

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Second Legislature

State of Maine

Daily Edition

First Regular Session
December 4, 2004 to March 30, 2005

Pages 1 - 410

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Wednesday
March 30, 2005

Reading of the Journal of Tuesday, March 29, 2005.

Off Record Remarks

Senate called to order by President Beth Edmonds of Cumberland County.

PAPERS FROM THE HOUSE

Joint Orders

Prayer by Reverend Carolyn Bradley of the First Congregational Church of Millinocket.

The following Joint Order:

H.P. 1040

REVEREND BRADLEY: It is an honor to be here and I want to thank you. I want to thank Beth Schneider, I think she's the one who is responsible for this. Thank you very much. I bring you greetings from the good people of Millinocket.

ORDERED, the Senate concurring, that the Joint Standing Committee on Natural Resources shall report out, to the House, a bill directing the Executive Department, State Planning Office to undertake a study of current state law and policy regarding land use planning, management and regulation under the legal framework of the laws governing growth management.

Lest you think you are alone in the troubles that we all have with people and public affairs, I want to share just a couple of real quick versus with you. This is from the 11th chapter of the Book of Numbers. Moses is leading a group of truly contentious folks, I think you might remember that, through a very large wilderness where they didn't know where they were going. Does that sound familiar? The people among them had a strong craving and the Israelites also wept again and said 'If only we had meat to eat. We remember the fish we used to eat in Egypt for nothing. The cucumbers, the melons, the leeks, the onions, and the garlic, but now our strength is dried up. There is nothing but all this manna to look at.' The manna was the stuff that God sent them to keep them alive and they got tired of 100,001 creative ways to fix manna. I think we all do that in our lives. I think we all know what that feels like, to be a leader among the people when those voices are being heard. So let's bring our hearts concerns before God.

Comes from the House, **READ** and **PASSED**.

READ.

On motion by Senator **BRENNAN** of Cumberland, **TABLED** until Later in Today's Session, pending **PASSAGE**, in concurrence.

COMMUNICATIONS

The Following Communication: S.P. 527

**122nd MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333**

March 29, 2005

Sen. Barry Hobbins
Senate Chair, Joint Standing Committee on Judiciary
Rep. Deborah Pelletier-Simpson
House Chair, Joint Standing Committee on Judiciary
122nd Legislature
Augusta, ME 04333

Dear Senator Hobbins and Representative Pelletier-Simpson:

Eternal one, we give You thanks for the beauty of this day. We give You thanks for the melting snow. We give You thanks for the little shoots of green that are beginning to come up in lawns. We give You thanks for the sound of the birds returning and the promise, even in the far north country, that the earth will come back to life again. We give You thanks for the dedicated brothers and sisters in this room who have spent a goodly portion of their lives and continue to do so in service to the people of this great state. Lord, we all need Your guidance. We all need Your comfort when all around us are voices saying 'If this, if that, if only, if we could go back, if we could go forward, if it could be different.' God, we ask that the voice that we hear most truly in our selves be Yours; that the compass that keeps us on chart, on course, be Yours; that our goals be Yours; that our hearts, in fact, be Yours; and be tuned to Your kingdom, your reign, Your time of justice for all people. God, we give You thanks and praise for the privilege of coming before You in prayer and we ask You to bless this session, bless each of us individually and collectively with Your great grace. Amen.

Please be advised that Governor John E. Baldacci has nominated Kevin L. Stitham of Dover-Foxcroft for reappointment as a Maine District Court Judge.

Pursuant to Maine Constitution Title 4, M.R.S.A. § 157, this nomination will require review by the Joint Standing Committee on Judiciary.

Doctor of the day, Dr. Ronald Chicoine of Lewiston.

Sincerely,

S/Beth Edmonds
President of the Senate

S/John Richardson
Speaker of the House

READ and REFERRED to the Committee on **JUDICIARY**.

Sent down for concurrence.

The Following Communication: S.C. 125

**MAINE STATE LEGISLATURE
COMMITTEE ON TAXATION
AUGUSTA, MAINE 04333**

March 24, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

- L.D. 112 An Act To Conform Maine Estate Tax Law with Federal Estate Tax Laws
- L.D. 752 An Act Regarding Equipment Used in Food Preparation under the BETR Program
- L.D. 988 An Act To Amend the Maine Tree Growth Tax Law

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

Sincerely,

S/Sen. Joseph Charles Perry
Senate Chair

S/Rep. Richard G. Woodbury
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE**.

The Following Communication: S.C. 126

**MAINE STATE LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS' AFFAIRS
AUGUSTA, MAINE 04333**

March 24, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

- L.D. 109 An Act To Require That Accelerated Campaign Finance Reports Be Completed by Both Clean Election and Nonparticipating Candidates
- L.D. 422 An Act To Remove the Restriction on the Number of Liquor Licenses Issued
- L.D. 456 An Act To Make Disputed Ballots in State Elections Public
- L.D. 706 An Act To Restrict a Nominated Political Candidate in an Election from Changing Political Parties during the Elected Term

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

Sincerely,

S/Sen. Kenneth T. Gagnon
Senate Chair

S/Rep. John L. Patrick
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE**.

The Following Communication: S.C. 127

**MAINE STATE LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND FORESTRY
AUGUSTA, MAINE 04333**

March 28, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

- L.D. 861 An Act To Amend Arborist Licensing Law
- L.D. 959 Resolve, Directing the Department of Conservation, Bureau of Parks and Lands To Develop a Plan To Create a Regional Recreation Center in the Town of Blue Hill

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

Sincerely,

S/Sen. John M. Nutting
Senate Chair

S/Rep. John F. Piotti
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 128

**MAINE STATE LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE
AUGUSTA, MAINE 04333**

March 28, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

- L.D. 120 An Act To Require the Turkey Season To Include the Last 2 Weeks of April
- L.D. 233 An Act To Change the Definition of "Snowmobile"
- L.D. 420 An Act To Establish a 3-day Field Trial Competition on Bobcats
- L.D. 651 An Act Regarding Education of Certain Personal Watercraft Operators

- L.D. 923 Resolve, To Begin and End the Fall Wild Turkey Hunting Season One Week Earlier

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

Sincerely,

S/Sen. Bruce Bryant
Senate Chair

S/Rep. Thomas R. Watson
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 129

**MAINE STATE LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY
AUGUSTA, MAINE 04333**

March 28, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

- L.D. 703 An Act To Clarify the Offense of Burglary of a Motor Vehicle
- L.D. 847 An Act To Increase the Class of Crime for Home Trespass

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

Sincerely,

S/Sen. Bill Diamond
Senate Chair

S/Rep. Patricia A. Blanchette
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

SENATE PAPERS

Bill "An Act To Regulate Fire Alarm Contractors"
S.P. 524 L.D. 1508

Sponsored by Senator NASS of York.

Bill "An Act To Amend the Laws Governing the Manufactured Housing Board"

S.P. 525 L.D. 1509

Sponsored by Senator HASTINGS of Oxford.
Cosponsored by Representative MILLETT of Waterford and Representative: HAMPER of Oxford.

On motion by Senator **BROMLEY** of Cumberland, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

Sent down for concurrence.

Bill "An Act To Control the Spread of Methamphetamines"
S.P. 523 L.D. 1507

Sponsored by Senator MILLS of Somerset.

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

On motion by Senator **BROMLEY** of Cumberland, **TABLED** until Later in Today's Session, pending **REFERENCE**.

Bill "An Act To Amend the Lobster Fishing Laws of Maine"
S.P. 526 L.D. 1510

Sponsored by Senator DAMON of Hancock.
Submitted by the Department of Marine Resources pursuant to Joint Rule 204.

On motion by Senator **DAMON** of Hancock, **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed.

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

ORDERS

Joint Resolution

On motion by Senator **BRENNAN** of Cumberland, under unanimous consent on behalf of President EDMONDS of Cumberland (Cosponsored by Senators: ANDREWS of York,

BARTLETT of Cumberland, BRENNAN of Cumberland, BROMLEY of Cumberland, BRYANT of Oxford, CLUKEY of Aroostook, COURTNEY of York, COWGER of Kennebec, DAMON of Hancock, DAVIS of Piscataquis, DIAMOND of Cumberland, DOW of Lincoln, GAGNON of Kennebec, HASTINGS of Oxford, HOBBS of York, MARTIN of Aroostook, MAYO of Sagadahoc, MILLS of Somerset, MITCHELL of Kennebec, NASS of York, NUTTING of Androscoggin, PERRY of Penobscot, PLOWMAN of Penobscot, RAYE of Washington, ROSEN of Hancock, ROTUNDO of Androscoggin, SAVAGE of Knox, SCHNEIDER of Penobscot, SNOWE-MELLO of Androscoggin, Senator, STRIMLING of Cumberland, SULLIVAN of York, TURNER of Cumberland, WESTON of Waldo, WOODCOCK of Franklin, Representatives: ADAMS of Portland, ANNIS of Dover-Foxcroft, ASH of Belfast, AUSTIN of Gray, BABBIDGE of Kennebunk, BARSTOW of Gorham, BEAUDETTE of Biddeford, BERUBE of Lisbon, BIERMAN of Sorrento, BISHOP of Boothbay, BLANCHETTE of Bangor, BLANCHARD of Old Town, BLISS of South Portland, BOWEN of Rockport, BOWLES of Sanford, BRANNIGAN of Portland, BRAUTIGAM of Falmouth, BROWN of South Berwick, BROWNE of Vassalboro, BRYANT-DESCHENES of Turner, BRYANT of Windham, BURNS of Berwick, CAIN of Orono, CAMPBELL of Newfield, CANAVAN of Waterville, CARR of Lincoln, CEBRA of Naples, CHURCHILL of Washburn, CLARK of Millinocket, CLOUGH of Scarborough, COLLINS of Wells, CRAVEN of Lewiston, CRESSEY of Cornish, CROSBY of Topsham, CROSTHWAITE of Ellsworth, CUMMINGS of Portland, CURLEY of Scarborough, CURTIS of Madison, DAIGLE of Arundel, DAVIS of Falmouth, DAVIS of Augusta, DRISCOLL of Westbrook, DUCHESNE of Hudson, DUDLEY of Portland, DUGAY of Cherryfield, DUNN of Bangor, DUPLESSIE of Westbrook, DUPREY of Hampden, EBERLE of South Portland, EDER of Portland, EDGECOMB of Caribou, EMERY of Cutler, FAIRCLOTH of Bangor, FARRINGTON of Gorham, FINCH of Fairfield, FISCHER of Presque Isle, FISHER of Brewer, FITTS of Pittsfield, FLETCHER of Winslow, FLOOD of Winthrop, GERZOFISKY of Brunswick, GLYNN of South Portland, GOLDMAN of Cape Elizabeth, GREELEY of Levant, GROSE of Woolwich, HALL of Holden, HAMPER of Oxford, HANLEY of Paris, HANLEY of Gardiner, HARLOW of Portland, HOGAN of Old Orchard Beach, HOTHAM of Dixfield, HUTTON of Bowdoinham, JACKSON of Fort Kent, JACOBSEN of Waterboro, JENNINGS of Leeds, JODREY of Bethel, JOY of Crystal, KAELIN of Winterport, KOFFMAN of Bar Harbor, LANSLEY of Sabattus, LERMAN of Augusta, LEWIN of Eliot, LINDELL of Frankfort, LUNDEEN of Mars Hill, MAKAS of Lewiston, MAREAN of Hollis, MARLEY of Portland, MARRACHÉ of Waterville, MAZUREK of Rockland, McCORMICK of West Gardiner, McFADDEN of Dennysville, McKANE of Newcastle, McKENNEY of Cumberland, McLEOD of Lee, MERRILL of Appleton, MILLER of Somerville, MILLETT of Waterford, MILLS of Farmington, MOODY of Manchester, MOORE of the Passamaquoddy Tribe, MOORE of Standish, MOULTON of York, MUSE of Fryeburg, NASS of Acton, NORTON of Bangor, NUTTING of Oakland, O'BRIEN of Lewiston, OTT of York, PARADIS of Frenchville, PATRICK of Rumford, PERCY of Phippsburg, PERRY of Calais, PILON of Saco, PINEAU of Jay, PINGREE of North Haven, PINKHAM of Lexington Township, PIOTTI of Unity, PLUMMER of Windham, RECTOR of Thomaston, RICHARDSON of Carmel, RICHARDSON of Greenville, Speaker RICHARDSON of Brunswick, RICHARDSON of Skowhegan, RICHARDSON of Warren, RINES of Wiscasset, ROBINSON of Raymond, ROSEN

of Bucksport, SAMPSON of Auburn, SAVIELLO of Wilton, SCHATZ of Blue Hill, SEAVEY of Kennebunkport, SHERMAN of Hodgdon, SHIELDS of Auburn, PELLETIER-SIMPSON of Auburn, SMITH of Monmouth, SMITH of Van Buren, SOCKALEXIS of the Penobscot Nation, STEDMAN of Hartland, SYKES of Harrison, TARDY of Newport, THOMAS of Ripley, THOMPSON of China, TRAHAN of Waldoboro, TUTTLE of Sanford, TWOMEY of Biddeford, VALENTINO of Saco, VAUGHAN of Durham, WALCOTT of Lewiston, WATSON of Bath, WEBSTER of Freeport, WHEELER of Kittery, WOODBURY of Yarmouth), the following Joint Resolution:

S.P. 528

**JOINT RESOLUTION IN RECOGNITION OF THE
GROUNDBREAKING SERVICE OF WOMEN IN LEADERSHIP
IN THE MAINE STATE LEGISLATURE**

WHEREAS, this year marks the 85th anniversary of the 19th Amendment to the United States Constitution; and

WHEREAS, March has been designated as National Women's History Month; and

WHEREAS, the theme for this year's National Women's History Month is "Women Change America," honoring and recognizing the role of American women in transforming culture, history and politics as leaders, writers, scientists, educators, politicians, artists, historians and informed citizens; and

WHEREAS, "Women Change America" also celebrates the myriad ways in which the spirit, courage and contributions of American women have added to the vitality, richness and diversity of American life; and

WHEREAS, we salute the women of Maine who have led the Maine Senate over the last 60 years:

Minette H. Cummings (R), Assistant Majority Leader, 1975; Barbara A. Gill (R), Assistant Minority Leader, 1982; Nancy Randall Clark (D), Assistant Majority Leader, 1984 and Majority Leader, 1986; Pamela L. Cahill (R), Assistant Minority Leader, 1988 and Minority Leader, 1992; Beverly Miner Bustin (D), Assistant Majority Leader, 1992 and Assistant Minority Leader, 1994; Jane A. Amero (R), Assistant Majority Leader, 1994 and Minority Leader, 1996 and 1998; Chellie Pingree (D), Majority Leader, 1996 and 1998; Anne Rand (D), Assistant Majority Leader, 1996 and 1998; Mary E. Small (R), Republican Leader, 2000; Beverly Daggett (D), Democratic Leader, 2000 and President of the Senate, 2002; Sharon A. Treat (D), Assistant Democratic Leader, 2000 and Majority Leader, 2002; Carol Weston (R), Assistant Minority Leader, 2004; and Beth Edmonds (D), President of the Senate, 2004; and

WHEREAS, we salute the women of Maine who have led the Maine House of Representatives over the last 60 years:

Elizabeth Deering Moffat (R), Assistant Majority Leader, 1945;

Lucia M. Cormier (D), House Minority Leader, 1959; Mary Najarian (D), Assistant Majority Leader, 1975; Elizabeth H. Mitchell (D), Assistant Majority Leader, 1979, Majority Leader, 1980 and Speaker of the House, 1996; Mary Clark Webster (R), Minority Leader, 1988; and Carol Kontos (D), Majority Leader, 1996; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-second Legislature now assembled in the First Regular Session, salute these extraordinary women and applaud their accomplishments; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the women named, who have served in leadership roles in the Legislature.

READ and ADOPTED.

Sent down for concurrence.

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Amend the Law Regarding Resale Certificates"

H.P. 120 L.D. 169

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-78).**

Signed:

Senators:

PERRY of Penobscot
STRIMLING of Cumberland

Representatives:

WOODBURY of Yarmouth
HANLEY of Paris
CLARK of Millinocket
McCORMICK of West Gardiner
CLOUGH of Scarborough
PINEAU of Jay
BIERMAN of Sorrento
HUTTON of Bowdoinham
SEAVEY of Kennebunkport
WATSON of Bath

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-79).**

Signed:

Senator:
COURTNEY of York

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-78)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-78)**.

Reports **READ**.

On motion by Senator **PERRY** of Penobscot, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Exempt the United States Flag from State Taxation"
H.P. 266 L.D. 353

Reported that the same **Ought Not to Pass**.

Signed:

Senator:
STRIMLING of Cumberland

Representatives:
WOODBURY of Yarmouth
HANLEY of Paris
CLOUGH of Scarborough
PINEAU of Jay
HUTTON of Bowdoinham
WATSON of Bath

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-77)**.

Signed:

Senators:
PERRY of Penobscot
COURTNEY of York

Representatives:
CLARK of Millinocket
McCORMICK of West Gardiner
BIERMAN of Sorrento
SEAVEY of Kennebunkport

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-77)**.

Reports **READ**.

On motion by Senator **PERRY** of Penobscot, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Alter Trade-in Allowances Regarding Motor Homes"
H.P. 426 L.D. 593

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-75)**.

Signed:

Senator:
COURTNEY of York

Representatives:
HANLEY of Paris
CLARK of Millinocket
McCORMICK of West Gardiner
WOODBURY of Yarmouth
CLOUGH of Scarborough
BIERMAN of Sorrento
SEAVEY of Kennebunkport
WATSON of Bath

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Senators:
PERRY of Penobscot
STRIMLING of Cumberland

Representatives:
PINEAU of Jay
HUTTON of Bowdoinham

Comes from the House 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" (H-75)**.

Reports **READ**.

On motion by Senator **PERRY** of Penobscot, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

SECOND READERS

The Committee on **Bills in the Second Reading** reported the following:

House

Bill "An Act To Make Technical Corrections to Maine's Appellate Jurisdiction Laws Concerning Involuntary Hospitalization"
H.P. 189 L.D. 250

Resolve, Regarding Legislative Review of Chapter 125: Calendar Adoption, a Major Substantive Rule of the Department of Education (EMERGENCY)
H.P. 340 L.D. 465

READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence.

House As Amended

Bill "An Act To Establish a Minimum Amount for Required Interest Payments by Insurers"
H.P. 176 L.D. 237
(C "A" H-43)

Bill "An Act To Amend the Insurance Code Regarding Discontinuance of a Line of Business"
H.P. 177 L.D. 238
(C "A" H-44)

Bill "An Act To Enhance Uniformity of Insurance Producer Licensing"
H.P. 278 L.D. 376
(C "A" H-45)

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED, in concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

Out of order and under suspension of the Rules, the Senate considered the following:

COMMUNICATIONS

The Following Communication: S.C. 131

**MAINE STATE LEGISLATURE
COMMITTEE ON INSURANCE AND FINANCIAL SERVICES
AUGUSTA, MAINE 04333**

March 29, 2005

The Honorable Beth Edmonds
President of the Senate of Maine
122nd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 122nd Maine Legislature, the Joint Standing Committee on Insurance & Financial Services has had under consideration the nomination of Dr. Robert E. McAfee of Portland, for reappointment to the Dirigo Health, Board of Directors.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	2	Mills of Somerset, Sullivan of York
	Representatives	4	Brautigam of Falmouth, Harlow of Portland, Perry of Calais, Pilon of Saco
NAYS	Senators	0	
	Representatives	4	Glynn of South Portland, Lindell of Frankfort, McKane of Newcastle, Richardson of Warren
ABSENT		3Rep.	Marrache of Waterville, Sen. Mayo of Sagadahoc, Rep. Vaughan of Durham

Six members of the Committee having voted in the affirmative and four in the negative, it was the vote of the Committee that the nomination of Dr. Robert E. McAfee of Portland, for reappointment to the Dirigo Health, Board of Directors be confirmed.

Signed,

S/Nancy B. Sullivan
Senate Chair

S/Anne C. Perry
House Chair

READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Senate. It gives me great honor to stand before you and to be able to introduce for reappointment a man of tremendous stature, a private citizen who has agreed to help us. I do hope that we pass, I believe this is a negative vote we want to pass, for a positive result. Thank you very much, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Madame President and men and women of the Senate, I rise just briefly to say that although the Dirigo initiative has achieved a certain amount of political notoriety and there are members in this chamber and the other chamber who may disagree about its statutory structure and its policy formulations. I don't think anybody can disagree that the person to chair that board is Dr. Bob McAfee. He is truly not only a state treasure, he's not just a treasure of the State of Maine, he's a national treasure. He's a past President of the American Medical Association. He's been a strong spokesman for public health issues across the board. He's one of the most well respected citizens in the State of Maine. We've been handing out little flyers on respected women in the State of Maine all month. I think if we had an occasion to hand out flyers on men, Bob McAfee would be right there up at the top of the list. Maybe we can get around to that some time, guys. In any event, I am very pleased that he has agreed to devote himself to service to this agency again. He's a fount of information. If you need to know anything about what's going on in Dirigo, the big picture and so forth, he's a wonder source. He can put it into a decent policy perspective. He's very honest and candid about it. It's always refreshing to hear from him and hear him speak about his involvement. I urge you, again, to vote no on this rather positive event. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Mayo.

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. I rise today to say that I am sorry that I was not in attendance yesterday at the Insurance and Financial Services Committee but I had four other engagements all at the same time, and therefore, missed the vote. Had I been in attendance, I certainly would have voted to support the nomination of Dr. McAfee. Anyone who has ever looked at his resume should have no question that he is very very well qualified to serve on the Dirigo board and to serve as its chair. Dirigo is moving forward. I think he's done an excellent job in the time that he has been involved with Dirigo. I am concerned that people could be voting not necessarily because of their unhappiness with the good doctor but more of a philosophical difference with Dirigo. I think that this could cast this body into what I see as rather an unfavorable light. I would urge that this body vote as is required by voting no, which is really supporting the nomination. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Brennan.

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. Since being in the legislature, I've served on the Business and Economic Development Committee, Health and Human Services Committee, and the Education Committee. I've probably sat through at least 50 nominations brought forward for people to serve on various committees, boards, and boards of trustees for the state. No body has come forward or been nominated that is more qualified and more suited for a position than Bob McAfee. He is truly an outstanding professional and an outstanding public servant. He's taken Dirigo Health from an idea to a reality. All of us are indebted to him as a result of that. I'm

very grateful for the fact that he's willing to continue and I hope that you will join me in supporting his nomination today.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. I opposed the nomination of Dr. McAfee in the first time around and later found out through the grape vine that he was a Republican. Today I'll be supporting his nomination, but not for that reason. The entire collection of nominees last time I opposed. The reason why I did was because I felt that the board of Dirigo Health should include an individual who had a background as a chief operating officer and a financial officer of a business. I still feel very strongly that should be the case. However, Dr. McAfee has remained a shining light on this board. He is highly qualified. He is, of course, ultimately respected. Today I will be supporting his nomination.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you, Madame President. Having just received this, and I've heard an awful lot of nice things about Dr. McAfee, I see that members of the other body didn't share the enthusiasm. I'm wondering if I could present a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **COURTNEY:** Thank you. Would anybody on the committee be able to explain the reasoning of the members of the other body and their vote in opposition? I'm trying to understand that and I don't seem to be able to get that through the discussion we've had.

THE PRESIDENT: I believe that is an inappropriate question to be asked on the floor. I appreciate your interest, but I think it is an inappropriate question. Votes from the committee are not admissible for debate within this body. The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you, Madame President. I purposely made my introduction because there had been an agreement with the other two Senators that we would all speak briefly on this and move on. We know it's going to be a long day for us, as it was for our colleagues at the other end of the hall. What I didn't say concerns one of the things that is on Dr. McAfee's resume; as a Maine doctor he was the President of the National American Medical Association. In that time, he worked extensively. The slogan or chief priority during his service as President of the American Medical Association was dealing with violence, domestic violence, and what it does. If you recall, in the previous session, for those of you that were here in the 121st or maybe the 120th, domestic violence was the number one public enemy and is part of our health care system because of the violence that occurs. The statistics he quoted yesterday in the hearing were sort of amazing for the number of women that receive medical care because of abuse and violence. He has actually worked on rural care and ambulance service and all the things that make Maine a better place for each and every one of us. It is my

understanding that when a person comes forward to be nominated and confirmed by this chamber, we deal with the person and the qualifications not whether or not we approve of the organization or the department that he or she may represent. This man, as a private citizen, has agreed to try to be part of a solution that effects me and you and every person in the State of Maine, especially those that have no medical insurance and those that cannot afford adequate coverage, and to make our lives better. I publicly thank him for being willing to come forth and walk the walk. Yesterday a person, Gordon Smith, actually came forth to testify and he said, 'This man, in his retirement, could be playing a bad game of golf.' The reality is how many of retired people, who have given through public service in the State of Maine, would continue to stay here in a very contentious program to serve the public good? I am personally humbled and thankful that I was able to preside at that hearing. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Madame President and men and women of the Senate, I want to address the issue of the committee process, if I can, perhaps a little indirectly by saying simply that I think there was unanimity on the issue of Dr. McAfee's qualifications and his stature and his human capacity. I believe that there is division in this chamber and the other chamber concerning the issue of Dirigo, its launching, its funding, its associated expansions of Medicaid, and the directions in which Dirigo may be heading. To be quite honest with you, I think most of those concerns and those questions relate to the laws that we have passed, sometimes in a controversial setting, that have launched Dirigo on its way. I can safely say there was not a single expression of reservation about the qualifications of Dr. McAfee or his enormous capacity as a professional and a human being. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you, Madame President. This came before us on a supplement today. I take very seriously the role that we play here. I would like more time to look into this and I would ask if we could table this until later in today's session?

