

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Thirteenth Legislature

OF THE

State Of Maine

VOLUME IV

SECOND REGULAR SESSION

March 25, 1988 to May 5, 1988

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HOUSE & SENATE LEGISLATIVE SENTIMENTS

December 3, 1986 to December 6, 1988

STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE

The Chair recognizes the Representative from Wells, Representative WENTWORTH.

Representative WENTWORTH: Mr. Speaker and Members of the House, I move the House stand adjourned sine die.

The SPEAKER: Representative Wentworth of Wells, moves that the House adjourn sine die. Is this the pleasure of the House?

The motion prevailed at 12:42 p.m., Eastern Daylight Savings Time, May 5, 1988 and the Speaker declared the House adjourned without day.

In Senate Chamber
Thursday
May 5, 1988

Senate called to Order by the President.

Prayer by the Honorable Zachary E. Matthews of Kennebec.

SENATOR MATTHEWS: Members of the Senate, ladies and gentlemen. Today may we pray. Dear Lord, bless this assembly of Your Senators that are here to do Thy will. Give us the strength dear Lord to realize that with all the problems that we see each and every day in this Chamber, that there are those that suffer much more greatly than we. I think dear Lord of those suffering in communist countries of Poland and Afghanistan where freedom is only a dream. Dear Lord make us realize that only through Your grace and through Your love are we free. Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Amend the Education Laws"
H.P. 1959 L.D. 2654

Committee on EDUCATION suggested and ORDERED PRINTED.

In House, May 4, 1988, PASSED TO BE ENGROSSED, without reference to a Committee.

In Senate, May 4, 1988, FAILED OF PASSAGE TO BE ENGROSSED in NON-CONCURRENCE.

Comes from the House, that Body INSISTED.

Senator KANY of Kennebec moved to RECEDE and CONCUR.

On motion by Senator COLLINS of Aroostook, Tabled until Later in Today's Session, pending the motion of Senator KANY of Kennebec, to RECEDE and CONCUR.

Senate at Ease

Senate called to order by the President.

The President requested the Sergeant-At-Arms escort the Senator from Cumberland, Senator USHER, to the Rostrum where he assumed the duties as President Pro Tem.

The President then took a seat on the floor of the Senate.

The Senate called to order by the President Pro Tem.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Clarify the Sales Tax Exemption on Scheduled Airlines"

H.P. 1946 L.D. 2641

Tabled - May 4, 1988, by Senator DUTREMBLE of York.

Pending - ADOPTION OF HOUSE AMENDMENT "B" (H-793), in concurrence

(In House, May 4, 1988, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-793).)

(In Senate, May 4, 1988, House Amendment "B" (H-793) READ. Subsequently, motion to INDEFINITELY POSTPONE House Amendment "B" (H-793) FAILED.)

House Amendment "B" (H-793) ADOPTED, in concurrence.

On motion by Senator PRAY of Penobscot, the Senate RECONSIDERED whereby House Amendment "B" (H-793) was ADOPTED, in concurrence.

On further motion by same Senator, House Amendment "B" (H-793) INDEFINITELY POSTPONED in NON-CONCURRENCE.

Under suspension of the Rules, the Bill READ A SECOND TIME.

On motion by Senator PRAY of Penobscot, Senate Amendment "B" (S-549) READ.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Thank you Mr. President, ladies and gentlemen of the Senate. The amendment that is now pending before us, the adoption of Senate Amendment "B", is something that has been worked out with the parties that have been concerned about this issue and with those of us who raised concerns of using the Rainy Day Fund's money as a way to address what I felt was not a necessary fiscal note. But a number of people did feel that it was necessary to put a fiscal note on this Bill. The amendment basically states that we will be committing revenues that are coming in the future or the expectation that they will be raised in the future and that the State Budget Officer consulting with the Director of the Office of Fiscal and Program Review will certify to the Governor and to the Legislature through the Legislative Council after the effective date of this act that the financial resources are there to fund the fiscal impact of passage of L.D. 2641.

For those who may be concerned, I have a little historical background on this. It is my understanding or my belief that we have done this on two previous occasions; once under the Longley Administration and also once under the Brennan Administration. Having conferred with those and other branches of government, they find this acceptable because of that past practice as a way to alleviate the concerns or reservations that some individuals have on the fiscal impact of this Bill. I would urge the passage of this amendment.

Senator ANDREWS of Cumberland requested a Division.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Andrews.

