the Veterans' Emergency Assistance Program Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass**

(S.P. 771) (L.D. 1937) Bill "An Act To Appropriate Funds to the Maine Potato Board for the Purchase of Potatoes in Need of Disposal Due to Weather Conditions during the Harvest in 2003" (EMERGENCY) 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 Senate Papers were **PASSED TO BE ENGROSSED** in concurrence.

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

ORDERS

On motion of Representative COWGER of Hallowell, the following Joint Resolution: (H.P. 1469) (Cosponsored by Senator MARTIN of Aroostook and Representatives: DUNLAP of Old Town, DUPLESSIE of Westbrook, KOFFMAN of Bar Harbor, McKEE of Wayne, SMITH of Monmouth, Senators: BENNETT of Oxford, BRYANT of Oxford, TREAT of Kennebec)

JOINT RESOLUTION PROCLAIMING MAY 27TH AS RACHEL CARSON DAY

WHEREAS, worldwide exposure to pesticides is greater than most people realize; and

WHEREAS, more than 3 billion kilograms of pesticides are spread on the earth annually, exposing both human and wildlife populations to chemicals, with potentially serious repercussions for life everywhere if applied inappropriately; and

WHEREAS, more than 40 years ago, the well-known writer, scientist and ecologist Rachel Carson alerted America and the

world to the potential hazards of pesticides in her landmark book *Silent Spring*. Rachel Carson spent many summers here in Maine. Despite the warning, the quantity of pesticides used in our country has continued to grow over the years and poses a potential threat to all life forms if applied inappropriately; and

WHEREAS, it is again time to increase public awareness of the potentially serious dangers of using excessive amounts of pesticides; now, therefore, be it

RESOLVED: That We, the Members of the 121st Legislature now assembled in the Second Special Session, do proclaim that May 27, 2004 is Rachel Carson Day throughout the State of Maine, in honor of her prophetic work, and urge the citizens of the State to focus their attention on the potentially serious hazards associated with pesticides; and be it further

RESOLVED: That We, the Members of the 121st Legislature, invite citizens throughout the State to observe this day, the birthdate of Rachel Carson, by refraining from using pesticides on this day and ask the citizens of the State for their cooperation in seeking alternative methods of pest management.

READ.

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

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

The SPEAKER: The Representative may pose his question.

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. In reading this Resolution it suggests that on May 27, 2004, in honor of Rachel Carson Day that we refrain from using pesticides. In my community, that is right in the middle of black fly season and tick season. Is this something that Representative Cowger intends to demonstrate by his own actions?

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

Representative **COWGER**: Mr. Speaker, Colleagues of the House. I will indeed try to make it through May 27th without any insecticides and I would urge my colleagues to do the same. Had I had the ability to pick this date myself, I probably would have picked something much later in the season. This is an effort being attempted nationwide and May 27th happens to be Rachel Carson's birthday. We are fixed on that date. I hope we can make it through. It is, of course, clearly voluntary. If somebody sneaks a little Off, I wouldn't blame them. Thank you Mr. Speaker.

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

Representative **SMITH**: Mr. Speaker, Men and Women of the House. If I could briefly address the question, I found that working as a forester in the Lincoln area after about six years you develop an immunity to the black fly bites and no longer need the insecticides and that works just time. I would also like to add to these comments a farmer's perspective. Farmers are protected from harassment through the Maine Right to Farm Act so long as best management practices are followed. This Joint Resolution supports best management practices for farming. IPM or Integrated Pest Management including licensing and training of farmers who use pesticides as a vital concept within best management practices in that they insure that when pesticides are used, they are applied so as to have maximum effect and minimal impact on the environment. It is my hope that homeowners will note this day by learning about the significant impacts resulting from their use of pesticides on their lawns so that they too can achieve the goal of appropriate use of pesticides. Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. In answer to some inquiries I have received since the Representative from Arundel posed his question, I do not intend to offer an amendment to this Joint Resolution replacing the chickadee as state bird with the black fly.

Subsequently, was **ADOPTED**.

Sent for concurrence.

**ENACTORS
Mandate**

An Act To Require Law Enforcement Agencies To Adopt Policies Concerning Recording and Preservation of Interviews

(S.P. 286) (L.D. 891)

(H. "B" H-940 to C. "A" S-405)

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative **CARR**: Mr. Speaker, Men and Women of the House. I just want to remind you that this is the videotaping bill that I was opposed to originally. With the amendment, I believe it is okay. It takes it out of the realm of rules of evidence. I think that it is a good amendment. Thank you Mr. Speaker.

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

Representative **LESSARD**: Mr. Speaker, Ladies and Gentlemen of the House. I would encourage you to vote for this due to the fact that it is kind of a compromise with the statutory requirements of the recording and video compared to what this bill does. There is a slight fiscal note on it. Along with other training requirements at the academy that the officers receive, it is one of the eight or nine mandatory training sessions they go through. It is all accompanied sometimes on the same day and the training does take place. It is a good bill. I urge you to support it.

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

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. I am going to encourage you to vote for the enactment of this bill for any number of reasons. My committee, Criminal Justice and Public Safety, has worked this bill. This is a good compromise. We have undertaken some huge, huge reforms in law enforcement sentencing, how we incarcerate people, why we incarcerate people, to what length we incarcerate people and this is another tool with this training of all law enforcement agencies so that we can go to bed at night and rest assured that the person that is being interrogated in Topsfield is being treated the same way that the person in Bangor is being treated when they are being interrogated. It is a fairness issue once again. It is a good bill and I do encourage your support on this. Thank you Mr. Speaker.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I think we should be very cautious with mandates. I will pose a question through the chair. To anyone who may answer, is the action we are asking here of the police academy to require statutory language? In other words, could they do this if we don't pass a law?

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

Representative **LESSARD**: Mr. Speaker, Ladies and Gentlemen of the House. In reference to the question, the policy that will be adopted as a result of this legislation here will be formulated by the Maine Chiefs of Police Association in conjunction with the trustees of the Maine Criminal Justice Academy. I once served on the board of trustees. The reason for the fiscal note and the two-thirds vote that is required is because there is a slight fiscal note. There is no getting around that. Like other policies in place now where the training is required, departments do go out of their way to make sure that the policies are adhered to and everybody has a stake in this and gets away from the statutory requirement of the recording and videotaping where the exclusionary rule could apply. I think we talked about that previously. It is a good compromise for law enforcement and the requirements that the recording parts should take place. Let's put in the policies and let the judicial branch decide in the future as to what that plays in the criminal process. Thank you Mr. Speaker.

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 87 voted in favor of the same and 42 against, and accordingly the Bill **FAILED PASSAGE TO BE ENACTED** and was sent to the Senate.

Acts

An Act To Appropriate Funds for World War II and Korean War Memorial Plaques in the Hall of Flags

(H.P. 1367) (L.D. 1841)

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

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

Acts

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)

(S. "A" S-498; S. "B" S-499)

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

Acts

An Act to Support Domestic Businesses in Publicly Funded Construction Projects

(S.P. 217) (L.D. 608)

(C. "A" S-386)

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

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

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.

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-820)** - Minority (4) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act To Improve Standards for Public Assistance to Employers in the State"

(H.P. 424) (L.D. 561)

TABLED - April 1, 2004 (Till Later Today) by Representative WATSON of Bath.

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

On motion of Representative RICHARDSON of Brunswick, **TABLED UNASSIGNED** pending the motion of Representative WATSON of Bath to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

The SPEAKER: The Chair recognizes the Representative from Damariscotta, Representative Earle who wishes to address the House on the record.

Representative **EARLE**: Mr. Speaker, Ladies and Gentlemen of the House. Had I been here on LD 1820, Roll Call 456, I would have voted no. Roll Call 457, vote yes. Roll Call 458, vote yes. Roll Call 459, vote yes. Roll Call 460, yes. Roll Call 461, yes. Roll Call 462, yes. Roll call 463, yes. Roll Call 464, yes. Roll Call 465, yes. Roll Call 466, yes. Roll Call 467, yes. Roll Call 468, yes. Roll Call 469, yes. Roll Call 470, yes. Roll Call 471, yes. Roll Call 472, no. Roll Call 473, yes. Roll Call 474, yes. Roll Call 475, yes. Roll Call 476, yes. Thank you for your indulgence.

The House recessed until the Sound of the Bell.

(After Recess)

The House was called to order by the Speaker.

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.

HOUSE DIVIDED REPORT - Majority (12) **Ought to Pass as Amended by Committee Amendment "A" (H-888)** - Minority (3) **Ought Not to Pass** - Joint Select Committee on **REGIONALIZATION AND COMMUNITY COOPERATION** on Bill "An Act To Encourage Voluntary Efficiency in Maine's School Systems and Related Costs Savings"

(H.P. 1422) (L.D. 1921)

TABLED - April 13, 2004 (Till Later Today) by Representative McLAUGHLIN of Cape Elizabeth.

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

Representative CLARK of Millinocket **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

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

Representative **PINGREE**: Mr. Speaker, Men and Women of the House. I certainly don't want to belabor this evening and I don't want to belabor it with this issue. I just feel the need to make a statement on the record about this bill. I guess I want to start by saying the original purpose of this bill, I was very much against. I believe the way the department and the administration and some people involved put out reports looking for findings and were very specific and note exactly completely on point. I just think it needs to be said that there are many schools in the State of Maine are small that do a very good job. I think that the committee had a very difficult task in front of them and they worked for a long time and they worked very hard and they ended up with a good result. Originally I had intended to be completely against this overall concept because I viewed it as the consolidation bill. I believe there were reports that came out that Maine small schools are not as good at educating kids and therefore if they are combined with other schools they would be better. I believe this was a false assumption and that the committee recognized that. I think both the House and Senate chair did an excellent job listening to the small schools in the State of Maine.

While I am still uncomfortable with what the original premise of this bill was, I think that it was mostly changed and altered to make it a far more voluntary, incentive driven bill based on creating efficiencies, but not necessarily determining that consolidation is the best way to go.

I just want to say at this moment that there is a trend in our state and it is what people in education are talking about. It is that larger school districts, larger high schools are better. I just wanted, on the record, to say that many small schools in the State of Maine do an excellent job. Small schools in the State of Maine do a better job or an equal job at educating low-income kids. There have been some arguments made in the newspaper that small schools actually don't do as good a job as larger schools. When you look at the school lunch program, the number of kids who need a subsidy for school lunch, small schools do a better job of educating poor kids.

I think over the next few years we, as a Legislature, are going to have to be incredibly vigilant on this issue, as Rob Page, the Secretary of Education, and as people across the country recognize that small schools, small classes are the best way to educate kids. I just don't want us in the State of Maine to believe and to move towards large consolidated high schools, elementary schools. I just wanted to say this on the record because this issue worries me. I am not specifically worried very much for my district. I live on an island. I graduated in a class of five people. It is hard to consolidate island schools because we have long ferry rides. For the Lubecs of Maine, for the Richmonds of Maine and for the small schools that are doing a good job, I am worried. I think we, as a Legislature, need to pay attention to this. This is a step in the right direction. I think this bill very much could have been a step in the wrong direction.

I hope the Legislature, especially people from rural areas, will help me in this task over the coming years. Thank you.

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

Representative **BOWEN**: Mr. Speaker, Men and Women of the House. I want to touch just for a second on the challenge before the committee. I also want to talk a little bit about what the Representative from North Haven had to say.

The challenge that we faced on the this committee is fundamentally this. Education spending in the state has grown by 7 percent a year for 25 years. Over the last 25 years our school enrollment has dropped 14 percent. Our spending continues to climb even though we have fewer and fewer kids each year. That level of growth obviously is unsustainable when we talk about every other cost we have coming down the road. The challenge of the committee was to find a way to slow the growth of spending without closing schools and without cutting programs and without hurting student performance and without hurting communities and schools and without the heavy handed state mandating how we do it. The question before the body, it seems to me, is does this piece of legislation do that. Is the approach that is laid out here, will it contain costs? Will it improve service or both without hurting kids and communities? As the committee report indicates, there was a time when I thought it did. There was a time after we had spent several weeks going through this bill and tinkering with it, I thought it was improved enough over the original proposal that I thought I could support it.

