

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Seventeenth Legislature
OF THE
State Of Maine

VOLUME V

FIRST REGULAR SESSION

Senate

June 19, 1995 to June 30, 1995

FIRST CONFIRMATION SESSION

September 14, 1995

FIRST SPECIAL SESSION

House of Representatives

November 28, 1995 to November 30, 1995

Senate

November 28, 1995 to November 30, 1995

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

In Senate Chamber
Tuesday
June 27, 1995

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

Prayer by the Honorable Philip E. Harriman of Cumberland.

SENATOR PHILIP E. HARRIMAN: Good morning. During the debate on the writing of the nation's Constitution, our founding fathers reached an impasse. Benjamin Franklin suggested that the representatives from the colonies take a moment to pray for guidance. He said, "If God's eye is on the sparrow, he is certainly interested in the work that we have undertaken." Will you please join me now in a prayer to your God?

We thank you, God, for the special honor you have bestowed upon us, to serve our fellow humans in this place at this time. We ask today, God, for patience, guidance, and understanding towards those people who we may disagree with. As we gather this morning, God, to fulfill and finish our constitutional responsibilities, let us be mindful that what lies behind us, and what lies before us, is miniscule compared to what lies within us. Instill within us, God, your spirit of love, devotion to the common good, and to those people less fortunate than us. Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Require Notification to the Landowner When Land Is Being Considered for Placement in a Resource Protection Zone"

H.P. 609 L.D. 819

In House, June 23, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-492) AS AMENDED BY HOUSE AMENDMENT "A" (H-574)**, thereto.

In Senate, June 26, 1995, Minority **UGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House, that Body having **INSISTED**.

Senator **KIEFFER** of Aroostook moved that the Senate **ADHERE**.

Senator **RUHLIN** of Penobscot moved that the Senate **RECEDE** and **CONCUR**.

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

Senator **LORD:** Thank you, Mr. President, my Learned Colleagues. I was quite disappointed yesterday that this didn't pass in the Senate. As a landowner, I think it's a right of everybody that has land that is going to go into a special purpose and take away their rights, that they be notified. I think there was a misunderstanding as to whether or not this had to be first-class mail or a certified mail. I would like to read you the Statement of Fact on Amendment "A" of this bill. It says, "The amendment replaces the bill. It specifies that the municipality is a notifying agent, whether the shoreland zoning ordinance is proposed by the municipality or by the Board of Environmental Protection. It also removes the requirement that notice be given by certified mail, and requires that notice be sent by first-class mail, which may be certified mail with return receipt requested at the option of the municipality. The amendment specifies the timing of the notice and has a municipal mandate preamble." What this means is that it can be done strictly by a first-class mail, which is thirty-two cents. I don't believe that this is an imposition and a big expense to municipalities. I think that people have a right to know. Lots of times you get notice that's either in the paper or posted around the town, but the landowner does not get notification when his rights are being taken away from him. He should be notified personally. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **RUHLIN** of Penobscot that the Senate **RECEDE** and **CONCUR**.

The Chair ordered a Division.

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.

10 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **RUHLIN** of Penobscot to **RECEDE** and **CONCUR**, **FAILED**.

Senator **RUHLIN** of Penobscot moved that the Senate **INSIST** and **ASK FOR A COMMITTEE OF CONFERENCE**.

Senator **KIEFFER** of Aroostook requested a Division.

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

Senator **RUHLIN:** Thank you, Mr. President, Honorable Senators of Maine. What the good Chair of the Natural Resources Committee told you is exactly the facts. It is technically a mandate, but I don't consider a first-class stamp notification to people who own land in their community to be much of a burden on a community if they want to take and zone it so that person's use of that land is going to be altered. I therefore ask that you allow us to go to a Committee of Conference, to work this out between the two bodies and see if we can't come up with a bill that will, in fact, protect the landowner's right in this case. I ask that you go along with the motion to Insist and Ask for a Committee of Conference. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **RUHLIN** of Penobscot that the Senate **INSIST** and **ASK FOR A COMMITTEE OF CONFERENCE**.

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 9 Senators having voted in the negative, the motion by Senator **RUHLIN** to **INSIST** and **ASK FOR A COMMITTEE OF CONFERENCE**, **PREVAILED**.

Sent down for concurrence.

Non-concurrent Matter

Bill "An Act Regarding Timothy Harkins and Maine State Retirement System Benefits"
H.P. 1140 L.D. 1583

In House, June 26, 1995, **REFERRED** to the Committee on Labor.

In Senate, June 26, 1995, Bill and Accompanying Papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

Comes from the House, that Body having **INSISTED**.

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

Joint Order

The following Joint Order:

ORDERED, the Senate concurring, that Bill, "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997," H.P. 516, L.D. 706, and all its accompanying papers, be recalled from the Legislative Files to the House.

H.P. 1142

Comes from the House **READ** and **PASSED**.

Which was **READ**.

THE PRESIDENT: The pending question before the Senate is **PASSAGE** of the Joint Order, in concurrence.

The Chair ordered a Division.

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.

26 Senators having voted in the affirmative and No Senator having voted in the negative, the Joint Order was **PASSED**, in concurrence.

Under suspension of the Rules, ordered sent forthwith.

COMMUNICATION

The Following Communication:

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333-0002**

June 26, 1995

Honorable May M. Ross
Secretary of the Senate
117th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to adhere to its former action on Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997" (EMERGENCY) (H.P. 516) (L.D. 706)

Sincerely,
S/Joseph W. Mayo
Clerk of the House

S.C. 262

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

Representatives:
TREAT of Gardiner
RICHARDSON of Portland
JONES of Bar Harbor
LAFOUNTAIN, III of Biddeford
WATSON of Farmingdale
HARTNETT of Freeport
MADORE of Augusta
LEMKE of Westbrook

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-595)**.

Signed:

Representatives:
PLOWMAN of Hampden
NASS of Acton

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

Which Reports were **READ**.

On motion by Senator **MILLS** of Somerset, the Majority **UGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **JUDICIARY** on Bill "An Act to Implement the Recommendations Resulting from the Study Concerning Parental Rights and Responsibilities When Domestic Abuse is Involved"

H.P. 808 L.D. 1125

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-621)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-621)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-621) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act Making Comprehensive Changes to the Child and Family Services and Child Protection Act"

H.P. 948 L.D. 1337

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

Signed:

Senators:
MILLS of Somerset
PENDEXTER of Cumberland
FAIRCLOTH of Penobscot

Senate

Ought to Pass As Amended

Senator **MICHAUD** for the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Promote the Health of Maine's Children by Preventing Illegal Tobacco Sales"

S.P. 306 L.D. 845

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-339)**.

Which Report was **READ**.

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

SECOND READERS

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

House As Amended

Bill "An Act Adopting the Uniform Health-care Decisions Act"

H.P. 182 L.D. 230
(C "A" H-605)

Resolve, to Reduce the Economic Impacts of the Clean Air Act on Maine's Citizens and Businesses (Emergency)

H.P. 459 L.D. 625
(C "A" H-608)

Bill "An Act to Implement the Recommendations of the People with Disabilities Access Commission"

H.P. 837 L.D. 1168
(C "A" H-604)

Bill "An Act to Change the Atlantic Sea Run Salmon Commission"

H.P. 922 L.D. 1298
(H "A" H-615 to C
"A" H-607)

Bill "An Act to Amend Certain Laws Affecting the Department of Environmental Protection" (Emergency)

H.P. 989 L.D. 1397
(C "A" H-552 and H
"A" H-549)

Bill "An Act to Reduce Theft in the Forest Products Industry"

H.P. 1065 L.D. 1500
(C "A" H-612)

Bill "An Act to Create Uniformity in Laws Governing Various Professional Licensing Boards and Commissions"

H.P. 1102 L.D. 1549
(C "A" H-592)

Bill "An Act to Amend the Emergency Planning and Community Right to Know Laws"

H.P. 1107 L.D. 1555
(C "A" H-603)

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

Bill "An Act to Enhance Recycling by Ensuring Raw Materials for Businesses that Recycle and to Fund Household Hazardous Waste Collection Programs"

H.P. 805 L.D. 1122
(C "A" H-550)

Which was **READ A SECOND TIME**.

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

Bill "An Act to Address a Shortfall in the Maine Ground Water Oil Clean-up Fund and Change the Financial Assistance Program for Owners of Underground Oil Storage Facilities" (Emergency)

H.P. 1119 L.D. 1563
(C "A" H-610)

Which was **READ A SECOND TIME**.

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

Bill "An Act to Ensure That Rulemaking by Agencies Does Not Exceed the Intent of Authorizing Legislation"

H.P. 806 L.D. 1123
(C "A" H-584)

Which was **READ A SECOND TIME**.

Senator **LONGLEY** of Waldo moved that the Senate **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, in **NON-CONCURRENCE**.

On motion by Senator **KIEFFER** of Aroostook, Tabled until Later in Today's Session, pending the motion by Senator **LONGLEY** of Waldo to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, in **NON-CONCURRENCE**.

Senate As Amended

Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (Emergency)

S.P. 251 L.D. 648
(C "A" S-332)

Bill "An Act to Transfer Oversight of Commercial Driver Education Programs to the Secretary of State"

S.P. 477 L.D. 1301
(C "A" S-331)

Bill "An Act to Create the Propane and Natural Gas Professional Act of 1995"

S.P. 498 L.D. 1357
(C "A" S-302)

Bill "An Act to Streamline Permit Procedures for Freshwater Wetlands in the State"

S.P. 570 L.D. 1544
(C "A" S-336)

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

Sent down for concurrence.

Bill "An Act Relating to the Retirement Benefits for the Maine Warden Service"

S.P. 473 L.D. 1269
(C "A" S-327)

Which was **READ A SECOND TIME.**

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

ENACTORS

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

An Act to Amend the Laws Pertaining to the Duties of Skiers and Tramway Passengers by Defining Inherent Risks

H.P. 801 L.D. 1118
(C "A" H-404; H "A" H-575)

An Act Concerning Plastic Holding Devices Used in Packaging

H.P. 940 L.D. 1329
(C "A" H-273)

An Act to Clarify the Animal Welfare Laws

S.P. 497 L.D. 1356
(C "A" S-298)

An Act to Change the Licensing Year for Certain Marine Resource Licenses and to Establish an Eel Fishing License

H.P. 1032 L.D. 1451
(C "A" H-528; H "A" H-573)

An Act to Clarify Terms and Increase Effectiveness of the Lead Poisoning Control Act

H.P. 1069 L.D. 1504
(C "A" H-556)

An Act to Prevent the Use of Correctional Facilities for the Detention of the Mentally Ill

H.P. 1072 L.D. 1507
(C "A" H-554)

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

An Act to Require Insurers to Reimburse Insureds with Inborn Errors of Metabolism

H.P. 401 L.D. 536
(C "A" H-468)

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

Senator **HARRIMAN** of Cumberland requested a Division.