Senator ANDREWS: Thank you Mr. President, ladies and gentlemen of the Senate. We are getting better and better - it is not 1:30 in the morning, it is not 8:30 at night, it is 9:00 in the morning and the sun is shining and it is a nice day and so we are making some progress I guess in that respect. At some point on an issue like this we have gone round and round and round and we try this and we try that and the road we go down gets murkier and murkier. I have been around here enough to know how to count. I guess at this stage of the game the thing that I rely upon most is a sense of humor when all of this goes through in the way that it does. I find it fascinating to read this particular amendment. Again, remember the concern I had about the original bill and the concern I had about the Rainy Day Fund and the concern I have about this particular amendment. It is the way in which we are going about the business of government. The way we are going about addressing a corporation's tax problems who find themselves in court, the way we go about addressing and dealing with the Rainy Day Fund and now the way we are going about funding this particular measure. Whether you like the measure or not, no matter how you feel about the issue, do you really feel good about this amendment? Those of you

and those of us who have some concern about fiscal policy and who stand on the floor of this Senate time and time again and talk about responsible government and responsible fiscal policy - do you feel good about this approach? It says and I just want to read to you "any cash losses, however, would not occur" it talks about how there is going to be a loss and an expense of "one million two hundred eighty-eight thousand, four hundred and twenty-two dollars in fiscal year 1988 and a corresponding loss to the Local Government Fund of over sixty-nine thousand dollars. There will be a further loss of revenue due to the accrual of interest." We are talking about a substantial amount of money - well over a million dollars from the General Fund. "Any cash losses would not occur until some point in the future." So it is an expense for this fiscal year 1988, but the cash losses are not going to occur until some point in the future. It is just like funding a program. If you fund a program the actual expenditure of the money of the program may be throughout that fiscal year, but you might not actually spend the cash for that program until some later point in the year. Nothing unusual about that. It says "this loss of revenue will be offset by General Fund surplus at the end of fiscal year 1988." The first question we have to ask is how much is in this surplus. We suddenly found a surplus in the fiscal year 1988, and I would like to know how much surplus do we have that we are going to spend? That is questions number one for anyone who would like to answer it. Then it goes on to say "if not available at that time," if the surplus that we seem to know we have somehow isn't available then "the State Budget Officer shall recommend alternative methods of funding to the Governor." The State Budget Office shall recommend alternative methods of funding to the Governor. Now what does that mean? It means if there is no surplus and there is no money, the State Budget Officer is going to recommend alternative methods of funding. Does that mean whatever alternative methods of funding that the State Budget Officer comes up with? Then that State Budget Officer is therefore authorized to spend that money wherever he or she may happen to find it, but we find that there is going to be a recommendation to the Governor so are we saying to the Governor that no matter where this person find the money that that Governor can go ahead and spend that money as he or she sees fit? Well that is what it seems to say, "shall recommend alternative methods." I don't know if we have ever passed anything like this before and I would like to see the language of the two incidences that we have heard of, but if we have ever done anything like this we have made a grave error and if we do anything like this today, we are also making a grave error. Frankly, this language is unbelievable and if you are concerned about fiscal policy how can you possible accept this approach to funding a mechanism. But then again I can count and so perhaps what we should do is declare a spring holiday just like Christmas time and if you have a bill on the Appropriations Table that you have worked hard for and it has been enacted and hasn't been passed and it didn't get funded on the Table, well we can have a special day. Perhaps for Veto Day we can all come back here and have a special holiday and we can say that there is suddenly money in the surplus and that the State Budget Officer is going to find it and make recommendations to the Governor. We could have a Christmas Tree or maybe a cornucopia like we have on Thanksgiving and people could line up to the cornucopia, but instead of Santa Claus maybe we could have a magician who could be the symbol for this

state holiday and we could, if you find yourself in court with a big tax bill and you are not very strong about your case, the magician can say abracadabra we have changed the law and suddenly you have obeyed the law and if we don't have the money to give you to fund this change well then abracadabra we can have the State Budget Officer come in and suddenly recommend some money from surplus that nobody seems to know right now where it is. No one knows how much it is. No one even knows if it is going to exist at all, but there is some bills like the elderly mental health service program that wasn't funded, there is the intergovernmental relations bill, the low-cost drug program bill. I am ready to line up to the cornucopia to take advantage of all this surplus money and our Budget Officer who is going to find it. Perhaps one of the things that you would be most interested in in funding this new state holiday would be L.D. 1757. I think that is probably the most appropriate for this particular piece of legislation, An Act Relating to the Taxation of Trucks. Why do I say that? Because the truckers came in here just like the airline came in here and they said we are being charged a sales tax on leased pieces of equipment used in interstate commerce and if we bought them we wouldn't have to pay the sales tax, if we lease them we do have to pay the sales tax and we would like you to rectify that inequity. Does that argument sound familiar? Well it should because we heard that argument yesterday right here on the floor of the Senate. That argument was given by the good Senator from Penobscot, Senator Baldacci, and he said that tax policy isn't fair and that is all that this airline company is asking for is for equity in that and so we should give it to them. Well ladies and gentlemen of the Senate, that is exactly what the truckers of this state came in and asked us. It is the same point they made. It is the same law. It is the same inequity and these aren't large companies, these are small businesses, businesses who are radically affected sometimes by this kind of a policy and they said can you make this policy equitable for not just one company, one airline, but can you make it available for everyone in the State of Maine that has interstate equipment used in transportation? And we said no. What we did was we simply changed the definition of equipment in the law and suddenly a truck is and an airplane isn't. Again it is that magician waiving the magic wand. But that seven hundred and seven thousand dollars that we weren't willing to fund because we didn't have the money, we didn't have the money. We said we would love to do it, we would love to make it equitable, but we don't have the money. Now we have a company coming in the last day of the Session asking for well over a million dollars on the same principal, inequity, add to that, however, a new tax policy in rewriting tax law way back to January 1, 1984, and suddenly abracadabra we wave the magic wand and we have, low and behold, money because the State Budget Officer is going to make recommendations of alternative methods of funding to the Governor. Do you feel good about that? I don't.

