

# MAINE STATE LEGISLATURE

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

**Volume I**

**First Regular Session**

December 1, 2004 - March 30, 2005

**First Special Session**

April 4, 2005 – May 25, 2005

Pages 1-736

February 20, 2009

Millicent M. MacFarland  
Clerk of the House  
2 State House Station  
Augusta, Maine 04333-0002

Dear Madame Clerk:

In the event that I have not already done so, I formally request that the official record of the 1<sup>st</sup> session of the 122<sup>nd</sup> Legislature be corrected. My request is not an addition or deletion, but merely a very small correction that is very big and extremely important in significance. In my very first speech before the legislature on a controversial human rights issue, the recorder wrote into the record "a legal" when I said, in fact, "illegal."

In the printed record for the 122<sup>nd</sup>, in volume I, page H-297, the error is in my fourth sentence as printed in the left column. It should read:

*"...we cannot eradicate that which is offensive to us, but we can make **ILLEGAL** discriminatory action, and you and I have a chance to do that this evening."*

Instead, the record states that I said "...we can make *a legal* discriminatory action, and we have a chance to do that this evening." That is not a small error. It is defamatory and anathema to me and what I stand for!

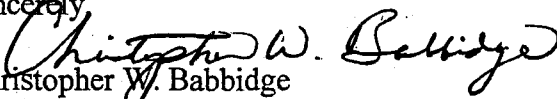
Unfortunately, I discovered this only after it was printed. I'm sure I brought this topic to the attention of your office at that time, but I'm following up so that for future reference, on any future printed or CD copies that may be requested, and for Law Library and State Library reference, this correction is added and is part of the record.

Thank you so much for what you do to correct the record. If the actual text cannot be changed, at least an addendum can be given to librarians to be added in the back with instructions for an asterisk to be put by the quotation on page H-297. I do understand how "illegal" could be heard from tape as "a legal," but the context of the speech makes that senseless and illogical, and more importantly to me, prejudicial.

This legislation made illegal dismissal from employment on grounds of sexual preference. Had two legislators voted differently, it would have been committed to committee and, for all intents and purposes, dead. I'm very proud of that first speech, but a clerical error misrepresents what I said in the official record. That error actually relates to the reader that I favored discrimination! Its inclusion in the record haunts me.

Thank you for attending to this.

Sincerely,

  
Christopher W. Babbidge

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
FIRST REGULAR SESSION  
29th Legislative Day  
Tuesday, March 29, 2005

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

Prayer by Reverend Bill Young, Gardiner Church of the Nazarene.

Pledge of Allegiance.

Doctor of the day, Tamara Todd, M.D., Portland.

The Journal of yesterday was read and approved.

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**SENATE PAPERS**

Resolve, To Prevent the Upstream Migration of Exotic Species past the Fish River Falls and into the Fish River Watershed

(S.P. 285) (L.D. 877)

Committee on **MARINE RESOURCES** suggested and ordered printed.

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

Resolve and accompanying papers **INDEFINITELY POSTPONED** in concurrence.

---

**Non-Concurrent Matter**

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2006 and June 30, 2007" (EMERGENCY)

(H.P. 534) (L.D. 739)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-72)** in the House on March 24, 2005.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-72) AS AMENDED BY SENATE AMENDMENT "A" (S-42)** thereto in **NON-CONCURRENCE**.

The House voted to **ADHERE**.

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**Non-Concurrent Matter**

Bill "An Act To Assist in the Investigation and Prosecution of Theft Offenses"

(H.P. 973) (L.D. 1409)

**REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** in the House on March 22, 2005.

Came from the Senate **REFERRED** to the Committee on **JUDICIARY** in **NON-CONCURRENCE**.

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

---

**Non-Concurrent Matter**

Joint Resolution Requesting Maine's Congressional Delegation To Submit Legislation To Secure The Consent Of Congress Regarding Greenhouse Gas Reductions

(H.P. 970)

**READ and ADOPTED** in the House on March 22, 2005.

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

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

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**COMMUNICATIONS**

The Following Communication: (S.P. 514)  
**122ND MAINE LEGISLATURE**  
**AUGUSTA, ME 04333**

March 24, 2005

Sen. Nancy B. Sullivan

Senate Chair, Joint Standing Committee on Insurance and Financial Services

Rep. Anne C. Perry

House Chair, Joint Standing Committee on Insurance and Financial Services

122nd Legislature

Augusta, ME 04333

Dear Senator Sullivan and Representative Perry:

Please be advised that Governor John E. Baldacci has nominated Lloyd P. LaFountain III of Biddeford for appointment as the Superintendent of the Bureau of Financial Services.

Pursuant to Title 9-B M.R.S.A. §211, this nomination will require review by the Joint Standing Committee on Insurance and Financial Services.

Sincerely,

S/Beth Edmonds

President of the Senate

S/John Richardson

Speaker of the House

Came from the Senate, **READ and REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES**.

**READ and REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** in concurrence.

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The Following Communication: (S.C. 124)

**MAINE SENATE**  
**122ND LEGISLATURE**  
**OFFICE OF THE SECRETARY**

May 27, 2005

Honorable Millicent M. MacFarland

Clerk of the House

State House Station 2

Augusta, ME 04333

Dear Clerk MacFarland:

Please be advised the Senate today Insisted and Joined in a Committee of Conference on the disagreeing action of the two branches of the legislature on Resolve, To Require That the Department of Transportation Install a Traffic Light in West Enfield

(HP 164 LD 213)

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

Senator Damon of Hancock County

Senator Diamond of Cumberland County

Senator Savage of Knox County

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

**READ and ORDERED PLACED ON FILE**.

**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

Bill "An Act To Amend the Economic Development Statutes"  
(H.P. 1055) (L.D. 1503)

Sponsored by Representative BERUBE of Lisbon.  
Cosponsored by Senator DOW of Lincoln and Representatives: AUSTIN of Gray, BEAUDETTE of Biddeford, CROSBY of Topsham, RECTOR of Thomaston, ROSEN of Bucksport, SMITH of Monmouth, Senator: ROSEN of Hancock.  
Submitted by the Department of Economic and Community Development pursuant to Joint Rule 204.

Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** suggested and ordered printed.

**REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

Sent for concurrence.

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**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

The following members of the Hampden Academy Mock Trial Team, who won the 2004 State High School Mock Trial Competitions: Lauren Hartz, John White, Jennifer Swalec, Amy Dumont, Morgan Silva, Scott Simpson, Katie Lawler, Caroline Samp, Becca Workman, Sam Dow, Peter Herrick, Paige Clifton, Lauren Sturdivant, Stefanie Veneziano, Sophie Kelmenson, Lauren Swalec, Sam Wood, Kaylie Reese, Zach Boyd, Kristina King, Logan Deane, Jessi Hackett and Rachel Lawler; coaches William Devoe and James McCarthy and faculty advisor Kathryn King. The team continues its display of superior performance and understanding of courtroom procedures, as this was their fourth triumph in the last 5 years. We extend our congratulations and best wishes to the team's 23 members as they go on to represent Maine at the National Mock Trial Competitions in May in Charlotte, North Carolina;

(HLS 429)

Presented by Representative DUPREY of Hampden.  
Cosponsored by Senator PLOWMAN of Penobscot, Representative KAELIN of Winterport, Senator WESTON of Waldo.

On **OBJECTION** of Representative DUPREY of Hampden, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The **SPEAKER**: The Chair recognizes the Representative from Hamden, Representative Duprey.

Representative **DUPREY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It is with great pride and pleasure today that I introduce the Hamden Mock Trial Team. When the Patriots won the Super Bowl three out of four years, we said they had a dynasty. Well our mock trial team has one four out of the last five years. We have created a dynasty in Maine of future attorneys that are going to represent the good citizens of the State of Maine. My congratulations to the mock trial team. They are in the gallery. Good job and I'm sorry to the other teams that did not win.

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

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**Recognizing:**

the following members of the Hampden Academy Boys Basketball Team, who won the 2005 Class A State Championship: Nate Aurelio, Jordan Cook, Brad Evans, Evan

Farley, Sam Hodgdon, Daniel McCue, Josh McNutt, Blaine Meehan, Pat Moran, Tyler Ross, Max Silver and J Uhrin and coach Russ Bartlett. This is the team's first state title. We extend our congratulations to the team and extend our best wishes to them for future successes;

(HLS 431)

Presented by Representative KAELIN of Winterport.

Cosponsored by Representative DUPREY of Hampden, Senator WESTON of Waldo, Senator PLOWMAN of Penobscot.

On **OBJECTION** of Representative KAELIN of Winterport, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

Representative **KAELIN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I appreciate your indulging me this morning just to take a moment to congratulate the Hamden Broncos, the Class A State Champions. Here they are from the newspaper. We are very proud of them. This is the first time they have won a state basketball championship. Some of these boys I have known since they were babies. I was a hockey coach myself. My kids and I played hockey. The only thing about basketball is that I can't understand why they don't wear skates, and the other piece of it is the defense. These kids won – they were seated ninth in this tournament – and they won the tournament based on their defensive skills. I would like to think I had something to do with that with a couple of the boys because I used to teach them hockey defense under the basket when you can actually knock the guy down.

They didn't draw a lot of penalties but the other side did. It was a fantastic Class A Championship game, more important perhaps than the athletic prowess that they exhibited at the last Class A Basketball Championship game at Bangor Auditorium. There was an article in the paper this week about how athletic director Dave Shapiro talked about the trip that they took to the elementary schools in Winterport, Hamden and Newburgh to talk with the young kids about the importance of scholarship, teamwork and goal setting and I think that that really has been the focus of these kids and its great that they have been able to win the basketball championship too. I give them my hearty congratulations and thank you for the time to speak on their behalf this morning.

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

Representative **TARDY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I too would like to rise and congratulate the Hamden Broncos. As a coach at Nokomis for the past eight years I have sat on many sidelines watching the friendly rival of a fellow big east opponent. I was on the sidelines two unfortunate nights this year as we dealt with Hampden. I can tell you that they may have been a ninth seed in stats but they were no ninth seed. I'm very proud of my good friend Coach Bartlett and congratulations to the Hampden Broncos.

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

**REPORTS OF COMMITTEE  
Divided Report**

Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-24)** on Bill "An Act To Prohibit Certain Uses of a Financial Institution's Name" (S.P. 151) (L.D. 464)

Signed:

Senators:

SULLIVAN of York  
MAYO of Sagadahoc

Representatives:

PERRY of Calais  
McKANE of Newcastle  
BRAUTIGAM of Falmouth  
LINDELL of Frankfort  
PILON of Saco  
VAUGHAN of Durham  
GLYNN of South Portland  
RICHARDSON of Warren  
MARRACHÉ of Waterville  
HARLOW of Portland

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

Signed:

Senator:

MILLS of Somerset

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-24)**.  
**READ.**

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-24)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** March 30, 2005.

**CONSENT CALENDAR  
First Day**

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

(S.P. 132) (L.D. 408) Bill "An Act Limiting Recovery of Disability Benefits Subject to Offsets" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-23)**

(S.P. 133) (L.D. 409) Bill "An Act To Clarify the Superintendent of Insurance's Authority To Assess Civil Penalties" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-22)**

(H.P. 318) (L.D. 433) Bill "An Act To Allow the Department of Conservation To Create Dedicated Accounts for Sales of Merchandise and Acceptance of Donations" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-81)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

**House as Amended**

Bill "An Act To Amend the Law Regarding Resale Certificates"

(H.P. 120) (L.D. 169)  
(C. "A" H-78)

Bill "An Act To Exempt the United States Flag from State Taxation"

(H.P. 266) (L.D. 353)  
(C. "A" H-77)

Bill "An Act To Alter Trade-in Allowances Regarding Motor Homes"

(H.P. 426) (L.D. 593)  
(C. "A" H-75)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the House Papers were **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

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

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

**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.

Joint Order, Authorizing the Joint Standing Committee on Natural Resources To Report Out a Bill relative to laws governing growth management

(H.P. 1040)

TABLED - March 24, 2005 (Till Later Today) by Representative DUPLESSIE of Westbrook.

PENDING - **PASSAGE**.

Subsequently, this Joint Order was **PASSED** and sent for concurrence.

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

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Expression of Legislative Sentiment in Memory of Edward R. DiBiase, Portland

(HLS 369)

TABLED - March 24, 2005 (Till Later Today) by Representative CUMMINGS of Portland.

PENDING - **ADOPTION**.

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

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**BILLS IN THE SECOND READING**

**CONSENT CALENDAR  
First Day**

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

(S.P. 242) (L.D. 744) Bill "An Act To Make Technical Changes to the Laws Establishing the Lincoln and Sagadahoc Multicounty Jail Authority" (EMERGENCY) Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-31)**

(H.P. 398) (L.D. 522) Bill "An Act To Provide the Same Exemption from Jury Duty to Veterinarians as Granted to Medical Doctors" Committee on **JUDICIARY** reporting **Ought to Pass**

(H.P. 695) (L.D. 985) Bill "An Act To Amend Appellate Review Jurisdiction of the Superior Court" Committee on **JUDICIARY** reporting **Ought to Pass**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

**REPORTS OF COMMITTEE  
Divided Report**

Majority Report of the Committee on **MARINE RESOURCES** reporting **Ought to Pass** on Bill "An Act To Provide Public Health Protection Authority to the Department of Marine Resources"

(S.P. 228) (L.D. 691)

Signed:

Senators:

SULLIVAN of York  
ANDREWS of York  
DAMON of Hancock

Representatives:

DUGAY of Cherryfield  
PERCY of Phippsburg  
ASH of Belfast  
EDER of Portland  
KAELIN of Winterport  
ADAMS of Portland

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

Signed:

Representatives:

FLETCHER of Winslow  
EMERY of Cutler  
SEAVEY of Kennebunkport  
CRESSEY of Cornish

Came from the Senate with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-45)**.

**READ.**

Representative PERRY of Calais moved that the House **ACCEPT** the Majority **Ought to Pass** Report.

Representative TARDY of Newport **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass** Report.

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

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

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

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

Representative **CLARK**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Will somebody from the committee please explain to me what this bill does do?

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

Representative **PERCY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This bill is about artificial bait and it's about allowing the Commissioner and the Department of Marine Resources to work with the Department of Public Health in regards to this issue.

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

**ROLL CALL NO. 37**

**YEA** - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jennings, Kaelin, Koffman, Lerman, Lundeen, Makas, Marley, Mazurek, McKenney, Merrill, Miller, Moody, Nass, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Rosen, Sampson, Saviello, Shields, Smith N, Smith W, Tardy, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

**NAY** - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Davis G, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Jacobsen, Jodrey, Joy, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McLeod, Millett, Moore G, Moulton, Muse, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Seavey, Sherman, Stedman, Sykes, Thomas, Trahan, Vaughan.

**ABSENT** - Blanchette, Daigle, Marraché, Mills, Schatz.

Yes, 82; No, 64; Absent, 5; Excused, 0.

82 having voted in the affirmative and 64 voted in the negative, with 5 being absent, and accordingly the Majority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE** and was assigned for **SECOND READING** Wednesday, March 30, 2005.

**SENATE PAPERS**

Bill "An Act To Amend the Statutes Relating to Juveniles"

(S.P. 520) (L.D. 1504)

Bill "An Act To Amend the Sentencing Laws" (EMERGENCY)

(S.P. 521) (L.D. 1505)

Came from the Senate, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

**REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** in concurrence.

Bill "An Act To Update the Laws Governing Borrow Pits and Quarries"

(S.P. 522) (L.D. 1506)

Came from the Senate, REFERRED to the Committee on NATURAL RESOURCES and ordered printed.

REFERRED to the Committee on NATURAL RESOURCES in concurrence.

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

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The House recessed until 6:00 p.m.

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(After Recess)

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The House was called to order by the Speaker.

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

**REPORTS OF COMMITTEE**

**Divided Report**

Nine Members of the Committee on JUDICIARY report in Report "A" Ought to Pass on Bill "An Act To Extend Civil Rights Protections to All People Regardless of Sexual Orientation"

(S.P. 413) (L.D. 1196)

Signed:

Senators:

HOBBS of York

BROMLEY of Cumberland

HASTINGS of Oxford

Representatives:

PELLETIER-SIMPSON of Auburn

FAIRCLOTH of Bangor

GERZOFISKY of Brunswick

CANAVAN of Waterville

BRYANT of Windham

DUNN of Bangor

Three Members of the same Committee report in Report "B" Ought to Pass as Amended by Committee Amendment "A" (S-38) on same Bill.

Signed:

Representatives:

SHERMAN of Hodgdon

BRYANT-DESCHENES of Turner

NASS of Acton

One Member of the same Committee reports in Report "C" Ought Not to Pass on same Bill.

Signed:

Representative:

CARR of Lincoln

Came from the Senate with Report "A" OUGHT TO PASS READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

READ.

Representative PELLETIER-SIMPSON of Auburn moved that the House ACCEPT Report "A" Ought to Pass.

Representative CARR of Lincoln REQUESTED a roll call on the motion to ACCEPT Report "A" Ought to Pass.

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

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

Representative DAIGLE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm concerned about this bill and I would like to relate a question that my wife talked to me about this morning. In fact, she even wrote it down so I would bring it in here. Since I intend to go home eventually and get a good dinner I better ask her question. My wife relates that she was listening to the news last night when it was claimed that anyone who opposes this bill is homophobic. She asked me if it is the intent of legislators to call her homophobic if she expresses her discomfort in situations like a man dressed as a woman using the ladies room at a health club where she and her daughter go? She also asked me if it is the intent of this body that legislators consider her homophobic if she's uncomfortable that her daughter is being counseled in a situation where you have a woman identifying herself as a man, and she is uncomfortable with that and wishes to change it. I told her I don't know, because I don't know what this bill will do in those situations, and so I ask this body if you could help me deliver a message back to my wife of how people who support this bill feel. This is not a rhetorical question and I literally do have it written down and I told her I would present this to the floor. Thank you.

The SPEAKER: The Chair recognizes the Representative from Turner, Representative Bryant-Deschenes.

Representative BRYANT-DESCHENES: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise tonight to speak against the bill that is proposed. I was in the Judiciary Committee when the hearings were held. We spent a lot of hours sitting and listening to people come in and tell stories. There were stories of failures at work. There were stories of harassment at school. There are stories of lack of acceptance. When I looked around the room I saw mostly proponents of this bill, but there were a handful of opponents and with them they carried each the name of 50 or 60 people who could not be there to be heard but who asked that their voices be heard. These were people who were teaching school, running businesses, taking care of youngsters or older people, nursing, driving buses, hauling goods on the roads in Maine, driving pulp trucks. As I listened to the stories I wondered how this legislation was really going to solve the problems that we were hearing be related to us through the stories. We were talking about human dignity. We don't give dignity. Dignity is achieved through our accomplishments. We cannot legislate tolerance. We cannot legislate love, neither love for one another nor love for oneself. So what is it that we seek to do today?

Are we seeking today to create a protected class? If so, are we creating a protected class to which we are going to be giving preferences or are we not giving preferences? Lots of people are asking me that. Is this about special rights they ask? Do you know the answer? Suppose that we are creating a protected class the same way the Civil Rights Act of 1964 created groups to be protected based upon race, sex, national origin and religion. Here we are seeking to create a protected class based upon a behavior. A behavior that is based upon sexual preference or perhaps even merely a perceived preference.

How do we determine what another perceives; how do we define perceives - for surely we will define it in a court of law - perceives: to become aware of, know, or identify by means of the senses; to apprehend; envision or understand; to lay hold of; to grasp. How do you lay hold of and how do you grasp perception? How do you define or defend perception? Certainly,



this is more complicated wording than the 1964 act, which described the protected class by the words race, sex, national origin and religion.

I would like to just share a little of the information that was provided to the committee. Part of that had to do with determining what a protected class is. The civil rights authorities in the courts have used three standards: unchangeable distinguishing characteristics; widespread discrimination; and political powerlessness.

Sexual preference is not an unchangeable distinguishing characteristic. Do you believe that behavior based on sexual preference is a compelling reason to reward protected minority class status with all the entitlements? Widespread discrimination. As early as 1994 homosexual business columnists wrote today it's rare that anyone gets fired just for being gay. Political powerlessness. One only has to look at the two recent Maine referendums where the people voted against adding homosexuals to our civil rights law and the fact that we are debating this issue to see the political power and influence. This is an upwardly mobile class of politically powerful citizens who are asking for protected class status, special legal standing and advantages. Historically these are given to economically disadvantaged and politically defenseless people.

Proponents of this bill would argue that we are not creating special rights. It must follow therefore, that we won't be giving preferences to this protected class. There will be no affirmative action based on sexual preferences, we agree.

What is affirmative action? Positive steps which are designed to remedy lingering effects of past discrimination and continuing discrimination and to create systems and procedures to prevent future discrimination. These are commonly based on population percentages of minority groups in a particular area. Factors considered are race, color, sex, creed and age, oh, and sexual preference or perceived preference. No one will mount an equal protection case based upon the creation of this protected class will they, the equal protection, which is guaranteed in the enjoyment of personal rights and the prevention and redress of wrongs?

In November of 2003, the Massachusetts Supreme Judicial Court declared that barring an individual from protections benefits and obligations of civil marriage solely because that person would marry a person of the same sex violates the Massachusetts Constitution. Is this the equal protection that will soon be sought in Maine courts?

Just be sure you know where this bill is taking you.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative CAMPBELL: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I stand here tonight because I was so proud a week ago when the Boy Scouts of America marched down this isle and I think everybody in this house was proud with a packed audience up top. In 1992, the City of Portland passed a gay bill and a man by the name of David Hilton turned out to destroy the Boy Scouts of America that we so proudly shook hands with and applauded just the other day. So I'm very scared what's going to come out of this one. They turned around and they stopped the funding to the Salvation Army. They stopped the funding to the Catholic charities. They stopped the Meals on Wheels that goes to the people who most need it. Last week we were so proud of those Boy Scouts when they marched in here that I'm scared what's going to happen, if this bill passes, to other innocent groups that I so support, and I'm proud of it. Thank you Mr. Speaker.

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

Representative PERRY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Civil rights are the rights belonging to an individual by virtue of citizenship, especially the right to due process, protection of the law and freedom from discrimination. We live in a country that was based on civil rights, and by the statement that all men are created equal, by our motto, "E pluribus unum" - all for one. We are a country founded in diversity and in that diversity we are continually defining the one. The histories of America's civil rights movements have always been shaped by a complex interweaving of legal victories, political progress and advances in public opinion. This has been played out definitively in the Women's Suffrage Movement and the Civil Rights Movement of the 1960's.

Denying some people their civil rights on the basis of sexual orientation clearly violates the constitutional guarantee of equal protection under the law. People of all sexual orientations whether it be homosexual, bisexual or heterosexual are born into families as diverse as our state and nation. They are of every race, ethnicity, gender, age, religion, class, educational background, ability and party affiliation. They live and work in the cities and towns of this state and our neighborhoods across the nation. It is sad to me that we have to legislate non-discrimination. As a result of discrimination we lose the richness of our own diversity and prevent the benefits that full participation affords any community.

Now I'm not going to talk about discrimination, but I have a friend and colleague who I have worked with for the last seven years. She grew up and went to school in the town I represent and she became a doctor and returned back to her hometown and she set up a family practice and she, her former husband and her three children settled and she had her twins in her hometown. She has a successful and busy family practice and four years ago after her divorce she let all know that she was a lesbian. In this community where she grew up her family and her friends, who have known her most of her life, were able to accept this. I am thankful that her family practice did not suffer because of her orientation. It would have been a major loss in a rural area to lose the services of a physician such as she. I know that this is a success story but if she had been discriminated against, as the stories that occurred in the testimonies before the hearing, we would have lost the value of a rural family physician in an area where we have difficulty with getting those services. She is a person with abilities and should have the same rights as any other person within our society. Thank you.

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

Representative BISHOP: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The other night as I was watching television I became witness with thousands of others to the assertion that only homophobes would vote against this bill. I find that statement abhorrent and certainly not worthy of the gentleman in question, but I must admit the divisive, inherent unfairness and attempted coercion of that statement has led me to seriously question my support of this bill. Thank you Mr. Speaker.

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

Representative FLOOD: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Today we speak with pride dignity and value for all persons, yet we represent just one day of dialogue and but one point on a very long timeline of change. Perhaps the best we can do is to use our point on this long timeline wisely, to deliberate fairly and guide good discussion.

Centuries of other debates and other brave speeches have molded that which we loosely understand today. Today if we do nothing other than listen and truly hear the beliefs and concerns of others in this body we have done our good duty for the people.

No single person I know really expects that I would be so wise as to find the great truths of equality nor would anyone I know choose that role of judgment for themselves. It's a collective decision, reliant on thoughtful dialogue and an evolving principle for many to consider.

For those here who disapprove of this measure before us I beg your patience with those who support it. Their views are their beliefs and they are valid. These are good people who care deeply, too. They are families, they are brothers and sisters, they are good kind neighbors and they see a need to right a wrong. I hope we can find it within ourselves to respect that view.

For those within this body who approve of this measure, please be patient with our colleagues who oppose it. They are good caring people with valid beliefs and let's ensure we don't criticize our colleagues unjustly for a different view, nor fall into the trap of labeling them that which they are not. If we must label, let's label all of us as caring and imperfect people. This is the goodness of democracy. Valuing differences in a civil way. There are those in our society however, who are not so civil - those that would harm some for their differences, that would deny privileges and rights but for one's friendships, and would chastise them for who they love. We may not witness this, in much the same way we often fail to bare witness to other wrongs, but this respect targeted upon any group is a hidden shame of our society. One that we as leaders could protect against, the same way we work to protect others needing our help.

