

MAINE STATE LEGISLATURE

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

Volume I

First Regular Session

December 1, 2004 - March 30, 2005

First Special Session

April 4, 2005 – May 25, 2005

Pages 1-736

February 20, 2009

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

Dear Madame Clerk:

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

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

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

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

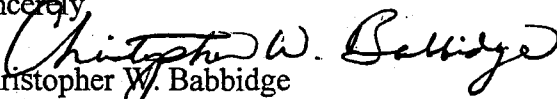
Unfortunately, I discovered this only after it was printed. I'm sure I brought this topic to the attention of your office at that time, but I'm following up so that for future reference, on any future printed or CD copies that may be requested, and for Law Library and State Library reference, this correction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

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

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

Thank you for attending to this.

Sincerely,


Christopher W. Babbidge

CONSENT CALENDAR

First Day

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

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

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

There being no objection, the Senate Papers was **PASSED TO BE ENGROSSED as Amended. ORDERED SENT FORTHWITH.**

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

UNFINISHED BUSINESS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of House Amendment "CC" (H-93) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 47

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

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

ABSENT - Hanley S.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ROLL CALL NO. 48

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ROLL CALL NO. 49

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ROLL CALL NO. 50

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ROLL CALL NO. 51

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ROLL CALL NO. 52

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The SPEAKER: The Representative may pose his question.

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

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

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

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

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

ROLL CALL NO. 53

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

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

ABSENT - Bierman, Hotham.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The SPEAKER: The Representative may pose her question.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The SPEAKER: The Representative may pose his question.

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

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

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

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

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

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

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

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

ROLL CALL NO. 54

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Moore.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

After Midnight

ROLL CALL NO. 55

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This is an issue that has been discussed for years. In fact, in discussions that I have had as a member of the Taxation Committee, there has been support for limiting the BETR program in this way and it is supported by people on both sides of the aisle. I believe that if it were not in the political context of the budget we would have bipartisan support.

Also, just to note, this is a prospective adjustment of the program. It honors all the commitments that we have made up until now. It continues to fully fund the reimbursement on

business personal property tax that we have committed to through the program so far and it gives plenty of notice to those few establishments that fall under this category. Reimbursement through this program will no longer be available as of April 1, 2006. I urge you to support the motion to Indefinitely Postpone this amendment. Thank you.

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

Representative **BOWEN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I have to respond very quick - I know it is late - to a comment from the previous speaker, my friend, Representative Lerman about this getting a lot of support if it were not in the budget. The fact is it is in the budget. That is the problem.

This was put into the budget literally in the middle of the night with no public hearing. Think about what we are doing here. We are making a major, major policy change to the most important economic development program that this state has without any public hearing, without any public notice, without the business community being told ahead of time. Think of the message that this sends to businesses. I don't know what the right decision is about the retail stores. I really don't know whether that is a good thing or not. What I am concerned about is that a business thinking of expanding in Maine and investing in Maine is looking at this and saying look what these people are doing. In the middle of the night they are perfectly willing to make a major change to an economic development program without any public input at all.

If you are an investor and you are thinking of putting money in Maine, does that make you feel better? Whatever you think about retail; whether we feel it should be in this program or not. The way that this was done, under the cover of darkness, sends as Representative Clough said, a terrible message to the business community. It means that this program is perennially in danger, this year its retail, next year who knows what it will be? We sat in Appropriations and listened to hours of testimony in defense of this program, hours, and yet we still went through in the middle of the night and made a dramatic change without any public notice whatsoever.

I would suggest that the proper thing to do here is to remove this from the budget. If we think this is a serious issue lets send it back to the Taxation Committee. Give it a public hearing. Get it into the light of day. If it's decided then that this is the proper thing to do then lets do it, but when you put it in the budget and try and sneak it through it sends a terrible message. If you have got a business in your community that is getting rebates and benefits from the BETR program you better think very carefully about the message you are sending those employers in your district by supporting a change to the BETR program in this manner. Thank you Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-48) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 56

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

Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

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

Yes, 78; No, 73; Absent, 0; Excused, 0.