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.

27 Senators having voted in the affirmative and 2 Senators having voted in the negative, 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.

An Act Regarding Insurance Coverage for Mental Illness

H.P. 432 L.D. 595
(C "A" H-521)

On motion by Senator **HANLEY** of Oxford, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT.**

An Act to Identify for Sentencing Purposes Certain Factors That Aid in Predicting High-risk Sex Offenders

H.P. 900 L.D. 1276
(C "A" H-513)

On motion by Senator **HANLEY** of Oxford, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT.**

An Act to Allow Involuntary Commitments at Hospitals under Contract with the Department of Mental Health and Mental Retardation

H.P. 1084 L.D. 1526
(C "A" H-563)

On motion by Senator **HANLEY** of Oxford, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT.**

An Act to Deregulate the Costs and Revenues Associated with Acute Care Provided to Involuntarily Committed Patients within the Hospital Care Finance System

H.P. 1110 L.D. 1558
(C "A" H-555)

On motion by Senator HANLEY of Oxford, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Emergency

An Act to Abolish the Maine Waste Management Agency

H.P. 181 L.D. 229
(C "A" H-487)

Senator HANLEY of Oxford moved to place on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Senate at Ease

Senate called to order by the President.

On motion by Senator HANLEY of Oxford, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Emergency

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997

H.P. 580 L.D. 785
(C "A" H-557)

On motion by Senator STEVENS of Androscoggin, placed on the SPECIAL HIGHWAY TABLE, pending ENACTMENT.

Emergency

An Act Relating to Criminal Forfeitures

H.P. 1058 L.D. 1487
(C "A" H-568)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senator having voted in the 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.

Emergency

An Act to Appropriate Funds for the Building Alternatives Program

H.P. 1120 L.D. 1564
(C "A" H-529)

On motion by Senator HANLEY of Oxford, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Maintain the Current Amortization Schedule for Unfunded Liabilities and to Prohibit Future Unfunded Liabilities of the Maine State Retirement System

S.P. 70 L.D. 158
(C "A" S-276)

Senator HANLEY of Oxford moved to place on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Senate at Ease

Senate called to order by the President.

On motion by Senator HANLEY of Oxford, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Mandate

An Act to Regulate Hybrid Wolves

S.P. 360 L.D. 986
(H "A" H-566; H "B"
H-567 to C "A" S-287)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 24 Members of the Senate, with 2 Senators having voted in the negative, and 24 being 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.

Off Record Remarks

Senate at Ease

Senate called to order by the President.

Emergency Mandate

An Act to Amend the Charter of the Corinna Water District

H.P. 1127 L.D. 1572
(C "A" H-579)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 27 Members of the Senate, with No Senator having voted in the negative, and 27 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.

Off Record Remarks

Senator **BUSTIN** of Kennebec was granted unanimous consent to address the Senate off the Record.

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

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

Resolve

Emergency Mandate

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1995

H.P. 1137 L.D. 1580

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 27 Members of the Senate, with No Senator having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

On motion by Senator **MILLS** of Somerset, **RECESSED** until 11:30 o'clock this morning.

After Recess

Senate called to order by the President.

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

SECOND READER

Under suspension of the Rules, all matters thus acted on, with the exception of those matters having been held, were ordered sent forthwith.

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

House As Amended

Bill "An Act to Implement the Recommendations Resulting from the Study Concerning Parental Rights and Responsibilities When Domestic Abuse is Involved"
H.P. 808 L.D. 1125
(C "A" H-621)

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

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

SENATE REPORT - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Promote the Health of Maine's Children by Preventing Illegal Tobacco Sales"
S.P. 306 L.D. 845

Report - **Ought to Pass as Amended by Committee Amendment "A" (S-339)**.

Tabled - earlier in the day by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE** of the Report.

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

Senator **BEGLEY** of Lincoln requested a Division.

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

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

Bill "An Act to Enhance Recycling by Ensuring Raw Materials for Businesses that Recycle and to Fund Household Hazardous Waste Collection Programs"
H.P. 805 L.D. 1122
(C "A" H-550)

Tabled - earlier in the day by Senator **CARPENTER** of York.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

(In House, June 26, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-550)**.)

(In Senate, earlier in the day, **READ A SECOND TIME**.)

On motion by Senator **CARPENTER** of York, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-550), in concurrence.

On further motion by the same Senator, Senate Amendment "A" (S-344) to Committee Amendment "A" (H-550) **READ**.

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

Senator **McCORMICK**: Could somebody explain what this is?

THE PRESIDENT: 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 York, Senator **Carpenter**.

Senator **CARPENTER**: Thank you, Mr. President. I failed again. I meant to explain that in my capacity as Chair of Bills in the Second Reading, they hand me all of the technical corrections to amendments. That's what it is. Thank you.

On motion by Senator **CARPENTER** of York, Senate Amendment "A" (S-344) to Committee Amendment "A" (H-550) **ADOPTED**.

Committee Amendment "A" (H-550), as Amended by Senate Amendment "A" (S-344), thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

Sent down for concurrence.

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

Bill "An Act to Address a Shortfall in the Maine Ground Water Oil Clean-up Fund and Change the Financial Assistance Program for Owners of Underground Oil Storage Facilities" (Emergency)
H.P. 1119 L.D. 1563
(C "A" H-610)

Tabled - earlier in the day by Senator **CARPENTER** of York.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

(In House, June 26, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-610)**.)

(In Senate, earlier in the day, **READ A SECOND TIME.**)

On motion by Senator **CARPENTER** of York, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-610), in concurrence.

On further motion by the same Senator, Senate Amendment "A" (S-345) to Committee Amendment "A" (H-610) **READ** and **ADOPTED**.

Committee Amendment "A" (H-610), as Amended by Senate Amendment "A" (S-345), thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

Sent down for concurrence.

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

Bill "An Act to Ensure That Rulemaking by Agencies Does Not Exceed the Intent of Authorizing Legislation"

H.P. 806 L.D. 1123
(C "A" H-584)

Tabled - earlier in the day by Senator **KIEFFER** of Aroostook.

Pending - the motion by Senator **LONGLEY** of Waldo to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, in **NON-CONCURRENCE**.

(In House, June 26, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-584).**)

(In Senate, earlier in the day, **READ A SECOND TIME.**)

The President requested the Sergeant-at-Arms to escort the Senator from Aroostook, Senator **KIEFFER** to the Rostrum where he assumed the duties as President Pro Tem.

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

The Senate called to Order by the President Pro Tem.

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

Senator **LONGLEY:** Thank you, Mr. President, Colleagues in the Senate. I rise just to go on Record with my thoughts on this bill. I think there might be a problem. I am quite sure what is before you is not the solution and I would like to quickly explain. It basically has to do with rule making. The Legislature passes a rule, the regulatory agency promulgates a regulation. As they do it, as is on the books now, a fact sheet comes back to the Executive Council, who then distributes this information to the committee of jurisdiction. The committee of jurisdiction has notice, in addition, of when these hearings are coming up, and there is plenty of oversight. What this bill does is say when we pass a law and the regulatory agency starts to develop a regulation, that we decide what category it fits in, procedural or substantive. Procedural, as far as I can figure, includes when the agency decides to develop a form, or when they decide something nonsubstantive, something procedural, not pivotal. In my opinion this means possibly a couple of extra hearings and definitely a couple of extra months of work for us. Basically, at a hearing we decide if it is procedural or substantive, it's the second bite of the apple, if you didn't like the law, you certainly aren't going to like the reg resulting and you get a second chance to show up at a hearing and argue that this is substantive. Substantive means that once the agency promulgates that rule, it is temporary until it is approved by the legislature. It doubles the workload. In addition, if it happens that the rule is ready when we are not, it enters what I call a dead zone. In my opinion this means a good rule, say on the regulating of hybrid wolves, or whatever issue out there that is a good rule, it enters a dead zone and cannot be enforced until the legislature re-reviews it. In my opinion, we have a full plate now, this doubles up on the full plate. More importantly, there are provisions on the books that allow us oversight and if we just do our job well, it's already on the books. But if you want to double up on the workload, be my guest. Thank you.

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

Senator **CIANCHETTE:** Thank you, Mr. President. I made some arguments about this the other day. I won't repeat those arguments. There is some information I would like the Senate to know about this situation of rules. As you may remember, the Governor signed an Executive Order earlier this year, when he first took office, to have all of the existing rules categorized and computerized so that we could understand them. The Governor has a strong feeling, as do some of the rest of us, that the rule making thing has run wild without much control. That will be done, he believes, this year, and we'll finally have the rules on computer so people can find out what they are. Right now, I believe, there are

thirteen volumes and each volume is about three inches thick of the existing rules in the State. Those will be categorized. This bill only deals with prospective legislation. The items that would naturally come back to the Committee are the substantial rules. Let me just read the legislation that describes what a substantial rule is. "Major substantive rules are rules that, in the judgement of this Legislature, require the exercise of significant agency discretion, or interpretation in drafting, or, because of their subject matter or anticipated impact, are reasonably expected to result in a significant increase in the cost of doing business, a significant reduction in property values, the loss or significant reduction of government benefit or services, the imposition of state mandates on units of local government as defined in the Constitution of Maine, or other serious burdens on the public or units of local government." Now, that is the conditions that the Legislative Committee should ask for those rules to come back to be reconsidered by the legislature. I think it's very responsible and I think it's an excellent bill and I hope you will vote against the motion to Indefinitely Postpone. Thank you.

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

Senator CLEVELAND: Thank you, Mr. President, Men and Women of the Senate. I rise to ask you, as well, to consider the motion on the floor and to support the Indefinite Postponement of this bill and all of its accompanying papers. I'm going to be brief, but let me share with you two reasons, two concerns, that I have. The first involves what I think to be an extraordinary workload that will be put back on committees of jurisdiction. You all serve on those committees. We barely get done with the workload that we have on our regular bills that are submitted, and our nominations and confirmations if you have those responsibilities as well. Public hearings will have to be shortened. Notice will have to be suspended from public hearings because we will have bills that are rushed and we have to act on them at the last moment. It seems to me that when you pass laws, and you establish public policy, to have us come back and review all of those laws automatically, if they have made a major substantive change, is going to put a tremendous burden on the legislative process, not to mention, I think, stall or keep us from acting on important legislation because we won't be in session and therefore we won't be able to approve those laws. So, the first reason is I think it's going to be a major burden. Let me just remind you as well, my good friend from Lincoln County, knows well of this, we just passed last week L.D. 1348. L.D. 1348 is a reformed process of the periodic review of programs and agencies. We have not just delegated to the committees of jurisdiction that they are going to do audits and management reviews of all of the agencies under their area. No additional staff, no additional time, no additional resources. A process that used to be done by a separate committee and used to take all year. My concern is we are piling one requirement after another on committees and we are going to overburden them, slow down the legislative process and wind up with more difficulty, not less. Finally, let me say that I'm concerned, my second reason, is that often

times committees are split on the bills that are passed. They go out seven to six, or perhaps even a minority report, if this year is any example of what the future may hold, on a twelve to one report the minority of one seems to pass. It seems to me that this may be another opportunity for those who didn't agree with the policy or the action in the first place not to discuss the rule, but to rediscuss and redebate the policy and have another chance at defeating the purpose and intent of that. It seems to me that that is counterproductive to the legislative process. For those reasons, and many others, I would hope that you will support the prevailing motion. Thank you.