I stand here today to argue that the bill, even though well intentioned, is not something that we should adopt in its present form and to back up the warnings presented by the Representative from North Haven that those of you representing small schools in small towns in small communities should be very, very nervous about this bill.

There is a lot made in here about the voluntary nature. There are no mandates in here. The administration was smart enough, the committee was smart enough not to put a lot of mandates in here. What is in here and what the bill is fundamentally is doing in my mind is it is an attempt to enshrine into legislation the concept that bigger is better, which is essentially what the Representative from North Haven had to say. A cursory look at the bill, even a glance through the bill, shows you that the focus is on size. It is on rewarding big schools. The bigger the district, the more benefits you get. The bigger the school unit you create, the more incentives, the more support you get. The whole thing hinges on the idea that bigger is something that we should encourage. The encouragement that is in here is based on size, not on performance, not on efficiency, but how many kids are you able to get into that district. That is how the rewards system is structured. The problem is, as the Representative from North Haven pointed out, is that that philosophy is entirely unproven. There isn't a shred of evidence to suggest that bigger districts are better than smaller districts. In fact, the opposite is what the evidence seems to indicate. Smaller schools, rural schools, that have sometimes poorer populations, populations where there are fewer kids coming from highly educated households, those school systems do as well, quite frankly, as the bigger school systems if not better.

There are other pieces too that in the day since we looked at this that I am growing less and less comfortable with. There is a consulting schools program in this bill. The idea being that the department would go around and it would find these school districts that it thought was being efficient and that they were productive, they had good performance, they were doing it at a low cost, the original term, language, designated these school systems as "efficient schools". Through rulemaking, the

department was going to cook up some formula and they were going to anoint some school districts as efficient and some school districts by extension as inefficient. That still remains in here and without a whole lot of explanation about how they are going to get to that title. You need to remember that when your phone rings and your superintendent or your principal is one the phone and wants to know why the Department of Education in Augusta is saying that your school system is inefficient. They are going to make that determination. This assumes, of course, that schools and districts even use this program. The problem with it that we also talked about and couldn't seem to find a way around is if you go into the program and you get these incentives, if you don't reach saving targets set by the state, you have to give back some of the money. There is a punitive piece in here that I found concerning. Regionalization takes time. It takes time to find efficiencies. If you don't get where they want you to be when they want you to be there, you lose a bunch of the incentives. You have to give it back. That is a troubling piece. The problem is that they are not going to find savings.

I think probably there are probably some administrative savings out there to be had, but the assumption of the bill is that there are a lot of savings out there to be found, millions of dollars worth. It is out there to be cut that school systems are not cutting. It is out there to be had that they don't have. If you go and talk to a building principal or you talk to a superintendent or you talk to a town manager or even a small business owner, they will tell you what is driving costs are things like health insurance and workers' comp and liability insurance and mandates from the state and the feds. That is what is driving the costs of schools. I can tell you personally it is not teacher salaries. I can personally vouch for that. It is costs over which the school districts have virtually no control. There is nothing in here to deal with it.

We had a bill that came through here a few weeks ago about mandates that would have done something about it. This does. There is too much that is troubling in here. This is a first for me. I have to say to stand up here on the floor and speak against a bill that I supported out of committee, but this has been a week full of firsts, quite frankly. One of the firsts that I have had this week is that first daughter, Emily, is going to be headed this fall to her first year of school. She is going to kindergarten this fall. She had kindergarten registration this week and I wasn't there to see it because I was enjoying the good company of you people. As a parent you look at this system a little differently than when you are an employer, a teacher, on the other side. You begin to think about what you want in a school, in a community, in a school system, in the town that you live in. The bus that is going to pick up Emily at the bottom of the driveway says Camden and Rockport on the side of it. It actually says SAD 28, Camden and Rockport. It doesn't quite roll of the tongue, but it works for me. In my mind it is infinitely preferable no matter the cost, quite frankly, to Maine Mid-Coast School Cooperative 6, Camden, Rockport, Rockland, Appleton, Hope, Lincolnville, Owls Head, Thomaston, Washington, Union and so forth. I think that we need to beat this bill. We need to go back and think very carefully about this just as the Representative from North Haven recommended. We need to make sure that the assumptions behind this, that bigger is better, are true. I would suggest that those of you who represent small communities and small schools think very carefully about this vote. I think that the people in your communities whose schools are the pride of those communities, those little schools, probably think the same thing. 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 get one point clear that has been misconstrued on the floor here this evening. We are not proposing through this plan to close any schools whatsoever. The good Representative from North Haven alliterated that very well. What we looked at as we approached this with many people at the table, we had many stakeholders talking about this issue in this committee, was how can we look to lower these costs and possibly increase cooperation with some of the services that are being offered by these schools. Furthermore, looking in towns or cities, such as, for example, Portland where you have services such as payroll that are being done at the municipal level and literally one mile down the road at the school department office you are doing payroll down there. We are looking at back-end administrative services. There is nothing in here that says that if you enter into this plan, you will have to close any of your schools. This encourages local control. It is a principle that was brought forth very, very emphasized by very many people from different aspects of the educational spectrum.

If you go to Page 7 of the Committee Amendment, which is before you, and you look under Section B, you will see 10 services there of what we are looking at. Nowhere does it say the consolidation of schools. You are looking at administrative services. What we looked at was trying to take maybe a superintendent and consolidate it to oversee a number of schools. Mostly we were looking on the lower levels so that we could fit all the needs of every school and if they voluntarily wanted to enter into any of these cooperatives or efficient school units or whatever it may be, they could do that and help themselves to the incentives that we have set forth.

I also would like to bring forward a point. The Representative from Rockport's speech about the review process, there is not only a review process for the schools that enter into this, but furthermore, there is a process to review this legislation itself so that we can make sure it is functioning, just like many of the bills that come before us and the ones that we do enact.

I must admit that I am a little disappointed on a personal note that we made many compromises for many of the members so that we could fit the diversity of districts that have come forth of the 15 members on the committee. It is my recollection it is a 12 to 3 report, bipartisan support. With that, I would like to ask that my colleagues support the Majority Ought to Pass as Amended Report and help to support this bill and help find a solution for the problem that it looks to cure. Furthermore, Mr. Speaker, I would request that the Clerk read the committee report.

Representative BARSTOW requested that the Clerk **READ** the Committee Report.

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

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

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Mr. Speaker, Men and Women of the House. This is one that I have been waiting very patiently for for a long period of time. When I say for a long period of time, it is not the bill in its essence that I have been waiting for for a long period of time, but it is the idea of getting our schools fully funded and spending under control in certain aspects as well as making

sure that delivery of educational components to all of our schools, north, south, east and west be properly done.

In 1995, ladies and gentlemen, when I first came to this body, the idea of essential services and programming was supposed to happen right away. We just did the big study and we were rolling it out. Here we are in 2004 and just a year or so ago, we finally plugged that into our budgetary cycle and we made it law. Ladies and gentlemen, that was a long time coming. Each and every one of you know that it hasn't officially rolled out and how does it roll out fiscally when it comes to each one of your individual towns and cities.

I would respectfully submit that for the last 10 years that I have been around here that spending education funding was always driven by spending. The more you spend, the more you got. That is how that formula worked, ladies and gentlemen, and this new idea that we rolled out and finally put in place on top of the mandates coming from No Child Left Behind and the other one that we did here in the State of Maine, I can't recall the term right off the top of my head, but learning standards for each one of our schools.

None of the implications of all of those issues have come formally before the towns and the ramifications of such have not been brought forward and known yet. Here we are, ladies and gentlemen, in front of us we have another bill that is going to tinker with how we are going to get people with a carrot stick and a monitory approach to continued changing the system. I respectfully submit that this is a bill before its time. We have got to let these other issues flow forward and get settled and get funded properly and use the essential services and programming system to self-tap our educational needs so that the students in rural Maine, I would highly recommend you guys check the roster here, we are the body that represents rural Maine. There are 99 Representatives that represent rural Maine in this body. If you are not going to look at how the impacts of these various bills and how these things mesh together, it is too scary to move forward and enact another piece of legislation that is going to make it more uncertain what is going to happen tomorrow to all of the respective school districts that we represent. I think you have to back up and slow down a little bit. Change is wonderful, but if we waited 10 years to get this essential services and program out there to contain spending, then why are we suddenly jumping right on and saying that we want more change.

Ladies and gentlemen, if anybody even bothered, the commissioner of Education came up to Kingman, Maine, early this year and basically she was there not for the purpose that the towns people laid on her, which became very heated to say the least, but she was there to warn us, really, that there was a commission in effect that was pitting small schools against big schools. That commission was appointed by the second floor and none of us were really a party to that. The outcomes of their recommendations basically was, in essence, consolidation, 1,000 or 1,500 or 2,500 and then have a carrot stick approach. It doesn't work out where we are, people. Our town of Princeton, for example, in Washington County is probably the most efficient school in the State of Maine using third year hand me down books and doing miracles for nothing with probably a state average of about \$3,800 per student. You can't get more efficient than that. If you look at their fourth and eighth grade MEAs and you will find that they are near the top of the state. I don't see any value in making more change until we balance the playing field and get Princeton and those other rural towns all of the assets they should get. The reading, writing and arithmetic is spelled out in the learning results as well as in essential programs and services. I do not disagree that one superintendent for all of Aroostook County is inappropriate or one

for Washington County. I think those things need to come. I think we should slow down a little bit. I would ask for you to defeat this motion. Thank you.

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

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

Representative CUMMINGS: Mr. Speaker, Ladies and Gentlemen of the House. For the last few weeks the Education and Taxation Committee have been working on something that has received bipartisan support. Understandably based on the concerns of this Legislature around a whole host of spending issues that makes perfect sense. The issue before us requires us to balance between student achievement and cost savings. I doubt that there are many members of this body who would disagree that we need to find ways to pay our bills and to do it as efficiently as we can and at the same time can we do that without sacrificing student achievement. I think there is significant evidence that small schools actually do very, very well and there is good reason for us to preserve them. One of my concerns as the task force emerged is that we would not endanger the livelihood and productivity of those schools because they do do well. Just a few months ago three schools were highlighted for having done extremely well on the MEA. All three of those schools, Frenchville, Friendship and Harmony, primarily rural did very well, far above what the expectations might be given the socio-economics. I think it makes an excellent case for why we need to preserve some of the best assets that Maine has, which are small schools, some of them rural and some of them urban. We need to preserve those.

This particular bill, however, and I would not support it if it did, does not go in that direction. It allows that door to be open for those who voluntarily want to do it. What it does is it pulls together back end services as an option. It pulls together efficiencies within it. Let me pick on my own city, if you will, for just a second. In the City of Portland we have 1,200 employees municipal, 1,200 employees school. They are a mile apart from each other and they have separate food services, separate transportation, separate legal fees, separate payroll, separate human resources and they closed down a school in my district because they needed to save money. I disagree with that. They have failed to do the back end services that need to be done.

My son would not have been hurt by combining the payroll with Falmouth, Yarmouth or next door or within our city in the municipal side. He would not have been hurt. In a tight budget time when state and local have to work together on efficiencies this is the right direction. It does not endanger the future of these small schools. If it does, we will be here, hopefully I will be here, to make sure that it won't do that and hopefully future generations of Legislatures will make sure that they don't.

I also want to say that we specifically built in options for those few school districts who could not meet the criteria of combining with two other school districts. It is called geographical isolation. If you have a reasonable case within your school district that you can't reasonably combine with somebody, then there is an option for you not to do so. I think that makes it very applicable and appropriate.

Please out of fear don't shoot this down because it may, but look at what it does do. I doubt if we could find a legislator in this room who wouldn't tell you that cost savings, both state and local, are not worthy. Other bills will be coming before us over the next

few hours that will discuss this in more detail. It has received bipartisan support. I think it is a step in a direction of making us efficient without harming those directions that we want to go in for our kids.

Please take a look at this bill. Let us not let anxiety, but let us let vision proceed over any anxiety about this bill. In fact, it does not create the kind of environment that I personally would be opposed to.

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

Representative TOBIN: Mr. Speaker, Ladies and Gentlemen of the House. I have been an educator for some 40 years. I have given this a lot of thought. Education is a cradle to grave experience. It is a life-long experience and I thank God for the education that I have gotten here for the last eight years.