78 having voted in the affirmative and 73 voted in the negative, and accordingly **House Amendment "A" (H-48) to Committee Amendment "A" (H-35) was INDEFINITELY POSTPONED.**

Representative CARR of Lincoln **PRESENTED House Amendment "W" (H-70) to Committee Amendment "A" (H-35)**, which was **READ** by the Clerk.

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

Representative **CARR**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As we received our final copy of the proposed budget, and as I was reading through it, I observed that we had placed money in it for K-12 education – considerable amount. That was a good thing. I noticed that we had placed another \$6 million for the University of Maine system, that's a good thing. I also went through the budget and noticed that there wasn't any money put in for the community college system and that's a bad thing.

The amendment that I propose would add \$750,000 in the 2005 - 2006 budget year and another \$1,250,000 in 2006-2007. I would like to explain why I have proposed this amendment. Last year this legislature changed the name of our technical colleges to the community colleges. We added more responsibility and we also asked them to serve more students. In just two years, the community college system has added 2700 more college students. That is a 36% increase. The number of students entering a community college has jumped 41% in two years.

Graduate numbers from the community colleges enrolling in Maine's seven universities has increased 21% in two years. Enrollment in career programs is up 18% in two years and they have added or expanded programs in education, automotive, machine tools and adventure tourism. They have also added entrepreneurial courses and services for businesses and the creative tools and knowledge to help them succeed. They have also frozen their tuition for the past six years and they have maintained their present rates of 95% of graduation in jobs and continuing education, with 96% of employed graduates finding jobs in Maine.

In four years they have added 4400 more college students. I submit to you that this is an excellent way to create jobs. It's a way to create college degrees for our students and it also helps the work force and for those people to find a job when they get out, as you can see from this high rate of people who actually get jobs when they graduate from this community college system.

I know that there have been some discussions that the community colleges would be helped and assisted later in supplemental budgets and the part II budget, but I think it is very important to send the appropriate message to these people and we have asked them to do more things for more people and I

would ask that you would support this amendment. Thank you Mr. Speaker.

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

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

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

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

Representative FISCHER: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I could go through many things that we deliberated about in this budget but I think the main point here is that the good Representative who offered this amendment – I appreciate it, I think it's absolutely the right thing to do – obviously didn't find a way to fund it, but the bottom line is I hardly doubt that he, or most people here, are going to vote for the \$40 million dollars that we are going to spend every year on the community college system so it seems rather disingenuous to stand up and say that you would like another \$2 million more on top of that given the fact that you are going to vote against the \$40 million they are getting now. Thank you Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "W" (H-70) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 57

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

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

Yes, 78; No, 73; Absent, 0; Excused, 0.

78 having voted in the affirmative and 73 voted in the negative, and accordingly **House Amendment "W" (H-70) to Committee Amendment "A" (H-35) was INDEFINITELY POSTPONED.**

Representative RECTOR of Thomaston **PRESENTED House Amendment "O" (H-62) to Committee Amendment "A" (H-35),** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Rector.

Representative RECTOR: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This budget includes a move to speed up the state's ability to seize the unused portions of gift certificates and gift cards held by ordinary retail customers. Currently the state sees 60% of the money remaining on gift certificates after three years. The issuing retailer keeps the other 40%. The state calls this money unclaimed property. By speeding up the seizure from three years to two the state would collect an additional \$5.7 million in the 2006-2007 year and an additional \$17.4 million in the next year and some \$20 million dollars per year after that. On and on and on it would go. That's more than \$40 million over three years. That is a lot of money to seize from unsuspecting Maine citizens who have no idea that such a seizure is even taking place.

Many people hold onto their gift certificates longer than two years. If there is value remaining on a gift card they may be waiting until another birthday or holiday when they have another certificate to add to their remaining value.

You have all worked to return unclaimed property to your constituents over the past month. Unlike that property that has a name associated with it, this property has no such name attached. While we claim to want to return property that is not ours to its rightful owners, in this case the state must expect to be keeping the property that is not theirs if they are booking nearly \$40 million in our state treasury as a result of these claims. We are talking about ordinary gift certificates from L.L. Bean, your local garden center, book stores and countless other retailers.

