

# MAINE STATE LEGISLATURE

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

**Volume III**

**Second Special Session**

April 8, 2004 - April 30, 2004

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

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

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

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

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

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

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

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

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

**ROLL CALL NO. 457**

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

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

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

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

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

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

**ENACTORS**

**Acts**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The SPEAKER: The Representative may pose his question.

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

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

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

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

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

The SPEAKER: The Representative may pose his question.

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

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

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

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

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

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

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

#### ROLL CALL NO. 458

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

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

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

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

126 having voted in the affirmative and 15 voted in the negative, with 10 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

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

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

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

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

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

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

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

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

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

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

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