

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME IV

FIRST REGULAR SESSION

Senate

May 2, 1995 to June 16, 1995

Off Record Remarks

STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Wednesday
May 17, 1995

Senate called to Order by the President, Jeffrey H. Butland of Cumberland.

The President requested the Sergeant-at-Arms to escort the Senator from Hancock, Senator GOLDTHWAIT to the Rostrum where she assumed the duties as President Pro Tem.

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

Prayer by the Reverend George Atkinson of the Westport Baptist Church in Newcastle.

The Senate called to Order by the President Pro Tem.

REVEREND GEORGE ATKINSON: Mr. President and distinguished Members of the Senate of the State of Maine, it is an honor and a privilege to be asked to serve today as your Chaplain by Senator Begley. Even though I have performed this ceremony a number of times in the House, this is my first time in the Senate, and I appreciate the opportunity. Let us bow in prayer.

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Require All Persons to Use Safety Belts in Motor Vehicles"

S.P. 77 L.D. 165
(S "A" S-135 to C
"A" S-91)

Almighty God, Maker of Heaven and Earth, and Giver of all good, we return our heartfelt thanks for the blessings you have so freely bestowed upon the United States of America and the State of Maine, in particular. Give us the wisdom to understand, and the ability to do that which is right in thy sight. We pray that you will enable us to use the experience of the past as an aid in the fulfillment of our present responsibilities, and that our present deliberations may reflect the desire to prepare, not just for ourselves, but for future generations. We are fully aware that our future and the prosperity of this State and our country, are dependent upon the prayers of believers humbly made in this day and age. In Second Chronicles 7:14, you have said, "Lord, if my people, which are called by my name, shall humble themselves and pray, and seek my face, and turn from their wicked ways, I will hear from Heaven and I will forgive their sins, and I will heal their land." Therefore, we beseech you to inspire us today, by thy presence, lead, guide, and direct our every thought, word, and action, that whatever we do it may be good and acceptable in thy sight, and that our labors may help to preserve the causes of liberty, freedom and justice that our forefathers made preparations for. We ask all in thy Holy name. Amen.

In Senate, May 11, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-91) AS AMENDED BY SENATE AMENDMENT "A" (S-135), thereto, in NON-CONCURRENCE.

Comes from the House, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-91) AND HOUSE AMENDMENT "A" (H-181), in NON-CONCURRENCE.

Senator KIEFFER of Aroostook moved that the Senate RECEDE and CONCUR.

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

Senator PENDERSTER: Thank you Madam President, Men and Women of the Senate. Well, we started with the best law that we could have, and we moved on to what is acceptable, and now we are up to this is what we can get. Needless to say, I am very disappointed with my colleagues in the other body, for not being able to make the tough decision. I think it is unfortunate that we have to send to referendum a decision that can, and should, be made in this body. I would like to thank my colleagues in this body who have given the issue very strong support. I happen to be optimistic about the fact that the citizens of our State will vote this in as a law, because I do know, and I sense, that they know the effectiveness of seat belts and the need to wear them. My sense is

Reading of the Journal of Yesterday.

that they will reflect that in November. As I indicated in a prior debate, there were five referendums last November, in five different States, and they were all voted in. I feel that the sentiment of the people is out there in support of this issue, and so I feel it is important to support the referendum, otherwise we have to wait another two years before we can act on this issue again. I would ask for your support for the pending motion. Thank you.

On motion by Senator O'DEA of Penobscot, supported by a Division of 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 by Senator KIEFFER of Aroostook to RECEDE and CONCUR.

A vote of Yes will be in favor of RECEDING and CONCURRING.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, AMERO, BERUBE, BUSTIN, CAREY, CLEVELAND, ESTY, HARRIMAN, LAWRENCE, LONGLEY, McCORMICK, MILLS, PARADIS, PENDEXTER, PINGREE, RAND, RUHLIN, STEVENS, and the PRESIDENT PRO TEM, Senator GOLDTHWAIT

NAYS: Senators: BEGLEY, BENOIT, BUTLAND, CARPENTER, CASSIDY, FERGUSON, HALL, HATHAWAY, KIEFFER, LORD, MICHAUD, O'DEA, SMALL

ABSENT: Senators: CIANCHETTE, FAIRCLOTH, HANLEY

Senator BUSTIN of Kennebec requested and received Leave of the Senate to change her vote from NAY to YEA.

Senator McCORMICK of Kennebec requested and received Leave of the Senate to change her vote from NAY to YEA.

19 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator KIEFFER of Aroostook to RECEDE and CONCUR, PREVAILED.

Non-concurrent Matter

Bill "An Act to Protect the Rights of Employees and to Ensure the Proper Expenditure of Public Funds" H.P. 262 L.D. 364

In House, May 10, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-112).

In Senate, May 11, 1995, the Majority OUGHT NOT TO PASS Report READ and ACCEPTED, in NON-CONCURRENCE.

Comes from the House, that Body having ADHERED.

Senator LAWRENCE of York moved that the Senate RECEDE and CONCUR.

Senator KIEFFER of Aroostook requested a Division.

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

Senator RAND: Thank you Madam President, Men and Women of the Senate. I would hope that you would go along with the motion to Recede and Concur with the members of the other body on this particular matter. This bill really is simply a good government bill. It provides additional guidelines to guarantee that the money that taxpayers have given to us to take care of, and that are funneled to non-profit health care agencies, be utilized only for the programs for which they were intended, and prevent these funds from being used to support or oppose any type of organizing activity that might occur in a particular establishment. I would ask you to please support the pending motion, and I would ask for a Roll Call. Thank you.

Senator RAND of Cumberland requested a Roll Call.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Lincoln, Senator Begley.

Senator BEGLEY: Thank you Madam President. Once again, this bill may sound as though it is going to do one thing, but all it will do is create a nightmare for many of these healthcare facilities, as well as other facilities that have multiple funds which are handled in many different ways. The incident, again, came out of one occurrence, at least that we were told about. It was a situation where one party said one thing and another said another thing. If you pass this, we have been told by those people who run these organizations that it is almost impossible to be guaranteeing any of that, and yet most of them do exactly what the bill is calling for already. There is no basic need for this. There is no outcry. This is a situation whereby public funds have not been used in any managed care against any particular person's right to be concerned about unionism, or any other part of his employment. The bill should be defeated. Thank you.

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

Senator RAND: Thank you Madam President, Men and Women of the Senate. The amendment, H-112,

eliminates the only two problems raised during the public hearing. Those problems were raised by the Hospital Association and by the Maine Municipal Association. House Amendment 112 eliminates the only two problems with this bill that were raised during the public hearing. Again, I ask you to please vote with the pending motion.

On motion by Senator **RAND** of Cumberland, supported by a Division of 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 **LAWRENCE** of York to **RECEDE** and **CONCUR**.

A vote of Yes will be in favor of **RECEDING** and **CONCURRING**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **BERUBE, BUSTIN, CAREY, CLEVELAND, ESTY, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, O'DEA, PARADIS, PINGREE, RAND, RUHLIN**

NAYS: Senators: **ABROMSON, AMERO, BEGLEY, BENOIT, BUTLAND, CARPENTER, CASSIDY, FERGUSON, HALL, HARRIMAN, HATHAWAY, KIEFFER, LORD, MILLS, PENDEXTER, SMALL, STEVENS, and the PRESIDENT PRO TEM, Senator GOLDTHWAIT**

ABSENT: Senators: **CIANCHETTE, FAIRCLOTH, HANLEY**

14 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 3 Senators being absent, the motion of Senator **LAWRENCE** of York to **RECEDE** and **CONCUR**, **FAILED**.