By what right does the state get in the middle of a business arrangement between retailers and customers to claim millions of dollars of their gift card purchases. This is nothing but a pure government taking of consumer's money. Only one other state seizes money from gift certificates after two years, the state of Tennessee. We should not allow Maine to get another black eye as a high tax state by seizing the money of our citizens, Maine citizens, who may be a little slow in using their gift certificates. Adopting this amendment would assure that the time period remains three years before the state can seize the unused portion of gift certificates.

I urge your support Mr. Speaker and I would request that when the vote is taken it is taken by the yeas and nays.

Representative Rector of Thomaston **REQUESTED** a roll call on the motion to **ADOPT House Amendment "O" (H-62) to Committee Amendment "A" (H-35).**

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

Representative BRANNIGAN of Portland moved that **House Amendment "O" (H-62) to Committee Amendment "A" (H-35) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "O" (H-62) to Committee Amendment "A" (H-35).**

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

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

Representative BRANNIGAN: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I sort of resent the word "seize". As a devotee of abandoned property and the ability to get money back either to the people who own it or to the state I believe that taking it in two years is appropriate. First of all if the person has that gift card they will get their money back from the state.

L.L. Bean was mentioned. They have always been very cooperative with our state and other local merchants, but these

cards now are much broader and businesses just keep the money. They use the money. They use our money, my money. The money I spend and why should they use it for three years if I don't spend my gift certificate in two years then I don't see why it shouldn't come back to the rightful owner the state or myself. I think it is perfectly legitimate to allow the state or citizens to use these funds after two years rather than the businesses that have presented them.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "O" (H-62) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 58

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

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

ABSENT - Vaughan.

Yes, 75; No, 75; Absent, 1; Excused, 0.

75 having voted in the affirmative and 75 voted in the negative, with 1 being absent, and accordingly the motion to **INDEFINITELY POSTPONE House Amendment "O" (H-62) to Committee Amendment "A" (H-35) FAILED.**

The SPEAKER: A roll call having been previously ordered. The pending question before the House is Adoption of House Amendment "O" (H-62) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 59

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

NAY - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Davis G, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton,

Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

Yes, 73; No, 78; Absent, 0; Excused, 0.

73 having voted in the affirmative and 78 voted in the negative, and accordingly the motion to **ADOPT House Amendment "O" (H-62) to Committee Amendment "A" (H-35) FAILED.**

Representative LINDELL of Frankfort **PRESENTED House Amendment "Q" (H-64) to Committee Amendment "A" (H-35), which was READ by the Clerk.**

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

Representative LINDELL: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The purpose of this revenue neutral amendment is quite simple. It will help hard working families pay for out of pocket and uncovered health care expenses and will be paid for by flat funding an account that has no specifically designed purpose.

Health savings accounts (HSAs) are federally tax-free accounts similar to individual retirement accounts or (IRAs) that allow anyone with a high deductible health insurance policy, which is most ordinary people in the State of Maine, who have to buy high deductible policies because those are the only ones they can afford. It allows them to put pre-tax money into an account that can be used to pay for out of pocket expenses as well as medical services that are just not covered by health insurance at all. The problem is that Maine's tax code is not in conformity with the federal tax code concerning HSAs. Under the federal tax code you get a tax deduction for putting the money into it and you get tax-free distributions to pay for those qualified medical expenses.

Health savings accounts will cover deductibles and co pays but they also cover-uncovered expenses such as hearing aids and prosthetics, alternative or experimental medical treatments. The accounts were widely praised at recent hearings before the Taxation Committee. There was broad bipartisan support expressed by members of that committee. The biggest concern was the approximately \$500,000/year fiscal note attached to bringing Maine's tax code into conformity with the federal tax code regarding health savings accounts.

Well, Mr. Speaker, I have good news. I have found the money in the budget. I bring to you an amendment today that will bring these HSAs into tax conformity and we found a fund in the Dirigo Health Agency budget that has no explained purpose, it's simply labeled Professional Services, Non-State. When the budget hearings were held before the Insurance and Financial Services Committee on this particular item members questioned Trish Riley and other members of the Dirigo Health Agency asking why we need \$1 million a year for consulting services and no clear explanation was given to us. In fact, that same account in 2004 had a price tag of \$539,000 so it has essentially doubled.