The same Senator moved the Nomination be **TABLED** until Later in Today's Session, pending **CONSIDERATION**.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President. I believe that she was able to debate the motion before she made a tabling motion.

The same Senator inquired if the motion to Table was Out of Order.

The Chair **RULED THE MOTION TO TABLE WAS NOT DEBATABLE AND THEREFORE OUT OF ORDER.**

Senator **DAVIS** of Piscataquis moved the Nomination be **TABLED** until Later in Today's Session, pending **CONSIDERATION**.

On motion by Senator **GAGNON** of Kennebec, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Chair noted the absence of the Senator from Androscoggin, Senator **NUTTING** and further excused the same Senator from today's Roll Call votes.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#31)

YEAS: Senators: **ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, WESTON, WOODCOCK**

NAYS: Senators: **BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS**

EXCUSED: Senator: NUTTING

15 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **DAVIS** of Piscataquis to **TABLE** the Nomination pending **CONSIDERATION, FAILED**.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **INSURANCE AND FINANCIAL SERVICES** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122nd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#32)

YEAS: Senators: **ANDREWS, DAVIS, NASS, PLOWMAN, SNOWE-MELLO**

NAYS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, PERRY, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

EXCUSED: Senator: NUTTING

5 Senators having voted in the affirmative and 29 Senators having voted in the negative, with 1 Senator being excused, and five being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Dr. Robert E. McAfee** of Portland, for reappointment to the Dirigo Health, Board of Directors was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber **Dr. Robert McAfee** of Portland. Would he please rise and accept the greetings of the Maine Senate.

Off Record Remarks

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

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)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with 2 Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senate at Ease.
Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Extend Civil Rights Protections to All People Regardless of Sexual Orientation"

S.P. 413 L.D. 1196

In Senate, March 29, 2005, **PASSED TO BE ENGROSSED.**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "I" (H-92)**, in **NON-CONCURRENCE.**

Senator **HOBBS** of York moved the Senate **RECEDE** and **CONCUR.**

THE PRESIDENT: The Chair recognizes the Senator from York, Senator **Hobbs**.

Senator **HOBBS:** Thank you, Madame President and members of the Senate. I'll call your attention to House Amendment "I" (H-92) that has been attached to this bill. I just wanted to clarify what this particular amendment does. This amendment provides that the bill may not be construed to change any right to marry that exists under the United States Constitution, the Maine Constitution, or any law of the state. The original bill, which was voted on in this body, there was no nexus between what is known as the defense of marriage act, what is known as gay marriage, and the original bill. However, this amendment will make sure that everyone knows that there is no nexus and it was decided by both the opponents and the proponents that it would be better to, for clarification sake, even though it doesn't need to be clarified, have this amendment on the bill.

On further motion by Senator **HOBBS** of York, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#33)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, PERRY, RAYE, ROSEN, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, NASS, PLOWMAN, SAVAGE, SNOWE-MELLO, WESTON, WOODCOCK

EXCUSED: Senator: NUTTING

24 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **HOBBS** of York to **RECEDE** and **CONCUR**, **PREVAILED**.

All matters thus acted upon were ordered sent down forthwith for concurrence.

RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on 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

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-35)**.

Signed:

Senators:

ROTUNDO of Androscoggin
MARTIN of Aroostook

Representatives:

BRANNIGAN of Portland
DUDLEY of Portland
CRAVEN of Lewiston
FISCHER of Presque Isle
LERMAN of Augusta
MILLS of Farmington

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-36)**.

Signed:

Senator:

NASS of York

Representatives:

MILLETT of Waterford
NUTTING of Oakland
BOWEN of Rockport
CURLEY of Scarborough

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-35)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-35) AS AMENDED BY HOUSE AMENDMENTS "E" (H-52); "T" (H-67) AND "CC" (H-93)** thereto.

Reports **READ**.

Senator **ROTUNDO** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-35)** Report, in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. Since late January, my colleagues on Appropriations and I worked carefully and conscientiously to craft the '06 - '07 biennial budget. As we approached our work, we were mindful that we needed to find an additional \$250 million to meet our obligation to Maine voters who had passed the school funding referendum in June. Second, we needed to include the property tax relief voters expected from us and that was promised in L.D. 1. We worked in good faith as Democrats and Republicans to resolve our differences and secure a 2/3 budget. I personally want to thank this morning the good Senator from York, Senator Nass, and the good Senator from Aroostook, Senator Martin, for their hard work. There were small bi-partisan working groups that we formed to look for solutions to those things that divided us on the Appropriations Committee, with the securitization of the lottery being the biggest obstacle. It was the collective thinking of the bi-partisan group, looking for an alternative to securitization, that focused us on dealing with the unfunded liability of the state retirement plan, a huge issue looming on the horizon for the state. Unfortunately, a unanimous budget alluded us, though it is important to remember that about 93% of the budget before you was voted in unanimously by the Appropriations Committee and that this budget is stronger for the bi-partisan work that we did. The amended budget before you responsibly meets our obligations to the people of Maine and protects Maine's families. This amended budget provides the property tax relief promised in L.D. 1; provides the infusion of \$250 million of educational funding necessitated by the passage of the June referendum by the people of Maine; and reduces state spending by more than \$425 million and we've cut and capped services and streamlined state administrative operations and eliminated over 60 state positions. It begins to address, in a responsible way, the unfunded liability and the need to pay down this debt, saving Maine tax payers millions of dollars in the future. It restores \$53 million of the \$130 million in proposed cuts to DHHS to maintain the safety net for our children, veterans, elderly, and disabled, thus honoring our commitment to our Maine

families and neighbors in need. Finally, it contains no new broad based taxes. Are there parts of this budget we would prefer to avoid? Yes. Given the choices and limitations we had and the obligations we were responsible for honoring, however, we have crafted the best budget possible, a budget that keeps our economy moving forward and creates opportunities for the people of the State of Maine. This is a budget that keeps our promises to the people of Maine and protects Maine's families. As legislators, we are elected to deal with the tough issues and to govern responsibly. We have done that with this budget before you and I urge you to vote to pass it. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Nass.

Senator **NASS:** Thank you, Madame President, men and women of the Senate. It is my pleasure this morning to recognize the cooperation that took place downstairs among Republicans and Democrats. It is unfortunate that we could not come to an agreement here. Having entered into this process and having watched what happened in the last biennium, Madame President, it was very uncertain as to what was going to happen. In our first chairs and leads meeting I think the question was, 'Can we negotiate a 2/3 budget?' We could not. There was not an answer to that question. Within a couple of weeks, I think it became clear that all of us had direction and permission from leadership to do what Appropriations Committees normally do downstairs, that is to try to produce the best budget for the citizens of the State of Maine, and for our political parties, that we possibly could. I think we did that. We had the opportunity to do that. I really appreciate the Senator from Androscoggin, Senator Rotundo's participation in this process, and although it pains me a little bit to say this, the Senator from Aroostook, Senator Martin, and I actually were able to cooperate a little bit successfully. I think that is an important distinction about what happened this time and what happened last time. It's all about leadership on both sides. It's about permission to negotiate. We had that. We did go a long way with this. I think we improved the Governor's budget. We did some things that made it better.

My job today is to talk about why we couldn't come to a final agreement. Though all of the items were small in number, they were large in dollars and large in philosophical opposition, those things that, unfortunately, in the end always divide us. Primarily, we're concerned about a borrowing package that has grown larger before our very eyes. It started at \$390 million and became \$447 million in borrowing. Even though it is presented configured so that it appears not to be money used for keeping the lights on, in fact, it does in the end. This budget gives us permission, or allows us, to go onto a longer repayment schedule for the massive unfunded liability that we have to deal with in the upcoming years. It does small things that are currently in the budget that the folks at home have already weighed in pretty heavily. Unless we change it, and we may well change it in the next few hours, the canoes, kayaks, rowboats, and sailboats are still in line for a \$10 fee. The casual rental things will cause a great deal of anxiety among folks who have a summer cottage someplace and rent it to pay for the property taxes and other expenses. The tax on satellite TV was an equity issue with us. I'm bringing these up because these are currently in Committee Amendment "A" (H-35), Madame President. As issues, they will tend to stay around even if we take them out.

The satellite TV thing is particularly interesting. I want to talk about that because it's not a big deal. It was presented by the Administration, and by the other party, as an issue of equity. We already tax cable TV, so to be equitable we ought to tax how other folks get their TV service through satellite. This bothers me a lot because there are other ways to provide equity. One of those would be to eliminate the tax on cable TV. Why don't we ever consider that kind of equity as being equal to raising a tax someplace? We don't. Maybe we'll get there some day.

There are fines and fees in this budget of about \$70 million. More important than that, I think, are two things that I'll finish up with. One is that this budget does not do, in reality, much about the structural gap it will be facing. It purports to do some things about the structural gap. It takes the BETR payments off budget. It continues to take circuit breaker payments off budget, something we started two years ago. That is an interesting process. It will help the Administration make its case for reducing the tax burden. Could somebody here explain to me how, when the envelope comes to the Maine Revenue Service that either has your tax form or your tax form and a check, somebody opens that envelope and takes the check out, and puts part of it not into the General Fund or into the place where we put out money, this reduces the tax burden on the folks in Maine? I just don't see it. That is what this is all about. Take things off budget, reduce the tax burden, and reduce the structural gap.

The other thing that was mentioned that I think we ought to bring up now is the so-called property tax relief offered by L.D. 1 and paid for in this budget. That remains to be seen. The activity on property tax relief is now going on and now started in our communities in front of town meetings and in front of town councils. Whether we deliver on that is all very uncertain at this point. We won't know for a while yet. To say that this offers property tax relief, we'll know in a year or so, maybe.

Madame President, it is my hope that we will vote against the Majority Ought to Pass Report.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Madame President and men and women of the Senate, I rise to be a little less kind than my colleague from York because I think that this budget, if it is adopted unamended, essentially closes down business for session of the legislature and the next special session of the legislature, which rapidly fall. It sticks a thumb in the eye of the Moody's rating service and says, 'We don't care about your bond rating, we're ready to take the reduction in bond rating.' There is no way, that I can perceive, that we can retain a decent bond rating if we persist in borrowing \$447 million, most of which will be used to keep the lights on and the store open and to continue business as usual without major changes to the spending side of the ledger. I would be willing, despite my opposition to the failure to adopt some serious spending reforms, under certain circumstances to vote for this budget if it were properly amended to get rid of that borrowing or to get rid of most of that borrowing, that portion of the budget that is used for ongoing expenses. I'm concerned that, if we leave that profligate borrowing in as the center piece of this budget, which it is, that the people of Maine will correctly perceive

that there is no point in approving a bond package if we send one out to the voters in June or November. They are going to say, 'Well you borrowed more money than anyone can possibly imagine you would have borrowed and you never got our approval.' I'm deeply concerned about things like the Fund for a Healthy Maine, about the Highway Fund, the need to borrow money to repair our infrastructure, I'm concerned about the environmental portion of the bond, and many other things. I can easily see us having a bit of a tiff over this budget and then somebody coming down the hall two weeks from now and saying to either me or one of my Republic colleagues, 'Well, we had a little rough time back there with that artificial adjournment and the emergency reconvening, and la te da, but let's let bygones be bygones and here is a package with \$197 million of bonds for good purposes and I know your package is a little south of that. Could we have a chat about it?' Whoever you approach is going to a little pirouette on the marble floor and say, 'My bond package is a \$447 million bond package and it's done.'

You know me well enough to know that that's not my temperament at first blush, but I can tell you I don't perceive how we can get a 2/3rd majority around a bond package if that bond package is supplemented with this \$447 million of profligate borrowing. I don't get it. I don't know what the plan is for the future of this session. I don't know what the plan is for the next biennium. I know that many of you are concerned, as I am concerned, about supporting social services. There are people in this building, perhaps, who adhere to the 'starve the beast' philosophy. The more revenue you set aside, distract, or reduce, the more likely it is that someday you will have a budget that will greatly constrain social spending and eliminate programs. That's exactly what this budget does.

We lost \$60 million worth of biennial revenue last time when we sold off the liquor business. Bet we wish we had that revenue back this time. I wish we had it back. Now we're going to take the lottery and a bunch of other funds and sign them off to secure bonds and not really make a payment on principle in this biennium. We're going to pay a little interest, but we're going to borrow that interest and then pay it, and burden the next seven legislatures, the next 14 years after this biennium, with about \$44 million in annual payments.

Where will the money come from two years from now to support the social services that many of us think are appropriate and valuable to this state? Clearly tax reform has risen to the top of the agenda. The schools, the K-12 schools, are going to get their money. They are at the top of the totem pole. They made it because of public referendum. That form of property tax relief will persist because that is a commitment that the people are requiring us to make. So for those of you to my left who are prepared to sign onto this budget because you think you can preserve social programs for another year or two, I think you are being lead over the cliff of bankruptcy by a pied piper on the second floor. That's my view.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator MARTIN: Thank you, Madame President. First, let me say some kind things about my fellow members of the Appropriations Committee in both the House and the Senate. When we began it was really doubtful as to whether or not we would work together and try to achieve a budget, even a supplemental budget. We did. The supplemental budget came to

a 2/3 vote in both bodies. We continued to work on the Part I budget. As we developed, there were a couple of issues that became clear that we had trouble with. One was the bonding, which I will talk about again in a minute. The other was the amount of spending on the other side, primarily on MaineCare, and whether or not we could save money in that regard. We got the recommendations from the Human Services Committee and the difference between the two positions was fairly narrow. Depending on how you allocate dollars and for what programs, you probably would say somewhere between \$10 million and \$20 million, the difference between the Republican position and the Democratic position. The members on the Appropriations Committee accepted the report for each of their respective caucuses from the Human Services Committee. It also became clear at that point that, for the most part, there were people on the minority side who wanted to cut deeper into medical and social programs then even what the Human Services Committee recommendations were. It also became clear, in my opinion and I think in the opinion of the minority, that getting that together would be very difficult. As it was, it turned out to be impossible.

On the issue of the bonding, we all began, I think, listening to the proposal and I think we pretty much all agreed that we didn't like it. We started working in groups of four, which I referred to as the gang of four. The Senator from York, Senator Nass, and myself were the two Senate representatives on this committee. We discarded the way in which the Administration had proposed doing it. We then approached it from another direction and we tried a number of scenarios that almost worked. Then it became clear that we had to meet a number of requirements. IRS, in particular, imposed certain restrictions on what we could and couldn't do. Then came the question and the problem of repayment, how we had to structure that, where the money could come from, and where it couldn't come from. It became clear that this posed a different problem. Half way through our discussion it also became clear that if we could do something to pay down on the state retirement we would, in the long run, be a lot better off. That is the direction in which we moved. The final analysis became clear and that is where we ended up breaking on that question. In order to achieve that goal, we had to graze and actually borrow more money than we had anticipated. We also, all four of us collectively, agreed that there was a real merit in paying down the state retirement system quicker.

I need to tell you that for once I cannot be blamed for past legislative action because the cause of our problem in the retirement system began in 1941. I wasn't here. It began when the legislature decided to put teachers, who had never paid a dime, in the retirement system. Regardless of employee status, the number of years that they had taught, they got a pension. To the day they passed away, those teachers received benefits from the State of Maine retirement system. That is the unfunded liability, which is massive. We knew that if we could pay \$120 million and go on a 14 year schedule, that payment of \$120 million plus the advance payment we will make for the two years of the retirement system on July 1, by accomplishing that, we saved the state \$1.3 billion over the long run, even if we were to go back to the old schedule.

If you look at this borrowing, what this borrowing does is two things; it pays for the entire cost of the retirement system for the next biennium, it pays an additional \$120 million on the unfunded liability as if we were on a 14 year schedule, and then it leaves \$66 million that will go to the recovery or to what some people refer to as the Rainy Day, which we don't call it that any more.

The Budget Stabilization Fund is where it would go. That's where it will get close to \$140 million and we will have that right off, which stabilizes us and provides us with the saving we believe the bonding houses believe we need.

That's where it is. It is true that we take the \$250 million that is freed up and we use it to fund L.D. 1. I will tell you this, the voters of Maine voted a tax increase in June, we didn't vote it. We have a liability because we said we will fill that commitment and we have to pay. That's the parameters in which we found ourselves. I fully agree with the Senator from Somerset, Senator Mills. If we didn't have to borrow, I would not do it. You will find this strange coming from me because if you give me some money left over I will spend it and find a good place to put it. If we put on a tax, as the economy continues to grow and more money is coming into the treasury, as we see it now every day, it's tough for legislators to then do away with a tax. That money will continue to come in.

The Chief Executive has taken the position that there is going to be increase growth in our revenues as a result of our economic improvements in this state, which is better than most New England states right now. That is the money that will be used so we don't have to do additional borrowing and we will have the money to pay off the borrowing that we have done. That is the commitment that has been made. Can all of that go awry? I suppose it could. We don't know what tomorrow will bring.

I do have to respond to a couple of comments of the Senator from York, Senator Nass. A lot of the issues that were petty to some will be dealt with in amendments that are going to be offered. We don't need to talk about them now. I suspect that we are going to be talking about kayaks and all the rest of that before the day is over. Secondly, I want to comment on the off-budget and especially on the way in which we are doing things. The problem when we put so many things like BETR and others as expenditures that other states don't, we get compared not with those off the table but what the bottom line is in total expenditures. If we are going to be compared nation-wide with other states, we need to be compared dollar for dollar, orange for orange, and apple for apple so that we are being compared alike. Otherwise, these comparisons mean little. Finally, I just need to say that our chair did a fantastic job in keeping us together. She deserves tremendous credit for keeping the Senator from York, Senator Nass, and I talking to one another. We worked collectively and we worked, I think, very well. If you look at this budget, there are differences. I fully agree, but there aren't many. Where there are differences, they are matters of degree, of small amounts. I mean that sincerely. I think you will see that later in the day when some amendments are offered. I certainly hope that as we proceed today, and when this is over, that we are not in a position that the Senator from Somerset, Senator Mills, would want to leave us in and that we are friends. We worked collectively for a budget, even though we can't agree in the final analysis.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator TURNER: Thank you, Madame President, ladies and gentlemen of the Senate. Madame President, this is a little bit like the 120th. You'd bring a Labor bill forward, refer to it as a good bill, and I would retort, 'No, Senator Edmunds, it is a bad bill.' This is not a bad bill. This is a very bad bill. I appreciate the comments made by the members of the Appropriations

Committee and the process that they went through. It reminds me of an exotic kabuki dance. In effect that is what it was. Something to appease the press and the public about how closely we worked together, but in the end it was a dance. Some of you are veterans of the military. If you look at this budget from a military perspective, this is known as a target rich environment. The targets are plentiful. Target one, that truly disturbs me, is that this budget circumvents the limitations in the growth and spending that are in L.D. 1. Things that heretofore had been expenditures are now adjustments to revenue and it allows us to slide under the spending limitations. Would it be that our counties and our municipalities had the same option? They don't and we shouldn't.

The Executive is happy with this budget. He has said so publicly on multiple occasions in spite of the fact that it has \$50 or so million less in cuts than he thought were essential to make this budget work. This budget is in desperate need of prudent spending and prudent spending cuts that are largely absent in this document.

A few have spoken about the borrowing that is imbedded in this agreement. It is the borrowing that troubles me the most. I believe that it is the borrowing that troubles the citizens of Maine the most. Close to \$450 million of borrowing. Not one penny of which will end up going to the voters for their approval. We are going to bond and we are going to bond to cover operational requirements, which my cursory reading of our constitution indicates we are not allowed to do. Your acquiescence to this document would circumvent that. This is an atrocity.

I know, for example, that if the Senator from Sagadahoc, Senator Mayo, had run his business as this document suggests he would have been bankrupt. I suspect that the business enterprises for the good Senator from Aroostook, Senator Martin, would be likewise bankrupt if he tried to run it in this fashion. I see the Senator from Cumberland, Senator Diamond, my colleague from Cumberland County, who has been successful in many different venues, including in the private sector. If he ran his enterprises as this budget suggests he would be far less successful financially today than he currently is. I could go to Senator Brennan, but that would be too over the top. I won't go to Senator Brennan. I think what we are faced with today are two things; we are poised to label Maine's government as the Enron of state government. The off-book transactions, not to worry, everything will be fine. There are several executives in Texas who are going to spend time in jail for those off-book transactions. Perhaps if we were faced with that we'd be thinking more than twice about this document.

Lastly, if we were a country they would call us Argentina, a country that has tried over and over again to be all things to all people and to borrow its way to prosperity. I've been to Argentina a few times. It's a beautiful country with wonderful natural resources, educated people, and an economic disaster. That's what you are setting this state up for with this document. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Dow.

Senator DOW: Thank you, Madame President. The other day I didn't want you to think I'm all dollars and cents but today I am back on dollars and cents so please bear with me. I have a lot of problems with this budget as presented. I'd like to take a look at a few of those items. One of them is this off-budget idea. My

town taxes, as well as yours, consists of the taxes for the town, the county, and education. The education part of the taxes in my town run about 75% to 80%, so that leaves about 20% for the town and county. Now if my town manager came to me and asked me to give him a check for the town taxes and education taxes but to give him a separate check for the county taxes, saying that they are going to send that check to them directly and it wouldn't be coming from the town. If he then looked me in the eye and said, 'See, we just reduced your town taxes by the amount of the county taxes,' I would have a hard time following that logic. That is one of the ideas of budgets I don't like, hiding budgets, which I have also referred to as Enron bookkeeping systems. I have even joked that the Enron people apparently didn't learn their scheme on their own, they must have visited the State of Maine sometime.

There are other things I didn't like and they are still in there, even though they may come out by amendment. The canoe and kayak fees and the idea to get a study together to see if we need to tax hikers and birdwatchers. I just hope my wife's clothesline isn't too far away from the house and close to the woods, she'd have to pay a fee for that. The racino monies that have been moved away from where they were going to, the fairs and the horseracing benefits. I'm still afraid that the bond ratings will continue to decrease no matter how we borrow the monies, because the bond companies don't care anything about smoke and mirrors. They don't care about nice talk. They only care about the facts. The facts would be that we would be borrowing a tremendous amount of money without the streams of revenue to cover it. The bonds companies work on speculations. You will notice that just because the prime rates went down for the government when they did, sometimes the rates for borrowing for residences and businesses went up. Didn't seem to make sense until you realize that the two aren't tied together at all. The rates for property have to do with speculation about which way the market is going to move. I fear that there is speculation that the State of Maine cannot handle its funding and its expenses in a way that will avoid another decrease in the bond rating.

I'm upset over the fines for seatbelts. I guess I've got to go back to another biblical perspective that says an eye for an eye and a tooth for a tooth. It is one of the most misunderstood passages in the bible. It means you don't cut somebody else's arm off because they put a scratch on someone else's finger. A \$225 or \$250 fine, which would represent an entire week's pay for some people, for not wearing a seatbelt, to me, is very excessive.

The idea is out there that somehow we're going to have this pie in the sky, big growth that is going to take care of our funding problems in the future. Folks, we're already out of the recession. The big increases are not going to come. There is not going to be a jump in revenues. We've already had those take place. Now it's going to be growth as usual, hopefully positive. Whether we are borrowing and paying back \$400 million with the lottery or we're borrowing \$447 million over fourteen years to pay back plus interest, borrow is the centerpiece for this budget and that borrowing is going to go to pay the expenses of the State of Maine. I borrow money as a business. Two years ago I borrowed \$.25 million to build a warehouse. That's a lot of money for a businessman to borrow, especially somebody that's 54 years old and fifteen years on the mortgage. That means I don't get it paid off until I'm 69. I'd rather not do it that way, but when you are building a warehouse you are putting into an infrastructure that automatically assumes that the money that you are putting in, if I run business correctly, is going to result in more

and better pay coming in. With that pay not only can I pay off the mortgage, but I can do the things that I like to do, which I did a few years ago when I started a health plan and started a retirement plan for my company. These are things that never existed before until my business became more stable. It also allows me to pay my workers more money. I was always miffed by the fact that if you gave a businessman a cut, the feeling was that he was going to go out and buy a luxury yacht or two or three more Mercedes or something like that. We don't do that in the State of Maine. The businessmen in this state put their money either into their infrastructure, better wages for their workers, more benefits for their workers, or things that bring the status of the State of Maine forward and not backwards.

I have a hard time with this budget that relies on a tremendous amount of borrowing. I'm a pay-as-you-go person. I couldn't borrow \$.25 million to get by to pay my workers' wages or their benefits package. I needed to put it to good use and put it to where it would produce better revenues for my company so that my people that work for me would have more benefits. This borrowing package does not do that. It takes the money and puts it towards the everyday expenses to run government. When it went from \$250 million from the lottery sell off to \$447 million, it turned me off more than ever. I cannot vote for this budget as is. I will consider voting for it, and probably will vote for it, if it is properly amended. I wish the amendments came from budget cuts, but 19 to 16 in here says it's not going to. I'm a political realistic also. I hope that we come up with a better solution today. I'm going to vote no on this proposal. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Raye.

