

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

In Senate Chamber  
Thursday  
January 20, 2005

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

Prayer by Reverend Dr. Edward DeLong of the Westbrook-Warren Congregational Church, UCC, of Westbrook.

**REVEREND DELONG:** I tell my church when we worship that the most dangerous thing that we do is the invocation because it's a reminder that we're not completely in charge. Let us pray.

Gracious God, by Your providence and grace You have called these men and women for public service to the good people of Maine. Through our discerning and voting we have elected them to be our leaders. We ask simply and plainly that You equip them this day with the gifts and graces necessary for their vocation as Senators. We acknowledge that we lead best as we follow and open ourselves to Your living and risen word still speaking among us. Give us ears to hear, eyes to see, minds to understand, hearts to follow, and hands to embrace each other in our common life, that Maine may lead and direct as a beacon to that realm where Your will is done on earth as it is in heaven. We pray in the strong name of Jesus. Amen.

Doctor of the day, Dr. Buell Miller of Richmond.

Reading of the Journal of Wednesday, January 19, 2005.

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

**ORDERS**

**Joint Order**

On motion by Senator **NUTTING** of Androscoggin, the following Joint Order:

S.P. 111

ORDERED, the House concurring, that the Joint Standing Committee on Education and Cultural Affairs shall review the following components of the Essential Programs and Services Funding Act established pursuant to the Maine Revised Statutes, Title 20-A, chapter 606-B, including proposed provisions contained in L.D. 1, Part D:

1. The replacement of existing cost-sharing agreements that were established by member municipalities of school administrative districts and community school districts prior to January 1, 2004 to determine how member municipalities would share the costs of operating the school district;
2. The per-pupil rates established under the Essential Programs and Services Funding Act for those school administrative units that do not operate an elementary school, but pay tuition for their students to attend school in another school administrative unit;
3. The distribution of funds for special education within the model for Essential Programs and Services Funding Act as opposed to 100% state funding outside the model; and
4. Other cost components of the Essential Programs and Services Funding Act, including, but not limited to, those for vocational education, isolated small schools, gifted and talented programs, transition adjustments and the Fund for the Efficient Delivery of Educational Services; and be it further

ORDERED, that the Joint Standing Committee on Education and Cultural Affairs shall report out legislation by March 15, 2005 to the Senate based upon its review.

**READ.**

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

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. As I become more and more familiar with Part D of L.D. 1, I and other legislators, of both parties, from rural Maine have had concerns over this new funding model. To me, this Joint Order allows the Education Committee to review this, have a public hearing on it, and to really see what this formula does, what this model does, and what it doesn't do. I want to thank the people of both parties from this body that helped in the drafting of this. I urge your support of this Joint Order.

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

Senator **MILLS:** Madame President and men and women of the Senate, I join fervently in the good Senator from Androscoggin, Senator Nutting's request that this order be approved. I had the pleasure and the very great privilege, frankly, of serving on the Tax Reform and Education Committee, which should have been called the Tax Reform and Education Committee, of the past 35 days. We worked well into the middle of the night on a number of occasions and it became apparent to us, I think fairly early on, that struggling with the education formula was probably the most significant, most substantial, and by far the most difficult part of our work. Some of us were embarrassed by the extent to which we were, in a sense, supervening the work of the Education Committee.

I think many of us closed down our work last week with a very nervous feeling that this brand new education funding model, in which we spend \$800 million or \$900 million a year and that will go on for year to year after this, needs to be examined with extraordinary care by other eyes; particularly by the committee

that has jurisdiction over it, the Superintendents, the school districts, the people that work with this formula, and school boards. They need to see their 281 reports, I think that is what they are called. It's the report that shows the breakdown of how the model of the formula applies to each school district and the method by which the state explains, in detail, what each town has for a local obligation and how that obligation was calculated and how the state is going to meet its obligation.

Probably by the end of the today we are going to be passing into law, somewhat permanently, a new school funding model without having the benefit of that information. I think there is a great deal of nervousness, and in some quarters, actual dissatisfaction that we don't have the time to develop the information we really need to make a sound and considered judgment on whether this model is the appropriate model for us to launch the next few years of school funding on. I personally think that this notion of an EPS model, an essential programs and services model, is so far superior to what we have now that I endorse the idea that we are making progress in a very appropriate direction. Nevertheless, much of the specifics about how this model will hit the ground and what are reasons and the policy decisions that lie behind the numbers on those spreadsheets is still a mystery to many of us. It's not because we don't want to know. There are many of us who sincerely do want to know. We want to rub our noses in the figures. We want more detail. We want this system studied. This is probably the single biggest piece of work we down here, we act as tax collectors for local school districts. Certainly it is the biggest chunk of money that we raise and spend, \$900 million a year roughly. I consider it the most important work that I do here. I'm going to be following the work of the Education Committee with great interest in the next few months. I may have some of my own ideas that I may wish to proffer to the committee, if they'll be kind enough to accept them. At this point, I'm dry because I don't have enough information. I think the next 40 days or so, if the committee will abide by the Joint Order, will do it's work and will plunge into this formula with the fervor that we tried to bring to bear in our committee under the leadership of the Senator from Hancock, Senator Damon. I think that we may have a time in March when we will want to revisit some of the particulars of this model. I hope that everyone in this chamber and in the other will maintain an open mind and will also be willing to devote their own time to understanding this new model and this new approach to the distribution of these funds. Thank you very much, Madame President.

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

Senator **BRYANT:** Thank you, Madame President, men and women of the Senate. I, too, rise today to support this Joint Order. I've had tremendous concerns about essential programs and services and how it affects the local areas. It gives me great comfort knowing that the good Senator from Kennebec, Senator Mitchell, is going to be able to look at this within a time frame that gives us comfort that we can move forward. It's a good joint order and I support it and would encourage you to do so also. Thank you.

On motion by Senator **NUTTING** of Androscoggin, **PASSED.**

Ordered sent down forthwith for concurrence.

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Off Record Remarks

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Joint Select Committee on **PROPERTY TAX REFORM** on Bill "An Act To Increase the State Share of Education Costs, Reduce Property Taxes and Reduce Government Spending at All Levels" (EMERGENCY)  
H.P. 6 L.D. 1

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1).**

Signed:

Senators:

DAMON of Hancock  
MILLS of Somerset  
PERRY of Penobscot

Representatives:

WOODBURY of Yarmouth  
CLOUGH of Scarborough  
LERMAN of Augusta  
DUDLEY of Portland  
DUGAY of Cherryfield  
NORTON of Bangor  
FLOOD of Winthrop  
SMITH of Monmouth  
BIERMAN of Sorrento

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-2).**

Signed:

Senator:

ROSEN of Hancock

Representatives:

McCORMICK of West Gardiner  
STEDMAN of Hartland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1).**

Reports **READ.**

On motion by Senator **DAMON** of Hancock, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1)** Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-1) **READ.**

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

Senator **DAMON:** Thank you, Madame President, men and women of the Senate. It is indeed my pleasure to offer for your consideration the Majority Committee report on L.D. 1. The report before you is the result of hours; many, many hours, of work by a very dedicated, thoughtful, and diligent group of legislators who made up the Joint Select Committee on Property Tax Reform. I was honored to have the opportunity to work with such a fine group of people who, despite the pressure of time and conflicting opinions, worked together in a respectful, collegial, and responsible manner on these very difficult and important issues. Thank you, Madame President, for giving me the opportunity to serve with that committee.

The result of those many hours of work is a committee amendment that, while perhaps not perfect, is likewise not pathetic. In fact, it goes a long way towards reducing the property tax burden for the people of Maine. This bill is one of a package of legislation sent forth from the committee. It is one piece of a group of interconnected bills that must be sent forth from this legislature in order to provide the type and level of property tax relief that we are aiming for and that the people of Maine expect. Were it not for the fact that these other changes that will come before us require amendments to the Maine Constitution, I believe that all of them would be here in this committee amendment to L.D. 1, for they are intricate parts of the plan developed by the committee.

More to the point of my remarks, I am sure that you have had various summaries of the committee amendments, so I won't take a lot of time to summarize the contents of the committee amendment. I will, instead, remark on the major aspects of the amendment.

The amendment addresses some of the same programs that were offered to us, the committee, and to the legislature by the Chief Executive. The Joint Select Committee put its own stamp on the bill by subtracting some items, by adding others, and by, in many instances, altering those that remain. The sum is, we believe, a stronger and more comprehensive property tax reform bill.

First, the committee amendment greatly enhances two property tax relief programs that currently exist, the circuit breaker program and the homestead exemption. The enhanced circuit breaker, with the changes made in this amendment, will help over 90% of Maine homeowners if their property taxes rise above 4% of their income. The expanded homestead exemption helps all Maine homeowners. These two programs provide direct property tax relief to Maine's citizens.

Additionally, the committee amendment increases the State's contribution towards the cost of K-12 education by more than \$250 million over the coming biennium. It puts the finishing touches on the essential programs and services method of calculating education costs, a method that has been developed

by the past two legislatures. This additional state funding for education provides broad brush property tax relief. This was the first chance we've had to see how the EPS works in reality. As was anticipated some years ago, we saw a need to help some school administrative units transition to the new formula. This committee, working closely with the Department of Education, put forth a plan for transition assistance to prevent school units from experiencing sudden drops in state support. This transition adjustment is necessary as we shift from the unaffordable GPA funding model to the defined and fundable EPS model. L.D. 1 as amended also provides additional funding for revenue sharing to the program that directs assistance to municipalities with higher mil rates.

Finally, in order to ensure that additional education money goes towards property tax relief rather than into additional spending and to highlight the importance of tax relief, the amendment enacts spending caps on all levels of government; state, county, municipal, and school administrative units. The caps are stringent but reasonable. They have been crafted with an eye on uniformity. That is, they are as alike as possible for all levels of government and there are provisions to override the caps in extraordinary circumstances or when a majority of decision makers vote to do so through a very public, very open, and very informed process and vote.

Some would say that this bill does not do enough for the people of Maine. While I agree that there is more work to be done in alleviating the per capita tax burden in this state, I see this as the first giant step towards that goal. My fellow colleagues, with the success of this package of legislation, I truly believe that we will, collectively, have the inspiration, the courage, and the will to tackle the remaining aspects of our tax burden.

In as much as I would like to have offered a proposal to you that would have provided comprehensive tax reform to Maine citizens, I know now that it would have, at best, been impossible and at worse would have resulted in no solution at all. This committee Majority Report does provide the opportunity for us to finally take the first positive step necessary on our journey to comprehensive tax reform. I urge you to join me and the Joint Select Committee in taking this historic first step. I urge you to vote yea on the motion to accept the Majority Ought to Pass as Amended report.

Madame President, thank you again for this opportunity you have given me. Men and women of the Senate, seldom will we have the opportunity to enact such revolutionary legislation as presents itself to us today. Maine is looking to us. Maine is depending on us. Maine awaits our vote. Thank you, Madame President.

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

On motion by Senator **NASS** of York, Senate Amendment "G" (S-8) to Committee Amendment "A" (H-1) **READ.**

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

Senator **NASS:** Thank you, Madame President, men and women of the Senate. Senate Amendment "G" to Committee Amendment "A", the majority report on L.D. 1, strikes all except part "E"; the circuit breaker proposal. It is probably familiar to

everyone in this room, it is the so-called tax payer bill of rights model, patterned after a successful effort in the State of Colorado. It is substantially different from what Colorado did. What we have done is write a version that is very Maine-friendly.

Without going into a great deal of detail, it does control growth and expenditures for the General Fund, the Highway Fund, other special revenues, quasi-governmental organizations, local municipal governments, counties, and school districts. It is very broad in nature. It's been very effective in Colorado. It sets up spending caps that are certainly more stringent than provided in L.D. 1, typically 2/3 by referendum. It has spending caps that are very similar to L.D. 1. Those things have been discussed in this body and in the committee as part of the process for L.D. 1 for a number of weeks now.

Madame President, without going into greater detail, it is interesting to note that the fiscal note on this does save the State of Maine a considerable amount of money from the proposal now in front of us. We offer this for your consideration.

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

Senator **DAMON** of Hancock moved to **INDEFINITELY POSTPONE** Senate Amendment "G" (S-8) to Committee Amendment "A" (H-1).

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 Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. I would really like to applaud the Joint Select Committee on their work and hope that we would Indefinitely Postpone this effort to undermine some of their work, the great bi-partisan work, that has been going on. The proposal that is before us, this floor amendment, would create something that the people of Maine have already rejected. It is very similar to the Palesky proposal that was presented some time ago. This has the type of severe and devastating cuts to a lot of the services that are provided to the people of the State of Maine that were rejected last November. The types of cuts that we are talking about look great on the surface in terms of the amount of money that is saved. We have to remember that the bulk of money that comes through state government is passed along to citizens and is passed along to municipal governments in many ways. This would be devastating, absolutely devastating, to the roads of this state, which are critical to us, being a rural state. We are having a hard time finding companies to come to this state and try to get products in and out of this state. This would devastate the Highway Fund.

It would devastate some of the important safety nets that we already have established in this state, particularly for our elderly, underprivileged people, and our handicapped folks. What this effort is primarily all about is tax reform. What I have been hearing about is elderly people who are not able to stay in their homes. Here we are going to implement a program that would force them, almost immediately, out of their homes and into a program that will have no funding. You can envision elderly folks

being left in wheelchairs in hallways, not getting the attention that they need.

There has been some very important work done by this legislature over the years. The beauty of this proposal before us, that the good Senator has presented in L.D. 1 and the committee report, is that we are able to preserve a lot of those important safety nets. We are able to provide the property tax relief we want. We are able to provide additional funding for education, which we've all wanted to do for many years. They cleverly use many of the tools that were in the toolbox. In my years in the Taxation Committee I always believed that the tools that were in the toolbox, circuit breaker, homestead, and revenue sharing, are all different tools for property tax relief and for tax relief. They use every single one of those tools in creating this ultimate product, just like a builder would use a variety of tools to build a home. I think this is more than a foundation. I think this goes far beyond what my hopes were at the end of last session and the beginning of this session. I think it is incredible work. I thank those committee members. I hope that we do not destroy the work that they have done, devastate many of the other programs that we have already established for the good people of this state, and that we Indefinitely Postpone this proposal. Thank you.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. Two brief points. Let's not forget that essential program review actually is state law. This amendment would do away with all the changes that the committee has done and made to give us a better essential program review within the Department of Education for our school funding. Secondly, it eliminates \$13 million that we have in the committee amendment for tax relief.

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

Senator **NASS:** Thank you, Madame President, men and women of the Senate. I do agree and I should have addressed this in my prior remarks to indicate my appreciation for the effort that the committee made. I was on the Taxation Committee in the last session and I have a feeling for how difficult it is to develop tax reform. However, this amendment has been mischaracterized, Madame President. It is not about cutting anything. It's about controlling growth. That's the beauty about what Colorado did. Forward looking. We don't have to talk about cuts for brain injured people or for people in nursing homes. Some of these may be familiar to you, they were in the last budget. None of that is on the line here. We're talking about the growth in spending in all these government funds. You'll notice in the list that I spoke of before that the only one missing from that list was Federal funds. Every other fund that the state controls, where we take money in and we spend it out, would come under these reasonable caps. It's all about the growth. It's not about cutting anybody's benefits at this point. That is our only hope for the future in this state to do anything about our situation. The fact that spending almost always outstrips our revenue gets us into the trouble we are in. It's forward looking, no cuts, controls the growth in spending. Thank you, Madame President.

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

Senator **PERRY:** Thank you, Madame President, ladies and gentlemen of the Senate. It's a pleasure to address you today. I want to thank you for the opportunity to have served on this committee. I would say that maybe the best part of serving on this committee was the opportunity to sit between the Senator from Hancock, Senator Rosen, and the Senator from Somerset, Senator Mills, for all these meetings. It really was fascinating. We would throw out a lot of ideas and the Senator from Somerset, Senator Mills, would kind of figure out what they all meant and we would move on.

I would just add that this is not a new proposal. It is just an estimate but I would say that between the committee, the Executive Branch, and the Departments, we have probably invested over 10,000 hours in this bill. This idea was thoroughly discussed and heard and was unanimously rejected by the committee. Not even the Minority Report suggests that we should move forward in this fashion. We have spending caps and overtime we will achieve significant property tax reduction. Thank you.