We are talking here about large versus small. We are talking about formal education, which is a vehicle to get us from point A to point B. Some of us can get from point A to point B in a Ford Escort getting 45 miles to gallon and doing fine. Some of us can get from point A to point B in a huge limo that costs a lot. We start transporting students and we are a large state right now geographically and it is a very, very expensive proposition to be transporting kids over long distance periods.

I was getting my hair cut one day about 35 years ago when I was in the military. The barber who was cutting my hair was self-educated. He was a very well educated man. He said to me, "Jim, those people who get an education are those who want one." The key is want. We should be working on inspiring our young children and people who want to learn and capitalize on their interests and their successes instead of putting square kids in round holes and round kids in square holes. Time is of value. I don't want our children spending an extra hour on the bus every day. There is nothing wrong with our small schools. Let's guard them. Let's protect them and let's watch what we are doing when we are trying to steer people in the right direction on education because many times its well meaning, but often times education goes on a wild caboose. I am encouraging you this evening to vote against this particular bill. Thank you Mr. Speaker.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative CARR: Mr. Speaker, Ladies and Gentlemen of the House. I want to take just a minute to make a few comments on this bill that is before us. Some of the issues that I am going to speak to have already been mentioned, but I want to reinforce those.

One of the first things that really causes me to hesitate here is the fact that immediately we take \$3.5 million off the top of GPA and put that in a fund that would give incentives for people to consolidate services or to regionalize.

Back in the early 1960s many of the rural schools that are in my area and many of them that are in your area, regionalized back then. We now call them SADs. I want to give you an example. SAD 67 is Lincoln. It takes in the Towns of Mattawamkeag, Chester and Lincoln. SAD 31 is located in Howland. It takes in schools from Sebois Plantation to Burlington. There are several miles involved there. If you travel north, you will find that East Millinocket takes in several schools and Millinocket does as well. Out of those schools, they regionalized. They put in Region 3. It is a technical school where young students travel for many miles to come to Lincoln where Region 3 is located. It makes up all of those towns. I actually left out SAD 30, which is Lee, which takes in students clear from Springfield and places farther on. Regionalization has actually happened in our area.

I am also concerned about the performance review that is conducted annually by the commissioner. It is not that I have a problem with the commissioner, but the fact that there has to be a review. The incentive that is given to these schools to consolidate or regionalize is actually in jeopardy each time that this review comes. They can lose the money that they got the previous year. They would have to pay that back. In addition, they may not be able to get that money going forward. That concerns me. It can put a school district in a serious position.

I am sure that every time somebody puts a program together people say, what are your ideas on that? I do have some ideas on that. I wasn't given the opportunity because I wasn't asked to serve on this committee. I think that in order to go forward with a program such as this and before we include the entire state in this, that we should have three or four volunteer districts to do this, to go forward. Let that work its way through for two or three or even four years to see how it works. If it works out, then I think at that time we should move forward with something that is on the statewide level. This is unproven.

It is a major move in a direction that I think will certainly be detrimental to the rural areas of the State of Maine. Many of the rural areas in the State of Maine, these young people already travel for two hours to go to school and two hours to go home and that is not including the extracurricular activities.

A few weeks ago the Representative from North Haven Representative Pingree, provided a booklet for us. The title of it is *Dollars and Cents, the Cost Effectiveness of Small Schools*. I don't know how many of you read that. I have read it and it is very interesting. It is good reading. If you preserve that and save it, I expect you would enjoy the reading on it too. What it actually says is that small schools don't necessarily cost more. In many cases, they cost less. I would recommend that. It is good reading. Thank you Mr. Speaker.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House. It seems as if in the last few years there is a pattern emerging in the Legislature and here in Augusta that really troubles me in terms of the future of the State of Maine. I think unless we check this, we are moving into an era of centralized planning, not by the Maine Legislature, but by the Augusta bureaucracy, the state bureaucracy. Whether it is your zoning, what you can buy, sell, how you are going to dispose of it, almost every single aspect of our lives. Someone wants to give that power to the bureaucracy. A lot of this has come from think tanks, analyzing, looking at the costs, looking at the efficiencies, but you know when you ask the questions of those think tanks, they really can't give you a clear answer or in many cases they knew the end result they desired and they picked the particular districts to get the dollar figures to prove their hypothesis. No matter what you are going to hear, this is all about dollars, nothing else. You are not going to hear anything about kids, school children and their future and that school environment in which they are located.

It is an effort in terms of achieving certain costs that the state will move away from the quality of education that is delivered, especially from the commitments that they have made. You may be looking at your individual district and say, well it is just kind of like the porridge, not too hot, not too cold, just right. This isn't going to impact me. As you heard in earlier comments on this floor, this program will be funded by the GPA, which is supposed to be going to every Maine school child.

If you have been around here the last two or three years, you know we are into the third year of flat funding. If you have talked

to the superintendents and you if you have talked with the parents and the principals and you have gone into the school and have seen the declining maintenance in the buildings and you see projects that are deferred, they are achieving efficiency on the local level. They have no other choice because we have walked away from our commitments. This is another way of the state being able to, in an indirect way, reduce its commitment to the local communities.

I have a great deal of respect for our education chairman from Portland and he was very accurate in his descriptions in what occurs in Portland with spending, but I think that is not what is happening with your individual schools and your individual units.

In the south what is going to happen and is happening already, it is going to be central office services, payroll, sharing an assistant superintendent or a business manager or three or four units contracting together for one council. That is occurring. The state doesn't have to step in because they are under taxpayer pressure. The last three years we have had six votes on the budget in my community. It repeatedly was turned down and turned down. Because of taxpayer pressure, they understand what they need to do to try to control those costs, but also to improve the quality of services to those children. That is what the talk should be about this evening, the kids that are in our schools and their future and not that bigger is better. As we have heard in comments, the bigger you get, the longer you ride.

The buses that come past my house at 7 o'clock in the morning zoom past at 60 miles per hour. I am assuming in most of your districts from the west, north and the east, those buses are traveling at a much slower rate of speed and they are dealing with worse weather conditions and sometimes you can't get here to there. You have to go around a mountain or a lake to get there. When you start talking about the miles on the bus, that doesn't translate to the same time as it does down our way.

Something happens to the heart of a region and a community when you lose your school. It is like ripping that heart out. There is something unique about Maine that every teacher in a small school knows the name of every child. They know that little extra help that child needs. In some cases, the protection that they need, because sometimes kids on the playground before or after school can be cruel. The bigger you get, the more you get lost as a child. The more the potential that when you get off that bus and spend the day and then get on a bus and you ride an hour or an hour and a half, no one in that school knew your name and no one cared and no one made that extra reach to try and help you through the day or toward your future.

I would never teach in a community that I couldn't live in. There is something special about when you are part of community and after school or the weekend, and it doesn't have to be a school activity, it can be a grocery store, the hardware store, the beach or out riding a bicycle. When you see those students and you continue to interrelate with them, that is a reinforcement that can make a difference in their lives.

We live in a different world today. It is post 9-11. We can talk about everything that is happening, but we are actually beginning to see some migration into the State of Maine. I think when you talk about those families, they are not all seniors coming in, there are families with children. They want to be in a place where they feel safe. They want to be in a place where they don't have to be on a cell phone all day making sure their children are safe. They are coming to Maine because small or medium is better than big is best. What we are seeing here is an effort driven by the bureaucracy, looking to save dollars and not to improve opportunity and quality of education because we are hearing it happens in the small schools or big schools pretending to be small. An architect has to take a huge school and create four

small schools within it. It is a no brainer. Stay small. Why do you have to spend \$20 million to pretend you are small when you have it already?

If you know your district, you also know that there are over 4,000 homeschoolers in the State of Maine. That is a decision that has been made by parents that they want to keep their children closer. I predict that if you start this process in the next two or three years, that number will double or triple. You are forcing parents to make a decision about two or two and half hours on a bus to a distant school community that is no longer part of their community and they will keep their children home. That is the ultimate dollar saver. You don't have to pay anything. It is parental responsibility. Save on the property tax. Save here on the state level. You can save a lot of bucks that way by driving youngsters and their families out of our schools.

Any policy we look at has to balance what is in the best interest of the kids and the cost of delivering a quality education to them. This looks at dollars only. No one can give you an honest study that tells you bigger is best both on the costs and then the quality of education those youngsters are going to receive.

The department all year has told us all year we are stressed. We are right up against the wall. We don't have enough employees because of learning results, something we inflicted on ourselves, and No Child Left Behind. Now, lo and behold, we are going to have enough employees to go out and monitor and check and punish. The short-term problem you have if you have been following your schools and they are doing their budgets right now, is that they don't have enough money coming from the State of Maine because of flat funding to try to deliver that quality product.

If you pass this legislation, you are starting a process this next year and it will accelerate and will take that GPA, no matter if those of you that return dramatically increase it, you have a Pac Man in there and the money that should be coming to that youngster behind the desk in your school community, you are letting the Augusta bureaucracy take it and use it for centralized planning and engineering. Somewhere there is a uniqueness about this state. You don't have to be in the Legislature. You don't need to be a traveling salesman. You can leave Kennebunk and go to Aroostook, Washington County, Franklin County and you are meeting people you know, people you are related to. That is the unique characteristic of this state. It is small enough, instead of 7 degrees removed from Kevin Bacon, you are 1 degree moved from a friend of a relative. I cannot understand this obsession with things have to be bigger. Things have to be controlled from Augusta. The most important thing in your family is your children and the quality of education. I don't want to leave that to the Augusta bureaucracy. I don't want them to have the ability to penalize our children and our schools. I guess to sum it up, I lost my patience with this process a month and a half ago. It is just a rush to centralize planning. I really believe that no matter how you dress it up or how you powder it, this bill shouldn't be going to market.

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

Representative **SUSLOVIC**: Mr. Speaker, Men and Women of the House. The irony of debating a bill that has the term efficiency in it at this point in the evening is not lost on me and I suspect not lost on the body either. I will try to be as brief as possible. I am a little confused. I have grown used to that feeling around here. For weeks, months, I have heard all throughout this building and all throughout this state the need for us to practice fiscal responsibility. I have heard the demand that Maine take a hard look at how its government spends the money that

taxpayers send to their government at all levels. I have also heard, and I absolutely agree with and I suspect that probably one of the few things that there is universal agreement on in this chamber, is that the way to a brighter future for all Mainers is through better and better education of all of Maine citizens. We are not going to get ahead of the pack unless we get smarter and we give our kids every opportunity for the best education that we can deliver. We then come back to that thing about fiscal responsibility. We heard a lot about it last night in this very chamber.

Here is a scenario. If state and local spending on K through 12 education were frozen for the next five years, no adjustments for inflation, no adjustments for anything, guess what happens to our cost per pupil? It still goes up dramatically because the number of pupils in our school system is going down. It has been for quite some time and the figures are undeniable that the trend, if anything, is only accelerating. Maine developed an infrastructure, a human and physical infrastructure to educate about 235,000 pupils, K-12 at its peak. We are down now around 205,000 and the projections show us headed to 175,000 or below. Infrastructure for 235,000 or 205,000 and we are going down to 175,000. As those of us in the private sector say, that is a lot of overhead. We can do better. We must do better. We must focus on delivering the best education that the dollar can provide, but we must realize that there are not unlimited dollars to spend.

I am also confused because whenever we have talked about encouraging municipalities and school districts to work together, the constant drum beat is carrots, not sticks, incentives, not penalties, make it voluntary, don't mandate it. God forbid that the state tell the municipalities and the school districts exactly what to do, how to do it and who to do it with. Ladies and gentlemen, I challenge you to look in this bill and show me where the state mandates that anybody do anything. I challenge you to look in this bill and tell me where it says that we are going to close schools, where it says that we are going to put kids on buses for two hours? If you could find it, I would very much appreciate you pointing it out to me because I have looked and I can't find it.