Senator RAYE: Thank you, Madame President, men and women of the Senate. I rise, having listened to the members of the Appropriations Committee exchange kind words here. It makes me think what they may have able to accomplish had they been allowed to complete their work as their predecessors have over the course of many years in this institution. It has long been a tradition of sitting down across the aisle, negotiating, reaching consensus, and hammering out the details. We are operating in a different environment now, an environment where arbitrary deadlines dictate what we have to do. The result of that dictate is a budget before us that is nothing short of fiscal insanity. It's a shell game, arbitrarily taking items off budget to skew the numbers, and putting the state in a position of keeping two sets of books. We wouldn't tolerate that in the private sector certainly. The irresponsible budgeting and the irresponsible borrowing contained in this budget will saddle future generations of Mainers with the burden of paying for the costs that we don't have the courage to pay for ourselves. This legislature and this Chief Executive are imposing, with this budget, a very unfair burden upon our children. Is this to be the legacy of the 122nd legislature? It is a stunning avocation of leadership, in my opinion. It stands in stark contrast to a famous Democrat who lived his life and led this nation under the slogan 'The Buck Stops Here'. Apparently, with this Chief Executive and this legislature, the buck is designed to be passed. This budget is designed to mask the true costs of these massive expenditures that we are imposing. I believe we should inject some honesty and responsibility into this budget. This body should not be complicit in an effort to deceive the people of Maine about the true cost of what it is this legislature and this Governor is about to do and shift

the burden of that cost onto to future legislatures and future taxpayers. It is the height of irresponsibility. I urge that we defeat the pending motion.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. I guess I'd like to start out by complimenting the Senate President and the leadership on both sides for changing the tone of this chamber from last session. It's a much nicer place to do work. I realize that we have philosophical differences and I'd like to just point out a couple of them. I'm glad that we have this opportunity for debate.

First of all, it was mentioned earlier that this \$250 million in tax relief was because of funding for L.D. 1, which is actually not entirely true. As we've talked about before, a lot of the \$250 million is going to be used for new educational spending. While there is tax relief, there is not \$250 million of tax relief there. Furthermore, I think people might be mislead to believe that we've fully funded the MMA question from last June by putting in \$250 million over two years when it takes \$250 million over one year to fund it. Along with the theme of the borrowing, I guess that if we're going to borrow \$440 million, why can't we take enough of that money to fund Question 1 that passed in June fully and have that be our priority and not cause the pain and suffering of the implementation and fully fund EPS? I think that our priorities are certainly a little bit misguided.

We've got a lot of fines and fees. I know last session it was about \$120 million. I guess there is \$70 million or so this session. I assume that some of the amendments are going to correct some of that, I trust. It's not really up front. You raise a fee here, you raise a fee there. I get calls all the time from people complaining about that.

We also heard about following the committee's recommendations. The Department of Human Services made some recommendations and Appropriations decided that they wanted to follow those. There was an issue about the casual sales on rentals that the Taxation Committee opposed. I guess maybe the Taxation Committee's perspective was a little different from the other committee's perspectives. We will get into this later on because I know somebody has a casual rental amendment. Asking individuals that rent their homes out to become a tax collector for the State of Maine, I think our phones are going to ring off the hooks.

Earlier we heard that there is more money coming in every day. I guess that what that tells me, and if you look at the reports that we get every month, that it is something that a lot of us have been saying all along. Maine and Maine's government has a spending problem. We don't have a revenue problem. We need to look at that.

Finally, the off-budget items that were mentioned. We're talking about comparisons to other states. I guess if we're going to compare to other states, we should really compare to other states and look at how many other states actually tax equipment that creates jobs. That's really what it is about. When you take the money off the books, you are violating what many of us supported, L.D. 1. When you take it off there and you violate that cap, we really need to compare apples to apples to be straight and honest with the people of Maine. Thank you, Madame President, for the opportunity to speak and I look forward to an enjoyable day.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you, Madame President. Numbers are not my strength but graphs are. Every time I look at the graph prepared by OFPR that shows where we are going to be in two years we have done nothing in this budget to address the structural gap. We will be back here in two years and we will be at least \$650 million apart. This budget doesn't touch it. I will remember the Chief Executive having his first press conference and crowing about the fact that the last budget cut us in half. I quibble with his math but he said that we had cut the structural gap by half from \$1.2 billion down to \$750. The structural gap is going to be here again in two years and we're going to have to borrow again. When I borrow it's because I want to have something that I can see, put my hand on, and touch. We don't have that and we're not being prudent about going forward and reducing the debt. I don't know what you are going to borrow in two years. I don't know what you're going to sell. I don't know what you're going to securitize. We're running out of options. We really are. I object to this. I really do. I do have children. You are encumbering my children. If you are talking about economic growth, I'm a business owner. The economic growth comes slowly, but every time this legislature comes out of Labor, Taxation, or some other committee, you find a way to hamper economic growth in the State of Maine. When you pass this budget, I would challenge you for the rest of this session, and the very special session that we're going to go into, that you start killing bills that hamper economic growth in the State of Maine because you people are waiting for something to come in. There is some kind of anticipation out there. I heard yesterday we are anticipating. This is like a tax anticipation note. Okay, but those tax anticipation notes mean something is coming. I don't see the economic growth. What happens with the economic growth? We spent it in the supplemental budget two weeks ago. There have been three to four supplemental budgets since the last budget. I don't know what that adds up to. I haven't been here, but the last budget was increased by 10s of millions if not a 100 million dollars since you passed a budget two years ago. The economic growth that you had was spent. There is some coming, and guess what, I'm sure there is two to three more supplemental budgets coming. It's not responsible. Let's call it what it is, it's a majority budget. It's only going to take a majority of you to pass it. That is a failure.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. I fully enjoy the opportunity to address you today and I know that our speeches from both sides of the aisle have swayed many. I'm going to be extremely brief because I'm not a big believer in statistics. I never have been because statistics can be used for whatever measure you decide to conclude or how you decide to conclude on a particular issue. We've heard today that the revenue stream for the state has been steadily increasing. We've heard today that we are anticipating borrowing \$450 million. Anybody's logical conclusion would be that this state does not have a revenue problem. It has a spending problem. I'm hopeful that someday this entire body will address that issue. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Brennan.

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. First, I'd like to compliment and express my appreciation of all the hard work that the people on the Appropriations Committee put into this budget. I know they put in long hours. Unfortunately for me, I was there with them for many of those long hours and I really appreciate the work they put into this budget. Leadership and government require two things; it requires a balanced budget and knowing what the bottom line is, and it also requires an investment strategy. How do we move into the future? Over three-quarters all the previous speakers have talked about balancing the budget. They have talked about how all the things in this budget from a financial perspective are wrong. I heard very little, almost nothing, about an investment strategy into the future. I had the opportunity in college to take economics 101. Out of that I learned that in order to prosper, not only do you have to know the bottom line, you have to have an investment strategy. What this budget does is both balance the bottom line and provide investment strategy into the future. It's balanced by restraining growth in spending by \$450 million. I didn't hear one of the previous speakers talk about that. Close to \$100 million of that reduction in spending comes out of Health and Human Services, \$100 million to balance this budget. It's also balanced without raising any broad based taxes. Some of my colleagues say we don't want to raise taxes, we don't want to borrow, and we don't want to cut any services, but we do want a budget. I'd be more than happy if we could get to that position. We're not. We have a balanced budget without raising broad based taxes and we've significantly restrained spending.

On the investment part and L.D. 1, this is our promise to property tax relief. For the first time since 1990, the state is going to be spending 50% funding of K-12 education. I just want to put this a little bit in context for people who don't understand this. For the last decade we have been at 42%, 43%, and 44%. In one biennium we're going to go back to 50%. That is a significant investment in our future and in education. For those who don't believe that this is property tax relief, I would remind them that 60% to 70% of municipalities in this state spend 60% to 70% of their property tax money on K-12 education. Please, if that is not property tax relief, show me another way. We are not burdening our children into the future. We are investing in education and to the future and providing property tax relief. Not only are investing in K-12, but there is also a significant investment in the university system. Over \$6 million in this budget goes to support higher education in this state. Everybody in this body understands that the key to our economic future is in investment in higher education. This budget does that.

Another key part of the budget is that it also says that our most needy citizens, the elderly, children, and disabled, should have health care. Some people complain about MaineCare. They say it is out of control. The overwhelming majority of people that receive MaineCare are elderly, disabled, and children. This budget supports an increase for nursing homes to support elderly people that need nursing care. It also continues to provide healthcare for the disabled and for the children. I've been very disappointed in the last couple of weeks with some of the debate where people have inferred that health insurance somehow is a bad thing for people, that we can't afford to provide health insurance for people, that this is bad and too costly. The simple

fact about it is that the more people in the state that have healthcare; it is good for everybody. It's good for hospitals, because there is less charity and uncompensated care. It is good for all of us because it reduces our healthcare costs because uncompensated and charity care is not then shifted to us. I think that is a good thing. I don't think that is a bad thing.

Most recently one of my more favorite philosophers has been Yogi Berra. I know that is hard for some of you to understand. Yogi Berra said, 'Predicting the future is difficult.' Predicting the future is difficult, yet we seem to have many people here today that are predicting the future for Maine as one that is gloomy and it really shows no future for the State of Maine. I dare say, some people have argued a politics of fear in this budget and that if this budget were to pass that Maine would be headed down a road that would be a bad road for our future and it would be bad for our children. I see this budget as a bridge to our future, to a prosperous future for the State of Maine because we're balancing the budget and we're also investing in Maine people, investing in Maine education, and investing in those things that will make us prosperous into the future. For those of you that wish to engage in the politics of gloom and doom and the politics of fear, don't vote for this budget. For those people that really want to provide a bridge to a bright and prosperous Maine future, please support this budget.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. I have served with the good Senator from Cumberland, Senator Brennan, for many years and on many committees. We find ourselves together in leadership. I disagree with him often. I'm going to do so now. We are investing in education, but we are borrowing that money. If we call it money invested in education, we cannot at the same time say those dollars are tax relief. I've been meeting with many of my school superintendents, school board members, and selectmen. They do not see or feel tax relief.

With regards with what we are doing in health care, both the Senator and I served on Health and Human Services for the last two years. What I saw was the elderly, the children, and the disabled who had their services cut in order to maintain an expansion of MaineCare that was for the childless adults. We have hospitals owed millions of dollars. We have not paid our debts.

The good President of this body has on her wall in her office a picture of Miss Rumphius and her lupines, a book by Barbara Cooney. If you read that book, it's not just for children, Miss Rumphius learned young, from her Grandfather first and then from others, that you should leave a place more beautiful than you found it. I have always tried to do that. I have tried to leave something that I found better. This budget does not leave the State of Maine in a better position. It only makes us get through today. The future will not be easier. We have not chartered a course that brings our taxes down. This budget taxes more, borrows more, spends more, but does not meet our responsibilities to the Maine people. I would ask you, let's come together and let's work together. Let's take more time and let's do a better job. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Rosen.

Senator ROSEN: Thank you, Madame President and members of the Senate. The figure of \$425 million to \$450 million of spending cuts has been mentioned a couple of times during today's conversations. It has also been publicized a fair amount during the last week. History tells me that this now is the message that will be delivered here on out for the rest of the session from the men and women that support this proposal. We have, in fact, cut spending 'by \$425 million to \$450 million.' Now, I've looked all through this budget during these last few days, and the printed document, to the best of my ability to try to find how that all adds up. I think the conversation we are hearing this afternoon is primarily from moving expenditures off-book. To go through the budget, it's pretty obvious. Education spending is up to meet the requirements of L.D. 1. The Chief Executive proposed \$140 million in a combination of tax increases and spending cuts in the Health and Human Service field and this budget accepts roughly \$85 million in that amount. It accepts \$40 million more in personal services spending. Once you go through the major categories, I've really only been able to find, in a rough review of this, the \$85 million of Health and Human Service reductions, which is true, and essentially the rest of it moved off-book. My request to you, for the people that will go forward and quote and requote this number until it becomes accepted as fact, please attach a summary with it so that we all understand what we are all talking about and so I can understand how the \$425 million to \$450 million of spending cuts is comprised.

The second point, and then I'll sit down, is regarding the comments around the increase spending for higher education, the university system, and the budget. I was particularly disturbed to see that amendment appear in this budget to, on the one hand, increase spending to the university system and on the other hand completely reject the role of the trustees and of the Chancellor's plan by institutionalizing in language the names of the campuses and other requirements that have to forward around the four year development program. This is very similar to a proposal that was in last session's budget that cut the university and had attached to it language that said that even though we were cutting their budget, they would not be allowed to attribute any tuition increases to this cut. They must claim the purpose for the tuition increases was something other than the cut. Now in this session we have an amendment in this budget that says we are going to establish in law the make up of the university system and they are just going to have to accept that with this increased funding. I think that is bad policy. We have trustees. We have professional management. They are trying to advance a plan. I think we ought to allow them the courtesy to do so. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator DIAMOND: Thank you, Madame President, men and women of the Senate. I wish the good Senator from Cumberland were in his seat because I would say to him and others in this Senate how much I respect him. He did make note of my name and I'd like to maybe further what he was talking about. We have a lot in common. The Senator from Cumberland, Senator Turner, represented Windham and I represent Windham in the Senate. He has a bright young daughter who is a doctor and I have a bright young daughter who is a doctor. He's in small business and I'm in small business. We have a lot that we can say that we share. When we hear that this is a very bad budget, it causes me

to ponder a bit because I think he would agree, as maybe some of you, that it does make good business sense to borrow money to pay down the pension, looking at that one piece. I think there is some good merit to that. Business 101 would suggest that it really does make sense. We're going to bring that schedule down to a 14 year schedule. That makes sense.

What we have left, of course, is a \$250 million piece. I was not terribly thrilled with having to support a budget that would borrow money to pay back \$250 million. There are so many good things in the budget, but that's the piece that kind of jumps out at a lot of people. I'm not one who's going to be supporting taxes. I'm just not going to do it. Here I am, and maybe some of you, not supporting taxes and the borrowing piece goes down kind of hard. So what do we do? We have \$250 million. I took a little bit of time and went through some of the budget. Unlike most of you, I did not go through every page, but I did take a look at it. I couldn't find where we could really cut \$250 million responsibly. It really didn't make sense. I don't think we have a problem with spending, I think we have a problem with cutting. I'm wondering where we are going to come up with those answers. If there is a logical way to cut \$250 million then I'm first in line to look at that list. It really isn't a danger, I think, when we simply say we need to make cuts and this is a bad budget. I think the more fair thing to say is that we need to cut this budget by \$250 million and here is our list. Lets look at the faces on that list, see what we are impacting, and see if we really want to do that. Madame President, that is my only question. I'm willing and open here, but to look at \$250 million in cuts, I guess I would need some specificity. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Courtney.

Senator COURTNEY: Thank you, Madame President. I just wanted to address a couple of things that were said a little earlier. I guess if you keep saying it, and TV keeps flashing on you, people start to believe it. Maybe I just need to keep saying it. I don't understand, with reference to L.D. 1 and when you require new educational spending, how you can call that tax relief? I'm having a hard time fathoming that. There are many people in my district that are having that same issue.

We've also heard that \$450 million in borrowing is an investment strategy. Well, an investment is when you buy something that provides you with a return. I think when you borrow \$450 million to balance a budget in one year, I'm not sure that I'm capable of understanding the return. Granted there may be some savings from the Unfunded Liability, but let's give that savings to the people of Maine and give them some tax relief. Let's fully fund Question 1 and give them the 55%.

We talked about healthcare and our need to address the healthcare system. It's a very serious problem. I think we really need to address the issue of why is it so much more expensive for somebody to buy healthcare in Maine than other states. Why is it young people, just going into the workforce, decide they don't want insurance? It isn't access. It's the cost. This legislature has driven up the cost over the last ten or fifteen years. I'd ask that we look at these things as well and I will continue to question the borrowing. Hopefully, the people of Maine will pay attention to this borrowing. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON**: Thank you, Madame President, men and women of the Senate. My good leader to my right has used Yogi Berra's expression a little earlier. I think he misquoted it a little bit. I'd like to use the one, this seems like déjà vu all over again. I remember past years when we were standing here with the majority party being in a position of having to govern with our Chief Executive, having to make the tough choices, having to keep government functioning, having to make sure the safety nets were preserved, and having to make sure that the people's will, in terms of property tax relief, happened. We have to do that. We have the responsibility, in the majority, to do that and with the Chief Executive with us in both bodies. We are here once again with the other side in opposition, without a product, but in opposition. We heard that there might be a product. In fact, we thought there was a product. A Republican think tank put out a product a few days ago that gave us an inkling of what type of cuts we're talking about and what type of strategies we're talking about. That strategy would have essentially dismantled Dirigo Health and cut it altogether. This is a program in which we are finally trying to get some control over healthcare costs and prescription drug costs. They essentially eliminate the program altogether to save money. Never mind Grandma in the nursing home. You could just push her out the door, I suppose. I don't know. In my town we call them Mémés. In fact, that issue has become such a significant issue, the dismantling of Dirigo Health, that we had an embarrassing situation this morning.

The second thing that this program would have done is the out-sourcing that we read about. We would basically take a lot of the state entities and just privatize them. Maine State Museum, Maine State Library, the state parks, the Criminal Justice Academy, and the list goes on. All this in an effort to cut, cut, and cut. Never mind what the people of Maine wants, never mind what past investments have been. Let's go back.

The interesting one, which I found really surprising coming from a Republican think tank, is this elimination of local control. It's a mandate that would essentially eliminate half the school districts in the state. Just when we are starting to make progress with regionalization, getting school systems to start talking with each other, and working with the state. We're finally providing a huge amount of revenue for education in this state. Now we're talking about eliminating half the school districts. Alienating all those folks. Alienating those small towns, because we know which ones would be eliminated. I found it pretty outrageous.

Finally, we get to the commitments and the investments that we've made in resources in this state and public lands. Essentially the idea is to sell off the public lands. I remember there was a bill about Lands For Maine's Future that came here. I think it was left open for almost every member to sign in the Senate. I think we did sign onto that.

So this is what we read as a plan. We then found out, that even though there were many Republicans that put this plan together, that the Republicans in this building were running away from it very quickly. That's the latest we've heard. We are yet to see whether or not this is the Republican plan or if there is another Republican plan. All we know is that they don't like this plan.

We know what the budget looks like. It's about a good 8" thick, the whole thing. I can go through that budget page by page and find you all kinds of things I didn't like. One of my biggest fears in coming to this session, after what we dealt with in the referendum questions and my disappointment last session, was

how are we going to do this? How is this going to happen? On first blush of the budget from the Governor, I was at least relieved. We weren't looking at a significant tax increase to be able to do what we had planned to do last session. At least relieved. Securitization of the lottery system and the lottery revenues is done by many states. In fact, most states that have lotteries have either done it in one way or the other. Not an uncommon way to fund investments. That wasn't politically acceptable, so the committee of four, the gang of four, the four outlaws, or whatever you want to call them, worked together in a bi-partisan way to come up with an alternative. Now we have the variant of that alternative at this point. We can talk about pied pipers, we can talk about all kinds of things, and about how terrible this is. We do have philosophical differences. We have to accept the fact that we do have philosophical differences on this. Ultimately, with all of the agreement, all of the working together, and all of the openness, we knew we would probably get here because there is a fundamental difference. I particularly want to commend the Senate chair on her ability to bring everyone together and to keep the lines of communication open up until just about ten minutes ago. In fact, she was working with me on an issue. There is a fundamental difference of viewing the glass as half full or viewing it as half empty. We will proceed. We will govern, because we have a responsibility to do that. We hope that in the future, after this budget is over with and after all disagreements have been put to bed, that we will be able to continue to work together because it has been very successful this session. I hope no one draws lines in the sand. I hope no one sets certain positions in stone. We've really tried to avoid that. I hope we can move forward and work successfully on many other issues that are facing this legislature in the coming weeks. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER**: Thank you, Madame President. I hadn't intended on speaking today, but given the fact that integrity, honesty, and responsibility have been brought up, I feel compelled to speak. When we speak about doing the responsible thing, I think we are by moving forward with this budget. I think it's a real hit on people who take loans out to make investments to call them irresponsible. I think it's very responsible and I think the people of this state really understand our situation because many of us are in this situation, Madame President. We're in the situation where we have to take loans out for education. We're in a situation where we have to take loans out for businesses in order to make our ends meet. I have been in a situation where I have heard many slams on L.D. 1 by my colleagues on the other side of the aisle. I've said, 'Well, okay. Take your hits, but where is your plan? Where's the beef?' I think, given the current situation, there are fingers in their stew and those fingers are the people of this state's fingers. Those are the cuts. They wouldn't just be fingers, they would be legs and arms too because we would be cutting those services off from people in nursing homes. We would be cutting services off of education. I find it ironic, terribly ironic, that there are amendments that will be presented later on to increase spending by my colleagues on the other side of the aisle.

I also find it tremendously ironic that there is not the connection being made between the federal deficit, which is at a record high, and our future. They seem to support that on the

other side of the aisle. I would say, Madame President, I would assume that they would join me in sending a letter to the President of the United States in disgust and horror at the continual deficit spending that this government, at the federal level, placing taking on the future of our children.

I believe that this budget is responsible. We're taking care of our most needy citizens. I believe this budget is responsible. We are funding education. My colleague on the other side of the aisle, who is so quick to condemn this budget, is going to be reaping benefits to his education system in his district by many dollars. I say to my colleagues, Madame President, if you don't like this budget, where is the beef? I want to know what cuts you are going to make. The people of the State of Maine want to know what are the cuts you are going to make because that is dishonest, Madame President, not to come forward with a plan so that the people of the state know where those cuts, those hatchets, are going to be made. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you, Madame President, men and women of the Senate. I, unfortunately, have many points to address, but I will start with the last that was made. We did have a sub-committee and they worked for several weeks coming up with suggested cuts. We worked hard at it. I understand that this was brought to a meeting of leadership and leadership said to give them a couple of hours and they would see what they could come up with. Our people had been working for two weeks with suggestions. We actually came close to having a two-thirds budget when we asked, 'What would you do to cut the structural gap? Let's work on something that brings us down a couple of \$100 million on the structural gap over the next two years and we'll be there.' Some of you may not know this. We are close. We were close, but that doesn't get us all the way. The Republican plan that we're hearing about today was put out by a conservative think tank, not a Republican think tank, none of whom are elected and none of the initiatives are here before you as an actual legislative document, whether it would be an amendment or a budget. I remember not too long ago when the majority party sought to distance itself from its party chairman because of his jib-jab like cartoon. I thought we were very graceful in letting you run away from him. Thank you for the same opportunity. The tone keeps changing here.

I'd like to address some of the finer points here. We keep talking about making a payment on a 14 year schedule for the unfunded liability. We're making a 14 year like payment, which we are using borrowed money to do, but we're also extended the unfunded liability out to the maximum allowed by the constitution. Please don't tell me that we have a 14 year repayment. The budget doesn't do that. If Dirigo is so wonderful, why isn't every state, county, city, and legislative employee on Dirigo? If it saves lots of money, it should start with the state budget. There is a cut for you.

Last of all, I'd like to remember my Grandfather, God love him, who gave me some advice that I never knew would come in so handy. He said, 'Beware of somebody who tries to sell you a bridge.'

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Nass.

Senator **NASS:** Thank you, Madame President, men and women of the Senate. Just briefly, trying to address some of the things that I think there is a mistake in judgment or a mistake in opinion about here, one of which you just heard. I think that since it was repeated twice, I'll at least repeat it once. The Senator from Penobscot, Senator Plowman, suggested that what is happening with the unfunded liability is as she suggested. We are making a payment that is close to what would be necessary to accomplish the so-called short schedule this year, but we are officially moving, with this budget, to the long schedule. Last biennium we made a short payment. We stayed on the short schedule and we used up some slack that we had put in the unfunded liability a few years ago. This budget officially extends us to the long schedule. What will that cost us? There have been big numbers tossed around. It really depends on which schedule we stay on until we reach the end, whatever the end point is. We are officially moving to the long, more expensive schedule. You could suggest, although somewhat with tongue in cheek, the cost of that is a number we've seen a lot, the \$2.45 billion or there about, if we stay on that schedule.

There is more to that story than that. If you adopt this budget with its spending plan and repayment schedule, we almost have to stay on the long schedule and therefore make the higher payment, the \$2.45 billion. Because of what? Oh, I know what it is, because of the spending cap we adopted in L.D. 1. If we move back to the short schedule, we're not going to be able to stay under the cap. No matter what happens with the economy, no matter what happens with revenues, the likelihood of us having to stay on the long, more expensive schedule is highly likely.

Second, we have badly, in recent years, misused the term investment. We're investing in people. We're investing in education. We're investing in social programs. That doesn't meet, in my opinion, the strict test of what an investment is. An investment suggests there is some kind of return. Monetary return. I don't see it. I've been waiting to see it. I've been here now 11 years and I'm waiting for our return on investments to show up. I don't know where it is. It's just not there yet. The promise is there. If we keep investing in the university and education, and in social programs, the promise of a return is there. Where is it? I ask you. It's not here yet, maybe it will show up.

As to the Republican think tank, Madame President, as has been suggested, the Maine Heritage Policy Center is an independent. They tell us they are bi-partisan. They are pleasantly bi-partisan. I keep hoping that they will stay around. In reality, we have been under the influence of another think tank. I'm not going to characterize what party they might represent. It's called the Maine Center for Economic Policy. It's called the Muskie Center. Is there any doubt in your mind what their interest is in state government? It's bigger government. It's more spending. I don't think there interest is at all associated with the well being of Maine's citizens. I have not seen any report come out of those two groups that indicate to me that they are interested in our financial future. It would be nice. We send over there, to the Muskie School, \$10 or \$11 million a year in General Fund money for these studies. Is that a good investment? What kind of return do we get? We know what we're going to get from them. One sided reports.

Thank you, Madame President. I just wanted to try to clarify those three things.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Bromley.

Senator **BROMLEY:** Thank you, Madame President, men and women of the Senate. I first want to let my good colleague, the Senator from Cumberland, Senator Turner, know how left out I felt when he made his list of business-friendly Senators, as a former employee of one of Maine's biggest businesses, and now trying to birth one of my own. I would love to join in a letter to our federal representatives in terms of the caution against borrowing as well.