On motion by Senator **KIEFFER** of Aroostook, the Senate **INSISTED**.

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Amend the Provisions Relating to Access to Information for Candidates for Government Job Openings"

H.P. 264 L.D. 366

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-209)**.

Signed:

Senators:

MILLS of Somerset
FAIRCLOTH of Penobscot

Representatives:

TREAT of Gardiner
LEMKE of Westbrook
RICHARDSON of Portland
JONES of Bar Harbor
LAFOUNTAIN of Biddeford
WATSON of Farmingdale
MADORE of Augusta
PLOWMAN of Hampden

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

Signed:

Senator:

PENDEXTER of Cumberland

Representatives:

NASS of Acton
HARTNETT of Freeport

Comes from the House with the Minority **UGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were **READ**.

On motion by Senator **KIEFFER** of Aroostook, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Either Report.

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Permit the Buyback of Retirement Time"
H.P. 567 L.D. 768

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-196)**.

Signed:

Senators:

MILLS of Somerset
RAND of Cumberland

Representatives:

HATCH of Skowhegan
CHASE of China
LEMAIRE of Lewiston

PENDLETON, JR. of Scarborough
SAMSON of Jay
TUTTLE, JR. of Sanford
WINSOR of Norway

Representatives:
HATCH of Skowhegan
CHASE of China
LEMAIRE of Lewiston
SAMSON of Jay

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

Signed:

Senator:
BEGLEY of Lincoln

Representatives:
JOY of Crystal
JOYCE of Biddeford
STEDMAN of Hartland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-196).**

Which Reports were **READ.**

On motion by Senator **KIEFFER** of Aroostook, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Either Report.

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-189).**

Which Reports were **READ.**

On motion by Senator **KIEFFER** of Aroostook, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Either Report.

Senate

Ought to Pass As Amended

Senator **BENOIT** for the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Allow the Collection of Reimbursement for Medical Expenses"
S.P. 375 L.D. 1052

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-148).**

Which Report was **READ** and **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-148) **READ** and **ADOPTED.**

The Bill, as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING.**

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Extend the Jurisdiction of the Maine Labor Relations Board to Public Employees Who Have Been Employed Fewer Than 6 Months"

H.P. 263 L.D. 365

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

Signed:

Senators:
BEGLEY of Lincoln
MILLS of Somerset

Representatives:
JOY of Crystal
JOYCE of Biddeford
PENDLETON, JR. of Scarborough
STEDMAN of Hartland
TUTTLE, JR. of Sanford
WINSOR of Norway

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-189).**

Signed:

Senator:
RAND of Cumberland

SECOND READERS

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

House

Bill "An Act to Amend the Adult Protective Services Act to Allow Referrals of Cases of Abuse, Neglect and Exploitation to Law Enforcement Agencies"
H.P. 710 L.D. 967

Bill "An Act to Establish Minimum Qualifications for the Office of Sheriff"
H.P. 790 L.D. 1107

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

House As Amended

Bill "An Act to Require Uniform Public Access and Tax Status for Water Districts"

H.P. 311 L.D. 415
(C "A" H-228)

(See Action Later Today)

Bill "An Act to Change Certain Provisions of the Saco River Corridor Law"

H.P. 324 L.D. 445
(C "B" H-152)

Bill "An Act to Ensure Children's Rights Concerning Visitation and Access"

H.P. 341 L.D. 461
(C "A" H-211)

Bill "An Act Concerning Grandparents' Rights of Visitation and Custody"

H.P. 364 L.D. 484
(C "A" H-210)

Bill "An Act Concerning Sick Leave and Vacation Benefits"

H.P. 388 L.D. 523
(C "A" H-140)

Bill "An Act to Amend the Laws Specifying the Place of Imprisonment"

H.P. 602 L.D. 812
(C "A" H-233)

Bill "An Act to Amend Certain Laws Pertaining to the Department of Environmental Protection, Bureau of Hazardous Materials and Solid Waste Control" (Emergency)

H.P. 614 L.D. 824
(C "A" H-227)

Bill "An Act to Require Prior Notice of Cancellation of Group Health Insurance Policies"

H.P. 765 L.D. 1039
(C "A" H-231)

Bill "An Act to Amend the Toxics in Packaging Law"

H.P. 766 L.D. 1040
(C "A" H-234)

Bill "An Act to Ensure Disclosures under the Used Car Information Laws"

H.P. 859 L.D. 1190
(C "A" H-236)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, As Amended, in concurrence.

Bill "An Act to Amend the Laws Governing Wrongful Death Caused by Truck Drivers"

H.P. 292 L.D. 396
(C "A" H-212)

Which was **READ A SECOND TIME**.

On motion by Senator KIEFFER of Aroostook, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

Bill "An Act to Include Short-term Health Insurance Policies in the Continuity Laws"

H.P. 321 L.D. 442
(H "A" H-161 to
C "A" H-124)

Which was **READ A SECOND TIME**.

On motion by Senator KIEFFER of Aroostook, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

Senate

Bill "An Act Concerning Placement of Modular Homes"

S.P. 109 L.D. 285

Bill "An Act to Allow Candidates to Donate Surplus Campaign Funds to Charitable and Educational Institutions"

S.P. 340 L.D. 945

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**.

Sent down for concurrence.

Senate As Amended

Bill "An Act to Expand Eligibility for Benefits under the Adoption Assistance Program" (Emergency)

S.P. 247 L.D. 644
(C "A" S-109)

Bill "An Act to Amend Certain Provisions of the Law Relating to Defense"

S.P. 384 L.D. 1061
(C "A" S-144)

Bill "An Act Concerning the Sale of Double Gauge Lobster Measures"

S.P. 429 L.D. 1197
(C "A" S-143)

Bill "An Act to Establish Responsibility for the Investigation of the Use of Deadly Force by Law Enforcement Officers"

S.P. 448 L.D. 1221
(C "A" S-145)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended.**

Sent down for concurrence.

On motion by Senator **KIEFFER** of Aroostook, the Senate **RECONSIDERED** its action whereby it **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence:

Bill "An Act to Require Uniform Public Access and Tax Status for Water Districts"

H.P. 311 L.D. 415
(C "A" H-228)

(In House, May 16, 1995, **PASSED TO BE ENGROSSED, As Amended.**)

(In Senate, May 17, 1995, **PASSED TO BE ENGROSSED, As Amended**, in concurrence.)

Senator **KIEFFER** of Aroostook moved to Table 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

On motion by Senator **LAWRENCE** of York, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

ENACTOR

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

An Act to Establish Landowner Recognition Day
S.P. 233 L.D. 598
(C "A" S-66)

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

Senate at Ease

Senate called to order by the President Pro Tem.

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

SECOND READERS

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

House As Amended

Bill "An Act Concerning Municipal Rent Control"
H.P. 474 L.D. 655
(C "A" H-200)

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

Under suspension of the Rules, all matters thus acted upon, with the exception of those matters being held, sent forthwith.

On motion by **THE PRESIDENT PRO TEM**, **RECESSED** until 11:30 o'clock in the morning.

After Recess

Senate called to order by the President Pro Tem.

Off Record Remarks

Senator **PARADIS** of Aroostook was granted unanimous consent to address the Senate off the Record.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Establish the Board of Licensure of Water Treatment Plant Operators"
H.P. 1090 L.D. 1534

Reference to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

Which was referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**, in concurrence.