I have also heard that it is all about the bucks. I want to quote from this bill, Section 3705, Paragraph A, Line 5. This is in the approval of regional cooperatives, which are voluntary, school districts that want to work together to provide a better education for our kids. There is a requirement that each school administrative unit that is a member of the regional cooperative annually report to the citizenry within the school administrative unit on the ongoing school improvement process and the school administrative units comprehensive educational plan. Each superintendent shall certify progress on the plan to the commissioner on an annual basis. I see accountability in there and I see a focus and commitment to improving the educational product that we are charged with delivering to every student no matter where they are.

I am going to close because I have probably gone on too long as it is. My point is that the times, they are a changing. The demographics that are hitting Maine are undeniable. We can bury our heads in the sand and make believe that nothing is changing. The numbers tell us otherwise. For those of you that worry that Maine students are going to get lost in big huge schools, a couple of statistics, state rankings 2004, Maine has the fourth lowest class size in the country, 18 students per class. The national average is 21.2 and that is for elementary schools. For secondary schools, Maine has the smallest class size, 18.5 students in high school. The national average is 23.4. Pupil teacher ratio, Maine has the fifth lowest at 12.6 pupils per

teacher. The national average is 15.7. If anyone is concerned that our students are getting lost, I would argue to the contrary.

As our enrollment goes down and it is going down in every part of the state. This is not a north versus south. There is not a single part of the state that is not losing enrollment. Some are more than others, but they are all going down. We can, again, try to ignore that and bury our heads in the sand. What will happen to the quality of education as the class size gets smaller and smaller and the cost per pupil goes up and up and up. Remember it is getting tougher to pass school budgets because a higher and higher percentage of the population does not have kids in the school. We are becoming an older population in Maine. We need to be efficient and we need to improve the quality of education.

We heard from educators around the state that are already working together and came to us and said, give us some extra help to do that, but don't tell us how to do it. Let us work that out on our own. That is what this bill does. I would urge you before you vote on this bill to make sure you go through it and please tell me if you find a mandate in here. Please tell me if you find central planning that is telling school districts what to do and how to do it. I would really appreciate it if someone could find that. If you can't find it, I would urge you to go ahead and support our schools, support our school districts that are struggling to provide that education with diminished resources. Thank you Mr. Speaker.

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

Representative O'BRIEN: Mr. Speaker, Men and Women of the House. The regionalization committee had the job, which was to encourage voluntary efficiencies in Maine's school systems and related cost savings. It was not called together to suddenly say that Augusta would make a decision for every school district in the State of Maine as to how children would be taught, how money would be saved and how everything would come out of one central agency. What we did over the period of time that we met was meet with school district people, we listened to people who had children in the schools and all of us there had our own perspective as to what could be done to achieve this goal. Again, I would remind you that we were there to look at the continual excellence, equality and efficiencies for the schools. What was pushing this is what you all know, the idea that the mill rate in every single town and city is not going down. It is going up. It is being funded by the principle of property tax, property tax, property tax. It is getting impossible for us to continue to raise those property taxes, which is the system we have today. Everybody who gets their tax bill knows that it is more this year than it was last year. Everyone who has either served on a city or town council or a school board knows that you almost come head to head with the other group when you are talking about more and more money from your local citizens to provide the schooling that you want all the children there to have. We don't want to raise dumb children. We want to raise smart children with the best expectations in the world that we have given them what they need to succeed. What we also know because we are not dumb people either is there are some things that can be done in a coordinated manner, a more efficient manner that will be cheaper. It is not impossible. It is truly, truly not impossible. We are not layering on 50 more people out of Augusta to get on buses, get in their own cars and go throughout the state at a high cost and tell communities what to do. Every one of the communities that decides to participate in this, efficiencies for more excellence and equity will be doing it with local control. Local control means that people already have the responsibility to run the schools. You have been asked to look at

what we have written down. I would remind you on Page 4 of our Committee Amendment under Number 2, both A and B, stress the fact that they will be jointly requesting preliminary certification under the subsection to combine any one of the districts or areas and secondly, under B, they have entered into an agreement, not somebody from Augusta telling them what they must do. They are not going to enter into an agreement if they don't think they can save any money. They are not going to enter into an agreement unless they really believe it is going to be for the betterment of their students. They are not going to enter into an agreement if everybody in the community doesn't believe that it should be done.

I would ask you to consider that what we are up here for is to try to figure out how to do more with less and to have as good a result as we have now and even better. Please vote for this.

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

Representative DAVIS: Mr. Speaker, Men and Women of the House. In answer to my good friend from Portland, Representative Suslovic, there is \$3.5 million that is going to be offered as an incentive. This is the same way they got civil rights going in the '50s with Brown versus the Board of Education. That was a noble effort, but there are many segregated schools and it costs a lot of money.

I often bottle things up, but after listening to Representative Murphy and Representative Pingree and Representative Bowen, I must say this. Representative Murphy made a statement that something happens to a community when you lose a school. I can take you around the greater Portland area and show you where schools have closed and the community declines. That is what I fear about all things. I have been sitting on the Education Committee listening to this for month after month as did the other members of the committee. I don't think it will work.

To my good friend from Portland who made such an eloquent speech, remember that buses cost money. To bus kids further it is going to cost money. Gas is increasing. Gas costs money and the democracy grows.

As far as local control, keep in mind that you have already lost it. Learning results and No Child Left Behind that is not local control. That is centralized control just like Representative Murphy has said before. I have just remained quiet on this and sat there and listened to this. I will repeat what Representative Murphy said. I think what he said tonight has some greatness in it. Something happens to a community when you close a school. You tear the heart out of it. Go ahead and think very carefully before you do this. We have already lost a lot of local control. Thank you very much.

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

Representative CUMMINGS: Mr. Speaker, Ladies and Gentlemen of the House. It is clear that we could turn down this bill tonight. We could do that and we could walk away from it. I want you to know that in the next eight years we will lose almost 30,000 students in the schools. Our school districts will come back to us and say why did you not look forward into the future and help us with this transition. It costs money to unite payrolls. It costs money to unite back end services and we needed help from the Legislature and you didn't do it. You didn't deliver. I think we can't talk on Thursday night about saving money and then on Friday night say, let us liberally open up the doors to meeting needs that don't exist. I think if we are going to do this, then both sides of the aisle have to take responsibility in helping facilitate the change that is inevitable. This bill in no way says close down schools. I can tell you personally that I would not support it if it did. It does say, are you ready for the future? Are

you providing the structure and the infrastructure to make that transition? If we choose to shoot this down, I think we have let down the next generation of our kids and our districts who will be coming to us asking for help. I urge you to help and support this bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sorrento, Representative Bierman.

Representative **BIERMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I think the technical side of this argument has been extensively explored. I would just like to give you the reality perspective from my point of view and what I am experiencing currently. Right now in my district, Gouldsboro Grammar School has closed at this point and the students are being trucked to the Winter Harbor Grammar School, which is approximately a 20 minute drive. Now, I don't think I have ever experienced anything that has divided a community more than the closing of this little grammar school. We are a very rural community to start with. My district is very vast and encompasses nine towns and one unorganized territory. Geographically speaking, it takes me an hour and twenty minutes to travel from end to end. The schools are literally the heart and soul of these communities. Winters are long and a basketball game on a Friday night is a big excitement in the community. It brings the community together. I am seeing in the Town of Gouldsboro in my community hate and discontent and things that I have never experienced in my area, ever. I have had reports of rocks through people's windows in the community of Winter Harbor because they feel that they helped close this school in Gouldsboro. There are parents fighting. I attended a meeting where I had to separate two parents from the two communities fighting because of the closing of the Gouldsboro Grammar School.

Our current superintendent is a new superintendent to the community and moved from northern Virginia where consolidation has been going on for a long period of time. I don't think he necessarily knew how to approach these rural communities. The people were not accepting of it to start with. His approach was, well, a person from away. At this point it appears to be the beginning of the end for this particular school in this community. I would just suggest that consolidation has already started to some degree. I think we need to tread very attentively from here on out. I would urge you not to pass the motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Skowhegan, Representative Richardson.

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. I am not very qualified to speak on schools, but I can multiply. If our school population or out teacher ratio in our schools went from 12 to 15, which doesn't seem very high, it would save the State of Maine 3,500 teachers and approximately \$50,000 a year with all costs, it would be \$175 million a year just by raising our class to teacher ratio. How we accomplish that, I don't know, but I haven't heard anybody talk about that. I think that is a very simple illustration of what we could do without really doing a whole lot else. I don't know how we do it, but I think it could be done. Thank you.

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

Representative **BOWEN**: Mr. Speaker, Ladies and Gentlemen of the House. I think we need to get done with this pretty quick. I need to just hit a couple more things. I wanted to respond to the idea that there is not centralized planning in this document. I think if you have the document in front of you you can follow along with me for a second to get a sense of what is in here. On the third page of this amendment in Section 3704

under certification criteria it says that in order for a school administrative unit to qualify for certification it must be a certain single school administrative unit and it has to have a single governing board with 11 members or you have to get special dispensation for more. It has to have a certain population. It has to have a high school with a certain population. It has to implement school level budgeting. It has to have a five-year plan approved by the commission and form an agreement pursuant to the section. It requires annual documentation to the department on a form developed by the department, calculating all kinds of cost savings. If you look on the next page on Section 4, performance review criteria, the state board shall annually review information submitted under the subsection and the regional school districts have made satisfactory progress. It will be determined, not by the school, not by the school district or the parents, but by the department. It requires annual documentation to the department on a form developed by the department. It has to include a plan examining supplies and equipment, transportation, fuel and utilities. It goes on and on and on. Page 8, under performance review. The commissioner shall annually determine based on a review of information submitted whether a regional cooperative to which the commissioners grant a final approval has made satisfactory annual progress. Who determines it? The commissioner. This thing is full of this. It goes on page after page.

I agree completely with the Representative from Portland, Representative Cummings. He is right. We need to hit this problem. I think we were much closer with the committee bill, quite frankly, that we voted on the other day that set up a small commission that can start looking at this and start piloting programs and doing research. I think that is the approach we should have taken. This thing is a bureaucratic mess. Understand that there is a philosophy in this document that you are voting for. If you vote for this, you are agreeing that bigger is better. There are savings out there that schools could be saving that they are not saving. There are millions of dollars to be saved. Look at the fiscal note. Three years out, we are spending almost \$16 million on incentives, which tells us that clearly the administration seems to think that there is at least \$16 million worth of savings to be had from this even though there is not a single piece of evidence, not a single study they can point to that proves that.

We do have a crisis. There is no question. Enrollment is plummeting and costs are going through the roof. Until we start researching what is driving those costs, health insurance, insurance costs, energy costs and dealing with those things, we are certainly not going to find \$16 million worth of savings here. There is a different approach to take. We need to take it. This thing is not the way to go. It took me a while to realize that. I had a lot of belief in this piece of work at one time. This isn't the way to go. We do have a problem to solve. This isn't the solution. Thank you Mr. Speaker.

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

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. There are so many things tonight that I have heard that have been so encouraging that I agree with. The good Representative from Kennebunk starting with his comments and no one could have said it more perfectly than he did. The final speaker, Representative Bowen of Rockport, I think he hit on what I was trying to say. I think this is bureaucracy at its worst. I think we should have started with some small commission and looked into this. This is something we are doing on the spur of the moment. We have been looking at it for a total of about a month, I think, and suddenly we are moving into it.

You know what drives up costs? Things that are foisted on us quickly like this. Learning results, laptops and how about ATM studios in our schools, a synchronize transfer mode studio. In 1995 we spent \$50 million on a technology that hardly any business would ever put into service because it was not state of the art. It was not cheap enough. It was when palm pilots cost \$1,500. No, we had to have a bond. Every school in Maine was going to have one. Remember. Every single year since then you and I have been paying from \$2 to \$3 million to prop up how many schools who have these to work? Maybe six schools. We have a lot of places that we are wasting money and that is one of the worst. There are 154 high schools in the State of Maine and every school was to have one of these studios. My school has one and the only people who are using it are administrators if then. The one that is most popularly used is right here in this city, Augusta, at the library. Who uses it? Bureaucrats. It was set up for students for distance learning. It is not used because we don't have the infrastructure to make it work. We don't have coordinated schedules. We got into it before we knew what it was all about. We are still spending \$2 to \$3 million a year to prop up six schools. I called several schools to ask them how they were doing. The secretary couldn't even tell me where the machinery was.