Safety, protection and equality are not just human rights. They are some of our most basic human needs. It is often a role of this body to speak out, to protect. Let's not take discrimination protections for granted, as givens, as accepted behaviors for clearly they are not granted, given or accepted in all quarters.

Were we to find ways to express all the thoughts and all the beliefs at the heart of this issue, we could become the final judges of this matter, but clearly we are not that wise. We are just one sunrise, one sunset, one day amongst centuries of changing views.

Several centuries ago even as our learned forefathers wrote our country's first great declarations they had different views and different practices of equality, yet they left the door open for future interpretations of this principle. Less than one century ago other wise men and wise women found a better definition of equality and every decade since that time we as a state or a nation have recreated our views on equality. Today let us simply use our day wisely. In our day, let's find room in our hearts and in our minds to respect all points of views expressed within these walls. Let that be our greatest strength. I hope that today we all feel the great spirit of democracy and the great glory of equality and that we, the people, express that openly, with peace. Thank you Mr. Speaker.

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

Representative FAIRCLOTH: Mr. Speaker, Men and Women of the House. There are many questions that will be discussed today and a couple were raised that I want to respond to. One relates to affirmative action.

The Human Rights Act has for decades provided protection based on age and religion but there is no affirmative action. That's a different legal scheme and we don't provide affirmative action based on age or religion and we shouldn't, in my opinion, do so with regard to sexual orientation. It's a totally separate legal scheme. And with great respect to those - and I do mean

that with sincere respect - on the other side I think a lot of times we hear side issues raised. We on the Judiciary Committee had a calm and deliberative process. And to respond to Representative Daigle, I don't know what concerns or remarks he's referring to. I do know what happened on the Judiciary Committee and I respect because everyone was polite and fair minded, on both sides of this discussion in the Judiciary Committee, and I am confident that regardless of the results of this bill we can continue in that tone, and I would not in anyway want to cast dispersions on anyone who takes a different point of view on this issue. But I do see it as a fundamental issue of justice and fairness and I have been eagerly awaiting this night.

Throughout New England we are the only state in New England that has an official policy, enshrined in statute, that says we can discriminate based on sexual orientation. That's not right, and it doesn't make Maine common sense to have such a policy. Think about how it works. Are we really to say, if we think about all the types of people who are in this category: Well, we can discriminate on this basis?

Gee, Mr. Oscar Wilde, I guess your writing is pretty good here at this Maine newspaper, but turns out we found out that you're gay, and therefore you can be dismissed - regardless of the merits of your work and employment - solely based on the fact that you are gay. That doesn't make Maine common sense!

Sorry Mr. Cole Porter, you know we've enjoyed the songs you played here at the piano at our apartment complex for senior citizens but we found out that your gay and we can evict you, and Maine law provides that we can evict you solely on the basis of your sexual orientation.

Hey, sorry Mr. Leonardo da Vinci, well you know, you had a great idea and we would've offered that line of credit for your engineering firm based on your past record but sorry, the board was uncomfortable. And we can, by law, discriminate against you and not extend you a line of credit based on a totally irrelevant factor."

Now are all gay people geniuses? No, but they're like the rest of us. There are people who are smarter or less smart. They are like all the rest of the population of our country.

How can we as common sense Maine people say we are going to judge a tenant based on something that has nothing to do with their tenancy? How are we going to judge an employee based on something that has nothing to do with their employment? But that is exactly what is enshrined in the laws of the state of Maine unlike every other New England State and that is just plain wrong and we don't need a referendum to decide this. We just don't!

James Madison, the writer of our constitution, its prime author, said that its our job in a democratic republic, we in this room, to study the issues carefully, to exercise our independent judgment about what is right to protect minority rights. He emphasized that emphatically, and when we make a decision to educate our constituents; talk with them, talk to them at the coffee shop and at the street corner regardless of what popular opinion is. I'll tell you when Representative Talbot introduced this bill the first time in 1978 and only got a few votes - that's a good Bangor boy by the way - he moved to Portland we forgive him - he did what was right in 1978 and I don't care if there was a poll in 1978 that said that he might not have prevailed in some referendum, he was doing what was right. It was right then, and it's right now, and I'm so glad to see this day arrive when I think we're going to do what is right. I know Representative Daigle, I like him, I like the people who have taken other positions on these issues, but I'll tell you, I heard some testimony from people who came before the committee that really chilled me, and one

statement in particular really bothered me. It's one statement I agreed with and one I disagreed with. It was a pastor and he came before the committee and he said to this committee that renting an apartment to a gay person was analogous to renting an apartment to a terrorist cell. Think about that for a moment, I know that's not the view of those who are on the other side of this issue, but I know that its strong evidence of a kind of chilling and scary prejudice, and mean spirited prejudice that all of us don't feel comfortable with, but it's what he said. I stopped and asked him again and he reiterated the statement, one more time, to make it clear how he felt about that issue. To me we have to address that; that someone would want to address things in that kind of way.

The other thing the pastor said, I greatly agree with. He said we should look to Christianity; we should look to religion for guidance on these issues. Now some people think I'm wrong, but I think it's important. Gandhi said, "If you think politics and religion don't mix you understand neither!" I think we do need to look at these issues, and consider what the founding fathers said about these issues. The founding fathers, they were human guys. You know Benjamin Franklin lived with a woman outside the bounds of wedlock. He had a lot of joyful relationships in life; he was a guy full of life, flesh and blood, the same with James Madison, the same with Thomas Jefferson - if you know his history. These were people who were living blood, flesh people and they believed in following the values of Jesus Christ. But lets consider what it is they meant by that.

You know, there are those who say that we should take a harsh and condemning view of what the Bible says, and I suppose you could do that; you could say fornication, which is condemned by the Bible, or masturbation or adultery - which, by the way, the prescription for that was stoning - might be something that would require sanction. But I look around us and I say we...we may not be as smart as the founding fathers but we're sure as human as they are.

I'd be the first to say that for me, I'm one of the sinners here, and there are others who are not, but I'm one of the sinners here, and gosh one reason I know that being gay isn't a sin is because I'd probably be the first in line if it was a sin.

I don't see being gay, being who you are, as a sin. I look to other guidance in the scriptures and I think what the founding fathers would have looked to is Ephesians chapter 4 verses 31 and 32. "Let all bitterness and wrath and anger and clamor and evil speaking be put away from you with all malice and be you kind, one to another and tender hearted." That is what I think the values of the founding fathers would speak to.

As James Madison said that our constitution is a machine that would run unto itself to offer ever expanding liberty and I think that if God is watching our deliberations today he would credit our acceptance, not our anger, and he will credit our kindness, not our cruelty and I think he would ask us to judge tenants and employees based on what they do as tenants and employees and on no other basis. I thank the men and women of the House.

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

Representative **MOODY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. What I wouldn't give for that gift of oration and I'm the theologian here. Can you imagine? I stand before you tonight wearing two hats that are of paramount importance to me. The first is that I'm a professing Christian and I'm a pastor and I'm sworn to render to God the things that are Gods. The second is that I have been elected by the people of district 83 and am sworn to render to Caesar the things that are Caesar's. The question that I face with this bill is whether these two allegiances to God and to Caesar are in

conflict with one another. In fact the easiest thing that I have to do tonight is to vote in favor of this bill and I intend to do that when the vote is taken Mr. Speaker.

We don't have to look very far to know that the gays have been singled out by the Christian right as a symbol of the evil in our culture. They need protection it is sad to say, from the people of God; people whose organizations enjoy exclusion from income and property taxes while collecting signatures to restrict the rights of others. We Christians are commanded to love God with all of our hearts, with all of our minds and with all of our strength. We are also commanded to love our neighbor, as we would want to be loved. When the crowd asked Jesus who was our neighbor they were told your neighbor is that person on the side of the road of life who has been robbed of dignity and beaten by the system.

Do we cross to the other side of the road to avoid that person? Do we defer the treatment of that person to the public referendum process or to a poll? Or do we lead by example, bind up the wounds and provide opportunities for justice to prevail. Maybe, just maybe, our neighbor is a throw away kid who was being unmercifully teased at school. Or maybe our neighbor is a gay person who has been subjected to an undercurrent of rejection because he or she is different for whatever reason you want to apply to that, but the third part of that love thing is the toughest of all.

Love your enemies. Do well to those who despise you. Pray for those who hate you. When asking, "Who is our enemy?" we hear from the scriptures that our enemy is of our own household. Imagine that. Our enemy is not the person who is different from us, our enemy is someone who thinks the same, looks the same and perhaps even believes the same, as we do. In the words of Pogo, "we have met the enemy and they are us." There was a time in our history when our nation was consumed with another kind of witch-hunt, the hunt for the communists among us.

On June 1, 1950 a brave lady from Skowhegan, Maine, Margaret Chase Smith, rose to the floor of the United States Senate to put a stop to this national madness. Her words that day could help guide us today. She said those of us who shout the loudest about Americanism and make character assassinations are all too frequently those who by our own words and acts ignore some of the basic principles of Americanism - the right to criticize, the right to hold unpopular beliefs, the right to protest, the right of independent thought. The exercise of these rights, she said, should not cost one single American citizen his reputation or his right to a livelihood, nor should he be in any danger of loosing his reputation or livelihood merely because he happens to know someone who holds unpopular beliefs. Who of us doesn't?

Those are the words of Margaret Chase Smith nearly 55 years ago and with those words Mr. Speaker., I rest my case. Thank you.

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

Representative **HARLOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I want to just remind you of something that Mark Twain said, "when you're giving a speech if you go more than seven minutes it's like drilling for oil, you're boring." So, I guarantee mine won't be that long. I want to say thank you very much for the opportunity to vote on this issue again. I was fortunate to be on the Portland City Council when we voted it in Portland. For your information there have been no problems in Portland that I know of that have been brought forward where anybody had any problem with that bill. The Catholic Church has no problem with it because it's not a religious issue. They don't have to pay any attention to it if they

don't want to. They do not have to allow gay people in, no religious group does, not just Catholics, any religious group. I don't necessarily agree with that but that's the way the law is written. It also was not the end of the Boy Scouts in Portland.

United Way elected to allow you to designate what money, where you wanted to send your money because they didn't think discrimination was right. Some people refused to give it to the Boy Scouts. I worked at a Catholic school, I worked in a Catholic environment for 32 years, and never once did I hear that this bill was not accepted in our area. It's also not exclusively a homosexual bill. It is a bill for all of us. What I'm going to do with you now is to bring you through some of the things that we experienced on the Portland City Council during this debate. One of the things we learned was that there was a teacher in one of our surrounding schools who was accused of being a homosexual and was fired as a result because he had no protection, as none of us have without this type of a bill. You can be fired on the accusations.

Another problem I had that came out of this was that if you put a face on this bill all of a sudden it's a lot harder to vote against somebody's rights. Take your son, take your daughter, take your uncle, take your father - yes there are fathers who are gay - and then look them in the eye and say, "You're gay, and I'm voting against your rights." They are rights that we all enjoy. Why don't we bring out the referendum? I wonder how many black people would be voting today if we brought them to referendum. I don't think a real lot would have been and we have been elected to express the courage of our convictions and our character will show through on this vote I believe.

I am proud to say that I will be voting yes on this bill for equal rights. If these are special rights then we should immediately present a special rights bill for all of our citizens so that we all enjoy all of these special rights. These special rights we're talking about are rights that each and every one of us enjoy right now, so those are the special rights.

Senator Abrahamson brought this bill before us first. I served with his wife on the council and she was the first one to vote for this, not the good Senator.

One of the interesting things that she brought forward was: don't use the Bible to say this is why we got to vote against this, because if you're going to use the Bible, please stop eating lobster.

Another weak argument is that homosexuals have a choice. How many of you or we heterosexuals stood up when we were fifteen and yelled, "Hey I'm a homosexual!" or, "I'm a heterosexual!" Nobody does, we are born the way we are and that's it. I am very, very proud to be able to vote for this again. I will tell you one more story of the gay rights ordinance in Portland. I tried to help raise money for the passage of this ordinance and we were at a bar one night raising money - my two daughters and myself - and somebody went up to one of my daughters and said, "Why are you here?" I'm sure they were thinking she was going to say, "Because I'm a lesbian." She said, "I'm here because in our house we were never taught to hate." Thank you very much.

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

Representative **SHERMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We are having a spirited debate here and I will not comment on some of the things I've heard. I would like to go back to the bill itself and the process. I think Representative Duchesne has already mentioned that. We had the hearing on one day, packed house, the next day we did the work. Basically we were not allowed to work the bill, simply not allowed to work the bill. We got a lecture

from the Chair. He said that now is the time, now is the time. I've been here; I started out in Criminal Justice, Senator Buddy Murray, now a judge. Buddy crafted legislation; he crafted it so when you were done you know what you were voting on. I asked Kurt Adams who presented this bill and Karl Turner. I'll go through three or four sections and then sit down. I'm not going to...there's this great oratory on the other side and I won't reach those heights.

If you look at the bill, and I assume you all have because it's been referenced that 9-C defines sexual orientation. We have a map, our nice green and red map; we finally became a red state on this map I see. Thank you. I've looked up on the Internet, Nova Scotia, and New Brunswick and was also told this language - sexual orientation - came from Rhode Island, it apparently did not so I don't know if someone is not in charge of their facts or not. In Nova Scotia sexual orientation has been there for a number of years. That runs through the normal processes, no extra verbiage in the Nova Scotia sexual orientation. In fact it probably went in 8 or ten years ago. I traveled Nova Scotia on occasion. There is no big brew ha over there, so I'm back to what is in our bill.

Sexual orientation, and you read it its been referenced, it means a persons actual or perceived heterosexuality, - and we heard that story - bisexuality, homosexuality or gender identity or expression. My comment to both gentlemen who presented this bill - Senator Turner and Kurt Adams - what does that mean? Could we take those out and say don't discriminate against anyone. Karl Turner had a nice little joke, he said, "Well Representative Sherman, I could look at you and perceive that you are a heterosexual but you might be a homosexual?" Thank you Karl Turner, I could return the favor to him. Kurt Adams did not have an answer. They have cobbled this bill from various parts. It's not well written. We simply do not have the answers to this dilemma that we have in front of us and we seem to want to rush it through. We had people on our committee - and I hope Representative Duchesne has mentioned that - we had people on our committee who truly did not know how they were going to vote. We were given the courtesy of going up into one of the lounge areas, the brand new lounge areas, it's kind of nice if you want to find that and we had about fifteen or twenty minutes around and around and the lady had asked, one of our representatives asked, she wanted to read and have time to read the testimony. Basically, she was not allowed to do that. So, then if you go on you will find on page two of this bill section six it's talking about the churches and it does exclude churches. Religious associations and corporations subject to the provisions of the internal revenue code are going to be covered by this and that's maybe a little understandable. On page two it talks about education opportunity and then it refers you to another section, which is on page twelve. If you look on page twelve and you take a look at A and B they are sort of standard stuff, not new. D is sort of standard stuff not new. If we go back to C and then you ask what does that mean? How would a court interpret that? Its been referenced it's going to Court. It says apply any rule concerning the actual or potential family or marital status of a person or to exclude any person from any program or activity because of their sexual orientation - heterosexual, homosexual bisexual, transgendered, perceived or whatever. That is how that's going in there. Look at that, what does that mean? How is someone going to interpret that? Deny admission to the institution or program, whoops, apply any rule concerning the actual or potential family or marital status - and you can do the combinations of sexual orientations there - or to exclude any person from any program because of their sexual orientation.

How do you apply that? We said this covers everyone and then there is on that same page twelve – again I must say the analysts are very bright here. You know we rely on the analysts. I spent over an hour with the analyst and she did what she had to do. She went through and she talked about some things that were in here. We are crafting legislation, we are not talking about God and morals and that sort of thing. We may do that but I think that's extraneous. I think that some of these stories that come in are extraneous. On the last paragraph on page twelve where the last underline says the provisions of this subsection that relate to sexual orientation do not apply to any education facility owned, controlled, or operated by a bona-fide – I asked the analyst, what the heck does that mean? How do you decide whether you're a bona-fide religious corporation, association or society and she said that is something that she couldn't answer? You have unanswered questions here. This really should go back to the committee, give us a chance to take a look at it and I would make the motion we return it to the committee.

Representative SHERMAN of Hodgdon, moved that the Bill and all accompanying papers be **COMMITTED** to the Committee on **JUDICIARY**.

The same Representative **REQUESTED** a roll call on the motion to **COMMIT** the Bill and all accompanying papers to the Committee on **JUDICIARY**.

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 Auburn, Representative Pelletier-Simpson.

Representative **PELLITIER-SIMPSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I respectfully disagree with my colleague on the Judiciary Committee about the process. He did raise questions about section 9-C on sexual orientation. We did look at that language and we heard testimony about that language and what that language means.

Sexual orientation means a person's actual or perceived heterosexuality, bisexuality, or gender identity or expression. Sounds a little strange, it's not a way we normally talk. We heard compelling testimony from a mother.

I was attempting to explain that the bill did have a fair hearing. We heard hours of testimony, which I was attempting to relay if that's okay. To have to hear it again – there are difficult stories that people have shared – to make them come back and once again work on this? We did work on the bill. We gave members opportunity. I took testimony home so I had ample opportunity to read it. I have sat on this committee for five years and we have complex bills with large amounts of testimony. If you take it home after the hearing you have time to read it. The time to read the testimony is not when you come to the work session, its sort of like our homework. I understand that some members did not do that. We did take a break and while we said it would be a 20-minute break it went on for about 45 minutes and then the committee came back and took a vote. No one then said, as we came back and had discussion, that they were not ready any longer, but they did make them take a vote. I don't think we need to go back and rework a bill we've already worked and I hope that you would vote against the pending motion. Thank you.

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

Representative **FAIRCLOTH**: Mr. Speaker, Men and Women of the House. I respectfully also disagree with my friend Representative Sherman and I do just for a minute note that after several weeks in committee I am surprised how often I agree with Representative Sherman. I hope I'm not ruining his reputation here tonight but I respect his opinion. But on this point, the

committal issue, I respectfully disagree. This is an important issue. It's an emotional issue but as to the statutory language, which I believe is the basis for his motion, I would respectfully submit that the language is humdrum. That is to say that numerous states around the country use this language. There is nothing new, innovative or particularly different about this if you look at other states around the nation. We need the perception language; we all live in the real world and we all know situations where perception of orientation has led to discrimination. So while I respect Representative Sherman's views, I don't think there is much question that we had a fair hearing, that the language is straightforward and we are ready to proceed to a vote.

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

Representative **BABBIDGE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is an opportunity for lawmakers to lead. It seems to me that this question is about two sentences a boss might say to an employee, one is, "I didn't know you were a faggot" and the second is "You're fired."

The **SPEAKER**: The Chair recognizes the Representative from Ellsworth, Representative Crosthwaite. For what reason does the Representative rise?

Representative **CROSTHWAITE**: Point of Order Mr. Speaker.

The **SPEAKER**: The Representative may state his point of order.

Representative **CROSTHWAITE**: Mr. Speaker I would request a ruling from the Chair on the Germaneness of the statements being made.

On **POINT OF ORDER**, Representative CROSTHWAITE of Ellsworth asked the Chair if the remarks of Representative BABBIDGE of Kennebunk were germane to the question.

The **SPEAKER**: The Chair would instruct the members - and it's why I made the mention at the outset with respect to the motion to Commit – the motion to Commit is a motion to move all the papers and this bill back to Judiciary. What is Germane for purposes of discussion and debate is why or why not that would be proper. The question about whether we're going to get into issues related to reasons or cause for this bill are not really properly, at this time, before the body so what I would instruct members to do is keep the issue related to Commit and the reasons for committing this bill, or not, before the body at this time. Your comments Representative would be more proper in dealing with the bill itself.

The Chair reminded all members to keep their remarks germane to the question.

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

Representative **BABBIDGE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House.

The **SPEAKER**: The Chair recognizes the Representative from Hampden, Representative Duprey. For what reason does the Representative rise?

Representative **DUPREY**: Point of Order Mr. Speaker.

The **SPEAKER**: The Representative may state his point of order.

Representative **DUPREY**: Thank you Mr. Speaker. Mr. Speaker I have a hearing problem I thought I heard a word that's

inappropriate, under section 123 of *Masons Rules*. I would like a ruling from the Chair on the use of disorderly words in debate.

On **POINT OF ORDER**, Representative DUPREY of Hampden asked the Chair if the remarks of Representative BABBIDGE of Kennebunk were germane to the question.

The **SPEAKER**: The Chair rules that word is properly before this body. It may not be the kind of word that we all like to hear, but it is not a word, which is either defamatory or not used out in the public. I'm going to allow it but I'm going to ask people at this time to keep their comments related to the motion to Commit. The Representative may proceed.

The Chair reminded all members to keep their remarks germane to the question.

Representative **BABBIDGE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I speak before you because I believe this is an opportunity for us to lead. If we Commit this back to Judiciary we are missing an opportunity and that's why I am speaking to you at this time. I mention what I did because I think that we cannot eradicate that which is offensive to us, but we can make a legal discriminatory action and you and I have a chance to do that this evening. Those two sentences that I've mentioned, separately, will always be legal, but that linkage between them we can make illegal this evening. I mentioned that we have an opportunity to lead. In 1964 the Civil Rights Act was a demonstration of lawmakers leading public opinion to where it should be. Ten years later, Title 9, an amendment to the Education Act, was an example of lawmakers stepping up and leading public opinion to where it should be. This evening we have the same opportunity. Edmond Burk, an 18th century writer and politician once said, "I owe my constituents the value of my judgment."

We here in this Chamber tonight owe our constituents the value of our judgments. This is Maine the way life should be. I ask you to vote no on the motion to Commit.

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

Representative **SHERMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'll try to keep the argument to the point not on any rhetoric. I repeat, on one day when we were having the hearing; we sat and listened for five hours to some rather horrible stories. The next day, workshop, we were told by the good Senate Chair that this, in effect, is a done deal. We had to fight to get a few minutes to go outside as a caucus to just even talk. We come back in and it was suggested basically that we vote. If we get up and walk away what have we accomplished? We sat there and we voted to see some votes recorded. To the point of sending this back, there are amendments from both sides floating around, which seems to me indicates some concern with some of the language. If it is recommitted to Judiciary it is not forever. It will be Judiciary's bill. I now remind the Speaker and the members of the other side over here that it is a majority of Democrats, to use the term. I don't think it will stay there very long. I think we may be able to clean up some of those things that are in there and make it a little bit more aligned with some of the other states that have operated under this.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Commit the bill and all accompanying papers to the Committee on Judiciary. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 38**

**YEA** - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey,

Edgecomb, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Lansley, Lewin, Lindell, Lundeen, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moore G, Moulton, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

**NAY** - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Makas, Marley, Mazurek, Merrill, Miller, Mills, Moody, Muse, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

**ABSENT** - Dugay, Emery, Kaelin, Marraché.

Yes, 72; No, 75; Absent, 4; Excused, 0.

72 having voted in the affirmative and 75 voted in the negative, with 4 being absent, and accordingly the motion to **COMMITTED** the Bill and all accompanying papers to the Committee on **JUDICIARY FAILED**.

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

Representative **WALCOTT**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Please excuse me, I'm going to be reading off of my computer. I rise today in support of LD 1196. I must start out saying that I am terrified at what I am about to do but I feel it is important for me to do it. I stood listening to most of the testimony on this bill in front of the Judiciary Committee and decided that I could no longer remain silent on this issue while others were putting themselves on the line. We have heard much this evening about lifestyle choices, sexual orientation and other topics.

I want to spend a few minutes talking about my experiences over the last 15 years. I am not going to talk about numbers or facts and figures. I am going to talk about my real life experiences. Let me start by saying that my upbringing taught me to be a private individual. One who does not usually share with others about private life and matters so standing here today in front of you all is a very difficult task for me. But one that I feel I must do on this very important piece of legislation. I know that the Judiciary Committee had much testimony by members of the public on this bill. This was very powerful and important testimony. However, sometimes it is more meaningful to hear from someone you know and have worked with in the past. That is why I feel it is important to stand today and speak out on this issue, even though it completely goes against my nature to do so. I want to put a face and a personal touch on what we are talking about here.

I must first give you a little background to help you understand where I am coming from. I grew up in Lincoln, Maine. It is, as many of you know, a small town about 45 minutes or an hour north of Bangor, depending on how fast you drive. Lincoln is a small town, and like most of the small towns in Maine everyone knows everyone, and everyone knows everyone's business. Hiding a secret, especially a secret like being gay is not an easy task. I speak from experience. As a teenager I felt forced to hide my true self from everyone. Fear was the cause of this. Around town and at school one could here comments and name calling. Forgetting for a minute how hurtful these



comments were and are; they are terrifying. I was not very old when Charlie Howard was killed in Bangor but I remember it. I remember going to school after that happened and it was all anyone spoke about, often joking about it. The fear started. Growing up in a traditional family I was lucky. I was one of the few people I went to school with whose parents were still married. I had a somewhat large family having four older sisters. It was expected as people usually expect that I would grow up, go to college, get married, have children and all the things that most parents wish for their children. In 1990 I graduated from high school and went to the University of Maine at Orono. While during my first year there, I experienced something that continued the fear to grow.