The President Pro Tem requested that the Sergeant-at-Arms escort the Senator from Cumberland, Senator **BUTLAND** to the Rostrum where he resumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Aroostook, Senator **KIEFFER** to his seat on the floor.

Senate called to Order by the President.

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

Senator HALL: Thank you, Mr. President, Ladies and Gentlemen of the Senate. This bill is probably the most important bill that has been worked on this year. Some years ago, when the legislature gave away their power by creating the Administrative Procedures Act, it was done so under the assumption that the departments then could take care of their little changes and so on and so forth, and the legislature wouldn't have to be bothered with it. It sounded good, I suppose, at the time. I can remember the department I worked for was supportive of it at the time. Well, it's been abused. It's been abused very bad. It's time now for us to take back some of that power. Not all of it, but some of it. Our citizens are unable to continue at the rate that the rules and regulations have been coming down upon them. We don't even know, until after the fact. Our citizens do not know. Yes, they are advertised in the local newspapers. Yes, there are public hearings. Yes, no one attends, until it comes down, passes, bang. We have created a monster and it's time to trim it down so that we can live with it. Please vote against the present motion.

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

Senator LONGLEY: Thank you, Mr. President, Colleagues in the Senate. If we don't know, we are not doing our job. Thank you.

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

Senator **LORD:** Thank you, Mr. President, my Learned Colleagues. For eight years I have been fighting with DEP because of the rules and regulations that have come out of there. I could give you examples, but I think what will happen if we pass this bill is this, they know if they overstep their bounds it will come back to us and we will make changes. I think there will be a lot more careful of what their rules and regulations are to make sure that they are within the parameters of what this legislature passed. I'm going to give you a good example. Back when Merrill Wass, down in Portland, was loading junk steel to go overseas, they were loading all night long. There was a bill that came in to limit their loading hours, and we did. When the rules and regulations came out, there was a paragraph in there that said every developer who has a development must have a noise pollution abatement plan. During our hearings this wasn't even mentioned, but there it was in there. So what did I have to do the next year, I had to put a bill in, we had to have a hearing. This takes time and it takes money. I think this can be avoided if we pass this law and I hope you will vote against the motion to Indefinitely Postpone. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **LONGLEY** of Waldo that the Senate **INDEFINITELY POSTPONE** the Bill and Accompanying papers, in **NON-CONCURRENCE**.

The Chair ordered a Division.

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.

8 Senators having voted in the affirmative and 23 Senators having voted in the negative, the motion of Senator **LONGLEY** of Waldo to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, in **NON-CONCURRENCE**, **FAILED**.

Which was **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

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

Bill "An Act Relating to the Retirement Benefits for the Maine Warden Service"

S.P. 473 L.D. 1269
(C "A" S-327)

Tabled - earlier in the day by Senator **MICHAUD** of Penobscot.

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

(In Senate, earlier in the day, **READ A SECOND TIME**.)

On motion by Senator **MICHAUD** of Penobscot, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-327).

On further motion by the same Senator, Senate Amendment "A" (S-346) to Committee Amendment "A" (S-327) **READ**.

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

Senator **MICHAUD:** Thank you, Mr. President, Men and Women of the Senate. What this amendment does is treat the Baxter State Park Authority Rangers the same as it does the wardens and marine patrol. When I first checked with the staff they originally thought that they were included under the game wardens, because as Baxter Park Authority Rangers they have the same enforcement powers that game wardens do statewide, not only within the park. So this treats them the same as it does the game wardens. Thank you.

On further motion by the same Senator, Senate Amendment "A" (S-346) to Committee Amendment "A" (S-327) **ADOPTED**.

Committee Amendment "A" (S-327), as Amended by Senate Amendment "A" (S-346), thereto, **ADOPTED**.

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

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted on, were ordered sent forthwith.

ORDERS OF THE DAY

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

Bill "An Act to Establish a Management Framework for the Lobster Fishery within State Waters"

H.P. 577 L.D. 782
(S "A" S-325 to C
"A" H-570)

Tabled - June 26, 1995, by Senator **KIEFFER** of Aroostook.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-570) AS AMENDED BY SENATE AMENDMENT "A" (S-325)**, in **NON-CONCURRENCE**.

(In House, June 22, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-570).)

(In Senate, June 26, 1995, READ A SECOND TIME.)

On motion by Senator **CARPENTER** of York, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-570), as Amended by Senate Amendment "A" (S-325), thereto, in **NON-CONCURRENCE**.

On further motion by the same Senator, Senate Amendment "B" (S-334) to Committee Amendment "A" (H-570) **READ**.

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

Senator **CARPENTER:** Thank you, Mr. President, Women and Men of the Maine Senate. This is an amendment to the lobster bill, so-called, and this is commonly known as the grandfathering amendment. It probably should be called the grandparent amendment, not just sex specific. I just couldn't let it go that easily. I believe in grandfathering the lobster people who now have more than 1200 traps. I think they base their lives on the assumption that, up until a couple of days ago, that they would be allowed to continue to fish any number of traps that they are now fishing, until circumstances change, they go out of business, or they pass away. That's what grandfathering really is. We do it all the time in every other aspect of government. I wish you would vote in favor of this motion. Thank you.

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

Senator **PINGREE:** Thank you, Mr. President, Men and Women of the Senate. When I went home this weekend after we had made some substantial changes to our previous lobster laws, I talked to many of the fishermen in my community and other communities. They were very pleased to see that the State had finally come close to enacting some of the changes they had hoped would happen for a long time. But, if there was one thing that everybody said to me, it was, "Why did you leave the limit at 1200 traps? We could have gone with 400, 600, 500, 800." They said many, many numbers, but much lower than 1200 traps. Even the fishermen who were fishing more than 1200 traps said that to me. We worked, and are still working, very hard on this piece of legislation. We have tried to compromise, to listen to all of the fishermen in the State of Maine, to respect community values, to respect traditions in the fishing industries, and to do what was right and fair for all the fishermen in the lobster industry. In my opinion we have grandfathered people with over 1200 traps. Different from everybody else in the fishery, we have allowed them, in the current bill, seven years to build down to 1200 traps. If you have 2500 traps, if you have 3500 traps, you have seven years to sell your gear, to change your boat, to lay off one of your stern people. You have a long time to reconsider how you are going to fish in this industry. I haven't heard a fisherman yet who

doesn't think that's fair, who doesn't think that's a good idea, and who doesn't think that it doesn't treat everybody equally. What this amendment would do, is allow those people who have over 1200 traps now, to stay that way forever, while everybody else makes a sacrifice. Over 6000 license holders will be making a sacrifice because they can't fish over 1200 traps. But 50, 60, 70, nobody is quite sure, but a certain number of people in the fishery will have a privilege that nobody else has. I think we have given them plenty of privileges by saying they have seven years to change the character of their business. I think that's completely fair. I think that if I had to go home this weekend with this amendment on the bill, fishermen would be outraged and I would be very disappointed in our actions.

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

Senator **CASSIDY:** Thank you, Mr. President, Men and Women of the Senate. Some of the comments that I discussed last week, as we talked about this bill, I think one of the ironic things about this bill is we have seven years for people to sell their gear. That is exactly my point. Somebody is going to buy that and we are still going to have exactly the same number of traps that you have. This bill, as I mentioned the other day, is unworkable, it's unenforceable, and you are jeopardizing folks who decided that they wanted to work a little bit harder than someone else and spend a lot more hours on the water. The American way is to be successful. I have mentioned several times here that I raise a few acres of Christmas trees. I have fifteen acres. Some people have 40, 10, 9, 100, or 200 acres. If people want to work hard and be successful I think this bill is jeopardizing those people. You are going to have the same number of traps that you have presently seven years from now. The other thing is that we have all sorts of ways that we have implemented to secure this industry. It's one of the largest industries in the State. We have female lobsters that we don't harvest. We have small lobsters that we don't harvest. We have large lobsters that we don't harvest. This is a success story and we want to do something to jeopardize that success. I hope you will at least support the amendment.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. The good Senator from York, Senator Carpenter, said he couldn't let this go by so easily. To hear the word easily used in reference to this issue leads me to want to invite the good Senator to join us on the Marine Resources Committee, because easily is not in our vocabulary. The good Senator from Washington, Senator Cassidy, mentioned the need for people to sell off traps to get down to the limit. A very large amount of gear is lost in any fishing season for a variety of reasons, whether its buoys that disappear, or lines that inadvertently are cut, or boats that pull them up. So, the build down would probably happen through attrition, rather than any need to be selling off any gear. As far as enforcement goes, enforcement of a complete grandfathering of the whole fishery would be a nightmare. In effect it would establish an

individual trap limit for every single fisherman and there is absolutely no way that the Marine Resources Department could enforce a regulation like that. My final comment has to do with the American way, and being successful. Yes, and unfortunately, too often, the American way is to totally burn up a resource and then go on to the next thing. This is a case where we are trying to get ahead of the curve. We are trying to protect the resource. To go out and fish as hard as you can, work as hard as you can is the American way, and the American dream, but it may leave us, in the future, with no lobster. I urge you to defeat this amendment. Thank you.

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

Senator **LONGLEY:** Thank you, Mr. President, Colleagues in the Senate. The American way I would rephrase as the nineteenth century way. When Teddy Roosevelt opened us up into this century it was conservation oriented, it was sustainable yield. That was the word he taught all of the Governors when he called them to the White House immediately upon election. I would like to pose a question through the Chair. Could someone please help me, if somebody just got their boat within the last six months, and has a license within the last six months, how does this affect this person if they are within the limits already?

THE PRESIDENT: The Senator from Waldo, Senator Longley, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Knox, Senator Pingree.

Senator **PINGREE:** Thank you, Mr. President. It's my understanding that we are just discussing the amendment to this bill, so I'm not sure that an answer to that question is in order.

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

Senator **CARPENTER:** Thank you, Mr. President, Men and Women of the Maine Senate. I guess I'm not going to answer the question either, because I don't know the answer. What I do know is that no matter what anyone says, it still is the only fair way to protect a businessman that has invested his life savings, perhaps, in the lobster business. We don't know the financial make-up of it, we don't know if he has mortgaged his home for twenty years to go buy a very expensive boat and a number of traps. He has based his business on this and expected it to be here for a certain number of years. I don't think it's right for us to say okay, seven years is as long as you are going to be able to fish with the extra traps and bring in the extra money. Therefore, the fair American way is to grandfather it. He or she can't sell it off, that's not a grandfathering deal, attrition does take it's toll, and maybe it will happen in seven years, maybe in five years, maybe in fifteen years, but it will happen, and at that point in time we will have no need for grandfathering. When the vote is taken, I request the yeas and nays.