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

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. I'd like to just follow up on the comments of the good Senator from York, Senator Nass. I think his comment was that this is our best hope for the future based on the experience in Colorado. I just want to say, based on what I know about Colorado, this is not a future that Maine wants. The spending caps in Colorado and the approach the Colorado voters have taken to state spending, at very best, have had mixed results and in many cases have been very detrimental results. In fact, the spending caps in Colorado have in some ways failed so miserably that even the Governor of Colorado has now come out with proposals to repeal those spending caps. One example of what has happened in Colorado with their spending caps is that in order to circumvent those spending caps they have instituted a voucher system with their university system. I don't think that's a future that we want in Maine, where we will turn our university system into a voucher system. In fact, in Colorado there have been significant cuts to key programs in health, nursing homes, and for the elderly. To somehow pretend that the future of Maine can look like the future of Colorado by passing this, it is not a future that I want to see for Maine. I hope you will reject this amendment and support the pending motion. Thank you.

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

Senator **MARTIN:** Thank you, Madame President. To the good Senator from York, Senator Nass, it is something I just can't let go by. First, let's not forget there is \$13 million that would not be expended towards property tax relief that is in this amendment. You can read it in the fiscal note. Secondly, and even more interesting, what happened in Colorado, and the result of what happened in Colorado in the last few years, resulted in something unbelievable. The citizens of Colorado elected a Democratic House and Democratic Senate.

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

Senator **BROMLEY:** Thank you, Madame President. I want to begin by congratulating the committee on their tireless work and thank you for bringing us the committee amendment. I also want to note that I agree with the good Senator from York, Senator Nass, on one thing. Expenses exceeding revenues is a problem. However, we cannot cut our way into prosperity. I'm going to repeat that. We cannot cut our way into prosperity. We have to talk about growing our economy. The things that would not be available to us, the investment that we absolutely have to make in our economy, would not be possible if we were to pass this amendment. I'll give you a very small example. The small community of Millinocket is investing money in small business incubation because they know that the future of their economy is not going to depend only on their mill. It has taken money to do that. Were we to do what this amendment asks us to do, we would not have money to invest in our economy. Expenses exceeding revenues is a problem. There is a lot of spending reform in what's before us and I applaud that and hope you will all support that. How are we going to invest in our economy, how are we going to grow our economy, if we were to enact this amendment? We couldn't. All of us in this room that have made investments in ourselves and our families and our children, how do we do that? We invest in our health. We invest in our education. We invest in opportunities. That's absolutely exactly what we need to be doing in this chamber for the people of Maine, for my children, for your children, and our constituents. I urge you to support the pending motion.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon to Indefinitely Postpone Senate Amendment "G" (S-8) to Committee Amendment "A" (H-1). 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 (#5)

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

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, 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 **DAMON** of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "G" (S-8) to Committee Amendment "A" (H-1), **PREVAILED**.

On motion by Senator **DOW** of Lincoln, Senate Amendment "D" (S-5) to Committee Amendment "A" (H-1) **READ**.

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

Senator **DOW:** Thank you, Madame President, ladies and gentlemen of the Senate. I believe the EPS is and will be for some time a fine instrument for new school funding. I think it will be a superior funding model. However, the citizens of the State of Maine, in voting in the June 8<sup>th</sup> referendum, voted under the old rules of GPA. The L.D. 1 proposal is in EPS language. I do not believe that the 55% EPS is the same as the 55% GPA, the rules of which we are now under. 55% under the old formula is a higher amount in dollars than is represented by the 55% EPS. The net effect is that 55% EPS only represents about 52% of the GPA, the rules under which the June 8<sup>th</sup> amendment was voted on by the citizens. All of my calculations show that 58% of EPS is closer than the amount of money the people thought they were voting for. The net effect, again, is that 55% of this vote people thought they were voting for will not translate into the proper amount of tax relief in the end, that is by the year 2010. My calculations show that the communities in Maine will be short a total of about \$80 million. That is all communities in Maine, whether that be large or small. They will not be getting what they voted for. The people voted for 55% under the old formula. This amendment helps to and attempts to give them that level of funding, not in percentages but in the real dollars that the old formula represented.

I'd bring your attention to this crude drawing I made. It's actually to scale. What we did in translating from GPA to EPS is we just transferred the percentage across the aisle. What we should have translated across was the amount. If you take that amount and then apply the formulas to it, the formulas being the amounts that it is going to represent in the future years using 2.5% inflation, by the time you get to 2010 you are about \$80 million short of what the original figures would have been using GPA.

This amendment attempts to bring, in dollars, the correct amount across. Every community in Maine will benefit from this. This will represent a greater tax relief in property taxes to all communities, not just service centers but also to all the small communities that have school systems. Therefore, I would like to present this amendment. I urge you to support this amendment.

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 Hancock, Senator Damon.

Senator **DAMON:** Thank you, Madame President. I rise in opposition to the amendment posed by the good Senator from Lincoln, Senator Dow.

Same Senator moved to **INDEFINITELY POSTPONE** Senate Amendment "D" (S-5) to Committee Amendment "A" (H-1).

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

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. I congratulate the good Senator from Lincoln, Senator Dow, a Freshman Senator who has been able to understand GPA formula and EPS formula, particularly the GPA formula, which is something that I have not been able to understand after almost 8 years in the legislature, and to be able to come up with such exact figures. We know that the vote last June involved majority funding of education and the people voted for that. I'm not, so if folks followed the equations and understood it to the detail that even we tried to understand it. I'd also like to point out that clearly the folks who are involved with pushing the referendum prior to the end of last session, the Maine Municipal Association and the Maine Education Association, understood when they put the proposal together that there would be a new formula, that EPS was in the works, it was being created, and in fact we passed it last session. They understood that. In fact, at the end of last session, they supported the 55% funding at the EPS levels. It was clear that the folks who promoted the referendum, the referendum that I, in fact, supported with certain conditions such as that, understood what we were voting for and understood what 55% meant. 55% of something is what is important. 55% of "we don't know what" is what the problem has been all of these years. Nobody really knew what GPA was. Now to sort of create this block that is going to fit through the round hole is a very difficult thing to do at this point. I would encourage indefinite postponement.

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 Sullivan.

Senator **SULLIVAN:** Thank you, Madame President and fellow colleagues. Here we are, January, after a vote, now trying to reinterpret what the vote was for. Was it 55% or was it 100% of Special Ed? Was it for immediate? This ramp is for 5 years. It takes us exactly where the minority report said in 2 years. This moves us further away from what we want. It's a way of delaying what the people have asked for. This is not perfect. This amendment certainly is not perfect. If I were to be cynical I could say we have two evils in front of us, one is just more evil than the other. I'd rather be optimistic. I believe that L.D. 1 comes the closest to what is fiscally responsible.

I'd love to have to have a brand new car. However, given my financial situation and the big bucks I get here, I had to settle this past year when my 1995 car had 185,000 miles on it and we were beginning to get what we used to say 'nickel and dime' but in reality was \$100 and \$150 for repairs bills. I bought a used car from my brother-in-law's business with high mileage for \$4,500. I could pay cash. I was very fortunate. I now have a car. It's not what I wanted and L.D. 1 is not completely what I wanted but it is what we could afford and what was fiscally responsible for my family.

What is fiscally responsible for this State of Maine? What is fiscally responsible for the future? Unlike the Federal government, we can't run on a deficit. We can't run up trillions of dollars in deficit. We have to have a balanced budget. We also have an obligation to the children and some voted last year in the 121<sup>st</sup> legislature to embark on a new way of funding schools. Quite frankly, it was because evaluation of property is not the way

to fund schools. We decided to go on actual enrollment. After 5 years, the state, with David Silvernail and many other people, came up with this essential programs and services. It said 'here's what each child in the State of Maine should be able to have'. It was a baseline. It said that government, the state, had a responsibility to offer this level. If a local community wants to order more, have more, so be it. That's the glory of local control. This is what the state is responsible for. That was public policy. We did public policy for the good of children in every location.

Now, when you make a major change, there are always problems. First of all, people don't like change. I don't like change. I know I don't like change. What L.D. 1 does, and what this amendment doesn't do, is gives some transition money. It won't be here. People, essential services and programs is a done deal. It's off the table. It was done in the last legislature. It's over, it's done with. This transitional money put in helps every single school system. It makes some major changes along the way. It also requires that certain communities live up to a certain expectation of what they should be putting into their future, their children. I would ask you to defeat this amendment and let us get on, let us make history, and let us give every child in Maine, like our learning results say, 'every child the same' regardless of whether you live on the coast or not. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon to Indefinitely Postpone Senate Amendment "D" (S-5) to Committee Amendment "A" (H-1). 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 (#6)**

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

NAYS: Senators: CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, NASS, PLOWMAN, ROSEN, SAVAGE, WESTON

25 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **DAMON** of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "D" (S-5) to Committee Amendment "A" (H-1), **PREVAILED**.

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**RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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On motion by Senator **COURTNEY** of York, Senate Amendment "C" (S-3) to Committee Amendment "A" (H-1) **READ**.

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

Senator **COURTNEY:** Thank you, Madame President, ladies and gentlemen of the Senate. This amendment basically does something very simple. It removes the required minimum local contribution from the formula. What that will do is enable us to take this tax reform bill and make it truly a tax reform bill rather than an educational spending bill. I believe that this bill is being sold and put forward to the people across the state as tax reform. It was the Joint Select Committee on Tax Reform and it's my opinion that this money, the \$96 million of additional funds, should be used for tax reform and not new additional educational spending at this time.

I can give you an example of my district. I realize that my home district of Sanford is one of the fortunate ones as opposed to my good friend the Senator from Washington, Senator Raye, who is probably not going to make out so well. I guess the reason for that is that we have a lot of hardworking but low income people in Sanford and not a lot of property valuation. These people need tax relief. What this does is sends approximately \$4 million back to the Town of Sanford. The problem is that they are at the minimum where the state requires them to stay at for their local contribution. They have to continue to raise that, so most of the new revenues of \$4 million in tax relief, approximately \$2.7 million will have to go for new spending. It will have to go for new spending because they will not meet the minimum local requirement.

I thought it was the whole thing, so there is some tax relief going there. I think that this makes this somewhat palatable. I think that if we're going to take \$96 million and put it into tax relief, we need to use it for tax relief. I know having served on the Taxation Committee in the last session over in the other body that we would have killed for \$96 million. I know the good Senator from Portland would have liked it and probably would have found some use for it. I think that tax reform could have been accomplished with \$96 million.

I think as you go out and look at the 2 year ramp. We're not going to a 2 year ramp, obviously, at this point. As this is implemented, one of the implications as you move forward to full funding is that you require municipalities, not just Sanford, to raise local spending. I think giving this option to every municipality and every district in the state could be a terrific tool and we could really provide tax relief.

There are some that may say that we are going to be short changing our children because we're not spending what the state says and essential services and programs says you are doing. I contend that the essential services and programs model, while it was a good intention and I voted for it 2 years ago, is a work in progress. It's flawed. There are flaws throughout it. I don't believe that there is one person in this room that could say the essential programs and services is a perfect model. It's a start. It's a start to identify costs. I still think that we need to let that decision remain at home and let the towns and municipalities make that decision. I would respectfully request that you consider this and consider it not just for now but for the future of your towns. Thank you, Madame President.

Senator **DAMON** of Hancock moved to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-3) to Committee Amendment "A" (H-1).

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

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

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I rise because in many ways Sanford is a lot like the S.A.D. that I represent. In terms of the tax effort, we are making it to a greater degree than Sanford. In terms of economic basis, it is pretty much the same. The way the law works and has worked is if a community fails to raise the minimum required, whatever that may be under the old law or under this new law, then the state doesn't put in as much money. Under the formula presently devised right now before us, since Sanford does not raise the 8.26 that about 95% of all of the towns and cities in Maine presently will be doing, if this amendment were to be adopted they would not have to raise the minimum money in order to get the \$4 million.

I would be sympathetic to the amendment if Sanford didn't want the \$4 million and they left us the \$4 million so we could spread it elsewhere. This basically does it both ways. You don't need to raise your base of quality of education municipally and then you still get the money to do whatever it is you want to. It's the best of both worlds if you can do it. This is the amendment, I suspect, that most people would be accusing me of doing. Getting the money without doing anything in return. I congratulate the Senator from York, Senator Courtney, but I can't buy it unless we take the \$4 million back. Obviously, I will be supporting the motion to indefinitely postpone.

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

Senator **COURTNEY:** Thank you, Madame President and men and women of the Senate. To the good Senator from Aroostook, Senator Martin, thank you. It's an honor, well maybe not that much of an honor.

In Sanford we do actually raise the 8.26 and because of the essential programs and services requirement the new money is actually going to go into additional spending. Poor Jim Rier at Education. I spent a lot of time with him and he's been good enough to try to explain this to us, as we've all had an additional crash course on the educational funding formula. I think that what the good Senator has mentioned is that this is really the clear thing on this bill. It's not a tax relief bill, in many cases it's an education funding bill. It's an avenue for new monies to go into educational spending. I think if we're going to do that I think we

ought to tell the people of the state that we are going to raise what we're putting into education and we're not going to be putting the money into tax relief. I think that the pie is only so big. You're taking \$96 million and putting it into what is called and touted as tax relief. Yet when you create new spending with tax relief dollars than you are not being completely straight forward with the people. No matter how I end up voting on this final bill, I want it to be real clear to people that it is not a tax relief bill. It's an educational funding bill with some crumbs left over.

We heard earlier that this is not perfect but it is not pathetic. I believe that the people of Maine deserve a lot more than not pathetic. Thank you, Madame President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon to Indefinitely Postpone Senate Amendment "C" (S-3) to Committee Amendment "A" (H-1). 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 (#7)

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

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

**ABSENT:** Senator: DOW

**EXCUSED:** Senator: PLOWMAN

22 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **DAMON** of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-3) to Committee Amendment "A" (H-1), **PREVAILED**.

On motion by Senator **MILLS** of Somerset, Senate Amendment "H" (S-9) to Committee Amendment "A" (H-1) **READ**.

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

Senator **MILLS:** Thank you, Madame President, men and women of the Senate. One of the things that concerned me most about the introduction of this new model for funding of education is how special ed would be treated. This has a long history and an interesting one. Back 10 years ago, in 1995, when the formula for education funding last underwent a dramatic change, the tensions over how to make those changes were so intense that the Education Committee was locked up in some room around here for not days or weeks but literally months. It was my Freshman



year. I had no clue how significant all of it was. It was a matter of significant turmoil. The good Senator from Aroostook, Senator Martin, was one member of that committee. I must say he was fighting gallantly for some of the districts that I care deeply about, the high receiving districts. There were other people on the committee who were interested in introducing something called the income factor into the school funding formula. That was the result of some work done in response to something called the Rosser Commission Report that was published in 1993 or 1994. The concern that I later developed was that the introduction of an income factor into the funding formula had the effect of destroying major elements of equity in the distribution of school funding. That was later proven, I think, to a mathematical certainty by some interesting studies that we have done by Ralph Townsend, who was an economist at the University of Maine in Orono. In order to get that committee out of its room and get a bill out that would be included in the budget of that year, there was a compromise reached which wasn't a particularly good one, in my view, but it was one that we have lived with now for 10 years and we're still living with it in the current formula that distributes money today. The compromise was that this 15% income factor would be injected into what is basically a property tax relief system and transportation funding would be put into the formula as a program cost along with special education. The significant thing about program costs in the current system, and about the only thing you need to know about it, is that once a district spends beyond what they call the circuit breaker level of spending for that district, then the state steps in and picks up nearly all of the residual cost, based on what you spent. You don't get the money for a year or two, and there is a small discount at the top of the factor. You only get about 97% of what you actually spent. The reality is that anything that was considered a program cost was a place where, if you were a Superintendent or are one under the current system, one of your inducements is to figure out ways of allocating costs into these sort of favored categories because you know that if you were a district that operated above the circuit breaker, the effect of that was that the state would be picking up most of your costs.