The first dorm I stayed in was a difficult place to live. It was the smallest dorm at the time and there were only eight people on each floor. While I learned growing up to be a private person I also learned honesty in my small hometown. So answering questions about girlfriends and sex that guys always ask was very difficult for me. They learned nothing about my sexuality from me directly but rather from assumptions they made based on the evasiveness of some of my answers to their questions - their questions, not statements by me. My last day living in that dorm is not an experience I would like to repeat or would even wish upon anyone. I got up in the morning and attended my morning classes as usual. In the afternoon I was sitting in my room studying. I decided to take a break and go outside for a short while, as it was a beautiful fall day. Upon my return there were two guys in the hallway talking as I walked towards my room. They started asking me questions and calling me names, questions that I felt uncomfortable with, and names that I will not repeat upon the floor of the House. I was very nervous, scared actually. These two people were members of the University's sporting teams and certainly together could have done me bodily harm. I had no idea what they intended. Luckily - and only probably someone in this position would say luckily all they did was spit on me. I moved out that day. However, I never dared to tell the resident director who it was that did it. I feared retribution.

While in college I worked for Wal-Mart. During this time is when I started coming out to my family and friends. This was the last two years of college when I lived at home and not on campus.

While I was working there, there was one woman in particular who seemed unusually interested in talking about my personal life. I told her for several weeks that I was not interested in sharing personal information. However, she kept asking me day after day. Finally, after several weeks I answered a few of the questions that she asked. The next day as I arrived I was told the store manager needed to see me as soon as possible. I went into the office and he told me that this woman had come forward and told him that I had been talking about things that made her uncomfortable and things that she thought were inappropriate to talk about at work, we had been in the break room.

I informed her of her asking me the questions for several weeks and that I put her off and that finally was just tired of her asking. Luckily for me he was an open minded individual and nothing came of it from my end and from my understanding she got spoken too because I had several people who overheard her asking the questions.

I did learn a valuable lesson that day. Sometimes even friendly people are trying to do something underhanded. However, from listening to the testimony in judiciary on this bill I also found out there were many people that were not as lucky as I was. There are many people fired from jobs, denied credit or housing for reasons besides their qualifications or abilities to pay. This is wrong. Often this firing and the previous harassment are

based on assumptions people make about people that do not share the information openly.

For many years I have felt the fear less than a I did at earlier times in my life. However, one evening I got a telephone call with the suggestion that I run for the legislature. When I decided to do it, I got scared all over again. I wanted to do it because I thought I could do good work on behalf of the residents of my district and the people of Maine. Plus, having a degree in political science I found it intriguing. However, I, at the time, felt that the secrecy would have to come back into my life and slowly it did. I was scared to do or say anything at first that would make people think that I might be gay. I would add that there is only one person in the entire legislature that I was gay until today. My good seatmate, Representative Craven, and it took six months for me to do that traveling with her everyday to Augusta. That is the way I have been with people all my life. Only people for whom it is important to know, do I tell. Many people are like that. Other people here may have learned about it, but only Representative Craven has been told directly by me.

I had not been here many weeks before the good Representative from Woolwich, Representative Grose, said to me, I know a woman in Woolwich who might be interested in meeting you. I am paraphrasing what she said but that was the general idea. I doubt she even remembers the situation but I certainly do. I'm sure she did not intend to make my heart beat fast or to scare me. I was afraid I would have to reveal my secret to someone that I did not, at the time, feel safe revealing it to. This happens everyday to people.

Many people don't care to talk about their sexuality openly, but people ask questions, which might bring it up. Picture this... a young man working in a mill with many other young men. The men are talking about their wives and girlfriends when one of them asks this young man about his. They young man has three options. One, to tell them that he is gay. Two, choose to be evasive. Three, out and out lie. He chooses to be evasive. Most of the time the other men would wonder why he was being evasive. The seed has been planted in their minds that he might be gay without him ever saying a word about it. I know the Judiciary Committee heard testimony of similar things happening that have happened to me. I was sitting here last year when I first heard of Michael Heath and his intention of outing legislators, staff and others working in the legislature. I sat here stunned, scared of what that might mean. Would my sexuality be plastered all over the place?

Many of you sat here and said that you would were going to come out as a joke or way of showing support in pointing out how wrong he was in doing that, and I laughed along with you. Many of you experienced anger at his threats or thought that it was in someway just ridiculous that he would suggest such a thing. I sat here in fear. While I had never openly shared this part of my life with any of you, except for Representative Craven, I still knew that others knew or had heard rumors. Would Mr. Heath pick up on this and post it on his website?

Everyone once in a while gets to be part of something important. We have that opportunity today. Regardless of what the outcome might be I felt I had to be truthful today and share my story, if for no other reason than to show that it does happen to people you know. It is not always a nameless, faceless unknown. Discrimination can happen to people you know. Your friends, loved ones and coworkers and it is never okay. I ask you today to put the past behind you. I can forgive Mr. Heath for his actions, a hard thing for me to do. I ask that you forgive the fringes on either side of this issue and vote to protect the rights of Mainers. Not always people you don't know but rather people that often sit in silence afraid of loosing their job, or home based

on something other than their ability to perform the job or pay for the home. Don't let this continue in Maine. Send a message that discrimination will not be tolerated here. I ask today that we make it so no one in Maine has to fear this. As mentioned before, some fear will still be there because you cannot legislate matters of the heart. However, no one in Maine should fear losing their job solely based on their sexual orientation. Rather, it should be based on their ability to perform their job. No one should be denied credit based on their sexual orientation, but rather their ability to pay.

I would like to close with this quote that I am sure many have heard before from a man whose name I cannot pronounce, Martin Niemöller I believe, "First, they came for the Communists and I did not speak out because I was not a Communist. Then they came for the Socialists and I did not speak out because I was not a Socialist. Then they came for the Trade Unionists and I did not speak out because I was not a Trade Unionist. Then they came for the Jews and I did not speak out because I was not a Jew. Then they came for me and there was no one left to speak out."

Please do the right thing for Maine this evening and vote in support of LD 1196. Thank you Mr. Speaker.

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

Representative **SAMPSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Tonight I do feel compelled – even though I've heard that this isn't about religion – to speak about the emails and calls that I have received.

I am a Christian; I am a believer. Both my father and my grandfather are fundamentalist preachers. I have been a Christian schoolteacher, a youth leader and a worship leader in a Baptist church. I am the owner of a daycare. I have been involved with many children's issues and have been involved with the local PTA even when my own children were no longer in school because I care about the children in my community. I have been married to the same wonderful man for 26 years. I was a stay at home mom and I have two great children now in their twenties who lead creative successful lives.

Witnesses to my life can tell you how they've seen me live out my Christian life. Not perfectly, certainly, but steadily, with bumps and relying on my faith to get me through. I recite all this so that you have a snapshot of who I am and from this background can make some pretty good assumptions about my beliefs and what I stand for. So, I bet your wondering why I am a Democrat?

I have only been one for the last five or six years. I converted when I was required to pass a litmus test. The test had only two questions; am I pro life, which, in the Christian vernacular, meant anti-abortion? And, am I pro family, which in the same language meant anti-homosexual?

I have learned that no issue is as black and white as those questions would have us believe. These are not just two sided issues where you can stand on one side of the great divide and smugly claim rightness. These are multifaceted questions that have deep cultural, social and spiritual implications. They demand a thorough investigation, not a cursory glance filled with moral snobbery.

In the paper recently, one so-called Christian group encouraged people to gather gossip and send it to their league so that they could put it on the list of anti-family, pro-gay legislators. I don't know about you, but as a person of faith that offends me. They were using gossip and character assassination to move their agenda in the name of God and that borders on blasphemy in my view.

Are these the standard bearers we are supposed to emulate? There are plenty of scriptures that talk about doing justice, loving mercy and walking humbly with our God and the holy writ that describes Christians cultivating fruit of the spirit. Fruit which aid in identifying those who follow Christ's tenets. What about loving our enemies? It seems the fruit had been picked over and only the tasty morsels have been cultivated.

There are many stories in the scripture that describe Jesus interacting with sinners. Each life he touched felt the imprint not of hate, but of love, he is the one we need to emulate.

I'm standing in support of this bill today. Discrimination of any kind should not be tolerated. The moral choices you and I make based on faith or philosophies are just that – choices we make for ourselves. We are not entitled to make them for other.

I have heard recent arguments that gay couples are tearing apart the sanctity of marriage. How can that be? The vows you spoke are your vows. How you live them out speaks to your moral fiber not theirs

I was trying to think of an analogy that could help us view discrimination from the perspective of a gay or lesbian person and while not standing in their shoes I wanted to be able to garner some sense of how it must feel to live in a society faced with such opposition. All I could come up with was this, and I hope it will be adequate.

I want you to take a moment and think of the one incident in your life that you hope none here know about. You know what I mean, that circumstance that caused embarrassment or hurt to you or your loved one. That thing that dances around the periphery of your memory and reminds you that you aren't perfect and that you had a moment in time that you did not make your best choice. Some might even call it a skeleton in your closet.

Now I want you to imagine that that experience is all that we know about you and no matter what other good you have done, no matter how much integrity you have shown since that one indiscretion, no matter how well you have done in your profession or how well you raised your family that one deed is all we know of you and all we want to know of you and we base all our assumptions about you on that one piece of your life.

It is my contention that this is how we have treated our fellow humans who have a different sexual orientation than we do. A focus is placed on what act they may be doing rather than on who they are and what they bring to community and family. I know I don't want to be judged so harshly. Going back to scripture we are reminded to first take the beam out of our own eye and let him without sin cast the first stone. Thank you.

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

Representative **DUPREY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Let me begin my remarks first by addressing the Representative from Lewiston, Representative Walcott - and the entire body - to let you know that when that incident happened last year I was the first legislator to call and tell them to stop that stuff. That was wrong. I hope you guys all remember that. It was wrong to do and I still think it would be wrong to do.

A few minutes ago I objected to a word in this chamber, which I am not going to repeat because I think it is objectionable, and I think that is the reason we are having this debate in the first place, because it is objectionable to call somebody that F-word.

What we are saying here, as a body, is that if that word is acceptable to use in here than if somebody wants to use it in a public school and call another kid the F-word that we don't find it objectionable that it is okay. No, it is not okay. That is an objectionable word in my opinion and I don't think anybody should be called that word.



I would like to address my comments to the Representative from, I believe, Auburn, Representative Sampson. There is no litmus test to be on this side of the aisle. There are many pro-choice Republicans and there are many people that are going to vote for this bill. We have an open tent.

I am not a homophobe! That is going to be in the record. What I am is an employer though. I'm an employer, a father who just happens to be a Christian but I'm not going to bring God into this debate. I don't bring God into here, I check him at the door. I think I do what is right for the people of Maine. I just do what I think is right. But, I am an employer and you know what, I may have gay employees. I don't know I've never asked them. I don't want to know. I would never fire somebody for being gay. You know why, because, if I were to do that it would be pretty stupid. If I don't hire the best people for the job regardless of sexual orientation I only hurt myself, because my competition is going to grab them, period. I would never do that. I served proudly in the military with many gay people and I disagree with the military's ban on gays in the military. They were some of the hardest working people I know. I still claim that to the day. They are honest, hard working and make much more income than straight people. They are a good hard working ethical bunch of people. I will not say a bad word about them.

I count many gay people as friends, people in this chamber, people across this state. I'm getting tired of being labeled. You know it's not really fair to label somebody as being anti-gay just because they don't support this bill. It's wrong. I don't get too emotional. I've made mistakes in the past of getting emotional on bills but it usually gets me in trouble.

Here are some problems with the bill that I see. You know we want to pass a gay rights bill and that's fair enough but the bill we are passing covers every single Mainer. There is not one Mainer who is not covered by this bill. Sexual orientation says if your heterosexual, bisexual, homosexual or gender in ordinary expression, which is every single person in Maine. So it kind of dilutes the reason we have civil rights protections in the first place.

If we are going to cover everybody with blanket protection under this bill doesn't that kind of dilute the reason we are protecting women or minorities or handicaps or blacks? We are saying to them we'll just cover everybody under this bill.

The congressional black caucus and the U.S. Congress say it's a travesty to equivocate the civil rights movement to the gay rights movement. Dr. Martin, Luther King Jr.'s niece was in this very chamber. Not in this chamber but in this institution, in this State House and said you know what, the same thing. To equate civil rights for blacks to civil rights for gays is a travesty. She has met many ex-gays but she has never met an ex black.

I'm a little disgusted with the process of this bill but I understand. The same kind of stuff has been going on here since I've been here. I'm getting tired of this place. You know I'd like to change the rules of the game but that's okay. When you're in power you can do that. We keep ignoring the will of the voters and the voters are going to figure that out one of these days. They are a pretty smart bunch.

We ignored the will of the voters on gay rights in 1998 and 2000 and we are here again. The slot machine bill, we tinkered with that and ignored the will of the people and did what we wanted with that. Palesky, MMA, we've done it, we tinker it, whatever, that's okay we'll change it. If you keep ignoring the will of the people they are going to figure it out one of these days and there are going to be all new people in here.

There is not one person in this chamber that can raise their hand and say that I asked them to vote against this bill. The only thing I have asked people to do is to give the people a voice in

this. I didn't try to lobby anybody to vote against this and in our caucus I have said everybody should vote what they feel. They're cautious; I haven't tried to change anybody's vote. Everybody on the other side of the isle will agree with me. I think it is a personal decision. I just think that people need to speak on this issue and I think its wrong for us to deny that.

I've heard the debate that the majority could never impose their will on the minority and that's why the Legislature exists. Well, ladies and gentlemen, this is the majority because every single Mainer is covered under this bill; because everybody is covered they are the majority.

Changing the rules of the game. You know, when I came here today I had all intention to object to the suspension of the rules to not let amendments go forward tonight. I was going to play some parliamentary tricks. I was going to try and slow the process down, holding bills. There are some things you can do. I was going to try and muddy up the waters because I was disgusted with the process. I figured if I could just hold out long enough until after we adjourned, maybe we would have a chance for the people to really speak on this issue. You know what? The more I thought about it, that is the reason I am disgusted with this place in the first place. It's because of tricks like that. So, the more I thought about it I thought: I'm not going to stoop down to that level. So, I'm not going to do that. I'm going to let the process move forward because I don't lower my standards for anybody.

The last thing I can say is I think this is an open door to same sex marriage, no matter how you describe it. Vermont passed a gay rights bill followed up by civil unions. Massachusetts passed gay rights and they followed it with same sex marriage. The Chief Executive is on record as saying he is for same sex marriage but you have to get this bill first. It's coming.

If you support same sex marriage, that's okay. I'm not going to try and change your mind, that's not my job. Everybody can vote the way they want to, but it's coming just know that that is what you are voting for here today, in my most humble opinion. Thank you Mr. Speaker.

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

Representative BRYANT: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today as a member of the Judiciary Committee and speaking in support of the Majority Ought to Pass Report on LD 1196. I do not want to burden the body with a long speech but merely to pass along some basic considerations.

A constituent of mine, Susan Deliberto, submitted testimony at the public hearing for this bill. She said that she was a church attending, tax paying and hard working citizen. She does not feel that her rights are even adequately equal to her heterosexual counterparts. Susan went on to say she is not looking for more or less rights, just equal rights, in a state she calls home.

She makes an excellent point that extending these protections based on sexual orientation protects us all. It protects all of us because it is all encompassing to gays, bisexuals, transsexuals, transgendered and straight people.

Finally, and perhaps most importantly, Susan said she wasn't asking anyone's opinion on being gay, just for equal protection under the law.

That's all this bill is really about – the law. We already include sexual orientation in our hate crime laws. Are we are here today to say that we only protect citizens in the worst examples of humanity?

Why is renting an apartment or being extended a line of credit any different? We would be shocked and appalled to see anyone

discriminated against in such a way toward people based on race, gender or national origin today. The simple fact of the matter is, that we all fit into these categories, even this one. Pass this bill, protect all of us. Thank you Mr. Speaker.

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

Representative FAIRCLOTH: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I wish to respond to a couple of points from my friend Representative Duprey.

The issue with regard to using sexual orientation language is again humdrum. It is standard language. We didn't say when we had the Human Rights Act in Maine or the Civil Rights Act of 1964 discrimination is based on being an African American or a Mexican American. It says based on race. It says based on sex. This follows the statutory scheme that has always been the case. With great respect to Representative Duprey, I feel that these are side issues from the fundamental point, the issues about incomes of gay people.

I'm not a statistician, I don't know the economics of the issue, but I think some research will show that gay men who work full time earn less, perhaps 27% less than heterosexual men. Even if it was more it's not relevant to the fundamental issue before us. To me one of the things I'm going to remember for the rest of my life is Representative Walcott's remarks here this evening, which remind me of one of my two best friends in high school who went through similar experience. I just feel that his comments again raise the level of this debate to where it should be.

We are on the crest of a great opportunity and the ideas that are brought forward, and I think some of the amendments were going to be hearing really bring us away from something really important and valuable, good, and historic that is going to happen tonight.

This language in this legislation, I can address it as an attorney. What we have here is language that is comparable to what is already passed in many states throughout the Union. Eight states have almost identical language including states like Illinois, Indiana, Kentucky, Pennsylvania, not exactly states that are way out there in left field but middle ground states. Let's keep the focus on the great thing we are going to do this night and lets move forward with this legislation. Thank you.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative CAMPBELL: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to read a few words to the good former councilman from Portland over there if I may.

The SPEAKER: The Representative may proceed.

Representative CAMPBELL: Thank you Mr. Speaker. An awards dinner was held last week in Portland by a gay rights group called Equality Maine. One of the honorees was David Hilton who worked tirelessly to bring Portland school board practices into compliance with the city's 1992 anti-discrimination ordinance, using the school board to discontinue its practice of allowing the Boy Scouts to recruit students and distribute materials.

This may date me but I actually remember a time when public spirited corporations supported groups like the Boy Scouts and now they are honoring a man who wants to destroy them. That's my answer to the good councilman from Portland, Maine.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Pelletier-Simpson.

Representative PELLETIER-SIMPSON Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. We are hearing about a whole lot of side issues and now it's the Boy

Scouts who were honored here earlier this month. They are not in need of protection; they are like mom and apple pie.

We heard in the hearing about a young high school girl who stood up for a friend who was being harassed because he was thought to be gay and then her classmates turned on her. This young woman, her mother watched, as her grades suffered, as she fell into a depression, and so she goes to the school and asks them to help her child who is being harassed and called names and the school does nothing.

We heard of a family of little means, a single mother, now sending her child to private school at \$17,000 per year. All American citizens have a right to a free, public education. I felt the pain of that mother explaining the ordeal of her family.

This isn't about Boy Scouts; it's about simple basic rights for people who are perceived to be different and who currently have no protection. They have a right to the basic human needs we all have - to have a place to live, to have a job, credit and an education. I hope you can vote on this soon, thank you.

The SPEAKER: A roll call having been previously ordered. The pending question before the House is Acceptance of Report "A" Ought to Pass. All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 39

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Bowen, Brannigan, Brautigam, Brown R, Browne W, Bryant, Burns, Cain, Canavan, Craven, Crosby, Cummings, Daigle, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Flood, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Kaelin, Koffman, Lerman, Makas, Marley, Mazurek, McCormick, Merrill, Miller, Mills, Moody, Moore G, Muse, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rector, Richardson D, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowles, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Davis G, Duprey, Edgecomb, Emery, Fitts, Fletcher, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Lansley, Lewin, Lindell, Lundeen, Marean, McFadden, McKane, McKenney, McLeod, Millett, Moulton, Nass, Nutting, Ott, Pinkham, Plummer, Richardson E, Richardson M, Richardson W, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Tuttle, Vaughan.

ABSENT - Marraché.

Yes, 88; No, 62; Absent, 1; Excused, 0.

88 having voted in the affirmative and 62 voted in the negative, with 1 being absent, and accordingly Report "A" Ought to Pass was ACCEPTED.

The Bill was READ ONCE.

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

Representative BRYANT-DESCHENES of Turner PRESENTED House Amendment "C" (H-84) which was READ by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Turner, Representative Bryant-Deschenes.

Representative BRYANT-DESCHENES: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Twice the people of Maine have rejected this piece of legislation. My constituents have told me twenty-to-one to vote against this

bill. They have twice rejected it. I have asked the question, why should I vote for the bill when the people of Maine have clearly rejected it twice.

One answer I got from a lobbyist outside the Judiciary hearing room was that I was better able to make that decision than the public. Another statement I heard that day was, the people of Maine have rejected this twice but it's time to get it passed and it's our job to do it. I came here to represent my constituents. They have called, emailed and handwritten me notes asking me to vote against this bill. If the people of Maine have changed their mind, they are in the best position to tell us so at the ballot box. I urge you to support amendment C2, LD 1196 and send this bill to the people of Maine as they have asked us to do.

The same Representative **REQUESTED** a roll call on the motion to **ADOPT House Amendment "C" (H-84)**.

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

Representative **PELLETIER-SIMPSON** of Auburn moved that **House Amendment "C" (H-84)** to be **INDEFINITELY POSTPONED**.

Representative **BRYANT-DESCHENES** of Turner **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "C" (H-84)**.

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 Scarborough, Representative Curley.

Representative **CURLEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to indefinite postponement although most of the people in my district have asked that we bring this back out for referendum. Those that are both opposed and those that are in favor wanted to make sure that everyone in Maine supported their position, because if we don't allow this to go back to the voters I think it dilutes the passage of this legislation. All the people who are opposed to it can say, well there goes the legislature again; they are taking our voice away from us. Not everyone agrees with that, but I think the voters know best.

I can't think of anyone in this room that thinks that we didn't win our race or that our constituents didn't want us here. They voted for us, let us let this body decide if this can go back out to the voters. If it fails so be it, but we should have a choice to vote on that. Please vote no on indefinite postponement.

The **SPEAKER**: The Chair recognizes the Representative from Auburn, Representative Pelletier-Simpson.

Representative **PELLETIER-SIMPSON** Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. It sounds like a simple idea. Send it out to the voters. We have a history of a failed idea on our desks.

If we look back in history at this great country, from where we started to where we are today, some things take time. I learned an interesting thing, going back to the public hearing last week. The civil rights act passed in 1964. In 1968, the United States Supreme Court upheld that interracial marriage was okay. Seventy percent of Americans disagreed. It takes time; time for people's ideas and thoughts around things to change. In 1991 my child was born. He's bi-racial, African American; you can call him all kinds of things. That was the year that the first poll showed that Americans felt interracial marriage was alright. Lets not sit back and send out to the voters a group that we know is discriminated against; that there rights are up to the majority to decide. In fifth grade civics we learn we live in a country where majority rules but with minority rights. I held that always in my heart. "We hold these truths to be self evident, that all men are created equal, they are endowed by their creator with certain

inalienable rights, that among these are life, liberty and the pursuit of happiness."

We continue to allow discrimination in housing, employment. If you can't get a job how do you pursue life - you can't pay your bills, you can't eat, you can't get housing?

I understand the idea to send this to the voters but the voters sent us here to govern. Let's do that. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Hampden, Representative Duprey.

Representative **DUPREY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I will be brief because I have already spoken. I just wanted to say a couple of things. You know, I could live with the process. When you play sports you play by a set of rules. If you loose the game, you lose the game with your head up, you played by the rules; you didn't cheat. I could live with people that do not want to send this out to referendum. That's perfectly okay. Everybody has their point of view, but to purposefully try to hinder others from wanting to send this out to referendum, by speeding up the process so we can get this bill done sooner, just to keep other people from doing what you don't want to do is wrong.

When a work session is scheduled for mid-April and you push it up just to try to hurt somebody else's efforts to get on the ballot and disenfranchise 51,000 people, that's changing the rules.

The signatures will be gathered even if I have to help bankroll it myself because I think its right and I think it will make people more determined than ever. I think its going to hurt the cause because, you know what, in the middle of the night, 8:30 at night, when people are starting to get ready for bed, its Augusta again saying, "You know what, were going to do whatever the heck we want down here, we don't have to listen to you."

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

Representative **FAIRCLOTH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The House Chair of the Judiciary Committee has conducted her leadership role on that Committee with excellence and we followed every appropriate step in the process. At the public hearing, the work session was announced for the next day as is entirely appropriate under the rules. We are elected in a democratic republic to represent and be the voice of the people who elected us. I am eager to be that voice. This is a historic night where a Chief Executive's bill was passed by overwhelming margins in both chambers. I am pleased with that and I am pleased to go back to the voters of my district and explain my position based on a considered judgment of the issues and the protection of minority rights. That's the issue. If there is another safety valve on the constitution and the people choose to bring a peoples veto that is perfectly available to people and that may proceed without the necessity of this amendment. Thank you.

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

Representative **SHERMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We are speaking to the arrogance of power. If you add up the numbers of people that voted for the Republicans sitting in here and add up the number of people that voted for the Democrats sitting here the number of recounts that we have seems to me that neither side has a mandate of any sort. We haven't adjusted to that yet. The votes, two or three votes, and all of a sudden we have a winning side. I don't think we have a mandate from the people at all. The other day we were given *Budget Backer Sticks to Core Beliefs*, from Senator Brennan and Representative Glenn Cummings and they talked about people who have their core beliefs. I don't see how we can say by one or two votes that we understand the

nature of this issue, that the people out there should have a chance to vote, and probably all of them -we have a minority of people voting in this state. Some people win by 10 votes, 15 votes and they come down here as though they had 100% of the votes. It is a sad story in the middle of the night, which we are doing this; that we claim to have a mandate and say lets override the will of the people. We have something in the Constitution of this state that allows people to gather signatures and put things on the ballot, which we did. It was done last year and then we changed the rules around the education funding. We have changed the rules around special session. How much more do we need to do before we truly become a laughing stock of this state? Thank you.