Senator ANDREWS of Cumberland moved the INDEFINITE POSTPONEMENT of Senate Amendment "B" (S-549).

Off Record Remarks

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Dillenback.
 Senator DILLENBACK: Thank you Mr. President,

ladies and gentlemen of the Senate. It is a lovely day and the sun is shining and we are back when we shouldn't be perhaps. But I want to commend the Senator from Cumberland, Senator Andrews. I think he has made a very important point here today. I think he is absolutely right in many instances. But the point is that we made a commitment some time ago and this amendment is trying to clarify a problem we have gotten into. I don't like it, but I am going to vote for it because I think it is something we have to do. We made a commitment four years ago and we are going to sustain that commitment. I think that when the Legislature makes a commitment to an organization whether it is right or wrong, your word is no good if you don't keep it and that is what we are trying to do here. We are in a hole and we are trying to get out of it. I think if everybody agrees I guess the Legislature can do anything they want to do whether we like the way we do it or we don't like the way we do it. We have done many things up here that I haven't agreed with, but we go a long with and this is one of the instances that I give commendation to the Senate and to the House and everybody else for willing to compromise and agree and that is what we have done. We have compromised and I will be happy to vote for the compromise. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Aroostook, Senator Theriault.

Senator THERIAULT: Thank you Mr. President, ladies and gentlemen of the Senate. I would like to begin by saying that I urge you to help me defeat the pending motion before us. All of us march to a different drummer that is for sure and that is the way it should be because I think we should air all the different possibilities before we take final action. There are some of us that are primarily concerned about the purity of the tax system that we now have in this state. There are others that are concerned about the sanctity of the Rainy Day Fund. I also march to a drummer. My drummer though is so far away that at times it is hardly audible and that is what I want to talk about today. I want to talk about distance. Do you realize that to travel from Frenchville to Augusta round-trip is a ten hour trip. How much is that worth for those individuals who are making this trip on a regular basis? I want you to think about that as you are going to be voting on this bill. We need this airline in my part of the country. This is our link to the modern world and if this Bill is defeated in total, I just do not know what the future of that airline is going to be because I happen to know that the profit is at best marginal. I want to be on the good side of management of that airline because there will come a point and time when they will reassess their position, their service to that area and I want to be able to go to them and say look, please provide us that service. When you were in need we helped you and now we need you and we want you to continue. I am also talking about individuals that need immediate evacuation - the injured, sick individual. Last year from Northern Maine there were about a hundred and seventy-five evacuations. If we lose one life what is that worth? You multiply that by a hundred and fifty or a hundred and seventy five - what is that worth? We here in the Senate and in the Legislature are constantly talking about the two Maine's and what we want to do about it. We are willing to spend millions of dollars in trying to do away with the distinction of the two Maine's. What do you think this would do to the two Maine's if we lose our airline? The cost of this is a lot less than what we are spending in trying to get the two Maine's into one. For sure no one can dispute the fact that Bar

Harbor Airlines has been an excellent corporate citizen in this state and we should be thankful to them for all they have contributed and I am sure will continue to contribute. They provide us with an excellent service. They have an outstanding safety record. We need them in my part of the country. I voted for some of the things in the South like Keyes Fibre in the past. I have also voted for Bath Iron Works. That did not directly affect me nor my constituents. There were a few that did move down here to get a job at those places, but generally it did not affect them. But I was glad to do it because it was helping that particular area. Now I am cashing it in. I would like for you to help me retain that airline that we definitely need up there. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Thank you Mr. President, ladies and gentlemen of the Senate. I remember the debate that took place on Bar Harbor Airlines some years ago in which they said that they needed a tax break in order to be able to stay in Maine and that was important to the area immediately south to me in Bangor most particularly, but air transportation in Maine all together. At that time, Roland Martin owned his own airline and now I understand it has been purchased by Bar Harbor which serves Frenchville. Much to Bar Harbor's credit as far as I am able to hear all conversations that I have been around the last several days, they have never threatened or suggested that they would move in or out of the state depending upon this particular retroactive break for a limited amount of time. I think that is much to their credit because there is nothing that would irritate me any more than a threat that they are going to move out if they don't get their way. I did understand at the very beginning several years ago that they had to make a corporate decision and they had to go where they felt was most beneficial to them. That wasn't done in the way of a threat in my opinion at the time. I would like to address some of the remarks made by Senator Andrews. Do I feel comfortable with this? No I don't. I don't like this amendment but I can buy it I guess. What bothered me most of all was yesterday when we were talking about a Rainy Day Fund. The majority in this Senate voted essentially to do away with the Rainy Day Fund by making it notwithstanding any other provisions of the law and it didn't require a two-thirds vote. I thought that was just awful. I think you might find yourself in a hole sometime when you are looking for methods to get and not all of them are worth it. That was not worth it. That was extremism to just for the moment for somebody's advantage without any regard for the traditions we have had in the Rainy Day Fund or for what is going to happen in the future. I thought it was just awful. This particular amendment is not all that great, but it does at least have in here that the State Budget Officer shall certify. In that regard I feel a little more comfortable because there is still a check and a balance there.