We have, for the last 10 years, fostered a system where both special ed and transportation together have been, I think, inappropriately managed by this state. We are the ones that created the system. We can't blame the Superintendents for over designating kids on special ed if we're picking up all their costs. Doesn't make any sense. We created those inducements. They are responding to them. They are responding to them in a way that truly represents the best financial interest of their district. Regrettably, the same is true of transportation, which is a great benefit for many districts in the rural areas of the state. Some of these rural areas are running buses up and down the same roads two, four, or six times a day, picking up every little kid next to his own mailbox. It's being done because we created a system that paid for it all above a certain threshold level.

I am celebrating today, in one sense, by saying that we are about ready to say good bye to the old formula because for 10 years I have felt that that formula was deeply flawed and it was the result of a bad compromise. Not that the people that negotiated it didn't do the best they could. They did. It was an inappropriate solution and we've never been able to break it open until adopting this new system of essential programs and services where we collect all kinds of data, and feed it into a computer at the University of Southern Maine. The computer tells us what our average costs are. We make adjustments for the number of

roads, dead end roads, lakes and mountains in the way, and we make a transportation model. We take a look at all the teachers and figure out what they should be paid. We take a look at how many people with Masters Degrees you have and make multiples and adjustments and deliver a formula. The great thing about essential programs and services is that the state, on some uniform basis, is delivering, for the first time, to the school board and to the citizens of the school district a number. This is the number that if they spend it in conjunction with their state source, they should be able to deliver at least a barely adequate system of education for the kids in their district, if they spend the money appropriately and wisely. People of a relatively conservative disposition in many school districts have been dying to have such a number at their disposal for many years. I don't necessarily share the relish that many people will greet those numbers with, but nevertheless, it is a way of providing a benchmark, a very useful benchmark, to local citizens so that they can make judgments on their own about how to spend. They will have to be appropriately warned that the amount of money that is being used to gage the education in their district is from mere adequacy. It doesn't do the model intentionally. It undervalues things like co-curricular activities and sports or that sort of thing. It's supposed to be a conservative and very narrow number.

That sets the scene. When I left here last spring, I thought that we had voted for a system where transportation during the summer months was going to be worked into the formula, even though putting transportation into the model takes away from superintendents that I have talked to the power to allocate costs into that category and do what they've been doing for the last 10 years with transportation money. I also came away, however, with the understanding that special ed would be similarly treated, that special ed, the other area where you have over allocation of costs, would be wrapped into this model system, that all the data would be fed into the computer at the University of Southern Maine and they would be spitting back some averages and some costs and defining a budget for local schools and requiring that they be entered into the model so that the funds would be shared, state and local, depending on the districts ability to pay based on its property tax capacity.

Along came the referendum on June 8<sup>th</sup> that had two components to the question. One was 'do you want to go to 55% funding of schools' and the second component was 'do you want the legislature to somehow fund 100% of special ed'. The implication of that question was that the state is somehow at fault for all of the spending on special ed, a fact that local people sometimes resent. Let's be honest. You have 18% of the kids in the State of Maine designated as entitled to special education benefits of one kind or another, almost one in five. You have parents who see one child getting his own tutor or being taught in a group of three, four or five because he's been designated as having a special education need. Meanwhile your child, who isn't designated, doesn't get an IEP, individual education profile, and doesn't get the special tutoring. The system we have builds a certain resentment. The thing I resent about the question that was asked on June 8<sup>th</sup> was that there was an implication that it was the state's mandate. It didn't say that, but if you read the question you came away from the voting booth thinking 'special ed, the state is making us do it, they should bloody well pay for it.' That was the attitude of those people that may have voted affirmatively on that question, I believe. The truth is, as we know in this chamber, it's a federal mandate that we implemented. In this state, the state has been paying for it and paying for it very

generously for the past 10 years because we picked it up as a program cost and to the extent that there is a lot of spending on special ed. Maybe we've exacerbated it but we paid the bill. It wasn't the locals who were paying the bill for excessive designation of kids on special ed.

When the Governor gave us L.D. 1 he thought to himself, I think, 'there are two kinds of obligations created by the June 8<sup>th</sup> referendum. One was that we're supposed to go to 55% school funding. I'm not going to do that one. I'll go a quarter of the way this year. I might go half way next year.' As the good Senator from Lincoln, Senator Dow, suggests, we were not going to use the actual spending figures, we're going to use EPS. I happen to think that is the right decision, but it's a lower number than what the towns are actually spending. That's the big promise. It's too big a promise for me to fulfill on my watch. I'll let the next Governor, maybe, or the next legislature fulfill the other half of that obligation. We'll do half of it on my watch. Maybe somebody else will get to it. By the way, in order to do it I've got to sell off the lottery.' Then he took the other component of that question, the one that said why don't you go to 100% funding for special ed. He thought 'that's a cheaper promise. I guess I'll keep that one.' Well the problem with that is that it takes something that belongs in a formula, in a model, and that deserves to be controlled, and takes it out of that element, out of that management setting, and it destroys equity in the distribution of school funding. Why? Because the only districts right now that are really paying for most of their special ed costs are the districts who have the taxing capacity to be able to do it, to be able to meet all of their needs at a level that is below 8.26 mills.

If you've got your original spreadsheets you notice that when there was this 100% funding of special ed but only 84% funding of operating costs, when they first popped out of the computer you saw all these red marks in rural Maine and you saw black numbers for many other parts of Maine. It wasn't just black numbers, these were numbers like \$3.5 million in some districts. You saw some districts gain 50%, 60%, doubling in a couple of instances the school funding they were receiving all in one year, where you had deep red numbers in many other areas. You had to ask yourself why was that happening? It was because we were keeping the wrong promise. We were funding 100% of special ed, I say to the detriment of good management, while at the same time not keeping the fundamental promise at the root of that referendum which was that they want the state to pick up 55% of school funding and relieve the property tax accordingly.

This amendment, if you vote for it, simply says to put special ed back in the model, which is where I thought we had left it last April and where, frankly, the only reason I believe that this was on the referendum, or included in the referendum, was a pure political gamble to get pick up a few more votes and a few more signatures from some towns that otherwise do not participate in this school funding formula because they have so much capacity to fund their schools using the property tax as a base. I just can't imagine that of the two kinds of obligations that were created by that question on June 8<sup>th</sup> that we chose to accept the wrong one. We just got it wrong. It started with the Governor's office with L.D. 1 and it has perpetuated in our committee. Did we soften it some? Yes, I will concede that right now. We took the 100% funding for special ed for the minimum receivers down to 84% so that they will have some scale up but it's still there for everybody else, including districts that are fairly well off, and we're leaving it in there as a 100% funding obligation, as a permanent part of the system. I just think it deserves to be part of the model. It

deserves to be treated just like transportation costs, just like operating costs, just like electricity and everything else. It ought to be included in the model. That's the whole purpose of this amendment that says 'treat special ed as if it were like any other school cost and put it into the model and let this model work because I firmly believe that a properly designed model of this kind, which I believe is one of the first in the nation, is the future of school funding. I think it's an admirable effort and I don't want to end my comments by detracting from the fine work that's been done to develop that model. I just think we need to put things into the model and let the model do its job. Thank you, Madame President.

Senator **DAMON** of Hancock moved to **INDEFINITELY POSTPONE** Senate Amendment "H" (S-9) to Committee Amendment "A" (H-1).

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 rise to speak in opposition to the motion to indefinitely postpone and in support of Senate Amendment "H". It's always a pleasure to listen to the Senator from Somerset, Senator Mills, explain the details to us as he does so well. I want to speak to the effects, if I could. As the good Senator from Hancock, Senator Damon, indicated earlier, L.D. 1, as proposed, is proposed as property tax reform. I believe virtually every constituent I have equates property tax reform to property tax relief for him and his community. As we look at L.D. 1, there is no tax relief for western Maine, for most of much of downeast, for many of the rural areas which is sometimes referred to as the second Maine, where the economy is the weakness, the income the lowest, and the poverty rate the highest. These are the areas that need the most help. I want very much to support a property tax reform for those areas as well. I do applaud the efforts of the committee. This was not an easy task. What was presented to us yesterday by the Maine Municipal Association, this graphic depiction of the state that shows the winners and the losers, shows that only 184 of our municipalities are receiving the possibility of a tax relief from L.D. 1. The blue towns will be receiving net funds that can be made available for tax relief. An additional 151 receive essentially nothing, no increase or decrease. Another 154 are the red towns, the towns that receive a net loss. As a result of L.D. 1 their property taxes will be increased. That's 184 benefiting, 302 losing. In my mind, there is something wrong with this, especially when I look at western Maine, the area that I represent. It's a sea of red over there. Twelve of my fourteen towns are in red and many more around it. I find two towns in my fourteen, Fryeburg and Brownfield, that are in the blue and I wonder how that could be. It's not because of L.D. 1 sending any further money to those towns, it's because L.D. 1 forces a redistribution of the local share amongst the eight towns in that SAD. The town of Denmark is getting hit with a \$300,000 increase in its property tax requirement. They are funding the property tax relief for Fryeburg and Brownfield. Without that, the entire band of western Maine would be in the red. In my mind, something is wrong with this picture.

I agree with the concept of the essential programs and services model. It's a good one, as the Senator from Somerset, Senator Mills, indicated but something is wrong when my districts, without any of the transitional money, would lose \$2.5 million of state funding. These are not wealthy districts. These are not districts with frills. Sacopee, Lakes Region, Fryeburg, and Oxford Hills. These are fairly bare bones districts. Why with \$90 million of new funds are so many of my towns and so many of the rural towns suffering? They are suffering because of this, sort of, artificial allocation of so much of the money by taking the special ed portion out of the model. As I understand it, I don't think anybody knows the exact numbers, but I think it was something in the \$18 million to \$20 million range of money of this \$94 million that is being shifted to towns, which indifference to all of you Senators who are receiving this largess, by leaving the special ed out of the formula. Most of my constituents, when they looked at the towns receiving the money and they looked at what's happening to them, they would say that the money is going to the wealthy towns, not to those that need it. That's my problem with this.

The Senator from Somerset, Senator Mills, has pointed out the benefit of putting special ed back into the formula. It will allow much more money to go to those rural towns. It would allow that \$20 million to spread among our poorer towns, our rural towns, those with the highest poverty rates. This is what we should be doing. This will allow this map to turn from so much red and I believe you will see much more blue in the farming areas and downeast than you see now. To me it is fair and equitable. I think we need to vote on property tax reform, but for all of the state. We need as much blue on this as possible. We need to get rid of the red. I think this will help to do that. I urge you to vote against the motion to indefinitely postpone and to support the amendment. Thank you.

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

Senator **MITCHELL:** Thank you Madame President. I, too, would like to congratulate the committee but I would also like to congratulate my colleagues in this chamber for struggling with two of the most complex issues that have ever come before us as a body. Nothing is simple about tax relief because the old saying is still true, don't tax him, don't tax me, tax that fellow behind the tree. We all like that saying. We also know that with school funding, you could get a Ph.D. in it and still be at a loss for words when you try to tell the folks back home. In the interest of full disclosure, I live in a rural town, but I represent two service centers and I suspect all of you can claim rural and urban constituents. A famous New England writer once said, 'consistency is the hob goblin of little minds.' Well he would be very proud of us today because we all have very big minds because without meaning to, we are all being terribly inconsistent as we struggle to find the right answer. We have had amendments proposed today which said we must fund 58% because that's what the voters meant when they voted on 1A and yet that same amendment said we'll do it in five years as opposed to two. I respect and understand that but it is inconsistent if you're trying to be really devoted to what the voters said. The good Senator from York, Senator Courtney, stated that this was not just property tax relief. No it isn't. Inconsistent again. It's also about children. The session of this legislature last time around enacted a new program that truly was about educating our

children. So don't forget that for a moment. It was to deal with, in a better way, equity for our kids, whether they lived in Washington County or in Ogunquit, to make sure that we defined what it cost. I thought all people who debated that understood that there would be limits on what the state was required to put in and expectations of what local communities were required to pony up, if you will. As a matter of fact, that ceiling, that 8 mil rate that is the maximum that you are going to have contribute from the local share in the long run, creates a lot more equity for a lot more towns and again for the students. Now, if you don't want the \$4 million, or whatever it is that you get, you're not required, as I understand it, and I know the good Senator from Somerset, Senator Mills, will correct me if I'm wrong, you simply don't raise the local share and you don't get the money. So you're not required to raise taxes should you choose not to match, but please correct me if I'm wrong on that one. I'm learning too. I'll be the first to admit it.

The other mixed message is there's no tax relief in this bill. There may not be for some of the towns, but there's clearly tax relief for the people. The circuit breaker doesn't go to the town of Vassalboro, the circuit breaker goes to the family that lives in Vassalboro who qualifies. The homestead relief goes to everybody who has a primary resident in your town, even if it doesn't go directly to the town. Then there are caps, as I said, on the required local effort for schools.

Finally, let's go to the amendment before us. I didn't mean to digress so much but it seems that it's very difficult to contain our comments to just the point. I share the good Senators concern that 1A included all special ed costs, for a very cynical reason because many towns get very little in state funding for their schools. If you're a low receiver, to promise you 55% of anything, 55% of nothing is still nothing, so it wouldn't get you very excited about voting for this bill. Then I've thought about it for a long time. The people did vote for that and I'm not standing here today telling you they knew exactly this or that. I have no idea but I know they voted for that and that was very much part of it.

I remember the worst town meeting of my life in Vassalboro, Maine when a family had to sit there and have all the tax watchers look at them in great anger because their child needed a very costly special education placement. I started thinking that maybe we should look at special education a little differently. It often does cost more. It's just luck of the draw where you happen to be born or where you live in the state of Maine. Perhaps it's a more humane system if we see it as a state responsibility, like a community responsibility, instead of on your local property tax dollars. So having thought about it and having gotten past my initial cynicism, it may be a good thing. Let me assure you, if it's not, the joint order we pass today requests, or orders, our committee, the Education Committee, to look at that and we can review it again. If you choose to support this amendment, I hope then, there will be no more speeches about 'we have to fund this in two years' or 'we have to do everything the voters said,' because we're not. We're picking and choosing, but we're doing that for a reason. We're all trying to do the right thing. We're trying to do the right thing within the confines of our budget and within the confines of what we think is the best policy. Let's not blame it on the referendum. Let's say that this is what we can do, this is what we can do responsibly. Again; great, great respect for the Senator from Somerset, Senator Mills. He certainly knows the school issue as well as anybody in the State of Maine and represents rural areas. I always felt very comfortable knowing that he was on the special select committee. The newspaper

articles have continued to say, 'the money is flowing from rural Maine to the cities.' One of the reasons for that is this special education component. It is not EPS as you passed it. If you want to totally change it not, you must recognize you are totally flying in the face of the voters. I would respectfully urge you to indefinitely postpone this amendment, give our committee an opportunity to see if there is a better way to deal with special education.

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

Senator **BRENNAN:** Thank you Madame President, men and women of the Senate. I was spellbound by the Senator from Somerset, Senator Mills' speech and his comments, largely because I had the opportunity, along with the Senator from Aroostook, Senator Martin, to serve on the education committee at that time when we were locked behind closed doors with the governor and everybody else trying to come up with the school funding formula. I must say the reason I was spellbound was because the Senator from Somerset, Senator Mills' revisionist view of history certainly differed from mine. Even though I was there, I was hearing what, in fact, happened from somebody who wasn't.

None the less, let me just say a couple of things very quickly. I want to support comments from the good Senator from Kennebec, Senator Mitchell. First, again the Senator from Somerset, Senator Mills, pointed out that he thought there was a huge detour in school funding when we interjected income into the formula and said that Professor Townsend from the University of Orono, with mathematical certainty, concluded that this was an error. Unfortunately, the Senator from Somerset, Senator Mills, didn't read the article that I published in the Maine Policy Review along with Professor Orlando DeLoge from the University of Maine Law School, that refuted Professor Townsends mathematical certainty. I'm sure I'd be more than happy to share that article with you at the end of session. Nonetheless, not to debate whether income was a good idea or a bad idea, I did, for the record, want to make that point.