We're asked to assume that government can run like a business. There are certainly parts of government that ought to be business-like and ought to run like a business, but let's face it, when employees get sick, old, and disabled, we don't keep them on the payroll. These people are our citizens forever. We're responsible for them and glad to be. I've heard lots of rhetoric about borrowing and how awful it is. Guess what, we had some of those same discussions in our caucus. To assume that we love this borrowing scheme, we don't. I don't, let me say. What are the choices? For \$200 million we could eliminate the University of Maine and the community college system. I doubt anyone would endorse that. We could also eliminate the Departments of Conservation, Inland Fisheries, Labor, Public Safety, Economic and Community Development, Agriculture, Marine Protection, Secretary of State, and the Executive and we'd still be \$20 million short. Then there is great talk about MaineCare, about our appetite for social services. 66% of the program costs of MaineCare go to the elderly and persons with disabilities. If we were to do away with that, the 70% of the people living in nursing homes would become whose responsibility? We had a little bit of a laugh in our caucus about Aunt Martha living in the laundry room, but it wouldn't be funny and it would be true. Why don't we run more like a business?

Since those choices that I've outlined, I'm sure, are not palatable to any of us, what do we do? The borrowing scheme, as it is called, requires some faith. I hear precious little of that in here today. I think it's easy to cut what we don't value or we don't use, but what you don't value or don't use, I might. What I don't value or don't use, you might. There is the rub. To me, that makes this borrowing palatable. I agree it is tough to swallow, but I also suggest to you that it is critical that we do so.

If you haven't received one yet, you will be getting a measure of growth report card on your desk. There are three measures I want to draw your attention to. The first is personal income. We are still lagging behind where we need to be. The per capita personal income in Maine grew slightly faster than the national average from 2002 to 2003. It's slow but it's going in the right direction. Gross state product is, again, lagging from where we want to be but up about 5% from 2002. During the same time period the New England economy grew at a slightly slower pace. A third marker is employment. We have lost tons of manufacturing jobs. We know that. We're replacing some of those and we've got many yet to do. For the last seven years, the pace of job growth in Maine has exceeded New England and U.S. averages. I bet that might be shocking to many that are in this chamber, hearing some of what we've heard today. What makes this borrowing palatable is all of this and more. It's faith. So if you believe that best days of the Maine economy are behind us, then vote for this budget. Like me, if you believe that the best days of the Maine economy are in front of us, requiring thoughtful, deliberative strategy, investment, and hanging on when times are

tough and we are in this major transition, then you need to vote for this budget. It's hard to put out a tough plan like this. It's so easy to take shots at it. We can't cut our way into prosperity and we need all of Maine's people for success. This is a tough budget to put out for people to criticize, but somebody's got to do it. I thank the Appropriations Committee. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Davis.

Senator **DAVIS:** Thank you, Madame President. I didn't intend to speak today. My colleagues to my right have done very well, as well as my colleagues to my left. It is probably no surprise that I agree more with the colleagues on the right. My good friend from Kennebec, Senator Gagnon, spoke and I felt that I needed to say a thing or two. Surprisingly, he said something that I agree with. That is that we have differences. No question about that at all. He ended his talk with something else I agree with. When we are done, we need to go away and be friends because in the future what will be remembered is the treatment of each other far more so than any of the issues here today. That's where we agree. Now I'll tell you where I disagree with him.

He spoke of tough choices. There are no tough choices being made here. We're going to borrow money. We haven't made tough choices. This budget avoids the tough choices. We aren't doing it. Negotiations. During the process, my assistant and I went forward and made a proposal with members of the other body and members here. Some of those people are experts at negotiations, professional negotiators. We put forth a proposal. Did they think we were going to put forth our weakest position? I've negotiated. That isn't how you start negotiating. There was no response other than they couldn't do it. That's not any good. Instead of negotiating, we went to borrowing. My good friend spoke of a line in the sand. I'm afraid that the majority budget maybe the line in the sand and it's not being laid down by the Republican caucus at all.

I would speak to one final thing, Madame President, and hopefully we can get to a vote before too long. He spoke of governing. This is not governing, this is having it your own way. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Senate. I have listened from the chamber and just outside the chamber to the discussion going on here. I've listened carefully to my caucus in the last few days. First, I want to talk about investment. Investment in small business is about \$1 to \$11. For every \$1 we put in we get about \$11 back. I also heard a question about investment in college. Well, first of all, public policy says we want to get more people to on to college. That includes community colleges and technical schools. We also know that this investment means they are higher wage earners. That education, my friends, is an investment.

When I teach a 7th grader, I'm really glad that they don't call the only investment as what they know at the end of 7th grade. It's what they learn each time and they become a better citizen and a more productive citizen. Education is an investment.

Our environment is an investment. Ask the many people who have supported Lands For Maine's Future. Find out where

our number one source of revenue is from. It is from tourism right now.

Those are the hard facts. I need to tell you something that is a little more personal. You see, in my caucus, there were members in my caucus that were saying that we need to trust. We were going to put forth this amendment, it was going to do things, it was going to be bi-partisan, and everybody will have a group hug at the end and we were all going to get along. This amendment will do it. This morning, I stood here and I spoke about a man who had the epitome of a volunteer to come forward. My committee worked to do that. All three Senators; Senator Mayo of Sagadahoc, Senator Mills of Somerset, and I spoke to this chamber. This chamber wanted to table a man who is donating his time and was standing in the back, waiting with his family, to be recognized. Then I hear that I'm going to trust people. That we are going to do this. We're going to forget a timeline. We're going to let everything go. I'm sorry, but I was embarrassed. I was hurt. I was hurt personally and I was embarrassed for the State of Maine. Whether you agree with the plan or not, you just need to vote no. It hurt. I will tell you that Dr. McAfee was also hurt. Where is the trust? Where is the respect? I'm sorry, but I don't feel the trust. I can't believe when people tell me something. It's lost. I learned a lesson today. I truly apologized to the doctor when I went out to see him. No one should volunteer their time and be put through what we did. Don't ask me to trust. Don't tell me that there is an amendment and to just have faith, we're all going to come together for that group hug. I don't believe it any more. I've become cynical. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator MARTIN: Thank you, Madame President. First of all, let me just clarify so there is no misunderstanding that the borrowing that is proposed in PPPP is for pension reduction, not for general operating expenses. Also I would point out, ironically, that Portland, Rumford, Bangor, and Lewiston have just issued pension obligation bonds. We are not doing something that others are not doing.

I guess part of my thinking today, as I sat here listening, is to what has happened to the state budget. I've been through many state budgets. I guess, in part, we maybe ought to look back 30 years to see what has happened and why it has happened to the state budget. In the day when mental health patients were housed in Bangor and Augusta, when mentally retarded adults were in Pineland, when there were no nursing homes in this state, there were no residential facilities for the elderly, and people were taken care of at home, what care there was. All that has changed now, for the better. It also has meant an increased cost to society and to the tax budget that we now must meet. In the MaineCare account today, the largest single expenditure is for nursing homes and our 8,000 or so senior citizens that are there at state and federal expense. Our next largest expenditure in MaineCare is prescription drugs. I can go on and on and on about what we've done with mentally retarded citizens in Maine, the mentally ill, etcetera.

Through all of the budget discussions, whether we agree or disagree, guess what, no amendments were made by the minority members of the Appropriations Committee to cut those. The amendments didn't come. As a matter of fact, I made two motions that I specifically today remember. Not only was I defeated by my majority members on the Appropriations

Committee but defeated by the minority, who never voted with me either. Don't tell me that the minority was more prepared to make cuts than we were. No amendments, no motions were made in the Appropriations Committee by the minority to make cuts. They were not made. They may have been in some grandiose plan that someone had, in the privacy of their room, or in their offices. Bring me your cuts. Let's vote on them today. You want to make cuts, tell us what they are and what impact they will have on Maine citizens. If I agree with you, I'll vote for them.

The first cut, perhaps, would be by the good Senator from York, Senator Courtney. \$4 million that maybe Sanford doesn't want for education. We could cut the state budget by \$4 million. That's a cut. Let's offer it up. Let's vote.

Let me just point out, if people want to abuse my math at some point we can talk about it later, we don't need to bore you right now. That two year payment we are making is going to save \$1.3 billion over the term of the life. Deduct from that the interest payment on the entire bond. You are still ahead \$700 million. Do the math. There are all kinds of ways in which you can sell anything if you want to sell it, some with facts and some with fiction, depending on which side you want to take. Some do it better than others. We need to be honest with ourselves. I didn't want to end this any more than most people did. There were ways to get there, but the minority didn't help us.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Accept the Majority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#34)

YEAS: **Senators:** BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: **Senators:** ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-35) Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-35) **READ**.

House Amendment "E" (H-52) to Committee Amendment "A" (H-35) **READ**.

Senator **ROTUNDO** of Androscoggin moved to **INDEFINITELY POSTPONE** House Amendment "E" (H-52) to Committee Amendment "A" (H-35), in **NON-CONCURRENCE**.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. Another amendment will be offered later on, Amendment V, which will strip the provision dealing with the primary enforcement of seatbelts that is contained in this amendment.

On motion by Senator **NASS** of York, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Indefinitely Postpone House Amendment "E" (H-52) to Committee Amendment "A" (H-35). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#35)

YEAS: Senators: **BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS**

NAYS: Senators: **ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOW-MELLO, TURNER, WESTON, WOODCOCK**

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** House Amendment "E" (H-52) to Committee Amendment "A" (H-35), in **NON-CONCURRENCE, PREVAILED**.

House Amendment "T" (H-67) to Committee Amendment "A" (H-35) **READ**.

Senator **ROTUNDO** of Androscoggin moved to **INDEFINITELY POSTPONE** House Amendment "T" (H-67) to Committee Amendment "A" (H-35), in **NON-CONCURRENCE**.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, this particular amendment deals with positions that we established in Senate staff. I just wanted to remind people that there was a unanimous decision by the Legislative Council to establish these positions and also that there was equity in the development of these positions. One position

went to Republican staff. One went to Democratic staff. The others we all benefit from because they were established in the Secretary of the Senate's Office. I would ask you all to support my motion to Indefinitely Postpone this amendment.

On motion by Senator **ROTUNDO** of Androscoggin, House Amendment "T" (H-67) to Committee Amendment "A" (H-35) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

House Amendment "CC" (H-93) to Committee Amendment "A" (H-35) **READ**.

Senator **ROTUNDO** of Androscoggin moved to **INDEFINITELY POSTPONE** House Amendment "CC" (H-93) to Committee Amendment "A" (H-35), in **NON-CONCURRENCE**.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. This amendment unbalances the budget. There will be an amendment coming later, Amendment V, which removes the primary enforcement of seatbelt use, as this amendment does, but it does so without unbalancing the budget.

On motion by Senator **NASS** of York, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Indefinitely Postpone House Amendment "CC" (H-93) to Committee Amendment "A" (H-35). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#36)

YEAS: Senators: **BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS**

NAYS: Senators: **ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOW-MELLO, TURNER, WESTON, WOODCOCK**

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** House Amendment "CC" (H-93) to Committee Amendment "A" (H-35), in **NON-CONCURRENCE, PREVAILED**.

Committee Amendment "A" (H-35) **ADOPTED**, in **NON-CONCURRENCE**.

Subsequently, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-35), in **NON-CONCURRENCE**.

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-35), in **NON-CONCURRENCE**.

Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

Senator **NASS** of York was granted unanimous consent to address the Senate off the Record.

Senator **SCHNEIDER** of Penobscot was granted unanimous consent to address the Senate off the Record.

RECESSED until 4:00 in the evening.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

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 30, 2005, by Senator **GAGNON** of Kennebec

Pending - **ADOPTION** of Committee Amendment "A" (H-35), in **NON-CONCURRENCE**

(In House, March 30, 2005, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-35)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-35) AS AMENDED BY HOUSE AMENDMENTS "E" (H-52); "T" (H-67) AND "CC" (H-93)** thereto.)

(In Senate, March 30, 2005, Reports **READ**. The Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-35)** Report **ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "A" (H-35) **READ**. House Amendment "E" (H-52) to Committee Amendment "A" (H-35)

READ. On motion by Senator **ROTUNDO** of Androscoggin, House Amendment "E" (H-52) to Committee Amendment "A" (H-35) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**. House Amendment "T" (H-67) to Committee Amendment "A" (H-35) **READ**. On motion by Senator **ROTUNDO** of Androscoggin, House Amendment "T" (H-67) to Committee Amendment "A" (H-35) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**. House Amendment "CC" (H-93) to Committee Amendment "A" (H-35) **READ**. On motion by Senator **ROTUNDO** of Androscoggin, House Amendment "CC" (H-93) to Committee Amendment "A" (H-35) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**. Committee Amendment "A" (H-35) **ADOPTED**, in **NON-CONCURRENCE**. Subsequently, **RECONSIDERED**.)

On motion by Senator **ROTUNDO** of Androscoggin, Senate Amendment "V" (S-56) to Committee Amendment "A" (H-35) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. This amendment consists of the Brannigan House Amendment "CC" with one added piece. It takes out the primary enforcement of the seatbelt law. It also strikes the emergency preamble and emergency clause, because I'm afraid we aren't going to have a two-thirds budget today. The amendment changes part AAA, the seatbelt provisions. First, it eliminates primary enforcement of the seatbelt law. Although most people agree that more seatbelt use is better, people felt uncomfortable with allowing police to stop a motorist on that ground alone. It has been taken out. Second, it introduces the fine for seatbelt violations as proposed in the original L.D. The fines will still be higher than fines currently levied, but not as extraordinary as those proposed in the original L.D. or committee amendment. There will be a \$50 minimum fine for a first violation and \$125 and \$250 fines for the second and third violations. The somewhat higher fines will hopefully encourage more to use seatbelts without causing undue financial difficulty. The amendment strikes the canoe/kayak sticker fee of \$10 and eliminates the study of a possible fee for other non-consumptive uses so that more thought and public input can go into the finding of appropriate ways to fund IFW. It changes the OPEGA language in part OOO by deleting the study of personnel issues and making the study of economic development programs voluntary for OPEGA rather than mandatory. This gives the OPEGA advisory committee more flexibility in gearing up and planning for its work for the coming year. It provides additional funds for education in the unorganized territory, to provide targeted money for K-12 education, assessment, and technology. Finally, it makes some truly technical corrections in the amendment. I urge you to support Amendment 'V'. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Nass.

Senator **NASS:** Thank you, Madame President, men and women of the Senate. I did have a chance at the break to look at Senate Amendment 'V', and as the Senator from Androscoggin, Senator Rotundo, suggests, it does appear, from as near as I can figure out, to match what was House Amendment 'CC'. Here is the

dilemma, as I see it. If you are concerned about canoes, kayaks, rowboats, and sailboats and the \$10 fee and the outdoor card, when you vote for this amendment, it appears to me, you would be taking those out of the budget. If you are concerned about seatbelts, as the Senator from Androscoggin, Senator Rotundo, explained, there is three pieces out there. We have a current fine. We have the fine structure as ordered by Amendment 'V'. We have the fine structure as ordered by the current amendment. Making this explanation just helped me to decide where to vote. The dilemma for some of us is that we want some of it but we don't want all of it. We'll work on that basis. Thank you.

On motion by Senator **WOODCOCK** of Franklin, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Adopt Senate Amendment "V" (S-56) to Committee Amendment "A" (H-35). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#37)

YEAS: **Senators:** **ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS**

NAYS: **Senators:** **None**

35 Senators having voted in the affirmative and no Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **ADOPT** Senate Amendment "V" (S-56) to Committee Amendment "A" (H-35), **PREVAILED**.

On motion by Senator **NASS** of York, Senate Amendment "F" (S-30) to Committee Amendment "A" (H-35) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Nass.

Senator **NASS:** Thank you, Madame President, men and women of the Senate. We worked hard today to make sure that this was the first amendment we offered today because it is my hope and it was our plan to offer something to the other party other than Committee Amendment 'A'. This is the continuing resolution. If you do not like what's in front of you right now, this gives us an opportunity, as we've indicated before, to work some more on the budget. It provides for payments to school districts under the current proposed budget. It provides for proper servicing of the debt structure of the State of Maine in its current situation. It

provides a 90-day period in which we could work to make this budget better. It also maintains the majority party's opportunity, by a majority vote, to pass the budget under the current situation. In our opinion, you are not giving up any leverage that you have, in the case of the majority party, to effect a majority budget and make it effective at a time, even though it will be 90-days out, that there won't be any money for the state. In other words, there is no shut-down opportunity here. We're precluded that. 90-days from when this was to pass, or some other budget proposal were to pass, it would become effective. In the meantime, in that period starting July 1st, there would be this continuing resolution, this first quarter money under the current level of spending that we're in now, plus school operating money, plus debt service at the new level. It is my hope, Madame President, that everybody will vote in favor of this amendment. Thank you.

Senator **ROTUNDO** of Androscoggin moved to **INDEFINITELY POSTPONE** Senate Amendment "F" (S-30) to Committee Amendment "A" (H-35).

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. This continuing resolution is vague, leaving a great deal of discretion to the state controller and the Governor to decide what gets funded and what gets deferred. A continuing resolution simply delays implementing the difficult decisions that have already been made by the majority committee amendment. It does not avoid the difficult decisions nor does it propose a better way to balance the budget. Our communities are the process of putting together their budgets for the coming year. They need to have predictability. It's important for us to share with them what it is they will have for their coming fiscal year as soon as possible. Thank you.

On motion by Senator **DAVIS** of Piscataquis, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Indefinitely Postpone Senate Amendment "F" (S-30) to Committee Amendment "A" (H-35). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#38)

YEAS: **Senators:** **BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS**

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, MILLS, NASS, PERRY, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "F" (S-30) to Committee Amendment "A" (H-35), **PREVAILED**.

On motion by Senator **ROSEN** of Hancock, Senate Amendment "I" (S-34) to Committee Amendment "A" (H-35) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Rosen.

Senator **ROSEN:** Thank you, Madame President and members of the Senate. Just a few months ago, we took the oath of office and it's a very interesting pledge that we make in our oath. If you have an opportunity once in a while, go back and refer to it. We swear in our oath that we will support the constitution. I think this is interesting because it is so short, so simple, and so precise. For all the things that it does not include, it doesn't say that we swear to support higher elected officials like the President of the United States or the Chief Executive Officer or even the Senate President. It doesn't swear that we will support our armed forces or defend our borders or even support the men and women, the constituents, the citizens of this state. It only says that we swear to support the constitution of Maine and the Constitution of the United States.

Now, the constitution deals with borrowing and is fairly specific in its language. I think it's also clear in its intent. We can get into a long discussion, and there are certainly attorneys here in the chamber that would be much better at it than I, to describe the distinctions between a general obligation bond, a revenue bond, and how we can construct some type of borrowing mechanism that may or may not require going before the voters. I think the constitution is very clear around GO bonds. It says over \$2 million. We must receive voter approval. I think if you study the history as to how that particular amendment was included in the constitution, the sentiment of the citizens of the State of Maine then and now remains the same. They intend to have final approval if this, or any other legislature, chooses to go forward with significant borrowing. If we intend to incur and obligate future obligations, they clearly want to have a voice in that.

Some of the discussion this morning seemed to indicate, in many ways, that this was, perhaps, an out of date and old fashion, and may be even a quaint, idea because times have changed. The federal government, as pointed out appropriately this morning, has begun to conduct itself, I think, in extreme fashion when it comes to deficit spending, which I disagree with. I also think it's a change in our society, when we have more and more families that are running up massive credit card debt, personal bankruptcies are at an all time record, and even state governments. We've created, over time, a series of instrumentalities and quasi-public and public entities, and given them all sorts of authority to go forward and borrow. Ultimately, at the end of the day, really under the good name and full faith of the State of Maine, because we do, in fact, obligate future legislators to do that. We have become very comfortable with this concept in

society, in government, and beyond. I think we have developed an attitude that somehow this idea of remaining true to the intent of the constitution, and that applying strict standards when it comes to borrowing really is out of date. I contend that it isn't. At some point, I'm afraid it will catch up to us.

We just went through, in the mid to late '90s, an economic expansion that was really built on the dot.com bubble. During that period, you recall I'm sure, almost anyone, particularly if you had an address in silicon valley, could put out a product, refer to the internet, give it some type of a technically driven name, and sell it for almost anything and make an absolute fortune because we were told by pun dance that the old laws of economics had finally changed. We were in a new era and new laws applied. Even Alan Greenspan, at that time the Chief of the Federal Reserve, said that we were in the midst of a rational exuberance and people dismissed it. They said, 'He's old, he's out of date and that is thinking of the past.' Well, of course, the laws of economics caught up with us and self-corrected. The State of Maine, like many other states, benefited from that era. Capital gains tax collections poured into the treasury. In the late '90s we had years of \$200 million surpluses, \$330 million surpluses. We became very used to that and very comfortable. Even though many of our own in-house experts at the Maine Revenue Service and other well thought of individuals warned us that this would not last, we convinced ourselves, like many people in the private market, that those old laws had changed and we were in the midst of a new economic reality. The private sector has had to readjust to this and so have families. It seems that the state really has not yet come to terms with the fact that, as the good Senator from Lincoln, Senator Dow, pointed out early this morning, we are now in full recovery mode, but we are in normal growth mode. We need to readjust and we need to realize that the old principles do apply and that the intent of the constitution should apply.

Ladies and gentlemen, this amendment simply puts before the voters in June the question about the borrowing that is in this majority budget proposal. It asks for their approval. The amendment also will pay for the cost of the election so that local municipalities will not have to bear that cost. The question on the ballot will read, 'Do you favor authorizing the issuance of \$410,000,138 in bonds to fund prepayment to the Maine State Retirement System of a portion of the unfunded actuarial liability in order to fund current operations of state government for the fiscal years ending June 2006 and June 2007?' I hope you give this proposal serious consideration and vote in favor. Thank you.

Senator **ROTUNDO** of Androscoggin moved to **INDEFINITELY POSTPONE** Senate Amendment "I" (S-34) to Committee Amendment "A" (H-35).

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you. I just want to clarify that the bonds that we have been talking about in the amended budget are not subject to constitutional provisions because they don't pledge the full faith and credit of the state. It is, again, very important for municipalities and school districts to know as soon as possible what they will be getting from the state in terms of funding. For that reason, I would encourage you to vote to indefinitely postpone.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hastings.

Senator **HASTINGS:** Madame President, ladies and gentlemen of the Senate, I wonder how we have become so intellectually clever as to sit here in this room and honestly say, with a straight face, that we're not borrowing money on the credit of the State of Maine today and that we are within the spirit of our constitution by not putting this out to a public referendum, as the constitution requires. There is an old saying, 'If it looks like a duck and quacks like a duck, it probably is a duck.' I ask people on this borrowing. You say it's a revenue bond but when I read it, it sort of says that. It says it so many times I wonder why it has to say that in the law? It says that about three or four times in about three pages. I'm not what I look like? I'm not borrowing, I'm a revenue bond.

Now, the bills says the only funds that will ever be used to pay for this will be those funds that are pledged to the account, the trust account. As we understand it, those funds are the lottery. We've pledged the lottery again. At least that was money that was going into the general fund. We've also pledge funds that, just in the last legislature, were dedicated for the specific benefit of certain beneficiaries. This is the racino money. This is the money that the public voted for when they passed that racino referendum. They did so with the specific purpose, that the benefit of that revenue would go, substantially, to protect our harness racing industry and to protect our agricultural fairs. When I read the bill, every bit of that racino money, although we have no clue how much it is going to be or if the place is ever going to be open, is now pledged to this trust account. The bill says that is the money that is going to be used to pay for this borrowing. That's the only money. That's why it's a revenue bond. When I ask my colleagues from the other side of the aisle in the hall, 'How can this be?' They say, 'Don't worry about it, trust us. We're not going to take that money away from the harness racing industry. We're not going to take it away from the agricultural fairs. We're going to pay for it with General Fund revenue when the time comes. Trust us.' As a lawyer, I tend to get stuck in court with what the law actually says and sometimes it gets used against me by a judge. What does the law say? The budget says that the only money we are going to use to pay for this is this pledged money. You have pledged, if you vote for this, all of that racino money to an entirely different purpose. Going beyond that, the law is somewhat unclear, but the pension of this bond bank states that when the people administering the bond bank decides that they don't it or have more money than they might need for the purposes of repaying the bond, it doesn't even instruct them to pay it back to the funds that it came from. They are instructed to simply to pay it over to a controller, period. Once again, I'm told to trust them. We're never really going to take the money out of that account or we're going to make sure that the money taken out is paid back and distributed as required. I find this so intellectually clever that it's almost preposterous to me that we can sit here with a straight face and say, 'We're not borrowing this money on the faith and credit of the state.' For that reason, I think the good Senator from Hancock, Senator Rosen's proposition that this be put out to the voters for referendum makes perfect sense and is certainly within the spirit and shows

the spirit of our constitution. I hope we will all vote in opposition to the pending motion to indefinitely postpone and will support the Senate Amendment 'I'. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I just happened to be doing an exam for my state government class and have the government book in front of me. I thought I'd define, for members of the Senate, the difference between what taxes are and what taxes are not. It clearly says that intergovernmental expenditures are important sources of revenue but they are not taxes pursuant to what is used in accounting measures throughout the United States. Direct expenditures refer to actual payments and are not what is known as intergovernmental expenditures. What we talk as taxes are known as direct general expenditures. You may also be interested to know that the non-tax sources are user charges, gambling, and other related issues. So there is a difference between revenue bonds, non-revenue bonds, direct appropriations, the credit of the state, the non-credit of the state, and it's all in the government book.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Indefinitely Postpone Senate Amendment "I" (S-34) to Committee Amendment "A" (H-35). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#39)

YEAS: Senators: **BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS**

NAYS: Senators: **ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOW-MELLO, TURNER, WESTON, WOODCOCK**

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "I" (S-34) to Committee Amendment "A" (H-35), **PREVAILED.**

Off Record Remarks

On motion by Senator **COURTNEY** of York, Senate Amendment "G" (S-32) to Committee Amendment "A" (H-35) **READ.**

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you, Madame President. This amendment will reverse the BETR portion of the budget. It's two major things. First of all, it would put it back within the budget as an expenditure, and keep it where some of us feel it should be kept, as an expenditure so we can accurately compare our expenditures from last year to this year with relationship to the cap. It would also remove the stores over 1,000 square feet from exclusion from the BETR program. The reason for that is mainly that, in some cases, this program is used to help finance new projects. I know of a couple of new projects that very likely would count on that as part of the package and part of the things that would attract new jobs into the area and revitalize different areas. I would request your support on this amendment. Thank you, Madame President.