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

Representative DUDLEY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I was reminded in the course of this debate, the debate on this amendment of words I read years ago in school. I have been looking for them on the Internet and I think I have found them.

Published under the name Publius, and I'm reading from it:

"Justice is the end of government. It is the end of civil society. [By the end meaning the goal.] It ever has been and ever will be pursued until it be obtained or until liberty be lost in the pursuit. In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may truly be said to rain as in a state of nature. Where the weaker individual is not secured against the violence of the stronger and, as in the latter state, even the stronger individuals are prompted by the uncertainty of their condition to submit to a government which may protect the weak as well as themselves. So, in the former state will the more powerful factions or parties be gradually induced by a like motive to wish for a government which will protect all parties, the weaker as well as the more powerful."

Publius is also known as James Madison and he published this in federalist paper #51.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "C" (H-84). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 40**

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Brown R, Bryant, Burns, Cain, Canavan, Craven, Crosby, Cummings, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Makas, Marley, Mazurek, Merrill, Miller, Mills, Moody, Muse, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Rosen, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hanley S, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Lundeen, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moore G, Moulton, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Seavey,

Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Tuttle, Twomey, Vaughan.

ABSENT - Marraché.

Yes, 76; No, 74; Absent, 1; Excused, 0.

76 having voted in the affirmative and 74 voted in the negative, with 1 being absent, and accordingly **House Amendment "C" (H-84) was INDEFINITELY POSTPONED.**

Representative SHERMAN of Hodgdon **PRESENTED House Amendment "B" (H-83)** which was **READ** by the Clerk.

The same Representative **REQUESTED** a roll call on the motion to **ADOPT House Amendment "B" (H-83).**

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 Hodgdon, Representative Sherman.

Representative SHERMAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. After getting up and saying we didn't have time to work this bill I would be a hypocrite if I didn't offer some amendments to it. I do this with some trepidation because as this bill gets closer to palatability it may change some votes. We had that in the 121st, but if you simply look at this amendment it does two things. In one case at the top part it takes out the word bona fide, which appeared before the religious institutions that I mentioned to you before. The analyst said she didn't know what that meant and how you would define what is a bona fide religious association or institution.

The second piece, A, underlined allegation of discrimination based on sexual orientation because we have more than one orientation there – heterosexual, bisexual, homosexual etc. It becomes a question of how you go to court or how you go before the Maine Human Rights Commission and allege that if there were only one person there you wouldn't have to do this I believe, as I understand. It simply says the person who files a complaint alleging that the person had been subject to unlawful discrimination based on sexual orientation must specifically plead and prove the nature of that person's sexual orientation. I believe if it wasn't written the way it was you wouldn't have to clean this up. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Pelletier-Simpson.

Representative PELLETIER-SIMPSON Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I respectfully disagree with my colleague. This language that he wants to add in - allegation of discrimination based on sexual orientation - the person alleging the complaint must prove the nature of the persons sexual orientation. This would do nothing to help the student who was harassed and discriminated against in her school based on people's perceptions of her. We heard testimony from many people who were discriminated against not on their sexual orientation but on their appearance. It defeats the purpose of the bill. I hope that people would join me in voting against this and I further ask for a roll call.

Representative PELLETIER-SIMPSON of Auburn moved that **House Amendment "B" (H-83) be INDEFINITELY POSTPONED.**

Representative PELLETIER-SIMPSON of Auburn **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-83).**

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-83). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 41**

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Craven, Crosby, Cummings, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Flood, Gerzofsky, Goldman, Greeley, Grose, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jennings, Koffman, Lerman, Makas, Marley, Mazurek, Merrill, Miller, Mills, Moody, Muse, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Rosen, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Duprey, Edgecomb, Emery, Fitts, Fletcher, Glynn, Hall, Hamper, Hanley B, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Lundeen, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moore G, Moulton, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

ABSENT - Carr, Marraché.

Yes, 81; No, 68; Absent, 2; Excused, 0.

81 having voted in the affirmative and 68 voted in the negative, with 2 being absent, and accordingly **House Amendment "B" (H-83) was INDEFINITELY POSTPONED.**

Representative DUPREY of Hampden **PRESENTED House Amendment "E" (H-86) which was READ by the Clerk.**

Representative PELLETIER-SIMPSON of Auburn moved that **House Amendment "E" (H-86) be INDEFINITELY POSTPONED.**

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

Representative DUPREY Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I just want to try and speed up the process. I respectfully request and urge you to vote against the indefinite postponement. I'll tell you the reason I put this amendment in. I wasn't going to put any amendments in if the referendum piece passed but it didn't and now I'm going to try and fix this thing a little bit so we can pass a little bit better of a bill.

Anyway, a constituent came to me when we were debating this and said, "This gender identity or expression thing, does that mean that somebody who is wearing a dress can now use a women's locker room or women's bathroom, just because they are dressed like a woman even though they are a man?" I said I had no idea and that I doubted it but the more I did research the more I found out that gender identity expression means you can't discriminate to transgendered people, which also means that under the provisions of the bill for accommodations you have to accommodate in that piece. So, this means that while most cross dressers are heterosexual they can now, when this bill passes, go to Gold's Gym, walk through that locker room, put a dress and some lipstick on and have a peepshow. I have a problem with that. This also means that a pedophile could put a dress on, and lipstick and go to an elementary school's girl's bathroom and do the same thing. I have a big problem with that.

Other state's supreme courts have ruled that transgendered people can use bathrooms of the opposite sex? What's to stop this Supreme Court from doing the same thing - although I don't think it is necessary, its written right into the bill "gender identity

or expression" – since only four other states have that in their sexual orientation piece. None of those states that the supreme courts have ruled in have that. So, I'm very concerned. I would like this amendment in there to make sure that when you go to the bathroom you are going to the bathroom with people of your gender.

This bill also has a provision in there to protect transgendered people. It says that after your sex change is complete then they would be allowed to use the bathroom of the opposite gender. So it actually gives them a provision to protect them, legally, if they try to use it after a sex change and they are denied. It gives them protections. I hope you will support this amendment. I do not want to see anybody other than men in my bathroom. Thank you Mr. Speaker.

Representative CLOUGH of Scarborough **REQUESTED a roll call on the motion to INDEFINITELY POSTPONE House Amendment "E" (H-86).**

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "E" (H-86). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 42**

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Bowen, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Craven, Crosby, Cummings, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Flood, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jennings, Koffman, Lerman, Makas, Marley, Mazurek, McKenney, Merrill, Miller, Mills, Moody, Muse, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rector, Rines, Rosen, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Duprey, Edgecomb, Emery, Fitts, Fletcher, Glynn, Greeley, Hall, Hamper, Hanley B, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Lundeen, Marean, McCormick, McFadden, McKane, McLeod, Millett, Moore G, Moulton, Nass, Nutting, Ott, Pinkham, Plummer, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

ABSENT - Marraché.

Yes, 83; No, 67; Absent, 1; Excused, 0.

83 having voted in the affirmative and 67 voted in the negative, with 1 being absent, and accordingly **House Amendment "E" (H-86) was INDEFINITELY POSTPONED.**

Representative DUPREY of Hampden **PRESENTED House Amendment "F" (H-87) which was READ by the Clerk.**

Representative PELLETIER-SIMPSON of Auburn moved that **House Amendment "F" (H-87) be INDEFINITELY POSTPONED.**

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

Representative DUPREY Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. To the Chair of the Judiciary, thank you for taking the time to read my amendment

before you killed it. Since we don't care who is in our bathroom I am going to try and dress this bill up a little better.

When were in the public hearing someone said, "what if I have an auto mechanic's business and one of my employees shows up wearing a skirt and lipstick? Do I have any recourse? The answer was, not if this bill passes.

As an employer I have a dress code in my business. I am concerned now with the passage of this bill. Dress codes will get thrown out the window now because this will supersede that. Well I try to address that in this amendment. This says that you can have a male dress code and a female dress code, just like the Legislature has. We have our own male and female dress code. But it also has a provision to protect the transgendered people. It says that after your sex change is complete you will be protected to wear the opposite genders clothing.

I think an employer has a right to tell his males they can wear a certain uniform and I think he has a right to tell females they can wear a certain uniform. Since businesses deal with the public I think employers rights should supercede in this case. It's common sense. Mr. Speaker I respectfully request a roll call.

Representative DUPREY of Hampden **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "F" (H-87)**.

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

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

Representative **FAIRCLOTH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Just to clarify legislative intent issues so that there is no doubt, because I think this amendment might muddy the waters, I just want to make clear as with other outlandish examples. Pedophilia is illegal in Maine and remains so and is totally unrelated to this legislation. Similarly, numerous states have passed similar language in their states and nothing in what we have passed would effect the ability of an employer to require an employee to adhere to reasonable workplace grooming and dress standards. That's the legislative intent. That's the legislative intent that has been upheld in other states. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "F" (H-87). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 43

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Bowen, Brannigan, Brautigam, Brown R, Bryant, Burns, Cain, Canavan, Carr, Craven, Crosby, Cummings, Curley, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jennings, Koffman, Lerman, Makas, Marley, Mazurek, McCormick, McKenney, Merrill, Miller, Mills, Moody, Muse, Nass, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rector, Richardson W, Rines, Rosen, Sampson, Saviello, Schatz, Sherman, Smith N, Smith W, Tardy, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowles, Browne W, Bryant-Deschenes, Campbell, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosthwaite, Curtis, Duprey, Edgecomb, Emery, Fitts, Fletcher, Hall, Hamper, Hanley B, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Lundeen, Marean, McFadden, McKane, McLeod, Millett, Moore G, Moulton,

Nutting, Ott, Pinkham, Plummer, Richardson D, Richardson E, Richardson M, Robinson, Seavey, Shields, Stedman, Sykes, Thomas, Trahan, Vaughan.

ABSENT - Marraché.

Yes, 95; No, 55; Absent, 1; Excused, 0.

95 having voted in the affirmative and 55 voted in the negative, with 1 being absent, and accordingly **House Amendment "F" (H-87) was INDEFINITELY POSTPONED.**

Representative FISCHER of Presque Isle **PRESENTED House Amendment "I" (H-92) which was READ by the Clerk.**

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Fischer.

Representative **FISCHER**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would first just like to compliment both the Representative from Auburn and the Representative from Hampden on their very professional manner tonight in this debate. It is definitely a contentious issue and it's one that many of us part ways on, but I do wish to say on the record how much I do respect the professionalism with which both sides have treated each other during this debate. Men and women of the House, this amendment that I offer right now is a simple clarification and it says that a vote for this bill or against this bill is neither a vote in support of changes to Maine's marriage laws and their definitions nor is it a vote in opposition to changing Maine's definition of marriage. The actual statute that I have and the language that you have before you in fact comes from the New York statute so it is one that has been on the books for many years and I would like to let members know that advocates on both sides of this issue have been consulted about this amendment and the last time I checked I believe they were all in support of it. So, I ask you to vote for this amendment and I appreciate your support. Thank you.

Subsequently, **House Amendment "I" (H-92) was ADOPTED.**

Representative DUPREY of Hampden **PRESENTED House Amendment "G" (H-88) which was READ by the Clerk.**

Representative PELLETIER-SIMPSON of Auburn moved that **House Amendment "G" (H-88) be INDEFINITELY POSTPONED.**

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

Representative **DUPREY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I was hoping that would go under the hammer. Guess I'm in the wrong party, I'm sorry. Basically what I'm trying to do here, you know what, for the record, tonight is the first night - I've been here five years - that I have ever presented a floor amendment. I figured I could make up for five years tonight. What I'm trying to do here is create a gay rights bill, plain and simple. Sexual orientation means a person's actual or perceived homosexuality. I'm going to turn this into a gay rights bill. If that's what we want to pass, a gay rights bill lets make it a gay rights bill. Let's not give me civil rights protections under sexual orientation, I don't need them, nor do I want them. I think if your going to vote for a gay rights bill lets make this a gay rights bill. This is what this amendment does.

Let's put them in a protected class. Let's put them with the other people that need protection. Let's not say every Mainer, all 1.2 million of them, you're covered under this bill because that is exactly what is going to happen when this bill passes. There is not one person in Maine that cannot claim discrimination based



on sexual orientation no matter what they are. Gay, straight, in between somewhere, whatever, it doesn't matter. Let's turn this into a gay rights bill if that's what we want to do here. I do not need protection as a straight person. Mr. Speaker, I ask for a roll call.

Representative DUPREY of Hampden **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "G" (H-88)**.

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

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "G" (H-88). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 44**

**YEA** - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Bowen, Brannigan, Brautigam, Brown R, Browne W, Bryant, Burns, Cain, Canavan, Carr, Craven, Cressey, Crosby, Cummings, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Jennings, Kaelin, Koffman, Lerman, Makas, Marean, Marley, Mazurek, McCormick, McKenney, Merrill, Miller, Mills, Moody, Moore G, Muse, Nass, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Plummer, Rector, Rines, Rosen, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

**NAY** - Annis, Austin, Berube, Bierman, Bishop, Bowles, Bryant-Deschenes, Campbell, Cebra, Churchill, Clark, Clough, Collins, Crosthwaite, Curley, Curtis, Duprey, Edgecomb, Fitts, Fletcher, Hall, Hamper, Hanley B, Jodrey, Joy, Lansley, Lewin, Lindell, Lundeen, McFadden, McKane, McLeod, Millett, Moulton, Nutting, Ott, Pinkham, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

**ABSENT** - Emery, Marraché.

Yes, 98; No, 51; Absent, 2; Excused, 0.

98 having voted in the affirmative and 51 voted in the negative, with 2 being absent, and accordingly **House Amendment "G" (H-88)** was **INDEFINITELY POSTPONED**.

Representative DUPREY of Hampden **PRESENTED House Amendment "H" (H-89)** which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Hampden, Representative Duprey.

Representative **DUPREY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I know some people are upset with me for putting in an amendment after amendment and I am sorry about that and I know I have lost people along the way and I know I am going to loose more, but you know what, since in my opinion we are disenfranchising people by not sending it out to them, I am not going to disenfranchise myself. I am going to be able to use the process that this body allows me to use to try to make a bill better before we pass it.

I may upset some people and I apologize. I have done it before and I will probably do it again. It's not my intention to extremely belabor this bill. I would have rather done this in the light of day when the people are awake, but anyway, I'm really concerned with passing this bill with the amount of litigation that is going to be coming in as a result of this. The lawyers are going to be rich tonight because there are going to be a lot of lawsuits! All you have to do is fire anybody and they are going to find a reason, straight or gay, to sue that employer. As an employer

that employs over forty people, which is a pretty big company for Maine, I'm concerned because I don't care if a person is gay. If I fire them they are going to turn around say, "Well you fired me because I was gay." I didn't know you were straight! I don't really care! But it doesn't matter because we could sue for any reason whatsoever in this state.

Well, in this amendment it says that if you bring a lawsuit against an employer for discrimination and you loose, you should have to pay the employer back his cost for defending the lawsuit. Flip it around the other way. If an employer looses he deserves to have to pay the litigation costs of the person discriminated against and this covers that as well. Looser pays. This may make people think twice before you bring a frivolous lawsuit against an employer that has to pass that cost on to hard working Maine women and men. Mr. Speaker, I request a roll call.

Representative DUPREY of Hamden **REQUESTED** a roll call on the motion to **ADOPT House Amendment "H" (H-89)**.

Subsequently, the same Representative **WITHDREW** his motion for a roll call.

The **SPEAKER**: The Chair recognizes the Representative from Auburn, Representative Pelletier-Simpson.

Representative **PELLETIER-SIMPSON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to pose a question through the Chair to anyone who can answer.

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

Representative **PELLETIER-SIMPSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Would this amendment apply to people who bring a claim of unlawful discrimination based on race, religion or gender? Thank you.

The **SPEAKER**: The Representative from Auburn, Representative Pelletier-Simpson has posed a question through the Chair to anyone who may care to respond.

Representative **PELLETIER-SIMPSON** of Auburn moved that **House Amendment "H" (H-89)** be **INDEFINITELY POSTPONED**.

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

Representative **MILLS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I'd answer in the affirmative. This draft amendment would apply to all allegations of discrimination. It also would not, unfortunately, accomplish the purposes that its sponsor, Representative Duprey, has asserted that it would accomplish because it would allow, it would in fact order, award of attorney's fees against a claimant in a prelitigation proceeding. That is a proceeding brought before the Human Rights Commission. It would therefore essentially encourage a person who looses at the Human Rights Commission level to file suit in fact, in order to avoid being assessed attorney's fees. It would encourage frivolous litigation, not discourage it.

The Chair ordered a division on the motion to **INDEFINITLY POSTPONE House Amendment "H" (H-89)**.

A vote of the House was taken. 101 voted in favor of the same and 45 against, and accordingly **House Amendment "H" (H-89)** was **INDEFINITELY POSTPONED**.

Representative DUPREY of Hampden **PRESENTED House Amendment "J" (H-94)** which was **READ** by the Clerk.

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

Representative DUPREY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I can admit when I have been whipped and it's been a fair fight tonight and I appreciate your allowing me to fight and when I go to bed tonight I'll lay on my pillow and felt like I felt a good fight and I can accept defeat. As long as the game is fair and tonight this process is fair. All the process stuff I disagree with, but tonight this is fair and I thank you for your indulgence, but I have just one final amendment that I would really like people to consider.

I'm in the childcare business. I own many childcares and there are a lot of businesses out there that are religious in nature that may not necessarily be a nonprofit. There are some Christian daycares out there. There are some Buddhist daycares out there, some Montessori schools. There are some Catholic daycares that are operated by people out of their own homes. This bill does not give them any exemptions and I have a problem with the legislature imposing their will on somebody's religious beliefs. I don't do that. I would never fire somebody for being gay and I don't think anybody else would, but there is a religious exemption in the bill and everybody is okay with that, but they are only okay with nonprofits.

There are some good for profit companies out there that run religious type organizations and they do not get that exemption. Just because a daycare may get funds from the state through the Aspire Program or through a voucher that means they would not have an exemption. I would like them to have that exemption, just to make things fair, to protect and not, you know...I guess what I'm saying is if we give the exemption to the nonprofits what's the difference with giving it to the for profits if they are doing the same exact thing. This will be my last one. I admit I have been whipped. Thank you for letting me kill an hour of your life.

Representative PELLETIER-SIMPSON of Auburn moved that House Amendment "J" (H-94) be INDEFINITELY POSTPONED.

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

Representative SHERMAN: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. These last few amendments would have been nice to have before Judiciary and worked them through. Thank you very much.

Representative DUPREY of Hampden REQUESTED a roll call on the motion to INDEFINITELY POSTPONE House Amendment "J" (H-94).

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "J" (H-94). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 45

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Bowen, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Carr, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Flood, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Makas, Marley, Marraché, Mazurek, McKenney, Merrill, Miller, Mills, Moody, Moore G, Muse, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Twomey,

Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Emery, Fitts, Fletcher, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Joy, Kaelin, Lansley, Lewin, Lindell, Lundeen, Marean, McCormick, McFadden, McKane, McLeod, Millett, Moulton, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

ABSENT - Jodrey.

Yes, 82; No, 68; Absent, 1; Excused, 0.

82 having voted in the affirmative and 68 voted in the negative, with 1 being absent, and accordingly House Amendment "J" (H-94) was INDEFINITELY POSTPONED.

On Motion of Representative DUDLEY of Portland the House RECONSIDERED its action whereby House Amendment "I" (H-92) was ADOPTED.

The same Representative REQUESTED a roll call on the motion to ADOPT House Amendment "I" (H-92).

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 "I" (H-92). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 46

YEA - Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Berube, Bierman, Bishop, Blanchard, Blanchette, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant-Deschenes, Campbell, Canavan, Carr, Cebra, Churchill, Clark, Clough, Collins, Craven, Cressey, Crosby, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dugay, Duplessie, Duprey, Edgecomb, Emery, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Jacobsen, Jennings, Joy, Kaelin, Lansley, Lewin, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moore G, Moulton, Muse, Nass, Nutting, Ott, Paradis, Patrick, Perry, Pilon, Pineau, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Saviello, Schatz, Seavey, Sherman, Shields, Smith N, Smith W, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Valentino, Vaughan, Webster, Wheeler, Mr. Speaker.

NAY - Adams, Bliss, Bryant, Burns, Cain, Crosthwaite, Cummings, Dudley, Dunn, Eberle, Eder, Faircloth, Farrington, Hutton, Jackson, Koffman, Lerman, Lindell, Norton, O'Brien, Pelletier-Simpson, Percy, Pingree, Sampson, Twomey, Walcott, Watson, Woodbury.

ABSENT - Jodrey.

Yes, 122; No, 28; Absent, 1; Excused, 0.

122 having voted in the affirmative and 28 voted in the negative, with 1 being absent, and accordingly House Amendment "I" (H-92) was ADOPTED.

Subsequently, the Bill was PASSED TO BE ENGROSSED as Amended by House Amendment "I" (H-92) in NON-CONCURRENCE and sent for concurrence. 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:

(S.P. 32) (L.D. 90) Bill "An Act Regarding the Gambling Control Board" (EMERGENCY) Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-47)**

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

There being no objection, the Senate Papers was **PASSED TO BE ENGROSSED as Amended. 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 Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2006 and June 30, 2007" (EMERGENCY)

(H.P. 343) (L.D. 468)

TABLED - March 22, 2005 (Till Later Today) by Representative DUPLESSIE of Westbrook.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-35).**

Representative BRANNIGAN of Portland **PRESENTED House Amendment "CC" (H-93) to Committee Amendment "A" (H-35),** which was **READ** by the Clerk.

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

Representative **BRANNIGAN:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would remind everybody that in Spanish CC is yes and I hope that everyone will. This is an amendment that does many things.

On the whole it is a technical amendment. It does remove the emergency preamble due to the fact that we despair of having a two thirds vote. It does change some dates, some citations, some omissions that would happen in a bill of such size. It removes the language dealing with canoes and kayaks and studies of the wilderness cards, it lowers the seatbelt law that required high fines. It lowers those fines to \$50, \$125 and \$250 where the committee had intended to have it in the first place.

It makes changes in the directions to OPEGA that were put in the bill asking probably too much of that office as it begins and that is a language that has been worked out with OPEGA to not hurt their beginnings. It takes care of the duplicative provisions and it has a provision that supports schools that take in students from unorganized territories.

This amendment is a necessary amendment for the budget. I appreciate your support. Thank you Mr. Speaker.

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

Representative **TRAHAN:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to thank the Chair of Appropriations, Representative Brannigan, for proposing parts of this amendment that address concerns that I had.

I would also like to be able to get on the record in support of our House Chair of the Inland Fisheries and Wildlife Committee. Our committee, for those that didn't see it, went through some real turmoil with this budget around the issues of Sunday hunting and canoes and kayaks and many issues and I believe that the Representative from Bath, Representative Watson really worked in good faith with the Republican Committee members and did a terrific job as the House Chair, so I wanted to go on record thanking him for his work and also Mr. Speaker, I ask for a roll call so that I can be on the record in a good bipartisan way with my fellow Democrats. Thank you.

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

Representative **TWOMEY:** Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I cannot and will not support this amendment. I am very glad that we have taken the fees off of the canoes and the kayaks because that was totally ludicrous and it's unfortunate that we are left with the seatbelt laws and I certainly agree that we should wear our seatbelts. My fear however is that we are now becoming dependant on crime so that we can pay for our budget.

My fear is that some mother in the morning rushing to get her children to daycare who may forget her seatbelt will only get a \$50 fine the first time but the second time it's a \$120 fine and the third time it's \$250. Two hundred and fifty dollars that in my district is probably her whole pay check. I am totally objecting to this amendment. This is not how to pay for the budget. It's fiscally irresponsible and I cannot support this amendment. Thank you.

Representative **TRAHAN** of Waldoboro **REQUESTED** a roll call on the motion to **ACCEPT House Amendment "CC" (H-93) to Committee Amendment "A" (H-35).**

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 House Amendment "CC" (H-93) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 47**

**YEA** - Adams, Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Berube, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Cain, Campbell, Canavan, Carr, Cebra, Clark, Craven, Cressey, Crosby, Cummings, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hall, Hamper, Hanley B, Harlow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Koffman, Lerman, Lindell, Lundeen, Makas, Marean, Marley, Marraché, McCormick, McFadden, McKenney, Merrill, Miller, Millett, Mills, Moody, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rector, Richardson D, Richardson W, Rines, Rosen, Sampson, Saviello, Schatz, Seavey, Shields, Smith N, Smith W, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

**NAY** - Bierman, Bishop, Churchill, Clough, Collins, Crosthwaite, Curley, Curtis, Joy, Kaelin, Lansley, Lewin, Mazurek, McKane, McLeod, Moore G, Pinkham, Plummer, Richardson E, Richardson M, Robinson, Sherman, Stedman, Twomey, Vaughan.

ABSENT - Hanley S.

Yes, 125; No, 25; Absent, 1; Excused, 0.

125 having voted in the affirmative and 25 voted in the negative, with 1 being absent, and accordingly **House Amendment "CC" (H-93) to Committee Amendment "A" (H-35) was ADOPTED.**

Representative MILLETT of Waterford **PRESENTED House Amendment "Y" (H-73) to Committee Amendment "A" (H-35), which was READ** by the Clerk.