Bill "An Act to Require the Public Utilities Commission to Ensure Telecommunications Service in Economic Development Areas"
H.P. 1089 L.D. 1533

Reference to the Committee on **UTILITIES AND ENERGY** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee on **UTILITIES AND ENERGY** and **ORDERED PRINTED**.

Which was referred to the Committee on **UTILITIES AND ENERGY**, in concurrence.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Amend the Provisions Relating to Access to Information for Candidates for Government Job Openings"
H.P. 264 L.D. 366

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-209). (10 members)

Minority - Ought Not to Pass. (3 members)

Tabled - earlier in the day by Senator KIEFFER of Aroostook

Pending - **ACCEPTANCE** of Either Report

(In House, May 16, 1995, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, earlier in the day, Reports **READ**.)

On motion by Senator **PENDEXTER** of Cumberland, the Senate **ACCEPTED** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

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

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Permit the Buyback of Retirement Time"
H.P. 567 L.D. 768

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-196). (9 members)

Minority - Ought Not to Pass. (4 members)

Tabled - earlier in the day by Senator KIEFFER of Aroostook

Pending - **ACCEPTANCE** of Either Report

(In House, May 16, 1995, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-196)**.)

(In Senate, earlier in the day, Reports **READ**.)

On motion by Senator **MILLS** of Somerset the Senate **ACCEPTED** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-196) **READ** and **ADOPTED**, in concurrence.

The Bill, as Amended, **TOMORROW ASSIGNED FOR SECOND READING**.

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

HOUSE REPORTS - from the Committee on LABOR on Bill "An Act to Extend the Jurisdiction of the Maine Labor Relations Board to Public Employees Who Have Been Employed Fewer Than 6 Months"

H.P. 263 L.D. 365

Majority - Ought Not to Pass. (8 members)

Minority - Ought to Pass as Amended by Committee Amendment "A" (H-189). (5 members)

Tabled - earlier in the day by Senator KIEFFER of Aroostook

Pending - ACCEPTANCE of Either Report

(In House, May 16, 1995, the Minority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-189).)

(In Senate, earlier in the day, Reports READ.)

Senator BEGLEY of Lincoln moved that the Senate ACCEPT the Majority OUGHT NOT TO PASS Report in NON-CONCURRENCE.

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

Senator LAWRENCE: Thank you Madam President. I hope you will vote against the motion and I request a Division.

Senator LAWRENCE of York requested a Division.

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

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

Senator RAND: Thank you Madam President, Men and Women of the Senate. I hope that you will reject the motion that is on the floor, so that we can go on to pass this bill as amended. The bill simply takes two periods in a public employee's employment, there is a probationary period and an exclusionary period. What the bill proposes to do is to have employees treated as employees from day one of their employment. It came to our attention, during the public hearing, that there are some municipalities that use the exclusionary period of employment, which usually amounts to about six months, to create a two-tiered system for their public employees. They do this by paying them less money, and not allowing them to start accruing their holiday time, or being part of the health insurance policy program that they have going in their municipality. This bill in no way interferes with the probationary period, which is usually a six month period. It's during this time that an employee can be fired at will. That remains the same, there is no one, on either side of this

issue, who wants to do away with the probationary period that allows public employees employment to be terminated without cause for the first six months. This simply states that there not be a two-tiered system for employees from day one of employment, that they receive the pay scale that their particular position calls for, that they can buy into the health insurance that's offered, and that they can start accruing from day one their benefits. I hope that you will reject the motion on the floor. Thank you.

Off Record Remarks

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

Senator MILLS: Thank you Madam President, Men and Women of the Senate. Just briefly on this issue, the reason, I think, for the exclusionary period of six months at the commencement of someone's employment is to provide all of the public sector employers a, more or less, uniform opportunity to look at the qualifications and the fitness of the new employee for further service. It's true that there is also, in most cases, a probationary period which overlaps with this so-called exclusionary period. However, many public employers, I think, are lacking in the sophistication to perhaps appreciate the difference, or to be able to understand what they may be getting into when they hire somebody who is subject to a bargaining agreement from the first day. The exclusionary period gives all public sector employers at least a reasonably brief window of time, a six month period of time, within which to hire, fire, review, or discharge someone without regard to the technicalities of a contract that has been negotiated. It's a reasonable standard.

We were listening, as we heard evidence in the Committee hearings, many of us were concerned to know whether there are abuses under the current law. I do not recall hearing of any, even by way of anecdote. It did not seem to many of us that there was an evil here that needed to be rectified or addressed. I think, as a practical matter, many smaller communities and public hiring entities use this exclusionary period as the same thing as the probationary period, with or without a contract. So, it serves a useful function, this six month exclusionary period, and I, at least, could not find any reason to do away with it on the basis of what we heard about it. Thank you.

Senator BEGLEY of Lincoln requested and received Leave of the Senate to withdraw his motion for a Roll Call.

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

Senator RAND: Thank you Madam President, Men and Women of the Senate. I certainly would agree with

the good Senator from Somerset, Senator Mills, when he said that the six month period is a proper amount of time for the employers and the employees, in this instance the public employers and public employees, to feel each other out and see if they are suitable to the task at hand. This bill does not do away with the public employers right to discharge at will in the first six months, or whatever that period is for that particular municipality. It does not, I repeat does not do away with the probationary period. Neither the unionized people, who came to the public hearing, nor the representatives of the municipalities wish to do away with that probationary period. I think that it is unfortunate that we would have a situation where our working people are treated, or could be treated, in a discriminatory manner just because it is possible that some public employers didn't know the difference, or couldn't grasp the significance of an exclusionary period or a probationary period. I think that the onus to distinguish the two does lie with the employer. Again, I would ask you to defeat the present motion so that we can go on to pass this bill. It is a fair bill for the working people of this State. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by Senator **BEGLEY** of Lincoln that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

A Division has been requested.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

17 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **BEGLEY** of Lincoln to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

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

Bill "An Act to Amend the Maine State Retirement System Laws to Authorize the Buy-back of Time Served in the Peace Corps or VISTA Programs"

S.P. 260 L.D. 696
(C "A" S-82)

Tabled - May 16, 1995, by Senator **KIEFFER** of Aroostook.

Pending - **FURTHER CONSIDERATION**

(In Senate, April 27, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-82).**)

(In House, May 11, 1995, Bill and Accompanying Papers **INDEFINITELY POSTPONED.**)

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you Madam President. I would move the acceptance of the Minority Ought Not to Pass Report.

THE PRESIDENT PRO TEM: The Chair would rule that the motion from the Senator from Kennebec, Senator Carey, is out of order. We are in Non-concurrence. This item was Tabled on May 16 by Senator Kieffer of Aroostook, pending further consideration. In the Senate, on April 27, it was Passed to be Engrossed as amended by Committee Amendment "A". In the House, on May 11, the bill and accompanying papers were Indefinitely Postponed.

On motion by Senator **KIEFFER** of Aroostook, Tabled 1 Legislative Day, pending **FURTHER CONSIDERATION**.

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

Bill "An Act to Authorize Certain Employees of the Department of Corrections to Use Deadly Force"
S.P. 454 L.D. 1250
(C "A" S-133)

Tabled - May 16, 1995, by Senator **BUSTIN** of Kennebec.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**.

On motion by Senator **BENOIT** of Franklin, the Senate **SUSPENDED THE RULES** for the purpose of **RECONSIDERATION**.

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-133).

On further motion by the same Senator, Senate Amendment "A" (S-149) to Committee Amendment "A" (S-133) **READ**.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT:** Thank you Madam President. May it please the Senate. This amendment covers a section that was omitted from Committee Amendment "A". It adds a section five, and puts the same language in the section that appears already in Committee Amendment "A". It was just a section that our analyst discovered had not been reached by Committee Amendment "A", and thus this Senate Amendment is necessary to cover this technical purpose. Thank you.