Senator **ROTUNDO** of Androscoggin moved to **INDEFINITELY POSTPONE** Senate Amendment "G" (S-32) to Committee Amendment "A" (H-35).

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. This retail exclusion applies only to big box stores, which don't appear to need any tax stimulus to locate in Maine. The State Tax Accessor Reports would help us to understand where BETR and TIFS are allowing extraordinary benefits to certain businesses. This information is not currently available because TIFS happen on the local level. We feel we need this additional information to be able to plan wisely in terms of our spending. Refusing to change BETR to an off set against revenue makes Maine appear to have a more burdensome tax system than it really has. The Business Equipment Tax shouldn't be considered a tax burden when it is reimbursed by the state. Also, this particular amendment unbalances the budget. There is no new revenue brought forward in this amendment that would remedy that. For all of those reasons, I would ask you to vote to indefinitely postpone Amendment 'G'. Thank you.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Nass.

Senator **NASS:** Thank you, Madame President, men and women of the Senate. I think this is a good point on this particular amendment proposal to challenge the relatively new suggestion that we heard several times today that with our tax burden it is important to take certain things off budget. Certainly taking BETR, and prior to that circuit breaker, off budget in order to more properly represent our tax burden. I challenge that because the thing that is important, and we talk about a lot, is our tax burden relative to other states. There are several agencies, non-profits, out there that rate the various states. Certainly the tax burden is part of that. I have not heard of any of them that don't compare apples to apples. Obviously, it is their job to make sure that, as

they calculate these and other markers relative to state performance, they are, in fact, comparing apples to apples. You see it with the number of state employees, number per 100,000 of population, and there are a lot of markers that are used. This idea that I first heard from the current administration that somehow our tax burden is being unfairly measured, I think, is not necessarily correct. I've not heard any kind of analytical discussion nor have I seen, other than what we hear here in this chamber and what we read in the newspapers, that there is something wrong with our burden measurement in this state. I think it is one of the reasons it is important to pass this amendment. Get everything that's on budget, on budget. If money is sent through tax payments to the State of Maine, it ought to be part of the budget. In fact, it is part of our constitution that requires us to appropriate money. We took that question to the State's Attorney General, and of course, the outcome was somewhat predetermined. We didn't get much attention to that. There is the idea in our constitution, or the assumption, that if we take money in, it does not get parceled out without the legislature parceling it out. As soon as you start taking things off budget, they don't get the scrutiny of the process we are going through now and it's easy to forget about them in addition to our tax burden issues. Thank you, Madame President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Indefinitely Postpone Senate Amendment "G" (S-32) to Committee Amendment "A" (H-35). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#40)

YEAS: Senators: **BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS**

NAYS: Senators: **ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK**

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "G" (S-32) to Committee Amendment "A" (H-35), **PREVAILED.**

On motion by Senator **SNOWE-MELLO** of Androscoggin, Senate Amendment "A" (S-25) to Committee Amendment "A" (H-35) **READ.**

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO**: Thank you, Madame President and ladies and gentlemen of the Senate. The budget includes a move to speed up the state's ability to seize unused portions of gift certificates and gift cards held by ordinary retail customers. Currently, the state seizes 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. This new budget calls for seizing that money after just two years. By speeding up the seizure from three years to two, the state would collect an additional \$5.7 million in the '06 to '07 year, an additional \$17.4 million next year, and some \$20 million the year after that. On and on it would go. That's more than \$40 million over three years. This is a lot of money to seize from unsuspecting Maine citizens who have no idea that such a seizure is even taking place. It is a stealth tax that would outrage most people if they knew it actually existed. According to the Maine Merchant's Association, many people hang onto gift certificates longer than two years. If there is a value remaining on a gift card, they may be waiting until an anniversary or a birthday to make another purchase. We are talking about ordinary gift certificates from L.L. Bean, garden centers, book stores, and countless other retailers. I ask you this, by what right does the state get in the middle of a business arrangement between a retailer and customers and claim millions of dollars of their gift card purchases? This is nothing but pure government taking of consumer's money. Only one other state seizes money from gift certificates after two years and that is Tennessee. We should not allow Maine to get another black eye as a high tax state by seizing the money of consumers who may be a little slow in using gift certificates. Under this amendment, the period remains three years before the state can seize unused portions of gift certificates. I ask you, ladies and gentlemen, to please support this amendment. Thank you.

Senator **ROTUNDO** of Androscoggin moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-25) to Committee Amendment "A" (H-35).

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO**: Men and women of the Senate, I just want to clarify that the change proposed in the budget, changing the period after which gift cards are presumed abandoned from three years to two years, does not lessen the value of the card or change how long the card is effective. It simply transfers the value of the card from the business to the state, where you can reclaim it like any other abandoned property at any time. The business owner has already received payment for the card. When the card becomes abandoned property, neither the business nor the consumer loses anything to which they are entitled. Another concern that I have about this amendment is that it unbalances the budget since it doesn't contain any new sources of revenue to cover what it would take out of the budget. For all those reasons, I would ask you to indefinitely postpone Senate Amendment 'A'.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Indefinitely Postpone Senate Amendment "A" (S-25) to Committee Amendment "A" (H-35). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#41)

YEAS: Senators: **BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS**

NAYS: Senators: **ANDREWS, CLUKEY, COURTNEY, DAMON, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK**

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-25) to Committee Amendment "A" (H-35), **PREVAILED**.

On motion by Senator **TURNER** of Cumberland, Senate Amendment "L" (S-37) to Committee Amendment "A" (H-35) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER**: Thank you, Madame President, ladies and gentlemen of the Senate. I think we all recognize that our hospitals have been at the vanguard of providing services to those who are less fortunate and have been under the care of the state in our various MaineCare programs. It is also no secret that during the last couple of years the payments that have flowed back and forth between the state and the hospitals have challenged many of our hospitals. A few, such as Maine Medical Center, who happens to be well capitalized, have been able to roll with those punches. Some of our smaller critical care hospitals, however, have been seriously jeopardized and have had to use lines of credit in order to keep them liquid. What this amendment does is add some language to the budget. It doesn't change the fiscal note. It simply ensures that the adequate amount of money that we believe is in the budget for the so-called prospective interim payments and final settlements with hospitals are, in fact, the minimum payments that will be made in this new budget that is before us. I think it's straightforward. It helps us honor our commitment to those people who are delivering the services that are so vital to our MaineCare recipients. I would urge your acceptance of this amendment. Thank you, Madame President.

Senator **ROTUNDO** of Androscoggin moved to **INDEFINITELY POSTPONE** Senate Amendment "L" (S-37) to Committee Amendment "A" (H-35).

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. The MaineCare map account is a general account and must be flexible to respond to changes in the type and intensity of services needed over time. Restricting the use of the account might prevent our using the account as seed money to draw down federal dollars. The budget already includes additional money for hospital PIP payments and settlements. This specific provision isn't necessary. Earmarking specific amounts for PIP payments as opposed to settlements seems premature, given that hospitals and the administration are still negotiating settlements. For these reasons, I would ask you to indefinitely postpone Senate Amendment 'L'.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. What the good Senator from Androscoggin, Senator Rotundo, tells is indeed correct, but we should make sure the record adds a couple of additional points. The administration came to the Health and Human Services Committee and assured them that this money would be available as I have suggested it should be made available. Further, the unanimous vote of the Health and Human Services Committee endorsed the very concept that these payments should be assured and this language does assure that by setting them as minimum payments. I would ask you to not vote for indefinite postponement so that we can adopt the amendment before us. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Indefinitely Postpone Senate Amendment "L" (S-37) to Committee Amendment "A" (H-35). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#42)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAMON, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "L" (S-37) to Committee Amendment "A" (H-35), **PREVAILED.**

On motion by Senator **SNOWE-MELLO** of Androscoggin, Senate Amendment "C" (S-27) to Committee Amendment "A" (H-35) **READ.**

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you, Madame President, ladies and gentlemen of the Senate. The purpose of this revenue neutral amendment is quite simple, it will help working families pay for out-of-pocket and uncovered healthcare expenses and will be paid for by flat funding an account that has no specifically defined purpose. Health savings accounts, or H.S.A., are federally tax free accounts, similar to individual retirement accounts. They allow anyone with a high deductible health insurance policy to pay out-of-pocket expenses, as well as medical services not covered by health insurance, with pre-tax money. The problem is that Maine's tax code is not in conformity with federal tax codes concerning H.S.A. The federal tax code allows deductible contributions to H.S.A. and tax free withdrawals to pay for uncovered healthcare expenditures. Maine's tax code does not. H.S.A. cover deductibles and co-pays. They also pay for uncovered services such as hearing aides, prosthetics, and alternative or experimental medical treatments. These accounts are widely praised at recent hearings before the Taxation Committee, with broad bi-partisan support expressed by members of the committee. The biggest concern was the \$500,000 per year fiscal note attached to bringing Maine's tax code into conformity with federal tax codes regarding health savings accounts. The good news I bring to you with this amendment is that we have found the money in the budget to pay for the cost of tax conformity for H.S.A. The Dirigo Health Agency has an account for outside consultants. The last budget allocated just over \$500,000 to that account. This budget allocates over \$2 million to that same account. To this date, nobody at the Dirigo Health Agency has adequately explained what this money is needed for. In fact, there is reason to believe that these consulting services can be obtained from agencies within other state departments at little or absolutely no cost to Dirigo Health. In any case, this amendment simply flat funds the outside consultants' budget for the next biennium. By paying for deductible health savings accounts from this fund, we will provide significant help to working families struggling to pay healthcare and fund it from an account that has no clear public policy purpose. Ladies and gentlemen of the Senate, this is extremely important to the State of Maine. It is a very popular thing to do. I hope that you will not vote to indefinitely postpone this and vote to support this amendment. It is critical for our constituents back home. Thank you.

Senator **ROTUNDO** of Androscoggin moved to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-27) to Committee Amendment "A" (H-35).

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. The deductibility of health savings accounts is one of the items of federal tax law that we chose not to adopt in Maine. Unlike the federal government, Maine can't run budget deficits to pay for tax breaks. Taking the money from Dirigo Health will limit an innovated Maine program that is designed to provide health care to everyone in the state. Health savings accounts don't work for everyone. They actually involve a high deductible of at least \$1,000 for a single person and \$2,000 for a family. That's not a substitute for Dirigo Health. For these reasons I would ask you to join me in voting to indefinitely postponing Senate Amendment 'C'.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you, Madame President. I'd like to ask you to not vote to indefinitely postpone this. As the person who buys the health insurance for my company, we have investigated different ways to bring down the cost of healthcare. One of the things we have done is we have looked at a catastrophic policy which does have high deductibles but much lower premiums. What we are going to do is offer to our employees the amount of money on a debt card that is equal to what their deductible will be. They will control how they access their care. The money they don't spend is their money to put away into health savings accounts. They have insurance, they have the money to meet the deductible, and this is being done all over the state. They have the money to meet the deductible, as provided by the employer, and when it doesn't get spent, it's theirs to invest in a health savings account. It makes sense all the way around because there are many people, especially young people, who object to paying \$6,000 or \$8,000 a year and they don't even see the doctor once. This is a way for them to have the portability, to have the money in their pocket, and to invest. You are denying them the ability to also have the tax break that goes with it. This affects employees. I think that is what we are supposed to be here for, to look at what we can do to provide affordability, access, and let people manage their own care. That's the way it can be done. I wish that you would consider that, especially since this is revenue neutral. It does not take us out of balance and I don't think, in my wildest dreams, that we need to hire that much consultation in the next two years. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Indefinitely Postpone Senate Amendment "C" (S-27) to Committee Amendment "A" (H-35). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#43)

YEAS: Senators: **BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS**

NAYS: Senators: **ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOW-MELLO, TURNER, WESTON, WOODCOCK**

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-27) to Committee Amendment "A" (H-35), **PREVAILED**.

On motion by Senator **WOODCOCK** of Franklin, Senate Amendment "E" (S-29) to Committee Amendment "A" (H-35) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. This amendment is a very straightforward amendment. It removes the provision that takes the funds from the slot machine revenues and places them in the pension cost reduction debt service fund. I will begin today by complimenting the good Senator from Kennebec, Senator Gagnon, and members of the committee for their diligent work on the racino issue and the final resolution of where these funds might be dispersed. The revenues from these funds are being placed in five different locations. The majority of these locations have a direct impact upon the agricultural community of Maine, in particular the harness racing community and the agricultural fairs. The monies that are involved are substantial when applied to the harness racing purses. The projection is nearly \$9 million, which would result in a significant impact upon the purses for the harness racing at our fairs and commercial tracks in the state. I truly appreciate the good Senator from Aroostook, Senator Martin's definition of revenues a little bit earlier as well as taxes. I am hopeful that he did not, in fact, write that definition. The 2,000 people who are directly involved in harness racing in Maine, as well as the many hundreds who participate with entities such as tractor and trailer drivers, suppliers of hay, maintenance material suppliers, fuel sales people, insurance people, and etcetera, all have a direct connection, and an important connection. It is a connection built on trust with these five accounts. Now is not the time for us to be removing the trust that we have with this community. I have been told, as I am sure others have been told, that we should not be concerned about these monies and they will assuredly be returned to those five accounts. Unfortunately, based upon our historical prospective, I am more than just a little slightly skeptical of this. I ask you to join me in supporting this

amendment that would help ensure that the revenues, which we have completed and dedicated, will ensure their completely negotiated rounds. Thank you very much, Madame President.

Senator **ROTUNDO** of Androscoggin moved to **INDEFINITELY POSTPONE** Senate Amendment "E" (S-29) to Committee Amendment "A" (H-35).

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. This amendment is not needed to protect the racino money going to the agricultural fairs, stipend fund, sire stakes, and the purse supplements because needed revenue that goes into the bond fund will be returned to the state controller. Racino funds will be made whole by the state controller. There is nothing in this budget, as amended by the Appropriations Committee, that has altered the allocations mandated in L.D. 1820, which was the legislation passed last year with regard to the racino. For these reasons, I would ask you to vote to indefinitely postpone Senate Amendment 'E'.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Savage.

Senator **SAVAGE:** Thank you, Madame President, men and women of the Senate. I didn't intend to speak on this, but I do want to thank the good Senator from Franklin, Senator Woodcock, for bringing this amendment forward. I've been associated with agricultural fairs for a lot of years. I'm also the treasurer of the Maine State Fair Association. I know the situation each of these local agricultural fairs are in. They are just hanging on by a thread. As I look around this body, I see many of you that have an agricultural fair in your district. Let me ask this question of you. Would you like to see this fair continue? I certainly would. I hate to see any of them have to struggle like they are doing. They were looking for this money. I've studied the budget and I don't see a thing in that budget document that says the controller has to send the money back to those five places it was designated to go to. I don't see anything that assures me that money will go back to the agricultural fairs. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. The good Senator was correct in it doesn't specifically state it in this amendment, and because it is silent, the controller, of course, can't just give it to his brother-in-law or whoever he feels like giving it to. The controller will go back to statute. The statute is the racino statute. Trust me, I looked at this very carefully. You know how much time our committee spent on it in this last session. It ended up being what I lived and ate for about three months. I'm very concerned, as are others, about the horsemen of the state, the agricultural fairs, and basically what is referred to as the industry as a whole. I'm very comfortable with this. In fact, there is a little twist that I thought

about. I was speaking with Mr. Hathaway. In the future there is nothing to stop bills from coming in that might go at those funds. Maybe there won't be quite the commitment into the future that there is currently in these two bodies. What makes it a little interesting is this kind of insulates that a little bit because if a bill were to come in the future, with this law also on the books, it creates an extra hurdle for people, who might try to pull money away from this fund, to be able to pull money away from either agricultural fairs or horsemen because the money is being used in this way before it comes back into the fund. I thought that was an interesting insight that Mr. Hathaway had. I'm comfortable with it. We do have an amendment that will clear this up, if those people think it's important to do that. I have presented it to the Appropriations Chairs. I hope that they will be considering it in their Part 2 if it is, in fact, necessary. I believe it will probably be redundant, but it may make people feel more comfortable. I agree that they have probably been pushed around and kicked around for quite some time. Believe me, I've felt their pain and I've felt their wrath at times last year. I want us to do every thing we can to protect them. I'm very comfortable with this and I don't think that we need this amendment. Their funds are protected. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hastings.

Senator **HASTINGS:** Thank you, Madame President, ladies and gentlemen of the Senate. Just briefly, we've just been told that this is really nothing to worry about. The money is really going to go to its intended purpose. I wonder. I looked at the distribution, section 1036, on the distribution of the racino money. It goes about eight different places. The only money that was taken and pledged was the fairs and the horseracing. Didn't take the General Fund money. Didn't take the share for the Fund for a Healthy Maine. Didn't pledge the University of Maine Scholarship money or the Maine Community College System Scholarship money. If it's really nothing, why wasn't it all pledged? What happened here? I wonder if maybe some of these other constituencies had a better lobbying effort than the fairs and the horseracing or were felt to be more important. There is something and there has got to be some reason why just a few are picked out. There is some risk to those funds. To sit here and say that those funds are not at risk, you can guarantee that they are going to go back to their intended purposes, is certainly belie to me by the choices that were made of those funds that would be pledged. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. First of all, there was no attempt, desire, nor was it done that any of the dedicated language that is in existing state law was left just the way it was. We did not do the selection of these accounts. The attorneys in conjunction with the IRS rules selected them. That is the reason why it ended up being structured that way. We have that material, and it is available. I don't have it with me, obviously, but I can make it available to you. I can rest assured, if someone sees a problem from this, it can be dealt with. That certainly was clear to us that we were not changing the dedication of the funds. The money remains where it is supposed to go. Under the terms of IRS, if I can remember

the language here, is that we are taking the money from all of these accounts and merging all of that money together. It now becomes a new fund, and therefore, no longer is affiliated with the past. It is then redistributed by the controller to where it is supposed to go.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Indefinitely Postpone Senate Amendment "E" (S-29) to Committee Amendment "A" (H-35). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#44)

YEAS: **Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS**

NAYS: **Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DIAMOND, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK**

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "E" (S-29) to Committee Amendment "A" (H-35), **PREVAILED**.

Senator **STRIMLING** of Cumberland requested and received leave of the Senate for all members and staff be allowed to remove their jackets for the remainder of the Session.

Off Record Remarks

On motion by Senator **NASS** of York, Senate Amendment "J" (S-35) to Committee Amendment "A" (H-35) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Nass.

Senator **NASS:** Thank you, Madame President, men and women of the Senate. We're part way there on ambulance services. The committee of jurisdiction, Health and Human Services, has passed a bill, and if it's not already on the Appropriation's table it will be, to adjust the Medicaid reimbursement rates for ambulance services. It is my understanding that the fiscal note on that particular bill was about \$1.8 million. It's my hope, through this

mechanism, to get it directly into the budget at about half that amount, about \$1 million, which I understand the ambulance services could live with. This increased spending, as has been pointed out before, but it is certainly within the amount of the balance that is available, as I understand it, currently in the budget. Like many other service providers, in the case of ambulances, we have squeezed them. I think that would be a proper way to look at it. We have not kept up with their reimbursement rates. They vary a lot throughout the state. There is no consistency in ambulance service costs. The reimbursement rate is fairly standard and fairly low. This would make an adjustment or start a process that could result in an adjustment to reimbursement rates for ambulance services. Thank you, Madame President.

Senator **ROTUNDO** of Androscoggin moved to **INDEFINITELY POSTPONE** Senate Amendment "J" (S-35) to Committee Amendment "A" (H-35).

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. Ambulance services are certainly important to all of our communities. Unfortunately, this issue didn't come before us in Appropriations, so we didn't have time, as a committee, to discuss this particular issue. For that reason, I would ask you to join me in indefinitely postponing this. We will have the opportunity in the Part 2 budget to take this issue up. Also, those who want to increase reimbursements for ambulance services will also have the opportunity to vote for them when L.D. 196 comes to the Senate. That bill, L.D. 196, relates to the same subject and has been, as I understand it, voted out of the Health and Human Services Committee. For those reasons, I would ask you to join me in indefinitely postponing Senate Amendment 'J'.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Indefinitely Postpone Senate Amendment "J" (S-35) to Committee Amendment "A" (H-35). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#45)

YEAS: **Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS**

NAYS: Senators: **ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK**

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "J" (S-35) to Committee Amendment "A" (H-35), **PREVAILED**.

On motion by Senator **COURTNEY** of York, Senate Amendment "K" (S-36) to Committee Amendment "A" (H-35) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. This amendment would remove the 7% tax on sales and lodging for casual renting of living quarters for more than 14 days. I think that if this is passed in this budget, I think this is one of those things that we are going to find out about next summer or maybe into the fall with a lot of phone calls. I think that the people of Maine, individuals, that rent their houses out for a few weeks to off-set their taxes probably don't want to become an agent of the Maine Revenue Service and have to collect and remit taxes. I would ask your careful consideration and respectfully submit this amendment. Thank you.

Senator **ROTUNDO** of Androscoggin moved to **INDEFINITELY POSTPONE** Senate Amendment "K" (S-36) to Committee Amendment "A" (H-35).

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. The casual rental provision is a matter of fairness. People who rent their camps through realtors generally do pay the tax already and so should those who do the renting themselves. This is limited to people who rent for more than two weeks a year. Those who are truly casual renters will not be affected. Furthermore, this particular amendment unbalances the budget and there are no suggested sources of revenue that could re-balance the budget. For those reasons, I would ask you to join me in indefinitely postponing Senate Amendment 'K'. Thank you.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Madame President, may I pose a question through the Chair?

THE PRESIDENT: The Senator may pose her question.

Senator **PLOWMAN:** To anyone who would care to answer, can you tell me how this is going to be enforced?

THE PRESIDENT: The Senator from Penobscot, Senator Plowman poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President, men and women of the Senate. First of all, let me just go back to federal law for a moment. When you have property that you are renting more than 14 days, you are actually supposed to declare that under federal law. You should be filing already under federal law. That's the IRS code. Keep in mind that this is then submitted to the bureau. The bureau, quite frankly, has always said that there has always been that law on the books. They were unclear, basically, as to what the overall intent was and that is the reason why they brought it back. They believe that it was already taxable. It was not being enforced because they were unclear about what was the intent. What we are doing here is clarifying the intent and saying that this is supposed to be taxable. Let me just point out to you what's happened in the last number of years. At least in my area, it's basically more people renting their houses in the winter time while they are in Florida to the snowmobilers at about \$1,000 a week. They do that all winter for three or four months, in Aroostook we can do it for four because we have snow, and they get that income. Not a problem. I don't have any problem with that. Basically, they are renting it per week, not to the same persons. That's always been taxable. Also keep in mind that if those rentals are being done through a real estate agent, they were collecting the money because the real estate agent was, in fact, adding the 7%. With the others it's a question, the Senator from York, Senator Nass and I could argue about this, about the fairness of it. He would argue that the tax should be removed, on the other side I would argue we, basically, should treat everyone alike. That's the background to it. They do have the auditors to do the checking.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Indefinitely Postpone Senate Amendment "K" (S-36) to Committee Amendment "A" (H-35). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#46)

YEAS: Senators: **BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS**

NAYS: Senators: **ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK**

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "K" (S-36) to Committee Amendment "A" (H-35), **PREVAILED**.

On motion by Senator **MILLS** of Somerset, Senate Amendment "T" (S-53) to Committee Amendment "A" (H-35) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President. This rather substantial amendment, which I want to take a moment to thank the technical staff for having helped me in the drafting of, arose from some bi-partisan communications and discussions that began early last week. It arose because there were several of us, on both sides of the aisle, who were deeply and profoundly disturbed about the borrowing of \$447 million in the proposed budget and the use of about \$250 million, I think it's closer to \$270 million, for current services. This was, frankly, appalling to several of us and I must say that sensation was experienced by a large number of people in this chamber and the other chamber that I have run into and spoken to casually. I realize that we are in the minority here on this side of the aisle and we don't really have the capacity to open up the subject of spending as greatly as we might desire. Perhaps it is worth conceding. In this very difficult time, it would be a significant challenge, frankly, to try to balance this budget through spending cuts alone. I think that I am one of those that shares the view that more could have been done on that side of the ledger, but I want to admit that we are at a point where we have to have resources and revenue from some other source in order to put this together in any reasonable way. I say that because part of the reason was that we got trapped into an adverse vote on the public referendum last June that made substantial demands on state source revenue. Frankly, I think the public, at large, expected, as a result of that vote in June, to see a revenue initiative of some kind, even a temporary one, at the state level. I don't think they perceived that we could possibly fund that rather huge mandate to the state out of spending initiatives and spending cuts alone, although I do want to hasten to add that I think we could have done much more in that line. As a result of a number of conversations that I thought were quite productive, quite useful, and quite educational, this amendment was prepared. I want to make three major points about it that I think people need to understand.

Number one, this amendment never would have hit the floor, certainly not under my signature, had it not been a bi-partisan amendment. If we had such a procedure that would permit mutual or dual endorsements of amendments, I can assure you that some of my friends on the other side of the aisle would have co-signed this with me, and indeed, several others on the this side as well. I bit the bullet and decided that I would put my name on it because I felt just as strongly about this as anybody and I think it was the general thinking that it might be more powerful if it came from this side of the aisle.