I must say that I wish that this particular measure had been addressed on a more timely basis during the regular portion of the Maine Legislature's deliberations. I am very disappointed in the way it has been handled at the very last minute by the lobby that has been employed by Bar Harbor Airlines and the different pressures we find ourselves under. We should not be under this kind of pressure. It should have been handled along with every other money bill that we were considering this year for everybody to say this is more valuable than that and take its

shake with everybody else. This is bad government, but I find myself in the same predicament as my colleague from Aroostook, Senator Theriault, in knowing that in Northern Maine we need air transportation to the outside world. I will say this and probably nobody will listen, least of all the company, but it is frustrating for those of us who live in the greater Bangor Area to have to pay as much to go from Bangor to Boston as it costs to go from Boston to Chicago. Maine has been very generous to this airline, but we should be. They in turn should remember that they are serving people that are not as wealthy as most of the country and it costs an awful lot of money to fly on the airlines either Delta or Bar Harbor.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: Thank you Mr. President, ladies and gentlemen of the Senate. I too agree with the good Senator from Aroostook, Senator Theriault on certain things that he said and that is that we should help out parts of the state that need help at the time. I too supported Keyes Fibre and I too supported Bath Iron Works and I too supported other areas of the state when they needed it. I have always supported the Bar Harbor Airlines Bill. I will not support this amendment, however. I think if we could find a normal funding procedure for this Bill I could go along with it because I do support that sort of bill when people in the area need it. I think that somewhere along the line here and I think it happened yesterday sometime, we stopped going through the normal legislative process and we started twisting and changing things to fit the needs at the immediate time and I think we went a little bit too far. It is almost like a situation that they are saying we are not going home until you fund this. I have real problems with that. Supposedly four years ago we passed a bill and supposedly four years ago there was money that went along with that bill and if there wasn't, maybe the intent wasn't as clear as it was supposed to be and if there was, where is that money? Is it still there or isn't it there? Two reasons why I have a lot of problems in dealing with this amendment. One, the good Senator from Cumberland, Senator Andrews clearly indicated, why wasn't this bill put on the Table to compete with the other sixty five million dollars? It came in too late. A lot of good programs died. A lot of programs that you people supported in your committees and they were there to compete with that money that was there. This bill apparently wasn't. If there is another 1.2 million dollars some place, let's reopen everything else and come back for another two weeks because everything should have the same sort of scrutiny that this bill is having. If we are serious about having that money available, then let's have all these other bills that we worked all year at the right time by the way, through the normal process of the Legislature, hearings, workshops, public input at both the committee hearings and at the appropriations committee deliberations - if we are going to find extra money, then let's bring those bills back. I don't think anybody is willing to do that because the other bills went through the process already. If this is going to happen I think some legislators here and I know myself will start holding bills until the end after the Appropriations is all done and then bring it up at the end and see if there is a way to save it that way and get it caught in the turmoil of last week. Funny things happen in the last week of the Legislature. I have been here ten years and it has never changed and as long as we allow it to continue it will continue. That is the second time I

have made that statement on the floor and this is just another thing that has been added to it. The good Senator from Cumberland, Senator Andrews, asked the question do you feel good about what is happening. I felt good about voting for this until last night. Now I don't feel good about it at all. I can count votes. I can see what is going to happen here. I don't think anybody is going to change their minds. What I say won't change, what the good Senator from Cumberland is going to say won't change, everybody has made up their minds. We know the process. It happens every time. We speak for four hours and no votes are changed. But at least when I go home tonight I will feel good. I won't have to go home and think about what I did and how it was done. The second reason why I have a real problem with this surplus money is we just passed a resolution yesterday and the Governor has stated himself I believe that he is going to call us back in September to have property tax relief for the people of this state. If we take the surplus money and if it is 1.2 million dollars, does that mean we are taking that money away from property tax relief? Is that what that means? If it doesn't please tell me. You may feel comfortable voting for that, but not me. Not any more.

Senator PRAY of Penobscot requested a Division.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Thank you Mr. President, ladies and gentlemen of the Senate. I would like to make some comments to the Senate Amendment which I presented earlier and not to the bill itself.

The amendment is offered by myself as an attempt to improve a process. The amendment, the amending process is described by our procedures, by our rules and by the rules which we refer to. There is a fair amount of comments that have been made here this morning as to the entire process and as to whether anything is proper before this Body as to the whole idea that we are here as an elected body dealing with public issues. I want to make it perfectly clear that everything that has been dealt with while it may come in at the eleventh hour, is within the guidelines and the procedures which are accepted and adopted by this Legislature when we adopt our Joint Rules. The timing, while I find some issues not conveniently timed for myself, I find that usually they are within the procedural guidelines that we have so they are properly before the body and we have to address them. I find some of the concerns in the consideration of the indefinite postponement or the adoption of this amendment depending upon the prevailing votes being based upon this amendment trying to describe as to how we would deal with funding a bill that is going through the process. This amendment clarifies the practice which has been used by the Legislature in the past. We, this year alone in dealing with the budgetary process, found that there was insufficient monies to fund bills and changed the effective date of that bill so that it would be future funding cost. We made commitments to future legislatures to fund programs. Some of the very same programs that otherwise would not have survived the process based upon the dollars that were available.