Instead of doubling that unexplained item what we do here is flat fund it and make house savings accounts tax deductible on the Maine income tax return and we stop taxing the distributions from those health savings accounts.

This budget allocates currently over \$2 million to the Professional Services Non-State account and we are going to bring that down to about a \$1 million with this amendment. There is no reason to believe that these consulting services can't be

obtained from agencies within other state departments. In fact, the insurance department routinely conducts actuarial studies of insurance bills and those studies cost around \$10,000. How many studies can you do for half a million dollars a year? I suggest plenty.

In any case by paying for deductible health savings accounts from this fund we will be able to provide significant help to hard working families struggling to pay for healthcare and fund it from an account that has no clear public policy purpose. Mr. Speaker, I request the yeas and nays.

The same Representative **REQUESTED** a roll call on the motion to **ADOPT House Amendment "Q" (H-64) to Committee Amendment "A" (H-35)**.

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

Representative **BRANNIGAN** of Portland moved that **House Amendment "Q" (H-64) to Committee Amendment "A" (H-35)** be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "Q" (H-64) to Committee Amendment "A" (H-35)**.

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

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

Representative **DUDLEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. With regard to this amendment the Representative from Frankfort is correct. There are several bills that deal with this very issue that are before the Legislature this session and that are now within the Tax Committee and I understand the Tax Committee is actually working very hard on developing a proposal and bringing it to the floor. I for one am very interested in their work and keep, to this day, an open mind on health savings accounts, actually, for the first time in many years. I have always been close-minded toward them. This time around I think there may be some merit to it, but at the very least I would like to have the Taxation Committee complete its work before we dictate to them what their work ought to do. Furthermore, when it comes to the positions that are cut out of Dirigo Health, there are many who, I think, would like to write the obituary for Dirigo Health today. Unfortunately, enrollment numbers are at expectations for Dirigo Health. Dirigo Health has a long way to go before we can forget about the potential benefit it offers to people in Maine needing access to healthcare, as well as to businesses needing relief from the ever increasing burden of the cost of healthcare.

To undermine the efforts of the Dirigo Health Agency at this early date in the process is far premature and counterproductive to the hopes we all have for the future of Dirigo Health. So, I urge you in joining me in supporting the motion to Indefinitely Postpone.

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

Representative **LINDELL**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to speak against the motion to Indefinitely Postpone. I just wanted to point out a couple of things Mr. Speaker.

First of all, this is not an attack on Dirigo Health. This is simply an allocation of funds that are unexplained. This comes out of a budget of over \$117 million a year. It comes out of a line item that is not for positions. It is for outside consulting services; fees that get paid to big, out of state consulting firms that charge high prices to do stuff that we could probably get our own experts within State Government to do at little or no cost. It's simply a better allocation of resources. If we could take this matter and

take care of this job for the Taxation Committee right here and now I say we should do it. So, vote against the Indefinite Postponement and later for the amendment. Thank you.

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

Representative **SYKES**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This is an interesting evening. Just a few minutes ago we spent a great deal of time, I'll use the word encouraging and maybe enforcing is a better word, Maine citizens to be concerned about their health by wearing a seatbelt. Now what I hear is that we are going to discourage them from investing in a health savings account. If I have learned anything tonight this whole budget process is certainly a varsity sport.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "Q" (H-64) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 60

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

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

Yes, 78; No, 73; Absent, 0; Excused, 0.

78 having voted in the affirmative and 73 voted in the negative, and accordingly **House Amendment "Q" (H-64) to Committee Amendment "A" (H-35)** was **INDEFINITELY POSTPONED**.

Representative **BIERMAN** of Sorrento **PRESENTED House Amendment "P" (H-63) to Committee Amendment "A" (H-35)**, which was **READ** by the Clerk.

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

Representative **BIERMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This a very, very important amendment and you can tell by how early it is being offered so everyone pay attention please. This amendment returns the funding for Reading Recovery, now the amount \$528,000 in 2005-2006 and \$590,000 in 2006-2007. Based on the estimated year-end balances this amendment maintains a balanced budget for the 2006-2007 biennium.