The simple fact of the matter is, any of us here today could write or rewrite the school funding formula to the advantage of our district and to the disadvantage of somebody else. It's not helpful and it's not beneficial to the students of this state or to the state to pit one community against another community. It is very unfortunate that MMA put out their map with red, blue, white, and color codes saying here's winners and here's losers. In fact now, through the good work of L.D. 1, everybody is gaining money, except those communities that are tuitioning students. I think we've gotten to the point where everybody is at least 'on the plus side.'

Secondly, in L.D. 1, the very issue that the Senator from Somerset, Senator Mills, raised about special education was, in fact, modified so that those communities would be receiving 84% even though every other community in the state will be receiving 100% of the cost of special education.

Lastly, and most directly to the point, the joint order that we did pass this morning and strikes the education committee to go back and look at the special education issue in a reasonable, rational, thoughtful way that does not pit one community against another community, does not say 'how do I rewrite the school funding formula on the floor of the Senate to advantage my community versus some other community' but to do it in a way to benefit all the students of Maine. I think that's the most prudent

thing for us to be doing. I'm glad that we've taken that action and I look forward to the work of the education committee as they move forward on this issue. I hope that you will support the motion to indefinitely postpone this amendment.

**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, like probably many of you, with my stomach growling a little bit. I'm going to keep this as brief as possible.

I'm going to be supporting the pending motion, however, I want to compliment the good Senator from Somerset, Senator Mills, and the good Senator from Oxford, Senator Hastings. I agree with what they've said about the wrong promise being honored. When I look at the printouts and I see dozens and dozens and dozens of communities that last year did the whole school budget in totality for four or five mills. They are getting huge increases in school funding because of the special ed. I see dozens and dozens of schools in the fourth and fifth quintile, the poor areas of Maine, getting not one, not two, but three different cushions, getting a small increase in school funding money, hopefully enough to cover the increase and cost of health care and oil bill. I see their mil rates not dropping because of it. I do agree that the wrong promises, tentatively, are being honored because, as the author of this joint resolution, I'm placing great faith and probably will put my name on one of the front seats in front of the committee here coming up in the next few weeks. I think even I will spend a lot of time before the Joint Select Committee. I want to compliment them on their work. When the good Senator from Somerset, Senator Mills, asked Jim Rier from the Department of Education why the special ed was being funded, at that time, at a 100% in the first year, while getting to 55% was getting ramped over four years. He said he wasn't sure, really didn't have a clear answer.

I'm going to be supporting the pending motion but I want to say that I do expect a lot from the Education Committee. I think we all do. I think that's the way we should proceed with this particular issue because the way this special ed is being handled is destroying equity in school funding right now not building it.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. Let me just also congratulate the work of the special committee because I think they have done a tremendous job. I think one of the points that I want to make, and in due deference to the good Senator from Oxford, Senator Hastings, in reference to the MMA map of blue and white and gray. The problem is that that was done before the bill was finished. Under the new version, that came out of committee on the 14th, every town that has a school gains. You need to get a printout that illustrates that and was actually printed on the fourteenth at 8:00 P.M. That will clearly demonstrate that the MMA map is incorrect. It was correct at the time it was done. It's simply incorrect now that the committee has finished its work.

So whether you are in a rural area or in a city you are going to be getting relief. That is, I think, unfortunate in terms of what the perception is out there because it's already been said that rural Maine is being adversely affected. I don't represent the

cities of Maine and you can rest assure that I would not be voting necessarily to help my good friends from Cumberland county if it were to the detriment of Aroostook county. I think all of you in this room probably know that anyway. I don't need to tell you.

I think, though, I need to just talk a little bit about school funding because I've been involved in more fights over school funding than probably any other issue in my legislative career. It's unfortunate for freshman that are here this session to have to begin with a formula that half of the superintendents have no clue about. They didn't know about it before, don't know it now, and they're trying to give us advice. Do I have some problems with superintendents? The answer is yes. You all know that as well.

Also keep in mind that in this debate this past year, people were told if we get this we'll have 55%, we're going to fund 55% of schools. 55% of what? I have a constituent my hometown who said 'you're going down and you're going to support that 55% right? We need 55% and we want that money to come to our schools.' That sounds fair enough but they were already getting 65. You want to cut 10% and we'll give it to someone else? There is a perception that every school district in Maine is going to get 55%. Inaccurate. Always has been inaccurate. I don't know how we tell the public that and whether or not they'll ever believe us after this debate. That is a problem. The good Senator from Hancock, Senator Damon, who represents Mount Desert Island and Bar Harbor, gets about 10 cents. Now he'll get more money on this plan because we'll be funding special ed. That makes a difference. I think we need to understand that there is a real problem out there and it's a public perception problem. I urge you to get a hold of the printout. Provide it to your superintendent and ask them if they can explain it to you. I think that is the key. We need to understand that. Many people just look at the bottom line and say we're getting this.

Rural Maine is having problems, my hometown as well. We are losing students. Our numbers are dropping. When I taught at Fort Kent Community High School, we had 950 students. We have 400 today. That's not necessarily because we've lost families. We just don't have families of 15 and 16 kids anymore in the St. John Valley. That's part of it. As the number of students dropped, obviously, we're going to be impacted. We have to find alternate ways to provide quality education in our rural area. That is a real problem. We know what's going on in rural Maine. Many areas are losing families completely because they are moving elsewhere. I know that and they are in my area as well. Now, in my area, we have an in-migration. We are building new homes but it is people returning, retiring and building homes, with no kids. That doesn't give us money under the school formula. There may be some other way we can figure it out. Luckily for us in Aroostook county, we have an awful lot of foster children being brought in by the Department of Human Services. They're coming from central and southern Maine. Obviously, that may help us to some degree.

I could talk about school subsidy and the old formula forwards and backwards without any problem. I don't need to do that today because that formula is dead. It doesn't work any more. We need to move on. Thank you.

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

Senator **RAYE:** Madame President and ladies and gentlemen of the Senate, I rise in agreement with the Senator from Somerset, Senator Mills, and the Senator from Oxford, Senator Hastings, on

the principle of the amendment. This bill does pick and choose which promises to keep. I'm going to support the pending motion because I am voting to be consistent with the will of the voters. Whether I like it or not, this is part of the bill.

I'd like to respond to the earlier comment, specifically of the Senator from Cumberland, Senator Brennan, in which he noted that we are all winners due to the transition funding. That is a reference only to this next year. I can assure you and the members of this body that my schools in Washington County, when they look at the out years, do not feel like winners. We have to be concerned not only with the one-year impact of this transition funding but the long-term impact of our future funding. Thank you.

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

Senator **BRYANT:** Thank you, Madame President, men and women of the Senate. I'll be supporting the motion to indefinitely postpone but I did want to bring up two or three things. The Senator from Aroostook, Senator Martin, covered the whole spectrum in a short amount of time. I do want to bring up the point of MMA. I want to call it sandbagging, but I think MMA has convinced rural Maine into the 55% and has convinced them into special ed funding in a false pretense. Before, the funding recognized rural Maine and recognized the problems that we had there. It helped us with that funding. The sheet that got put out later from MMA with the blue and the red didn't take in the circuit breaker or the homestead. It's a little bit of information that really doesn't help rural Maine because I think what rural Maine is now is in a problem where they really didn't have a good debate. We didn't have the real information when people were going to the polls because a lot of our districts were getting funded over 55% to start with. That's why I'm supporting the Education Committee looking at these issues. Give us another chance. We have more knowledge and understanding of the rural issues. Give us a chance to work with them to come up and solve some of these issues. I did want to, for the record, let rural Maine know that some of the issues that they were voting on weren't as clear as some people tried to make them out to be.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon to Indefinitely Postpone Senate Amendment "H" (S-9) to Committee Amendment "A" (H-1). 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 (#8)**

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

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

EXCUSED: Senator: PLOWMAN

23 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **DAMON** of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "H" (S-9) to Committee Amendment "A" (H-1), **PREVAILED**.

On motion by Senator **DAVIS** of Piscataquis, under unanimous consent on behalf of Senator PLOWMAN of Penobscot, Senate Amendment "I" (S-10) to Committee Amendment "A" (H-1) **READ**.

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

Senator **DAVIS:** Thank you, Madame President. First I would like to tell the Senate the reason that I'm presenting this. The Senator from Penobscot, Senator Plowman, had an asthma attack this morning and she was taken over and admitted to Maine General Hospital, right here in Augusta. The Sergeant-At-Arms took her. He told me a few moments ago that she's going to be fine but the hospital did decide to admit her. I'll do my very best for her and for you guys.

First I would like to thank the committee for the work they did. I sat in my office many days with the speaker on and listened to it. Quite frankly, I've got to tell you that there was many hours that I didn't hear what was being said. It was so tedious and slow moving. I can't imagine. I had the opportunity to appoint two of them to the committee. I hope they don't hold it against me. I would not care to be on that committee. They did a marvelous job. However, as with everything, nothing is perfect.

The amendment that I am presenting has to do with the homestead exemption. I intended to speak to this a little later, but due to the Senator from Penobscot, Senator Plowman's attack, I'm going to speak to my concerns about this now.

What the amendment would do is simply allow the towns a choice of whether they want to keep the current law as it is right now or if they want to accept the expansion. The expansion, as I'm sure you all know, has to be funded by the towns. It is not paid for by the state. 50% of the new homestead exemption will be paid for by the State of Maine and 50% by the towns. I did a little work on it fairly quickly. As you all know, I live in Piscataquis County. You take a \$100,000 home in Piscataquis County, and my good friend from Cumberland, Senator Brennan, informs me that there aren't any \$100,000 home down there but I assured him that there are. In fact, I have towns in Piscataquis County where that would buy two or three homes. Not in Portland though. I understand that. I have heard twice, and I know they were very sincere with what they said, from the good Senator from Hancock, Senator Damon, and the Senator from Kennebec, Senator Mitchell, that homestead applies to everyone in a positive manner. That's not true. In fact, in the 19 towns in Piscataquis County there are 2 towns in which a person owning a \$100,000 home would get a benefit of about \$50 and less than \$100. In 15 towns it would be below \$50. In 2 towns, the town of Milo and the town of Brownville, their taxes would increase. In Milo it would go

up \$45 and in Brownville I believe it's \$29. That's part of the problem, as I see it.

As I see it, the other part is a shift. The non-residential property will have to pick this up. That doesn't mean just the big industries, and I will tell you about a few of the big industries in our state. It means the lady that is running the beauty shop down the street, the barber shop, the Mom and Pop store, and all those places are going to have to pick up this increased mil rate. I did leave one little part out, what the towns have a choice of doing. They can either cut their budgets to accommodate this increase in cost or they can raise their mil rates. I have an idea that what will probably happen is that the mil rates will go up. The little businesses will have to pay for it. The people that own apartment houses and rental properties will have to pay the bulk of the increase in the mil rate. Last night a number of us went over to the Maine Pulp and Paper Association dinner and I had the opportunity to talk to a number of people, as did all of you who went. Amongst others, I talked to the president of the paper mill in Madawaska. I'm not picking on the good Senator from Aroostook, Senator Martin, because he also runs a paper mill in Millinocket and East Millinocket, which I represent. He told me that in Madawaska, if this goes through the way it is, there would be about \$.5 million increase in their property taxes. In Millinocket it is \$.25 million. I had someone else tell me that in Jay and Bucksport and those mills would see about \$100,000 in each mill. That is the industries. Obviously if the taxes are increased, the mill or two mills, the little beauty shop, and the little barber shop that I'm talking about will be effected adversely. All this amendment would do is allow the communities to have a choice of whether they wanted to go forward with this or not. For those reasons, giving them the choice and the reasons I explained, please vote for this. Thank you.

Senator **DAMON** of Hancock moved to **INDEFINITELY POSTPONE** Senate Amendment "I" (S-10) to Committee Amendment "A" (H-1).

Same Senator requested a Roll Call.

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

Senator **DAMON:** Thank you, Madame President. Although I cannot be supporting it at this time, this amendment, quite frankly, does have particular appeal and I'm going to applaud the maker of the motion for that. I do think, however, this idea should be referred to the Taxation Committee and not be attached to this particular bill. I don't want us to disrupt the flow of this bill. We worked at it for as long as we have and we are coming down to the final minutes, hours, and days of it. This amendment in particular does have some appeal to me. It probably would have some appeal to communities who hold on to this notion of local control. I applaud the maker for this, but I will have to be voting in opposition.

On motion by Senator **DAMON** of Hancock, 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 Hancock, Senator Damon to Indefinitely Postpone Senate Amendment "I" (S-10) to Committee

Amendment "A" (H-1). 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 (#9)**

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, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

EXCUSED: Senator: PLOWMAN

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **DAMON** of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "I" (S-10) to Committee Amendment "A" (H-1), **PREVAILED**.

On motion by Senator **MILLS** of Somerset, Senate Amendment "B" (S-2) to Committee Amendment "A" (H-1) **READ**.

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

Senator **MILLS:** Madame President and men and women of the Senate, if I may speak to this motion briefly. I'll spare you a renewed history of my version of the school funding wars of the 1990's and say that this is the opportunity to keep the undertaking or the obligation, or some have called it a promise, whatever it was that emerged out of the referendum process that the MMA suffered through for a year and a half and the outcome of the vote on June 8<sup>th</sup>. The major part of that undertaking was to ramp up to 55% school funding as a previous legislature had indicated they would like to do back in 1984, I believe. This amendment, if you vote affirmatively for it, enables you to say that you came down here to get the job done on your watch. Even though the first step that we're taking next year is only one-quarter of the way, this amendment says 'let's go the remaining distance in the second year of the biennium, let's get it done.' This was the thing that people were really voting on June 8<sup>th</sup> and a year ago November as well. This is what they really wanted. I think most of them had no clear conception of the special education undertaking. They certainly had an understanding that the legislature would, at long last, be trying to keep an expression of intent made almost 20 years ago. I bet you that everybody in this chamber and the other chamber as well, going door to door, ran on the very idea that you would meet the obligation that was created by the June 8<sup>th</sup> referendum in regard to 55% school funding. I don't see how we can pass a measure like L.D. 1 on that subject and say that we're only going to go one-quarter of the way this year and maybe only half way in the year that follows

and leave it to somebody who's not yet elected to complete the job. This is a very simple amendment. It is sweeping but it gets the job done and enables you to say 'I fulfilled the promise I made at your screen door.' Thank you, Madame President.

Senator **DAMON** of Hancock moved to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-2) to Committee Amendment "A" (H-1).

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 Diamond.

Senator **DIAMOND:** Thank you, Madame President and thank you, men and women of the Senate for your time. I know that lunch is near. The 55% in two years is something, of course, we all really want to have happen. Like everyone else, I need to congratulate the committee on their hard work and the number of hours and days they spent. I'm especially proud of our own Senators in this very chamber, the Senator from Hancock, Senator Damon; the Senator from Hancock, Senator Rosen; the Senator from Somerset, Senator Mills; and the Senator from Penobscot, Senator Perry. I think they have a great deal of reason to be proud of what they did. To respond to an earlier comment, what they did, though, was something we all heard about. They responded to the people by bringing parties together. Think of it. We have an Independent, we have Republicans, and we have Democrats. They all came together in this committee and came out with a result. Now that's a far cry from what we heard last year and in the past of all the partisan bickering and the politicking that I heard in disfavor around my district and around the state. What a change. What a refreshing change. People came together. I'm really proud of that and I think it's something we all can be very proud of. This is the very first step and it's a good first step.

For us to say we're going to jump this thing in two years, we have to say 'how are we going to fund it?' We're going to fund it by raising a tax. I'm not going to be one of those that is going to raise a tax to fund this program. In fact, I don't feel comfortable raising taxes for any reason. I've been hit on the head a little bit by one of my seatmates for having that position, but that's the way I feel about this. I really don't think the people would want us to raise a tax to give them a tax break. We had a press conference downstairs an hour or so ago and we had the Chamber of Commerce, Dana Connors, we had the Coalition for Tax Reform, Dave Flanagan, Chris Hart, and others. We had the AARP. They all were there saying 'support this bill.' A question was asked. 'What about two years?' Dana Connors, representing the Maine Chamber of Commerce and businesses in this state, said, 'that's fine with me, but just don't raise a tax.' I think we have to remember that. We all want it done in two years but if it means raising a tax, some of us can't do that. It's a first step. It's a good first step. I think we ought to move forward with it and I would encourage you all to vote accordingly. Thank you very much for your time. I appreciate it.