On further motion by the same Senator, Senate Amendment "A" (S-149) to Committee Amendment "A" (S-133) **ADOPTED**.

Committee Amendment "A" (S-133) as Amended by Senate Amendment "A" (S-149), thereto, **ADOPTED**.

Which was **PASSED TO BE ENGROSSED**, as Amended.

Sent down for concurrence.

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

An Act to Change the Commissions Payable to the State from Off-track Betting

S.P. 240 L.D. 637
(C "A" S-95)

Tabled - May 16, 1995, by Senator **HANLEY** of Oxford.

Pending - **PASSAGE TO BE ENACTED**.

(In House, May 16, 1995, **PASSED TO BE ENACTED**.)

On motion by Senator **KIEFFER** of Aroostook, Tabled 1 Legislative Day, pending **ENACTMENT**.

Senate at Ease

Senate called to order by the President Pro Tem.

Unfinished Business

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

The Chair laid before the Senate the first Tabled and Specially Assigned (May 11, 1995) matter:

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Limit State Spending and Establish a Reserve Fund.

H.P. 630 L.D. 855

Tabled - May 10, 1995 by Senator **KIEFFER** of Aroostook.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-177)**, in **NON-CONCURRENCE**.

(In House, May 3, 1995, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

On motion by Senator **KIEFFER** of Aroostook, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-177)** in **NON-CONCURRENCE**.

The Chair laid before the Senate the second Tabled and Specially Assigned (May 16, 1995) matter:

SENATE REPORTS from the Committee on **TAXATION** on Bill "An Act to Create an Income Tax Stabilization Program" (Emergency)

S.P. 98 L.D. 238

Majority - **Ought to Pass As Amended by Committee Amendment "A" (S-115)**. (10 members)

Minority - **Ought Not to Pass**. (3 members)

Tabled - May 11, 1995 by Senator **KIEFFER** of Aroostook.

Pending - the Motion by Senator **HATHAWAY** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report. (Roll Call Ordered)

(In Senate, May 9, 1995, the Reports **READ**.)

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

Senator **HATHAWAY:** Thank you Madam President, Ladies and Gentlemen of the Senate. In the past, the tax policy of this State has created a great deal of mistrust between our people and our government. Starting today we need to rebuild that trust. First, we must make our message very clear, that is, that we believe that the government already has enough money to spend. That the hard-working people of this State deserve to keep some of the money that they earn. And third, we have to stop the insanity. We have to stop raising taxes. Already, in this session, we have raised the price of a gallon of milk fifteen cents. We have raised the price of a gallon of gas fifteen cents. Now, we are talking of raising a new tax of \$116 million on sick people. A new tax which could put many of our smaller hospitals out of business. It's time that we cut spending and cut taxes. Second, we need to make sure that our tax policy is straightforward. It needs to be simple, one that our people can understand. It needs to be honest, that means getting rid of our gimmicks. We need to repeal the snack tax, we need to repeal the

temporary sales tax, and we certainly don't need to turn an old gimmick into a new sick tax. We have a chance, today, to do something for the people who are so often forgotten in this Legislature, the hard-working taxpayers of the State of Maine. Their message to us in November was very simple, they want smaller government and less taxes. We all know that the tax burden on the people of the State of Maine is too high, and that our job creation is too low. We have the opportunity today to set the economy of this State in a new direction. We need to do it now, we need to do it today, and I appreciate and urge you to support this Ought to Pass motion. Madam President, I ask for a Roll Call.

THE PRESIDENT PRO TEM: The Chair would state that a Roll Call has been previously ordered on this bill. The Chair recognizes the Senator from Cumberland, Senator Rand.

Senator **RAND:** Thank you Madam President, Men and Women of the Senate. We have just heard an eloquent speech by the good Senator, Senator Hathaway, but I am still not sure as to what "An Act to Create an Income Tax Stabilization Program" actually is. I would like to pose a question through the Chair, if I may. If we could please have an explanation of what this bill actually does, and if it has a fiscal note, and if so, what that fiscal note is? Also, while I am on my feet, I would just like to mention that the tax and match scheme, which is being referred to today as a new tax on sick people, wasn't the brightest move that this Legislature has ever made, but, certainly, under the McKernan administration, was one that was foisted upon us in tax and match. It is my understanding that it is not something new, it is something that has been around since 1991. Thank you.

THE PRESIDENT PRO TEM: The Senator from Cumberland, Senator Rand, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Madam President. I would be very pleased to answer the good question of the Senator from Cumberland, even more so because the Joint Standing Committee on Appropriations had an opportunity, yesterday afternoon from one o'clock until six o'clock, to discuss the tax and match scam that had been perpetrated. I guess I would state that it is a new tax in the fact that in 1991, when the tax and match proposal was put forward by the then current Governor, and adopted by two-thirds of both chambers of the Legislature, at that point in time that tax and match was told, on the Record, that it would hold the hospitals harmless. That if the hospitals assisted the State in time of dire economic need, that they would be

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Lawrence, and asks for what purpose he rises.

Senator **LAWRENCE:** Madam President, I would like to pose a parliamentary inquiry to the presiding officer. Is a discussion of the so-called tax and match related to this bill?

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Madam President. I would respond that when a question is posed, I am responding to the question posed by the good Senator from Cumberland.

THE PRESIDENT PRO TEM: The Chair would interrupt the Senator from Oxford, Senator Hanley, to rule on the question posed by the Senator from York, Senator Lawrence. The Chair would rule that the issue of tax and match peripherally is related to this issue, but would request that the Senator from Oxford, Senator Hanley, keep his remarks on that subject brief. The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you very much Madam President. Very briefly, as to why it is a new tax. At the time that the tax was imposed upon the hospitals and the people of the State of Maine, it was an allowable cost that the federal government would match, thus holding the hospitals harmless. In the intervening period, the federal government has revised what is an allowable cost and no longer are all of the six percent gross receipts on the hospitals revenue subject to the matched portion. Because that is no longer considered an allowable cost, that is now a new tax on the hospitals.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **MCCORMICK:** Thank you Madam President, Men and Women of the Senate. Everybody wants a tax cut. I want a tax cut, but I don't think it is prudent fiscal policy to do anything like a tax cut until we pay our bills. And believe me, we have lots of bills. We have bills that are hidden. We have bills that the Governor is just finding under a drawer. We have a telephone bill of \$5 million that Governor McKernan didn't pay, we have to pay that. I have oft heard criticism of the \$200 million increase in the Governor's budget, by the other party, however, \$140 million of that is paying for the gimmicks of the past administration, for the bills that are in the drawers, the bills that haven't been paid. So, let's do one thing at a time here. Let's pay our bills, absolutely, first thing. Let's balance the budget and then let's talk about a tax cut. Thank you.

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

Senator **BUTLAND:** Thank you Madam President, Ladies and Gentlemen of the Senate. I rise to attempt to address the question from the good Senator from Cumberland, Senator Rand, as to just exactly what this is. But I find that before I get on to that, I must respond to the previous speaker who talks about the gimmicks being foisted upon the people of the State of Maine by the former Administration. I think that many of the people who are sitting in this chamber right now, were involved. The former Governor, the former Chief Executive of this State didn't foist anything on the people of the State of Maine without the approval and consent of two legislative bodies.