We are about to spend more on an expansion of the laptops if we are not careful. We already have technology that we didn't ask for. We already had other needs. These things were foisted upon us. We need to go more slowly. Look, many of us are teachers and you have kids in schools. We have some of the smartest kids in the country in our schools. We have some of the best schools in the country. We don't need to look at 18 for classroom and think that that is bad. Maybe it would be better at 25, but 18 is perfect. Twenty-one is okay too, but 25 and 30 are not okay. You know why we have only 15 to 18? Many times it is not because of the number of kids in our communities because you and I as parents go to school boards and demand that our kids are in smaller classrooms and we get it.

We are answering to many, many needs of a society and our schools reflect that. Parents want teachers, councilors and assistants. We are carrying 45 percent of the burden of special education, a federal mandate. We should have a collective voice here that we can do a better job in saving money in our own schools to start with. Less is not more. Less is less. We are already trying to cut costs. We are forging cooperative agreements with schools that are close to us to purchase supplies, food supplies and to bus students.

Someone asked, are you ready for the future? My question is, what kind of future are you talking about? We can choose our own future. The present is our future. I want to keep what we have. I don't want to lose it. My kids have been on those buses. I know what it is like to have kids come home from school dead tired or the bus driver says, can you come out and get your little boy because he is sound asleep or the kids who sleep through their stops because they have been on the bus so long. One district in Maine has a district practically the size of Rhode Island. Many superintendents are saying, if you want to help us, pay for transportation.

We have some terrible burdens that have been put upon us by both the federal government and alas, this body as well. We are not ready for this. I applaud the quick and efficient work of this committee and the best and the brightest were put on that committee to try and help us out too. I thank them for their work, but let's move more slowly. Let's choose our future. Let's reject this and go onto something that we can do. Thanks.

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

Representative **MCLAUGHLIN**: Mr. Speaker, Men and Women of the House. We have heard a lot of emotion here this evening and that is because we are passionate. We are passionate about our children. We are passionate about their education. We are passionate about our communities. We are passionate about our schools. I share that passion. I am very pleased to be able to be the House Chair of the committee that reviewed this bill. I have a lot of concerns about what I am hearing here tonight. I am concerned about your fears. I appreciate the fact that you have expressed them. I am distressed that you didn't express them earlier to us in our process. We had one of the most open processes that you will find in a committee. If you don't believe that, then you ask anybody who sat in our audience about how often they were allowed to participate and share their views with us. I have heard a Representative here this evening say that he was disappointed not to have been appointed to this committee. I was disappointed that you couldn't all be on it, but working with 13 was enough of a challenge, quite frankly. I couldn't handle 151. That same Representative said he didn't share his ideas with the committee. I am very regretful that he feels like that. It was a very welcoming and open process. We even went out into different parts of the state to listen to people. What other committee in here has done that. We went to Caribou. We went to Bangor. We went to Auburn and we went to Farmington. You haven't done that in your committees. You haven't gone out and done that kind of listening to people. We did that. We did listen. We heard the concern about the small schools. If there is anybody in this chamber who thinks I don't care about small schools, you don't know me.

I am going to tell you a little bit about my background with small schools. I am going to start with my mother. She was a school teacher. She went to Farmington when it was Farmington School and she taught in a one-room school house. You want to talk about small schools, we will talk about small schools. That is my heritage. When we started with this committee, we looked at that task force report. I had one of the superintendents involved with the small school coalition come to me. It happens that he and I know each other. We have known each other for a good number of years. I have great respect for him. He said to take a look at the conclusions. Take a look now at the data. Some of the data does not support the conclusions in my mind, so Janet take a look at it.

We did that. I personally did that, because I guaranteed him that I would do that. We expressed those concerns in our committee. We heard it from audience members. We heard it from people around the state and we brought those concerns to the commissioner. I have to tell you what a pleasure it was for me to be able to work with the commissioner in this process. I found her very, very responsive to listening to the concerns that we were unanimously expressing about the small schools. She would go back and find a way to address this. Look at the language. I plead with you to look at the language in the Committee Amendment. It is (H-888). We made changes. We really, really listened and we made changes to address the concerns that I have heard expressed tonight about the small schools. We put in language about geographically isolated areas.

I am just baffled when I hear people talking about things that aren't in this bill. I am really baffled. There is nothing in here that says you have to consolidate school districts. There is nothing in here that says you are going to have to put your children on a bus for two hours. It is just not there. I know we are afraid of

this. I have relatives who have gone on those blessedly long bus rides. It is not in here. I was not about to support something like that. I just wouldn't do it.

I have heard a concern expressed this evening about no attention to student achievement. It is in the bill. It calls for reinvesting up to 50 percent or more of the savings right back into the instruction programs. It is in there. What you are afraid of, what I have heard expressed tonight, really isn't in there. It is just not there. I don't know.

I want to encourage you to take a quick look at the bill. It has been on your desk for a few days. I know we are all busy. I know it hasn't been at the top of your radar screen. I hope you will trust the committee process that brings this to you. I really would encourage your positive vote on this for all of the reasons you have heard tonight that will let you look back and say that you were able to prepare our children and our school systems to deal with the way life is going to be, not like it is today, but let's look at how we can save the good parts of what we have today and be ready to deal with what is going to be coming tomorrow. Thank you Mr. Speaker.

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

Representative BRUNO: Mr. Speaker, Men and Women of the House. When I look at a bill, the first page I turn to is the fiscal note on the bill. It is just part of my training. I look at numbers. That is what I do. When I look at this bill, it is another promise that the State of Maine is going to make a whole lot of school districts promises that they cannot live up to. In two years you are saying that you are going to take \$15 million out of GPA for this efficiency fund incentive thing and you are never going to have it. It says you are going to give \$70 million to GPA over the next two years. I will guarantee you that will happen. It hasn't happened since 1985 when we made this promise of 55 percent. It still hasn't happened this year. We say we are going to give another \$9 million to GPA. In two years we are going to pull aside one half of 1 percent and put it in some fund and then we are going to incentive everyone. That is not going to happen. Why are we going out and making some promise that we can't keep? It is not what is in the bill. The policy behind the bill probably makes sense if you start is slowly. Having sat on a school board and being the finance person on that school board, you go through it and 75 percent of your costs are teacher salaries. How do you make that efficient? You can't. That is part of the contract negotiations with teachers. There is only about another, if I remember, 20 percent in fixed costs. You can't do anything with that.

You can only do incentives to a certain point and then there isn't any more room. In my mind, my local school districts have done a whole lot better at being efficient than this Legislature ever thought of being. They mind their pennies a whole lot better than we do. They mind their tax dollars a whole lot better than we do. We have town meetings and people get vocal and they have revolts. You look at one of the school districts in SAD 48 and it took seven tries to pass a school budget. That is being frugal with your money. While we think there is a whole lot of money out there because those local municipalities aren't doing a very good job, they are doing better than we do. The fact that you think you are going to pull \$15 million out of GPA to give incentives to local municipalities and take away their local control, it is just not going to happen.

I urge you to vote against this bill.

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

Representative FAIRCLOTH: Mr. Speaker, Men and Women of the House. I will be brief.

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

Representative FINCH: Mr. Speaker, Ladies and Gentlemen of the House. As I stand up here tonight, I realize that I just lied to my wife. I was telling her the other day that I was going to get through this whole session without speaking on the floor. I am about to blow that. I will try not to use the usual clichés. I won't make any references to the icy side of a mountain or Greek mythology or even the body part of a big desert animal.

What we are voting on here as we always are is not personalities. It isn't process. It is a bill. It is what it says in that paper. No matter how we got here and no matter who supported it and no matter who wrote it and not matter how they wrote it, in the final analysis, this is what we vote on. You have heard a lot of people say what it will do and what it won't do. Somebody who comes from a kind of tweener district, I guess I am a little upset because I seem to be hearing that those of us in the rural areas need to be given incentives or something because we are wasting all of this money. I will tell you that we are not.

If you want to help the districts, get off their backs. Right here, something out of my school board, a total of 26 different plans that we had to file with the state. I won't read you the list, but it includes student drop out prevention plan, comprehensive guidance plan and it goes on and on. If we want to save money, get rid of some of these. Right now we are hearing a lot about regionalization, consolidation. It is the flavor of the month. It is the thing that we are saying with all these savings out there, this is the way to go. If we can only regionalize, there is all of this money that is going to come dropping out of the sky. It isn't. I will tell you that the small schools out there are as cost effective as anybody else. Look at statewide breakdowns per pupil costs and you won't see the big schools down here and the little schools up here. It just isn't true.

Most bills when we get into these heated debates, you listen to one person and you think this bill is going to ruin civilization as we know it. The other side says it is going to save us all from damnation. The truth is that they are all somewhere in between. This has some good points, but it also has a lot of negatives. I have heard a lot of people say, read the bill. I did. I read it several times. I have read the amendments. I am focusing on Page 5. The regional plan under Paragraph A that include, etc., managed costs of public educational services including, but not limited to, supplies and equipment, transportation, fuel and utilities, special education, professional development, facilities and maintenance, business operations, administration and personnel and negotiations. Does that mean your plan has to include savings in all of those areas or you don't qualify?

There is one other thing that I haven't heard mentioned at all tonight. A lot of these districts or units that we are going to combine already have negotiated contracts. Those negotiated contracts, whether they be teachers or support service or whatever are certainly not identical. What happens when two or three of these units come together? Which contract is it you go by? I will tell you that if you don't go by the highest paying one, you are going to have some very unhappy people.

The fiscal note on this talks about the money that is coming out of GPA. There are other costs associated with this too that aren't in the fiscal note. Do you think the schools are going to put all of this together and all of these papers and all of these reviews and the state board and the commissioner at no cost? I don't think so.

Ladies and gentlemen, my district probably isn't going to be greatly affected by this. We have about 2,500 or 2,600 people. We are already working on the plan we have had for years, which is called the Kennebec Alliance, where the districts work

together. We are not going to be able to go with it. I looked at this and said, can we make some bucks out of this? Can we qualify? The answer is that we probably can't. Why in the world am I even saying this tonight? I guess whether it is learning results or whether it is No Child Left Behind or whether it is these things and so on, I just think that the best thing that we can do for schools, teachers and school boards is just to take a look at what we are piling on. Yes, this is voluntary. I know I am going to hear it is voluntary. There are a lot of other things that start out as voluntary. I guess I will just sit down and shut up, but I am afraid I am going to have to push a red button on this one.

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

Representative SYKES: Mr. Speaker, Ladies and Gentlemen of the House. I was fortunate to have an excellent career in education that included experience in the Cape Elizabeth School System, SAD 61, the Lake Region School System and the Lewiston School System. I can assure you that in each and every one of those, I saw some excellent efforts at cooperation and efficiencies with the surrounding school districts. There are a lot of efficiencies that are going on right now.

Can anyone tell me of a specific planned efficiency or a specific consolidation effort that will not take place if this bill is not passed? Thank you.

The SPEAKER PRO TEM: The Representative from Harrison, Representative Sykes has posed a question through the Chair to anyone who may care to respond. Seeing none, the Chair recognizes the Representative from Farmington, Representative Mills.

Representative MILLS: Mr. Speaker, Ladies and Gentlemen of the House. I just want to respond to the remarks, because I worked hard on this committee as well and I voted for this in the committee and I will continue to vote for this bill partly because I do love small schools. I do find them effective. I am a product of a not so small, but not so large school. I read the study that were presented to us in the committee. I agree that schools should not be closed. This bill simply provides the tools of survival for many of our schools. They are schools that want to concentrate on education, instructional programs, but can't do the job they are supposed to do because they are overburdened with administrative expenses and administrative work. This bill simply facilitates school districts getting together and sharing in the overwhelming administrative burdens that many of them find that make them less able to provide instructional tools to children.