Now for those of you who don't know what Reading Recovery is, it is an early intervention program targeting at-risk first graders

in the area of reading. That doesn't really sound that important does it? We are only shaping the young people of the state. Why do we want to actually teach them how to read?

Reading Recovery has been found to be cost effective when compared to remedial reading programs, special education placement and primary grade retention. That report comes from Dyer and Swartz, 1992.

Reading Recovery was created by Dr. Mary Clay in New Zealand and then brought to the United States by Ohio State University. Presently, it is being used in every state in the Union.

Studies have also shown Reading Recovery to be more cost effective in achieving short term, and sustained progress in reading and writing than other intervention programs.

Really, I am at a loss. We have reshaped the new EPS funding formula; rural isolated schools with a high valuation and low student population are taking a real shot in the arm. We are making cuts everywhere and we are going to further exacerbate this by cutting a very successful program, a program that I submit to you, the Learning Results have been based off in the literacy area. This is a very nominal amount it's a little over \$1 million for the biennium and the money that they have taken away from Reading Recovery is actually going to fund some MEA contracts. I would ask that those that are still in attendance support me in this amendment. It's not going to throw the budget into chaos and everyone can really feel good about it because we are teaching our young people how to read. Thank you and I do believe I am the last amendment.

Representative BRANNIGAN of Portland moved that House Amendment "P" (H-63) to Committee Amendment "A" (H-35) be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** House Amendment "P" (H-63) to Committee Amendment "A" (H-35).

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

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

Representative **DUDLEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I commend the Representative from Sorrento. This is definitely an excellent program – Reading Recovery. I know the Appropriations Committee was very concerned about this and asked a lot of questions to the department and the same for the Education Committee. The fact is that the Education Committee, in their report back to the Appropriations Committee, 11 of 13 members approved this cut and I imagine they did so that we on the Majority in Appropriations Committee approved it. It was that, based on what the Commissioner told us, funds are built into the EPS model so that communities may continue to fund Reading Recovery, which is a tremendously successful program. As long as communities choose to see the success of the program, they have the funds through EPS to continue operating the program. I would also note that two members of the Education Committee who did not approve this cut did not recommend a full restoration as is proposed here.

With regard to Representative Bierman's comments about this being within available resources to make this restoration, the truth is that with two of the amendments that we did adopt this evening, CC and E, we are now dealing with a situation where we are not balanced, to the tune of \$255,000. This would only deepen the hole that we are in. We are not in balance and this would worsen the problem. Thank you.

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

Amendment "P" (H-63) to Committee Amendment "A" (H-35). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 61

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

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

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

77 having voted in the affirmative and 74 voted in the negative, and accordingly House Amendment "P" (H-63) to Committee Amendment "A" (H-35) was **INDEFINITELY POSTPONED**.

Committee Amendment "A" (H-35) as Amended by House Amendments "E", "T" and "CC" thereto was ADOPTED.

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

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

Representative **BOWLES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. A great deal has happened in the last month, regarding this budget bill, to get us to the point where we are now. Much of it was good. The Appropriations Committee worked together, mostly in a friendly and cordial way. They worked with a similar goal to try to produce the best budget possible for Maine people. Leadership worked together, mostly in a friendly and cordial manner, also trying for the same end.

While we have differences in the bill itself and our views of it, the process has been mostly good. People are to be commended for that and tonight the discussion has been good. It has been respectful and both sides made a lot of good points and that's a good thing.

There have been some things however, in the last couple of weeks. There have been a lot of reporting, a lot of discussion and I would just like to clear up a couple of matters because some of the things that I have heard have been a little bit disturbing in terms of the characterization of certain events that have taken place.

I want to particularly take you back a couple of weeks to the night when we were about two days away from trying to wrap things up in the Appropriations Committee and we had a leadership meeting and we had members of Appropriations there. We said where are we now, where do we stand, what do we

need to come to final agreement on this? Is there a way that we can get together and put this package together? Republicans at that time expressed our concerns in several areas. That was a time in which, the original bonding proposal - the original borrowing package - had been put together by the group that included Representative Millett and Representative Mills.