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

Representative MILLETT: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. House Amendment Y addresses one of the most consequential elements within this budget before us this evening. It would ask that section PPPP be sent to the voters in referendum on the first Tuesday in June, that being June 7th, and subject to their approval before taking final effect. I would add that the amendment proposes to pay for the full cost of that amendment for that referendum vote in as much as there is no scheduled primary or election on that date.

I want to stress the importance of the borrowing proposal that is before us and illustrate my involvement in working on an earlier version of it, and also my strong feelings that borrowing, particularly of this magnitude, ought to be the very last resort in balancing a public budget. In my view, balancing budgets really is a test of the word balancing. It ought to first begin with looking at your sources. In our case our income or revenues and making a determination if those sources really reflect our desires for income or the realities of the economy that supports that revenue stream and further that it ought to represent a balancing of spending in terms of both wants and needs.

Then and only then should we begin to balance the budget by looking at our income in reality terms and our spending in terms of need terms and make judgments based not only on our perception of what is needed by those who depend on our budgets, but also that we look at both short and long term consequences of that balancing of income and outgo as we reflect on a budget of this magnitude.

The next steps in balancing a budget are often the easy ones and the ones that we have chosen in the last two years with increasing frequency and they are the one time balance reductions and transfers from available sources and deferrals of obligations by putting them off until another day. The first reflects what has been often called picking the low hanging fruit, and certainly in our first budget under this administration on 2003 we picked all the low hanging fruit and we now find ourselves poised on the top rung of the ladder squeezing everything, which we can reach. I think that we are getting too addicted to that approach, to looking at one time sources as if to say these are appropriate steps to be taken in balancing a budget for the long haul.

We have also deferred many things, conformity of revenues and taxes state to federal, putting off obligations that have been previously committed by Legislatures that have come before us and essentially again falling back into the trap of looking at the short term. The use of borrowed monies to balance a budget in my judgment ought to be, as I said earlier, the last resort and only the resort to be used when everything else fell short of meeting the goal of producing a balanced budget.

The question has been asked of me many times by folks in the media, and others who have seen this budget since it surfaced at 5:30 am on Saturday last, and I asked myself: what can I say when people ask is this budget balanced, and I say it has been a consistent lack of balancing – of balancing priorities, of balancing short and long term goals - and it sits before you

balanced on paper, but with much of the additional elements being off budget. Thus you don't see, unless you resort to looking at this long, lengthy orange colored document that many of you probably have taken the time to study. If you have you would really see that what started out to be an exercise of replacing a budget that was adopted two years ago, updated a year ago and updated here earlier this month, that stood at just under \$5.4 billion for the current biennium started out with the Chief Executive presenting a \$5.7 billion budget.

You may have heard and you may see within this orange document that it really looks like a \$5.4 billion budget, but in reality it is a \$5.9 billion budget because of all of the items that we have taken offline and moved away from the public view.

I don't really feel that we have balanced it in the normal sense of the word by balancing priorities and doing it in a very straightforward, upfront manner. We have also avoided dealing with some issues, one of which is very consequential and should by rights be dealt with in a current services budget, that being the effect of a reduction in the federal percentage for Medicaid assistance.

This is a \$75 to \$80 million problem that should be in this budget that is not. It will be deferred and dealt with in the part two budget in committee and we don't know how yet it will be done, but needless to say it will leave another substantial challenge of finding the resources to offset another \$75 to \$80 million not before us this evening.

We also have learned that there is a structural gap problem, which in simplistic terms means that we have become accustomed to deficit spending, and we are looking at the continuation of that practice for the next two years and probably for much longer because this budget continues to leave us at least \$619 million in deficit spending for the biennium that will follow the biennium we are talking about here tonight. When do you go to borrowing and is it ever something that we as fiduciary representatives of the public ought to have in our arsenal or ought to look at as we deal with an operating budget.

I want to explain my role on the subcommittee of the Appropriations Committee because I entered into it in good faith and I want you all to know that I tried to represent what you would want us to do in the early goings of that assignment.

We were asked as a Subcommittee of four, and the other three members include Representative Mills from Farmington and Senators Martin and Nash from the other body, and the chore was to find a replacement for the lottery securitization plan that many of you and many of our colleagues on the other end found objectionable, even to the point of publicly disowning it and wanting an alternative too it.

I also think there was a groundswell of opposition to the delay and the unfunded actuarial liability pay down, which is part of the Chief Executives proposal and is included within this budget, sadly, stretching it out to the constitutional maximum.

When we first met, even though we were not asked to talk about the Maine State Retirement System, we brought folks from the system and their actuary into our first meeting. We did so because the lottery securitization plan was grounded and developed on the premise that maybe the lottery would have an interest in investing it's resources in giving the State of Maine an up front contribution of \$250 million in the upcoming biennium and then waiting for ten years thereafter to get their money back.

The first question I posed to the staff in the actuary was, does the Maine State Retirement System have any interest in this proposal? The answer without hesitation was absolutely not. They wanted nothing to do with it. So then we were stuck with where do we go and how can we, if in any manner, involve the

Maine State Retirement System in attempting to address the budgetary dilemma we were faced with.

My first question was, if we were able in some manner to give you the budgeted requirements for the unfunded actuarial liability up front, would you be able, given your 8% yield expectations on investments, to be able to give us a discount or credit on such an upfront payment. The answer was very quick and very encouraging. Yes, by all means, they would definitely give us the benefit of the spread between what we could borrow and what they can earn in their investment yield. I had a real difficult time with my own caucus from that point forward because we began to explore what we could do to get rid of this \$250 million lottery proposal that none of us really liked and we explored various options. Obviously, we can do tax anticipation note borrowing, but we must pay it back within the current year. Obviously, we could do general obligation borrowing but that would mean going to the people and we had already been struggling with the Chief Executive's proposal for \$197 million of general obligation borrowing, not including the concept before us.

We then went to the Maine Municipal Bond Bank staff and asked the question about revenue bonding as an option. To make a long story shorter it was an opportunity we felt to do something that would give us credit for a substantial amount of up front payments to help the system, which I dare say all of us here in this building, in this room tonight, have a real commitment to. I feel a strong obligation to the teachers and the state employees who are retired and depending on their pension as well as to those who are currently working, and hoping - as we sometimes do with Social Security - that when they are ready to retire that system will be solvent; it will be there to pay them their defined contribution benefit that we in previous Legislatures have promised. It became almost a sacred trust. What can we do to help that system and what can they do to help the State of Maine get through a very difficult borrowing, and thus balancing of a budget challenge?

When I took the concept that originally involved paying, actually, \$390 million dollars to the retirement system to offset both lottery and the \$140 million that would be saved in the Chief Executive's proposal, to go back to the long schedule, to my caucus, I had a real hard time getting any support to the concept and only with the support of my leadership when we put our cards on the table and we said this is the last thing we want to do, but if the Majority party is willing to work with us and accept a couple of conditions then we might be able to work something out that would lead to a two-thirds budget. Those two conditions were, could we agree that we have done enough taxing; that we don't want to put more taxes, more increased taxes or fees, on the table and could we agree that among us, between us, working together in a bipartisan way that we could actually begin to cut this long term deficit spending structural gap down over a three biennium period. Starting with the upcoming biennium and moving it out of the way and totally eliminating it by the end of the third biennium out. I thought we had a chance to do this and I really regret and I'm sorry and apologize for the fact that it happened late enough in the game so that the majority party found no way to move in our direction and thus on that fateful day the majority took the budget, rewrote most everything, including part PPP to make it such that it did not do what we originally, as Republicans, wanted it to do and that was to pay off a substantial portion of the unfunded liability and get back on the short payment schedule so we could literally save our taxpayers billions of dollars over a 14 year period.

Just a statistic that I would throw out to you, by looking at the long schedule and comparing it to the short, if you go to the 14 year schedule and then look down to the 23 year schedule,

between those two levels on the schedule we would spend \$3.6 billion and have gained not one nickel in paying down the unfunded liability. In other words we would have invested and that is the situation we are in tonight. \$3.6 billion, or very close to that, of taxpayer dollars over the next 23 years and still at the end of 14 years have not gained anything and have done nothing but tread water.

This situation tonight is one that I don't feel comfortable with. It abandons the goals that we set out to accomplish, it doesn't do anything to address the structural gap, other than in marginal terms and it leaves us with a deficit spending plug in this budget, after all the low hanging fruit is gone and after we have gone after all of the revenues that anyone with a creative mind can think of. Where will we be in the 123rd Legislature? We will be back in the same posture we are or were when we came here in January and I think we will have done a disservice to our voters. I really am concerned. I'm concerned about what each of us will face if this budget passes in its present form. We have been through two rounds of voting on the Maine Municipal Initiated Referendum. We have been through a Carol Palesky Referendum; we know there is a Taxpayer Bill of Rights Referendum question being circulated.

I was here when the uniform property tax was repealed by voter backlash and taxpayer revolt and I feel that we are closing in on that defining moment where we could very well face another such movement by the voters if and when this budget passes and they become aware that this Legislature is considering borrowing \$447 million and obligating the state and the Legislatures of the future to pay it back without voter participation in any form and without any consideration for constitutional provisions that call attention to the fact that we should not be bonding in any fashion to cover operating expenses. Mr. Speaker, I urge serious consideration of this. This is a constructive move. There is time to do this. The actual preparation of the bond instruments themselves will take nearly 60 days if this budget were to go forward and I believe we owe it to the voters to give them a chance to weigh in on what should be seen as a very last resort and in my view, a very ill planned resort to balance this budget and I urge your consideration and Mr. Speaker when the vote is taken I request the yeas and nays.

Representative MILLETT of Waterford **REQUESTED** a roll call on the motion to **ADOPT House Amendment "Y" (H-73) to Committee Amendment "A" (H-35)**.

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 Portland, Representative Brannigan.

Representative BRANNIGAN: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I certainly want to commend the Representative from Waterford, Representative Millett. I have worked with the Representative for many years, always in a deficit position, but we are probably good at that. You can tell by his concern that he is quite erudite in these areas. I certainly will never forget his passion for getting to and dealing with the unfunded liability. He certainly brought it front and center for us. I believe we are dealing with it and I believe this amendment is not necessary and therefore I move the indefinite postponement of House Amendment Y and all its accompanying papers.

Representative BRANNIGAN of Portland moved that **House Amendment "Y" (H-73) to Committee Amendment "A" (H-35) be INDEFINITELY POSTPONED**.

Representative MILLETT of Waterford **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "Y" (H-73) to Committee Amendment "A" (H-35)**.

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: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to just briefly speak in favor of indefinite postponement of this amendment and it is with great respect and some degree of deference to the good gentleman from Waterford, Representative Millett. It has been a great pleasure to have worked with him on this Subcommittee - this working group - with Senator Martin and Senator Nash and I have appreciated his insights, his history and his ideas, many of which have gone into this provision of this bill and I would commend your reading of part PPPP of the budget bill in order to further everyone's understanding of the pension cost reduction bond, to which his amendment is addressed.

I urge you to vote for Indefinite Postponement because this borrowing package is indeed a vital part of the budget bill. Although the borrowing package does not go to fund operating expenses it goes specifically to fund pension cost reduction including, \$120 million as a payment down on the principle due of the unfunded liability to the retirement system, a very important piece of this bill, which in turn saves more than \$340 million over the course of the payment schedule. We hope to save money in that respect and we also hope to save money by passing this expeditiously and by accruing savings to the tune of \$26-27 million by prepaying the two year, the biennial payment on the regular payments of the pension fund for the teachers portion of the retirement fund and that is a savings that would not likely accrue if time were taken to send this out to referendum. We also expect to achieve savings by passing this expeditiously; by capturing a favorable interest rate. We expect the interest rate to be around 5.2%, which is very favorable compared to the interest rate attributed to us by the retirement system of something in excess of 8% for those three reasons we hope to save money by passing this borrowing package as part of the budget. We also hope to do this expeditiously as part of the budget because the secondary effect of this pension cost reduction bond authority in part PPPP is to displace certain budget items that would free up monies to pay for other matters in the budget, other items in the budget. Not to pass this as part of the budget would indeed throw the budget out of whack and out of balance.

We believe that because school boards, town councils, city councils are all doing their budgets now and depending on this entire budget package to be passed now, so that they can count on whatever they can count on in this budget we believe it is appropriate to do this now as part of the budget and not send it out to referendum.

We do hope to continue to achieve savings by continuing to pay on a shorter schedule than the 23 year maximum schedule. We have to do this by not increasing the structural gap however and not imposing on state government the mandate that a shorter schedule, codified in statute would impose, and that would require another several hundred million dollars a year that would contribute to the structural gap, something I think we share an abhorrence of.

We also drafted this proposal, as the good gentleman from Waterford understands, with the assistance of the Attorney General's Office and with the assistance of bond council in New York City and we believe it passed its constitutional muster. Its purposes are clear and the repayment provisions are clear and past muster under both provisions of the Maine Constitution regarding bond issuance and borrowing in general.

With that in mind I hope you will join me in voting to Indefinitely Postpone the good gentleman's amendment. Thank you.

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

Representative MILLETT: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I do not wish to debate the good lady from Farmington, I have too much respect for her and I don't wish to prolong this discussion. I would just point out by virtue of their own schedule that this borrowing pays \$125.7 million of current, normal retirement costs from bond proceeds. It secondly borrows \$31.3 million to pay interest on the payback. Thirdly, it raises, by virtue of some paper shifts, \$74 million to be set-aside in a cash reserve. All three of those elements together add up to almost the \$250 million hole that it was intended to plug and by any reading of Article 5 under the Treasurer's responsibilities of the Maine Constitution, the word bond and the word operating expenses are oxymoronic and we cannot and should not be using this instrument to borrow operating monies. I appreciate your time and attention.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "Y" (H-73) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 48**

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgcomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Twomey, Vaughan.

Yes, 76; No, 75; Absent, 0; Excused, 0.

76 having voted in the affirmative and 75 voted in the negative, and accordingly **House Amendment "Y" (H-73) to Committee Amendment "A" (H-35) was INDEFINITELY POSTPONED.**

Representative BOWEN of Rockport **PRESENTED House Amendment "X" (H-71) to Committee Amendment "A" (H-35), which was READ by the Clerk.**

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

Representative BOWEN: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This amendment has come to be known as the continuing resolution. If adopted it would in effect replace the budget before

us with a temporary three month budget. It continues present funding as allowed under the current operating budget of the state. It ensures that in the event that we do not come together on a 2/3-vote budget before April 1st, we would not need to adjourn the session. State government would continue to operate into the new fiscal year starting July 1st and it allows for later passage of the Majority budget should we fail to reach consensus, despite more work on this document. It ensures that needed state funding for schools and social services continues without any state shutdown and it ensures that the state makes the needed adjustments to allow for the changes that we have made to school funding, debt service and tax relief, including changes made under LD 1.

Most importantly, this three month budget ensures that we have the time to do what all of us in this body, deep down I believe, know that we must do, which is to send this budget back to appropriations for more work with the direction to make it better for the people of Maine.

You have to remember that a vote to adopt this budget before us today presumes that it is the best possible budget bill that this institution is capable of producing. You are saying with your vote for this budget today that we can do no better. You say with your vote that all of the work, all of the hours that many of us have put into this document have resulted in the best possible product. I would submit to you that there are few among us who truly believe that and fewer still outside these walls. This budget, men and women of the house, needs more time and it needs more work. This amendment gives us that. You guys in appropriations have had this thing for months. What good can possibly come of giving it more time to work, especially since it seems to get steadily worse the more we tinker with it.

Let the thing be done already, some of you are saying, my response to you is to review for you very quickly how we got here and ask you to think again, because you presume that this is the best that we could have done, that all of the options were looked at and discarded. We did do a great deal of work on this budget. After the report backs from the committees, we set to work on the low hanging fruit in the budget.

Under the leadership of our chairs, we went through and agreed on much in the budget. Not 90%, I don't think, unless your counting individual lines in the budget. Maybe that is how we are getting to the 90% number, but there was a lot for sure. What remained though was the tough stuff.

The Health and Human Services budget, tax conformity, the Community Pharmacy benefit, IFW, the UAL, and the borrowing scheme. These are a few things but they're huge and on, which it was a wide gulf of difference frankly.

In the days leading up to the infamous Friday, which Representative Millett referred to earlier, when we voted this thing out of committee we were supposed to be working on those tough issues; these ones that divided us.

Now it was my understanding that someone new to appropriations this session – cause I'm sure it was the understanding of many of you – that you would do your report backs from the committees. You would give us some direction to go in and that we would do the heavy lifting. We would find consensus where we could. We would talk about the things that budget could do and would do and would not do. Talk about what we wanted for the State of Maine and it's people. We would look at all the options, we would turn over every stone we would remain committed and we would find the place in the middle where we could all stand together. We were supposed to sit down and work it out. We didn't!

Tickling of the clock, the steady drumbeat to get something out of the committee in order to enact it by April 1st prevailed.

We were ready to talk. We had our lists, our friends on the other side had their lists and we waited around all that week for the chance, as Representative Millett famously put it, to show them ours and have them show us theirs and as we all know this didn't happen.

We didn't compromise. We didn't work together in the end. We didn't find the middle place. Then under the cover of darkness the hard parts of the budget, the ones we were supposed to work out together, and the issues you counted on us to find a way through were resolved by majority vote and so you have the budget before you, which is not a product of compromise but one of partisanship. Not a product of careful deliberation, but of political expediency.

Is this the best budget that this institution is capable of producing? I think not and I suspect many of you agree. So, we move forward this amendment to buy us more time, to allow a majority budget later, if unfortunately, it comes to that. We offer this as one last olive branch, an olive branch and a lifeboat. A lifeboat for all of us who still believe that this budget takes us down the wrong road in so many ways and that more time, more effort and true collaboration can make it better. With the adoption of this amendment, which gives us that time the only other ingredient we will need is the will to go back to work, together, and to make this a budget we can be proud of. I hope I can get your support.

Representative BRANNIGAN of Portland moved that House Amendment "X" (H-71) to Committee Amendment "A" (H-35) be **INDEFINITELY POSTPONED**.

The same Representative REQUESTED a roll call on the motion to **INDEFINITELY POSTPONE** House Amendment "X" (H-71) to Committee Amendment "A" (H-35).

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 Presque Isle, Representative Fischer.

Representative FISCHER: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The Republicans tonight offer an amendment to the democratic budget that some have called the Republican plan. Mr. Speaker the Republican plan is void of ideas. I was just looking at it and comparing it to the Democratic Budget.

The Democratic Budget, the Republican Budget, where are the ideas I ask you? It includes but one idea, to pass a continuing resolution. Democrats rightly reject this lone idea, not because we are partisan but rather because delaying tough choices does not make them any easier. While Republicans in some editorial pages call such a thing a plan, Democrats and most Maine people have another word for it – procrastination.

Procrastinating certainly will not make any of our tough choices any easier and, as I have discussed with my colleague so many times, the easy thing and the right thing are rarely the same things. As we were getting ready for this debate today I looked up in the *Book of Matthew* one of the things that my mother always taught me when we were talking about homework and that was, "We should enter through the narrow gate, for the path is easy and the gate is wide that leads to destruction and those who enter through it are many."

Making tough choices now is certainly to enter through the narrow gate. So instead of procrastinating, Mr. Speaker, Democrats propose a balanced budget in a timely fashion so Maine's schools and municipalities will have the information they need and the numbers they need to complete their budgets and most importantly, Mr. Speaker, the Democratic Budget balances while flash funding \$250 million to those schools. That's an investment in our states future unparalleled in the past century.

Mr. Speaker, I ask members of this chamber to reject the Republican plan of procrastination and to instead join with Democrats in passing a balanced budget tonight. If we cannot have a balanced budget tonight I hope that Maine people will wake tomorrow morning to the welcome news that legislative Democrats made the tough choices and did the peoples work in a timely fashion and that they did it alone. Thank you Mr. Speaker.

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

Representative **TWOMEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would just like to weigh in on what I perceive is putting the Democrats back by passing this amendment or anything to do with this budget tonight. We are putting the Democratic Party on the wrong side of history and when the people wake up tomorrow they will say who was thinking about us, who had the political courage to say that mortgaging our children's future was not the right thing to do? Who had the courage to tell the Executive that because he made a promise of no new taxes yet gave us all kinds of fees was the wrong thing to do. Who will tell the people that each and every one of you on this side has said, at one time or another, that you think this is a bad budget, but you didn't have the courage to send it back to the executive to force him to pay for this budget through expansion of taxes? Who is paying for this budget? It's the poor; it's the people that sent me here to represent them. I tell you this week I felt like I was on Jeopardy, let's make a deal. Come on down legislators, do you want window one, window two or window three?

I've had quite my share and believe me they found my Achilles' heel and it was difficult for me today. It's very difficult because I had a wonderful carrot put in front of my face, but at the end of the day I have to live with myself and my integrity and this party used to be the party of the people, this party used to stand up for working rights, this party since the thirties and the new deal used to care, and everyone of us who knows this is a bad budget is carrying the water for those who are afraid to speak the truth to power and that's what I was elected to come here for.

Let me tell you about a constituent this week that called me. Legally blind, almost 80 years old and she's being evicted from her section 8 home because her son who is disabled mentally drilled some holes in the floor and poured water to do damage to the first floor apartment. He needs help and he needs to be placed and when I tried to intervene and to keep this wonderful woman, who I visited with for several hours, in her home the landlord agreed that he would keep her if I placed her son.

When I tried to get help through DHS let me tell you what they told me. Unless this child comes under consent decree he has to be put in a shelter or, because of budget cuts, we can call the police and he can be put in jail. That's the reality that I deal with everyday and when I go home and I hear my seniors, whose homecare is being cut because they are in wheelchairs, and they need somebody to come in and bathe them and they are not there because the cuts are made. Something's wrong with this party and if you support this budget these leaders are taking every single one of you on this side to a Minority next time around.

People are not stupid you are giving them fees and because the Executive has made a terrible mistake about no new taxes and we don't have the courage. It's not easy to be here, it's not easy to speak the truth and I'm telling you that we are on the wrong side of the issues.

Flat funding the budget: Sit in Agriculture, listen to them cut USDA meat inspectors, a dairy inspector, nutrient management inspector. Talk about conservation: I had to beg and plead to get

lifeguards; they were going to cut all the lifeguards out of Sebago State Park and all the Parks. This is what flat funding is doing. Go on to the Natural Resource end and listen to the DEP and the flat funding cuts and every single commission. Oh, we've got a lot of fat in this budget. Those departments are paying for salaries and healthcare costs. That's flat funding.

Flat funding means you have already cut. Now we are going to mortgage away our future because we don't have the courage to tell somebody it is wrong. We need to raise taxes. I've been here since a freshman, I've heard about expanding broad base taxes, read this book; find out who is paying for that tax relief. Millionaires are paying for that tax relief. Take those phone calls from those seniors who can't afford their heat and tell me I'm wrong. Tell me I'm crazy, laugh at me, call me in the Speaker's office, make me cry, I will not stop fighting! This is wrong! Thank you Mr. Speaker.

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

Representative **BOWEN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. That is an awfully hard act to follow, but before we vote I just wanted to rise real quickly to second the sentiment expressed by my colleague from Presque Isle, Representative Fischer. I think I can safely say that we too on this side look forward to the people of this state picking up their newspapers tomorrow morning and reading that Democrats in the house passed this budget, borrowing \$450 million without even asking them and doing it alone.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "X" (H-71) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 49**

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Twomey, Vaughan.

Yes, 77; No, 74; Absent, 0; Excused, 0.

77 having voted in the affirmative and 74 voted in the negative, and accordingly **House Amendment "X" (H-71)** to



**Committee Amendment "A" (H-35) was INDEFINITELY POSTPONED.**

Representative STEDMAN of Hartland **PRESENTED House Amendment "K" (H-58) to Committee Amendment "A" (H-35)**, which was **READ** by the Clerk.

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

Representative **STEDMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Having sat with the Tax Reform Committee and the Education Committee for the past three months I have become convinced that we have a state government problem with EPS. The Essential Programs and Services plan for education. My reason for presenting this amendment is to highlight the problems that still exist in EPS, which need to be addressed before full implementation can take place responsibly.

If one looks at part UU, pages 304-310 in the budget, it becomes apparent that the EPS program has unresolved issues. Part UU section two is a temporary fix for the limited English proficiency component. Section three is a one-year proposal to deal with inequities in the transportation area. Section four, transition adjustments are being proposed in this section to cover losses due to geographic isolation and small school units. It does not identify the reason as to why those losses were generated by applying the EPS formula. We hear that declining enrolments and rising state valuations are the problems, but most schools, of all sizes, are loosing population and many have experienced increased valuations and have still gained in state funding. Section six calls for a report to be generated from a study of high performing and cost effective small schools. Such a study should have been a part of the process in developing the formula, not after the fact. Section seven looks for results of a study of the implementations of schools that offer programs for students with limited English proficiency. Something must be wrong if a study is needed to find out what the matters are with that particular item. Section eight, while the recognition of the higher costs involved with dealing with K-2 students is built into the plan, how to use those funds most wisely is still up in the air. School units will not be penalized if they do not use the dollars as the plan intends, but the units will have to submit a plan to use these targeted funds that will meet the departments approval by January 15th of 2006. Section nine deals with the concept of reasonable adjustments by using labor market area average salary information to reward or penalize systems that are above or below the state average teacher salary. The impact is to be reviewed with the report back in November although the impact will be felt if the plan goes forward at the present time. Section 12 assures that this law does go into effect July 1st of 2005 if this delay is not put in place.