Look at Page 7, regional cooperatives can be formed. Yes, maybe they could form these on their own, but they are not doing it. Why not provide a little bonus or reward for doing so. Regional cooperatives with plans for saving administrative expenses and reinvesting 50 percent of those savings in school instructional programs. Regional cooperatives that include plans to manage the costs of educational services including supplies and equipment, fuel, utilities, special ed, professional development, business operations, administration, personnel, food services and whatnot and pour the savings from that plan back into education, reading, writing and arithmetic. This will help small schools survive because right now they are suffocating under the overwhelming burdens that they have and the difficulty they have getting by financially. This gives them a boost. It is a helping hand. I ask you to support the bill.

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

ROLL CALL NO. 485

YEA - Adams, Barstow, Beaudette, Bennett, Bliss, Brannigan, Bull, Canavan, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Earle, Faircloth, Fischer, Gagne-Friel, Grose, Hutton, Koffman, Lemoine, Lerman, Mailhot, Makas, Marley, McLaughlin, Mills J, Mills S, Norbert, Norton, O'Brien L, O'Neil, Paradis, Pellon, Percy, Perry J, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Usher, Walcott, Watson, Wheeler, Woodbury, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Bierman, Bowen, Bowles, Browne W, Bruno, Bryant-Deschenes, Bunker, Campbell, Carr, Churchill J, Clark, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dugay, Duprey G, Eder, Finch, Fletcher, Gerzofsky, Glynn, Goodwin, Greeley, Hatch, Heidrich, Honey, Jackson, Jacobsen, Jennings, Jodrey, Ketterer, Lessard, Lewin, Lundeen, Maietta, Marraché, McCormick, McGowan, McKee, McKenney, McNeil, Millett, Moody, Moore, Murphy, Muse, Nutting, Perry A, Pineau, Pingree, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Stone, Sukeforth, Sykes, Tardy, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Wotton.

ABSENT - Ash, Berube, Blanchette, Breault, Brown R, Churchill E, Duprey B, Hotham, Joy, Kaelin, Kane, Landry, Ledwin, McGlocklin, O'Brien J, Patrick, Peavey-Haskell, Piotti, Shields, Snowe-Mello, Vaughan, Young.

Yes, 53; No, 76; Absent, 22; Excused, 0.

53 having voted in the affirmative and 76 voted in the negative, with 22 being absent, and accordingly the Majority **Ought to Pass as Amended Report was NOT ACCEPTED.**

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

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

**ENACTORS
Acts**

An Act To Encourage the Proper Disposal of Unused Pharmaceuticals

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

(S. "A" S-506 to C. "A" S-474)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

**SENATE PAPERS
Non-Concurrent Matter**

Bill "An Act To Create Guidelines To Promote Good Science in Rulemaking"

(H.P. 699) (L.D. 942)

Majority (9) **OUGHT TO PASS AS AMENDED Report** of the Committee on **STATE AND LOCAL GOVERNMENT READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-767)** in the House on March 22, 2004.

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

On motion of Representative McLAUGHLIN of Cape Elizabeth, the House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

COMMUNICATIONS

The Following Communication: (S.C. 603)

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

April 16, 2004

Honorable Millicent M. MacFarland
Clerk of the House
State House Station 2
Augusta, ME 04333

Dear Clerk MacFarland:

Please be advised the Senate today adhered to its previous action whereby it indefinitely postponed Bill "An Act To Permit Video Gaming for Money Conducted by Nonprofit Organizations" (H.P. 996) (L.D. 1354) and all accompanying papers.

Sincerely,

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

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 399)

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL
AFFAIRS**

April 15, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Appropriations and Financial Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 337 An Act to Strengthen State Investment in the University of Maine System for Applied Research and Development
L.D. 1791 An Act To Restore Funding for Certain Nursing Facilities and Residential Care Facilities
L.D. 1805 An Act To Restore Funding for the Violence Intervention and Prevention Program
L.D. 1808 An Act To Ensure Adequate Home-based Care Services and Provide the Most Cost-effective Long-term Care for Maine Seniors

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Mary R. Cathcart
Senate Chair
S/Rep. Joseph C. Brannigan
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 400)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

April 15, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Education and Cultural Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1956 An Act To Establish a School Leadership District for East Millinocket, Medway and Millinocket

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Neria R. Douglass
Senate Chair
S/Rep. Glenn Cummings
House Chair

READ and ORDERED PLACED ON FILE.

ENACTORS

Emergency Measure

An Act To Appropriate Funds to the Maine Potato Board for the Purchase of Potatoes in Need of Disposal Due to Weather Conditions during the Harvest in 2003

(S.P. 771) (L.D. 1937)

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. 121 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH.**

Resolves

Resolve, To Renew the Veterans' Emergency Assistance Program

(S.P. 350) (L.D. 1021)

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

SENATE PAPERS

Non-Concurrent Matter

An Act To Require Law Enforcement Agencies To Adopt Policies Concerning Recording and Preservation of Interviews (MANDATE)

(S.P. 286) (L.D. 891)
(H. "B" H-940 to C. "A" S-405)

FAILED of PASSAGE TO BE ENACTED in the House on April 16, 2004.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-405) AS AMENDED BY HOUSE AMENDMENT "A" (H-880)** thereto in **NON-CONCURRENCE.**

On motion of Representative BLANCHETTE of Bangor, the House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

ENACTORS
Emergency Measure

An Act To Conform the Maine Tax Laws for 2003 to the United States Internal Revenue Code

(H.P. 1229) (L.D. 1651)
(C. "B" H-757)

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

On motion of Representative LEMOINE of Old Orchard Beach, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENACTED**.

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

SENATE PAPERS

The following Joint Order: (S.P. 803)

ORDERED, the House concurring, that, pursuant to its authority under the Constitution of Maine, Article IV, Part 3, Section 18, the Legislature hereby orders a special election to be held at the statewide election in June 2004 for the purpose of submitting to the electors Initiated Bill 4, L.D. 1893, Bill, "An Act To Impose Limits on Real and Personal Property Taxes"; and be it further

ORDERED, that notice of this order be forwarded forthwith to the Secretary of State.

Came from the Senate, **READ** and **PASSED**.

READ.

Representative BRUNO of Raymond **REQUESTED** a roll call on **PASSAGE**.

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

On motion of Representative LEMOINE of Old Orchard Beach, **TABLED** pending **PASSAGE** and later today assigned. (Roll Call Ordered)

COMMUNICATIONS

The Following Communication: (H.C. 401)

STATE OF MAINE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON TAXATION

April 16, 2004

Honorable Beverly C. Daggett, President of the Senate

Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

State House

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1893 An Act To Impose Limits on Real and Personal Property Taxes

We have also notified the sponsors and cosponsors of the Committee's action.

Sincerely,

S/Sen. Stephen Stanley

Senate Chair

S/Rep. David G. Lemoine

House Chair

READ and **ORDERED PLACED ON FILE.**

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-409)** on Bill "An Act To Encourage Cost Savings by State Employees"

(S.P. 618) (L.D. 1686)

Signed:

Senators:

ROTUNDO of Androscoggin

LAFOUNTAIN of York

Representatives:

McLAUGHLIN of Cape Elizabeth

KETTERER of Madison

BARSTOW of Gorham

SUSLOVIC of Portland

SUKEFORTH of Union

BUNKER of Kossuth Township

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-410)** on same Bill.

Signed:

Senator:

GILMAN of Cumberland

Representatives:

PEAVEY-HASKELL of Greenbush

CROSTHWAITE of Ellsworth

STONE of Berwick

BOWEN of Rockport

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-409).**

READ.

On motion of Representative McLAUGHLIN of Cape Elizabeth, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE. Committee Amendment "A" (S-409)** was **READ** by the Clerk.

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

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. In looking at the text of this bill under the section that says reductions in service, it says that an award may not be approved by the board for a suggestion that generates savings through the reduction of services unless it is an identified duplication of services. What about unnecessary services? It obviously says that we could not make an award for somebody that made a suggestion that we do away with an unnecessary service. In the summary it says that this legislation is modeled on a law that was repealed in 1995. I would like permission to ask a question through the chair to anyone who could answer.

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

Representative **CLOUGH**: Thank you Mr. Speaker. What were the conditions that prompted the repeal of a similar program in 1995?

Representative CLOUGH of Scarborough **REQUESTED** a roll call on the motion to **ADOPT Committee Amendment "A" (S-409)**.

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 Scarborough, Representative Clough.

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. I would ask that you vote against this.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Adoption of Committee Amendment "A" (S-309). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 486

YEA - Adams, Barstow, Beaudette, Bennett, Blanchette, Bliss, Brannigan, Bull, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Jennings, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, 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, Sukeforth, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Bowen, Bowles, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Fletcher, Glynn, Goodwin, Greeley, Heidrich, Honey, Jacobsen, Jodrey, Lewin, Maietta, McCormick, McKenney, McNeil, Millett, Mills S, Moore, Murphy, Nutting, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Snowe-Mello, Stone, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell.

ABSENT - Ash, Berube, Bierman, Breault, Brown R, Bunker, Churchill E, Duprey B, Hotham, Joy, Kaelin, Kane, Landry, Ledwin, McGlocklin, McGowan, Muse, O'Brien J, Peavey-Haskell, Piotti, Shields, Vaughan, Young.

Yes, 76; No, 52; Absent, 23; Excused, 0.

76 having voted in the affirmative and 52 voted in the negative, with 23 being absent, and accordingly **Committee Amendment "A" (S-409)** 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 SAMPSON of Auburn **PRESENTED House Amendment "A" (H-765)**, which was **READ** by the Clerk.

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

Representative **SAMPSON**: Mr. Speaker, Ladies and Gentlemen of the House. Tonight I do rise with a little trepidation. This is my maiden voyage. In these two sessions I have been in the chamber I have adhered to the adage that it is best to remain quiet unless one can improve upon the silence. Tonight I hope to do just that.

While I believe this is a good bill, one that will encourage, in fact, reward state workers that come forth with ideas and suggestions for best practices that could save the State of Maine

money, I don't believe the bill is complete. Currently there is no protection for State of Maine employees that do come forth with ideas or suggestions in best practices or cost savings. In fact, there are employees who have faced discrimination or termination because they have come forward with suggestions that put a supervisor in bad light. It would be unfair to offer the carrot of financial awards to employees and then to allow them to be targeted for discrimination. This amendment is my attempt to provide a shield of safety for those employees who acting in good faith bring forth ideas that could improve the way we do business in Maine. I thank you for your indulgence and ask that you approve this amendment.

House Amendment "A" (H-765) was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-409) and House Amendment "A" (H-765) in NON-CONCURRENCE** and sent for concurrence. **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 Correct Errors and Inconsistencies in the Laws of Maine" (EMERGENCY)

(H.P. 1418) (L.D. 1916)

TABLED - April 14, 2004 by Representative DUPLESSIE of Westbrook.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-907)**.

Representative NORBERT of Portland **PRESENTED House Amendment "A" (H-923) to Committee Amendment "A" (H-907)**, which was **READ** by the Clerk.

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

Representative **NORBERT**: Mr. Speaker, Ladies and Gentlemen of the House. This is the errors bill, the final installment of it. Before we continued I just wanted to express my gratitude to the terrific members of the Judiciary Committee who probably unbeknownst to many of you have worked countless hours on this after many of us have gone home. The committee regularly got together and did the very hard work of going over the very fine points of various bills that have become laws that conflict with other previously enacted laws, bills that had infirmities, whether they be grammatical or structural. I can tell you that it is a unanimous bill. I am very proud of that. The committee all along, the two years of this Legislature, has acted with great servility. Those of you who have been before the committee know that it is a committee that just rolls up its sleeves and tries to do the very best work, regardless of partisan implications. I am very proud of the work and I just want to thank the terrific members of the committee for all their hard work on this. I suggest to this body that a great deal of gratitude is owed to these other members and if you do see them, then congratulate them on their good work. Thank you Mr. Speaker.

House Amendment "A" (H-923) to Committee Amendment "A" (H-907) was ADOPTED.

The same Representative **PRESENTED House Amendment "B" (H-946) to Committee Amendment "A" (H-907)**, which was **READ** by the Clerk and **ADOPTED**.

The same Representative **PRESENTED** House Amendment "C" (H-947) to Committee Amendment "A" (H-907), which was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (H-907) as Amended by House Amendments "A" (H-923), "B" (H-946) and "C" (H-947) thereto was **ADOPTED**.

