

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twenty-Second Legislature

State of Maine

Daily Edition

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

Pages 1 - 410

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

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

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

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

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

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**RECESSED** until 4:00 in the evening.

After Recess

Senate called to order by the President.

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#### **ORDERS OF THE DAY**

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

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2006 and June 30, 2007" (EMERGENCY)  
H.P. 343 L.D. 468

Tabled - March 30, 2005, by Senator **GAGNON** of Kennebec

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

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

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

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

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

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

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

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

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

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

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#37)**

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

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

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

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

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

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

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

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

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

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

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#38)**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#39)**

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

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

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

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Off Record Remarks

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

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

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

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

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

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

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

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

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

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#40)

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

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

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

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

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

Senator **SNOWE-MELLO**: Thank you, Madame President and ladies and gentlemen of the Senate. The budget includes a move to speed up the state's ability to seize unused portions of gift certificates and gift cards held by ordinary retail customers. Currently, the state seizes 60% of the money remaining on gift certificates after three years. The issuing retailer keeps the other 40%. The state calls this money unclaimed property. This new budget calls for seizing that money after just two years. By speeding up the seizure from three years to two, the state would collect an additional \$5.7 million in the '06 to '07 year, an additional \$17.4 million next year, and some \$20 million the year after that. On and on it would go. That's more than \$40 million over three years. This is a lot of money to seize from unsuspecting Maine citizens who have no idea that such a seizure is even taking place. It is a stealth tax that would outrage most people if they knew it actually existed. According to the Maine Merchant's Association, many people hang onto gift certificates longer than two years. If there is a value remaining on a gift card, they may be waiting until an anniversary or a birthday to make another purchase. We are talking about ordinary gift certificates from L.L. Bean, garden centers, book stores, and countless other retailers. I ask you this, by what right does the state get in the middle of a business arrangement between a retailer and customers and claim millions of dollars of their gift card purchases? This is nothing but pure government taking of consumer's money. Only one other state seizes money from gift certificates after two years and that is Tennessee. We should not allow Maine to get another black eye as a high tax state by seizing the money of consumers who may be a little slow in using gift certificates. Under this amendment, the period remains three years before the state can seize unused portions of gift certificates. I ask you, ladies and gentlemen, to please support this amendment. Thank you.

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

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

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

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#41)**

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

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

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

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

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

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



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

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

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

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

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

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#42)**

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

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

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

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

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

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

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

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

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

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

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

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#43)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#44)**

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

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

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

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

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**Off Record Remarks**

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

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

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

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

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

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

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

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#45)**

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

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

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

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

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

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

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

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

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

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

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

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

**THE PRESIDENT:** The Senator may pose her question.

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

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

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#46)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**THE PRESIDENT:** The Senator may pose his question.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#47)**

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

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

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

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Senate at Ease.

Senate called to order by the President.

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#48)**

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

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

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

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

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

**ROLL CALL (#49)**

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

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

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

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

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

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

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

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

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#50)**

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

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

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

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

Ordered sent down forthwith for concurrence.