We have a tendency to be able to be creative on some occasions and we find that there are a number of ways to do it. I would imagine that some could stand here today and support the indefinite postponement of this amendment based upon the fact that the dollars are not presently there in the treasury and based upon the figures that have been given to us by the Chief Executive under which the State of Maine is

required by statute to receive those figures as to how much money is available. We have to operate within that guideline. The alternative method of funding, the Senator from Penobscot, Senator Pearson has already pointed out, was what I said last night in debate was a prostitution of the process. That we were going to circumvent the Rainy Day Fund intent. I found that that was something that was totally unacceptable to me even though I support the Bill that I could not support the bill with that type of amendment on it. So I have sought an alternative to fund it and I think that the amendment that has been presented that the Senator from Cumberland, Senator Andrews, has moved the indefinite postponement of is a proper way for us to fund this proposal that is before us. I do not think that we are in anyway acting improperly or illegally or that we would be opening the flood gates for a litany of bills coming in at the end of the Session. We have to take our responsible action on each and every one of those pieces of legislation. I have before me a computer print out of all the bills that we dealt with off the Appropriations Table, those that were funded and those that failed, those that were indefinitely postponed, those that did not receive the funding and those that were funded into the future. I found that this Legislature acted on each one of those bills independently. Some of them they decided to fund and some they did not decide to fund. I think the Senator from Aroostook, Senator Theriault, has pointed out that this particular airline that we are addressing in the bill is something that is significantly important to the rural part of this state of which areas of this state which do not receive regular airline service from the so called major airlines and without this type of operation there would be many parts of Maine that would be even more isolated. I think we have to do something. We have to do something in this Session to resolve this situation and this problem and I think that the amendment that has been offered by myself, offered in good intentions of resolving the problems and the difficulties that I have with the alternative methods of funding is an acceptable way to do that. I would urge my colleagues to defeat the pending motion so that we can get on to discussing the bill that so many people want to debate.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCII: Thank you Mr. President, ladies and gentlemen of the Senate. For a moment while I was sitting here I thought that I was listening to people auditioning for weathermen instead of being here in the Senate because everyone would start out by saying that the sun is out, the stars are out, the sky is clear and the birds are chirping. I think that the issue here today is indeed a bright issue. It is an issue which I think is something that as a person who majored in history at the University can appreciate. It is that the process has worked. The Legislature and the Governor are all on board. Everybody is in agreement. Everybody has worked together to come up with something that everybody can deal with and everybody can support. That is something that our history teaches us. It is the process in a democracy where you have different branches. You have checks and balances and having those checks and balances to review something and agree to something means that the process does work. This is something to be very proud of because getting people to go and support this, getting to work with different branches of government and getting them to be on board I think is something which is admirable and something I feel

very proud of. I feel very good today. I feel very good. The process works. The Governor cares about people working. He wants to help. The Legislature cares about people and good tax policy and they want to help. This amendment is the bridge between them and I feel very good about that because the process did not bog down, but it does work. What was a dark night is a bright day. I would hope that you would support the amendment that has been offered by the good Senator from Penobscot, Senator Pray. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator BERUBE: Thank you Mr. President, ladies and gentlemen of the Senate. I guess I have a question to pose to whoever might have been instrumental in drafting this new revised amendment. We heard the Senator from York, Senator Dutremble, mention that there is consideration of a tax rebate for the people of our state, very hard pressed people of our state and property taxes. I am wondering if the time comes this summer, early fall when we do indeed have surpluses which we expect to have and they are placed in a competing position with having to fund this bill, will the people of my district, the several thousand households in my district have an equal chance at part of that surplus to implement the commitment, the pledge we have made to them. Or will they be as I suspect no match for the groups of people who are working so hard for this bill. I know people work for a cause and I respect them for it, however, I just feel if the Legislature many times feels that it is no match, how will people be able to compete to get some of their tax dollars back. Thank you.

THE PRESIDENT PRO TEM: The Senator from Androscoggin, Senator Berube has posed a question to any Senator who may care to respond.

The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: Thank you Mr. President, ladies and gentlemen of the Senate. The amendment does say that this actually will be taken in August, but we aren't coming back until September. So I think the taking of the money will be done, it will be taken before we come back to return money to the people. I think that is pretty clear in the amendment. That is the way I read it. Again, I am not sure. We are having problems here because of what the intent was and nobody really knows what went on. Everybody is confused. This amendment really clarifies it. If the money is there we are going to take it, if it is not there we will get it some place. The budget people are going to tell us where. We aren't sure where but it is clear. The only thing that is clear about this is we aren't sure where the money is going to come from. We are doing the same thing now. We aren't clarifying the problem here, we are messing the whole thing up.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Andrews.