To the matter at hand, L.D. 238. This measure creates a mechanism to control state spending over the next five years, while at the same time, reducing the tax burden on Maine people and small businesses. This proposal places a cap on personal income tax revenue, at the level estimated for fiscal year 1995. Any revenue above this level, is returned to the taxpayers in the form of lower personal income tax rates, year after year, until the rate is reduced by 20%. If we accept the State Economist's estimates that personal income tax will grow by 5.8% in FY 96, and 5.7% in FY 97, and assume a 5% growth for the following two fiscal years, an overall 20% reduction is reached in a four-year period. This bill establishes a means of providing the State enough revenue to account for general inflation, while encouraging government to become more productive. The measure helps us control growth in government without actually cutting existing programs. In the bargain it will strengthen the competitiveness of Maine's private sector, especially small and medium-sized businesses, the firms all economists and, as far as I can tell, State legislators agree will be creators of the most jobs, the most new jobs, in the next eight or ten years in the State of Maine. The measure is needed now as an economic stimulus at a time when every extra dollar in a household budget can help to boost consumer confidence. It is needed as a clear signal to businesses, both inside and outside of the State of Maine, that we take seriously the goal of creating economic opportunity for our citizens. And, it is needed as a means of maintaining fiscal discipline if there is to be any hope for our economy to turn from stagnation to modest expansion. Lest you think that the State of Maine is out on the cutting edge on this issue, I would remind my colleagues here that the State of New Jersey has taken the lead, reducing personal income and corporate tax by \$285 million in 1994. According to the January 1995 report by the Center for the Study of the States, last year twenty states enacted laws resulting in tax decreases. These states include many of our northeastern neighbors, our competitors, Connecticut, Delaware, Maryland, Massachusetts, New York and Pennsylvania. Further, this report states that twenty-nine states likely are likely to cut taxes again in 1995. Two of which, Arizona and Connecticut, are working towards total elimination of the personal income tax. Maine is not included on this list.

It appears that Maine's economy can now begin to look forward to a very modest recovery throughout the remainder of this decade. I believe, that as we begin to see some economic growth, the greater the percentage of money we leave in the pockets of Maine workers, the more they will be able to support their local economies. The less money we take from Maine businesses, the more that will be available to invest in making their companies competitive, and the greater potential to expand and create new jobs. Thank you very much.

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

Senator CLEVELAND: Thank you very much Madam President, Women and Men of the Senate. I rise today because I support the concept of this bill, as well.

As a matter of fact, I support elimination of the income tax completely. I support elimination of the sales tax, not only from 6% to 5%, but to 4%, 3%, 2% and 0%. As a matter of fact, I would support the elimination of taxation completely, because I would prefer to leave all of the money with the people. Unfortunately, they also request that we educate some children, pay for the sick, provide for nursing home care, provide police protection and general governmental services, and the like. It's my understanding, looking at the fiscal note on this bill, that it is estimated that it would reduce the revenues in the next biennium to something a little less than \$82 million. An \$82 million reduction. Frankly, I am anxious to support that, but I would like to know where the reductions in the budget will be made to accommodate that, so I can make my judgement, not only on the revenue side, but I can also balance that with my responsibility for providing for the needs for this State on the expenditure side. So that I don't do it with one eye closed and one deaf ear and a cold heart, but so that I know what the outcomes will be, and I can vote in a more responsible way, recognizing that I am either prepared to support those, and I think the public is, or that I feel that perhaps they might not be. Let me ask, for instance, is it better policy not to pay the unfunded liability in the pension funds, which is exponentially increasing because of not funding it originally and the compounded interest that will cost hundreds and hundreds of millions of dollars, is it better to allow that to continue to grow, or to deal with it? Is that more responsible? Is it better to reduce the revenues, and perhaps not provide adequate income for the general purpose aid to education, and allow local communities to increase a regressive property tax? Is that the better fiscal policy that you ask me to support? Or will there be no impact on the general property tax when I vote for this bill with you? Is it better not to address fully the tax on hospitals? Or is it better to address it sooner rather than later? And how will we accomplish that target of some hundred million dollars? What will the federal government's reductions in their expenditures, which are likely to come, how will that affect this State and how should we deal with it? If they reduce funds for care of the elderly, long term care, transportation, Medicaid, aid to municipalities, how will we respond? And is that the best fiscal policy? Finally, it seems to me that this Appropriations Committee, and this Legislature by two-thirds majorities, just recently passed a bill that said we don't have a clue on how to cut \$45 million. We give up. We surrender. Governor will you please do it for us? We are so happy that you will do it, because we sure as heck can't do it. If we can't deal with a \$45 million reduction in this biennium budget, how is it that we are going to deal with an \$82 million reduction? Who is going to do that work? Is that to be allocated to the Governor as well? I think those are serious questions, and I would certainly appreciate, rather than talking about what we all would like to do, which is to reduce taxes, who wouldn't? Please tell us how we are going to achieve it and be responsible to all of the other tasks that we have before us and where the money will be found.

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

Senator **PENDEXTER**: Thank you Madam President, Men and Women of the Senate. It's my pleasure to stand before you and support a 20% State income tax reduction in the next four years. I don't know about you, but when I talk to my businesses, or I am out talking to people, I hear this message over and over and over, and the message is, "I used to have a small business, and I couldn't afford the taxes and the insurance, so that small business no longer exists." Or I hear, "You know, I could create a couple of job opportunities, but I can't afford the increase in taxes and I can't afford the insurance costs." We hear this over and over and over. As we look historically back, and we ask businesses who thought of settling here in this State and decided to go elsewhere, the number one problem for not coming to Maine is usually that our income tax is too high. So, as we all campaigned, not so long ago, on being pro-job and pro-business, I challenge you to go ahead and do it. The number one reason why businesses don't come to this State is because our income taxes are too high. Now I feel that this bill is a creative way of doing it. We are still going to have just as much money, we're just not going to spend it on new spending. That has been the inability of this body and the other body, and I am happy to have an opportunity to cut spending \$45 million because I know where to go. I can do it. A lot of us in this body know how to cut spending, the problem has been the majority of the people in this body haven't been able to do it. We can talk about gimmicks and the this and thats, and we can blame prior administrations, but the fact of the matter is we have to settle for what we can get on the third floor. In the last four years I have personally been very frustrated because I have had to settle for gimmicks, because the votes to de-appropriate spending cuts have not been there. We haven't been able to have the votes to do that. I'm always amused by the fact that we reduced taxes so we will have less money, and I invite you to look at the states who have cut their taxes. Guess what? They have collected more money. So, I don't buy the argument that because we have less taxes we are going to have less money, because why don't you think futuristically, if we have more jobs in this State because we cut our income taxes it only means that we are going to have more taxpayers, and that's what we need in this State is more taxpayers. We are not going to get them if we continue the same mindset and the same mentality that we have had in this body for as long as I have been here. We can't, we can't cut, we can't do that, we can't cut spending, we can't cut taxes, I don't know how we are going to do anything. So, I sound very frustrated because I am. This is one way to cut income tax in a way that doesn't hurt, and we do it gradually over the course of four years. So, I ask you to think about that. This is all about attracting jobs and businesses to our State. People have to travel through New Hampshire and Massachusetts to get here, and they don't get here, because New Hampshire and Massachusetts grab them because one State doesn't even have an income tax and the other is much less than ours. So, I ask you to support the pending motion. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY**: Thank you Madam President. I rise to respond to some of the questions posed by the good Senator from Androscoggin, Senator Cleveland, because some of the questions he raises are valid and I think they deserve response. But I am troubled by one of the last comments he made as far as the Productivity Task Force, and as far as that we surrendered our responsibility. I would like to remind the good Senator, and other members of this chamber, that by a vote of thirteen to zero in the Joint Standing Committee on Appropriations, we asked each of the policy committees to come back with a flat-funded budget. We asked each of these committees to look in their areas of expertise and to make the cuts, because we told them the message we sent, thirteen to nothing, unanimous agreement amongst the Committee members, that we did have to make some tough choices, that the people of the State of Maine not only are expecting it but they deserve it. So, for the good Senator to state that we surrendered our responsibility, the good Senator may have to go no further than himself as far as where that responsibility lies, because it lies equally in all of the members here in the Legislature, in this Senate Chamber. Some of us have made proposals that would save money, specifically a co-pay for legislators on health insurance, which was defeated. That money could have been used to offset the tax impact on the people of our State. Yesterday it was proposed, in our Committee, that we employ a co-pay on all State employees to raise \$13 million. There are members of this Legislature, who are ready to make the cuts, who understand the implications of having a tax policy here, in the State of Maine, which isn't overburdening, which can attract businesses, which can attract individuals to settle here. The Senator raised a few questions as to how are we to take care of our neediest citizens? Early in this week there was an article which ranked Maine seventh on the healthiest states, and this ranking generally reflected the affordability of health care, the access to health care, and the overall health of the population. The state who ranked first was the State of New Hampshire. A state which does not have a sales tax. A state which does not have an income tax. I guess I applaud the good Senator who states that he would like to have no income tax in the State of Maine, that we would not like to have a sales tax. We see our neighbor to the west, a state who operates and who has the healthiest people in our country, with no sales tax and no income tax. Tough choices need to be made and we are losing people, businesses, every day to our neighbor to the west. I guess I would add that if we were to reduce spending, we have a secret weapon here in the State of Maine, and that secret weapon is a balanced budget. If we don't have the money, Senator Cleveland, well we can't spend it and then we will have to live within our budget, the same thing we ask every working Maine family to do. In my district there are families who, in years past, were working eight or ten hours overtime every week. They're not working that overtime now, they don't have the money coming into their household that they had last year. What do we ask of them? What do they ask of themselves? They are asked to live within their means, to make the tough choices. We, as a state, we, as the policymakers of this State, have to make those same choices. For us to say we have abdicated to the Governor is not true, because there are those of us