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

Senator **ROSEN**: Thank you, Madame President and members of the Senate. First of all, allow me to just say that it was my pleasure to be one of the four Senate members on the Property Tax Committee. Thank you very much, Madame President and the leadership, for appointing me. It was a unique and interesting experience. I have a topic now for a paper, 'What I Did On My Christmas Vacation.' I enjoyed it very much.

I hope, ladies and gentlemen of the Senate, that you will seriously take a look at this amendment and reject the motion to indefinitely postpone and allow this amendment to go forward. This really is absolutely critical, I think, in terms of responding to the intent and the wishes of the voters in both elections, in November of 2003 and in June 2004. We have the benefit of those two elections. This wasn't a poll. We didn't have a group of people in a room taking a sample. The 121<sup>st</sup> legislature was called into session, a special session, in August 2003 to consider an alternative plan from the Chief Executive to give the voters a clear, specific choice. I supported that alternative. We laid it before the voters in November and they had three choices; to accept immediate funding to 55%, to accept a staged ramp over several years, or to reject all of the above. They made their choice in November. They reaffirmed it in June. For me, this is crystal clear. I think it is the obligation of this legislature to see that we fulfill that obligation now.

The other reason I support this amendment is because of the very nature of the EPS model that we've been discussing all morning. As we've said, many of us have described it as an adequacy model, a model that is designed to provide what is essential to deliver those eight learning components so that students in Maine schools can succeed and achieve learning results. As an adequacy model, to provide essential programs and services, as other speakers have already described, it is an austere funding base allocation. We take that number and then, in L.D. 1, we promise that in 2009 we'll achieve the goal. In 2009, we will fully fund it. That's too limiting. It creates too much of a restriction on the schools. If we are to be true to the EPS model, we have to ramp it up to 100% recognition, 55% state share, in this session.

The third point is regarding funding. How are we going to fund it? We can't consider this issue because we haven't proposed a funding mechanism. I contend that we're having what is, I think, a rare, exciting, and interesting policy discussion. It's rare because it's the first half of the first month of the first year of the 122<sup>nd</sup> legislature. What a great opportunity. We can set the policy directives now and if it is the directive of this legislature to achieve property tax relief and to implement EPS and to fully fund it in this legislature, than I'm confident we can do it. Then we will undertake the budget process and the support required to make that happen. Today we're debating and discussing our priorities. It is entirely appropriate to first establish the priority and then we'll work together to discover how we fund it. I hope for those reasons you reject the pending motion and go on to accept this amendment.

**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 quite certain that everyone in this chamber would like a faster ramp up. Unfortunately, we don't have the money to do this. The state can't afford to do this in this biennial budget. The price tag on the ramp up, as proposed by

the good Senator from Somerset, Senator Mills, is \$90 million in the upcoming biennial budget. I contend it's impossible to find another \$90 million in the proposed biennial budget without cuts in services to the most vulnerable in our districts. I challenge anyone in this chamber to find that additional funding without reducing services to the elderly and disabled in this state. I would like to remind everyone that these are the very constituents that we probably promised this past fall to continue to provide a safety net for. We need to move forward to deliver property tax relief. We need to move forward to deliver additional school funding and to control spending that we're doing in the state. We have to do this in a fiscally responsible way. Like a family that needs to live within its budget, we can't spend money that we don't have. For this reason, I would ask you to support the motion to indefinitely postpone this amendment. Thank you.

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

Senator **COWGER**: Thank you, Madame President and colleagues in the Senate. I, too, want to take this opportunity to thank the work of the committee on both sides of the aisles for the product they have presented to us today. I very strongly support a two-year ramp up, and unlike some of my colleagues, I also support raising the revenue to meet this more rapid commitment to the will of the voters. The voters have clearly asked for us to do this in two years. I support that effort. I do not think this amendment is the appropriate approach. As the good Senator from Androscoggin, Senator Rotundo, has just said, I see this amendment as putting a large hole in our budget and it suggests to me that we need to cut social services to those Maine citizens most in need of those services. I'm not prepared to go in that direction at all. I'm hopeful that we are going to see some legislation come before us, some opportunity that will include a two year ramp with a very responsible funding mechanism attached to it. I will be supporting that legislation. At this time, I do support the pending motion and I hope you will join me in that effort.

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

Senator **BARTLETT**: Thank you, Madame President. I, too, would like to thank the work of the committee, particularly over the holiday season. I rise to speak because I very much appreciate what the good Senator from Somerset, Senator Mills, said earlier in respect to knocking on doors and hearing loud and clear that people want reform and they want it now. I also had the distinction of having a primary campaign in June so I was in the heat of my campaign for that primary while the MMA proposal was being debated. It was on everybody's mind at every door I went to. I came here bound and determined to try to find a way to include a two-year ramp, if not an immediate imposition of that 55% grant. I also heard loud and clear when I was at doors that people were frustrated by what was happening in Augusta. They were frustrated that things weren't getting done. They asked me, 'how in the world are you going to be able to go up there and accomplish anything? How are you going to be able to achieve tax reform?' There are two keys to getting it done. The first is that it has to be the first order of business that the Senate takes up. I'm very proud to say that it is the first major piece of legislation that I will have an opportunity to vote on. The second



thing is that we need people to come to the table with the spirit of compromise, to be willing to make some concessions for the larger good, to find something that everybody can support. The reality was that we could not find a two year ramp that included some funding mechanism or combination of spending cuts that would meet the approval of the majority of this body and our colleagues down the hall. I greatly appreciate the spirit behind this amendment and I wish we could find a way to ramp up to 55% as part of this legislation. I also have great respect for what the joint committee did and for the spirit of compromise that those 15 people brought to the table. It is in that spirit that I will be voting in favor of this motion to indefinitely postpone. 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 it's too easy today to just say to reject this because we can't pay for it. I believe we can pay for it quite easily. There is \$70 million in revenue in addition to what was projected for this current year. That's \$70 million surplus. We get the report every month. Next year the projection is for \$95 million more. I would ask you why are asking the question, 'what are we going to do with that money?' Why can't we give tax relief with that money through a two year ramp up as the voters have suggested? We're getting some hint of what the Administration wants to do with the \$70 million, they've kind of revealed pieces of it. Why aren't we looking for other places to fix those problems? Vacant positions, at any one time there are 200, 300, or maybe as high as 600 vacant positions in state government. Why aren't we asking the question, 'can't we find that kind of money someplace else?' It's relatively small in the size of the state budget. Projected revenue surpluses. What are we going to do with the money? Are we going to just let it be frittered away to fix problems that Administration has suggested are problems? Are we going to require this Administration to fix those problems without using any of this projected additional revenue? Those are the questions, Madame President, that I am concerned about. We can pay for this easily. Thank you.

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

Senator **SCHNEIDER:** Thank you, Madame President, men and women of the Senate. I rise in support of the indefinite postponement and I'd like to speak to you about my own position and also thank the committee for their tireless work. I did spend many of my days with that committee, either in person at the committee meetings themselves or on line, listening to the debate. I can tell you, from my own perspective, I wanted nothing more than a two year ramp. I'm very grateful that I spent my time with that committee because I believe that they also wanted a two year ramp. I saw them come together, recognizing the difficulty in meeting that obligation of the two year ramp. Financially, I believe, it would be fiscally irresponsible to do that. I'm glad that some of us feel that there is such an amount of surplus money to deal with. I've been told we have about \$.5 billion shortfall. I'm not going to take that money from senior citizens or from people with injuries, the most needy of our population. I don't believe that your communities would want that either.

I sat on a town council back in the 1990's and wanted the state to meet its' obligation for the 55%. We were in much better

financial times. As a town councilor, I believed they would take 55% of the school budget and meet that amount of money, whatever that was in any given town. I think the notion of 55%, from a citizen's perspective, is 55% of whatever their town is paying. I think with this notion of 55% and the ramp up we can go back to our communities with our heads held high and feeling good about the four year ramp because it's fiscally responsible. It's the right thing to do. I guarantee you that those same communities, if we did ramp this up in two years, would see cuts other places that would be not palatable at all to them. I, along with the Joint Select Committee, have come to the conclusion that a two year ramp is just is not possible at this time. If we were in good financial shape, as a state, maybe we could meet that goal. I don't believe we can do that and be responsible to the citizens of this state. I am supporting an indefinite postponement.

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

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. I've heard people talk about obligations, about promises, and about priorities. This debate is about all three of those. What we have here is an obligation that's two fold. The Senator from Somerset, Senator Mills, talked about the obligation that we have to fulfill the will of the voters in June. We do have that obligation and I take that obligation, along with everybody else here, very seriously. We also have another obligation to all those people that depend on state government and depend on those services, that can't mount referendums, that can't put hundreds of thousands of dollars to put referendums before the voters to say 'fund my program or give me 100% of something.' We have an obligation to them, to keep faith with them, to do what is fair, and to do what is right. In this biennium budget we will get to 50% funding of essential programs and services by the end of this biennium. The last time that the state was at 50% funding of education was in 1991. For the first time in 14 years we're going to get back to 50% funding. We've been in the 40's, as low as 42% or 43%, in the 1990's. We're going to get to 50% in two years. I think that is showing good faith and I think that is showing our obligation to what the voters voted on in June.

We've also heard several people talk, with great eloquence, about the impact of going to a two year ramp, the cost of that, and the cuts that we would have to make to programs in this state. In the 121<sup>st</sup> legislature, I was the only person who served on both the Health and Human Services Committee and the Education Committee. I'd go to the Education Committee and people would say we have to get to 55% and we have to provide more money for higher education and for our community college system. In fact, there were many people who were very upset about the fact that we're only going to put \$10 million or \$12 million more in education and flat fund the university system. Then I had to go back over to the Health and Human Services Committee and tell a mother who said that their child was experiencing depression and had become suicidal that we have a budget crisis here and budget problems and have to cut that service. Not reduce or flat fund, we had to cut that service. We'd have to talk to people from nursing homes and say, 'sorry, we don't have enough money to fund you and it was unfortunate that there were waiting lists for health care.' I, along with all of you, feel very strongly about the obligation that we have with the elderly people in this state, with the young people in this state, with children in this state, and families in this state. We need to maintain that obligation. What

L.D. 1 does is fulfill both of those obligations in a responsible way. It allows us to give 50% funding for education and at the same time it maintains our obligation that we have to the most vulnerable people in this state. I don't see us as breaking faith with people. I don't see us as making a choice of one or the other because we never, as a state, move forward when we pick one group of people over another group of people. We always benefit, as a state, when we move together, collectively. What L.D. 1 does is allow us to move together collectively by fulfilling our obligation to education and at the same time fulfilling our obligation to all those other citizens of this state that rely on critical services in order to be meaningful members of our community. I hope that you will support this motion to indefinitely postpone this amendment.

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

Senator **COURTNEY:** Thank you, Madame President, ladies and gentlemen of the Senate. I guess I'd like to remind some of the Senators that were here at the end of last session on that infamous night that lasted into the morning of the following day and how the tax reform piece kind of collapsed. Eighteen of the Senators in the majority and one Senator who used to be in the minority held a press conference. They told the people of Maine that their proposal for tax reform was to support 1A and 1A required the 55% educational funding. Now there is a vote with an opportunity to do so and it seems that it is no longer palatable. I guess that is the thing about tax reform, it's always palatable if you don't have to pay for it. When it comes time to pay for it, then it's a little bit more difficult. Thank you, Madame President.

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

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. I was one of those Senators who helped have that press conference and I did want to remind the Senate that at that press conference our support for that question was contingent on a slower ramp. In fact, it was over a five year period, as I recall.

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

Senator **SCHNEIDER:** Thank you, Madame President, men and women of the Senate. I'm probably one of the few people who would actually put my money where my mouth is and support a tax increase, a sales tax increase, but I don't believe we have enough Senators on the other side of the aisle to accomplish that. We have a Governor who promised no tax increase. That's why I came to the conclusion that I did and I believe that the Joint Select Committee came to that conclusion. There wasn't the support there. You either have to raise a tax or you have to make cuts. Those cuts, I guarantee you, would come back in a horrible way and they would rear their ugly heads in front of you by your citizens in your communities because it is inevitably going to impact seniors and children in your area, no matter what the area. I wanted to speak on that issue and let you know that I would support a sales tax increase but I don't believe we have the support on the other side of the aisle nor do I believe we have Gubernatorial support. Thank you, Madame President.

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

Senator **MILLS:** Madame President and men and women of the Senate, just a small point. I think everyone is aware that the proposed amendment that lies before you does not contain within it a proposed method of funding or any cuts proposed, nor is there in it any proposal for sale of any of the state's revenue sources, I must hasten to say. I think we will have an opportunity later today, or perhaps on Tuesday, to discuss a very similar measure that would have a suggested funding mechanism. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon to Indefinitely Postpone Senate Amendment "B" (S-2) to Committee Amendment "A" (H-1). 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 (#10)

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

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

**EXCUSED:** Senator: PLOWMAN

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **DAMON** of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-2) to Committee Amendment "A" (H-1), **PREVAILED**.

**THE PRESIDENT:** The motion before the Senate is Adoption of Committee Amendment "A" (H-1). The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. Since today is the day for rhetoric, I'll add some of my own. First I'd like to compliment the committee and its chair, the good Senator from Hancock, Senator Damon, for their work on what is virtually an impossible task. It is impossible for two reasons. First, today is the 20<sup>th</sup> of January. That date should seem important to some people. Secondly, we disagree, philosophically. For us to be able to come together and agree at this moment in time is a challenge unto itself. I think the attempt was made. I do believe, very strongly, that a move towards EPS and away from GPA is critical for this state. However, I'd like to share a concern with you, if I might. My

profession is education. I am more than a little concerned because what we have labeled as essential programs and services also indicates that we have non-essential programs and services. I will now label the remainder of these services as NPS. We know what's included in NPS. I'm saying for you today, from my 26 years of experience in education, we're wrong. There are many students in this state who must have what we have excluded, who demand what we've excluded. They do not receive it as essential and we do not feel it is essential. They will leave school.

In my profession of education, we have unique opportunities. We assess immediately. We give you a test. You pass, you fail, you throw it in the waste basket, you say 'my dog ate it.' We seldom have that opportunity in this body. Today we have a unique opportunity for assessment. We are going to vote on a bill that will be assessed by the voters of Maine, not today but on tax bill day. I have heard about the organizations who have come here to support L.D. 1. It's curious to me. An example is the AARP. They're here promoting L.D. 1 today. I love the t-shirts, by the way. Oddly enough, during the committee process, they extended a position paper to members of the committee saying that they would like to see a quicker ramp for funding, 'as quickly as possible.' I wonder how the AARP was cushioned.

Today is a day for rhetoric. Tax bill day will be the day for proof. I'm hard pressed to conclude that this bill will benefit rural Maine. I've heard statistics from both sides of the aisle. I've heard statistics from both perspectives. I don't know if we know yet and that's part of the problem, that's part of the concern that we have. I have heard today, I have witnessed today, from our vote on the Joint Resolution, that EPS is indeed flawed. It must be the conclusion that we have to draw. We should send it back to the Education Committee for more examination. I've heard today, in an earlier debate, that many would favor a choice of a homestead exemption, but we couldn't vote for that at this time. I've heard today that 55% funding is essential over a two year period, but we don't have the money. If we're wondering about EPS, we're wondering about a homestead exemption, and we're wondering about a two year ramp, why are we wondering about our vote? Today is a day for rhetoric. We are about to 'fulfill our obligation to the citizens of Maine.' Tax bill day will decide whether we have done so. I urge your opposition to the motion.