Senator ANDREWS: Thank you Mr. President, ladies and gentlemen of the Senate. I just want to comment on some of the remarks that have been made in this debate and then we can get on with this vote. The Senator from Cumberland, Senator Dillenback, has shared his lack of comfort with what we are about to do passing this very bad amendment, but he says that he is willing to go about it because of a commitment that was made four years ago. I want to make absolutely certain once again that in the view of this former member of the Taxation Committee who was involved in every one of the deliberations, we indeed did not make that commitment. If you look at all of the records from the committee to the Record in the

debate of both branches, you will find that there is no mention of funding retroactively the tax exemptions that were provided on those aircraft at that time. The irony here and there are many ironies in this debate, is the reason we didn't attend. It is because we didn't fund it. It was an activity that occurred in fiscal year 84, and we didn't put a fiscal note on it. We didn't fund it so we didn't intend to do it if we didn't fund it. Here we are faced with this price tag here in 1988. To the Senator from Aroostook, Senator Theriault, yes indeed Aroostook County and Northern Maine needs good, solid transportation. Air carriers are very, very important to that region and as the Chair of the Joint Standing Committee on Economic Development who has traveled to Northern Maine and traveled throughout Aroostook County talking about economic development in that region on a number of occasions, I can tell you I am very sympathetic with those sentiments and I agree with you one hundred percent. The issue here is not bridging the gap between two Maine's and helping out an airline. The issue is an amendment that is very poor government and unfair government to all those people who were denied funding on the Appropriations Table who took their lumps only to find someone coming in on the final day of the Session and being funded over one million dollars. You can help an airline or an industry or a region or an economy without doing that. It is wrong and it is just not fair. To the Senator from Penobscot, Senator Pearson, who was concerned about and expressed his reservations about the process and the way this was handled, particularly the timing. I want to quote the debate of 1984 on this very issue in this Chamber from the Chair of the Taxation Committee at that time, the Senator from York, Senator Wood. Two sentences "it is late in the Session and it seems to be a perennial problem in that we sometimes get very, very important bills that come into the Session extremely late for no understandable reason. These bills have a great impact on the tax structure of this state and they usually end up with very little debate at the end of the Session and I think that is unfortunate." That was four years ago on this original tax question. Well you know the Senator from Penobscot, Senator Pray, has said that he submits this amendment with all good intentions. I accept that and I think that he is doing this with all good intentions and I am not questioning those intentions whatsoever. But I disagree with him when he says that this amendment does improve the process, that it is a way that we can deal with this issue before us in a reasonable and just fashion. I disagree. Let me give you the alternative. The alternative is to let this process take its course. Let both sides of this question, the Bureau of Taxation and this company have their day in court and let the judicial process take its course. No one has suggested as the Senator from Penobscot, Senator Pearson, has said on this floor that this means the life or death of this airline, that failure to pass this is going to stop this airline from providing service. No one has said that. It is not going to happen. But if the process takes its course and this airline finds itself getting a negative decision from the court and if that tax liability throws that corporation into a desperate state and if that desperate state is going to jeopardize the economy of Northern Maine and creates a concern and a major problem for that economy, then let us take a look at that issue as that issue - straight forward, right on and decide what we are going to do about it and decide from an array of options that we might consider including the

transportation provided to that area of the state from truckers. Well I think I have the title for this exercise, it is called a magical mystery tour. This whole process is a mystery to me. We are creating all kinds of magic in retroactively changing laws back to 1984, and waiving the magic wand and suddenly finding money that we don't have. I think it took the cake when the Senator from Penobscot, Senator Baldacci, gave his weather forecast and said the sun is shining and the stars are out.

I hope, regardless of how you feel and as I said before I can count, that we take a look at this amendment for what it is. It is not the savior of Northern Maine, it is not an economic development bill, it is not the only alternative. It is a bad, bad way to approach an issue and this amendment should be defeated. I ask you, no matter how you feel about the overall issue, that you join me in supporting the motion to indefinitely postpone.

Senator ANDREWS of Cumberland requested a Roll Call.

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

Senator PERKINS of Hancock was granted unanimous consent to address the Senate off the Record.

On motion by Senator CLARK of Cumberland, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President Pro Tem.

ORDERS OF THE DAY
Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Recess, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Senate Rule 29.

On motion by Senator ANDREWS of Cumberland, supported by a Division of at least one-fifth of the Members present and voting, a Roll Call was ordered.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion of Senator ANDREWS of Cumberland to INDEFINITELY POSTPONE Senate Amendment "B" (S-549).

A vote of Yes will be in favor of INDEFINITE POSTPONEMENT.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

Senator CLARK of Cumberland who would have voted NAY requested and received Leave of the Senate to pair her vote with Senator ESTES of York who would have voted YEA.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BERUBE, BUSTIN, DUTREMBLE, GAUVREAU, KERRY, MATTHEWS, PEARSON, TUTTLE, WEBSTER

NAYS: Senators BALDACCI, BLACK, BRANNIGAN, CAHILL, COLLINS, DILLENBACK, EMERSON, ERWIN, GILL, GOULD, LUDWIG, MAYBURY, PERKINS, PRAY, RANDALL, SEWALL, THERIAULT, TWITCHELL, THE PRESIDENT PRO TEM - RONALD E. USHER

ABSENT: Senators BRAWN, DOW, KANY, WHITMORE

PAIRED: Senators CLARK, ESTES

10 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 2 Senators having paired their votes and 4 Senators being absent, the motion of Senator ANDREWS of Cumberland, to INDEFINITELY POSTPONE Senate Amendment "B" (S-549), FAILED.