The question with which we were faced was could we support the budget with that borrowing package and we said yes, we could. But, there were some buts. What we suggested was that we needed to see on our side of the isle that we were actually going to make a start in reducing the ever-increasing cost of government. Now what we asked for was some demonstration that we could start to flatten that line so that government didn't continue to grow in this manner and so that we could actually start to flatten that out.

We knew we were faced with about a \$650 million structural gap at that time and we said we knew that it was unreasonable to try and fill that gap in a budget cycle, but it is not unreasonable to try to do it in three budget cycles.

We thought that was pretty reasonable and what we said is can you work with us to flatten this curve by taking one third of that structural gap at this point in time, about \$215 million. Now we didn't ask for \$215 million in cuts. We never asked for that. What we asked for was some structural changes that would eventually give us \$215 million in structural gap reductions. There is a difference.

Some of the things that have been misreported or confused in the reporting are that Republicans asked for or demanded, which is certainly untrue, \$250 million worth of cuts. We never did any such thing. I read that we demanded the elimination of 500 vacant positions. We never did any such thing. I don't believe there are 500 vacant positions. We asked if we could look at 100-150 vacant positions and see if we could eliminate those because that would help reduce the structural gap without actually making cuts. I read where we wanted to throw some people off the Medicaid roles, toss them out of MaineCare. Absolutely not true. We never suggested that. What we suggested was that we needed to take a look at some of the MaineCare programs and decide whether or not we should cap enrollments or possibly roll back the eligibility criteria, but we never suggested that anyone currently eligible for the program should be removed.

We thought at the time that if we could work together towards accomplishing some of those goals than we still had a chance for a two-thirds budget. Nobody is to blame for the fact that we didn't get there. I'm disparaging anybody's efforts. We parted in a friendly manner but we were disappointed.

Why did we eventually decide that we couldn't support the budget? There were a number of things, obviously, that we talked about tonight. When you boil it all down it ends up pretty much revolving around the borrowing package. The borrowing package is difficult. The people out there understand a \$10 fee on their canoes and kayaks. They got that. We know they got it because we heard from them. All of us heard from them. The borrowing package is difficult to understand. It's very complicated. Earlier the Representative from Waterford, Representative Millett addressed the staggering cost of just a rollback of the Unadvertised Actuarial Liability; the UAL. Just that is going to cost us \$3.6 billion dollars. Additionally, we are going to incur a \$450 million debt, which will be born not just by us, but also by our children and our grandchildren. This is a 20-year obligation. How do we justify this when we are going to spend that money in the next two years, or a significant portion of it?

The structural gap going forward remains virtually unchanged. It may be slightly lower. I think I heard Representative Millett

indicate that it might be \$619 million instead of \$650 million. When do we begin the process of relieving our children of this debt? Are we hoping for some miraculous tsunami of revenues to rescue us? I hope not.

Some of us will not be here in two years, but those of you who do return will have to face this dilemma because we have not fixed it. We have sold the liquor revenues. We have pledged the lottery revenues. We have pledged the racino revenues. We have pledged a number of smaller revenue streams. What can we sell or pledge next?

Some have jokingly suggested we might offer the capitol or the state buildings for collateral. To them I say it's too late we have already done that. We have already done that to back the approximately \$200 million worth of Maine Government Facilities Act monies that we borrowed.

Once again, we are passing this onto our children. Where does it end? It will end when the people of Maine say enough is enough. I believe some of us are hearing that loud and clear from our constituents right now. Ladies and gentleman I can't vote for this budget and I believe many of you also know this budget is not worthy of your vote. I understand how difficult it is not to support your Governor and your party leadership. I don't expect people to suddenly change their positions. I ask only that as you drive home tonight you ask yourself, do you feel you were well served by those who encouraged you to support this budget? Ask yourself also, if you have done the right thing for your constituents? If you are comfortable with your answers to both of these questions then you have done the right thing. If you are not, then it will be a longer ride home than usual.