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

Senator **RAYE:** Thank you, Madame President, ladies and gentlemen of the Senate. I had hoped to rise today in support of the amendment that the Senator from Androscoggin, Senator Nutting, had planned to offer to remove the essential programs and services formula from the bill before us and send it back to the Education Committee for improvements. It would have been a strong, affirmative, and unequivocal message, rejecting the flawed formula contained in the EPS model. The Joint Order we passed today, while laudable, does not achieve the same end because EPS remains the basis of the bill. I was not a member of the legislature when the EPS model was approved, but in talking with many others who were, it is clear that most would not have predicted the devastating outcome for rural areas that has become evident through its inclusion in L.D. 1. Few Mainers would expect us to include it as the basis for tax relief, a model that almost nobody understands and even the Commissioner of Education acknowledges needs to be fixed. In my county of

Washington, the initial result of a bill that infused \$250 million in new funding into Maine's education system was a net loss of well over \$2 million. Let me repeat that, because it might not have sounded right to you, \$250 million in new education funding and a net loss of over \$2 million for Washington County. The supreme irony in that is that, of all 16 counties, Washington County gave the strongest support to passage of question 1A by a vote of 64.5% to 35.5%. Washington County residents went to the polls and voted decisively for increased state funding of education and lower property taxes. As a result of the inclusion of the EPS formula in the property tax reform legislation, many Washington County voters will see neither. Instead the state will reduce education funding for our schools and property taxes, in many instances, will go up, or at best, stay the same. How could this happen? The EPS formula gives great weight to valuation. Along Washington County's coast valuations are soaring. There is another important factor at play that is given no weight and that is the ability to pay. Even as valuations soar along the coast of Washington County, incomes remain the lowest of the 16 counties. The good news is that not only this body but also the Education Commissioner recognizes that there is a serious problem with the formula. The Commissioner has told me on multiple occasions that the formula is not working for rural areas, especially coastal rural areas like those found in my county. She has acknowledged the formula needs work. The bad news is that, despite this acknowledgement, this flawed formula remains the cornerstone of L.D. 1. It is, in my view, a fatal flaw in the bill, not only for my part of the state but also for rural communities across the state.

Madame President, having said this, I do want to recognize, acknowledge, and commend the work of the committee. I sat through many of their work sessions. I know the commitment which the chairman, the Senator from Hancock, Senator Damon, showed and the other members of the committee; the Senator from Hancock, Senator Rosen, the Senator from Penobscot, Senator Perry, the Senator from Somerset, Senator Mills, and the House members. It was hard work, and even though I rise in opposition, I appreciate what they put into it and I welcome the transition funding contained in statute and included in L.D. 1 by the committee. It is enormously helpful in offsetting the devastating losses for next year. Unfortunately, it is a short-term solution. It does not bely the concerns about the long-term impact of the EPS formula. Nobody at the Department of Education can even venture a guess about where our schools will be at the end of a four year ramp. All we have to go on is the impact we can see in the first two years under this formula. That gives me great pause. New spreadsheets distributed by the Commissioner Tuesday shows that year two will also hit many of rural schools hard. We don't know what the transition funding level might be in year two, but there is one thing we know for sure, it will be less than that made available in year one. It's part of a so-called bridge. The only problem is we're being asked to pass a bill when we don't know where that bridge will lead. We are being asked to go on faith that it will all work out in the end. As I stand here, representing the hard working people of Senate District 29, I cannot rely on blind faith and sympathetic assurances, no matter how genuine, of what might happen in the future. As one gravely concerned about the impact of a flawed formula, a poor fit for a rural state, the one unequivocal opportunity to register my dissatisfaction was the amendment to remove EPS from the bill.

Madame President, as much as I support property tax reform, I am troubled by the package before us. While I applaud portions of it, including the circuit breaker, I am disappointed in other pieces, including the half-funded homestead changes and the lack of a meaningful cap on state spending. I have to look at the package as a whole and I have to consider the context that brought us to that point. L.D. 1's reliance on a four year phase in to reach 55% of education funding is precisely what the voters of Maine rejected. Our debate here today is a direct result of that vote. It was the will of the voters who have brought us to this place. The 121<sup>st</sup> legislature failed to provide property tax relief. The succession of legislatures failed to fulfill the long broken promise of 55% of the cost of education. The voters spoke loud and clear. They gave us their guidance. Regrettably, the package before us second guesses those voters and fails to honor their intent. In the case of most of the downeast Maine communities I represent, it falls short of fulfilling their desire, expressed through the ballot box, for increased state funding of education and lower property taxes. The analysis prepared by the Maine Municipal Association shows the education funding and revenue sharing portions of the bill will contribute towards tax relief for 184 municipalities in this state while providing no relief, or actually pressuring property taxes upwards, in another 302 communities. The bulk of the communities I represent fall into those latter two categories. As much as I would like to cast a vote in favor of property tax reform, I cannot, in good conscience, vote in support of a package that includes the flawed EPS formula and its inherent bias against rural schools, including the institutionalization of salary disparities for our teachers. The responsible course of action would have been to remove or correct that formula before passage, not include it in the bill with just a chance of being corrected at a later date and it must honor the intent of Maine's voters. The bill before us does neither. I cannot give it my support.

The Senator from Penobscot, Senator Mitchell, said earlier today that it's about equity for the children, whether they are in Washington County or in a wealthy part of the state. On behalf of the children of Washington County, I implore you to reject this measure. Thank you.

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

Senator **SULLIVAN:** Thank you, Madame President and fellow colleagues, this has been a lot about if only, want to be, should have been, could have been, must have been. My colleagues in the other chamber used to laugh at me and it got to a point where I would stand up and begin every single speech with 'I am an educator' because they wanted to hear that and I would have disappointed them. I wasn't going to do that here for the other good Senator from York, Senator Courtney. However, I was pleased somebody from your side of the aisle decided to say he was an educator and I am an educator, almost as many years. I like the analogy of a test. You know, when it's test day you have studied the night before, or you haven't studied the night before. You have managed to watch your favorite program in lieu of. Whatever it is, it's test day. When you walk into my class, I expect you to be ready to take the test. Today is test day. We've had 40 days to work on this. We've sent our brightest people together, without regard to party. They worked long and hard. I also listened to much of the debate. Here we are with a test. The test is a simple one-word answer question. Certainly would meet

the Maine Learning Results because it doesn't do a lot of things like open-ended questions or anything. This is a simple one. Yes or no. It is very hard for politicians to answer yes or no. Today, my fellow colleagues, is the day we answer yes or no. You can go on record, you can anything you want, but I remind you of two things; first of all, the school funding would have happened regardless of what we do standing here. It doesn't make any difference if you like or you didn't like it or anything else. It passed and it would have happened. Yes, it would have happened with rural, if you want to argue rural and city and all of these things. It would have happened. In order to be fairer, this committee struggled with, and went back on the second floor and pleaded to put millions of dollars in to make this bridge, as I believe it was referred to, at least completed to the other side. It doesn't drop those communities in the middle of the water. It takes you across to the other side. It would have happened. The other piece is, yes, some people will get more tax relief than others on the school side, but this was about property tax. The funding is funding for schools. The property tax is our homestead and our circuit breaker and all of those things. We have put down Joint Orders in order to let everybody know here, in a Joint Order, that this will go back to the Education Committee and it will fine-tune it. It needs to happen, but it is the law, people. So it is test day. Two possible answers, yes or no. Do you get a 100 or a 50? You get a zero if you don't do anything. We did that last year, some of us did. I'm going to go on what I hope will be a 100. There is no guarantee. I was once told there are only two guarantees in life; death and taxes. Isn't it unique that I'm sitting here saying we're going to try to reduce at least one of those guarantees? I will push green to pass this. I'll have either a 100 or a 50, but you know what, I won't have a zero. I will take part in democracy and I will vote this bill up or down. I believe that a great journey begins with a first step. This is the first step and there are many steps to go, but we have to crawl before we walk or run. It's infancy and it's simple. Please take the test, yes or no. Remember the school funding would have happened. For those of you who are concerned about your rural areas, if this fails you have no transition money, even for a year. That's serious. Thank you.

**THE PRESIDENT:** The pending question before the Senate is Adoption of Committee Amendment "A" (H-1). 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 (#11)**

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

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

EXCUSED: Senator: PLOWMAN

23 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 1 Senator being excused, Committee Amendment "A" (H-1) **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

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

**ORDERS**

**Joint Order**

On motion by Senator **MARTIN** of Aroostook, the following Joint Order:

S.P. 110

ORDERED, the House concurring, that the Joint Rules be amended by amending Joint Rule 206, subsection 1 to read:  
1. Number; Governor's Bills. A bill, resolve, order, resolution or memorial may have up to 10 sponsors: one primary sponsor, one lead cosponsor from the other chamber and 8 cosponsors from either chamber. By mutual agreement the presiding officers may authorize additional cosponsors on a case-by-case basis. Each bill or resolve requested by the Governor or a department, agency or commission must indicate the requestor below the title.

; and be it further

ORDERED, that the Joint Rules be amended by amending Joint Rule 310, subsection 5 to read:

5. Committee Voting. The committee clerk shall prepare the committee jacket or jackets following the vote and obtain signatures from committee members as required. If all members are not present for the vote, the bill must be held until the following periods have expired.

A. If any member is absent from the State House and the State Office Building at the time of the vote, that member's vote may be registered with the clerk up until noon on the 2nd business day following the vote.

B. If any member is absent from the committee at the time of the vote but present in the State House or the State Office Building, that member's vote may be registered with the clerk up until 5:00 p.m. on the day of the vote.

A member may abstain be excused from voting only for a conflict of interest under Joint Rule 104.

Except for a motion to adjourn, a question may not be decided and official action may not be taken in the absence of a quorum.

No committee vote on a bill may be taken after 10:30 p.m. or before 7:30 a.m. unless authorized by the presiding officers. If the presiding officers provide this authorization, they shall notify the other members of the Legislative Council concurrently.

**READ.**

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

Senator **MARTIN:** Thank you, Madame President. Very quickly, there were two changes that the Joint Rules Committee dealt with yesterday. The first one, basically, puts into rule what has been going on the last couple of years. At the present time, if you want to sponsor a bill beyond the number allowed the presiding officer would say to go ahead and sign off. The rule never provided for that. What this does is to provide for that opportunity so that if you want to go beyond the eight sponsors then you can ask the presiding officer to let you do it. This provides for that.

The second basically deals with what happens when you are in committee. This would provide an opportunity so that if you wished to be excused because of a potential conflict of interest the jacket would so reflect it. The clerk would simply write in that you are excused from voting pursuant to Joint Rule 310, subsection 5, because of a potential conflict.

On motion by Senator **MARTIN** of Aroostook, **PASSED.**

Ordered sent down forthwith for concurrence.

\_\_\_\_\_  
Senate at Ease.

Senate called to order by the President.

\_\_\_\_\_  
**RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

\_\_\_\_\_  
Off Record Remarks

**PAPERS FROM THE HOUSE**

**House Paper**

Bill "An Act To Establish the Pine Tree Recreation Zone" (EMERGENCY)

H.P. 143 L.D. 192

Committee on **TAXATION** suggested and ordered printed.

Comes from the House, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**.

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

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**COMMUNICATIONS**

The Following Communication: S.P. 98

**122<sup>nd</sup> MAINE LEGISLATURE**

January 18, 2005

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

Dear Senator Hobbins and Representative Pelletier-Simpson:

Please be advised that Governor John E. Baldacci has nominated Kristin Aiello of Hallowell for appointment and Jadine O'Brien of Portland for reappointment as members of the Maine Human Rights Commission.

Pursuant to Title 5 M.R.S.A. §4561, these nominations will require review by the Joint Standing Committee on Judiciary.

Sincerely,

S/Beth Edmonds                      S/John Richardson  
President of the Senate              Speaker of the House

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

Sent down for concurrence.

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The Following Communication: S.C. 40

**STATE OF MAINE**  
**122<sup>ND</sup> MAINE LEGISLATURE**  
**AUGUSTA, MAINE 04333**

December 15, 2004

Honorable John E. Baldacci  
Governor of Maine  
1 State House Station  
Augusta, Maine 04333

Dear Governor Baldacci:

We are pleased to invite you to deliver the State of the State address at a Joint Session of the 122<sup>nd</sup> Maine Legislature on Tuesday, January 25, 2005 at 7:00 p.m.

We look forward to seeing you then.

Sincerely,

S/Beth G. Edmonds  
President of the Senate

S/John Richardson  
Speaker of the House

**READ** and **ORDERED PLACED ON FILE**.

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The Following Communication: S.C. 41

**STATE OF MAINE**  
**OFFICE OF THE GOVERNOR**  
**1 STATE HOUSE STATION**  
**AUGUSTA, MAINE 04333-0001**

December 16, 2004

The Honorable Beth G. Edmonds  
President of the Senate  
3 State House Station  
Augusta, Maine 04333  
The Honorable John Richardson  
Speaker of the House  
2 State House Station  
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

It is my pleasure to accept your invitation to deliver the State of the State Address at a Joint Session of the 122<sup>nd</sup> Maine Legislature on Tuesday, January 25, 2005, at 7:00 p.m.

I look forward to seeing you then.

Sincerely,

S/John E. Baldacci  
Governor

**READ** and **ORDERED PLACED ON FILE**.

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The Following Communication: S.C. 42

**STATE OF MAINE**  
**DEPARTMENT OF PROFESSIONAL**  
**AND FINANCIAL REGULATION**  
**BUREAU OF FINANCIAL INSTITUTIONS**  
**36 STATE HOUSE STATION**  
**AUGUSTA, MAINE 04333-0036**

The Honorable Beth Edmonds  
President of the Senate  
Maine Senate  
3 State House Station  
Augusta, Maine 04333

Dear President Edmonds:

In accordance with Title 9-B MRSA subsection 217, as amended, enclosed please find a copy of the Annual Report from the Superintendent of the Bureau of Financial Institutions to the Legislature. In addition to the annual statistical information, the Report also includes informational segments which often address issues of current importance to the Legislature, the Executive Branch, and the Maine financial institution community.

If you or your staff have any questions regarding the information contained in this Report, the Bureau would be pleased to respond. This Report will also be available in electronic format on the Bureau of Financial Institution's web site at MaineBankingReg.org.

Very truly yours,

S/Colette L. Mooney  
Acting Superintendent

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

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**SENATE PAPERS**

**Pursuant to Statutes  
Maine Human Rights Commission**

Senator HOBBS for the **Maine Human Rights Commission**, pursuant to the Maine Revised Statutes, Title 5, section 4566, subsection 11 asked leave to report that the accompanying Bill "An Act Relating to Unlawful Housing Discrimination"  
S.P. 99 L.D. 321

Be **REFERRED** to the Committee on **JUDICIARY** and ordered printed pursuant to Joint Rule 218.

Report **READ** and **ACCEPTED.**

On motion by Senator **GAGNON** of Kennebec, **REFERRED** to the Committee on **JUDICIARY** and ordered printed pursuant to Joint Rule 218.

Sent down for concurrence.

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

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

**SENATE PAPERS**

Bill "An Act To Change the Definition of 'Academic Medical Center'"

S.P. 103 L.D. 341

Sponsored by Senator PERRY of Penobscot.  
Cosponsored by Representative DUNN of Bangor and Senators: DAMON of Hancock, DOW of Lincoln, ROSEN of Hancock, Representative: FISHER of Brewer.

Bill "An Act To Encourage Reuse of Glass Bottles"

S.P. 104 L.D. 342

Sponsored by Senator PERRY of Penobscot.  
Cosponsored by Representative: TWOMEY of Biddeford.

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

Sent down for concurrence.

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

**SENATE PAPERS**

Bill "An Act To Authorize the Regulation of Firearms on Public Property"

S.P. 106 L.D. 344

Sponsored by Senator ROTUNDO of Androscoggin.  
Cosponsored by Representative TWOMEY of Biddeford and Senators: ANDREWS of York, BARTLETT of Cumberland, Representatives: CUMMINGS of Portland, JACKSON of Fort Kent, MARLEY of Portland.

On motion by Senator **DIAMOND** of Cumberland, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

(See action later today.)

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

**SENATE PAPERS**

Bill "An Act To Require That Health Care Providers Use Uniform Rates"

S.P. 105 L.D. 343

Sponsored by Senator ANDREWS of York. (BY REQUEST)

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

Sent down for concurrence.

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

**SENATE PAPERS**

Bill "An Act To Rename the Jobs for Maine's Graduates Program To Create InspireME" (EMERGENCY)

S.P. 109 L.D. 347

Sponsored by Senator **BROMLEY** of Cumberland. (GOVERNOR'S BILL)

Cosponsored by Senators: **MARTIN** of Aroostook, **MITCHELL** of Kennebec, **RAYE** of Washington, **WESTON** of Waldo, Representatives: **CUMMINGS** of Portland, **McKANE** of Newcastle, **PINGREE** of North Haven, **TARDY** of Newport.