Second point, although this amendment raises new revenue, none of the new revenue persists beyond the time of the next election. It offers the challenge, 'What could we do if we put a penny on the sales tax for 16 months and terminated it November 1, 2006? How much of the borrowing could we substitute with that mechanism?' We found that we were able to substitute,

using this and some other things that I'll mention in a moment, all of the borrowing that is being done by the majority budget for purposes of maintaining ongoing operations of state government. The residual borrowing, that still does exist in this document, is on the order of \$140 million, but every penny of it, in fact \$150 million in this amendment, goes directly into the UAL and pays down the teacher unfunded pension liability. We can say we made the policy judgment in putting this together that we didn't want to borrow any money that could not fairly be characterized as a refinancing of an existing debt or obligation. The cornerstone of this amendment is that it preserves that aggressive 14 year payment against the state employee and teacher unfunded actuarial liability. It keeps us on that track. You can say, as some of you will argue, 'Oh, that greatly enhances the structural gap for the next biennium if we continue to adhere to that aggressive payment schedule in the years to come.' Of course it does. It's like making an advance payment on your mortgage in this year and next. If you choose, if the later legislature, the next Governor chooses to revert to the longer schedule, that is the choice that we've made more palatable and easier for them because by paying so much in this biennium we will have relieved them and their payments will be that much lower, not only in the next two years but every other biennium henceforth until this obligation has been met and paid off.

Third major point, we also do some tax reform in here, but there are no taxes on anybody new that aren't scheduled to be fully aired by the Tax Committee in April. I fully anticipate some of you will stand up after me and say, 'Oh, there are new taxes in here. There's a broadening of the sales tax. There are some new people that are going to be taxed and we haven't had a public hearing.' All of that is true. The taxes don't go on until at least in one instance October 1st and in another January 1st of the coming year and there is a specific direction to the Taxation Committee to hold public hearings on those proposed taxation initiatives and a whole series of others that have been discussed at very least for the last 11 years that I've been a member of this institution. We have tried again and again to try to expand the base of the sales tax and I've never seen an effort work. There are two things that everybody says about our tax code, that everybody agrees is true; the income tax is too high and the sales tax is too narrow. We, indeed, have one of the highest income tax rates in the United States. Not only is it high, it begins in a bracket that is quite low. Our sales tax base is regarded by most analysts as about the narrowest imaginable, and about the narrowest that exists in the United States. Any rational person who serves more than a month on the Taxation Committee rapidly comes to the conclusion that we are long overdue for doing two things; reducing the top rate of the income tax to induce new businesses to come here and remain here, and to begin eroding Maine's nefarious reputation for having high tax rates. Secondly, we should pay for that by expanding or broadening the base of the sales tax. I heard this speech from many of you on the other side of the aisle and from many on this side. I won't repeat it any further.

This amendment comes in two concrete compartments or packages. In the one instance, it says, 'Let's see if we can't get rid of the borrowing that is being done to keep the store open and for that we will substitute a 16 month self-terminating surcharge of one penny on the sales tax and we will take care of that and we will adhere to the aggressive 14 year schedule for paying off the unfunded liability, at least on our watch, so we can turn over the ship of state in November of 2006 and say we left it a little bit

better than we found it.' Put that compartment to one side and think about another compartment completely. That is, why aren't we doing something about tax reform? Why don't we answer this question of lowering the top rate of the income tax and broadening the base of the sales tax? That is done in this amendment. We had a problem, though, that we confronted fairly and squarely. That is, if you go ahead and enact a reduction in the income tax, as we have done, you have got to pay for it. You can't just say, 'Oh, would you in the Tax Committee go out and have a little discussion and some public hearings and work sessions and come back with a bill to fill the hole that we built over here on the other side?' Old FDR won't buy that. You have to fill your own hole. So we did. We adopted a couple of categories of expansion of the sales tax and we put them in there. We directed the Tax Committee to do the right thing, and hold public hearings about that issue, report back with a bill that contains, amends, or substitutes those expansions and look at all these other expansions that are possible and get the job done and get it done on our watch, in this session.

In the income tax package there are a couple of things that you will find of interest. Not only does the top rate come down from 8.5% to 8%, and that is done at a cost of \$40 million annually, it also raises the personal exemption, which in Maine is frozen now at \$2,850 per person. You may recall that the personal exemption is the part that you get to put on your tax return for every taxpaying man, woman, and child in Maine. If you have four kids, you get your spouse, you, and four others. You get six of them. You multiply that number of exemptions in your household by a fixed dollar amount to reduce your taxable income. In the federal law, the personal exemption escalates each year by inflation. It's now up to \$3,100. Next year it will be at \$3,200. We propose to have that personal exemption in Maine matched to the federal by January 1, 2006. It will cost us about \$22 million a year to make that conformity. The other thing we did was to pick up health savings accounts. It's only \$650,000. Why are we not conforming to federal law? I don't get it. It's a small cost. These things are coming on stream. They do facilitate access to health insurance and healthcare. Not everybody may agree that it's the right avenue to pursue, but it's another option and it's an option that federal law makes available but under Maine law you have fill out a little block on your own income tax return that takes it away from you. It's an annoyance and it has slowed down the market access that we have to these instruments or these insurance policies that are being introduced in other states much more rapidly. For \$650,000 a year, why not conform to the federal law on that score?

Another point that we've introduced here, for years and years and years it has been possible for a businessperson to buy up to \$25,000, or thereabouts, it's grown slowly from \$19,000 to \$25,000, worth of equipment and write it off completely without the bother of having to do depreciation schedules over three, five, or seven years. Three years ago, the federals, as a way of kick-starting the economy, jumped that number up to \$100,000 a year. Did Maine conform? No, we didn't. So now the accountant for every small business in Maine who takes advantage of this has to set up separate little depreciation schedules and track, slowly, the depreciation on equipment, for state tax purposes only, if the purchase price is between \$25,000 and \$100,000. It will cost us about \$6 million in the first year to conform to the federal law for this business inducement. In later years, it cost us much, much less. Why? Because we lose the revenue from depreciation and at some point the state will lose the revenue on the write-off. The

question is, do you lose it in the first year or over three or over five or over what have you? Here again, this is an annoyance to businesses. If this administration and the majority on the budget was sincerely interested in creating inducements for businesses to thrive here, you can do all the Pine Tree Zones and all the complicated stuff that you want, but here's a little one that's not so little, but is right under our noses, and in the long run doesn't cost of anything, really, because we lose the money over time in any case. That's in here.

We have also increased the earned income tax credit by a slight amount and we've increased, immediately, the childcare credit. It's due to increase in the budget to give credit in the second year of the biennium. We chose to increase it in the first year of the biennium.

That's the package. As much as I take issue with this budget, and as you can tell from my votes this afternoon that I have many issues, I recognize that the process of politics is the process of compromise. I also recognize that I'm in the minority. I can safely say that if we can take care of this abhorrent and ill advised borrowing that's in the majority budget, I will hold my nose and vote for this budget if this amendment goes on. I believe there are others who will do so. I can't speak for all of them. I do feel that this is a far better budget when you put this amendment in there. You're going to have something to take home to the people of Maine that you can be proud of. I don't know anybody, even the proponents, who are proud of this majority budget. Even the man on the second floor confessed to me. Not a pretty sight. It's even ugly. Why do we have to have an ugly, unpretty budget? Why can't we do something that we can be proud of and take home to the folks and say, 'Alright, we bit the bullet.' I have had so many people, many Republicans among them, come up to me and say, 'Why are you doing with this? Why are you persisting and not just putting a penny on that sales tax?' I think the people of Maine assumed that penny was going to go on as a result of the vote last June. I don't want to see it go on. I think that it is an important reserve account against bad times. I really do and I think it only ought to go on temporarily. I am truly worried about whether we are going to be building any ships down in Kittery, or repairing them, two or three or four years from now. I'm very worried about the airbase in Brunswick. I don't know how long we're going to be building destroyers in Bath. I'm not naturally a pessimist. I would rather be a Regan, good morning in America, type because I think people like politicians who are always smiling and looking at the affirmative. I've heard that said today. It's an appropriate sentiment. Where ever possible we should express these fond hopes and optimism. Folks, we've got to be realists too. Why are we digging this enormous deep hole for our successors to contend with? It's way beyond me. I hold out this olive branch. I'm begging for something from the other side. I've had a great deal of response from many of you. Frankly, if people on my side of the aisle, and that side as well, want to vote against a 1% increase in the sales tax, even on a temporary basis, if you all want to vote against it and leave me standing here alone, I'll go home with a clear conscience. Thank you.

Senator **ROTUNDO** of Androscoggin moved to **INDEFINITELY POSTPONE** Senate Amendment "T" (S-53) to Committee Amendment "A" (H-35).

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO**: Thank you, Madame President, men and women of the Senate. I appreciate the olive branch that the good Senator from Somerset, Senator Mills, has extended to us. The amendment is very laudable in concept and I very much applaud the bi-partisan work that's gone into it. The difficulty, as I see it, is the fact that it's a huge change in tax law and it's a huge change that hasn't had the opportunity to be reviewed by any committee. I hope very much that this concept can be reviewed thoroughly by the Taxation Committee in the coming weeks and that the conversation about this continues. There is certainly the possibility for us to take this up in the Part 2 budget if there is interest after that thorough review in the Taxation Committee. Until that time, however, I feel that we must indefinitely postpone Senate Amendment 'T' and ask that you join me in doing so.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE**: Thank you, Madame President, men and women of the Senate. I spoke earlier in today's debate regarding my view of the irresponsibility of the underlying budget for the tremendous borrowing that it entails. I would submit that the change that the Senator from Somerset, Senator Mills, proposes to tax structure is no greater than the change that this budget poses in terms of borrowing. Ideally, from my perspective, this budget would address the very real issue of spending. We do have a spending problem in this state, but the regrettable refusal by the majority to engage in bi-partisan negotiation for a two-thirds budget over the next weeks makes it clear that we, on this side of the aisle, will not have the opportunity to have an effect on spending. On a bi-partisan basis, all of us here today do have an opportunity to do something to stop this irresponsible borrowing package. I am appalled by the effort from the Chief Executive to mischaracterize this bi-partisan proposal initiated by the good Senators from Lincoln, Somerset, Cumberland, and Androscoggin Counties; Senator Dow of Lincoln, Senator Mills of Somerset, Senator Strimling of Cumberland, Senator Nutting of Androscoggin, and myself, to reject the mindless and massive borrowing scheme at the core of this budget. This is a bi-partisan proposal. It represents a coming together across the aisle in a determination to adhere to the principle of pay-as-we-go. I'm struck by the fact that the Chief Executive is so eager to make sure that the bill for the spending in this budget doesn't come due on his watch. I will not be a party to that irresponsibility and I consider the Mills amendment as the truth in budgeting amendment. I really had hoped, given what I've detected here as the lack of partisan acrimony in the course of these first few weeks of this session, that we would be able to work through, as we have done historically, and hammer out a two-thirds budget. It's clear we can't do that, but we can inject some level of honesty and responsibility into the process. At the same time, we have the opportunity to reduce the income tax burden on Maine's hardworking tax payers and to provide a more level playing field for Maine's businesses with the increased depreciation allowance and begin the process, the long over due process, of restructuring Maine's ill conceived and burdensome tax structure that has held

our state back for too long. I commend the bi-partisan efforts behind this amendment and I urge its adoption.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Strimling.

Senator **STRIMLING**: Thank you, Madame President. I rise in support of this amendment and to oppose the motion that is in front of us. Besides all of the good things that it does and replacing the borrowing for those of us who have had so much trouble with the borrowing, I want to make sure that we understand that this amendment doesn't change anything in terms of what the priorities of the budget are that the Appropriations Committee put together. I greatly appreciate the hard work that was done there. A lot of hours were put in. There was one piece of the budget that some of us were trying to fix while making sure that we still do all the investments in our budget in education and job in the state. This is trying to fix that one piece. In doing that one piece, I think we finally have a budget that I believe we have an opportunity to have bi-partisan support for. That's really what I want to speak about. Yes, this gets rid of the \$250 million. Yes, it saves us \$100 million in interest. Yes, it gives us a better chance of not having our bond rating decreased. It does all of those great things. Yes, it is pay-as-you-go. Yes, we would be the first legislature in the history of Maine to reduce the income tax burden, the first ever to do it. It does all of those great things. What's almost more exciting to me is how it came together. We have spoken for months about wanting to build something bi-partisan. I'll be honest with you, in my first term last time I didn't really understand the bi-partisan. I came in here, I was a Democrat, I dug my heels in. I didn't know how to have those conversations. Wasn't really interested in them. I actually didn't begin to have them until I sat next to the fine Senator from York, Senator Nass, who could almost be my opposite on most issues, on the Taxation Committee. We began to talk and I began to understand that all of us in here want the same thing for Maine. We all want jobs. We all want education. We all want healthcare. We all want a good environment. We just have a different road that we want to walk to get there. This started in a bi-partisan way. The Senator from Lincoln, Senator Dow, after voting against the supplemental budget, on the very same day he voted against the supplemental budget, the one person to do it, walked up to me and said, 'You know I have a problem with the borrowing just like you do, Senator, and I'd like to talk to you about a way that maybe we could find a compromise. I'd be willing to support a little bit of revenue if you might be willing to take a look at some of the tax code.' From there the Senator from Somerset, Senator Mills, came in, then the Senator from Androscoggin, Senator Nutting, came in and then the Senator from Washington, Senator Raye, came in. It was a truly bi-partisan effort. I'll remind people that as we were making calls this weekend, calling our colleagues and saying, 'Hey, there's a chance here, an opportunity' how many people got excited by that. The phone calls said, 'Wow, really. A chance for bi-partisanship?' We were hearing it from so many people. One by one, by one, people coming on board, both sides of the aisle. That's what I ask us to embrace today. There's a chance. There's a hope. There's a possibility. Everybody looks at this and says, 'Wow, this is a really good idea.' More importantly, there is a chance for us to finally come together on this budget and have something come out of here that is bi-partisan. I

strongly encourage you to defeat the motion and support this amendment.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Dow.

Senator **DOW:** Thank you, Madame President. I must admit, I'm always in a quandary. A vote of 33 to 1 on a measure one day and then turns around and makes something seem probably extraordinary. The quandary I'm in is because I like this proposal. The reason I like it is because I feel it's more economically sound. There I go again, back to business. More economically sound than anything else. I'm not a borrow-as-you-go person. It doesn't work in my business. I have to pay-as-you-go. Of course the State of Maine isn't a business.

The second thing that gets me in a quandary is something I couldn't learn from my father because he sat in the Republican Senate with a Republican House. At one time they had a Democratic Governor, who happened to be the great Governor Muskie. I'll tell you, you can't find any fault with that or him. I still think this is a very sound plan. My hope was that it would do something that my father did teach me, which is to do things in a new way. The new way, in this day and age, is to have bi-partisanship support because the new way really isn't new at all. It's old. When I was 8 or 10 years old, people came to my tiny house and they sat in the kitchen and smoked cigars, because there were no women in the Senate then, much to the detriment of the State of Maine, I might add. They smoked cigars and they drank some liquid which wasn't clear, so obviously it wasn't water, but that's the way things got done back then. I'll tell you right now, I know all those people weren't just Republicans. When they got done, they shook hands and got up and the business was finished. I came up with this idea, not all of it, but I came with a temporary tax increase, knowing that the sales tax base is weak. That base relies too much on new car sales and building supplies. Had we had a real recession last time, we would have been in real trouble. We didn't have a real recession. The building supplies kept going out. I also knew that our biggest industry in this state is tourism and that 15% of our income comes from tourism. Only 8% of the taxes come from tourism. There is one of the weaknesses we were looking at.

I'm still in a quandary. I must admit to everyone, ladies and gentlemen, I'm still in a quandary because I'm still hoping that this idea will produce a two-thirds vote. The quandary is that I feel that if it doesn't produce a two-thirds vote, maybe it isn't any better than any other proposal. Those are the two things I wanted to happen; to step across the aisle and start doing things the old fashion way but to go back to a supermajority vote, not the way it's been done recently. You have to look at the list of budgets that have been passed. Most of them, years ago, were passed by a two-thirds vote. Most of the ones in recent time have only been passed by a majority vote. I feel a majority vote is a failure. I can remember when Senator Martin got up and talked about the vote after the EPS vote we had. Because it was not a supermajority vote, it left us with only a couple of choices for the remainder of the session. I will admit that when it comes to knowing parliamentary procedure, 34 of us together couldn't out do Senator Martin. I feel that he's wrong in the application of it because I feel that a supermajority is needed because it does show compromise and working from both sides of the aisle. Without that we're almost at a failure. I've given you all my reasons. When I sit down, I'm still going to be in a little bit of a

quandary. I want everyone to know that. All those I've spoken to on both sides of the issue. I've given you my arguments. I would like to see this passed by a supermajority vote. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you, Madame President. I, too, am in a quandary. Maybe we should gather everybody else who is and we could have quite the little party, I suspect, in dealing with this amendment and with this budget. Like so many have mentioned, the borrowing plan that is in this budget causes tremendous angst for a lot of us. The thought of going home and having to tell constituents that to balance the budget we had to borrow money. I've got a lot of response from constituents on this. There has been tremendous opposition to the idea of floating with the revenue bond. There hasn't been, however, a whole lot of agreement on what to do. About half the e-mails say to bite the bullet and raise taxes if we need to in order to balance the budget. The other half say to cut spending, do whatever we have to do, and cut as many programs as necessary to balance the budget. I think that is precisely the dilemma we are in and why we are facing the borrowing. I think there is a tremendous absence of consensus on how best to bridge this gap. If we cut all these programs, as we've heard earlier from Cumberland, Senator Bromley, about the impact that this could cause. If we simply raise taxes, we face the ire of a populist that is getting tired of the rising tax burden. I, too, share the quandary that the Senator from Lincoln, Senator Dow, mentions. I'm still considering this amendment. I think, as was previously said, this amendment isn't perfect. Neither is the borrowing plan. I think the question comes down to each one of us trying to wrestle with these options and decide which is the lesser evil. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. This is a rather momentous occasion. I'm very pleased to be a part of it. On the one hand, you have a Republican proposing a tax increase. On the other hand, my heart be still, you have the good Senator from Cumberland, Senator Strimling, proposing a tax decrease, on the record. This is precisely the reason why negotiations need to continue. Precisely the reason. I admire the work of the Appropriations Committee. I have never been a member of Appropriations. I do have some sense of the hours that they spend negotiating. For us to be considering an amendment tonight that will radically change the tax structure of the State of Maine is precisely the reason why we need to continue negotiations. We left here this afternoon, from my perspective, once again feeling that old feeling of partisanship. Now we have rekindled a more appropriate feeling of bi-partisanship, which is what the people of Maine expect of us as Senators and members of this distinguished body. Again, I say to you, I appeal to you. This is precisely the reason why we need to continue negotiations. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING**: Thank you, Madame President, ladies and gentlemen of the Senate. I rise, I guess, this early evening in support of this amendment. I stand in support of where the majority budget proposes to spend the money, but I'm not in support of the borrowing for current expenses. We heard earlier a comment about how this is a big change in the tax structure. To me the big change is borrowing this amount of money. This deficit spending borrowing is one way that I don't think we should conform the way we do business to the way the federal government does business. Borrowing and borrowing, they've borrowed way too much money. Now I hate to see us head down the same road. I would remind members that in each committee of jurisdiction's report to the Appropriations Committee, I was amazed at how little difference there was between the Republicans and the Democrats in where they wanted the cuts and where they wanted the spending. Committee after committee after committee, it was very uniform. I think that's very commendable. Here, this early evening, we're faced with a choice. Choice 'A' is in the budget, borrowing \$250 million. In my opinion, with a hidden \$108 million tax included there, you've got to pay the interest. So let's talk about it. That's \$108 million, besides the \$250 million, that has to be paid back. That's why this budget doesn't propose to pay-as-you-go.

This morning I parked my car in the CMMC parking lot. It's been a bit of an emotional day. My mother had successful open-heart surgery today. I'm parking my car in the parking lot and walking into the hospital. I was a little apprehensive about it. I passed somebody walking towards his car. We had passed about ten feet and all of a sudden I heard my name being called. I turned and the gentleman said something I think was very, very interesting. He said, 'Senator Nutting, I'm a little short for grocery money this week. Can you borrow a little for me?' That's the attitude out there from Democrats, Republicans, and Independents, that we shouldn't be borrowing for ongoing expenses.

Plan 'B' or option 'B', is the bi-partisan amendment that is before us. The temporary 15-month one-cent surcharge to raise the \$250 million, in my opinion, is the only responsible way to proceed. In addition to saving the taxpayers of Maine \$108 million in interest, if you look at where the \$250 million of the 16-month one penny comes from, approximately \$25 million of that \$250 million raised comes from, you've guessed it, non-residents. To me, the real difference between the budget proposal that is before us and this bi-partisan amendment is really closer to \$135 million of savings to the people of Maine. State after state after state is changing their tax codes so they collect more money from non-residents so their own residents have to pay less. In this budget, with borrowing and paying back the interest, we seem to be not collecting money from non-residents so we residents can pay more, which is exactly the opposite. Take New Hampshire for instance. Last year they instituted a 9% sales tax, they call it a use tax, on meals, lodging, ski lift tickets, bowling, golf, and everything to do with recreation. Why? Because a lot of those recreational areas and close to half the money that comes in, is from non-residents. Yet we seem to be heading in the other direction.

I also need to comment on process. The last ten days, while working on this bi-partisan amendment, frankly, and don't take this too rough, it's the most fun I've had all session because we're working, negotiating, and discussing with Republicans and Democrats on how we can craft something to help everybody in Maine, and incidentally, save everybody in Maine almost \$140

million. I think that is the beauty of this place. Unfortunately, I often have to talk about the ugliness of this place because in the last 48 hours, to hear party leaders who aren't in this chamber and some members of this chamber take the other party to task, and both parties are guilty of this, and try to raise questions about motives, to try to just defeat this bi-partisan amendment, that sickens me because it's the ugliness of this place. I am proud of my work in this bi-partisan amendment. I think this is a historic occasion where we can really do something to benefit everybody in Maine, to stimulate small business development, and to save interest owed. In conclusion, I want to make one final point. I'm afraid some time in the next five to ten years some foreign governments may begin to call in our country's debt. I think we're going to be facing unprecedented federal cutbacks in this state. Do we want to face this potential national economic downturn? How will we survive that after having given up \$125 million of liquor money last year and saddling people with \$360 million worth of borrowing and interest this year? I don't see how we're going to survive that. We have to turn to a system where we pay as we go. I want to remind you again that I thought I was going this morning to have a few hours off from politics at the hospital but that gentlemen brought it home to me. The attitude out there, the disgust out there from people that we would begin to borrow money the way the federal government does. Again, I urge support of this bi-partisan amendment. I think it moves us in the right direction and saves us in excess, saves Maine's people in excess of \$135 million. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Nass.

Senator **NASS**: Thank you, Madame President, men and women of the Senate. I think we need to recognize the skills that the Senator from Somerset, Senator Mills, always brings to these debates. It is as the Senator from Androscoggin, Senator Nutting, has suggested, enjoyable. He should get great credit for starting these things. I think right now it is my job to do a reality check on this. Some of the worse things we do in this legislature we do in this manner; last minute, without public hearings, without much debate, and without much understanding. Whether this is one of them or not, I don't know. The problem with this is that we won't know until we're out of here a couple of months or maybe a couple of years from now. The things I'm going to point out in this I think are bad. I think we don't know what the result of this is going to be. At best, I think that is the case.

Page 2, transportation costs. This amendment meddles with EPS. We don't know what the effect of this is going to be. I don't know what the effect of this is going to be. It meddles with EPS on the transportation costs, one of the real sensitive areas of essential programs and services. It seems to guarantee 90% of the prior funding, and therefore, locks that in. Therefore, savings from transportation are not going to be available. That's my quick reading of this. This is not the place or the time to be meddling with that thing which has been underway, just barely underway and hanging on by its thumbnails, for more than 5 years now. This isn't the place to do it.

Moving on. It removes almost \$31 million the first year and almost \$140 million the second year from teacher retirement. That probably is part of the borrowing thing, but I don't know what it is. I'm just looking at it. By the way, I just got this thing a few hours ago, which is the other part of the problem. We did not have a chance to pick this apart.

Next, it provides the sales tax on business support services, or as it says here support services. Does anybody here know what that means? Look at page 4. Some of it fairly straightforward; office administrative services, facility service, employment staffing, support and transcription, investigation and security services. Oh by the way, management and remediation of waste. Does that mean our municipalities are going to be paying a 1% tax on waste hauling and transfer stations. I don't know the answer to that.

Moving on. I'm skipping a lot of it. As we move into the Taxation Committee and their requirement to come up with the funding. It is the same problem the Taxation Committee has been faced with on a perennial basis. We all know we need to broaden the sales tax base. Some of us want to do that because it would mean revenue. Some of us can only go there, and want to go there, if we can control the total growth in spending. The cap we passed as part of L.D. 1 is not it. I don't know what is going to be it, but it's not an effective cap. Here's what is on the table, as we send this down to the Taxation Committee; groceries, coal, oil, gas, electricity, funeral services, and a lot of the things you would normally expect to be there. Newspapers. Wouldn't you just love to tax newspapers?

The other thing that was suggested earlier, that somehow we're going to conform with the H.S.A. in here. Of the preliminary pieces of paper I saw on this, two of the three, the one that did not have the Senator from Cumberland, Senator Strimling's name on it, did suggest we were to conform with H.S.A. I think that's an important piece. I don't find it in here. Maybe it's here some place.