in this Legislature who are ready. We are ready to send the signal to the people of the State of Maine, and to the people outside of our State that yes, come to Maine because we will allow you to keep some of those dollars you have worked so hard for, we will allow you to keep it to go down to the local grocer to buy your groceries, to go down to the local furniture store to buy another couch, to buy a refrigerator, to buy a car. That's what will spur on this State, that will create more jobs for the people of our State. Not continuing to tax and tax and tax. The time has come, I think this is a bold step and I am ready, if this Legislature will send this matter forward, to work diligently to find those monies necessary to properly fund.

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

Senator **LAWRENCE:** Thank you Madam President, Men and Women of the Senate. Over and over again, if you read anything written by the business community, talked about by the business community, about what they say the State could do to improve the business climate in this State, the number-one thing, bar anything, is that the State should get its own fiscal house in order. Number one, the State should remove the gimmicks out of its budget. The State should pay its unfunded pension liability. The State should reduce its bonded indebtedness. They are not talking about a tax cut. They are not talking about those things. The number-one thing over and over again that the business community has called for is what we need to push for, and to remove those gimmicks from the budget. A prior speaker said simply because it was a Republican administration, the Legislature didn't have to approve those budgets. But the Governor is responsible to present a balanced budget, and he presented those gimmicks, and it was a Republican administration that did that over and over again. Gimmicks that are costing the people of Maine millions and millions of dollars. It wasn't in the budget that you don't pay your telephone bill, \$4 million of unpaid telephone bills was not in the budget and was never voted on by the Legislature. Before we address a cut in an income tax, we need to get the State's fiscal house in order. No family could run that way, no business could run that way. If there is going to be a tax cut, let it be a tax cut that directly affects the people of Maine, that affects them in the way they have said the most severe tax on them is a property tax. Let's cut the property tax before we cut income taxes. But, if we are going to propose a tax cut, how are we going to pay for it? No one here has suggested how you are going to pay for this income tax cut. We could go for all of the tax cuts in the world, if we don't discuss how we are going to pay for them how can we discuss what our priorities are? Somebody mentioned the Governor of New Jersey, and how she was able to cut income taxes when she reached office. There is one difference between New Jersey and Maine, New Jersey did not have a prior Republican administration that put millions of dollars of gimmicks into their budget that now an Independent Governor is trying to deal with, is trying to put the State's fiscal house back in order and trying to get us back on our feet, so that in the future we can think about doing these tax cuts, we can think about doing these things that are going to benefit the people of the State of

Maine. Before we do anything we have to put the State in good fiscal order, then we can talk about the good Senator from York's proposal to cut income taxes. Before we do that I want to talk about a cut in property taxes, because that's what my constituents are talking about.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Ferguson.

Senator **FERGUSON:** Thank you very much Madam President, Ladies and Gentlemen of the Senate. I think we have got off the ball a little bit here, talking about New Jersey. I would remind the good Senator from York, New Jersey did have the wisdom to have a Republican Legislature prior to Christie Todd Whitman being elected Governor. Having said that, this is a stabilization act. What it does, as I understand it, it reduces the rate over a period of time. What we are doing is locking in the revenue at, I believe, \$614 million for the next two years. As revenues grow, it will go into a stabilization fund. We are not really reducing the income tax, we are stabilizing it and reducing the rate over a four year period. That's how I understand the bill. If I am wrong, I would hope someone would correct me.

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

Senator **BUTLAND:** Thank you Madam President, Ladies and Gentlemen of the Maine Senate. It appears that some of us here today are engaged in selective memory loss. I can remember, during the first six years of my legislative tenure, the former Chief Executive proposing cuts and balanced budgets, and it being rejected by the then Majority Party. For anyone in this Legislature to try to divorce themselves from that responsibility is simply not right. But, I am encouraged when I hear the good Senator from Androscoggin, Senator Cleveland, give his philosophy on taxes and tax cuts, and I just want the good Senator to know that I will be the first one to sponsor and support any of the proposals that you have brought forth here today. As a matter of fact, as a member of the Legislative Council, I would be willing to change my normal practice and vote to see that that is allowed during this session. The only thing that I ask in return is a vote to cut, is a vote to prioritize and to cut. We do have a lot of needs here in the State of Maine, our citizens have a lot of needs. One of the things that I learned during the most recent election is that they have, at least in Senate District 26, they have a great desire to be allowed out from the overly burdensome tax policy that we have here in the State of Maine. This bill, which was introduced by the Legislator from Cumberland, and not the Legislator from York, is a step in the right direction. I suspect that we will be fairly evenly divided on this issue today. I also suspect that if the question was something like, "Do you agree with the following statement: the best welfare program is a job," that we would have almost total support for that. This proposal here will allow for increased job creation in the State of Maine. It will put more money back in the pockets of the average Maine taxpayer, and what are they going to do with that money? Are they going to put it under the mattress or bury it in a tin can in the back yard? If they are like most Americans they will