On motion of Representative NORBERT of Portland, the House **RECONSIDERED** its action whereby Committee Amendment "A" (H-907) as Amended by House Amendments "A" (H-923), "B" (H-946) and "C" (H-947) thereto was **ADOPTED**.

On further motion of the same Representative, Joint Rule 311 was **SUSPENDED** for the purpose of offering amendments.

The same Representative **PRESENTED** House Amendment "D" (H-950) to Committee Amendment "A" (H-907), which was **READ** by the Clerk and **ADOPTED**.

The same Representative **PRESENTED** House Amendment "E" (H-952) to Committee Amendment "A" (H-907), which was **READ** by the Clerk and **ADOPTED**.

The same Representative **PRESENTED** House Amendment "F" (H-953) to Committee Amendment "A" (H-907), which was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (H-907) as Amended by House Amendments "A" (H-923), "B" (H-946), "C" (H-947), "D" (H-950), "E" (H-952) and "F" (H-953) thereto was **ADOPTED**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED** as Amended by Committee Amendment "A" (H-907) as Amended by House Amendments "A" (H-923), "B" (H-946), "C" (H-947), "D" (H-950), "E" (H-952) and "F" (H-953) thereto and sent for concurrence. **ORDERED SENT FORTHWITH**.

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

BILLS IN THE SECOND READING
House

Bill "An Act To Ensure the Economic Viability of the Harness Racing Industry"

(H.P. 472) (L.D. 642)

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

On motion of Representative DUPREY of Medway, was **SET ASIDE**.

The same Representative moved that the House **RECONSIDER** its action whereby the motion to **ADOPT** Committee Amendment "A" (H-906) as Amended by House Amendment "A" (H-912) thereto **FAILED**.

Representative GLYNN of South Portland **REQUESTED** a roll call on the motion to **RECONSIDER** whereby the motion to **ADOPT** Committee Amendment "A" (H-906) as Amended by House Amendment "A" (H-912) thereto **FAILED**.

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 South Portland, Representative Glynn.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to point out that it is 11 o'clock at night and what we are contemplating is the reconsideration of an amendment that failed the House continuing the debate, which is going to be a very lengthy debate on this issue of high-stakes

Indian bingo being relocated off from tribal land. I would like to appeal to the body on its sense of business that we have to attain going over the these items over and over again isn't going to get us very far. This is going to be a very long debate. Please join with me in opposing this and let's move onto the business at hand.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. We are back here again. We have asked to compromise with different people and that failed to work. All we are asking to do is have the Passamaquoddy, about 5 hours ago, to come off sovereign land, which is federally recognized land at Indian Township and also Pleasant Point. It is 45 miles, which will bring it to either Calais or Machias. Those municipalities will have the right to approve it. It is local control. If they do not approve of it, then those people will not be able to operate high-stakes beano in that facility in that town and in that municipality. It is the right of local control, which this chamber talks about day in and day out. I ask you to support the pending motion.

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

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House. This is more than just a bill about the Passamaquoddy being able to do this. This is also a bill about the ability for a town like Calais to work with the Passamaquoddy to do something that may help both. We are living in a depressed area. We are looking for those things that we can do to help the people in our area, both the Passamaquoddy and the Washington County people begin to be able to have jobs. We have an unemployment rate of 15. The state is 4. We are a few times over what the state's unemployment rate is. It has been chronic. We are looking for ways to find and bring business and tourism in. We are asking that you look at our area and you allow us to make the decision as to whether we can work together with our neighbors so that both of us may benefit. I would like to ask that you vote for reconsideration so that we can at least have the opportunity to try to do something together so that we can work within our area to improve our life. Thank you.

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

Representative **MILLS**: Mr. Speaker, Men and Women of the House. It seems that for the last three and a half months about all that this institution has done is dodge lobbyists on gambling issues from one end of the hall to the other. I, for one, am sick and tired of it. I would like to stop this. I would like to vote against reconsideration and start closing down this interminable discussion about the expansion of gambling in this state. The people have told us repeatedly they don't want this. I don't understand why we in this Legislature persist in punishing ourselves with this interminable discussion. I want to go home at some point. We have serious issues facing this state and high-stakes beano and expanding of casinos and messing around with the gambling industry is not one of the things that we ought to be occupying our time with. I am done with it.

The **SPEAKER PRO TEM**: A roll call has been ordered. The pending question before the House is to Reconsider whereby the motion to Adopt Committee Amendment "A" (H-906) as amended by House Amendment "A" (H-912) thereto failed. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 487

YEA - Barstow, Bennett, Bowles, Brannigan, Bruno, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Hatch, Hutton, Jackson,

Jennings, Ketterer, Koffman, Lundeen, Marley, Moody, Norbert, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Pingree, Richardson J, Saviello, Sherman, Simpson, Smith N, Smith W, Suslovic, Tardy, Thomas, Thompson, Usher, Walcott, Watson, Wheeler, Wotton, Mr. Speaker.

NAY - Adams, Andrews, Annis, Austin, Beaudette, Berry, Bierman, Blanchette, Bliss, Bowen, Browne W, Bryant-Deschenes, Campbell, Carr, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dudley, Finch, Fletcher, Glynn, Greeley, Grose, Heidrich, Honey, Jacobsen, Jodrey, Lemoine, Lerman, Lessard, Lewin, Maietta, Mailhot, Makas, Marraché, McCormick, McGowan, McKee, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moore, Murphy, Muse, Norton, Nutting, O'Brien L, Perry J, Pineau, Rector, Richardson E, Richardson M, Rines, Rogers, Rosen, Sampson, Snowe-Mello, Stone, Sukeforth, Sullivan, Sykes, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Woodbury.

ABSENT - Ash, Berube, Breault, Brown R, Churchill E, Duprey B, Hotham, Joy, Kaelin, Kane, Landry, Ledwin, McGlocklin, O'Brien J, Peavey-Haskell, Piotti, Shields, Vaughan, Young.

Yes, 56; No, 76; Absent, 19; Excused, 0.

56 having voted in the affirmative and 76 voted in the negative, with 19 being absent, and accordingly the motion to **RECONSIDER** whereby the motion to **ADOPT Committee Amendment "A" (H-906) as Amended by House Amendment "A" (H-912)** thereto **FAILED, FAILED.**

Representative GLYNN of South Portland moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED.**

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

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

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

Representative **GLYNN:** Mr. Speaker, Ladies and Gentlemen of the House. We are at a very precarious position with this bill. I refer you to the original bill document, LD 642, "An Act to Insure the Economic Viability of the Harness Racing Industry". This is a very dangerous bill and I would like to go over briefly what this bill does. This bill relates very, very remotely almost not at all to the amendments that we have been debating today. What this bill allows is it allows for slot machine like devices to be installed at the commercial racetracks that are currently in Maine, which would be Scarborough Downs, which was rejected by the voters and at the Bangor site. What these slot machine like devices are is they will take and they will replay simulcast and live harness racing on these Para mutual pool devices and folks will bet on them.

What you will do is you will walk up to this machine and you will pull the handle or you will press the button and you bet on the horse races and it will operate much like betting in a regular traditional slot machine. It is very much like that. This bill provides for absolutely no minimum amount of payback. There is 70 percent or 80 percent or 10 percent, we don't know. It is not in the bill. Additionally this sets a brand new round of gambling initiatives in the State of Maine, which includes for the first time for for-profit institutions, the race tracks at Scarborough Downs and the race track in Bangor will be running high-stakes bingo games in direct competition with the non-profits and in direct competition with the Indian nation. Additionally, this bill provides for Lucky 7 tickets to be sold in direct competition at these events. This represents a massive expansion in gambling with absolutely none of the control measures that we find in 1820. In

fact, it places that the rules will be set by the Harness Racing Commission to oversee these slot machine like devices. This is a bad idea for Maine. It is something that has been soundly rejected by the voters in Scarborough as well as other communities in southern Maine. It puts at risk all of our other achievements in gambling to keep that environment controlled with protections for consumers. I urge you to join me in Indefinitely Postponing this bill.

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

Representative **CLARK:** Mr. Speaker, Ladies and Gentlemen of the House. The Lucky 7 tickets that the good Representative from South Portland, Representative Glynn, mentioned in his debate, we already have them in beano halls. That is why we used this bill as a vehicle. We don't like anything else in this bill, that is why we used it as a vehicle. I move Indefinite Postponement and I will be voting for it. Thank you.

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

Representative **MURPHY:** Mr. Speaker, Men and Women of the House. I really thought as an old dog that I knew and heard about all the possible tricks that could be played. It has been a real education. I would hope that those of you who are coming back could pull out the LD 642, because you are going to have to be vigilant in the future. I think when you let the gaming interests under this dome, you will be amazed at the tricks they will use, the language they will use and how they will try to get around your judgment and your values.

As the good Representative from South Portland said, and I have spent most of the afternoon saying you have to be kidding, are you for sure, are you sure you aren't trying to get me up on the floor to make a fool out of myself more than I usually do? Just to repeat in Section 1 and Section 3, they have filmed horse races in a machine. Instead of having numbers or a symbol, the horses become the slot machine. You bet on the slot machine, except they are horses. It is so obscene that you can be at home and call in and bet on the slot machine. When you read that language, it sounds like horses. We are all for horses and we are all for the industry, but they found a slick way of not calling a slot a slot. You look at Section 2, Section 1, it goes along and talks about language. It doesn't say Scarborough Downs, but that is the only one in the State of Maine that has more than 100 days. I would urge you, for those of you who are coming back to the next Legislature, when they get under the dome and the high-powered lobbyists get in here and they start to sing their song, it is not going to be in easy to read language. You have to be vigilant and keep those people out.

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

ROLL CALL NO. 488

YEA - Adams, Andrews, Annis, Austin, Barstow, Beaudette, Berry, Bliss, Bowen, Bryant-Deschenes, Bull, Bunker, Campbell, Canavan, Carr, Clough, Collins, Courtney, Cowger, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dudley, Duprey G, Earle, Eder, Finch, Fischer, Fletcher, Gagne-Friel, Glynn, Greeley, Heidrich, Honey, Hutton, Jackson, Jacobsen, Jodrey, Ketterer, Koffman, Lemoine, Lerman, Lewin, Maietta, Mailhot, Marley, Marraché, McCormick, McKee, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Murphy, Muse, Norbert, Nutting, Percy, Perry A, Pingree, Rector, Richardson E, Richardson M, Rogers, Rosen, Sampson, Sherman, Simpson, Smith W, Snowe-Mello, Stone, Suslovic,

Sykes, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Worney, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Bennett, Bierman, Blanchette, Bowles, Brannigan, Browne W, Bruno, Churchill J, Clark, Craven, Dugay, Dunlap, Duplessie, Faircloth, Gerzofsky, Grose, Hatch, Jennings, Lessard, Lundeen, Makas, McGowan, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Perry J, Pineau, Richardson J, Rines, Saviello, Smith N, Sukeforth, Sullivan, Tardy, Usher, Walcott, Watson.

ABSENT - Ash, Berube, Breault, Brown R, Churchill E, Duprey B, Goodwin, Hotham, Joy, Kaelin, Kane, Landry, Ledwin, McGlocklin, O'Brien J, Peavey-Haskell, Piotti, Shields, Vaughan, Young.

Yes, 91; No, 40; Absent, 20; Excused, 0.

91 having voted in the affirmative and 40 voted in the negative, with 20 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

ENACTORS Acts

An Act To Require Law Enforcement Agencies To Adopt Policies Concerning Recording and Preservation of Interviews

(S.P. 286) (L.D. 891)
(H. "A" H-880 to C. "A" S-405)

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

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

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

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

The SPEAKER: The Representative may pose his question.

Representative BRUNO: Mr. Speaker, Ladies and Gentlemen of the House. This was a mandate not too long ago. I see it coming through under enactors without the mandate label. Am I missing something?

The SPEAKER: The Representative from Raymond, Representative Bruno has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bangor, Representative Blanchette.

Representative BLANCHETTE: Mr. Speaker, Ladies and Gentlemen of the House. To answer the good Representative Bruno's question, the mandate was stripped off down in the Senate. It will go to the Appropriations Table to be dissolved or to be approved.