On motion by Senator PRAY of Penobscot, Senate Amendment "B" (S-549) ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

Senate at Ease

Senate called to order by the President Pro Tem.

The President Pro Tem requested that the Sergeant-At-Arms escort the Senator from Penobscot, Senator PRAY to the Rostrum where he resumed his duties as President.

The Sergeant-At-Arms escorted the Senator from Cumberland, Senator USHER to his seat on the Senate floor.

The Senate called to order by the President.

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

An Act Correcting Additional Errors and Inconsistencies in the Laws of Maine

H.P. 1962 L.D. 2657

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with No Senators having voted in negative, and 26 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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:

An Act to Reimburse the Department of Inland Fisheries and Wildlife for Search and Rescue Operations

H.P. 1949 L.D. 2642

(C "A" H-795)

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

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

ENACTORS

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

An Act to Return Certain Positions within the Department of Environmental Protection to Classified Service under the Civil Service Law

S.P. 1009 L.D. 2648

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

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Clarify the Lobbyist Disclosure Law"

H.P. 1961 L.D. 2656

Committee on STATE AND LOCAL GOVERNMENT suggested and ORDERED PRINTED.

Comes from the House, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-796), without reference to a Committee.

Under suspension of the Rules, the Bill READ ONCE, without reference to a Committee.

House Amendment "A" (H-796) READ and ADOPTED, in concurrence.

Which was, under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, without reference to a Committee, and ORDERED PRINTED, in concurrence.

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

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

SENATE PAPERS

Bill "An Act to Improve the Outdoor Recreation Opportunities for the People of the State of Maine"

S.P. 1013 L.D. 2658

Presented by Senator USHER of Cumberland
Cosponsored by: Representative LORD of Waterboro, Representative DEXTER of Kingfield, Representative MICHAUD of East Millinocket
Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 27
Committee on ENERGY AND NATURAL RESOURCES suggested and ORDERED PRINTED.

Which was, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee, and ORDERED PRINTED.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: H.P. 1963
ORDERED, the Senate concurring, that Bill, "AN ACT Concerning Intermediate Care Facilities for the Mentally Retarded," H.P. 1960, L.D. 2655, and all its accompanying papers, be recalled from the Governor's desk to the House.

Comes from the House READ and PASSED.
Which was READ and PASSED, in concurrence.

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

ENACTORS

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

Emergency

An Act to Make Necessary Changes to Implement Comprehensive Land Use Planning

H.P. 1950 L.D. 2643

(S "A" S-547)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the

Senate, with No Senators having voted in negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

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

Bill, "An Act to Amend the Education Laws"

H.P. 1959 L.D. 2654

Tabled - May 5, 1988, by Senator COLLINS of Aroostook.

Pending - Motion of Senator KANY of Kennebec, to RECEDE and CONCUR

(Committee on EDUCATION suggested and ORDERED PRINTED.)

(In House, May 4, 1988, PASSED TO BE ENGROSSED, without reference to a Committee.)

(In Senate, May 4, 1988, FAILED OF PASSAGE TO BE ENGROSSED in NON-CONCURRENCE.)

(In House, May 5, 1988, that Body INSISTED.)

Senator KANY of Kennebec requested and received Leave of the Senate to withdraw her motion to RECEDE and CONCUR.

On further motion by same Senator, the Senate RECEDED.

On motion by Senator COLLINS of Aroostook, Senate Amendment "A" (S-550) READ.

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

Senator COLLINS: Thank you Mr. President, ladies and gentlemen of the Senate. As you may recall from last evening, this bill deals with the structure of school boards in the state and the methodology for getting rid of members who do not attend meetings on a regular basis. As you may also recall, we did not agree on that bill and today this amendment makes a provision for municipalities that wish to deal with this through their municipal charters to do so on the local level. It maintains the options for those communities that do not have or do not wish to have this vehicle to come under the bill that is before us that provides for removal of people who do not attend meetings and who have missed three without a reasonable excuse to be dismissed. Thank you Mr. President.

On further motion by same Senator, Senate Amendment "A" (S-550) ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

Senator KANY of Kennebec was granted unanimous consent to address the Senate on the Record.

Senator KANY: Thank you Mr. President, ladies and gentlemen of the Senate. I missed a roll call earlier. I simply didn't hear the bell while I was getting some amendments to a bill I hope to introduce into the next Special Session. I just want it to go on Record to let the Senate know that I do indeed support the Senate Amendment to the Bar Harbor Bill and prefer it above the one that had been attached earlier by another body.

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Clarify the Application of the Resource Protection Law and the Site Location Law"

H.P. 1957 L.D. 2651
(H "A" H-794)

In Senate, May 4, 1988, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-794), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-794) AS AMENDED BY HOUSE AMENDMENT "A" (H-799) thereto, in NON-CONCURRENCE.

On motion by Senator USHER of Cumberland, the Senate RECEDED and CONCURRED.