spend about 95% of that. They will spend it on goods and services. Those goods will be taxed, the State will receive more tax money. There will be the need for more services, it will create more jobs. With the other 5% they will put it in the bank, which will go toward capital creation, so that the small businesses who had a hard time finding banks willing to loan them money to take that dream, to take that idea to fruition, to create a product, to create jobs so they can do that. So, I hope that you will consider that. We are talking about creating jobs here, the best welfare program. I have heard almost everyone of you say it during my tenure here in the Legislature, this is your chance to put out. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you Madam President, Men and Women of the Senate. I rise to speak in favor of our making the property tax the first line of attack. I was speaking to a seventh grade class Monday morning, and I was reminded that the number of constituents in my district was the exact same number of fans who could fit into Fenway Park. During my campaign I bet I connected with half of those fans in Fenway Park, half of my constituents, 15,000 to 18,000. Of the issues that we were talking about 99.9 times that tax issues came up was the property tax issue. The property tax is stretched to the max. When we attack a tax I recommend that the first tax we attack is the property tax. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **MCCORMICK:** Thank you Madam President. I wonder if we all remember, I was going to pose this as a question, but I don't think that's really fair because it is an important, but small, tidbit of information, but in the \$400 million we have borrowed, or stolen, depending on your point of view, from the retirement fund in the last four years, and amortized over the next thirty-five, I wonder how many of us know or remember what the final year's payment is going to be. I happen to remember that because I was on the Committee when Governor McKernan stated at the beginning of budget negotiations, at the beginning, it was a line in the sand he had to have, that I will have \$200 million this fiscal year from the retirement system. Nobody could fight it, we tried to fight it, so we have it. So what did we do? We extended our amortization, which is like a mortgage, to thirty-five years. It is going to end in 2020 something, and that final payment is going to be equal to what our entire budget is now. I guess what I would like to know is, how are we going to pay that, given this scheme? I would like an answer to that. Have the Senators, who are bringing forth this proposal, a plan for us to be able to pay off our ever increasing, each year it is increasing, debt payment to this very important debt, to this huge debt? Given the proposal before us, I do not understand it, I would love for it to be true. I would love to be able to cut taxes and limit them and lower them in the way that is being proposed, but I do not understand how we can do that and pay that one particular bill. I pick on that bill, Senator Cleveland has raised many other bills that we need to

pay, but this particular bill has been documented. I have graphs on it, they are wonderful graphs on how big the debt is, how much the interest on the debt is, how much we have to pay, and how many years we have to pay it. The bond houses know it. It is the most official debt that this State has and we need to pay it. We are also rated, I think we are the bottom one or two of the worst funded and healthy retirement systems in this country because of our borrowing, because of our hands in the cookie jar. So how are we going to pay that? Will this proposal that we have before us allow us to pay off that amortization schedule on time?

THE PRESIDENT PRO TEM: The Senator from Kennebec, Senator McCormick, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you Madam President. I would remind my colleagues that if they really want to be recognized, that they speak to the President and ask, rather than just standing up. It's quite an embarrassment to stand up there and wait for the President to see you.

Now I would like to get to the subject at hand, if I might. This bill will limit the personal income tax revenues available for appropriations to \$614,625,000, as the good Senator from Oxford, Senator Ferguson, mentioned. Money in excess of that would be used to lower the tax rate until a 20% reduction is achieved. I would like to point out that the report out of the Taxation Committee was ten to three, ten in favor. I was one of those who was in favor of this. Then I went home and sat down to decide how we are going to be paying for some of the things that we have out. When we talk about doing away with the Governor's, and I know that Majority and Minority have been mentioned here, when we talk about doing away with the gimmicks that were in the last two years, or four or eight years, budgets, I see this as a gimmick, a political gimmick to gain some advantage with the people back home to point out that I sponsored a bill for this, or I sponsored a bill for that, or I voted for this bill, or I voted for that bill. Sure, the Governor might have vetoed it, but you know where I stood. This whole thing is nothing but a tax cap. I would like to point out to you, and this is a rehash of Governor McKernan's proposal a couple of years ago, in the first year we would lose \$27 million of revenues available for budgets, for bond repayments, for the retirement fund. For those same causes we would lose \$59 million in the second year, \$93 million in the third year, \$127 million in the fourth year, and \$165 million in the fifth year. If you really want to give people a tax break, what you really ought to be doing is working to make sure that you are not mandating as much as we have on the municipalities, so that they have to increase your property taxes. Not only do your property taxes increase on an annual basis, but in most cases, the valuation of your property gives you that double whammy. So, it is sort of an unfair advantage.

The Senator from Androscoggin, Senator Cleveland, already talked about the \$45 million shortage in the budget. Representative Kerr, the House Chair of

Appropriations, had refused to admit that that was there. But the people who service us, in the Financial Office, had admitted that yes it was, but there was maybe \$6 million, so the hole might only be \$39 million. How do you go about doing that? You cut out a thousand or fourteen hundred employees. If we are talking about this much money than you are starting to talk about four or five or six thousand employees that would have to go. It makes you wonder if maybe now municipal government would be bigger than State government at some point in time. We certainly are out of balance. And this is only one of several bills that are coming before you. Madam Chair, the Senator from Oxford, Senator Hanley, was allowed to speak on the hospital tax, be it very briefly, and I would like to run very briefly through a list of things that are coming before us without debating it.

THE PRESIDENT PRO TEM: The Senator may proceed.

Senator **CAREY:** Thank you Madam Chair. We have a one cent drop in the sales tax. Interestingly enough, that will take place in the last quarter of the fiscal year that is down the road from here, so it really doesn't affect us too much, except that in the following year it could run to \$116 million. Interestingly enough \$116 million happens to be what we are looking for for the hospitals. There is a bill that is going to reduce our revenues by \$23 million in the next year, and \$37 million in the following year, by doing away with the snack tax. In its present form there is a bill which would eliminate the hospital tax, just shut it right off, there's another \$116 million that we have lost. There are other things, there is a bill that would do away with the nursing home tax at \$37 million. When you add all of these things up you are really getting well over \$300 million, and that was borne out by the Appropriations Committee in their deliberations yesterday, \$306 million they would be short. It's one thing to try to control the growth of government, it's yet another thing to dismantle it completely.

The Taxation Committee is working on a bill to reduce, and eventually remove, the personal property tax, and the Governor has \$5 million in his budget for that. Now that has a starting date. Those people before a certain date don't get any relief whatsoever, but the people after that date will have \$5 million to help them pay their property tax. It's not illegal because there is another gimmick, unfortunately, which says that industry A will pay its new personal property tax, except that the government will reimburse them. So theoretically they have paid their tax. We talk about businesses having trouble, this L.D. 238, addresses directly the personal income tax. So business is not really related to this particular bill. If you really want to do something for all of the people, you would increase the exemption from the current \$2100 per exemption, so that everybody will benefit, not just those at the top. You might be interested in knowing that the first 20% of the people in the State of Maine have an average income, before taxes, of \$11,200. Then, between 20% and 40%, the average income is \$23,600. Those people get taxed at a tax rate of seven-tenths of one percent. The third level, which takes you up to 60%, those people in that bracket, between 40% and 60%, are earning

\$34,000 and their net tax on the income tax is 1.9%. The fourth level, which takes you between the 60% and 80%, those people are averaging \$45,700, which is not a tremendously big amount of money, and they are getting taxed at 3.2%. Interestingly enough now, the next 15%, those between 80% and 95%, are averaging \$67,500 and they are getting taxed at a rate of 4.3%. The next 4%, that takes you from 95% to 99%, their average income is \$157,300, and they are asked to pay 5.9% on adjusted gross income, and those obviously would be the people who are in the fifth category, to find the best accountant to make sure they don't pay too many taxes. The top 1% in the State of Maine is earning, on average, \$609,700, and they pay 6.9% of their adjusted gross income. If they're making, for tax purposes, \$609,000, you can bet that they are well over that before they take all the deductions that we may or may not have in the loophole system. There are thirteen states that have a lower income level than the State of Maine, and yet only three of those tax lower than we do. But up in the upper echelon, that very top 1%, there are sixteen states that have a lower income level than we do, but there are thirty-seven states total that tax lower at the top level. This bill is geared for the people at the top of the scale, very simply. I would urge you very seriously to either kill this thing, even with the report that I signed, or else work towards making it fair for all, and take the exemption of \$2100 and make it so that it is higher for every single tax paying citizen in the State.