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

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

Senator **HARRIMAN:** Thank you, Mr. President. Good afternoon Ladies and Gentlemen of the Senate. Like my good friend from Knox, Senator Pingree, my phone rang this weekend too. Unfortunately it wasn't phone calls filled with appreciation for the bill that passed. Instead I got, perhaps as many of you do from time to time, a person who really doesn't follow what happens in the legislature, doesn't know what is happening until it affects their business, and this particular person had been out fishing the day that this bill was passed. He said to me, "Is it true that you people in Augusta passed a law that said if I fish over 1200 traps, over the next seven years I have to reduce the number of traps?" I said, yes, that's what happened. "If I happen to be a fisherman who's fishing less than 1200 traps, I can buy more traps and get up to the 1200?" I said, yes, I think that's right. "Did you have an amendment that was added that said that students going to college could come in and have up to 150 traps?" I said, yes, that's right. "Is it true that you created an exemption for people over age 65?" I said, yes, that's correct. "Why in heck would you want to vote for something like that?" I said I didn't. "Why isn't it unfair for me, who has over 1200 traps, because I'm supporting a boat, a family, a mortgage, a landside business, why would you do that to me?" I said I didn't. This amendment, as proposed by the good Senator from York, Senator Carpenter, gives us a chance so that the fifty or sixty or so lobstermen throughout the State who fish more than 1200 traps can continue at their present level. I think that's only fair. Thank you.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. The argument about the fishermen who fish less than 1200 being able to build up, there is nothing that restricts that fisherman from doing that now, and most of them choose not to do that. So, I think that argument doesn't hold water. As far as fishermen over 65, they are likely to be fishing a very reduced number of traps. It's often something that retired people get back into on a very small scale so that they can augment whatever income they may have. We don't anticipate that that will be any significant increase in traps. Student licenses, it has been traditional on the coast, for kids who are fortunate enough to be able to go to school, to help to pay for part of their schooling by doing some lobstering in their off months. Again, this is not a significant trap increase. The conservation measures that exist now, and are highly touted by our fisheries statewide, the v-notch, the dual gauge, the vents in the traps, are all items that were argued with heat equal to what we are hearing now about this trap limit. We have gone from, many years ago, when they were the subject of the controversy, to them now being the linchpin of our industry, and probably responsible for the success that we have had with lobstering. Once again, we are trying to institute a change. Change is never easy to adopt. We are certainly hearing from a few fishermen that have a lot of concerns

about this plan, but the vast majority of fishermen support a trap limit of this sort. I urge you to defeat this motion.

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

Senator **HATHAWAY:** Thank you, Mr. President. I would like to pose a question through the Chair. I would just like to make sure I have this straight in my mind. People who have less than 1200 traps can build up to 1200 traps? I'm not clear on that.

THE PRESIDENT: The Senator from York, Senator Hathaway, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Knox, Senator Pingree.

Senator **PINGREE:** Thank you, Mr. President. I would be happy to answer that question. Just as the good Senator from Hancock, Senator Goldthwait, said, at this time anybody can have as many traps in the water as they want to, 1200, 2000, 5000, there are no restrictions. Under the new law, if it is enacted, you will be able to have 1200 traps, and no more, until we set up some councils of people who fish, who will take a vote for their area and decide what is the ultimate trap limit there will be for their area. So, right now it's true, you could build up to 1200 traps, but the fact is you can if you want to and chances are, if you don't have 1200 traps in the water it's because you don't have the money to invest in it, you don't want your business to be that big, you don't want to take on two sternmen, or you don't think that's the right way to fish. So there are many reasons why people don't fish that many traps. It's not like something everybody is going to run out and do tomorrow once they are allowed to, they are already allowed to now. I just need to address one other thing that is being said about what's the American way and what's fair. What will happen is 6000 business people in the State of Maine, who are currently fishing under 1200 traps, will say this is not fair, 50 or 60 people now have a privilege that I don't. If we did that in any other business regulation, allowed a certain class of business people to have sort of free rein to have so many traps in the water, and everybody else to be restricted, there would be a big hue and cry, which there will be if we pass this amendment. The other thing I think we have to remember is all of us vote on regulations and restrictions every day, whether we like to or not, whether it's business licensing restrictions, scope of practice, toxic materials that you can no longer use, environmental laws, changes in our tax structures, that affect all of our businesses. They come and change your business whenever the law becomes real, ninety days after we adjourn. So many laws affect businesses dramatically ninety days after we walk out of here. We have offered people seven years to change the nature of their business. That's time for some people to leave the fishery and come back two or three times. I think to say that that is unfair to these people is a gross misstatement and I hope, again, you will vote against the amendment. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **CARPENTER** of York that the Senate **ADOPT** Senate Amendment "B" (S-334) to Committee Amendment "A" (H-570).

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

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, BERUBE, CAREY, CARPENTER, CASSIDY, HALL, HANLEY, HARRIMAN, KIEFFER, LORD, PENDEXTER, STEVENS, and the PRESIDENT, Senator BUTLAND**
- NAYS:** Senators: **BUSTIN, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HATHAWAY, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, RUHLIN, SMALL**
- ABSENT:** Senator: **CIANCHETTE**

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator **CARPENTER** of York to **ADOPT** Senate Amendment "B" (S-334) to Committee Amendment "A" (H-570), **FAILED**.

Committee Amendment "A" (H-570), as Amended by Senate Amendment "A" (S-325), thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

Senator **KIEFFER:** Thank you, Mr. President. There is another amendment in the works on this so I request that this item be Tabled until Later in Today's Session.

On motion by Senator **BUSTIN** of Kennebec, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**.

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Protect Constitutional Property Rights and to Provide Just Compensation" H.P. 867 L.D. 1217

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-601)**.

Signed:

Senators:

MILLS of Somerset
FAIRCLOTH of Penobscot

Representatives:

TREAT of Gardiner
LEMKE of Westbrook
RICHARDSON of Portland
JONES of Bar Harbor
LAFOUNTAIN, III of Biddeford
WATSON of Farmingdale
HARTNETT of Freeport
MADORE of Augusta

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-602)**.

Signed:

Senator:

PENDEXTER of Cumberland

Representatives:

PLOWMAN of Hampden
NASS of Acton

Comes from the House with the Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-601)**.

Which Reports were **READ**.

Senator **MILLS** of Somerset moved that the Senate **ACCEPT** the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-601)** Report, in concurrence.

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

Senator **HANLEY:** Thank you, Mr. President, Men and Women of the Senate. First, let me start by praising the work of the Judiciary Committee. Having had an opportunity to serve on the Committee for the past eight years I am very aware of the complexity of the issues facing that Committee and this was just another one foisted onto their plate that they probably didn't need. I respect the work that they have done. I look forward, realizing the actions taken by the other body, to the work that they will continue to do next session. While I am cognizant of the outcome now, I would still request a Division so that I can go on Record, stating that I think the people of the State of Maine deserve to be

compensated now rather than later. But I do want to show my appreciation to the Committee for the hard work they have put in on this matter.

Senator **HANLEY** of Oxford requested a Division.

On motion by Senator **CASSIDY** of Washington, Tabled until Later in Today's Session, pending the motion by Senator **MILLS** of Somerset that the Senate **ACCEPT** the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-601)** Report, in concurrence.

Senate at Ease

Senate called to order by the President.

On motion by Senator **LAWRENCE** of York, **RECESSED** until 2 o'clock this afternoon.

After Recess

Senate called to order by the President.

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

ORDERS

Joint Order

On motion by Senator **BEGLEY** of Lincoln, the following Joint Order:

ORDERED, the House concurring, that Resolve, to Reduce the Economic Impacts of the Clean Air Act on Maine's Citizens and Businesses (**EMERGENCY**) (H.P. 459) (L.D. 625), and all its accompanying papers, be recalled from the Engrossing Department to the Senate. S.P. 598

Which was **READ**.

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

Senator **LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. Is there somebody who could give me an explanation of why this bill is being recalled?

THE PRESIDENT: The Senator from York, Senator Lawrence, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Lincoln, Senator Begley.

Senator **BEGLEY:** Thank you, Mr. President. I'm lead to believe it has something to do with the Emergency.

Senate at Ease

Senate called to order by the President.

Which was **PASSED.**

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

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

An Act to Create the Northern New England Passenger Rail Authority (Emergency)
S.P. 459 L.D. 1255
(C "A" S-202)

Tabled - June 26, 1995, by Senator **KIEFFER** of Aroostook.

Pending - **PASSAGE TO BE ENACTED.**

(In House, June 22, 1995, **PASSED TO BE ENACTED.**)

(In Senate, June 23, 1995, **FAILED OF ENACTMENT,** in **NON-CONCURRENCE.**)

(In Senate, June 26, 1995, **RECONSIDERED FAILING OF ENACTMENT.**)

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

Pursuant to Joint Rule 10, Senator **HANLEY** of Oxford was excused from the following Roll Call vote.

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.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **ABROMSON, AMERO, BUSTIN, CAREY, CARPENTER, CASSIDY, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HARRIMAN, LAWRENCE, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, SMALL**

NAYS: Senators: **BEGLEY, BENOIT, BERUBE, HALL, HATHAWAY, KIEFFER, PENDEXTER, STEVENS,** and the **PRESIDENT,** Senator **BUTLAND**

ABSENT: Senator: **RUHLIN**

EXCUSED: Senator: **HANLEY**

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate with 9 Senators having voted in the negative, and with 1 Senator being absent and 1 Senator having been excused, and 24 being 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.

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

SENATE REPORTS from the Committee on **HUMAN RESOURCES** on Bill "An Act to Improve the AFDC Program" S.P. 548 L.D. 1496

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-322). (7 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (S-323). (6 members)

Tabled - June 26, 1995, by Senator **KIEFFER** of Aroostook.

Pending - the motion by Senator **PENDEXTER** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B"** (S-323) Report.

(In Senate, June 26, 1995, Reports **READ**.)

On motion by Senator **KIEFFER** of Aroostook, Tabled until Later in Today's Session, pending the motion by Senator **PENDEXTER** of Cumberland that the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B"** (S-323) Report.

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

Bill "An Act to Place a Spending Cap on State Senate and House Campaigns"
H.P. 322 L.D. 443

Tabled - June 26, 1995, by Senator **KIEFFER** of Aroostook.

Pending - the motion by Senator **LAWRENCE** of York to **ADOPT** Senate Amendment "A" (S-324).

(In House, June 19, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-520).)

(In Senate, June 26, 1995, **READ A SECOND TIME**. Senate Amendment "A" (S-324) **READ**.)