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

Sent down for concurrence.

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

**SENATE PAPERS**

Resolve, Directing the Department of Inland Fisheries and Wildlife To Review Brook Trout Fishing Rules (EMERGENCY)

S.P. 102 L.D. 340

Sponsored by Senator **BRYANT** of Oxford. Cosponsored by Representative **WATSON** of Bath and Representatives: **BRYANT** of Windham, **JACKSON** of Fort Kent, **RICHARDSON** of Carmel.

On motion by Senator **BRYANT** of Oxford, **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed.

Sent down for concurrence.

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

**SENATE PAPERS**

Bill "An Act To Clarify the Applicability of the Maine Consumer Credit Code to Affordable Housing Organizations"

S.P. 100 L.D. 338

Sponsored by Senator **MAYO** of Sagadahoc. Cosponsored by Speaker **RICHARDSON** of Brunswick and Representatives: **GERZOFKY** of Brunswick, **GROSE** of Woolwich, **PERCY** of Phippsburg, **WATSON** of Bath.

Bill "An Act To Amend Group Insurance Funding Requirements" S.P. 108 L.D. 346

Sponsored by Senator **PERRY** of Penobscot. Cosponsored by Representative **PERRY** of Calais and Senators: **MAYO** of Sagadahoc, **MILLS** of Somerset, Representative: **MARRACHÉ** of Waterville.

On motion by Senator **SULLIVAN** of York, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed.

Sent down for concurrence.

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

**SENATE PAPERS**

Bill "An Act To Include Androscoggin County in the Law Governing the Use of County Surplus Funds"

S.P. 101 L.D. 339

Sponsored by Senator **ROTUNDO** of Androscoggin. Cosponsored by Representative **SAMPSON** of Auburn and Senators: **SCHNEIDER** of Penobscot, **SNOWE-MELLO** of Androscoggin, Representatives: **BERUBE** of Lisbon, **MAKAS** of Lewiston, **PELLETIER-SIMPSON** of Auburn, **SHIELDS** of Auburn.

On motion by Senator **SCHNEIDER** of Penobscot, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

Sent down for concurrence.

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

**SENATE PAPERS**

Bill "An Act To Base the Excise Tax on Motor Vehicles on the Purchase Price" (EMERGENCY)

S.P. 107 L.D. 345

Sponsored by Senator **BRYANT** of Oxford. Cosponsored by Representatives: **CLARK** of Millinocket, **RINES** of Wiscasset, **TARDY** of Newport, Representative **JACKSON** of Fort Kent and Senator: **PERRY** of Penobscot, Representatives: **BRYANT** of Windham, **PATRICK** of Rumford, **SAVIELLO** of Wilton, **WATSON** of Bath.



On motion by Senator **PERRY** of Penobscot, **REFERRED** to the Committee on **TAXATION** and ordered printed.

Sent down for concurrence.

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

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act To Clarify Ownership and Management of Architectural Firms"

H.P. 247 L.D. 324

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

Comes from the House, **REFERRED** to the Committee on **JUDICIARY**.

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

Bill "An Act To Implement Energy Conservation Standards for Affordable Housing"

H.P. 250 L.D. 327

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

Comes from the House, **REFERRED** to the Committee on **UTILITIES AND ENERGY**.

On motion by Senator **BROMLEY** of Cumberland, **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed, in concurrence.

Off Record Remarks

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act To Impose Mandatory Minimum Sentences for Certain Sexual Offenses"

H.P. 249 L.D. 326

Bill "An Act Regarding the Sale of Firearms at Gun Shows"

H.P. 256 L.D. 333

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

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

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

**PAPERS FROM THE HOUSE**

**House Paper**

Bill "An Act To Lower the Minimum Age for Operating an All-terrain Vehicle to 14 Years of Age"

H.P. 259 L.D. 336

Comes from the House, **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed.

On motion by Senator **BRYANT** of Oxford, **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed, in concurrence.

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

**PAPERS FROM THE HOUSE**

**House Paper**

Bill "An Act To Clarify the Definition of 'Eligible Group' in Small Group Health Insurance Plans"

H.P. 258 L.D. 335

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

On motion by Senator **SULLIVAN** of York, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed, in concurrence.

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act To Limit the Time a Campaign Sign May Be Displayed"

H.P. 246 L.D. 323

Bill "An Act Concerning Recognition of Qualified Political Parties"

H.P. 252 L.D. 329

Bill "An Act Regarding the Late Payment of Rent"

H.P. 260 L.D. 337

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

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

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act To Clarify the Definition of 'Domiciled' for Maine Income Tax Purposes"

H.P. 248 L.D. 325

Bill "An Act To Enhance the Maine Earned Income Tax Credit"

H.P. 251 L.D. 328

Bill "An Act To Exempt Unemployment Benefits from State Income Tax" (EMERGENCY)

H.P. 255 L.D. 332

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

On motion by Senator **PERRY** of Penobscot, **REFERRED** to the Committee on **TAXATION** and ordered printed, in concurrence.

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

**PAPERS FROM THE HOUSE**

**House Paper**

Bill "An Act Allowing Certain Commercial Vehicles at Canadian Weight Limits To Travel from the Canadian Border at Houlton to New Limerick and from the Canadian Border at Calais to Baileyville"

H.P. 257 L.D. 334

Comes from the House, **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed.

On motion by Senator **DAMON** of Hancock, **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed, in concurrence.

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act To Create a Manufacturing Energy Policy for Maine"

H.P. 236 L.D. 312

Bill "An Act To Protect Utility Customers from Imprudently Incurred Costs"

H.P. 253 L.D. 330

Bill "An Act To Improve the Operation of Underground Damage Prevention Procedures"

H.P. 254 L.D. 331

Come from the House, **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed.

On motion by Senator **BARTLETT** of Cumberland, **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed, in concurrence.

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

**PAPERS FROM THE HOUSE**

**House Paper**

**Pursuant to Statute  
Workers' Compensation Board**

The **Workers' Compensation Board**, pursuant to the Maine Revised Statutes, Title 39-A, section 152, subsection 11 asked leave to report that the accompanying Bill "An Act To Amend the Process for Review of Hearing Officer Decisions by the Workers' Compensation Board"

H.P. 245 L.D. 322

Be **REFERRED** to the Committee on **LABOR** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **LABOR** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **STRIMLING** of Cumberland, **REFERRED** to the Committee on **LABOR** and ordered printed pursuant to Joint Rule 218, in concurrence.

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

**REPORTS OF COMMITTEES**

**Senate**

**Divided Report**

The Majority of the Joint Select Committee on **JOINT RULES** on Joint Order To Amend the Joint Rules To Require a 2/3 Vote To Exceed the Spending Cap

S.P. 69

Reported that the same **Not Pass**.

Signed:

Senators:

- MARTIN of Aroostook
- GAGNON of Kennebec
- BARTLETT of Cumberland

Representatives:

- GERZOFKY of Brunswick
- ADAMS of Portland
- CAIN of Orono

The Minority of the same Committee on the same subject reported that the same **Pass**.

Signed:

Senators:

- MILLS of Somerset
- NASS of York

Representatives:

- JOY of Crystal
- CRESSEY of Cornish

Reports **READ**.

Senator **MARTIN** of Aroostook moved the Senate **ACCEPT** the Majority **NOT PASS** Report.

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.

On motion by Senator **BRENNAN** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **MARTIN** of Aroostook to **ACCEPT** the Majority **NOT PASS** Report. (Roll Call Ordered)

On motion by Senator **GAGNON** of Kennebec, the Senate **RECONSIDERED** whereby it **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** the following:

Bill "An Act To Authorize the Regulation of Firearms on Public Property"

S.P. 106 L.D. 344

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by Senator **DIAMOND** of Cumberland to **REFER** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY**.

Senate at Ease.

Senate called to order by the President.

**ORDERS OF THE DAY**

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

Bill "An Act To Clarify Ownership and Management of Architectural Firms"

H.P. 247 L.D. 324

Tabled - January 20, 2005, by Senator **BROMLEY** of Cumberland

Pending - **REFERENCE**

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

(In House, January 20, 2005, **REFERRED** to the Committee on **JUDICIARY**.)

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

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

SENATE REPORTS - from the Joint Select Committee on **JOINT RULES** on Joint Order To Amend the Joint Rules To Require a 2/3 Vote To Exceed the Spending Cap

S.P. 69

Majority - **Not Pass** (6 members)

Minority - **Pass** (4 members)

Tabled - January 20, 2005, by Senator **BRENNAN** of Cumberland

Pending - motion by Senator **MARTIN** of Aroostook to **ACCEPT** the Majority **NOT PASS** Report (Roll Call Ordered)

(In Senate, January 20, 2005, Reports **READ**.)

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

Senator **MILLS:** Madame President and men and women of the Senate, it's a very interesting issue about how parliamentary bodies govern each other and bind each other to super majority votes. I have long been interested in how the U.S. Senate accomplishes it. The big distinction between the U.S. Senate and the House of Representatives is that in the Senate it takes a 60% vote to cut off debate. That is a major factor in empowering at least 40% of the body to have a say over the course of business. It's apparently just done by rule and it's done by parliamentary practice. Apparently it is a rule that is renewed as they adopt their rules at the beginning of each session.

The rule that lies before you is a proposal, or invitation frankly, to ask that the House and Senate agree to a rule that says that if we go beyond the spending caps that we may create an L.D. 1 or some other instrument that we would agree not to pass beyond those caps without a 2/3<sup>rd</sup> vote of both chambers. I think would be a very interesting experiment. As you know, many people have suggested that there be an amendment to the state Constitution requiring a 2/3<sup>rd</sup> vote in each chamber to pass over a certain threshold or cap of some kind. Rather than go that far at this juncture, it would seem prudent to experiment with such a rule as a rule and see how we like it. The virtue of a rule is that it has to be adopted again at the commencement of each legislature and if the next legislature didn't think it was a good idea they would be free to excise it from the rules or simply not adopt it and pass on to business as usual. In any case, it lies before you with an invitation to adopt it as a way of experimenting with what would happen with a 2/3<sup>rd</sup> requirement for an override of a spending cap, if that would be your pleasure. For that reason, I invite you to vote against the pending motion so that we might go on and adopt the rule and send it down to the House for their discussion and consideration. Thank you.

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

Senator **MARTIN:** Thank you very much, Madame President and members of the Senate. The good Senator from Somerset, Senator Mills, referred to the U.S. Senate and the cutting off debate. If this rule were drafted to cut off debate in this body I'd vote for it. This is not what we have before us. What we have before us is a setting of a limit. The problem is we don't have a budget committee establishing a limit in order to get to the point that the good Senator would like to get us to. That's our problem. We only get to a limit at the end of the session when the Appropriations Committee deals with the budget and its final analysis. We expend dollars within the available dollars. That is why we, the majority, voted the way we did. I would urge you to vote in favor of the pending motion.

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

Senator **DIAMOND:** Thank you, Madame President. I would like to pose an inquiry through the Chair to anybody who may wish to respond.

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

Senator **DIAMOND:** Can someone explain what 'the cap' means. We deal with all sorts of caps and we're dealing with legislative caps, state caps, county caps, local caps, the legislature's controlling several different budgets. I'm just curious as to what 'the cap' means.

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

Senator **MILLS:** Madame President and men and women of the Senate, if I may take a crack at it. The actual words of the proposed rule are that any bill or resolve that requires an expenditure that exceeds any expenditure or spending limit. It doesn't use the word 'cap', it uses the word 'limit'. It says any expenditure or spending limit set forth in the Maine Revised Statutes. It's a generic description of any cap or limit that we might set or might choose to set.

I must say, apparently we have no trouble in tracking, with great precision, how close we are at the balance. Indeed, when we run the table in the middle of the night, typically in the last week of the legislature, we pay close attention to how close we are to being in balance because we must be in balance by virtue of the Constitution. I don't think that it is any more singular a trick to keep track of a spending limit or limit on expenditures. It would just be done, it seems to me, in parallel to the way in which we track how we are staying within balance. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Senator **MARTIN** of Aroostook to Accept the Majority Not Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#12)

**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, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK**

**EXCUSED:** Senator: **PLOWMAN**

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **MARTIN** of Aroostook to **ACCEPT** the Majority **NOT PASS** Report, **PREVAILED**.

Senator **DAMON** of Hancock moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

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

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

## REPORTS OF COMMITTEES

### House

#### Divided Report

The Majority of the Joint Select Committee on **PROPERTY TAX REFORM** on Bill "An Act To Provide a Schedule of School Funding That Provides 55% State Coverage of the Cost of Essential Programs and Services over a Period of 2 Years" H.P. 225 L.D. 300

Reported that the same **Ought Not to Pass**, pursuant to Joint Order H.P. 108.

Signed:

Senators:

DAMON of Hancock  
PERRY of Penobscot

Representatives:

WOODBURY of Yarmouth  
LERMAN of Augusta  
DUGAY of Cherryfield  
STEDMAN of Hartland  
NORTON of Bangor  
SMITH of Monmouth  
BIERMAN of Sorrento  
CLOUGH of Scarborough  
FLOOD of Winthrop

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**, pursuant to Joint Order H.P. 108.

Signed:

Senators:

MILLS of Somerset  
ROSEN of Hancock

Representatives:

DUDLEY of Portland  
McCORMICK of West Gardiner

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **MILLS:** Madame President, men and women of the Senate, the L.D. that lies before you is the one that the committee voted, I believe, unanimously for permission to generate a separate L.D. because there were so many of us on the committee that wanted to explore the idea of sending to you a different way of approaching the two-year ramp. In the end it turned out to be an 11 to 4 report with four of us in the minority. I want to recommend to you the minority report in these brief words. It contains three elements. It says; let's go to 55%, let's meet the obligation of the MMA referendum by going to 55% funding in two years. Let's do it on our watch, perhaps. Let's fund it and suggested it be funded with a modest expansion of the sales tax into certain amusements which generates, I believe, around \$20 million a year and fund the rest of it by increasing the sales tax by ½ penny effective in the spring of 2006, which is time enough to generate, combined with the expansion, enough money to fund that increased ramp up to 55% of EPS. As the Senator from Hancock, Senator Rosen, has pointed out, it would enable us to get the model and the formula working. One of the big painful parts of staging this implementation of the new funding system is that it was never designed to work on the three cylinders. It was designed to work with all cylinders firing at 100% funding of the model. The longer we postpone that, the more painful it is for the formula to be applied to so many of our cities and towns and in particular to the very high receiving communities; those with low property values, those that struggle the hardest to fund their schools. The longer you leave them in pain for a four-year ramp the more harm you are doing and the less equity you are achieving, and I suggest to you, the more jeopardy there is that in the next legislature and maybe under the next administration that this promise of 55% funding in the model may evaporate before our eyes. This is an avenue to get there. It has the other virtue of being a bill that would be sent out to referendum. It would say to people who want to vote on it in November 2005; 'Look, here's the rest of the way, we did ¼ of the way in the first year of our service, but you folks, in the public, can solve a problem for us. You can answer the question that was never asked of you by the MMA referendum and that is do you want to raise your taxes a little bit in order to pay for ongoing school costs at a higher level and relieve your property taxes?' Very easy question to answer and it will generate a great deal of public debate. The refreshing thing is that it gets the debate out of this institution and into the public domain. It will allow us to frame that debate for the public in an intelligent way instead of having people running around getting 50,000 signatures, trying to vote for some idiosyncratic notions at the top of the page. Here we are, who at least have a closer understanding of the problem, framing the discussion for the public, giving them some rational choices, and setting it out there so there can be a public discussion about tax policy around rational alternatives. That's what this is about. It isn't a vote to raise taxes, ladies and gentlemen of the Senate. If you vote for this, and against the

pending motion, it is a vote to say that I repose my trust in the people of Maine and I'm willing to have this idea of 55% school funding sent back out with a rational way of funding it. Let the people decide based on real choices rather than the free lunch referendum that was presented on June 8<sup>th</sup> that said don't worry about how to pay for it. It said that maybe the legislature will dream it up. We'll just tell them how much to spend and where to spend it and we won't have to worry about how to raise the dough. It gets us out of that and says to behave like adults and send some honest questions out for the people to wrestle with. That is the virtue of this bill. I recommend it to you for that reason. Thank you.