On motion by Senator DUTREMBLE of York, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

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

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act Concerning Intermediate Care Facilities for the Mentally Retarded"

H.P. 1960 L.D. 2655

RECALLED from the Governor's Desk pursuant to Joint Order H.P. 1963, in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-797) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

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:

An Act to Clarify the Sales Tax Exemption on Scheduled Airlines

H.P. 1946 L.D. 2641
(S "B" S-549)

On motion by Senator ANDREWS of Cumberland, supported by a Division of at least one-fifth of the Members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is ENACTMENT.

A vote of Yes will be in favor of ENACTMENT.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

Senator CLARK of Cumberland who would have voted YEA requested and received Leave of the Senate to pair her vote with Senator ESTES of York who would have voted NAY.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators BALDACCI, BLACK, BRANNIGAN, CAHILL, COLLINS, DILLENBACK, EMERSON, ERWIN, GILL, GOULD, KANY, LUDWIG, MAYBURY, PEARSON, PERKINS, RANDALL, SEWALL, THERIAULT, TWITCHELL, USHER, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators ANDREWS, BERUBE, BUSTIN, DUTREMBLE, GAUVREAU, KERRY, MATTHEWS, TUTTLE, WEBSTER

ABSENT: Senators BRAWN, DOW, WHITMORE

Senator PEARSON of Penobscot requested and received Leave of the Senate to change his vote from NAY to YEA.

21 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 2 Senators having paired their votes and 3 Senators being absent, the Bill was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

At this point, a message was received from the House of Representatives, borne by Representative DIAMOND of Bangor, informing the Senate that the House had transacted all business before it and was ready to Adjourn without Day.

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:

An Act to Clarify the Application of the Resource Protection Law and the Site Location Law

H.P. 1957 L.D. 2651
(H "A" H-799 to H "A" H-794)

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

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

ENACTORS

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

An Act to Clarify the Lobbyist Disclosure Law
H.P. 1961 L.D. 2656
(H "A" H-796)

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

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

ENACTORS

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

An Act to Improve the Outdoor Recreation Opportunities for the People of the State of Maine
S.P. 1013 L.D. 2658

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

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

ENACTORS

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

An Act to Amend the Education Laws
H.P. 1959 L.D. 2654
(S "A" S-550)

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

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

ENACTORS

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

An Act Concerning Intermediate Care Facilities for the Mentally Retarded

H.P. 1960 L.D. 2655
(H "A" H-797)

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

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

ORDERS

On motion by Senator CLARK of Cumberland the following Order:

ORDERED, that a message be sent to His Excellency, Governor John R. McKernan, Jr., informing him that the Senate has transacted all business which has come before it and is ready to Adjourn Without Day.

Which was READ and PASSED.

The President appointed Senator CLARK of Cumberland to deliver the message to the Governor. The Sergeant-At-Arms escorted the Senator to the Governor's Office.

Subsequently, Senator CLARK of Cumberland reported that she had delivered the message with which she was charged.

On motion by Senator DUTREMBLE of York the following Order:

ORDERED, that a message be sent to the House of Representatives informing that Body that the Senate has transacted all the business which has come before it and is ready to Adjourn Without Day.

Which was READ and PASSED.

The President appointed Senator DUTREMBLE of York to deliver the message to the House. The Assistant Sergeant-At-Arms escorted the Senator to the House of Representatives.

Subsequently, Senator DUTREMBLE of York reported that he had delivered the message with which he was charged.

Senate at Ease

Senate called to order by the President.

THE PRESIDENT: The Chair at this time would like to recognize those individuals who have served as President Pro Tem during the Second Regular Session of the 113th Legislature. The Chair would like to ask the following Senators to come forward and receive a small memento of that honor.

The Sergeant-At-Arms escorted the Senator from Cumberland, Senator Gill, the Senator from Cumberland, Senator Usher, the Senator from Cumberland, Senator Clark, the Senator from York, Senator Dutremble and the Senator from Lincoln, Senator Sewall to the Rostrum.

The Chair at this time would like to not only express my appreciation for each of them in providing me relief from being here on various occasions, but also to the commitment that two of them, Senator Sewall of Lincoln and Senator Usher of Cumberland, who are not returning to the 114th Legislature. As far as the rest of us, we will leave it up to the voters this fall. To the five of you and to all the Membership as well, the commitment and dedication of service that has been performed in the 113th, we have talked about at the close of the Session about ten or twelve days ago, but I think each and every one of us deserves a round of applause for the commitment and

dedication we have provided to the people of this state and through these five people, I would like to thank each and every one of you. Thank you.

The Sergeant-At-Arms escorted the Senator from Cumberland, Senator USHER to the Rostrum where he presided in the final moments of the Session.

Senator EMERSON of Penobscot yielded the honor to Adjourning to Retiring Senator Charlotte Sewall of Lincoln.

On motion by Senator SEWALL of Lincoln, at 12:40 p.m. on Thursday, May 5, 1988, the Honorable RONALD E. USHER, PRESIDENT PRO TEM declared the Senate of the Second Regular Session of the 113th Legislature, ADJOURNED SINE DIE.