Senator **FERGUSON** of Oxford moved that the Senate **INDEFINITELY POSTPONE** Senate Amendment "A" (S-324).

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

Senator **LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. I hope you will oppose this motion. This amendment seeks to put some teeth into the voluntary campaign spending caps. It is entirely voluntary. It requires someone to agree to it. If you don't want to agree to it you don't have to agree to it. It sets reasonable limits, \$35,000 for the State Senate, and \$8,000 for the House in the general election, and a lesser amount in the Primaries. If you voluntarily agree to it and you exceed the spending cap, then you are penalized. It's a reasonable penalty. I hope you will support the amendment.

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

Senator **FERGUSON:** Thank you, Mr. President. The amendment before you was discussed thoroughly in Committee. It is a pretty comprehensive bill. It has a fiscal note of \$49,000 in 1995/96 and \$63,000

in 1996/97. That was one of the reasons that we rejected it outright. It's a pretty comprehensive bill. If you are assessed a penalty, you will have to pay your opponent for going over the voluntary limit. I would urge you to support the pending motion. Thank you.

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

Senator **BENOIT:** Thank you, Mr. President. May I pose a question through the Chair? I notice, in the amendment, that the provision dealing with the penalty reads this way, "A candidate who voluntarily agrees to limit" and so forth and so on, "in running for State Senator, or State Representative, is subject to a fine." That being so, why do we have all this language in here about the United States Senate and the Governor and the Representative to Congress? The penalties don't seem to run against those offices. That's one question that I have. Another question that I would pose for anyone that would be able to answer, on page four it indicates the procedure for a complaint being made. It has language that reads this way, "B. The violator can be prosecuted to final judgement." So the word prosecution is used, and final judgement is used. I would like to know if this is a civil case if brought, or a criminal one. There's nothing in here about a right of appeal. It says final judgement. Does anybody have a right of appeal under this provision, which is something that you think ordinarily would exist? A third question, and then I will sit down. It says the issue here is overspending. You would think that that would have occurred, some complaint would be made, and then you get some kind of relief. But the language is that there be an order issued requiring the violator, I guess that's the person who overspends, to cease the violation. You have three days to cease the violation. Remember now you have already overspent. I would like to know how that works. Then you can go to Superior Court and get an order of enforcement. I would like to know who is going to impose the fine, is it the Ethics Commission or the court? There are just so many questions here about this bill that I have and would like to have them answered for me. Thank you.

THE PRESIDENT: The Senator from Franklin, Senator Benoit, has posed a series of questions through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from York, Senator Lawrence.

Senator **LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. I will attempt to answer the good questions of the Senator from Franklin. For the good Senator's information this bill is modeled after what is currently in law in the State of New Hampshire and their voluntary campaign spending limits, which has worked very successfully in New Hampshire to limit the cost of campaigns. The good Senator is absolutely correct, it does extend to other offices other than State Representative and State Senator. It is, as I said, entirely voluntary on those offices. I believe what the section regarding complaints indicates is that the Commission has the ability to seek injunctive relief to order stoppage of further spending on behalf of that

candidate. They are allowed to prosecute to final judgement, I believe, to see that the person pays the fine. Maybe prosecution is a poor choice of words in the amendment, but I believe that is what that indicates. It is the Ethics Commission that has the authority to pursue it.

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

Senator **BENOIT:** Thank you, Mr. President. One hypothetical to see if I understand the operation of this proposed bill. There's a sentence here that says, "Any fine assessed under the provisions of this subsection is paid to the candidate's opponent." It's possible, under this measure, to have a fine assessed of up to \$5,000. So, I envision a situation where my opponent would be successful in taking me through this procedure, and gets a \$5,000 fine assessed against me, and I pay him, or her. Let's assume that takes my opponent over the limit, which I make a complaint back, I guess I can recover my \$5,000 in the form of a fine against my opponent. Gee, sounds like a pretty interesting bill.

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

Senator **FERGUSON:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. As you can see, this thing is a little more complicated than meets the eye. We did discuss this thoroughly in Committee and that was one of the reasons we chose to come out with the bill that we did. I would request a Division and suggest that we do Indefinitely Postpone this amendment. Thank you.

Senator **FERGUSON** of Oxford requested a Division.

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

Senator **PINGREE:** Thank you, Mr. President, Men and Women of the Senate. I just want to say, very briefly, that I think we hear all the time about the public's frustration of the involvement of money in politics. We are constantly being asked to think about ways to reform campaign spending. I respect the fact that the Committee worked very hard on this, but it is hard to enact campaign spending that will impact us. This is a voluntary bill. No one has to participate unless they want to. I think it's a good first step of what I hope in the future will be much more stringent laws about campaign finance and campaign finance reform, so I hope that we will vote in favor of this amendment today. When we take the vote, I request the yeas and the nays.

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

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

Senator **LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. To respond to the good Senator from Franklin, Senator Benoit's, point. This bill is specifically designed for campaigns where two people agree to spending limits. They agree to it.

It's part of the campaign. One person overspends, for example, if that now occurs, under state law there is no penalty. I had an election this last time in which I spent \$35,000, my opponent spent \$75,000, and failed to file his campaign finance report before the election. He was fined \$200 for doing that. To someone who spends \$75,000, what impact is that fine going to have? This amendment seeks to level the playing field between candidates who have a lot of money, and candidates to have a reasonable amount of money. If you agree not to spend over that amount, and you overspend that amount, that money you overspend goes to your opponent. It's fair, reasonable, it levels the playing field. I hope you will vote for this amendment.

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

Senator **SMALL:** Thank you, Mr. President, Men and Women of the Senate. I would like to pose a question through the Chair. In reading the amendment, and maybe I have misread it, it was totally voluntary. If I agree to this voluntary cap, and overspend it by \$1,000, an my opponent never agrees to the cap and spends \$100,000, as far as I can see if I overspend by \$1,000 I'm the one that's in violation and I will be the one paying the fine. Is that correct?

THE PRESIDENT: The Senator from Sagadahoc, Senator Small, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from York, Senator Lawrence.

Senator **LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. That's absolutely correct, but I would question the sanity of any candidate who agrees to a spending limit without their opponent agreeing to the spending limit. That's the purpose of this amendment, to set up a framework where candidates can go into an election, all agree to a spending limit that will reasonably control the cost of that campaign, and set up a mechanism to enforce that voluntarily.

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

Senator **SMALL:** Thank you, Mr. President, Men and Women of the Senate. I would just say that that is not in there and what you are doing is you are setting up the honest individual, who goes into this trying to comply with that, and if, for some reason, whether it's record keeping, or they agreed to this thinking they were doing something in the best interest of their constituents, and then they find out that their opponent is outspending them two to one, and they are limited to that \$35,000 amount and their opponent is going ahead and spending all kinds of dollars that perhaps they didn't anticipate. I agree, I think it would be a fool to sign onto this, but I think it would be even if the other person did go along with that.

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

Senator **CAREY:** Thank you, Mr. President. This came before the Legal Affairs Committee last year,

the year before, the year before, and the year before. It's basically Common Cause's approach to reduce the cost of elections. The Senator from Sagadahoc, Senator Small, would in fact be making a contribution to her opponent's campaign. It's simply a ploy so you can't raise the money so you say you are going to live voluntarily within the limits. That's certainly trying to embarrass your opponent who may spend \$40,000 or \$50,000 because he feels that he can do a better job than you can.

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

Senator **BENOIT:** Thank you, Mr. President. May it please the Senate. I don't want to give you the wrong impression. I want campaign spending reform. Last fall, and in the summer before that, on the campaign trail, if I heard anything, it was, "What are you going to do about campaign spending reform?" I said I would do what I can. I want campaign spending reform. It's ridiculous what is going on in this State and people know it. I'm looking at L.D. 443 that came out as Committee Amendment "A". It looks like a substitution of the original L.D.. I can live with that.

THE PRESIDENT: The Chair would interrupt and remind the Senator from Franklin that we are discussing the Indefinite Postponement of Senate Amendment "A", and we need to restrict our comments to that.

Senator **BENOIT:** Thank you, Mr. President. I want campaign reform. But this particular measure here still hasn't been answered to my satisfaction to some of the questions I posed. I'll return, finally, to order, which is paragraph two. If it becomes law. Part A, the issue of an order requiring the violator to cease the violation. Well you have already violated the law if you have overspent. What are you ceasing? It says, next, that if the Commissions order is not obeyed within three days. What order? You have already overspent. It almost looks like this language is supposed to take care of apples and you've got oranges in here. I don't mind voting positively on a measure if the measure makes sense. But if we are going to have some campaign reform, let's go on over to the Ethics Commission in the other building and have the help of those folks and their expertise, such as I have here in my right hand. Let's have a good bill, not one that on its face is flawed. Thank you.

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

Senator **LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. I have heard a number of good suggestions here. I have my ideas on how to limit it. If some other people have suggestions, I would be happy to have them come forth with amendments to make this amendment even better, to make it a better proposal. But the plain and simple fact is, do you want to do something serious about limiting spending. As you know, under the constitution, without public financing it has to be done on a voluntary basis. If you want to do it, you've got to have some teeth in it that simply doesn't say you agree to it, but there's no

penalties, nothing happens to you if you don't live up to your agreement. You have to put penalties in there that say if you don't live up to what you agree to at the start of the campaign, there's a penalty on you at the end. I hope you will oppose the Indefinite Postponement of this amendment.

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

Senator **CIANCHETTE:** Thank you, Mr. President. As one who has some familiarity with campaign spending I would like to raise a couple of questions. I had several bills before Committees to do something here about campaign finance reform. They all died in Committee. I, too, have a serious interest in trying to find a solution to some real campaign finance reform. One problem that I have with this particular amendment is that I can agree with my opponent to limit my spending, but if the Natural Resources Council, the State workers, SAM, and all of the various PAC's around the state don't want me re-elected, then I'm in a box, because they are unlimited in how much they can spend on their own publications around the state. They can make first-class mailings they can spend tens and hundreds of thousands of dollars to come out to defeat me, to say nothing about my opponent. I tell you, I have been there, and I know it. In that case that I made an agreement with my opponent, I would be boxed out and these PAC's, which ever they may be, business PAC's or anything else, can take over and finance those elections in their own way, in a way that this bill will have nothing to do about. I'm very concerned about the unfairness of that opportunity if this amendment passes, that's why I'll be voting for the motion to Indefinitely Postpone. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **FERGUSON** of Oxford that the Senate **INDEFINITELY POSTPONE** Senate Amendment "A" (S-324).

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.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, CAREY, CARPENTER, CASSIDY, CIANCHETTE, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, MICHAUD, MILLS, O'DEA, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

NAYS: Senators: BERUBE, BUSTIN, CLEVELAND, ESTY, FAIRCLOTH, LAWRENCE, LONGLEY, MCCORMICK, PARADIS, PINGREE, RAND

ABSENT: Senator: RUHLIN

23 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator FERGUSON of Oxford to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-324), **PREVAILED**.