In Part WW this is the part that implements the committee's majority recommendations or changes in the EPS process in response to paper 111 from the other body. All of this section is in my amendments so that all actions will be postponed to the 2006-2007 school year, and after, with a report backdate by the Commissioner no later than November 14th of 2005.

As you can see, much is still unresolved in the essential programs and services model and suggested changes will or could impact where the money will go. A delay will give the Department of Education more time to get it right. My amendment keeps the state investment in education in the budget to be distributed through the old formula one more time. I do not know, nor does anyone else know at this time how the numbers will shake out but I do feel it is imperative to delay the process one more year.

As in previous years when the department has had the discretion to use cushions to soften the effects of losses when applying the old formula, there is no reason to believe that this would not happen again if we were to delay the EPS process another year. If you are worried remember that we are adding millions of new dollars to the education community, which could be used for cushions. So, I ask your support for amendment K.

I do want to address also a paper that was sent around from the good Representatives Goldman and Davis questioning some of the issues that would be affected by the change to one more year of old formula application. There is reference here to the fact that many school systems are now working on their budgets. I will remind you that if you looked on the top of all of those print outs it has always said preliminary report. It has never said that this is the final document on which to make your decisions. So, even now, we are still dealing with preliminary reports even though some people are making decisions at this time.

There is a line that says the process of producing print outs would take from 10 to 12 weeks at least. I have been informed that information may already be available to produce the printouts of the distribution under the old formula, the old 261 reports.

With all of this information I would request that you support Amendment K and Mr. Speaker when a vote is taken I request the yeas and nays.

Representative STEDMAN of Hartland **REQUESTED** a roll call on the motion to **ADOPT House Amendment "K" (H-58) to Committee Amendment "A" (H-35)**.

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

Representative BRANNIGAN of Portland moved that **House Amendment "K" (H-58) to Committee Amendment "A" (H-35) be INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "K" (H-58) to Committee Amendment "A" (H-35)**.

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 Presque Isle, Representative Fischer.

Representative **FISCHER**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I respect the amendment by my friend Representative Stedman. I would just tell you that the handout that went around made the case very well about the fact that your districts, just like mine, are almost finished with their budgets and they have used the numbers that we've promised them already. Yes they say preliminary at the top of the sheet, but they are very far down the road. I think it would be very unwise of us to go forward and take numbers out and then give them new numbers this far down the road and so I ask you to vote for the Indefinite Postponement. Thank you.

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

Representative **KAELIN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I was in a meeting last night at a rural school district and they were absolutely delighted that there was a possibility that we could delay this for a year. Thank you Mr. Speaker.

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

Representative **GOLDMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to explain the paper that I did send around. As we were reviewing EPS at our Committee hearings the issue of getting a print out based on the old formula was

raised a number of times and each time the commissioner and Jim Ryer, who is in charge of financial operations for the Department of Education, explained that it would be very difficult to use the information that is at hand as well as possibly needing to get other information in order to go back to the old templates. It is really important to understand that EPS is a zero based budgeting approach and the information that was solicited from districts this year was somewhat different, not only in the forms that were asked for but also in the exact nature of the information and the work that has gone on to prepare the print outs, which always takes months was done in a different way and they kept telling us that if they couldn't even produce that information for satisfying the curiosity of people who understandably, especially if you have lost money, want to know if they would have done better under the old formula. It is a perfectly understandable request, and the Commissioner and Jim Ryer seem to be very willing to do it except that they said it was very labor intensive and they really were not sure how long it would take.

When I realized that this amendment was going to be before us today, or whenever we were discussing it, I felt it was imperative to go back and probe with the commissioner and particularly with Jim Ryer and his people. Well, okay, just what would it take. The information that is on this sheet is from Mr. Ryer. I didn't make it up. It is from him and reviewed by other people that he works with. They are very clear that whatever process they have to use, the normal process of producing the regular and old templates - they tell me that people started in October - we would get our first print outs at the end of December or possibly early January.

What I think is misleading is the idea, that yes of course all these print outs come out with this is not the final number. But the difference between what we were dealing with and what this is, is that in the old formula the templates had already been in place and all we were being told is that you might get this much or that much money. It's a matter like any budget process. When you put a little more money in the line its not hard to run another template. What they keep telling me, and I have probed because I concerned that I wouldn't be misleading you, but they have to build them again. They think it might take longer but they do believe that the estimate that's here is, in fact, reasonable. The issue of the statement that I've made here where all current print outs would be repealed, they have to be repealed, any of us who have dealt with those print outs, there is considerable difference between the information and the way it's calculated from the EPS formula, the zero based budgeting; from the expense driven formula. They are not even sure they have all of the information they would need by the way.

The whole special ed issue, for instance, some communities, my own being one, really the only reason we look like we got money is because of the 100% special ed referendum. That is part of the EPS formula. In the expenditure driven formula special education is a whole different way of adding it up. There is a circuit breaker and so forth and so on.

When I discussed this issue with Mr. Ryer he pointed out of the \$87 to \$90 million, depending exactly on what you add into there, about \$18 million of that is special ed money. If you pull that out of the EPS formula we have to start all over again. He estimates it might be as much as \$25 million for special ed out of that \$87 million.

When you get through taking out that and you start redistributing I realize that people are hoping that it would be building on what they are used to seeing and I'm sure in some cases that might be the case. But what you might also have the effect of doing, of course, is transferring a lot of money, from a lot

of different places. Now we have been listening to concerns and I think they are valid. What Representative Stedman was explaining, are some of the issues that our Committee has tried to deal with, tried to ask the Department to deal with and I believe we made progress and I am quite convinced that more progress can be made, but I think it is important to realize that these things are not scare tactics. I'm not doing this for my constituency, I am doing this because I know what turmoil could happen if every single one of the 285 school administrative districts in this state had to stop where they were and say wait a minute, we may be losing a million dollars we may be losing half a million. We may be gaining 25,000. We may be gaining 1,000,000. That is a lot of disruption to budgeting and I just don't think it is a good idea and I hope you will take that very seriously.

As the Commissioner has worked through this process, no district is starting next year with less money than they were getting and I recognize from listening to a lot of concerns that that is not enough to make people feel comfortable and I think we are all committed to continuing with this process but I see this idea as exceedingly disruptive - I'm telling you that after 40 years in the business.

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

Representative DAVIS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will make this very short. I agree with the Representative from Cape Elizabeth, who would have payoffs, because school systems are already doing their budgets.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "K" (H-58) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 50

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Brown R, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Davis G, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Flood, Gerzofsky, Glynn, Goldman, Grose, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Plummer, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis K, Duprey, Edgecomb, Emery, Fitts, Fletcher, Greeley, Hall, Hamper, Hanley B, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Twomey, Vaughan.

Yes, 82; No, 69; Absent, 0; Excused, 0.

82 having voted in the affirmative and 69 voted in the negative, and accordingly **House Amendment "K" (H-58) to Committee Amendment "A" (H-35) was INDEFINITELY POSTPONED.**



Representative CLARK of Millinocket **PRESENTED House Amendment "T" (H-67) to Committee Amendment "A" (H-35)**, which was **READ** by the Clerk.

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

Representative **CLARK**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I took a lot of time in going through the budget this session because there were a lot of things that I had an interest in from Sunday hunting, to school funding for small schools, the seatbelt law, which we worked on, UT funding for schools and the sticker for boats, canoes, kayaks and sailboats, but there is one thing in the budget that really stood out and I couldn't shake it from my mind and every time I went through the budget it kept popping up and that was the other body putting on four new positions. Can you imagine going home and telling your people that you have made a lot of major cuts in different programs and couldn't afford to fund their favorite program? Can you imagine going home and doing the straight-faced test saying that we spent close to \$500,000 dollars on four positions on the other end? That really bothered me somewhat so I put the amendment in and I hope when you vote this evening you vote to eliminate those positions because I couldn't live with myself knowing that we have made a lot of cuts and some of the programs are really needed by a lot of us, knowing that some people take care of themselves. Mr. Speaker when the vote is taken I request the yeas and nays.

Representative CLARK of Millinocket **REQUESTED** a roll call on the motion to **ADOPT House Amendment "T" (H-67) to Committee Amendment "A" (H-35)**.

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

Representative BRANNIGAN of Portland moved that **House Amendment "T" (H-67) to Committee Amendment "A" (H-35) be INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "T" (H-67) to Committee Amendment "A" (H-35)**.

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 Portland, Representative Cummings.

Representative **CUMMINGS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Sometimes our good brothers and sisters out in the other body don't always make it easy, but I do have to say – it may be gratifying for you to know – that Representative Duplessie, myself, Representative Bowles and Representative Tardy did raise an eyebrow when it came that they wanted in the Senate Democratic Office and in the Senate Republican Office wanted to add positions and I do want to say that we said well, we don't want to be in a position to tell you how to spend your money but you have to understand you will live by the same cap that all of us here in state government will live by. That is 3.1%, which is what we agreed on was the growth. So that is really what we pushed back on them and said you will have to find savings in other areas. You can't just spend this amount. I do caution you and I ask you to support the indefinite postponement. You and I might think it wise or unwise for them to have this position but they have appropriately made some of the sacrifices that they need to do this and so we have, as a council, decided that as long as they are willing to sacrifice other areas of their budget let it be. We are proud on the House side that we chose otherwise.

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

Representative **TWOMEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I dare say that I don't think the Senate knows what sacrifice is and when people are going without this is ludicrous. Please, please vote this down and let's support Representative Clark's amendment.

The **SPEAKER**: The Chair recognizes the Representative from Brewer, Representative Fisher.

Representative **FISHER**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I have often referred to the other body in other terms. I have been here for nine years now. I have yet to say one nice thing about the other body. I will vote to Indefinitely Postpone however.

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

Representative **SHIELDS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I hope you will read the summary of this amendment. I think it's a good one. This amendment takes away some of the self-serving practices that are in this legislature. It removes the funding for new positions in the Senate Democratic Office, The Senate Republican Office and the Senate Secretary's office and it transfers to the Inland Fisheries and Wildlife these savings to assist in law enforcement and I think this is a good one.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "T" (H-67) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 51**

**YEA** - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Tardy, Thompson, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

**NAY** - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jackson, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Smith W, Stedman, Sykes, Thomas, Trahan, Tuttle, Twomey, Vaughan.

Yes, 72; No, 79; Absent, 0; Excused, 0.

72 having voted in the affirmative and 79 voted in the negative, and accordingly the motion to **INDEFINITELY POSTPONE House Amendment "T" (H-67) to Committee Amendment "A" (H-35) FAILED**.

Subsequently, **House Amendment "T" (H-67) to Committee Amendment "A" (H-35) was ADOPTED**.

Representative MCCORMICK of West Gardiner PRESENTED House Amendment "J" (H-57) to Committee Amendment "A" (H-35), which was READ by the Clerk.

The SPEAKER: The Chair recognizes the Representative from West Gardiner, Representative McCormick.

Representative MCCORMICK: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This amendment removes part O of the budget. Part O expands the 7% taxation on lodging to casual rentals. This means anyone who might rent their camp, their condominium or their cottage for more than 14 days a year must register with Maine Revenue Services, get their sales tax certificate, become a sales tax collector and file for ms on a schedule dictated by Maine Revenue Services.

Unfortunately the people affected by this don't even know its being passed as part of this bill. When the Taxation Committee asked how Maine Revenue Service would enforce this expanded taxation we were told they would be scanning the Internet sites for rental ads. They would be scanning magazines and newspapers for rental ads. They would be checking to see what taxpayers would claim as rental income on federal tax forms and then challenging people on their sales tax submissions. This requires the addition of a full time position at \$64,000 a year to do this. The question would be: is this how we really want to conduct Maine's tax policy?

What if a non-resident owns the property and this person rents to another non-resident? Will they be required to be registered with Maine Revenue Services and collect and remit sales tax? How will they be notified that this rule is in effect?

In the committee report back to Appropriations this item was voted to be removed from the budget by a bipartisan 7-3 vote.

Those of you who were here last session remember what happened when changes to the resale certificates were included in that budget. As a result of many calls there are now a number of bills submitted in this session to rescind those changes. If this is passed in this budget I predict next year or next session we will be back once again trying to rescind the changes we are placing in here now. Each time we do that we look even more foolish; like we didn't know what we were doing when we did it the first time.

This item should not be in the budget. It should come through the Taxation Committee as a separate bill and with a full public hearing, and only then be passed if we wish. I urge you to support this amendment. Thank you Mr. Speaker.

Representative BRANNIGAN of Portland moved that House Amendment "J" (H-57) to Committee Amendment "A" (H-35) be INDEFINITELY POSTPONED.

The same Representative REQUESTED a roll call on the motion to INDEFINITELY POSTPONE House Amendment "J" (H-57) to Committee Amendment "A" (H-35).

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: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would just like to point out that this amendment has a substantial fiscal note and that it would, in fact, throw the budget out of balance and therefore I respectfully request and urge you to join with me in voting to Indefinitely Postpone the amendment.

The original provision in the budget simply clarifies that people who rent condos and other living quarters are subject the 7% tax that is currently imposed. when the Department of Revenue Services becomes aware of such rentals, and they do go after people, they have noticed a substantial number of out-of-staters – non-residents – who advertise in fancy magazines and

obtain a good income from renting for part of the summer. This goes after those people basically. We exclude – specifically carve out in the budget those people who rent for short periods of time, basically local people who rent their hunting camps and such like.

We think it has a benefit for local people who want to rent for short periods of time, rent out their quarters, and will help us gain substantial revenues by enforcing the current law and clarifying that to which it applies.

The SPEAKER: The Chair recognizes the Representative from Oakland, Representative Nutting.

Representative NUTTING: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I just rise to clarify something that we heard when we asked the question to Maine Revenue Service about whether or not this was already a law and my good friend from Farmington Representative Mills would lead you to believe that this was just clarifying a law when in fact their answer was that they are not sure.

Going from the point where we are now of not being sure of what we do if we leave this piece in the budget and Indefinitely Postpone this amendment is that we will know for sure. What it will do is take those people, many of them in your districts, a lot of them in my district - in the Belgrade Lakes area – who to help pay their property taxes, which we would all agree probably are too high, they rent out their camp for a short period of time in the summer so that they can continue to own their camp. Perhaps because they have grandchildren coming back to visit who enjoy the camp, but they just can't see fit to pay the tax and the upkeep on the camp unless they can rent it out for a short period of time.

What we are asking them to do is not only pay the high property taxes that are levied against them, and claim the income on both their federal and state income taxes, which we require them to do, but now we ask them to go one step further and register to become a tax collector – a subdivision of the Maine Revenue Service.

I think that enough is enough, and I think if we learn nothing else tonight it's that we are not afraid to inflict taxes on new people. I think this one is the trap though and its been mentioned before that the trap will spring in the fall, when you have a Maine Revenue Service guy sneaking around the cedar trees near your camp and finding out that you have been renting it out and then presents you with a bill. Then we will all get the phone calls from our citizens - many who are asleep right now – who will wake up and find what we have done here tonight, once again, under the cover of darkness. Thank you Mr. Speaker.

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

Representative WATSON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I sat on the Taxation Committee when this particular item was discussed in the budget. I agreed then with my distinguished colleague who brought forward this amendment that it was problematic. I myself will be falling under this; I had the good fortune to come under the ownership of a couple camps up in Danforth. I realize that the Maine Revenue Service was led to this source of revenue by the realtors. As you may or may not know, if your camp is listed for rent through a realtor then the realtor collects that tax, pays the sales tax to the state and takes care of it for you.

I somewhat tongue in cheek supported the measure during debate in committee because to my mind, with Maine Revenue Service saying we are not sure if we can do this or not, what it

amounted to as far as I was concerned was a broadening of the sales tax, which I would like to see done. At bottom, now that we are here at 11:00 at night and I see that this is going to cost \$3 million in the first year to try and replace it somehow and realizing, after the Representative remarks about this being another hidden tax to spring on property owners, that's not the way it works at all. This tax is being placed on the out-of-stater primarily who comes and rents a rental cottage or a camp in Maine.

I don't plan to pay this 7% out my pocket. When I rent that camp I plan to charge my renter that 7% and I will operate within the sales tax law within the State of Maine and that is the way it should be. The fact that Maine Revenue Service discovered this and might have to look for scofflaws on the Internet to me is irrelevant.

I made an argument in committee discussions that this might drive this economy underground, and it may well. There may be rentals to family members; there may be rentals for 13 days rather than 14 days so that you can make it, but that's the way it is going to have to happen; the way its going to roll out. I support this motion for Indefinite Postponement. I don't like this, I don't like having to collect this tax from my renters and turn it over to the state, but that is the operable state law. That is the sales tax law that we have. I don't see that there is any way we can fill the \$4 million over the biennium any other way. I am, as I say, personally affected by this situation. I don't like it, but I'm willing to do my part both for the economy and, at 11:00 at night, for this budget. I encourage you to support the Indefinite Postponement. Thank you.

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

Representative MILLS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just to be very clear, if you vote in favor of the Gentleman's amendment, House Amendment J, than you will be repealing Part O of the budget and you'll be repealing, or not enacting, the exemption that we currently carved out of the sales tax statute that exempts rentals of living quarters for fewer than 15 days each calendar year. So, if you vote for this amendment, against Indefinite Postponement, you are voting to get rid of the exemption that we carved out. I hope you don't want to do that.

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

Representative MOULTON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It's not like the Revenue Services is unaware of this measure. Twenty-five years ago I discussed it with them and during that time interval they discussed it and discussed it and I realize that my section of the state is, well in some cases, remarkably different from other sections. I am quite sympathetic with the owners of camps that need to make arrangements to pay those increasing property taxes. However, in my section of the state we have a different problem we have numerous properties owned by people from out-of-state that use rental agents unlicensed. The rental agents conscientiously submit their payment of a lodging tax to Revenue Services, but these out of state owners don't and they even compete with their own rental agents. If they can rent it themselves, so much the better, they only will pay a commission if they have too, and many of them certainly don't want to pay a lodging tax. Many of them don't want to pay an income tax on the income that they derive from property that they own and operate almost like a business in the State of Maine.

The exception that is being addressed here is in one sense very liberal because everyone else has to pay a tax, like motel owners, for people that stay overnight. If we stay down the street

at Best Inn or any of the other businesses we pay a lodging tax, but many of these out of state owners are running lucrative businesses and I tell you, it is expensive staying there, whether for a weekend, or a week, or so on. Please consider your vote carefully because the state has been well aware of this for a long period of time and you are not driving anybody underground in my neck of the woods. If anything it has proliferated more. Thank you Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "J" (H-57) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 52

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Twomey, Vaughan.

Yes, 77; No, 74; Absent, 0; Excused, 0.

77 having voted in the affirmative and 74 voted in the negative, and accordingly **House Amendment "J" (H-57) to Committee Amendment "A" (H-35) was INDEFINITELY POSTPONED.**

Representative CURLEY of Scarborough **PRESENTED House Amendment "M" (H-60) to Committee Amendment "A" (H-35), which was READ by the Clerk.**

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

Representative CURLEY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Briefly, the purpose of this amendment is to strike one sentence in the budget bill. If you look at page 279 in the bill the sentence is, incentives may be implemented to reward the use of mail order prescription drugs.

The purpose of the amendment in striking that language is that I don't think it is fair to our constituents that they have an incentive to use mail order to get their prescription drugs when it hurts our community pharmacies and makes pharmacists less available. Just to read a list of the few of the small pharmacies that have closed in the last year and a half: Frontier Pharmacy in Caribou, Island Pharmacy in Stonington, Rumford Drug in Rumford, Machias Apothecary in Machias, Lubec Apothecary,

Scarborough Community Pharmacy, and there is a rumor that there is another small pharmacy in Washington County that will be closing and people in that area may have to drive up to 70 miles to get prescriptions for their children and their families. For those of you who have had a child with an ear infection at 2 am, that's not very appealing and it's not right. It's not right that we are incentivizing mail order above our regular drug stores; our local drug stores. If the Department of Human Services wants people to have mail order as an option and that works for them that's a good thing to do, but by trying to save money we are only limiting access to prescription drugs. It is against everything that we talk about here. So, I urge you to support Amendment M and lets keep our pharmacists available in our communities. Thank you.

Representative BRANNIGAN of Portland moved that **House Amendment "M" (H-60) to Committee Amendment "A" (H-35) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "M" (H-60) to Committee Amendment "A" (H-35).**

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 Presque Isle, Representative Fischer.

Representative FISCHER: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I direct you back to page 279 in the committee amendment, which the good Representative from Scarborough just quoted from and lets read the whole paragraph rather than just the first part of it. It says, "Incentives may be implemented to reward the use of mail order and community pharmacies will be given the opportunity to provide medications under the same terms as mail order pharmacies." That seems like fairness to me and further, we changed that ourselves on the committee because of some of the concerns that were brought up by our friends on the other side of the aisle because we thought it was important. I believe this does exactly what most private health plans do, which is allow community and mail order pharmacies to compete on the exact same, level playing field. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Oakland, Representative Nutting.

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

The SPEAKER: The Representative may pose his question.

Representative NUTTING: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Incentives may be implemented to reward the use of mail order. If we use incentives how can we have a level playing field.

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

Representative DUDLEY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. To answer the question of the Representative from Oakland, it is my interpretation of the committee amendment that it allows the council to set standards and develop a process whereby community pharmacies can participate under similar benefit packages, under similar incentive programs. So we are seeking a way that benefits everybody while saving the public dollar and that is fundamentally what this is about – making the best use of public dollars to make sure that our constituents have access to prescription drugs.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House

Amendment "M" (H-60) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 53**

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

ABSENT - Bierman, Hotham.

Yes, 78; No, 71; Absent, 2; Excused, 0.

78 having voted in the affirmative and 71 voted in the negative, with 2 being absent, and accordingly **House Amendment "M" (H-60) to Committee Amendment "A" (H-35) was INDEFINITELY POSTPONED.**

Representative THOMAS of Ripley **PRESENTED House Amendment "E" (H-52) to Committee Amendment "A" (H-35), which was READ by the Clerk.**

The SPEAKER: The Chair recognizes the Representative from Ripley, Representative Thomas.

Representative THOMAS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. My amendment takes the seat belt provision completely out of the budget. Lets send this to a Committee and let the process work. The budget is not a way to make policy decisions like this, nor the way we should be setting penalties. Hearings were held on this bill in the Transportation Committee but only the policy and not the penalties were considered. Good legislation needs to weigh all of the effects of a new law. I am asking you to allow a committee to consider both the policy and the penalty. Apart from the budget process, give both careful thought and send the recommendation back to this body to consider. I would like the yeas and nays please, Mr. Speaker. Thank you.

Representative THOMAS of Ripley **REQUESTED** a roll call on the motion to **ADOPT House Amendment "E" (H-52) to Committee Amendment "A" (H-35).**

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

Representative BRANNIGAN of Portland moved that **House Amendment "E" (H-52) to Committee Amendment "A" (H-35) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "E" (H-52) to Committee Amendment "A" (H-35).**

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 Portland, Representative Brannigan.

Representative **BRANNIGAN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I appreciate the work that the Transportation Committee has done on this bill. We have worked many, many years to have the seatbelt bill be a seatbelt law in this state and become the law it should be. It has gradually become that. Even though we still are ranked fairly low in the national standings making it primary is one of the steps that will raise our rating as a seatbelt state in the country's ratings.

The fines were reduced in committee amendment CC and I believe that this is a correct way to deal with this matter at this time. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Frankfort, Representative Lindell.

Representative **LINDELL**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This amendment would remove the primary enforcement of seatbelts that appeared in this budget. This is clearly a policy matter. Mr. Speaker I find this among all of the objectionable things in this budget to be one of the most objectionable things.

You might call it petty but rankly we are crossing a line here. We are giving the police excessive enforcement powers and we are essentially giving the police a tool to stop any motor vehicle and then go through the process of finding something that might be wrong. Suspicion of not wearing a seatbelt will become a means by which anyone can have their vehicle stopped and searched. This may lead to police checkpoints, which we have seen in other states. We haven't seen it in Maine, thanks to the fact that we do not have primary seatbelt enforcement. The next step will probably be a helmet law for motorcyclists. This is going down a dangerous policy road. This is something that has been debated and rejected by numerous legislatures in the past. I urge people to vote against the Indefinite Postponement so that we can strip this from the budget.

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

Representative **COLLINS**: There is a bill before the Transportation Committee currently that makes this a primary offense. However, as a result of the Chief Executive putting this into his budget he has attempted to set policy for all of us in the state of Maine through his budget, which I have a very tough time accepting. Not only in regards to seat belts, changing that offense from a secondary to a primary, all under the banner of public safety. The true meaning behind what he is trying to do is just increase revenues to balance his budget. The plan is simple; if he were that concerned about public safety he would have taken a position on the motorcycle helmets. He didn't do that. It's all about the money. It's about balancing the budget on the backs of people in Maine. A third offense for not wearing a seatbelt is going to be around \$250. For a lot of folks here in Maine that is a very significant amount of money. It would be a hardship; hardship on the people who are trying to get to work in the morning that may forget to put their seatbelt on. It's not fair. It shouldn't be done. We have a seatbelt law in place in Maine now. It works. It is a secondary offense.