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

Representative BRUNO: Mr. Speaker, Men and Women of the House. Now I am assuming that we strip the mandate off and it goes back to the original posture of the bill, which Representative Carr of Lincoln said was not a good bill. Am I wrong here? I will throw that question out to Representative Carr. You had some concerns about the original bill. Supposedly the amendment fixed it and now that amendment is off the bill. Where are we?

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative CARR: Mr. Speaker, Ladies and Gentlemen of the House. I would like to defer that to the Representative from Farmington, Representative Mills. I believe she is more familiar with that. We just had a conversation and I would rather let her explain it.

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

Representative MILLS: Mr. Speaker, Ladies and Gentlemen of the House. It is my understanding that the mandate was stripped in the Senate sometime earlier this evening. It comes back to us for enactment as a regular piece of legislation, not with a mandate. If upon enactment it ends up on the Appropriations Table with an undetermined amount of money on it, it is the same bill that was amended with my amendment (H-880) on Monday of this week, which changed the bill substantially so that it no longer requires certain kinds of interrogations to be video taped or audiotaped in certain situations. Rather, still, it requires that a policy be developed with the assistance of the Maine Criminal Justice Academy and adopted by the various departments as they see it. That is where it stands. It is still substantively the bill that we passed and amended on Monday, but without the mandate preamble that I put on earlier today and failed of enactment with a mandate. It is a good bill.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative McKenney.

Representative MCKENNEY: Mr. Speaker, Ladies and Gentlemen of the House. Are we sure after all that, I didn't digest everything you said, that the bill is in concurrence.

The SPEAKER: The Chair would answer in the affirmative, yes.

The Chair recognizes the Representative from Windham, Representative Tobin.

Representative TOBIN: Mr. Speaker, Ladies and Gentlemen of the House. I guess maybe it is because of my age, maybe it is because of the night, it was my understanding that that mandate was put on because there was a charge to the local municipalities to adopt this. I don't see how anything that the Legislature can change that it is going to cost the municipalities some money and that is a mandate as far as I know. It is late and my brain isn't working too well.

The SPEAKER: The Chair would answer that the fiscal information is the information that was provided to this House by the Office of Fiscal and Program Review and the Engrossing Division as well.

Representative CHURCHILL of Washburn **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 Farmington, Representative Mills.

Representative MILLS: Mr. Speaker, Ladies and Gentlemen of the House. Maybe I should explain. I had a conversation earlier this evening with the Office of Fiscal and Program Review. It is a mandate in a sense because it requires somebody to do something. It doesn't require them to spend any money. That is the sort of conceptual difficulty with those mandate issues. It might require somebody's time at the local, municipal or county level, it has fiscal implications. Therefore, it ends up on the Appropriations Table. We are not asking the towns or counties to spend any money. We are simply asking them to adopt a policy with the assistance of the Criminal Justice Academy, just like we are asking them to adopt a policy on domestic violence, high-speed pursuit, death investigations and so many different things that affect law enforcement duties.

It is technically a mandate, but it doesn't have a mandate preamble because it is ending up on the Appropriations Table. I am not explaining this very well, but this is what the Office of Fiscal and Program Review suggested happen as a result of several other earlier votes on this bill today.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the information that was provided by Representative Mills, but earlier tonight I asked a question about whether this was necessary. If we didn't pass a law, could we still develop a policy at the Criminal Justice Academy could we still pass it along? I understand the answer was yes. Representative Mills just mentioned about high-speed pursuits and domestic violence and other things that are currently policy. I don't remember any laws on those either. I still think there is a general premise of whether Augusta needs to tell people to do this and somehow because this thing was born as bill, it needs to stay alive as a bill. I think it just violates the basic premise to not pass any laws that you don't need. For that reason, I would encourage other members to vote against the pending motion and just have one less piece of paper to process any more than we are and to tell our towns to do something that they don't need to be told. They can participate willingly without a law.

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. 489

YEA - Adams, Andrews, Barstow, Beaudette, Blanchette, Bliss, Bowles, Brannigan, Bull, Canavan, Courtney, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gerzofsky, Glynn, Goodwin, Grose, Hatch, Hutton, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Maietta, Mailhot, Makas, Marley, Marraché, McGowan, McKee, McLaughlin, Mills J, Mills S, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Richardson J, Sampson, Saviello, Sherman, Simpson, Smith N, Smith W, Sukeforth, Sullivan, Suslovic, Tardy, Thomas, Thompson, Trahan, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Bennett, Berry, Bierman, Bowen, Browne W, Bruno, Bryant-Deschenes, Bunker, Campbell, Carr, Churchill J, Clough, Collins, Cressey, Crosthwaite, Curley, Daigle, Davis, Dugay, Fletcher, Gagne-Friel, Greeley, Heidrich, Honey, Jacobsen, Jodrey, Lewin, McCormick, McKenney, McNeil, Millett, Moore, Murphy, Muse, Nutting, Rector, Richardson E, Rogers, Rosen, Snowe-Mello, Stone, Sykes, Tobin D, Tobin J, Treadwell, Wotton.

ABSENT - Ash, Berube, Breault, Brown R, Churchill E, Clark, Duprey B, Hotham, Jackson, Jennings, Joy, Kaelin, Kane, Landry, Ledwin, McGlocklin, O'Brien J, Peavey-Haskell, Piotti, Richardson M, Rines, Shields, Vaughan, Young.

Yes, 79; No, 48; Absent, 24; Excused, 0.

79 having voted in the affirmative and 48 voted in the negative, with 24 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

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

Joint Order To Require a Special Election on the Initiated Bill Pertaining to Tax Reform.

(S.P. 803)

Which was **TABLED** by Representative LEMOINE of Old Orchard Beach pending **PASSAGE**.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I have a question.

The SPEAKER: The Representative may pose his question.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I understand from reading this order that there is going to be a special election this June for the Carol Palesky referendum. However, I see no paper accompanying it for a competing measure. Am I to understand that this is to go out on the ballot without a competing measure?

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

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. The Tax Committee this afternoon took a look at the opinion we received from the Supreme Court Justices. We were finally able to have that in front of us. Having reviewed that, we voted out a simple Ought Not to Pass on the bill. It should be up here on our desks at some point if it is not here now. The recommendation from the Taxation Committee is a simple Ought Not to Pass.

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

Representative **COURTNEY**: Mr. Speaker, Ladies and Gentlemen of the House. I guess we will help our colleagues out tonight and go past 12 o'clock. This order requests that we have this vote in June. Some of us have a little problem with that. The problem is that the people who signed the petition thought that it was going to be in November. It is on the petition that it was in November. I think we owe it to the people to give them the opportunity to vote on what they signed for. I would ask that you vote against this. Thank you.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. If I was to understand the answer correctly from the good chair, there will not be a competing measure for the voters to consider with this. This is an item that I have been approached on by so many people in my district that they had asked that the Legislature work together in a bipartisan fashion and develop an alternative to the Palesky referendum and allow the voters to choose between our referendum and theirs and institute some real and meaningful tax relief. For those reasons, I cannot vote to put this out on the June ballot without a competing measure.

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

Representative **MILLS**: Mr. Speaker, Men and Women of the House. I think that if we do advance this to the June ballot it leaves it exposed to a lesser turnout in elections. I think that we need a broader cleveite on this issue, one that we will certainly have in a presidential election year as this is, on the November ballot. I think if we move it to June, it leaves us open to an argument that the supporters of this very poor initiative don't have

at present. They will argue that we in the Legislature without courage to do anything of our own, nevertheless had the hootspa to manipulate the outcome or the management of their petition. They have argued with some force in front of the Tax Committee that their petitions have all assumed with writing and signed with the understanding that it would be a broad based election opportunity. This would be presented in November and there would be a broad turnout one way or the other. I frankly think that our changes of defeating this bill are better when there is a broader turnout and a better opportunity to educate a broad spectrum of the electorate. I am concerned about what might happen in a June primary election. I don't want to give the supporters of this petition an argument that they don't have yet and that is that we, in the Legislature, have somehow tried to manipulate the referendum.

I realize there are arguments on both sides of this issue and frankly I respect the dialog that I have heard about it. I don't have strong views either way. I think I am balanced that we would be better off to leave this to go to the November ballot. Thank you.

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

Representative **WATSON**: Mr. Speaker, Ladies and Gentlemen of the House. Just a few moments ago there was an announcement made from the rostrum that negotiations and discussions on the tax reform and tax relief package are to continue for the next 10 days or so. It is in my hope, certainly, that that communication remains open. It occurs to me and I will not as a member sitting here usurp the authority and perhaps a better decision of either corner, but it seems to me that we are limiting our options by voting on this measure at this time.

If, in fact, those tax discussions result in an idea that would require or would be best presented to the people of Maine in June rather than November by voting tonight one way or the other, we are limiting one more option. It is my very respectful suggestion that corners consider, perhaps putting this off, leave it on the table until we come back here and we have a package in hand and a decision being made over the next 10 days as to whether or not it might be something that requires a competing measure or an amendment or whatever else might have to go out to the people. I just think it is presumptive of us at this stage of negotiations to limit our options. Thank you Mr. Speaker.

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

Representative **BRUNO**: Mr. Speaker, Ladies and Gentlemen of the House. I am very concerned about this referendum. First of all, the people who signed it, there were over 60,000 signatures on it and 50,000 were validated. When they signed it said November. I think it would be wrong for us to say to them what you signed didn't matter. It would be like us taking an initiated bill that passed in a referendum vote and completely changing it, kind of like casinos if that rings a bell.

My other concern is that we are putting too much faith in the courts decision and their reply to us as to what the bill does and how it is unconstitutional. It was a 4 to 3 vote by the court. Three members said it shouldn't even be to us yet because it hasn't passed. Four people took a position on the first question and said that you are probably right, that piece is probably unconstitutional. The second question said that because of the provision you can probably fix it and it is okay in other provisions. If we are going to bank everything on that decision that this will be defeated, I think we are fooling ourselves. I think if we hold a referendum in November, it gives us plenty of time to educate the public on this. People are still angry. I agree with the Representative from Bath, Representative Watson, that it may not be a bad decision right now to table this until we have those

discussions that the Speaker and the Majority Leader talked about and then determine when is the best time to send this out. Hopefully somebody from the other corner will stand up soon and table this motion.

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

Representative **COURTNEY**: Mr. Speaker, Ladies and Gentlemen of the House. I was trying to defer hoping that someone else on the other side of the aisle would take heed to the good Representative from Bath's suggestion that we table this. I would request that we table this and request a roll call.

The SPEAKER: The Representative is out of order since the Representative already debated this.

The House recessed until the Sound of the Bell.

After Midnight

(After Recess)

The House was called to order by the Speaker.

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

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. As I understand the dilemma that we are in is that some people do not want to see this in November. If I recall, and perhaps I am wrong, that the question was November 2003. Was that not the question that was asked of us? Since we are past that date, it really is a moot issue as to whether it should be June or November. If we fail today, then my thinking was that we take a tool, so to speak, out of the toolbox of not having the option to do it in June. As a result, that was weighing heavily on my mind that perhaps we should consider June, vote in June and then in 10 days when we come back, if that didn't seem to be the way to go after negotiations, then we could always move it to November. Unfortunately if we didn't vote tonight, we would lose that particular option. I am told, however, that we still have time if we wait 10 days and come back in, to have June or November as that time frame for purposes of that referendum question being asked. Therefore, and with some concern about not having the opportunity to explain what I am doing or why, I am laying that before you so you understand why at this point, Mr. Speaker, I would move to table.

The SPEAKER: The motion is out of order since the Representative spoke to the motion.

On motion of Representative DUNLAP of Old Town, **TABLED** pending **PASSAGE** and later today assigned.

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

SENATE PAPERS

The following Joint Order: (S.P. 810)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, April 27, 2004, at 10:00 in the morning.

Came from the Senate, **READ** and **PASSED**.

READ and **PASSED** in concurrence.

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

On motion of Representative MAIETTA of South Portland, the House adjourned at 12:13 a.m., until 10:00 a.m., Tuesday, April 27, 2004 pursuant to the Joint Order (S.P. 810) and in honor and lasting tribute to Archie Doyle, of South Portland.