THE PRESIDENT: The pending question before the Senate is **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence. The Chair recognizes the Senator from York, Senator Lawrence.

Senator **LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. Now that we can discuss the amendment that is the bill, I think there are some important things that you should know. First of all, I'm going to urge your support on engrossment of the bill, not that it really does anything. What the bill does it says that a candidate may voluntarily agree to limit total expenditures on behalf of that candidate's campaign. It gives amounts, \$25,000 for a State Senate in both the Primary and the General Election, and \$5,000 for a State Representative. Then it says the Commission shall publish a list of who has agreed to it. Beyond that there is nothing. There is no follow up. There is no check to see whether you have complied. There is no penalty. There is no publication of people who don't comply. There is nothing. If you think you're voting to limit campaign spending here, you aren't. There is no teeth in this bill. It's a paper tiger. Thank you.

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

Senator **BEGLEY:** Thank you, Mr. President. As you have just heard from the previous speaker the bill is not of great value. I call for a Division.

Senator **BEGLEY** of Lincoln requested a Division.

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

Senator **BENOIT:** Thank you, Mr. President. May it please the Senate. I can support this bill as amended very easily. It's a start. It's the best we are going to get right now, this kind of measure, because it's a voluntary one. I would plan, if running again, and I'm not making any announcements right now, but I would voluntarily comply with this measure and agree to cap campaign spending. I like it because you know, by golly, it's voluntary. My opponent doesn't have to do it. They can spend all the money they want. It's a free country. I've heard it said that there is no penalty. Well, have you ever seen a politician with a red face? Somebody who voluntarily agrees to cap spending and then exceeds it, a politician with a red face is something to behold. I think that's enough penalty right now. You don't have to slap \$5,000 onto somebody, and do you know why not? Because the people of Maine are not stupid. Our constituents are pretty smart. They can weed out, if you will, the people who are the big spenders. If that's what they don't want, fine, let them make the judgement. You don't have to take it to Superior Court and have a judge do it. Let's let our constituents do it for a change. You don't have

to have the Ethics Commission on our backs with a fine. Let's let our constituents decide. One of the issues in the campaign, how much money are we spending? We're spending too much. I can live with this bill very easily and I'm going to support it, because although it is a small step, it's a step forward. Again, politicians with a red face, now something else to behold. Thank you.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. Something is escaping me about this debate. Why do we need a law to force us to do something voluntarily? Thank you.

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

Senator **LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. I hope to answer both of the very good points raised by the two previous speakers. Let me point out that under this bill there could never be a candidate with a red face, and I will give you a prime example from my own experience. The person who ran against me said over and over again his spending would be about \$30,000 to \$35,000. He never filed his campaign finance report until the day of the election. No one knew. The press never followed up on it until the day of the election. There was no red face. There is no way to enforce this bill. There is no way to know. The idea of having a bill in here to do something that people can do voluntarily is because people aren't doing it voluntarily. There is no framework set up whereby candidates feel that if they agree to it they will be on an even playing field with their opponent. So, while I urge you to support this bill in its engrossment, I'm telling you this bill will have little impact on limiting campaign spending.

THE PRESIDENT: The pending question before the Senate is **PASSAGE TO BE ENGROSSED AS AMENDED**, in 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.

18 Senators having voted in the affirmative and 11 Senators having voted in the negative, the bill was **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

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

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 for Landfill Closure and Remediation"

S.P. 147 L.D. 333
 (S "A" S-318 to C
 "A" S-306)

Tabled - June 26, 1995, by Senator LORD of York.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-306) AS AMENDED BY SENATE AMENDMENT "A" (S-318)**, thereto.

(In Senate, June, 26, 1995, **READ A SECOND TIME.**)

On motion by Senator LORD of York, 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-306), as Amended by Senate Amendment "A" (S-318), thereto.

On further motion by the same Senator, 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** Senate Amendment "A" (S-318) to Committee Amendment "A" (S-306).

On further motion by the same Senator, Senate Amendment "A" (S-318) to Committee Amendment "A" (S-306) **INDEFINITELY POSTPONED**.

On further motion by the same Senator, Senate Amendment "B" (S-342) to Committee Amendment "A" (S-306) **READ**.

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

Senator LORD: Thank you, Mr. President, my Learned Colleagues. What this does is change the wording of the title and it will read as follows, "An Act to Authorize a General Fund Bond Issue in the Amount of \$14,000,000 for Landfill Clean-up for Small Communities, Water Pollution Abatement Control Facilities, and for the Removal of State Owned Underground Storage Tanks". It spells out, in the title, exactly what the money is going to be spent for. I think this will help people understand exactly what we are voting on. Thank you.

On further motion by the same Senator, Senate Amendment "B" (S-342) to Committee Amendment "A" (S-306) **ADOPTED**.

Committee Amendment "A" (S-306), as Amended by Senate Amendment "B" (S-342), thereto, **ADOPTED**.

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

Sent down for concurrence.

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

HOUSE REPORTS from the Committee on LABOR on Bill "An Act to Amend the Occupational Disease Law" H.P. 957 L.D. 1346

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-416)**. (7 members)

Minority - **Ought Not to Pass**. (6 members)

Tabled - June 26, 1995, by Senator KIEFFER of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT**.

(In House, June 26, 1995, Bill and Accompanying Papers **INDEFINITELY POSTPONED**.)

(In Senate, June 26, 1995, Reports **READ**.)

Senator BEGLEY of Lincoln moved that the Senate **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, in concurrence.

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: The pending question before the Senate is the motion by Senator BEGLEY of Lincoln that the Senate **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, in concurrence.

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.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, CARPENTER, CASSIDY, CIANCHETTE, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LORD, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

NAYS: Senators: BERUBE, BUSTIN, CAREY, CLEVELAND, ESTY, FAIRCLOTH, LONGLEY, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, RUHLIN

ABSENT: Senator: PENDEXTER

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BEGLEY** of Lincoln to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, in concurrence, **PREVAILED**.

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

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

The Senate called to Order by the President Pro Tem.

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

HOUSE REPORT from the Committee on **TRANSPORTATION** on Bill "An Act to Amend Laws Pertaining to On-premises Signs by Allowing for Changeable Signs" H.P. 946 L.D. 1335

Report - Ought to Pass as Amended by Committee Amendment "A" (H-456)

Tabled - June 26, 1995, by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE OF THE REPORT**.

(In House, June 14, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-456)**.)

(In Senate, June 15, 1995, Report **READ**.)

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

Senator **PARADIS:** Thank you, Madam President. This is what we call an "Augusta Bill". The Transportation Committee took a field trip on this. We did our homework on this, we even did a field trip. It deals with one sign for the Augusta Civic Center and the Committee didn't feel it was infringing any further on the signage laws we have in the State of Maine. I urge your support of this nice little bill. Thank you.

Which Report was **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-456) **READ**.

On motion by Senator **BUTLAND** of Cumberland, Senate Amendment "A" (S-349) to Committee Amendment "A" (H-456) **READ**.

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. This may indeed be an Augusta Bill, which is certainly no reason not to have everyone's support here, but it does have some widespread implications for the rest of the State of Maine. Presently the law states that if you have a changeable sign, that it can be changed once every twenty-four hours. That can be done at two o'clock in the morning, or some ungodly hour like that. The bill, as it is printed, would change it to every four hours. I have a constituent in my district who owns a sign company. He would like to manufacture these changeable signs, but in order to get into the manufacturing process, it has to be a viable economic entity. There either has to be a market out there, the way the bill is presently written, it would allow for changes only once every four hours. In order to have more people to sign up to have their message on the sign, it has to be amended to more frequently. My amendment says that the message has to stay on for five minutes, and then can change. This would, I think, be reasonable. It certainly wouldn't be any more of a distraction than the four hour limit. It would also allow this small company in the State of Maine to get into the sign manufacturing business and create some Maine jobs. I hope that you will support the inclusion of Senate Amendment "A". Thank you.

On motion by Senator **BUTLAND** of Cumberland, Senate Amendment "A" (S-349) to Committee Amendment "A" (H-456) **ADOPTED**.

Committee Amendment "A" (H-456), as Amended by Senate Amendment "A" (S-349), thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

The President Pro Tem requested that the Sergeant-at-Arms escort the Senator from Cumberland, Senator **BUTLAND** to the Rostrum where he resumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Cumberland, Senator **AMERO** to her seat on the Floor.

The Senate called to Order by the President.

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

HOUSE REPORTS from the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Amend the Laws Related to Optometry"

H.P. 590 L.D. 800

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-534). (9 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (H-535). (4 members)

Tabled - June 26, 1995, by Senator KIEFFER of Aroostook.

Pending - the motion by Senator GOLDTHWAIT of Hancock to ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-534) Report, in concurrence.

(In House, June 22, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-534) AS AMENDED BY HOUSE AMENDMENT "A" (H-558), thereto.)

(In Senate, June 22, 1995, Reports READ. Motion to ACCEPT the Minority Report FAILED.)

On motion by Senator KIEFFER of Aroostook, Tabled until Later in Today's Session, pending the motion by Senator GOLDTHWAIT of Hancock to ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-534) Report, in concurrence.

Senate at Ease

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Unassigned matter:

HOUSE REPORT from the Committee on **HUMAN RESOURCES** on Resolve, to Establish a Pilot Project for Medicaid Reimbursement for Acupuncture Treatment of Substance Abuse

H.P. 105 L.D. 140

Report - Ought to Pass as Amended by Committee Amendment "A" (H-464)

Tabled - June 19, 1995, by Senator AMERO of Cumberland.

Pending - ACCEPTANCE OF THE REPORT.

(In House, June 14, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-464).)

(In Senate, June 15, 1995, Report READ.)

The Report ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-464) READ and ADOPTED, in concurrence.

The Bill, as Amended, LATER ASSIGNED FOR SECOND READING.

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

PAPER FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Modify the Licensure Act for Substance Abuse Counselors"

H.P. 1008 L.D. 1419
(H "A" H-583; S "A"
S-326 to C "A" H-427)

In Senate, June 23, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-427) AS AMENDED BY SENATE AMENDMENT "A" (S-326) AND HOUSE AMENDMENT "A" (H-583), thereto, in NON-CONCURRENCE.

In House, June 26, 1995, RECEDED and CONCURRED.