I have been told by countless police officers that they don't like this either. They don't want to go out and issue a summons to somebody that may potentially cost them \$250. They don't want to do that. For a seatbelt violation, come on. It is ridiculous. This is ridiculous. I urge you to vote down the Indefinite Postponement and get to it and change this. We have got another bill coming along behind this from the good Senator Christine Savage. She has presented this to our committee to make it a primary offense. We will deal with that later but right

now we are dealing with this issue. I urge you to vote against the Indefinite Postponement. Thank you.

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

Representative **RICHARDSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have probably lived a lot longer than most of you and I probably may be the first one to ever write a letter to the editor about seatbelt laws when they were first started. I didn't like them then and I don't like them now. I never go in my car without wearing a seatbelt but it just amazes me that we get so enthralled with whether we have the right ranking in the country that we are willing to make a police state out of the State of Maine.

You are going to have policeman looking over your shoulder every time you get in a car. Now you may like that but I don't like it and I don't want to see a seatbelt law that is going to keep a policeman looking over my shoulder every time I get in an automobile, or chasing me because he thinks I don't have it on. I don't want to pay a \$400 fine if that happens. It probably is not going to happen in my case but that is all right. There are people who don't remember to put their seatbelts on.

You can tell me how important this is for public safety; for safety of the world, but the only person that is going to be affected by a seatbelt that is not buckled is the guy behind the wheel. Everybody else in that car is going to have a seatbelt on because he is bound to do that. I don't mind that because that is making him responsible for their safety, but when you are telling me that, as an individual, I can commit suicide if I want to by not wearing a seatbelt than you have gone beyond what we need in this country. We don't need the policeman looking into our car and over our shoulder every minute of the day and I can't imagine why anybody would want it. Why do you want it?

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

Representative **BRANNIGAN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I want it and I don't want somebody driving around with the possibility of committing suicide when my car is going by, or my wife's or my son's. I'm telling you that this is the thing that saves lives more is people wearing their seatbelts and not getting thrown out of the car. When I was a young man and I was hunting, one year that I was hunting twenty people were killed in the Maine woods. Shot. Later we were required to wear blaze orange. We had to wear one piece and every warden who was out there could arrest or fine us and the death rate just plummeted. Now we require two pieces.

People who think we shouldn't tell people what to do to save their own lives...Orange has been very important, seatbelts have been much more important and there is no reason why people shouldn't wear their seatbelts. They are not going to pay \$250 unless they ignore the law three times and then maybe they will remember as it creeps up.

I want seatbelts to be required and that's just me. I hope you will however vote for Indefinite Postponement so we can go on and pass this budget as it is with this very valuable piece in it. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative **TWOMEY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to know if there is money behind this seatbelt law. Are we getting some kind of funds from the federal government if we pass this as a state law?

The **SPEAKER**: The Representative from Biddeford, Representative Twomey has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Marley.

Representative **MARLEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I didn't really mean to rise and speak on this issue, but there are some federal dollars that will be available if the state passes this as a primary seatbelt law.

Following up on that I would just like to touch base a little bit, being the chair of the Transportation Committee and having heard the bill that we have discussed. It was I believe an 8-4 Ought to Pass Report for the good Senator Savages primary seatbelt law that Representative Collins of Wells mentioned earlier.

In response to the things that haven't been spoken, first of all, if you think you have had a long debate tonight between the equal rights bill and this bill you should have sat through the seatbelt law bill because it was just as long solely on just that one subject and literally the entire five or six hours was all on safety. The civil libertarian argument came up quite a bit in it but then when you heard about the economic cost to everyone of us and every taxpayer in this state I think it goes out the window because as soon as I reach into Representative Percy's pocket to pay for my medical care, and your pocket, and your pocket, and the amounts are staggering, I personally believe that that argument goes out the window. It's not just a victimless crime or whatever you would want to call it. You really are impacting a lot of people. We talked about LD 1 and how we were saving so much money for the citizens in the State of Maine. I believe \$207. It's estimated that over \$700 dollars could be saved in medical care for each citizen of the state of Maine if we had a primary seatbelt law.

The final thing I would like to point out is that we have talked about this being a revenue enhancement piece. That is actually not accurate. Other states have actually put in primary seatbelt laws and found that the rates have gone up for people who use the seatbelts and revenue has actually dramatically declined because obviously fines go down. So, you save lives, you save taxpayers money and you save a lot of people personal pain and suffering. I personally think the seatbelt law is a good law and I'm going to vote for Indefinite Postponement. Thank you.

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

Representative **RICHARDSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. You didn't hear a word I said. I said I use the seatbelt. I said will not go anywhere without a seatbelt, but I also said I don't want a policeman on my shoulder every time I get in a car.

Now I understand that there is money involved and it's hard to turn these things down, but I ask you again why in the world would you, as individuals, want to set up a system where you are going to have to look out every time you get in a car. Every time you are going to have to look out over your shoulder and see if there is a policeman watching. I don't understand it.

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

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

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

Representative **TWOMEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would still like my question answered. How much money is tied to this?

The **SPEAKER**: The Representative from Biddeford, Representative Twomey has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Marley.

Representative **MARLEY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I apologize. I believe, and this is ballpark, I believe between \$1 and 2 million in federal funds are available, but I will be honest, that is not the primary reason I am supporting and I don't think it's the reason why other members of the Committee are supporting it. It really was around the personal stories of people's loss. I know we have talked about as far as \$250 the third time around that you have not worn your seatbelt is a great deal of money. If you were in an accident that either put you out of work for a month, put you intensive care – we have had a pretty significant national debate around brain injured individuals – the significant cost there, and that's just the economic cost. Not the cost of human pain and suffering. I think those costs are even more dramatic than hopefully learning the importance of a seatbelt law the first time when its only \$50. I hope I answered the question. Thank you.

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

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

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

Representative **DAIGLE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It's not uncommon for some people not to be able to wear a seatbelt for temporary periods such as pregnancy abdominal problems and so forth and in the past that wasn't a problem because without a primary stop authority they didn't have to think that the would need to explain themselves and so forth.

What provisions have been discussed, by those who support this bill, to accommodate people with situations like that or do they have to expect that every time they leave the house and a police officer sees them drive by that they have to somehow have a note from their doctor? Or do they have to make their case by going to court to fight a fine? How do we expect to handle that type of situation? Thank you.

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 Portland, Representative Marley.

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

Representative **MARLEY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Actually, I did think we were debating Indefinite Postponement, but this warms me up for the seatbelt law down the road.

There are actually medical exemptions in the law around temporary periods, pregnancy as an example. I'll be honest, as far as temporary identification so that you are not pulled over in the first place, I would assume that they since they do temporary handicap placards that that may be possible. I do know there are exemptions so that if you were pulled over you would not be



ticketed because of pregnancy and some of the other suggestions that Representative Daigle made.

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

Representative MILLS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to address the question about civil liberties and the ability of the police to stop a vehicle because it has been raised before and apparently was raised at length in the Transportation Committee. It was my concern as well when I first saw the proposal that Senator Savage put forth that this might encourage us to become sort of a police state. Thinking that through as a lawyer and a person who has practiced criminal law for 29 years, I realized that I was wrong in that assumption, that nothing in this bill or the proposal that Senator Savage has put forth repeals the Constitution of Maine or repeals the Constitution of the United States. An officer, to stop a vehicle for anything, still has to have reasonable and articulable suspicion of a violation of a law. In this circumstance, if the only violation of law were a failure to wear a seatbelt, the officer would not have grounds to stop a vehicle unless he eyeballed the violation and that would be difficult to do under ordinary circumstances.

I do not expect this provision to cause an increase in motor vehicle stops by police as a practical matter and it does not repeal the constitutional provisions authorizing stops only in those circumstances where there is a reasonable and articulable suspicion of a violation of law. The monetary savings here is in the medical expenses savings by the deterrent value of having this on the books as a primary offense. It does not promote inappropriate stops by police officers.

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

Representative TRAHAN: Mr. Speaker, may I pose a question to the previous speaker through the Chair?

The SPEAKER: The Representative may pose his question.

Representative TRAHAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. If I understand the previous speaker she indicated that it was her interpretation that an officer wouldn't stop you if he thought the only reason to stop you was that he thought you weren't wearing your seatbelt. If that is true than why turn this into a primary stop issue? Primary stops, as I understood them, are in order to stop you for not wearing a seatbelt. Could you please clarify that?

The SPEAKER: The Representative from Waldoboro, Representative Trahan has posed a question through the Chair to the Representative from Farmington, Representative Mills. The Chair recognizes that Representative.

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

Representative MILLS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It is called a primary violation not a primary stop if I may address the previous question. It does not give the police any greater ability to stop a vehicle. It merely gives them the ability to sight this violation, if and when they do observe such a violation, such as after an accident or a fender bender or such thing. There is an admission to or an observation that an individual was not wearing a seatbelt. They can then sight that as a primary violation without having to have another cause to address the individual. So, it is not a grounds to stop the vehicle it is a grounds to bring a violation, a traffic citation.

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

Representative COLLINS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. What we are attempting to do here is make it a primary offense. There are plenty of instances where a motorist will be stopped at a traffic light or stop sign and in traffic where a police officer can observe a motorist without their seatbelt on and give them a summons, a ticket, for that. We are changing it from a secondary offense to a primary offense, end of story. It is an observation by a police officer that you are not wearing a seatbelt. He has the authority, if this goes through, to pull you over and issue you a summons for not wearing a safety belt.

Sometimes they have roadblocks for a number of different reasons, checking for OUIs on a Saturday night or whatever. Going through the line and there is no seatbelt there's \$50, \$150, \$250 depending on the number of times that you have been issued a ticket for this offense. I would just like to add before I sit down, it's getting late in the night, it's almost morning now and another days pay is coming. Anyway, I'm a libertarian at heart, but I just don't like the idea of our state government for the State of Maine telling us we must wear those seatbelts. We want to save you. I can save myself. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "E" (H-52) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 54

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hanley S, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Twomey, Vaughan.

Yes, 74; No, 77; Absent, 0; Excused, 0.

74 having voted in the affirmative and 77 voted in the negative, and accordingly the motion to INDEFINITELY POSTPONE House Amendment "E" (H-52) to Committee Amendment "A" (H-35) FAILED.

Subsequently, House Amendment "E" (H-52) to Committee Amendment "A" (H-35) was ADOPTED.

Representative MILLETT of Waterford PRESENTED House Amendment "I" (H-56) to Committee Amendment "A" (H-35), which was READ by the Clerk.

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

Representative MILLETT: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The hour is late and I will be very brief. This is a straightforward amendment that has a no cost impact on the budget yet, I believe it is a very important one and, very briefly, it removes from a section that you would find on page 394 of the bill if you were looking. That is a piece in the section, which authorizes the \$447 million in borrowing called the Pension Cost Reduction Debt Service Fund. It is an off-budget trust fund into which a variety of revenue sources are pledged to be used to pay back the interest in principle on borrowed money. Included in that mix of about 14 different statutory citations is the lottery fund. So, if you thought that lottery securitization was over it is back.

I think unintentionally and inappropriately all of the revenue that is the part of the casino net profit cascade that resulted from the vote that was passed in November of 2003 wherein the voters authorized a racino in Bangor and our Legal and Veterans Affairs Committee worked feverishly last winter to craft a system of allowing some of that net profit to go back to various agricultural entities.

You have received in the course of the evening a couple of buff colored letters on your desk, which indicate strong support for this amendment because of the fear that it will unwittingly undo what our Legal and Veterans Affairs Committee crafted last winter. For example, we have a letter from The Maine Association of Agricultural Affairs, a letter expressing the joint opposition to that provision by the Maine Harness Horsemen's Association and the Maine Standard Bred Breeders Association. Again, this is an unnecessary inclusion of these resources into a trust fund, which is really nothing more than a wraparound to the lottery fund. It does give potential authority to the state controller and appointed officer of state government to dip into these funds should the lottery revenues be small or less than anticipated.

I really think it is an inappropriate intrusion into a purse that was crafted a year ago and was very important to a large section of our agricultural industry. I urge your support and once again it does nothing to upset the balance in the budget. Once again I urge your support and request a roll call.

Representative BRANNIGAN of Portland moved that **House Amendment "I" (H-56) to Committee Amendment "A" (H-35) be INDEFINITELY POSTPONED.**

The same Representative REQUESTED a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "I" (H-56) to Committee Amendment "A" (H-35).**

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 Standish, Representative Moore.

Representative MOORE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I won't reiterate what Representative Millett has very concisely passed on to all of us; that this was probably an inadvertent inclusion of the racino revenues that last year were designated to the Agricultural Affairs, to the Maine Harness Horsemen's Association and the Maine Standard Bred Breeders Association. Nonetheless, it has been very disturbing to hundreds of our constituents across the state that these revenues have been selectively taken from their perspective recipients before even one nail has been pounded to build the racino; before even one hoof beat has been sounded at Bangor. These revenues have been taken, selectively taken, possibly by mistake, but nonetheless.

Our committee worked very diligently last year in crafting this legislation and in doing a lot of compromising along the way to make sure that these were fairly distributed. The most disturbing part of this taking is the assertion on page 394 that the bank shall

withdraw any excess money or funds and transfer it to accounts identified by the State Controller. Nowhere in this taking does it designate that the funds will be returned or that the excesses will be returned to agricultural affairs or to the other recipients designated. It gives the authority completely to the State Controller whoever that is, to take these funds and use them or return them to whatever accounts he or she sees fit.

I would ask that you support this on behalf of our Maine agricultural community, our fairs and our horsemen. Please support this possibly inadvertent taking of these funds.

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

Representative RICHARDSON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Whether inadvertent or not this money that is to be generated by the racinos was part of what was set up to help the horse racing industry and the fairs. Now I don't think there is a Representative in this room that doesn't have a fair of some size that is important to their constituents. It would be a crying shame to take this money from the fairs that can do all sorts of good things with it besides making it fun to live around where you come from. So, I think we want not to Indefinitely Postpone this amendment and I think we want to defeat that.

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

Representative MILLS: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Let me address the question previously posed here with respect to the language of page 394 and the pension bond provision of the bill, section PPPP. This was deliberately drafted in conjunction with the Attorney Generals Office and Wall Street Bond Council to pool a great number of dedicated special revenue funds and it is a trust fund set up in order to ensure that the provision complies with the Maine State Constitution in many respects. It does not divert the ultimate funding of the dedicated sources in Title 8. I do respect the work of the Legal Affairs Committee last week and we all have a great deal of respect for what they went through and respect for the horsemen and women, and the fairs and all of the purposes to which the racino money will be dedicated.

Although we can't be sure exactly how much will be brought in through these 14 different sources delineated in that paragraph we estimate that around \$90 million will be pooled as a collateralization for the bond. The lower part of the paragraph states that the revenues will then go back to the State Controller. The State Controller then, by reference to the previous statutes, will be directed to essentially dedicate the exact amounts, as provided by Title 8, back to those intended purposes. To clarify this I did communicate with Commissioner Robert Spear, the Department of Agriculture Commissioner who confirmed for me that the pension cost recovery bonds will be secured by certain special revenue accounts including some of the dedicated accounts established by LD 1820. I understand that these accounts will be used for security purposes only. Maine law still requires an allocation to the slot machine revenue beneficiaries. Nothing in this budget, the original budget or the budget as amended by Appropriations has altered in any way the allocations contained in LD 1820.

I hope this responds adequately to the questions and I am, too supportive of the horsemen and women of the state and the agricultural fairs, my husband in fact sits on the Harness Racing Commission and is supportive of this provision as well.



The SPEAKER: The Chair recognizes the Representative from Hollis, Representative Marean.

Representative **MAREAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to the occasion tonight to speak on behalf of the industry, which I represent and my constituents. This is a very emotional issue for these folks. They are not sure that they understand what it is that we are trying to do. I'm not sure that I understand what it is that we are trying to do, but I can tell you that we have intimidated them terribly by including this language in this amendment.

The racing season is upon us next week. The breeding season is upon us now. You have now turned the candles back and the fire is very low. People are very nervous and they are not willing to make the investments. They are not willing to make the commitments to breed to the stallions that stand in this state. The agricultural community will suffer. The industry will suffer. If there is any way that we can remove this from this budget it is the thing to do to show the industry that we are on the right track. The industry is very excited. They are all fired up and they want to get on with business. This puts a big damper in it. I encourage you please, on behalf of the industry and the agricultural community in this state, to vote against the language. Thank you.

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

Representative **RICHARDSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the good Representative from Farmington, Representative Mills and her explanation of how things are supposed to work, but I have been here just long enough to know that if they get a little short of money they put out the vacuum cleaner. If this money is available and is not encumbered it's gone. Don't delay this thing and let this amendment take its course.

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

Representative **PATRICK**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am going to be supporting this Indefinite Postponement motion for two reasons. One, for the good Representative from Farmington's explanation and two, as chair of the Legal and Veterans Affairs Committee I am perplexed by the situation at hand that over the last week, week and half I have never had one word from the fair associations and I have never had one word from the horsemen's associations. They walk the hall, up and down and never once did they come to the Chair of Legal and Veterans affairs, the defender of the fairs, the defender of the horsemen over the past three or four years. So, to me, it can't be as big of an issue as it is because they have talked to everyone but me. For that reason it is not that big a deal for me and I do understand what the good Representative from Farmington says so I will support the Indefinite Postponement.

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

Representative **BLANCHETTE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I hadn't planned on speaking on this one but I have been on the firing line on this harness racing business, the racino at Bangor, all of the amendments that keep coming out of the southern part of the state to try and derail the racino at Bangor and I have had many conversations with all of the horse people. The people that I like, the people that I respect, the people that I don't like and the people that I have no respect for have hounded me unmercifully since this came before the Legislature. Well guess what, I haven't heard anything from one of them. I have seen secret meetings going on and whispering in the hall with other people.

This is not the way we do business. I serve on Legal and Veterans Affairs and we have worked this bill. We have worked it darn hard and we've come out with the best legislation that we can.

Now I think I'm just getting a little tired of all of these amendments coming through that just want to throw a monkey wrench into it. If this was such a big deal why wasn't the good Senator from Waterville, who chairs our committee, consulted about this? Why wasn't the good Representative from Rumford consulted about this? They have been fair. They have been open and they have been honest with everybody and I wish I could say the same about the people that we are dealing with that pushing this. I urge you to vote for Indefinite Postponement of this. It never should have hit the floor to begin with. Thank you Mr. Speaker.

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

Representative **DAIGLE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I can see it's getting late and your getting a little tired and now people are complaining because we are exercising our rights as members of the body to propose amendments. Maybe some people are upset about that. I believe there is real concern here about the fate of racino money being redirected, because remember, we are also expecting the lottery proceeds to be paying for this bond and if that revenue drops off then they will look at these other sources. Well, what are the chances of lottery proceeds dropping off? Very good.

How many of you read in the paper just a few days ago about Powerball problems; about having to decrease the odds of winning? As the pots get hire there are some real problems in that. The next 14 years that we depend on these revenue streams to secure the debt that we are going into to keep the lights on in this building and the rest of the state are not a sure thing and when that come to pass all those family farms that stood to gain from the racino – remember those nice commercials? What they are saying is that that money will be gone. This amendment is very valuable to break that risk of loosing that racino money. I really hope we can understand this legitimate concern and not question the motives, which are against house rules about why we feel these are improvements to this budget. Thank you.

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

Representative **MILLETT**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Very briefly, I regret that the Representatives from Rumford and Bangor weren't contacted regarding this but I would like to read very clearly the language that drives this issue and the reason for the amendment. In the language that creates the pension cost, debt service fund it is very clear that all fourteen statutory sections must be deposited directly into the fund. Later the statement is made that money in the debt service fund must be held and applied solely to the payment of the interest on and principle of, bonds secured by the debt service fund and so on.

It is later stated that only in the event that a month-to-month excess exists within that fund, above and beyond the amount necessary to make the interest and principle payments, would there be money returned to the sources of the funds. The likelihood is anticipated, almost flagged that these monies can very well be used to pay interest in principle and that's I think the concern on the part of the agricultural industry effected directly by this amendment. Once again, this money is not needed to capitalize this debt service fund.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "I"(H-56) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote

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After Midnight

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**ROLL CALL NO. 55**

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgcomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Mearan, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Twomey, Vaughan.

Yes, 76; No, 75; Absent, 0; Excused, 0.

76 having voted in the affirmative and 75 voted in the negative, and accordingly House Amendment "I" (H-56) to Committee Amendment "A" (H-35) was INDEFINITELY POSTPONED.

Representative CLOUGH of Scarborough PRESENTED House Amendment "A" (H-48) to Committee Amendment "A" (H-35), which was READ by the Clerk.

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

Representative CLOUGH: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The BETR retail, part BBB of the budget, is another major policy change placed in the budget without the benefit of the full public hearing and work session by the committee of jurisdiction. This section of the budget arbitrarily excludes retail stores over 100,000 square feet from the BETR program unless the facility is owned by a Maine based operation that derives less than 50% of its annual revenue on a calendar year basis from sales that are subject to Maine sales tax. It is clear to me that this is not only discriminatory but is perhaps illegal. Retail comprises only a small fraction of the BETR budget so it is difficult to understand the rationality of singling out this segment of Maine business from a program that has proven to be so effective in attracting investment to Maine.

BETR supports growth and jobs of existing Maine businesses as well as providing a method for competing with other states that do not tax business personal property at all. This is a proven program with a record of providing new and good paying jobs in Maine as well as allowing and encouraging Maine businesses to make major expansion in the state.

There is another important reason not to allow this change in the BETR program. Businesses need to operate in an environment where they can develop business plans that go out five, ten, twenty years into the future, knowing that these programs will continue throughout the period. The state programs like BETR will continue throughout the period of that planning in order for the plan to work. We send a terrible message when we continue to change, or even threaten to change, major programs every two years.

According to the State Planning Office, as of April 2004 there were 83,000 retailer employees in Maine, 13.9% of all payroll jobs. Retail operations that will be impacted by this discriminatory budget supply many of them. In the minds of some, retail jobs may not be as desirable as others but the fact remains that they are jobs, and the patchwork budget before us today clearly demonstrates that Maine can't be choosy right now. The State Planning Office notes that in 2004 sales tax revenues in Maine were in excess of \$900 million, over one third of the state's general fund revenues. We should not gamble with loosing any of these revenues by discouraging retail business in Maine.

Mr. Speaker, ladies and gentleman of the house I would also like to call your attention to the fact that there is no fiscal note with this amendment. Please support me in passing this amendment and maintaining the integrity of the BETR program and when the vote is taken I request a roll call.

Representative BRANNIGAN of Portland moved that House Amendment "A" (H-48) to Committee Amendment "A" (H-35) be INDEFINITELY POSTPONED.

The same Representative REQUESTED a roll call on the motion to INDEFINITELY POSTPONE House Amendment "A" (H-48) to Committee Amendment "A" (H-35).

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 Augusta, Representative Lerman.

Representative LERMAN: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The BETR program has been subject to review for years. The fact of the matter is that we currently spend \$80 million a year, most of which I believe is well invested, but some of which is not. Like all of the programs within state government I think all of the committees of jurisdiction as well as the Appropriations Committee has tried to look at each program to see whether or not taxpayers of the State of Maine get value for the investment that they are making. In the case of this aspect of the BETR program, which is a very small piece of the entire program, it is the opinion of many that large retail stores do not base their decisions on the kind of breaks that BETR offers. There is no evidence that indicates that Maine taxpayers get any benefit from the investment that we are making in providing BETR to large retail establishments.

Unlike other businesses that are very dependent upon being able to make major capital investments where reimbursement of the personal property tax on business equipment is important, large retail stores make the decision based on projected sales. The decision of the Super Wal-Marts located in any one of our communities is not based on this particular program but on factors that go far beyond this. In order to provide a decent means test, and in order to make sure that our investments are appropriate it seemed appropriate to limit the extent of the BETR program.

This is an issue that has been discussed for years. In fact, in discussions that I have had as a member of the Taxation Committee, there has been support for limiting the BETR program in this way and it is supported by people on both sides of the aisle. I believe that if it were not in the political context of the budget we would have bipartisan support.

Also, just to note, this is a prospective adjustment of the program. It honors all the commitments that we have made up until now. It continues to fully fund the reimbursement on

business personal property tax that we have committed to through the program so far and it gives plenty of notice to those few establishments that fall under this category. Reimbursement through this program will no longer be available as of April 1, 2006. I urge you to support the motion to Indefinitely Postpone this amendment. Thank you.

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

Representative **BOWEN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I have to respond very quick - I know it is late - to a comment from the previous speaker, my friend, Representative Lerman about this getting a lot of support if it were not in the budget. The fact is it is in the budget. That is the problem.

This was put into the budget literally in the middle of the night with no public hearing. Think about what we are doing here. We are making a major, major policy change to the most important economic development program that this state has without any public hearing, without any public notice, without the business community being told ahead of time. Think of the message that this sends to businesses. I don't know what the right decision is about the retail stores. I really don't know whether that is a good thing or not. What I am concerned about is that a business thinking of expanding in Maine and investing in Maine is looking at this and saying look what these people are doing. In the middle of the night they are perfectly willing to make a major change to an economic development program without any public input at all.

If you are an investor and you are thinking of putting money in Maine, does that make you feel better? Whatever you think about retail; whether we feel it should be in this program or not. The way that this was done, under the cover of darkness, sends as Representative Clough said, a terrible message to the business community. It means that this program is perennially in danger, this year its retail, next year who knows what it will be? We sat in Appropriations and listened to hours of testimony in defense of this program, hours, and yet we still went through in the middle of the night and made a dramatic change without any public notice whatsoever.