I have two more points. One, we are still borrowing \$140 million, maybe as high as \$180 million, in this package. This is not going to get us out of the realm of borrowing. It certainly is going to take it down a peg, but it's still going to be a borrowing piece. Most important to me and finally, there are no spending reductions in this package. I would urge that we adopt the indefinite postponement motion now before us. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator SCHNEIDER: Thank you, Madame President. If I had met with the person in the parking lot who asked, 'Will you borrow for me?' If that statement was made to me, my response would be, 'That's exactly who we are borrowing for.' We're borrowing for people like yourself. We're borrowing for education. We're borrowing to make sure that we meet the needs of the most needy people in this state. I don't have a problem with that. I would prefer not to have to borrow. I haven't had a great deal of trouble with it like other colleagues of mine have had. I certainly prefer not to borrow. I don't like borrowing. I think the citizens of the State of Maine understand that when they passed the referendum in June, with a shortfall projected at that time of close to \$1 billion projected, though it seemed to decline over time, that somehow we were going to have to come up with the funding to achieve the 55%. There was a bi-partisan committee that worked very hard to try to come up with a way to achieve funding for that piece of legislation in two years. I attended most of those meetings. I actually voted in favor of a tax increase that was proposed by the good Senator from Somerset, Senator Mills, one of the few Senators who spoke in favor of that and ramping up more quickly. I think you all know that I don't have a problem with a sales tax or a tax increase of some sort. However, I do agree

with the good Senator from York, Senator Nass, that this is not the appropriate way to do tax reform or tax overhauling. I want to see our taxes looked at from bottom to top and top to bottom. I don't want something just thrown together here because there are people who are uncomfortable with the borrowing. I believe this is going to be worse. I believe we will be borrowing and taxing. I don't think that is what the people of Maine want. I think that they understand the situation we're in. These people in my district are pretty bright. If you say money doesn't come from trees, you've got a shortfall, and you can only cut so much because otherwise you start hurting the most needy people and impacting education, you've got to come up with the money or a revenue stream somehow. I think that they are pretty reasonable. They don't like borrowing for various things like college educations, automobiles, and houses. We do it because sometimes we have to do it as a temporary measure to achieve what we need to accomplish in our lives. That being said, I encourage and I hope that this bi-partisan effort continues in the looking at our tax structure and I hope that we will have an overhaul. I don't think it's a good tax structure that we currently have. I do want to say to my colleagues on the other side of the aisle, who are in favor of this measure, I'm going home with a clear conscience. I can stand tall and say to people, 'This is the hand we have been dealt. This is how we've worked hard to try to achieve a measure of some kind of security for our state. It's not perfect, that's for sure, but then the financial situation of the state is not perfect either.' I personally don't believe that this olive branch is as much of an olive branch as it is a switch to make me feel somehow guilty for not voting for a tax increase at this time. I can't, in good conscience, do that because I agree with the good Senator from York, Senator Nass. This has not been looked at. It's been thrown together. It takes transportation from EPS, which is something that was put in there that I think is going to cost a lot of money. I haven't had any time to look at this. We've been working in education for two months with EPS. I am very concerned about this piece of legislation, this amendment. I would encourage you not to support this amendment. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Mitchell.

Senator MITCHELL: Thank you, Madame President. In the keeping of the unusual spirit of this afternoon and to remind you that even older people like singing groups like the Grateful Dead. I keep hearing the line, 'What a long, strange trip it's been.' I simply could not pass up the opportunity to stand up and say that the Senator from York, Senator Nass, made my speech. I know this will never happen again, so I wanted to say it now. I also want to thank very much Senator Mills of Somerset, Senator Nutting of Androscoggin, Senator Strimling of Cumberland, and Senator Dow of Lincoln for working so very hard on this. I must point out to you what happens when we create policy like this. Senator Dow has been so eloquent in talking about a time when no women served in this body. Well, it was worse than that because most of the decisions, in contrary to popular belief, were made when they went off to a building which no longer exists, called the Augusta House, and a few select men with a few select lobbyists decided what the utility policy would be of the state. Sorry, Senator Bartlett, you wouldn't have been there. I did not serve back then. All of these decisions were made without the benefit of what we've worked so hard over the years to create.

We have a professional staff, which is non-partisan. You have the Appropriations Committee working in public. I listened, as many of you did on your policy committees, to the painful stories that they heard as we sat there. I listened as parents of children who needed early intervention services, because we booked, ladies and gentlemen, \$6 million worth of savings out of that program. All of us are terrified that this is going to get right back down to the children. Lest you think hard decisions were not made by anyone.

I also happen to know exactly what that transportation amendment does. I want to share it with you because I think it is terribly inappropriate in this amendment. We, in an attempt to deal with the problems of transportation in rural Maine, tried to add money to the budget, which is in the majority report, that would take care of large SAD's over 1,500. I will admit that our committee didn't totally understand how it worked because we're still trying to understand how EPS works. The concept was that you would not get less than 90% of your transportation budget. It was supposed to be 75% but these folks are going to get 90%. Let me tell you what this amendment does. First of all, I don't know if there is a fiscal note on this that tells you specifically, but it's another \$500,000 to do what this amendment asks to do. What the formula says, if you are getting a cushion, a nice big cushion to help you get through this year, you don't get this extra money. Guess what, Fryeburg got about \$454,190 for a cushion, so therefore it was not eligible for this. Here's a bigger one. \$1.3 million in cushioning went to Bridgeton, therefore, they didn't get any. Those are the people who did not get the extra bounce up. If you want this, you have to pay another \$500,000. It's important you know that.

There's a milk tax in here. There are all kinds of things in here that we haven't talked about. There is a shift in funding for the State Police. I really respect these gentlemen. I think they're among the brightest. Maybe there were no women in that group either. They are among the brightest in the state. I think they've made a good faith effort, but unfortunately, the Maine Legislature works best on the committee process. I'm sorry the process broke down because I know how hard you worked together. I know how close you came to getting this right. When Senator Strimling asked me if I would be interested in this proposal, I was so excited because I thought he was going to get rid of borrowing. Ladies and gentlemen, you put lipstick on a pig and it's still a pig. You're still borrowing. We've complained all day about revenue bonds. How do you think you are going to fund the savings to the retirement system? It's a revenue bond. Is it going to the voters? I don't think so. So we can't have it both ways, ladies and gentlemen. I wish this worked. I don't want to borrow, but I've got to deal with this budget. We all have to deal with this budget. Our schools are waiting. In fact, there was a town meeting tonight in China I should have been at where they are waiting to do their school budget. Your towns are waiting. We must get it done. I don't know a better way and I haven't heard a better way. I don't think we can do it with ADHOC groups, unfortunately, who don't have time to have the proposal scrutinized in the light of day. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you, Madame President. I'd just like to propose a question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **COURTNEY:** With Part SSSS, the expansion of the sales tax, I notice that everything seems to be listed in the legislation. I'm wondering how it's treated if the Taxation Committee doesn't come up with an agreement. Is this a default position or does it have to go before the entire legislature? I wonder if somebody could explain that.

THE PRESIDENT: The Senator from York, Senator Courtney poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President, men and women of the Senate. Yes, in order to plug the hole created by the reduction in the income tax, it is important to have a default set of provisions. It is also important that the Taxation Committee be given explicit instructions to hold public hearings on those very expansions, every one that has been talked about this evening, and to come back by May 10th with a bill. Is it guaranteed to be a unanimous report? No, it's not. Is it guaranteed that we might even pass another bill? No, it's not. If there is a default provision in there, then it puts the impetus not only on the committee but on the institution to get this job done that hasn't been done, in my observation, for, it's safe to say, since the sales tax went into effect in 1952. There has been nothing but an unbroken chain of erosions to the base. That's not entirely true, but I'll hold that out as a challenge to you. What have we done to repair it? Nothing.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you, Madame President. I guess that's probably the biggest problem with this thing because this default provision removes the chance for scrutiny. This document becomes law. The only way it changes is if you get a full agreement. I think there are some people that would think that this is a pretty good expansion of the sales tax. I think it's something that a lot of people in this legislature have wanted for a long time. We're going to send this out with this broad expansion and the way that they can get that expansion passed is to not negotiate in the future. We've eliminated the chance for an open forum, really, for this. I don't mean to question the motives of anybody, because that is not my intent. I think that, once again, this shows why we really need to look at things. If we're going to look at doing something like this in the budget, maybe we'd better bring back that continuing resolution.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Mayo.

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. I was first elected to the legislature in 1994. If my memory serves me correctly, and I know I'm getting old, I don't believe that I have spoken on any of the budgets that have come before the bodies since that time. I feel a little different tonight than I have in the past.

I, too, would applaud the group that developed what we are discussing. I have some real problems with it because it looks to me like the preverbal Christmas tree with goodies for a number of groups and a number of people. I was happy to see the answer a

minute ago from the good Senator from Somerset, Senator Mills, in response to a question. A lot of it will be coming back to us on May 10th. May 10th is my birthday, but that doesn't change my feeling on what is taking place currently. The father of the good Senator from Lincoln, Senator Dow, was in this body with my uncle who was in both bodies for 10 years. It was a different atmosphere in those days. When the good Senator mentions wanting a supermajority, a two-thirds, two-thirds was very easy to obtain in those days because two-thirds of the legislature was comprised of a single party. You didn't really have to work too hard, from my observation of being around here. I would second what was said by the good Senator from Kennebec, Senator Mitchell, that the work of both bodies was done in a building that is no longer here by a few people. Thank God that we don't do that any longer. I, too, this morning at 6:30 when I was getting my coffee before driving up here, like the good Senator from Androscoggin, Senator Nutting, had a constituent talk with me about the budget. The only concern that this individual had was that we were going to be taxing his canoes and kayaks. When I talked with him about that, I then asked him about the rest of the budget, the borrowing and so forth. He said, 'Do whatever you want as long as you do not increase my taxes.' Unless I misread this document completely, one of the taxes that we are going to be levying will be a mount tax. There are some others in here. Taxing my former profession for 30 years seems to be one of the possible options. As I have said before, I think that the people who developed this had good intentions, but for whatever reason, it did not turn out as I would have expected, knowing who was involved. Believe me, I do not intend this evening to vote for a Christmas tree to be given to a few people. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Strimling.

Senator **STRIMLING:** Thank you, Madame President. I can assure you and this entire body that this is not a Christmas tree. Here is what this does. There maybe a couple of little pieces in there, we can take them out, but here is what this does. It replaces the borrowing that we are doing to pay for operating expenses. It is not the issue about us borrowing that is a problem. The issue that is a problem in our budget is that it pays for operating expenses. There is borrowing in our budget that is a great idea. It refinances debt to lower the interest to save money for the taxpayers of Maine. That's a great thing. We kept that piece. What this does is reduces the income tax rate in the State of Maine for the first time in our history. It pays for it through broadening the sales tax, which will be done in an open public process, the committee process that we all believe in. It does that, which is what was asked for on the Republican side of the aisle. On the other side of the aisle, what was asked for is that we have enough revenue to be able to replace the borrowing that we're doing to pay for operating expenses so we can protect, at least for me, the programs that we care so much about, that I am so worried about two years from now when we have a hole in our budget again and we have higher mortgage payments, debt service, and interest that will just take more money away from what I believe we need to be investing in this state. That's what this amendment does. It lowers the income tax rate through a broadening of the sales tax and it puts a penny on the sales tax for 16 months in order to replace the borrowing for operating expenses. That's the core of it. The milk tax will be reviewed. Every piece of this can and will be reviewed. I strongly

encourage you to try to see beyond the thousand little slices you can find in the same way that we are asked to look at the big picture of the budget. Although there are a thousand little things we do not like in the budget, we are asked to vote for it in the big picture. I ask you to do the same with this. The big picture, reduce income taxes for the people of Maine and replace the operating expense borrowing that we are doing in the budget. That's the big picture. Thank you very much, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. Almost a decade ago, when I was elected and first came to this building, I was asked by then Speaker Mitchell to list what my top three priorities for committee assignments were. As a Freshman I listed Taxation, Taxation, Taxation, kind of boxing her in. She then wanted to talk to me about a few other committees and I kept saying, 'Taxation.' She blessed me with that, or cursed me with it, depending on your perspective afterwards. I then spent the next two years as a Freshman on taxation. Then I had the opportunity to chair the Taxation Committee from the House side, and then through that unique power sharing arrangement that we had a few years ago, I was able to also chair it from the Senate side. I've been there quite a long time, looking at a lot of exemptions. One of the things I can assure you, and I know that Speaker Mitchell understood and understands, is that there is a lot of politics in tax policy. There are reasons why those exemptions are there even though we don't like them. I've served with the good Senator from Somerset, Senator Mills, during those days. There were days when we used to talk about Girl Scout Cookie taxes. Anyone remember that one? A tax on Girl Scout Cookies. That was a good one. My favorite one was when a Representative came to our committee and presented a bill for a hay tax. A tax on hay that farmers sell to horses. We had so many people there at the hearing that we had to move into the Appropriations Committee room. That's back when Taxation was on the same floor. It was about 92nd in that room. The Representative who presented the bill presented it in about three minutes and then left. We then sat there for the next six hours with farmers who didn't bother to change their boots before coming in. We dealt with the hay tax.

Some of the items on this list, and believe me, I'm there with a lot of this stuff. No one has talked about elasticity and volatility probably more than I did when I was on the Taxation Committee. We reviewed all those items. I can honestly tell you there was one exemption that we lifted in the years that I was there. It's the trade-in for chainsaws. As you know, there is an exemption for automobiles. When you trade in your automobile and you buy a new vehicle for \$20,000 and trade in your old one that's \$10,000, there really is no reason for you to get an exemption. You only pay tax on the \$10,000 difference. The reason you do is because of the exemption for the trade-in. If you don't trade in your vehicle, you are going to pay tax on \$20,000. In fact, we have another bill similar to that coming up about travel trailers and campers and things. There are reasons for all those exemptions to be there but there was also an exemption, as I mentioned, for trade-in on a chainsaw. In my six years on Taxation, I can honestly say I was successful at removing that exemption. Now when you trade-in your old chainsaw for a new chainsaw, you are

going to pay tax on the whole shebang. We got rid of that exemption.

The biggest exemptions, of course, in the code are the ones that make us really squirrely. The biggest one is materials used in manufacturing. In this state that equates to pulp wood. When a person owns property, cuts the wood, it's a product. They bring it to a mill to be processed into paper or whatever it is. That's not taxed. It's an exemption in the code. The theory is that you don't want to pyramid the tax code. Tax upon tax upon tax. The theory is, of course, that by the time the product gets made into toilet paper or whatever it is, that is the product that gets taxed. Of course we know that 99.9% of the paper that we produce in the state leaves the state, so of course, it's tax exempt or we don't collect tax on it. My point in all this is that there are a lot of reasons for this. There are also some interesting policy decisions.

I'm concerned about some of these items because I know when we reviewed a lot of the exemptions, there were certain services that will just be exported. That simple. Certainly services in design, I'm not sure exactly what was in here, travel services, and those such things, instead of buying things that might just occur a couple of towns over, suddenly you can just get on the internet, and bang, you are buying it from someplace else. All of those services would just go away. That certainly won't be good for businesses in the state, certainly some of the smaller businesses in the state. If we suddenly apply a tax then it becomes totally unfair to them.

In terms of what we are trying to do, what we are trying to achieve in the income tax, to be perfectly honest, even though I agree with the high income tax base that we have in this state, I continue to be concerned about property taxes. If we add a penny to the sales tax, we can increase the Homestead Exemption from \$7,000 to almost \$30,000. You can go home to all of your constituents, all your homeowners, and say, '\$30,000 of your property, your home, will be exempt from the property tax in the state.' It only takes a penny on the sales tax. I might prefer that, personally. The point is that tax policy is extremely political. We haven't been successful at doing a lot of this work because of that. I really applaud this group and I applaud the members of the Taxation Committee for attacking this again. It gets to the point where you are beating your head against the wall so much with these issues of elasticity and volatility that you become bloody enough that you get off the committee. I used to tell people I got off the committee because I started to understand the tax code. It was time to leave. The committee ought to continue that work. We have the opportunity, if there is bi-partisan support. I do agree that the people who work with this issue are some of the brightest people in this room. We want to continue that work. We can do that in Part 2. We can change Part 1 around. We can do that in Part 2. We're going to have to look at all of those aspects before the Girl Scouts start rolling through the door, whoever they may be. I'm sure the good Senator from Somerset, Senator Mills, remembers the day when we were looking at taxing funeral services. We got zillions of e-mails that talked about us saying the only thing sure in life was death and taxes and now you've got both. It's a very difficult process. It will be a long process. I had always envisioned some type of a base closure commission report in which this group would be brought together under some great leadership. You know, the names that were kicked around were Ken Curtis, someone like that who would sort of bring everyone together. They would come up with this report that would be presented to the legislature on a straight up or down

vote to fix the whole thing. I think that's a great idea. I don't know how we could do that, how we could do that within the constitutional rules. If people are interested in doing that, we can find a way. It is the eleventh hour. We're trying to put this to bed. This is way to dramatic a change. I know what the impact can be. So I will be supporting indefinite postponement at this time. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Damon.

Senator **DAMON:** Thank you, Madame President, ladies and gentlemen of the Senate. I rise a little bit reluctantly to address you, not because I'm reluctant in my support of the pending motion but I'm reluctant because my good friend and colleague, the Senator from Lincoln, Senator Dow, gave a speech the other day on the floor of this chamber that may never be topped. So it's difficult to stand here to talk about anything after hearing what he said and how he said it. I've listened patiently through the eleventh hour, and probably will go into the twelfth, at the arguments both for and against the pending motion. I was thinking that the people of Senate District 28 cast their ballot in my favor in November for me to come back here to represent them here in this chamber, to represent their views, to represent their wishes, and just be their voice. I didn't know, given how I left the last legislature, how I could face this one. It was a new day, a new dawn, and I have eternal new hope. That hope was born out in that first extraordinary committee experience I had in this legislature where my colleagues on both sides of the aisle sat with me and we worked through the difficult issues of property tax reform, issues that some had said couldn't be fixed, some had said hadn't been fixed, and some had said wouldn't be fixed. Well, we did as good a job as we could do and we're moving that initiative forward. Is it the best? Is it the absolute best that we could have done? I'd be the first one to tell you that no, it isn't. Is it the worst we could have done in our attempt? Again, no it isn't. What it is is what we did. We sat together, we talked it over, and we came up with what we have.

Part of the reason given to us during this debate for not accepting the proposed amendment is that we don't have time. We don't have time. Was that your fault that we don't have time? Was that my fault that we don't have time? We are given a hand to play, we're dealt a hand, and we do the best job that we can with that hand we're dealt. Time, the luxury of time, the hindsight of time, to deal with what might be perfection because of the time that we have, we don't have. One of my good friends, one of my colleagues in this chamber, said to me one time in a story he was telling that if we wait for perfection, we might never achieve it, for perfection is the enemy of the good. We all are here to do good. We have, we've been told, not taxing problems but we have spending problems. I will agree, we do have spending problems. We have needs. We have spending needs. We have too many people in need, too much infrastructure in need, too much need to educate our youth, and too much need to protect our environment. We have all of the needs of a huge state with not very many people who don't make enough money and that translates out into a tax burden. Within this amendment we're trying to address a bit of that burden with our income tax balancing, that with the federal and the state codes. When will we do that? I maintain that when we started on the road of property tax reform that it was but the first step in what needs to be a continued tax reform in the State of Maine, and that but for

us to have the courage to take the next step and the next and the next, we'll never get there because we'll never do it comprehensively, all at once. Here's another step. Here's another opportunity for us to move forward.

All that being said, the reason why I stand in support of the pending motion is because of what many have said more eloquently than I'll ever be able to. It is the undue burden that borrowing this amount of money places on the people and the future of the State of Maine. It's our responsibility. It's the request of my constituents that we pay for it as we go as best we can. Put the penny on as long as it's going to be used not to grow and expand and continue to expand government. Put the penny on so we can pay for the things that we want and the people want their education paid for at the level of 55%. We're moving in that direction in a reasonable and sound way. This is how we are proposing to pay for it and the rest of the things in this budget.

One final thing. To answer the questions that have been posed with regards to the gentleman that was passing the good Senator from Androscoggin, Senator Nutting, earlier this morning in the parking lot in Portland, or answering the question of those who have received the same comment that makes them uncomfortable to borrow to pay for their groceries then you don't have to and this what you ought to be able to support. This is the more fiscally responsible way to enact our budget. Thank you, Madame President, men and women of the Senate.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Madame President and men and women of the Senate, it's late and I rise in the first instance merely to remind the good Senator from Hancock, Senator Damon, that if he favors our proposition, I hope you will vote against the pending motion and trust that he will. I would appreciate his support and I was a little confused for a while.

The transportation piece that is in here was nothing more than the expectations of every single person on the Education Committee that I talked to. It is trivial. It should have been done in the budget. The UAL deduction for teachers, that's the savings we get for making an advance payment out of this \$140 million of borrowing. It's not \$180 million, it's \$140 million and it's capped in this amendment. That's it. It all goes to the UAL, plus another \$10 million, so we make a big payment on it.

There are no Girl Scout Cookies being taxed in here, I assure you. I lived through that and there is no hay being taxed. There is a base closure commission. You know who it is? It's the Taxation Committee with a Ph.D. economist as chair and the good Senator from Bangor as co-chair. They are very capable people. I've worked with them both. I trust them. If we don't put some pressure on that committee, we're going to sit around here until June and get nothing done. If you pass this budget just the way you've written it, you leave me no room to talk about a supplemental or another supplemental, about bonds, about bipartisanship, and about all that juicy stuff we've been discussing this evening. I implore you to vote for this amendment and vote against the motion. Thank you very much.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Indefinitely Postpone Senate Amendment "T" (S-53) to

Committee Amendment "A" (H-35). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#47)

YEAS: Senators: **BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MITCHELL, NASS, PERRY, PLOWMAN, ROSEN, ROTUNDO, SCHNEIDER, SNOWE-MELLO, SULLIVAN, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS**

NAYS: Senators: **ANDREWS, BARTLETT, COWGER, DAMON, MILLS, NUTTING, RAYE, SAVAGE, STRIMLING, TURNER**

25 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "T" (S-53) to Committee Amendment "A" (H-35), **PREVAILED.**

Senate at Ease.

Senate called to order by the President.

On motion by Senator **RAYE** of Washington, Senate Amendment "N" (S-40) to Committee Amendment "A" (H-35) **READ.**

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE:** Thank you, Madame President, men and women of the Senate. This amendment would postpone the essential programs and services formula until July 1, 2006. The EPS formula is divisive. It is discriminatory and undermines the long-standing concept of affording an equal education to children no matter where they live. EPS has exacerbated the two Maine syndrome more than any other issue that I can think of in recent years. This amendment offers an opportunity for us to pause and stop the rush to implement a formula so flawed and ill-conceived that the special committee on Property Tax Reform, the Department of Education, and now the Education Committee have each been forced to cobble together a series of temporary patches and fixes just to get through the first year. I call to the Senate's attention a front-page story that appeared in today's Bangor Daily News where an esteemed dean of business at the University of Maine talked about a study that he had conducted, a review of the EPS funding formula. Essentially, his conclusion is that the formula may look.

THE PRESIDENT: Senator, if you would defer. The use of props is not appropriate. You may proceed without them.

Senator **RAYE**: Sorry about that. His review indicated that it may look fine as a formula but in practice it is not well suited. 'While EPS,' he states, 'was not designed to control costs, last years voter mandate that the state provide 55% of education expenditures changed its role.' In the words of the good Senator from Waldo, Senator Weston, a former member of the Education Committee, EPS was intended to be all about equity and making sure that every child in Maine gets a good education. Along the line, it was turned on its head by its transformation from an equity model to an efficiency model. Instead of becoming a lever to raise up those less affluent areas where there are fewer resources available to help kids learn, it had become a hammer to punish those same schools because they do not fit the tidy model of an efficient urban school. It makes me wonder where we live. Isn't this Maine? Aren't we primarily a rural state? Don't our small towns matter any more? Have we come to a place where those who represent Maine's larger cities, where rural Mainers go to shop, spend money, and add to the prosperity of cities, now consider the schools that educate rural kids as a needless expense? Do we really want everyone to pack up and move to Bangor or Portland where they can enjoy the benefits that come with the economies of scale?

I want to pause for a moment to say that I do appreciate the efforts of the Education Committee under the leadership of my friend, the Senator from Kennebec, Senator Mitchell, to address, at least in the short term, concerns that many of us have expressed about the impact of EPS. I know that she has made a good faith effort to work within the confines of EPS to help address inequity this year. Despite temporary fixes, I believe that too many flaws and inequities remain. Schools such as those in SAD 37, which received the highest rating in the state for the learning results, falls between the level of 500 students and less that get a little extra help and 1,200 students and more that get a little extra help. While many poor Maine communities raise far more than 8.26 mils for education and face the prospect of cuts in state funding and year two and beyond, other wealthier communities that raise less than 8.26 are already receiving huge increases. I'm not a member of the Education Committee, but I have attended many of their sessions since we sent EPS back to them. Sitting in the back of the room during the past few weeks, I've listened to the presentations that have been made and the problems that have been brought forth by rural schools. As I did with that committee, I would like to share with this body my perspective as one who represents a part of Maine that stands to suffer a harsh and inequitable result from this funding formula. I can sum it up very simply. Our rural schools are valuable. Our kids are valuable and our way of life is valuable. Bigger is not necessarily better. I say this as someone who is the product of a small school myself. There were 54 kids in my high school class at Shead Memorial High School. That was considered a large class. I feel blessed to have had the experience that comes with attending a small school where every kid is known and every kid counts. This formula can only succeed if there is time to rework it, to make it recognize the facts as they exist in a rural state. We are not an urban state where the economies of scale of large urban schools are the norm. We cannot sit idly by and allow this flawed formula to wreak havoc with rural education. Scores of local officials and school officials have laid out for all of us that EPS must be changed and improved to ensure, not only the success of larger schools that are typical of Maine's larger cities, but also the survival and success of smaller schools found in our

rural areas. Both kinds of schools must continue to provide a quality education for our kids. The children of Maine deserve a solid education no matter where they live. That concept has long been a centerpiece of education policy in this state. The rigid and unyielding EPS formula threatens to undermine that valuable concept. It is nothing new that it costs more to provide services in rural areas due to issues surrounding distance, population, higher fuel costs, and the like. I alluded earlier to the two Maines. Policy makers, editorial writers, political observers, and average citizens alike have long decried the notion. This debate, this issue of the EPS formula, offers an opportunity for this legislature to demonstrate that while we are not a one size fits all state like the EPS formula seems to envision, we are one state. We are united by a mutual respect and appreciation for the differences between our cities and our towns.