(Recalled from Engrossing pursuant to Joint Order H.P. 1141)

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-427) AS AMENDED BY SENATE AMENDMENT "A" (S-326), thereto, in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

COMMUNICATIONS

The Following Communication:

Which was READ and ORDERED PLACED ON FILE.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333-0002

June 27, 1995

Honorable May M. Ross
Secretary of the Senate
117th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to insist and join in a Committee of Conference on Bill "An Act to Require Notification to the Landowner When Land Is Being Considered for Placement in a Resource Protection Zone" (H.P. 609) (L.D. 819)

Sincerely,

S/Joseph W. Mayo
Clerk of the House

S.C. 263

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333-0002

June 27, 1995

Honorable May M. Ross
Secretary of the Senate
117th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to adhere to its former action whereby it accepted Report "B" "Ought Not to Pass" of the Committee on State and Local Government on Resolve, Establishing the Maine Council on Competitiveness (S.P. 81) (L.D. 169)

Sincerely,

S/Joseph W. Mayo
Clerk of the House

S.C. 264

COMMITTEE REPORT

House

Ought to Pass As Amended

The Committee on TRANSPORTATION on Bill "An Act to Authorize Department of Transportation Bond Issues in the Amount of \$51,900,000 to Match up to \$135,000,000 in Federal Funds for Improvements to Highways, State and Local Bridges, Airports and Ports"

H.P. 1133 L.D. 1577

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-627).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-627).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-627) READ and ADOPTED, in concurrence.

The Bill, as Amended, LATER ASSIGNED FOR SECOND READING.

ENACTOR

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

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Contractual Obligation for Members of the Maine State Retirement System

H.P. 680 L.D. 931
(C "A" H-314)

On motion by Senator BEGLEY of Lincoln, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Senate at Ease

Senate called to order by the President.

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

Senator **BUSTIN** of Kennebec was granted unanimous consent to address the Senate off the Record.

On motion by Senator **ESTY** of Cumberland, **RECESSED** until 4 o'clock this afternoon.

After Recess

Senate called to order by the President.

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

SENATE REPORT - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Promote the Health of Maine's Children by Preventing Illegal Tobacco Sales"

S.P. 306 L.D. 845

Report - Ought to Pass as Amended by Committee Amendment "A" (S-339).

Tabled - earlier in the day by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE** of the Report.

(In Senate, earlier in the day, Report **READ**. Senator **BEGLEY** of Lincoln requested a Division.)

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

Senator **MICHAUD:** Thank you, Mr. President, Men and Women of the Senate. There is one amendment that the Committee has worked on. I called down to the

Revisors and it is almost ready. It hasn't come up yet to be signed. Hopefully it will be here within the half hour so we can get it signed. I would appreciate it if someone could Table it until later in this evening's session. Thank you.

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

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

Bill "An Act to Establish a Management Framework for the Lobster Fishery within State Waters"
H.P. 577 L.D. 782
(S "A" S-325 to C
"A" H-570)

Tabled - earlier in the day by Senator **BUSTIN** of Kennebec.

Pending - **ADOPTION** of Committee Amendment "A" (H-570), as Amended by Senate Amendment "A" (S-334), thereto, in **NON-CONCURRENCE**.

(In House, June 22, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-570).**)

On motion by Senator **KIEFFER** of Aroostook, Tabled until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-570), as Amended by Senate Amendment "A" (S-325), thereto, in **NON-CONCURRENCE**.

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 Protect Constitutional Property Rights and to Provide Just Compensation"
H.P. 867 L.D. 1217

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-601). (10 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (H-602). (3 members)

Tabled - earlier in the day by Senator **CASSIDY** of Washington.

Pending - the motion by Senator **MILLS** of Somerset to **ACCEPT** the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-601)** Report, in concurrence.

Off Record Remarks

(In House, June 26, 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-601).**)

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

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

THE PRESIDENT: The pending question before the Senate is the motion by Senator **MILLS** of Somerset that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-601)** Report, in concurrence.

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, BENOIT, BERUBE, BUSTIN, CAREY, CARPENTER, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HARRIMAN, HATHAWAY, LAWRENCE, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, RUHLIN, SMALL, and the PRESIDENT, Senator BUTLAND

NAYS: Senators: BEGLEY, CASSIDY, HALL, HANLEY, KIEFFER, STEVENS

ABSENT: Senator: PENDEXTER

28 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **MILLS** of Somerset to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-601)** Report, in concurrence, **PREVAILED.**

The Bill **READ ONCE.**

Committee Amendment "A" (H-601) **READ** and **ADOPTED**, in concurrence.

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

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

COMMITTEE REPORT

Senate

Ought to Pass As Amended

Senator **MILLS** for the Committee on **JUDICIARY** on Bill "An Act to Amend the Adoption Laws" S.P. 515 L.D. 1400

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-350).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-350) **READ** and **ADOPTED.**

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

Senate at Ease

Senate called to order by the President.

Off Record Remarks

On motion by Senator **FERGUSON** of Oxford, **RECESSED** until 6:30 o'clock this evening.

After Recess

Senate called to order by the President.

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

Resolve, to Establish a Pilot Project for Medicaid Reimbursement for Acupuncture Treatment of Substance Abuse

H.P. 105 L.D. 140
(C "A" H-464)

Bill "An Act to Authorize Department of Transportation Bond Issues in the Amount of \$51,900,000 to Match up to \$135,000,000 in Federal Funds for Improvements to Highways, State and Local Bridges, Airports and Ports"

H.P. 1133 L.D. 1577
(C "A" H-627)

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

Bill "An Act to Amend Laws Pertaining to On-premises Signs by Allowing for Changeable Signs"

H.P. 946 L.D. 1335
(S "A" S-349 to C "A" H-456)

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

Sent down for concurrence.

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

Resolve, to Reduce the Economic Impacts of the Clean Air Act on Maine's Citizens and Businesses (Emergency)

H.P. 459 L.D. 625
(C "A" H-608)

Recalled from the Engrossing Department, pursuant to Joint Order S.P. 598.)

In Senate, June 27, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-608), in concurrence.

On motion by Senator **BEGLEY** of Lincoln, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-608), in concurrence.

On further motion by the same Senator, Senate Amendment "A" (S-351) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted on, with the exception of those matters having been held, were ordered sent forthwith.

Senate at Ease

Senate called to order by the President.

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

PAPER FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997" (Emergency)

H.P. 516 L.D. 706
(C "B" H-387)

In Senate, June 12, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B"** (H-387), in **NON-CONCURRENCE**.

(Recalled from the Legislative Files pursuant to Joint Order H.P. 1142.)

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A"** (H-628), in **NON-CONCURRENCE**.

On motion by Senator **HANLEY** of Oxford, the Senate **RECEDED** from its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**.

On further motion by the same Senator, the Senate **RECEDED** from its action whereby it **ADOPTED** Committee Amendment "B" (H-387).

On further motion by the same Senator, Committee Amendment "B" (H-387) **INDEFINITELY POSTPONED**.

House Amendment "A" (H-628) **READ**.

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

Senator **HANLEY:** Thank you, Mr. President, Men and Women of the Senate. For a while there I thought this day would never come. After first having been given this budget by the Governor, at the first part of February, and having worked cooperatively with every joint standing committee within the Legislature, having heard back from every joint standing committee in the Legislature, as far as their own review of each departmental budget, let me first state that I am proud of the work of all members of the Legislature for their diligence in reviewing the budgets which were assigned to them in their area of jurisdiction. Let me also state I am proud of the additional twelve members who I serve with on the Appropriations Committee. When we first started this process they said the political spectrum on the Appropriations Committee was such that it was a recipe for disaster, that we had some of us who have been known as hard-line conservatives, others who have been known as moderates, and others who have been known as liberals. The entire spectrum was represented on this Committee, and I must admit, throughout the course of the first few months I wondered if it was possible. But, as I looked around the Committee, as we went from day to day, listening to testimony on every item within the budget, and hearing the questions which were posited by Representatives, Senators, Democrats and Republicans alike, that this truly was a change in the way the Appropriations process has worked. That members of the Committee weren't there to grandstand, they were there to do the people's work. No, they were not going to check the principles at the door. They were going to bring into that Committee room everything that they had campaigned for, and everything that their constituents had told them they wanted to see. Having said that, Men and Women of the Senate, does the budget before you now, which has had an overwhelming vote in the other body, does it have everything in it this Senator from Oxford wants? No. Does it have the one thing this Senator from Oxford wanted to see in this budget? The repeal of the 1% increase in the sales tax that would boost the economy for Oxford County, Cumberland County, York County directly? No, it doesn't. Does it have every other item, the first wishlist on every member of the Committee when they ran? No, it doesn't. Is it an amalgam of all the reports which have been brought before us? Is it a compromise on some very strong issues that people hold very near to their hearts? Yes, it is. I guess I would just state that when I have a half a dozen messages on my answering machine Friday night, having come home from the Committee and having a thirteen to zero vote, to have my kindred spirits in the legislature, those who call themselves conservatives, having them say, "Senator Hanley, we expected more of you. We didn't expect you to sell

us out. We had hoped for the tax cuts that this legislature promised." Did that hurt? Yes, it did. But this is my time to show leadership. So, as the Committee worked to fashion that compromise, to get thirteen votes in favor of this budget, it was time that the greater good of the State be put first, and not the singular agenda of one or two individuals. Men and Women of the Senate it was a powerful day in the Appropriations Committee to see thirteen hands go up in support of this budget. An event which I cannot recall in my decade of service here in Augusta, at least not in the most recent memory. To see the bipartisan cooperation, compromise, consensus building that was able to go on even though there were factions who tried to pull us away from that goal, factions within the legislature and from outside the legislature, who did not want to see a unanimous budget. Men and Women of the Senate, I think that this is a landmark day for the State of Maine. A landmark day in that we have fashioned a compromise when the naysayers said it couldn't be done. When they said with a Democratically controlled House, a Republican Senate, and an Independent Governor, there's no way that these three parties can get along and can promote a budget which not only addresses the gimmicks that have been utilized in the past, which pays bills that have gone unpaid for many years, which tries to maintain some of the promises which were made, promises to the sick men and women of our State in stating that they would not bear the full burden of the grandfather of all gimmicks which had gone bad. This budget addresses that. It repeals the sick tax. It requires this State to aggressively pursue the waivers necessary to help all of our hospitals. It provides an opportunity for us to send money back to the people of the State of Maine, because lest we forget, every dollar that we spend in this budget comes out of the pockets of the hardworking men and women of our State.