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

Senator **STRIMLING:** Thank you, Madame President. I rise in opposition to the motion being put forward and encourage my colleagues to do the same. I encourage you to do the same because this, as opposed to the proposal that we had earlier dealing with a two-year ramp, is a responsible proposal that explains exactly how it gets paid for. I can't tell you how many people I've had come up to me, and they're not just from the city of Portland. I get e-mails from across the state. You can read it in papers. People are saying 'why won't you just solve this problem by broadening the sales tax or putting ½ cent on the sales tax and dedicating it to property tax relief.' I don't know that we even have to send this back out because I think that is what most people want to do. I'm okay with sending it back out to say I want to find out if the e-mails and the calls I've been getting will be reflected in the vote that is taken. All we are doing here today is saying to people; 'Here is an opportunity. You want it to be two years,' which we know everybody in this room has gotten calls saying they want it in two years, 'is this the way you want to do it?' I believe that the people will say, without question, 'yes, this is what we want to do.'

It is crazy that our sales base is so thin when people from other states come and dock their boats and don't have to pay a sales tax. They know our sales tax causes the fluctuation in our budget. They know that right now in the state we get under 20% of our revenue from sales tax and over 35% from property tax. They know that is out of balance. They say, 'Just fix the sales tax, put it to property tax and then we can get our economy back in the shape it needs to be in for the growth that's coming down the road.' I encourage my colleagues to reject the motion and vote to send this out for referendum. 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 also rise this afternoon to stand in opposition to the pending motion. I have a bill in this session to cut down on the size of state government. We've made many cuts to the number of state employees over the last seven or eight years. I think that those are appropriate. I likewise can't even gas up my farm truck at the local store without people coming up to me and asking the same question that the Senator from Cumberland, Senator Strimling, just outlined. The fact that recreational services, pleasure yacht docking fees, are exempt from sales tax in Maine.

My wife and I try every summer to rent a place in Boothbay Harbor just to get away from the farm and rest. We have a wonderful time there. I'm really glad that Jimmy Dean, who owns the sausage company, brings his 122-foot long yacht to Boothbay Harbor a month every summer. He has a crane on the top of it that lowers a 30-foot boat into the water for day trips. He pays several thousands dollars a week in docking fees to the Town of Boothbay. Keeping that in mind, seven or eight years ago there was a \$5 million bond issue passed and paid for by the people of Maine to allow septic systems to be improved along the coast to allow more water quality monitoring along the coast. My point is that the people of Maine have invested Maine money into a clean coastline. Yet, when people come from out-of-state to use it, we're not running it as a business. We're not collecting from those that use it. For instance, pleasure yacht docking fees are subject to a sales tax in Canada of 15%. New Hampshire just raised their use tax, which is really a sales tax, on yacht docking fees to 9%. Massachusetts is 10%. Connecticut is 12% and New York varies between 12% and 15%, depending upon whether or not there is a county tax added to the state tax. Maine is at zero. We're the only state on the eastern seaboard that doesn't extend the sales tax to pleasure craft yacht docking and mooring fees. The only state. Yet we've invested Maine money in cleaning up the coast. To me, this is a very narrow sales tax base when we're struggling to fund education at the 55% level while we're giving people a tax rate that virtually no other state gives them. Again, I urge you to defeat the pending motion. I don't see how we can really conduct tax reform without at least looking at what virtually all of the states have already done. I've just outlined one example to you. Thank you.

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

Senator **SCHNEIDER:** Thank you, Madame President, men and women of the Senate. I rise also in opposition and I want to let you know that this entire handful of messages came today are all urging support of a two-year ramp in. I, again, state that the only way I think we can do it in a responsible way is to do so by funding it with a revenue stream. I like the fact that we're asking the people their opinions and giving them an opportunity to vote on this. It should have been done to begin with. Should have been in the last 1A, in my opinion. I have over thirteen messages and several others that weren't clear to me about the two-year. Every single one of these says two-year ramp and that doesn't include any of my e-mails that I've received. I have received numerous e-mails on this. I urge you to vote in opposition. Thank you.

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

Senator **RAYE:** Thank you, Madame President. I would like to direct a question through the Chair to anybody who could answer it.

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

Senator **RAYE:** The increase in the sales tax, is it a permanent increase or would there be a sunset provision once the ramp is paid for?

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

Senator **MILLS:** As drafted, if the people adopted it, it would put into place a ½ cent increase in the sales tax and does not have a sunset on that provision nor does the expansion of the sales tax have a sunset on it. This bill could be amended to do that at some future time, but that's not the case at present. Thank you.

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

Senator **PERRY:** Thank you, Madame President, men and women of the Senate. I just wanted to rise as a member of the committee. We put a lot of work into L.D. 1. We did vote unanimously to authorize this second bill to give people an opportunity to vote on a two-year ramp. The reason we did not include a two-ramp in L.D. 1 is, as nice as it sounds to get us in a two-year period, there were a lot of ramifications on the local level. There is a reason why the four-year ramp is two-fold from 84% of EPS to 100% over the four-year period as well as the ramped funding. After considering all the facts, that was the way that we felt that we could get there without impacting the local community. As much as this extra money sounds like it would be wonderful, it does create problems. I would urge you to support the pending motion. Thank you.

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

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. I rise in support of the motion of Ought Not to Pass. Raising taxes is an easy thing to do. It's convenient and it's easy. It's not the answer. I don't think we can, or should, raise taxes to give a tax break. I would urge you to take that into consideration. The second part of this question would say to us that we're suggesting the people may want this, so we're going to send it out and let them vote on it. I think tax issues are those issues we need to look straight in the eye and say yea or nay. In this case, I think raising a tax again to provide a tax relief just doesn't seem to make sense to me. Thank you very much.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I was sort of leaning towards voting for this until I looked at the bill and realized that we're creating another 55% problem. You may remember that vote where people thought they were going one way. We're taxing amusement here. We're taxing pleasure aircraft, billiards, bowling, sports recreation activities, basic cable television services, basic satellite television services, theater entertainment, motion pictures, commercial amusement, site seeing, spectator sports, arcades, swimming pool installation, pool repair, and pool cleaning and maintenance. Imagine if that went out. No one's going to know what's in there. After it hits reality, if it passes, you know what they are going to say about us one more time.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#13)**

**YEAS:** Senators: BRENNAN, BROMLEY, CLUKEY, COURTNEY, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, NASS, PERRY, RAYE, ROTUNDO, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

**NAYS:** Senators: ANDREWS, BARTLETT, BRYANT, COWGER, DAMON, MILLS, MITCHELL, NUTTING, ROSEN, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

**EXCUSED:** Senator: PLOWMAN

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **DAMON** of Hancock to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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Senate at Ease.

Senate called to order by the President.

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Senator **BRENNAN** of Cumberland was granted unanimous consent to address the Senate off the Record.

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

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**RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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

**ENACTORS**

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

**Emergency Measure**

An Act To Increase the State Share of Education Costs, Reduce Property Taxes and Reduce Government Spending at All Levels  
H.P. 6 L.D. 1  
(C "A" H-1)

Comes from the House **FAILED ENACTMENT**.

This being an Emergency Measure and having received the affirmative vote of 21 Members of the Senate, with 13 Senators having voted in the negative, and 21 being less than two-thirds of the entire elected Membership of the Senate, **FAILED ENACTMENT**, in concurrence.

On motion by Senator **GAGNON** of Kennebec, the Senate **RECONSIDERED** whereby the Bill **FAILED ENACTMENT**, in concurrence.

On motion by Senator **BRENNAN** of Cumberland, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1)**, in concurrence.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-1), in concurrence.

On further motion by same Senator, Senate Amendment "J" (S-11) to Committee Amendment "A" (H-1) **READ** and **ADOPTED**.

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#14)**

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

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

EXCUSED: Senator: PLOWMAN

22 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being excused, Committee Amendment "A" (H-1) as Amended by Senate Amendment "J" (S-11) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1) AS AMENDED BY SENATE AMENDMENT "J" (S-11)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass Pursuant to Joint Order**

The Joint Select Committee on **PROPERTY TAX REFORM** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Permit the Legislature To Allow the Current Use Valuation of Waterfront Land Used for or That Supports Commercial Fishing Activities

H.P. 224 L.D. 299

Reported that the same **Ought to Pass**, pursuant to Joint Order H.P. 108.

Comes from the House with the Report **READ** and **ACCEPTED** and the RESOLUTION **PASSED TO BE ENGROSSED**.

Report **READ**.

On motion by Senator **DAMON** of Hancock, the **OUGHT TO PASS** Report **ACCEPTED**, in concurrence.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass Pursuant to Joint Order**

The Joint Select Committee on **PROPERTY TAX REFORM** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Allow the Legislature To Authorize Municipalities To Adopt a Property Tax Assistance Program That Reflects a Claimant's Ability To Pay

H.P. 222 L.D. 297



Reported that the same **Ought to Pass**, pursuant to Joint Order H.P. 108.

Comes from the House with the Report **READ** and **ACCEPTED** and the RESOLUTION **PASSED TO BE ENGROSSED**.

Report **READ**.

On motion by Senator **DAMON** of Hancock, the **OUGHT TO PASS** Report **ACCEPTED**, in concurrence.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

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

**REPORTS OF COMMITTEES**  
**House**

**Ought to Pass As Amended**

The Joint Select Committee on **PROPERTY TAX REFORM** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Limit the Rate of Change in Taxable Value of Homestead Land

H.P. 7 L.D. 2

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-3)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the RESOLUTION **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-3)**.

Report **READ**.

On motion by Senator **DAMON** of Hancock, the **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-3) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass Pursuant to Joint Order**

The Joint Select Committee on **PROPERTY TAX REFORM** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Authorize the Legislature To Allow Municipalities To Exempt from Property Tax a Portion of the Value of Homesteads  
H.P. 223 L.D. 298

Reported that the same **Ought to Pass**, pursuant to Joint Order H.P. 108.

Comes from the House with the Report **READ** and **ACCEPTED** and the RESOLUTION **PASSED TO BE ENGROSSED**.

Report **READ**.

On motion by Senator **DAMON** of Hancock, the **OUGHT TO PASS** Report **ACCEPTED**, in concurrence.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Joint Select Committee on **PROPERTY TAX REFORM** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Allow the Legislature To Authorize or Require a Growth Limitation on the Taxable Value of Small Business Land

H.P. 221 L.D. 296

Reported that the same **Ought to Pass**, pursuant to Joint Order HP 108.

Signed:

Senators:

- DAMON of Hancock
- MILLS of Somerset
- PERRY of Penobscot
- ROSEN of Hancock

Representatives:

- WOODBURY of Yarmouth
- CLOUGH of Scarborough
- LERMAN of Augusta
- DUGAY of Cherryfield
- NORTON of Bangor
- SMITH of Monmouth
- BIERMAN of Sorrento
- McCORMICK of West Gardiner
- STEDMAN of Hartland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-4)**, pursuant to Joint Order HP 108.

Signed:

Representatives:  
DUDLEY of Portland  
FLOOD of Winthrop

Comes from the House with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the **RESOLUTION FAILED PASSAGE TO BE ENGROSSED**.

Reports **READ**.

On motion by Senator **DAMON** of Hancock, the Majority **OUGHT TO PASS** Report **ACCEPTED**, in concurrence.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Joint Select Committee on **PROPERTY TAX REFORM** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine To Allow the Legislature To Permit Municipalities To Adopt a Higher Property Tax Rate on Secondary Residential Property

H.P. 220 L.D. 295

Reported that the same **Ought to Pass**, pursuant to Joint Order HP 108.

Signed:

Senators:  
DAMON of Hancock  
PERRY of Penobscot  
MILLS of Somerset

Representatives:  
WOODBURY of Yarmouth  
DUDLEY of Portland  
LERMAN of Augusta  
DUGAY of Cherryfield  
NORTON of Bangor  
FLOOD of Winthrop  
SMITH of Monmouth

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**, pursuant to Joint Order HP 108.

Signed:

Senator:  
ROSEN of Hancock

Representatives:  
CLOUGH of Scarborough  
McCORMICK of West Gardiner  
STEDMAN of Hartland  
BIERMAN of Sorrento

Comes from the House with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the **RESOLUTION FAILED PASSAGE TO BE ENGROSSED**.

Reports **READ**.

On motion by Senator **DAMON** of Hancock, the Majority **OUGHT TO PASS** Report **ACCEPTED**, in concurrence.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later (1/18/05) Assigned matter:

SENATE ORDER - Senate Order To Amend the Senate Rules To Require a 2/3 Vote To Exceed the Spending Cap  
S.O. 11

Tabled - January 18, 2005, by Senator **MARTIN** of Aroostook

Pending - motion by Senator **MILLS** of Somerset to **PASS**

(In Senate, January 18, 2005, on motion by Senator Mills of Somerset **READ**.)

Senator **MILLS** of Somerset requested and received leave of the Senate to withdraw the Senate Order.

The Chair laid before the Senate the following Tabled and Later (1/19/05) Assigned matter:

Bill "An Act Authorizing Property Managers To Bring Eviction Actions on Behalf of Landlords"  
H.P. 206 L.D. 281

Tabled - January 19, 2005, by Senator **GAGNON** of Kennebec

Pending - **REFERENCE**

(In House, January 18, 2005, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.)

On motion by Senator **GAGNON** of Kennebec, **REFERRED** to the Committee on **JUDICIARY**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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Senate at Ease.

Senate called to order by the President.

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

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**RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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

**ENACTORS**

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

**Act**

An Act To Increase the State Share of Education Costs, Reduce Property Taxes and Reduce Government Spending at All Levels  
H.P. 6 L.D. 1  
(S "J" S-11 to C "A" H-1)

**PASSED TO BE ENACTED** and signed by the President.

On motion by Senator **WESTON** of Waldo, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENACTED**, in concurrence.

On further motion by Senator, 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 (#15)**

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

NAYS: Senators: CLUKEY, DAVIS, DOW, HASTINGS, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, WESTON, WOODCOCK

ABSENT: Senator: NASS

EXCUSED: Senator: PLOWMAN

23 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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Off Record Remarks

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

**ORDERS**

**Senate Order**

On motion by Senator **MARTIN** of Aroostook, the following Senate Order:  
S.O. 12

ORDERED, that the Senate Rules be amended by amending Senate Rule 514 to read:

Rule 514. Transact business. Business may not be transacted after the hour of 9:00 p.m. without the affirmative vote of 2/3 a majority of the members present and voting.

**READ** and **PASSED**.

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

**ORDERS**

**Joint Order**

On motion by Senator **BRENNAN** of Cumberland, the following Joint Order:  
S.P. 122

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, January 25, 2005, at 3:00 in the afternoon.

**READ** and **PASSED**.

Sent down for concurrence.

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Senator **MARTIN** of Aroostook was granted unanimous consent to address the Senate on the Record.

Senator **MARTIN**: Madame President and members of the Senate, I would ask you all to think for a moment during the next week as we move along about the legislation that we have adopted and sent to the Governor enacts legislation. Keep in mind that school funding is included in that. Because it will not take effect until 90 days after the Legislature adjourns, which will be in three months and roughly after July, cities and towns will need to borrow money in anticipation of state money because there will be no money coming to them. This leaves us now in the position of the following, and I'd like you to think about this. It means, one, we adjourn in March, which I am not a proponent of doing again. It is an option so cities and towns can start getting their money on July 1<sup>st</sup>. The second option, which has been used by the legislature in the past, is that we could pass an emergency enactor enacting the chapter and making that effective as an emergency. Those are our two options. When we come back in the next week, I would ask all of you in this chamber and in the other chamber to think of which approach we ought to take. I prefer the latter but if necessary I will stand here moving to adjourn in March so that cities and towns and school districts would not have to borrow. That's where we are. Those are our two options and I'd ask you, as we leave, to think about them. Thank you, Madame President.

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

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On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, January 25, 2005, at 3:00 in the afternoon.