Off Record Remarks

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

Senator **HATHAWAY:** Thank you Madam President. I would just like to assure you that if I do stand to speak without calling your name, I do that only out of respect and deference to the Senator who has seniority to me from Kennebec, Senator Carey. I certainly mean no disrespect to the Chair. I would like to address the good Senator from Kennebec's, Senator McCormick's, questions on how to pay. My question to her would be not how to pay, but who will pay? Because it will soon be the day in this State, if we continue to raise our spending as we are doing now, and refusing to cut our taxes, we will have no one left to pay. When welfare pays more than work we are in deep trouble. I would like to just mention two states that maybe haven't been addressed today in our talks. One is Florida. In case you didn't know we are driving our senior citizens out of the great State of Maine so that they can spend six months and one day in the State of Florida so they can avoid paying their income tax to the State of Maine. As has been mentioned many times, we also border the State of New Hampshire, which, if you would like to come visit York County I can show you and introduce you to small business owner after small business owner who is going out of business or deciding that

it is no longer profitable to be in business, nor is it profitable to employ any people. In fact they are laying off their people because all the small business owners are moving to New Hampshire to operate their businesses, and all of the customers in York County are driving to New Hampshire to buy their goods so they don't have to pay their 6% sales tax, not just to save 6% but because they are protesting the previous actions of this legislative body who had perhaps good intentions when they made a temporary sales tax permanent. I assure you the protest over the high tax burden in this State is great and it is getting greater. In November people voted at the ballot box, today they are voting with their feet, and soon we will have no one left to pay the increased spending of program after program. Thank you.

Senate at Ease

Senate called to order by the President Pro Tem.

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

Senator **LAWRENCE:** Thank you Madam President, Men and Women of the Senate. I need to apologize to my good colleague from Cumberland, Senator Butland. I appreciate him jogging my memory about some of the spending cuts proposed by the previous administration. It also jogged my memory about the \$300 million of taxes proposed by the previous administration and sponsored by the Republican leadership in the House. It also jogged my memory about the \$14 million in the swap of the Maine turnpike down in my part of the State that resulted in twenty-five cents fee at the tollbooth in York. I also remember the shut-downs and furlough days. I also remember the tax and match, which wasn't a tax when it was proposed, apparently, but now it suddenly has become a tax. I also remember the payroll push that has cost the State of Maine millions of dollars. I also remember the underfunding of the pension program. So, before we pass this bill, let's get our own financial house in order. Let's clean up the mess that was left before we create another one.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Madam President. I will be brief. I have been excited by the debate this afternoon, very excited, because I think it sets out the differences in philosophies that we run on. I think the common denominator for me, in my district, it that government is too big, it's too intrusive and it costs too much. That's the underlying problem. The good Senator from York, Senator Lawrence, has said we need to get our fiscal house in order before we cut taxes. I don't think they are mutually exclusive. I think we can do them in tandem. In fact, as a member of the Committee on

Appropriations, I have been working very diligently in eliminating all of the gimmicks and still being able to reduce the tax burden on the people of the State of Maine. Let me remind the members of this chamber that the \$4 million of unpaid telephone bills that have been referenced, I have had an opportunity to speak with the Commissioner of the Department of Administration and Finance, and I have found that this problem was started in the Brennan Administration. I think, whether or not where it starts, I'm willing to say this is where it is going to end. The gimmicks are going to end, the tax burden on the people of the State of Maine has got to start to be reduced. This is the start, now is the time.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you Madam President, Members of the Senate. Unless Brennan was Governor in 1991, the problem did not originate with him. It was in a matter of putting in new equipment and just forgetting to pay bills. If you and I, at home, had run up a bill of \$50 or \$70, and we had not paid it within a month or two, we would be using tom toms to communicate with the neighbors because our telephone lines would have been out. I have recommended many times to the New England Telephone people, that they shut the telephone lines down for the State of Maine, and that by noon they could hook them back up again, because somewhere along the line the \$4 million would have appeared. It was said a little earlier that taxes are the real big problem. Anybody that took the tour with the Foundation earlier this year, both to the west, to the east, and the north, and over into the northwest, would know, when the questions were asked, Workers' Comp was a problem, and I don't know that any of you could doubt that. It is being alleviated but it is still some sort of a burden. The biggest problem that everyone was having was licensing and regulation. Those are the things that were bugging business. Those are probably the main concern of people who want to come into this State with a business. So, it is not the individual income tax. I place a high priority on doing away with the tax on hospitals, and with the Governor's bill, will be able to get rid of half of that anyways this year. I'm tickled pink that the Appropriations Committee has seen fit to go along with that. I really appreciate what they are doing in this matter. Another one that has a very high priority with me is the nursing homes and the excise tax on nursing homes. That is costing some people \$300 to \$400 per month, which could be going towards their daily care. That has got to go at some point in time, but we need dollars to pay for those things. Obviously, one of my highest concerns is the circuit breaker, to make sure those people don't lose their homes, if we can somehow or other give them some money for their taxes. But we do need funds to do all of these things. I had asked leadership, on a couple of occasions if these tax bills, these tax reduction bills or tax increase bills, could be put into the second session, so that we would know where we stand at the end of this particular fiscal year, that is coming up. For some reason there has been a refusal to do that. If we kill these bills, they will not be available for us to work with in the next session, and some of these are worthy of it.

I would point your attention to L.D. 855, which is a Constitutional amendment that is sponsored by my friend, the Senator from Oxford, Senator Hanley. I am very supportive of that, because that will do what we want it to do, as far as putting money away to pay for construction over \$1 million on public buildings.

THE PRESIDENT PRO TEM: The Chair would request that the Senator from Kennebec, Senator Carey, would confine his remarks to the bill in question.

Senator **CAREY:** Thank you Madam President. I think I have gotten the gist of what I wanted to say as far as that bill is concerned. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by Senator **HATHAWAY** of York that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

A vote of Yes will be in favor of **ACCEPTANCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, BUTLAND, CARPENTER, CASSIDY, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, MILLS, PENDEXTER, SMALL, STEVENS

NAYS: Senators: BERUBE, BUSTIN, CAREY, CLEVELAND, ESTY, FAIRCLOTH, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, O'DEA, PARADIS, PINGREE, RAND, RUHLIN, and the PRESIDENT PRO TEM, Senator GOLDTHWAIT

ABSENT: Senator: CIANCHETTE

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **HATHAWAY** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-115) **READ** and **ADOPTED**.

The Bill, as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

Off Record Remarks

Senate at Ease

Senate called to order by the President Pro Tem.

Off Record Remarks

THE PRESIDENT PRO TEM was granted unanimous consent to address the Senate on the Record.

THE PRESIDENT PRO TEM: I would like to state, for the Record, my thanks to the real Senate President for offering me this very educational opportunity to preside today. Also, my very sincere thanks to the Secretary of the Senate, May Ross, who is responsible for any of my brilliance and none of my errors. Thank you, May.

On motion by **THE PRESIDENT PRO TEM**, **ADJOURNED** until Thursday, May 18, 1995, at 9:30 o'clock in the morning.