I would suggest that the proper thing to do here is to remove this from the budget. If we think this is a serious issue lets send it back to the Taxation Committee. Give it a public hearing. Get it into the light of day. If it's decided then that this is the proper thing to do then lets do it, but when you put it in the budget and try and sneak it through it sends a terrible message. If you have got a business in your community that is getting rebates and benefits from the BETR program you better think very carefully about the message you are sending those employers in your district by supporting a change to the BETR program in this manner. Thank you Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-48) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 56**

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Smith W,

Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgcomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

Yes, 78; No, 73; Absent, 0; Excused, 0.

78 having voted in the affirmative and 73 voted in the negative, and accordingly **House Amendment "A" (H-48) to Committee Amendment "A" (H-35) was INDEFINITELY POSTPONED.**

Representative CARR of Lincoln **PRESENTED House Amendment "W" (H-70) to Committee Amendment "A" (H-35)**, which was **READ** by the Clerk.

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

Representative **CARR**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As we received our final copy of the proposed budget, and as I was reading through it, I observed that we had placed money in it for K-12 education – considerable amount. That was a good thing. I noticed that we had placed another \$6 million for the University of Maine system, that's a good thing. I also went through the budget and noticed that there wasn't any money put in for the community college system and that's a bad thing.

The amendment that I propose would add \$750,000 in the 2005 - 2006 budget year and another \$1,250,000 in 2006-2007. I would like to explain why I have proposed this amendment. Last year this legislature changed the name of our technical colleges to the community colleges. We added more responsibility and we also asked them to serve more students. In just two years, the community college system has added 2700 more college students. That is a 36% increase. The number of students entering a community college has jumped 41% in two years.

Graduate numbers from the community colleges enrolling in Maine's seven universities has increased 21% in two years. Enrollment in career programs is up 18% in two years and they have added or expanded programs in education, automotive, machine tools and adventure tourism. They have also added entrepreneurial courses and services for businesses and the creative tools and knowledge to help them succeed. They have also frozen their tuition for the past six years and they have maintained their present rates of 95% of graduation in jobs and continuing education, with 96% of employed graduates finding jobs in Maine.

In four years they have added 4400 more college students. I submit to you that this is an excellent way to create jobs. It's a way to create college degrees for our students and it also helps the work force and for those people to find a job when they get out, as you can see from this high rate of people who actually get jobs when they graduate from this community college system.

I know that there have been some discussions that the community colleges would be helped and assisted later in supplemental budgets and the part II budget, but I think it is very important to send the appropriate message to these people and we have asked them to do more things for more people and I

would ask that you would support this amendment. Thank you Mr. Speaker.

Representative BRANNIGAN of Portland moved that **House Amendment "A" (H-48) to Committee Amendment "A" (H-35) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-48) to Committee Amendment "A" (H-35).**

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 Presque Isle, Representative Fischer.

Representative FISCHER: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I could go through many things that we deliberated about in this budget but I think the main point here is that the good Representative who offered this amendment – I appreciate it, I think it's absolutely the right thing to do – obviously didn't find a way to fund it, but the bottom line is I hardly doubt that he, or most people here, are going to vote for the \$40 million dollars that we are going to spend every year on the community college system so it seems rather disingenuous to stand up and say that you would like another \$2 million more on top of that given the fact that you are going to vote against the \$40 million they are getting now. Thank you Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "W" (H-70) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 57

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

Yes, 78; No, 73; Absent, 0; Excused, 0.

78 having voted in the affirmative and 73 voted in the negative, and accordingly **House Amendment "W" (H-70) to Committee Amendment "A" (H-35) was INDEFINITELY POSTPONED.**

Representative RECTOR of Thomaston **PRESENTED House Amendment "O" (H-62) to Committee Amendment "A" (H-35),** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Rector.

Representative RECTOR: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This budget includes a move to speed up the state's ability to seize the unused portions of gift certificates and gift cards held by ordinary retail customers. Currently the state sees 60% of the money remaining on gift certificates after three years. The issuing retailer keeps the other 40%. The state calls this money unclaimed property. By speeding up the seizure from three years to two the state would collect an additional \$5.7 million in the 2006-2007 year and an additional \$17.4 million in the next year and some \$20 million dollars per year after that. On and on and on it would go. That's more than \$40 million over three years. That is a lot of money to seize from unsuspecting Maine citizens who have no idea that such a seizure is even taking place.

Many people hold onto their gift certificates longer than two years. If there is value remaining on a gift card they may be waiting until another birthday or holiday when they have another certificate to add to their remaining value.

You have all worked to return unclaimed property to your constituents over the past month. Unlike that property that has a name associated with it, this property has no such name attached. While we claim to want to return property that is not ours to its rightful owners, in this case the state must expect to be keeping the property that is not theirs if they are booking nearly \$40 million in our state treasury as a result of these claims. We are talking about ordinary gift certificates from L.L. Bean, your local garden center, book stores and countless other retailers.

By what right does the state get in the middle of a business arrangement between retailers and customers to claim millions of dollars of their gift card purchases. This is nothing but a pure government taking of consumer's money. Only one other state seizes money from gift certificates after two years, the state of Tennessee. We should not allow Maine to get another black eye as a high tax state by seizing the money of our citizens, Maine citizens, who may be a little slow in using their gift certificates. Adopting this amendment would assure that the time period remains three years before the state can seize the unused portion of gift certificates.

I urge your support Mr. Speaker and I would request that when the vote is taken it is taken by the yeas and nays.

Representative Rector of Thomaston **REQUESTED** a roll call on the motion to **ADOPT House Amendment "O" (H-62) to Committee Amendment "A" (H-35).**

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

Representative BRANNIGAN of Portland moved that **House Amendment "O" (H-62) to Committee Amendment "A" (H-35) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "O" (H-62) to Committee Amendment "A" (H-35).**

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 Portland, Representative Brannigan.

Representative BRANNIGAN: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I sort of resent the word "seize". As a devotee of abandoned property and the ability to get money back either to the people who own it or to the state I believe that taking it in two years is appropriate. First of all if the person has that gift card they will get their money back from the state.

L.L. Bean was mentioned. They have always been very cooperative with our state and other local merchants, but these

cards now are much broader and businesses just keep the money. They use the money. They use our money, my money. The money I spend and why should they use it for three years if I don't spend my gift certificate in two years then I don't see why it shouldn't come back to the rightful owner the state or myself. I think it is perfectly legitimate to allow the state or citizens to use these funds after two years rather than the businesses that have presented them.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "O" (H-62) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 58**

YEA - Adams, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Ash, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgcomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Twomey.

ABSENT - Vaughan.

Yes, 75; No, 75; Absent, 1; Excused, 0.

75 having voted in the affirmative and 75 voted in the negative, with 1 being absent, and accordingly the motion to **INDEFINITELY POSTPONE House Amendment "O" (H-62) to Committee Amendment "A" (H-35) FAILED.**

The SPEAKER: A roll call having been previously ordered. The pending question before the House is Adoption of House Amendment "O" (H-62) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 59**

YEA - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis K, Duprey, Edgcomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Twomey, Vaughan.

NAY - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Davis G, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton,

Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

Yes, 73; No, 78; Absent, 0; Excused, 0.

73 having voted in the affirmative and 78 voted in the negative, and accordingly the motion to **ADOPT House Amendment "O" (H-62) to Committee Amendment "A" (H-35) FAILED.**

Representative LINDELL of Frankfort **PRESENTED House Amendment "Q" (H-64) to Committee Amendment "A" (H-35), which was READ by the Clerk.**

The SPEAKER: The Chair recognizes the Representative from Frankfort, Representative Lindell.

Representative LINDELL: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The purpose of this revenue neutral amendment is quite simple. It will help hard working families pay for out of pocket and uncovered health care expenses and will be paid for by flat funding an account that has no specifically designed purpose.

Health savings accounts (HSAs) are federally tax-free accounts similar to individual retirement accounts or (IRAs) that allow anyone with a high deductible health insurance policy, which is most ordinary people in the State of Maine, who have to buy high deductible policies because those are the only ones they can afford. It allows them to put pre-tax money into an account that can be used to pay for out of pocket expenses as well as medical services that are just not covered by health insurance at all. The problem is that Maine's tax code is not in conformity with the federal tax code concerning HSAs. Under the federal tax code you get a tax deduction for putting the money into it and you get tax-free distributions to pay for those qualified medical expenses.

Health savings accounts will cover deductibles and co pays but they also cover-uncovered expenses such as hearing aids and prosthetics, alternative or experimental medical treatments. The accounts were widely praised at recent hearings before the Taxation Committee. There was broad bipartisan support expressed by members of that committee. The biggest concern was the approximately \$500,000/year fiscal note attached to bringing Maine's tax code into conformity with the federal tax code regarding health savings accounts.

Well, Mr. Speaker, I have good news. I have found the money in the budget. I bring to you an amendment today that will bring these HSAs into tax conformity and we found a fund in the Dirigo Health Agency budget that has no explained purpose, it's simply labeled Professional Services, Non-State. When the budget hearings were held before the Insurance and Financial Services Committee on this particular item members questioned Trish Riley and other members of the Dirigo Health Agency asking why we need \$1 million a year for consulting services and no clear explanation was given to us. In fact, that same account in 2004 had a price tag of \$539,000 so it has essentially doubled.

Instead of doubling that unexplained item what we do here is flat fund it and make house savings accounts tax deductible on the Maine income tax return and we stop taxing the distributions from those health savings accounts.

This budget allocates currently over \$2 million to the Professional Services Non-State account and we are going to bring that down to about a \$1 million with this amendment. There is no reason to believe that these consulting services can't be

obtained from agencies within other state departments. In fact, the insurance department routinely conducts actuarial studies of insurance bills and those studies cost around \$10,000. How many studies can you do for half a million dollars a year? I suggest plenty.

In any case by paying for deductible health savings accounts from this fund we will be able to provide significant help to hard working families struggling to pay for healthcare and fund it from an account that has no clear public policy purpose. Mr. Speaker, I request the yeas and nays.

The same Representative **REQUESTED** a roll call on the motion to **ADOPT House Amendment "Q" (H-64) to Committee Amendment "A" (H-35)**.

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

Representative BRANNIGAN of Portland moved that **House Amendment "Q" (H-64) to Committee Amendment "A" (H-35)** be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "Q" (H-64) to Committee Amendment "A" (H-35)**.

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 Portland, Representative Dudley.

Representative **DUDLEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. With regard to this amendment the Representative from Frankfort is correct. There are several bills that deal with this very issue that are before the Legislature this session and that are now within the Tax Committee and I understand the Tax Committee is actually working very hard on developing a proposal and bringing it to the floor. I for one am very interested in their work and keep, to this day, an open mind on health savings accounts, actually, for the first time in many years. I have always been close-minded toward them. This time around I think there may be some merit to it, but at the very least I would like to have the Taxation Committee complete its work before we dictate to them what their work ought to do. Furthermore, when it comes to the positions that are cut out of Dirigo Health, there are many who, I think, would like to write the obituary for Dirigo Health today. Unfortunately, enrollment numbers are at expectations for Dirigo Health. Dirigo Health has a long way to go before we can forget about the potential benefit it offers to people in Maine needing access to healthcare, as well as to businesses needing relief from the ever increasing burden of the cost of healthcare.

To undermine the efforts of the Dirigo Health Agency at this early date in the process is far premature and counterproductive to the hopes we all have for the future of Dirigo Health. So, I urge you in joining me in supporting the motion to Indefinitely Postpone.

The SPEAKER: The Chair recognizes the Representative from Frankfort, Representative Lindell.

Representative **LINDELL**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to speak against the motion to Indefinitely Postpone. I just wanted to point out a couple of things Mr. Speaker.

First of all, this is not an attack on Dirigo Health. This is simply an allocation of funds that are unexplained. This comes out of a budget of over \$117 million a year. It comes out of a line item that is not for positions. It is for outside consulting services; fees that get paid to big, out of state consulting firms that charge high prices to do stuff that we could probably get our own experts within State Government to do at little or no cost. It's simply a better allocation of resources. If we could take this matter and

take care of this job for the Taxation Committee right here and now I say we should do it. So, vote against the Indefinite Postponement and later for the amendment. Thank you.

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

Representative **SYKES**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This is an interesting evening. Just a few minutes ago we spent a great deal of time, I'll use the word encouraging and maybe enforcing is a better word, Maine citizens to be concerned about their health by wearing a seatbelt. Now what I hear is that we are going to discourage them from investing in a health savings account. If I have learned anything tonight this whole budget process is certainly a varsity sport.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "Q" (H-64) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 60

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgcomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

Yes, 78; No, 73; Absent, 0; Excused, 0.

78 having voted in the affirmative and 73 voted in the negative, and accordingly **House Amendment "Q" (H-64) to Committee Amendment "A" (H-35)** was **INDEFINITELY POSTPONED**.

Representative **BIERMAN** of Sorrento **PRESENTED House Amendment "P" (H-63) to Committee Amendment "A" (H-35)**, which was **READ** by the Clerk.

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

Representative **BIERMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This a very, very important amendment and you can tell by how early it is being offered so everyone pay attention please. This amendment returns the funding for Reading Recovery, now the amount \$528,000 in 2005-2006 and \$590,000 in 2006-2007. Based on the estimated year-end balances this amendment maintains a balanced budget for the 2006-2007 biennium.

Now for those of you who don't know what Reading Recovery is, it is an early intervention program targeting at-risk first graders



in the area of reading. That doesn't really sound that important does it? We are only shaping the young people of the state. Why do we want to actually teach them how to read?

Reading Recovery has been found to be cost effective when compared to remedial reading programs, special education placement and primary grade retention. That report comes from Dyer and Swartz, 1992.

Reading Recovery was created by Dr. Mary Clay in New Zealand and then brought to the United States by Ohio State University. Presently, it is being used in every state in the Union.

Studies have also shown Reading Recovery to be more cost effective in achieving short term, and sustained progress in reading and writing than other intervention programs.

Really, I am at a loss. We have reshaped the new EPS funding formula; rural isolated schools with a high valuation and low student population are taking a real shot in the arm. We are making cuts everywhere and we are going to further exacerbate this by cutting a very successful program, a program that I submit to you, the Learning Results have been based off in the literacy area. This is a very nominal amount it's a little over \$1 million for the biennium and the money that they have taken away from Reading Recovery is actually going to fund some MEA contracts. I would ask that those that are still in attendance support me in this amendment. It's not going to throw the budget into chaos and everyone can really feel good about it because we are teaching our young people how to read. Thank you and I do believe I am the last amendment.

Representative BRANNIGAN of Portland moved that House Amendment "P" (H-63) to Committee Amendment "A" (H-35) be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** House Amendment "P" (H-63) to Committee Amendment "A" (H-35).

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 Portland, Representative Dudley.

Representative **DUDLEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I commend the Representative from Sorrento. This is definitely an excellent program - Reading Recovery. I know the Appropriations Committee was very concerned about this and asked a lot of questions to the department and the same for the Education Committee. The fact is that the Education Committee, in their report back to the Appropriations Committee, 11 of 13 members approved this cut and I imagine they did so that we on the Majority in Appropriations Committee approved it. It was that, based on what the Commissioner told us, funds are built into the EPS model so that communities may continue to fund Reading Recovery, which is a tremendously successful program. As long as communities choose to see the success of the program, they have the funds through EPS to continue operating the program. I would also note that two members of the Education Committee who did not approve this cut did not recommend a full restoration as is proposed here.

With regard to Representative Bierman's comments about this being within available resources to make this restoration, the truth is that with two of the amendments that we did adopt this evening, CC and E, we are now dealing with a situation where we are not balanced, to the tune of \$255,000. This would only deepen the hole that we are in. We are not in balance and this would worsen the problem. Thank you.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House

Amendment "P" (H-63) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 61**

**YEA** - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

**NAY** - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Twomey, Vaughan.

Yes, 77; No, 74; Absent, 0; Excused, 0.

77 having voted in the affirmative and 74 voted in the negative, and accordingly House Amendment "P" (H-63) to Committee Amendment "A" (H-35) was **INDEFINITELY POSTPONED**.

**Committee Amendment "A" (H-35) as Amended by House Amendments "E", "T" and "CC" 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**.

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

Representative **BOWLES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. A great deal has happened in the last month, regarding this budget bill, to get us to the point where we are now. Much of it was good. The Appropriations Committee worked together, mostly in a friendly and cordial way. They worked with a similar goal to try to produce the best budget possible for Maine people. Leadership worked together, mostly in a friendly and cordial manner, also trying for the same end.

While we have differences in the bill itself and our views of it, the process has been mostly good. People are to be commended for that and tonight the discussion has been good. It has been respectful and both sides made a lot of good points and that's a good thing.

There have been some things however, in the last couple of weeks. There have been a lot of reporting, a lot of discussion and I would just like to clear up a couple of matters because some of the things that I have heard have been a little bit disturbing in terms of the characterization of certain events that have taken place.

I want to particularly take you back a couple of weeks to the night when we were about two days away from trying to wrap things up in the Appropriations Committee and we had a leadership meeting and we had members of Appropriations there. We said where are we now, where do we stand, what do we

need to come to final agreement on this? Is there a way that we can get together and put this package together? Republicans at that time expressed our concerns in several areas. That was a time in which, the original bonding proposal - the original borrowing package - had been put together by the group that included Representative Millett and Representative Mills.

The question with which we were faced was could we support the budget with that borrowing package and we said yes, we could. But, there were some buts. What we suggested was that we needed to see on our side of the isle that we were actually going to make a start in reducing the ever-increasing cost of government. Now what we asked for was some demonstration that we could start to flatten that line so that government didn't continue to grow in this manner and so that we could actually start to flatten that out.

We knew we were faced with about a \$650 million structural gap at that time and we said we knew that it was unreasonable to try and fill that gap in a budget cycle, but it is not unreasonable to try to do it in three budget cycles.

We thought that was pretty reasonable and what we said is can you work with us to flatten this curve by taking one third of that structural gap at this point in time, about \$215 million. Now we didn't ask for \$215 million in cuts. We never asked for that. What we asked for was some structural changes that would eventually give us \$215 million in structural gap reductions. There is a difference.

Some of the things that have been misreported or confused in the reporting are that Republicans asked for or demanded, which is certainly untrue, \$250 million worth of cuts. We never did any such thing. I read that we demanded the elimination of 500 vacant positions. We never did any such thing. I don't believe there are 500 vacant positions. We asked if we could look at 100-150 vacant positions and see if we could eliminate those because that would help reduce the structural gap without actually making cuts. I read where we wanted to throw some people off the Medicaid roles, toss them out of MaineCare. Absolutely not true. We never suggested that. What we suggested was that we needed to take a look at some of the MaineCare programs and decide whether or not we should cap enrollments or possibly roll back the eligibility criteria, but we never suggested that anyone currently eligible for the program should be removed.

We thought at the time that if we could work together towards accomplishing some of those goals than we still had a chance for a two-thirds budget. Nobody is to blame for the fact that we didn't get there. I'm disparaging anybody's efforts. We parted in a friendly manner but we were disappointed.

Why did we eventually decide that we couldn't support the budget? There were a number of things, obviously, that we talked about tonight. When you boil it all down it ends up pretty much revolving around the borrowing package. The borrowing package is difficult. The people out there understand a \$10 fee on their canoes and kayaks. They got that. We know they got it because we heard from them. All of us heard from them. The borrowing package is difficult to understand. It's very complicated. Earlier the Representative from Waterford, Representative Millett addressed the staggering cost of just a rollback of the Unadvertised Actuarial Liability; the UAL. Just that is going to cost us \$3.6 billion dollars. Additionally, we are going to incur a \$450 million debt, which will be born not just by us, but also by our children and our grandchildren. This is a 20-year obligation. How do we justify this when we are going to spend that money in the next two years, or a significant portion of it?

The structural gap going forward remains virtually unchanged. It may be slightly lower. I think I heard Representative Millett

indicate that it might be \$619 million instead of \$650 million. When do we begin the process of relieving our children of this debt? Are we hoping for some miraculous tsunami of revenues to rescue us? I hope not.

Some of us will not be here in two years, but those of you who do return will have to face this dilemma because we have not fixed it. We have sold the liquor revenues. We have pledged the lottery revenues. We have pledged the racino revenues. We have pledged a number of smaller revenue streams. What can we sell or pledge next?

Some have jokingly suggested we might offer the capitol or the state buildings for collateral. To them I say it's too late we have already done that. We have already done that to back the approximately \$200 million worth of Maine Government Facilities Act monies that we borrowed.

Once again, we are passing this onto our children. Where does it end? It will end when the people of Maine say enough is enough. I believe some of us are hearing that loud and clear from our constituents right now. Ladies and gentleman I can't vote for this budget and I believe many of you also know this budget is not worthy of your vote. I understand how difficult it is not to support your Governor and your party leadership. I don't expect people to suddenly change their positions. I ask only that as you drive home tonight you ask yourself, do you feel you were well served by those who encouraged you to support this budget? Ask yourself also, if you have done the right thing for your constituents? If you are comfortable with your answers to both of these questions then you have done the right thing. If you are not, then it will be a longer ride home than usual.

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

Representative CUMMINGS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In this late hour I still want to take a few minutes to say thank you to Representative Bowles and Representative Tardy and to the Speaker and to others who have made this process doable and to the members of Appropriations who have taken a lot of their lifeblood to put in a package, on both sides of the isle. That process has been respectful and has been polite. It has been courteous on the whole and I appreciate that and I want to say thank you.

I want to talk about the budget itself. The question comes up, and I am delighted to hear Representative Bowles say, we didn't want to cut anything more. We didn't want to roll back Medicaid. We didn't want to do anything and I appreciate that.

We just wanted to go after the structural gap, which by the way is not debt, because tonight when you push a green light it will be a balanced budget. Unlike Washington, it will be a balanced budget. Now we accrue debt and we will accrue debt, and I want to talk about that, but I just want to say the numbers don't add up. If my good friend Representative Bowles is saying we weren't going to cut, we weren't going to cut and then they were saying we weren't going to raise taxes you have got a real problem then. So where does that come out?

The question is how do you look at this budget? The first way I look at it there are two levels of it. There was one, as Representative Bowles talks about, which are the irritants, so well described by Representative Hanley, the things that somehow stick in people's minds, they are not the big things, they are the little things. Tonight most of those got eliminated. Representative Brannigan eliminated them and other movements we saw here on the floor represented them and they are gone. However, there is a bigger part of the budget and that is the question about how you meet that gap. If Representative Bowles is being honest and true - I believe he is - he didn't want to make

any changes and further cuts. By the way in Health and Human Services the Republicans voted to put back \$40 million. We said we wanted to put back \$50 million that seems like a pretty small difference. So if that is true how do you fill in the gap? Well, what working families do when they have to get their kid into college, when they have to figure out how to renovate a piece of their place so a mother-in-law can move in, they do something that we all do. We smooth out our investment over a longer period of time.

For those of you who are lucky enough to be able to write a check for your college education, for the full price, you are blessed people. But for me and for others, working families will have to figure out: is the investment worth it and can I afford it in the mortgaged out years.

You have bought yourself because the voters have told you they want it. The largest investment in K-12 education in the history of the state and you did it without a tax increase. You have to balance your priorities. If it is true that you don't want a cut and if it's true you don't want to raise taxes, you figure it out. You are a working family. You can't write the full check. This is how it's done.

When I drive home tonight I say we were faced with some of the ugliest choices any Legislature ever faced in this room. We had to make some very, very ugly choices. We made cuts, we made cuts, we made cuts and Representative Twomey is right, a different political context would say: then why aren't you raising taxes? That is not the political card that we were served. I can tell you that there are many in this room that would not do it on both sides. Then you have to ask yourself the question: have we taken all of the angles of the budget the entire landscape and made the best possible judgment that we could make? I say yes.

Out judgment is that we have to make investments because the voters have said this is the kind of investment we expect you to make. We made it in a balanced way. We did the responsible thing. We cut as much as we felt we could and then we said, we need help. We need a low interest loan to help us make it through this and that is what you have.

We have not in the out years debt, we have a gap, and we have consistently brought down that gap and we will do it again. I urge you tonight to do what is responsible. Do not keep people waiting for another three months while we brawl and quibble and quabble. Make the decision, get this done, execute what we have been sent here to do and the people will appreciate it.

Representative TARDY of Newport REQUESTED a roll call on **PASSAGE TO BE ENGROSSED as Amended by Committee Amendment "A" (H-35) as Amended by House Amendments "E", "T" and "CC" 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 Passage to be Engrossed as Amended by Committee Amendment "A" (H-35) as Amended by House Amendments "E", "T" and "CC" thereto. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 62**

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Davis G, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N,

Smith W, Thompson, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis K, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Twomey, Vaughan.

Yes, 77; No, 74; Absent, 0; Excused, 0.

77 having voted in the affirmative and 74 voted in the negative, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-35) as Amended by House Amendments "E", "T" and "CC"** and sent for concurrence. **ORDERED SENT FORTHWITH.**

**ENACTORS**

**Emergency Measure**

An Act Concerning the Confidentiality of Records Held by the Gambling Control Board

(S.P. 32) (L.D. 90)

(C. "A" S-47)

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. 144 voted in favor of the same and 6 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

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

On motion of Representative GERZOFKY of Brunswick, the House adjourned at 1:43 a.m., until 6:00 p.m., Wednesday, March 30, 2005.