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

Representative CUMMINGS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In this late hour I still want to take a few minutes to say thank you to Representative Bowles and Representative Tardy and to the Speaker and to others who have made this process doable and to the members of Appropriations who have taken a lot of their lifeblood to put in a package, on both sides of the isle. That process has been respectful and has been polite. It has been courteous on the whole and I appreciate that and I want to say thank you.

I want to talk about the budget itself. The question comes up, and I am delighted to hear Representative Bowles say, we didn't want to cut anything more. We didn't want to roll back Medicaid. We didn't want to do anything and I appreciate that.

We just wanted to go after the structural gap, which by the way is not debt, because tonight when you push a green light it will be a balanced budget. Unlike Washington, it will be a balanced budget. Now we accrue debt and we will accrue debt, and I want to talk about that, but I just want to say the numbers don't add up. If my good friend Representative Bowles is saying we weren't going to cut, we weren't going to cut and then they were saying we weren't going to raise taxes you have got a real problem then. So where does that come out?

The question is how do you look at this budget? The first way I look at it there are two levels of it. There was one, as Representative Bowles talks about, which are the irritants, so well described by Representative Hanley, the things that somehow stick in people's minds, they are not the big things, they are the little things. Tonight most of those got eliminated. Representative Brannigan eliminated them and other movements we saw here on the floor represented them and they are gone. However, there is a bigger part of the budget and that is the question about how you meet that gap. If Representative Bowles is being honest and true - I believe he is - he didn't want to make

any changes and further cuts. By the way in Health and Human Services the Republicans voted to put back \$40 million. We said we wanted to put back \$50 million that seems like a pretty small difference. So if that is true how do you fill in the gap? Well, what working families do when they have to get their kid into college, when they have to figure out how to renovate a piece of their place so a mother-in-law can move in, they do something that we all do. We smooth out our investment over a longer period of time.

For those of you who are lucky enough to be able to write a check for your college education, for the full price, you are blessed people. But for me and for others, working families will have to figure out: is the investment worth it and can I afford it in the mortgaged out years.

You have bought yourself because the voters have told you they want it. The largest investment in K-12 education in the history of the state and you did it without a tax increase. You have to balance your priorities. If it is true that you don't want a cut and if it's true you don't want to raise taxes, you figure it out. You are a working family. You can't write the full check. This is how it's done.

When I drive home tonight I say we were faced with some of the ugliest choices any Legislature ever faced in this room. We had to make some very, very ugly choices. We made cuts, we made cuts, we made cuts and Representative Twomey is right, a different political context would say: then why aren't you raising taxes? That is not the political card that we were served. I can tell you that there are many in this room that would not do it on both sides. Then you have to ask yourself the question: have we taken all of the angles of the budget the entire landscape and made the best possible judgment that we could make? I say yes.

Out judgment is that we have to make investments because the voters have said this is the kind of investment we expect you to make. We made it in a balanced way. We did the responsible thing. We cut as much as we felt we could and then we said, we need help. We need a low interest loan to help us make it through this and that is what you have.

We have not in the out years debt, we have a gap, and we have consistently brought down that gap and we will do it again. I urge you tonight to do what is responsible. Do not keep people waiting for another three months while we brawl and quibble and quabble. Make the decision, get this done, execute what we have been sent here to do and the people will appreciate it.

Representative TARDY of Newport REQUESTED a roll call on **PASSAGE TO BE ENGROSSED as Amended by Committee Amendment "A" (H-35) as Amended by House Amendments "E", "T" and "CC" thereto.**

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage to be Engrossed as Amended by Committee Amendment "A" (H-35) as Amended by House Amendments "E", "T" and "CC" thereto. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 62

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

Smith W, Thompson, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

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

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

77 having voted in the affirmative and 74 voted in the negative, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-35) as Amended by House Amendments "E", "T" and "CC"** and sent for concurrence. **ORDERED SENT FORTHWITH.**

ENACTORS

Emergency Measure

An Act Concerning the Confidentiality of Records Held by the Gambling Control Board

(S.P. 32) (L.D. 90)

(C. "A" S-47)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 144 voted in favor of the same and 6 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

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

On motion of Representative GERZOFKY of Brunswick, the House adjourned at 1:43 a.m., until 6:00 p.m., Wednesday, March 30, 2005.