Before I close, I want to point out that this amendment would provide the same amount of money as currently included for education in the budget. There would be no reductions. It would be distributed under the old formula that we've been living with already and that we would be afforded the opportunity to review the new formula and give it the attention that it deserves given the tremendous impact it will have and come up with the thoughtful changes that will serve all of Maine better in the long run. Who among us could walk into a classroom in any rural town in this state, be it Addison, Greenville, Sedwick, or you name it, look those kids in the eye and explain to them that we are going to proceed with the formula that will further disadvantage their school so we can put more funding into schools and communities that already enjoy tremendous advantages in terms of wealth and opportunity. That is the question before us with this amendment. On behalf of those children, I ask you to support this amendment. Let's stop this runaway freight train before it does real and lasting harm to equality of education in our state. Thank you.

Senator **ROTUNDO** of Androscoggin moved to **INDEFINITELY POSTPONE** Senate Amendment "N" (S-40) to Committee Amendment "A" (H-35).

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO**: Thank you, Madame President, men and women of the Senate. I'm very concerned that delaying EPS will throw school units into confusion since they are basing their current budget on the EPS model. EPS has been carefully developed over the years. I know when I served on the Education Committee four years ago we spent hours and hours and hours talking about it. Both the Select Committee on Tax Reform and the Education Committee spent numerous hours this session reviewing EPS and its implementation and made a number of accommodations to address the concerns that arose when the printouts came out. Delaying another year, with regards to EPS, I feel is not necessary and will be detrimental to public schools throughout the state. Thank you.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator NUTTING: Thank you, Madame President, ladies and gentlemen of the Senate. I rise this evening in support of this amendment and I want to speak briefly and let the members know why. I think with this EPS model we don't have a model left, frankly. The work of the special committee on Tax Reform and the hard work of the Education Committee have so many cushions in it now that I've lost track. We've had cushions before, but never as much as we've had this time. The Education Committee pretty much has abandoned the transportation section of EPS because it was so flawed and could not be explained to the superintendents at the statewide superintendent's meeting. I think the thing that concerns me the most is the fact that we have school funding in Maine, most recently with an amendment put on in the other body the other evening, done without any involvement of the Education Committee in the cabinet room where a special deal was struck to help a certain district. To me, that is not the way you do school funding. I've worked with school funding under Governor Brennan. I've worked on school funding under Governor McKernan. I've worked with school funding under Governor King. I've never ever seen that done before, where one district could be given close to \$300,000 in the cabinet room. We really don't have a model. I'm deeply troubled by that type of deal. I'm deeply troubled by the Joint Select Committee on Tax Reform. The Senator from Somerset, Senator Mills, requested a printout and having the printout done and then they refused to show the printout to anybody. Here again, under Governor Brennan and under Governor McKernan and under Governor King, I've never ever witnessed that before. This is not the way the Administration should be handling school funding. We shouldn't be doing printouts and then deciding not to show them to anybody. We should not be doing special deals for one rural district. What about all the others? I think waiting a year is the right thing to do. That's why I'm glad the Senator from Washington, Senator Raye, has sponsored this amendment and that's briefly why I feel as though I have to support it. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator MARTIN: Thank you, Madame President. I'd like, perhaps, for a moment to shed light on the amendment that has just been referred to because the amendment that has been talked about actually, through the rumors in the halls, got my attention as well. When I did some research later today, I found that this was not quite the way the amendment works. The amendment that was worked on, and subsequently just discussed, is actually an amendment that affects the unorganized territory. It does not affect one school district. The way in which the amendment was structured was to provide technical assistance or for technology, I guess I'll put it that way, for the students who are in the unorganized territory. That money will be added to the tuition money presently charged to those students in the unorganized territory. There are 1,200 students, by the way that is the number that we have in the unorganized territory, for which the state pays tuition to school districts wherever they may go. Each child will have that amount of money that will go with them to the school district where they happen to be located. That's the figure that will be allocated, proportionately, based on whether they are K-2, for example, or 3 and above, as I understand it. Subsequently, high school students will get a different amount. That's the technology portion that is built into this present formula that we now have. That money does not

come out of the General Fund. It comes out of the unorganized territory fund and is paid for by the taxpayers in the unorganized territory.

Having said that, I need to add that the old formula that we are moving away from would be a horrible mess to try to go back to. I'm not sure we have enough time to figure out the cushions we would have to provide in order to get there. I'm one of those that understands some of the problems that would occur because we looked at it in our SAD. I happen to serve, at the present time, on a school board. We looked at it and realized we would be in a horrible disadvantage if that were to occur. However, I'm not saying that what we are going into is the best in the world, because I think that still needs to be worked out. I don't want to lay out a scenario here. I think that we've done enough cushions this year to solve the problem. If every get to pay for what the taxpayers asked us for in June, I think we'll work our way out of it. I'm not even sure of that. I will tell you this, having looked at some of the small schools, and we operate in our SAD three small schools of about 100 students in K-8, we fully understand what occurs there but you can't have full time principals under this formula that we are now embarking on and have it come out whole. We don't have full time principals. Some of the small schools do and they ought to look at their funding and the number of personnel. That, I think, they are going to have to do. That will be a problem, but it also means, for the first time, we may be sharing resources within the SADs and among one another. That's all I can really tell you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator NUTTING: Thank you, Madame President, ladies and gentlemen of the Senate. The good Senator from Aroostook, Senator Martin, is correct that this cabinet room deal did save for the unorganized territory the technical support monies that follow the students. My concern, again, was that the Education Committee had no knowledge that this was going on. To me, that's not the way you do business. The rest of the cabinet deal still troubles me. To give this particular representative, who is very hard working and a good friend of mine, a guarantee that unorganized territory students tuition would be calculated at the actual cost rate of where they end up going to school, not the EPS rate, is another issue that was not voted on by the Education Committee. I'm trouble, again, by the way that was handled, without the Education Committee's knowledge.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator PLOWMAN: Thank you, Madame President, men and women of the Senate. I wish I'd been invited to the cabinet meeting. I would like to have negotiated a deal for some of my students who tuition into some of the high schools in the area. Imagine if we could tuition them in at the actual cost? Everybody knew that my vote wasn't up.

What I'm troubled by with this is that we actually are putting \$250 million, and more, into education. A huge amount of money, and without cushions, districts were losing money under this new plan. To me that doesn't sound equitable. The cushions brought people to the very best position that we could afford, which is that they wouldn't lose money and they would come out revenue neutral, except for transportation costs, increased cost of

personnel, increased cost of insurance, increased cost of gas, increased cost of liability, increased cost of Workers' Comp, increased cost of electricity, and maybe I could go on. The schools that are at revenue neutral are actually falling behind. We did put \$250 million into education. If you don't see the inequity in this, and you think that EPS was better, I would ask you to rethink it. As for the confusion this might cause in districts, I'm sure my districts would gladly be confused for a short amount of time so that we can make it equitable and make a distribution that is equitable for our students. I ask you not to indefinitely postpone this amendment. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Mitchell.

Senator **MITCHELL:** Thank you, Madame President. Addressing the very legitimate concerns of my good friend, and I do mean that legitimately, the Senator from Washington, Senator Raye, who is indeed the fourteenth member of the Education Committee. I have never seen anyone who struggled more mightily to find consensus, conclusions, and helped our committee in our deliberations as we tried to apply more transition money, if you will, for specific products.

There are a couple of things we need to think about. The old formula does not help you if your valuation is going up and you are losing students. Frankly, both of them recognize less money to schools who have higher valuations and fewer students. That's happening in some rural areas. I would suggest in yours you've seen rapid increases in valuations. We have spent the better part of the day, and weeks, talking about how we have a spending problem in the State of Maine. I think we're about 8th in the country in per pupil cost for students. What EPS is going to allow us to do is to look at what we're spending that money on and make sure we're getting the biggest bang for the buck for the kids. We always talk about too many superintendents, too many of this, and too many that's, and too many things we're spending that perhaps could cut down on. We never really had a magnifying glass that went out there under the old formula to help you see that in town meetings, or at city councilors, or at school boards. We're going to be seeing that now.

I guess I would submit that one reason that it seems so painful to many is that the towns that are feeling the most pain, if you will, even though there are lots of cushions. There are those cushions because we're not funding this at 100%. We're funding it at 84%. If you are receiving 16% less, 16% of 70% of school funding is a whole lot less than if you are a low receiver. So 16% of nothing is nothing, 16% of 60% is a lot. That's why the cushions were put there, to help us get through. I think trying to go back to the old system would take 10 to 12 weeks. No data was collected to even put that together. Realistically speaking, it would be pretty hard to do and then we would never be willing to move forward with this more transparent system, which helps us get a handle on what we're spending to run our schools on the administrative side. Our committee desperately, whether you are from Cape Elizabeth or from Vassalboro, our goal has been to make sure the community schools exists but that the administration gets shared, if you will, and those things that parents and students don't care as much about could be consolidated. Things like the food service, the busing, and those things. It is a work in progress. If we don't start, guess what? The same superintendents who claim they don't understand it now will put off understanding it until later. That's the truth,

because that's human nature. I'm not being critical. You don't know how many late nights I've spent up studying the night before an exam. I think superintendents are the same way. This was manana, manana. It is here and we've given them these, as I've told others, training wheels. You can start out with EPS without much danger in getting seriously hurt. This first year, I do not believe anybody's going to be seriously hurt. I think what you are concerned about is down the road. You mentioned transportation. We haven't given up on transportation. That's to be reported back to us as more information comes in from the schools. We're looking at actual cost per mile. We had a wonderful bill from one of you concerning dead-end runs. I didn't know what that meant. Was it a dead-end street? I assumed they were going down a small street, but obviously it means a town where you can't make a circular route. There are real issues out there, but there are not insurmountable. I agree that change is hard. I'm not sure this is perfect, but I am absolutely sure that old formula is not going to take care of what you really want, what we both really want. I think, if there is anything, the fault lies in that we haven't done a good enough job in educating superintendents and helping them explain it to school boards and to you. That's a big challenge for all of us. I would urge you to vote indefinite postponement. Let us continue our work, in partnership, to make sure that we respect and take care of community schools, whether they are rural or urban. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Indefinitely Postpone Senate Amendment "N" (S-40) to Committee Amendment "A" (H-35). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#48)

YEAS: Senators: **BARTLETT, BRENNAN, BROMLEY, BRYANT, COURTNEY, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS**

NAYS: Senators: **ANDREWS, CLUKEY, DAVIS, DOW, HASTINGS, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, WESTON, WOODCOCK**

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "N" (S-40) to Committee Amendment "A" (H-35), **PREVAILED.**

On motion by Senator **SNOWE-MELLO** of Androscoggin, Senate Amendment "B" (S-26) to Committee Amendment "A" (H-35) **READ.**

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

ROLL CALL (#49)

Senator **SNOWE-MELLO**: Thank you very much, Madame President and ladies and gentlemen of the Senate. With the implementation of this law and the corresponding fines, Maine will move into lead as the state with the single largest fine for non-compliance with mandatory seatbelt laws. This distinction earned by the virtue of the Chief Executive's inability to present a balanced budget is not a first place finish we should strive for. Even the Maine Chiefs of Police Association has come out strongly opposed to imposing this fine. The President of the Maine Chiefs of Police, Brunswick Police Chief Jerry Hinton, has said, 'We feel that this is the kind of jump. It's a little exorbitant. If drivers were stopped for speeding and fined because they didn't have their seatbelts on, that's a weeks pay.' Evidence shows that the implementation and enforcement of the current seatbelt law has increased the number of drivers in Maine who are routinely strapped in before driving. These efforts, combined with public awareness campaigns, highlighting the safety benefits and common sense of seatbelts, have made great strides in reducing death and injury due to non-compliance with the current law. I believe that this new law has less to do with the desire to improve driver safety and more to do with raising money to off set the Chief Executive's failure to reduce spending. This effort to balance the budget should not be disguised as a safety measure. I ask that we do not make the seatbelt law a primary offense in the State of Maine. Thank you very much.

Senator **ROTUNDO** of Androscoggin moved to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-26) to Committee Amendment "A" (H-35).

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO**: Thank you, Madame President, men and women of the Senate. I would just like to remind everyone that Senate Amendment 'V' (S-56), which is already passed today, does remove the primary enforcement of seatbelts. It has also reduced the fines for not using seatbelts. Further, this particular amendment unbalances the budget by the removal of fines and there is no revenue source that has been proposed in this amendment to rebalance the budget. For those reasons, I would ask that you join me in the indefinite postponement of Senate Amendment 'B' (S-26).

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Indefinitely Postpone Senate Amendment "B" (S-26) to Committee Amendment "A" (H-35). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

YEAS: Senators: **BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS**

NAYS: Senators: **ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK**

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-26) to Committee Amendment "A" (H-35), **PREVAILED**.

THE PRESIDENT: The pending question before the Senate is Adoption of Committee Amendment "A" (H-35) as amended by Senate Amendment "V" (S-56). A Roll Call has been ordered. Is the Senate ready for the question?

On motion by Senator **NASS** of York, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#50)

YEAS: Senators: **BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS**

NAYS: Senators: **ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK**

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, Committee Amendment "A" (H-35) as Amended by Senate Amendment "V" (S-56) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-35) AS AMENDED BY SENATE AMENDMENT "V" (S-56)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Act

An Act To Extend Civil Rights Protections to All People Regardless of Sexual Orientation

S.P. 413 L.D. 1196
(H "I" H-92)

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#51)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NUTTING, PERRY, RAYE, ROSEN, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, NASS, PLOWMAN, SAVAGE, SNOWE-MELLO, WESTON, WOODCOCK

25 Senators having voted in the affirmative and 10 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

Senate at Ease.

Senate called to order by the President.

RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Paper

Bill "An Act Regarding the Budget Process for the Legislative Youth Advisory Council"

H.P. 1056 L.D. 1511

Comes from the House, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.

On motion by Senator **ROTUNDO** of Androscoggin, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Require Coordinated Early Childhood Care and Preschool Education in Maine" (EMERGENCY)

H.P. 1058 L.D. 1513

Comes from the House, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

On motion by Senator **MITCHELL** of Kennebec, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Paper

Resolve, To Establish a Responsive, Community-based, Cost-effective and Comprehensive Adult Mental Health System

H.P. 1060 L.D. 1515

Comes from the House, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

On motion by Senator **MAYO** of Sagadahoc, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Resolve, Directing the Bureau of Health To Study the Effectiveness and Quality of Reproductive Counseling
H.P. 1057 L.D. 1512

Bill "An Act To Increase Access to Justice in Maine's Court System"
H.P. 1065 L.D. 1518

Come from the House, **REFERRED** to the Committee on **JUDICIARY** and ordered printed.

On motion by Senator **HOBBS** of York, **REFERRED** to the Committee on **JUDICIARY** and ordered printed, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Enhance the Transparency of Maine's Elections"
H.P. 1059 L.D. 1514

Comes from the House, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.

On motion by Senator **GAGNON** of Kennebec, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Act

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, 2005, June 30, 2006 and June 30, 2007
H.P. 343 L.D. 468
(S "V" S-56 to C "A" H-35)

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#52)

YEAS: Senators: **BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS**

NAYS: Senators: **CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK**

ABSENT: Senator: **ANDREWS**

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, was **PASSED TO BE ENACTED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Measure

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

H.P. 534 L.D. 739
(C "A" H-72)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ORDERS

Joint Resolution

On motion by Senator **BRENNAN** of Cumberland, under unanimous consent on behalf of President **EDMONDS** of Cumberland (Cosponsored by Speaker **RICHARDSON** of Brunswick and Senators: **BRENNAN** of Cumberland, **DAVIS** of Piscataquis, **GAGNON** of Kennebec, **MAYO** of Sagadahoc, **MILLS** of Somerset, **SULLIVAN** of York, **WESTON** of Waldo, Representatives: **BOWLES** of Sanford, **BRAUTIGAM** of Falmouth, **CUMMINGS** of Portland, **DUPLESSIE** of Westbrook, **HARLOW** of Portland, **PERRY** of Calais, **TARDY** of Newport), the following Joint Resolution:

S.P. 531

**JOINT RESOLUTION RECOGNIZING
MAINE'S CREDIT UNIONS**

WHEREAS, Maine's credit unions are locally owned and governed financial cooperatives dedicated and committed to serving the needs of their members. Each and every credit union member is an owner and has an equal voice in the operations of the credit union. Serving members in all 16 Maine counties and in every community, Maine's credit unions are committed to the more than 600,000 consumers in the State that belong to credit unions; and

WHEREAS, Maine's credit unions are consistently recognized for serving their members, as indicated by the consistently high performance and satisfaction that consumers assign to Maine's credit unions. For 19 consecutive years, credit unions have ranked first in consumer satisfaction. The role credit unions play in serving as the primary financial institution of choice is underscored by the fact that Maine has been ranked as the 5th strongest credit union state in the nation for the past 5 years. Nearly one in every 2 Maine residents belongs to a credit union; and

WHEREAS, the more than 1,900 full-time and part-time employees of Maine's credit unions and the hundreds of unpaid volunteers that serve on credit union boards and committees exemplify the core credit union values, philosophy and mission of Maine people helping Maine people and contributing to the communities they serve; and

WHEREAS, Maine's credit unions and their members have raised more than \$1,750,000 to help end hunger in Maine since 1990. One hundred percent of all money that is raised through the Maine Credit Union's Campaign for Ending Hunger stays in Maine and goes directly to assist thousands of Maine families and individuals who otherwise would go hungry. As a result of Maine's credit unions' resolute devotion to this cause, Maine is recognized as a leading state in the nation in increasing awareness and helping to solve the problem of hunger. Maine's credit unions have also contributed hundreds of thousands of dollars to positively affect the lives of Maine Special Olympians

from across the State. Additionally, Maine's credit unions voluntarily contribute thousands of dollars to organizations and agencies in their own communities and donate countless hours to enrich the lives of the citizens in the communities in which they serve; and

WHEREAS, since 1921, Maine's credit unions have been a source of economic stability and assistance in helping thousands of Maine people in communities across Maine realize financial success. Throughout Maine, credit unions continue to make a positive and profound difference in the lives of individuals and remain a constant source of pride and spirit in the communities they serve, now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-second Legislature now assembled in the First Regular Session, take this occasion to recognize the Maine Credit Union League and Maine's credit unions for the affirmative role they have played and the inspiration they have provided to Maine citizens and their communities for more than 84 years. Their service and dedication to this State is a tribute to many of those values and principles that we all hold dear; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine Credit Union League and its 75 affiliated credit unions.

READ and ADOPTED.

Sent down for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Paper

**Pursuant to Statute
Criminal Law Advisory Commission**

The **Criminal Law Advisory Commission**, pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2 asked leave to report that the accompanying Bill "An Act To Eliminate the 3-step Sentencing Procedure Relating to the Imposition of Sentencing Alternatives That Include Imprisonment" H.P. 1061 L.D. 1516

Be **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ and ACCEPTED** and the Bill **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218.

Report **READ and ACCEPTED**, in concurrence.

On motion by Senator **DIAMOND** of Cumberland, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218, in concurrence.

PASSED TO BE ENACTED and having been signed by the President were presented by the Secretary to the Governor for his approval.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Paper

**Pursuant to Statute
Criminal Law Advisory Commission**

The **Criminal Law Advisory Commission**, pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2 asked leave to report that the accompanying Bill "An Act Amending the Laws Regarding Persons Not Criminally Responsible by Reason of Insanity"

H.P. 1062 L.D. 1517

Be **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218.

Report **READ** and **ACCEPTED**, in concurrence.

On motion by Senator **DIAMOND** of Cumberland, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Acts

An Act To Revise the Salary Range of Certain Public Utilities Commission Employees

H.P. 476 L.D. 656
(C "A" H-25)

An Act To Require Agricultural Representation on the Maine Tourism Commission

H.P. 493 L.D. 673

An Act To Codify Unallocated Law Regarding the Maine State Retirement System

H.P. 672 L.D. 962

Resolves

Resolve, Authorizing the Commissioner of Administrative and Financial Services To Place under Option or Right of First Refusal Certain Property along State Street, Augusta, Maine

H.P. 364 L.D. 489
(C "A" H-40)

Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Certain Real Estate Located along the New Belgrade Road in Augusta

H.P. 379 L.D. 504
(C "A" H-41)

FINALLY PASSED and having been signed by the President was presented by the Secretary to the Governor for his approval.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Acts

An Act To Make Sexual Exploitation of Minors a Crime Compensable by the Victims' Compensation Board

S.P. 71 L.D. 218
(C "A" S-21)

An Act To Require Notice prior to Decreases in Wage or Salary Rates

H.P. 196 L.D. 257
(C "A" H-30)

An Act To Encourage Parties To Agree to the Selection of Independent Medical Examiners in Workers' Compensation Cases

S.P. 97 L.D. 302
(C "A" S-20)

An Act To Amend the Process for Review of Hearing Officer Decisions by the Workers' Compensation Board

H.P. 245 L.D. 322

An Act To Provide Funding To Allow Veterans Who Received Certain Combat Medals To Purchase Subsidized Service Time towards Their Retirement

H.P. 263 L.D. 350
(C "A" H-32)

An Act To Amend the Laws Relating to Unemployment Compensation

H.P. 310 L.D. 425
(C "A" H-31)

PASSED TO BE ENACTED and having been signed by the President were presented by the Secretary to the Governor for his approval.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Resolve

Resolve, To Recognize April 6, 2005 as the National Day of Hope
S.P. 158 L.D. 532
(C "A" S-19)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Acts

An Act To Allow Small Stores To Conduct Wine Taste Testings
H.P. 203 L.D. 278
(C "A" H-42)

An Act To Clarify Maine's Authority To Enforce Its Marine Resources Laws

H.P. 319 L.D. 434

An Act To Provide for a Limited Sea Cucumber Fishery
H.P. 435 L.D. 602
(C "A" H-38)

PASSED TO BE ENACTED and having been signed by the President were presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (3/28/05) Assigned matter:

Bill "An Act To Increase Faculty in Maine Nursing Education Programs"

H.P. 1051 L.D. 1494

Tabled - March 28, 2005, by Senator **BROMLEY** of Cumberland

Pending - **REFERENCE**

(In House, March 28, 2005, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.)

On motion by Senator **BROMLEY** of Cumberland, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ORDERS

Joint Order

On motion by Senator **BRENNAN** of Cumberland, the following Joint Order:

S.P. 532

ORDERED, the House concurring, that all matters in the possession of the Legislature, including working papers and drafts in the possession of nonpartisan staff offices and gubernatorial nominations, at the time of adjournment of the First Regular Session of the 122nd Legislature be held over to the next special session of the 122nd Legislature; and be it further

ORDERED, that any public hearing, work session or other meeting to conduct the business of the Legislature that is scheduled at the time this order is passed is hereby authorized to occur.

READ and PASSED.

Sent down for concurrence.

All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

ORDERS

Senate Order

On motion by Senator **GAGNON** of Kennebec, the following Senate Order:

S.O. 17

ORDERED, that a message be sent to the House of Representatives informing that Body that the Senate is ready to Adjourn Without Day.

READ.

On motion by Senator **DAVIS** of Piscataquis, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#53)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

ABSENT: Senators: ANDREWS, NUTTING

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators being absent, on motion by Senator **GAGNON** of Kennebec, **PASSED**.

The Chair appointed the Senator from Kennebec, Senator **GAGNON** to deliver the message to the House of Representatives. The Sergeant-At-Arms escorted the Senator to the House of Representatives.

Subsequently, the Senator from Kennebec, Senator **GAGNON** reported that he had delivered the message with which he was charged.

On motion by Senator **BRENNAN** of Cumberland, the following Senate Order:

S.O. 18

ORDERED, that a message be sent to Governor John E. Baldacci informing him that the Senate is ready to Adjourn Without Day, and invite him to attend and make such communications as pleases him.

READ.

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#54)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

ABSENT: Senators: ANDREWS, NUTTING

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators being absent, on motion by Senator **BRENNAN** of Cumberland, **PASSED**.

The Chair appointed the Senator from Cumberland, Senator **BRENNAN** to deliver the message to the Governor. The Sergeant-At-Arms escorted the Senator to the Governor's Office.

Subsequently, the Senator from Cumberland, Senator **BRENNAN** reported that he had delivered the message with which he was charged.

Senate at Ease.

Senate called to order by the President.

At this point a message was received from the House of Representatives, borne by Representative **DUPLESSIE** of Westbrook informing the Senate that the House was ready to Adjourn Without Day.

Senate at Ease.

Senate called to order by the President.

The President appointed the Senator from Kennebec, Senator **GAGNON**, to serve as President Pro Tem for the convening of the First Special Session of the 122nd Legislature.

On motion by Senator **SAVAGE** of Knox, the Honorable **BETH G. EDWARDS**, President of the Senate, declared the First Regular Session of the 122nd Legislature **ADJOURNED SINE DIE** at 10:32 p.m.