Another very key component of this budget, and for those of you who were not around in 1991 who saw this State government shut down, this budget ensures that the State employees, our State workforce, which acts as the safety net for our people, for our citizens, it ensures that this safety net will not be dropped. There will be the state workers holding up that safety net. It is true that in budgets past, state employees were not treated with the respect that they probably should have, and while some of us would disagree as far as the size and scope of state government, none of us would disagree that the men and women who work for the state should be paid a fair wage for their labors, and they should be paid on time. Men and Women of the Senate, this does that. This restores the cuts which were made on the work force. I think, in turn, it will restore some morale, morale for our workforce, morale for this legislature to adopt a budget which has met, maybe not all of our needs, but has followed our process of democracy full circle, has had an opportunity for the Governor to present for the public to testify, either in support or opposition, then allowed every member of this Legislature, serving on the joint standing committees, to give their input to the Appropriations Committee and then finally, it gave the Appropriations Committee an opportunity to find that middle ground. Men and Women of the Senate, this is not a perfect document. I readily admit that, and I think every member of the Committee would readily

admit that, but I guess I would ask, is there a perfect document or is the only perfect document the one that meets the needs of the people of the State of Maine, while also being able to work through the legislative process. Men and Women of the Senate, I ask, just as I ask myself, when it came time to vote, and when I knew that a sales tax cut would not be possible to include in the budget, I asked myself is it now time to be the Senator from Oxford County, to bring home that promise of a sales tax reduction, or is it time now to be a leader for the entire state? The answer was clear. It was time to be a leader for the entire state. To not put the state in a position where a shut down would be possible. Where the safety net for Maine's most fragile citizens would be dropped. Men and Women of the Senate, I think it's a time for leadership for all of us. Having had an opportunity to speak with most of you, I know that you do have concerns, that maybe there are items in this budget which don't address all of your concerns. I would just ask that you think of the entire state and leadership for the entire state so that we can go on to pass a budget and to have our state government restore faith, and respect to our citizenry and to not put in jeopardy the most fragile, the most dependent of our citizens. I ask your support as we adopt this budget and send it down to the other chamber. Thank you.

On motion by Senator O'DEA of Penobscot, Senate Amendment "D" (S-358) to House Amendment "A" (H-628) READ.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator O'Dea.

Senator O'DEA: Thank you, Mr. President, Men and Women of the Senate. This amendment deals with the so-called income tax stabilization plan and basically in plain language, removes part VV from the budget document. Some time ago, probably six years or so ago, a friend of mine in the other chamber, Representative Jacques, from Waterville, told me that there were no new ideas in this place, only the same old ideas being kicked around with new names on them. This is an old idea that was most recently tried in the State of New Jersey, without great success. When a measure similar to this was adopted in the State of New Jersey residents found that state government had its hands tied behind its back and that the funds to provide the services that all of our constituents deliver couldn't come from state government, they came, instead, from local government. It had the effect of driving property taxes up through the roof. It only stands to reason that if we have a finite number of sources from where we can get state revenues, that if we take one of them away there is going to be additional pressures on the other revenue streams. Property taxes is the one where I believe this will have the greatest affect.

Secondly, the Governor has made his feeling on this matter known. At the very least publicly, and certainly to myself and to the members of my Caucus. He didn't mince any words when he said that he wasn't going to be signing a budget with this sort of gimmick in it. He made it very clear. In fact, I think his words to me were, "If people think that they want a Governor who will sign a budget with

something like this in it, then they can wait three years and maybe they will have a chance to have one, but it won't be me." This sort of measure artificially caps the stream of money coming into state government. If you don't think that it's a fiscal note, I would just ask you to indulge me and just look at the amendment S-358. Look down, on the fiscal note, and see that this bill is a gimmick. There is no net effect on general fund appropriations and revenue and a balanced budget is maintained for fiscal years 95/96 and 96/97. If that doesn't tell you that this has minimal real impact on the state in this biennium then what does. This amendment will tie the hands of future legislatures and it will encourage the increase of property taxes, while having no real effect on this biennial budget, the one that we are all laboring to pass in these closing hours of the session. So, I would ask you tonight to please adopt this measure, remove this provision from the budget so that we can get on with the budget that the Governor will finally sign so that we may all go on and commence our summer activities. Thank you.

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

Senator HANLEY: Thank you, Mr. President, Men and Women of the Senate. For clarification sake the income tax stabilization would only hold constant one line of revenues coming into the state. It would not decrease that line. In fact, all other lines, sales tax, corporate tax, estate taxes, lottery, every other line in state government will continue to grow. The income tax line, however, will be held constant at \$676 million. That will be held constant. That money will still be available for the state to expend in its ordinary course of business. Yet what this will allow is an opportunity for us to reduce the income tax rates on the people of our state. I was speaking with the good Senator from Somerset, Senator Cianchette, as far as my in-laws. They are retired and are thinking about moving to Maine. I was suggesting that maybe they should do that, as my wife and I hope to start a family, to be close to their grandkids. Well, he thanked me, and he likes to come up to Maine and visit, but from a tax perspective it just doesn't wash. So, instead they moved to New Hampshire. Those are people who have retired, and would have income to spend in our state, build homes, buy refrigerators, buy cars, go see doctors, go see other service industries. What we need to do is attract those people to our state and we need to do so in a positive manner. Let me read to you from an article by Malcolm Forbes, Editor-in-Chief of Forbes magazine, one of the leading financial magazine in our country. He says, "Those who doubt that properly structured tax cuts can stimulate economic activity should take a look at New Jersey. For the first time in years the Garden State's economy is creating more jobs than its neighbors or the nation. Since Governor Whitman took office job creation is at a record level. In fact, in a reversal of recent trends, people are moving to the state because of its robustness, which, ironically, keeps the unemployment rate high, because so many new people are seeking work. Traditionally, New Jersey's economy has led the nation, but when the previous Governor nearly doubled the state's income tax and increased other levies five years ago, the economy dropped like a stone, becoming one of the

country's weakest over night. Yet many still don't see the connection between what the Governor has done and how the state is performing. As this quote from New Jersey's largest newspaper underscores, 'Rutgers economics professor James Hughes, says that continued job growth is "hard to explain" in the face of the national downturn.' There are different philosophies that we can follow here in Augusta. There is a philosophy that if take a proactive approach in stimulating the economy that will benefit all of the people of the state. That's what this one portion of the budget intends to do. As I pointed out, this is a compromise budget, having garnered thirteen votes out of the Appropriations Committee. I would trust that we, as members of the Senate, can view it as such, as a compromise document, not addressing every single concern that you have, but being one that will keep the state moving and will keep the people of our state protected. Because of the fragility of the compromise, and because of the necessity for us to pass a budget and not to go to a state shut down, I would move the Indefinite Postponement of this amendment. Thank you.

Senator HANLEY of Oxford moved that the Senate **INDEFINITELY POSTPONE** Senate Amendment "D" (S-358) to House Amendment "A" (H-628).

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

Senator RUHLIN: Thank you, Mr. President, Honorable Senators of the State of Maine. First of all, I want to start out by thanking the Chair of the Appropriations Committee and his entire Committee. I have watched them since January work long and hard, arduous hours trying to come to an agreement with which we all could live. I think you have done us proud. We appreciate that service. I know it has not been easy. In your opening comments, I would say to the good gentleman from Oxford, that you told us that this is not a perfect document. When I look it over, I fear that you are, indeed, correct. I guess my great fear is that not only is it not a perfect document, Ladies and Gentleman, but fiscally it is an imperfect document, more importantly. For within this document is a very poison pill of fiscal irresponsibility for our future. A tax cap, and that's the only thing it can be called, an income tax cap on the fairest, most equitable form of taxation that we have in our society at this time, is a recipe for disaster for our future. For our children, for our grandchildren, and for the 118th Legislature and the Legislatures that will follow it. For when you take and cap one form of taxation, without capping spending at the same time, you, in fact, increase pressures on the other forms of taxation, such as the property tax, such as the sales tax. We all know that the sales tax is very susceptible to cycles of recession. So, the most stable one is the property tax, so that is the one that shall have to bear the burden of any income tax cap. The property tax, Ladies and Gentlemen, was a tax that was maybe fair and equitable in 1850, in the year 1995 it is a regressive, unfair, inequitable, the most despised form of taxation within our state. To cap the income tax in the manner that is proposed within this budget is to guarantee an increase in the property tax pressure within our state. If I heard anything in the previous year it has been that the people of the

State of Maine do not want a property tax increase. They want some relief from that pressure. So, I feel that with this, what I call the mother of all gimmicks, at a time when we are trying to get rid of gimmicks, I know the Committee that we just talked about that worked so hard, so well I might add, with the budget that was proposed to it, I think somewhere, and I may be corrected on the amount that I use, but I believe that somewhere around \$140 million worth of gimmicks that they have gotten rid of, which was fiscally irresponsible of our past, to replace that with this debt in the future, this IOU on our children, this IOU on the 118th Legislature, is to yes, correct the mistakes of the past but guarantee those mistakes to the future. I will have no part of it. I will not vote for this budget. I will not vote for any budget that has an income tax cap on it. I would ask all of you in this chamber to stand solid with us, the true fiscal conservatives. If you want to do something fiscally responsible, something fiscally conservative for your State tonight and for the future, accept the plan that will cap spending. Take that goal, which the Committee worked so hard to come up with, which I think is a very equitable goal, of \$676 million, put a cap on that. Say "We will spend no more than that in the future. We will not spend more than \$676 million on Part A or Part B of the future budgets. We will take any revenues that come in from the income taxes beyond that point and we will apply them to the unfunded liability of the Retirement System, we will do it to our infrastructure, we will do it to some capital improvement costs. We will be fiscally conservative. We will not spend that money, but we will pay our bills on time." So, with that in mind, I ask that you support this amendment that does, in fact, remove the poison pill from this otherwise hard worked, greatly fought for, and cared for piece of legislation. Thank you.

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

Senator BEGLEY: Thank you, Mr. President. I hope you will vote for the motion to Indefinitely Postpone this amendment. The argument insofar as this being a gimmick, in my estimation, is not a valid one. We are, if we pass this, giving the legislature two years in which to take a very close look at what they plan on doing for the benefit of the state. If you want a lesson in history, please take the comptroller's book on the expenditures of state and look at the history in the last ten or twenty years, where we have listened to, time after time, "We will give you a tax cut after we handle this. Give us good times and we will take care of that and then we will give you a tax cut." We had excellent times, we didn't get a tax cut. We had other proposals and were told to put it off and we will give you one later. It seems to me that this proposal in this budget says to future legislatures you've got two years to fulfill a promise that you have tried for years to give back some money to the taxpayer. Maine is one of the highest taxed states, and it is up to us to accept this challenge, to meet that position, and follow through by simply saying please, give back some money to the taxpayers so if he gets it back, as it has been proven many times, the economy could improve. Thank you.

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

Senator **CAREY:** Thank you, Mr. President. The good Senator from Oxford, Senator Hanley, quotes Money Magazine, which in turn quotes the New Jersey Governor, Governor Whitman. I may give you a couple of quotes from Money Magazine as well. By Frank Lally, of Money Magazine, "This income tax versus property tax trade-off" and this is all about New Jersey, "is bad medicine, lousy politics and questionable social policy." In yet another quote from him, "In some counties taxpayers, alarmed at the prospect of watching the quality of their local schools decline while their property taxes soar, are already protesting to school boards and vowing never to vote for Whitman again." They may not get the chance, she may run for Vice President or President. As a whole, state property taxes increased in New Jersey by \$526 million in 1994. It was the largest increase since 1990. In 1994 the average income tax savings, which we are talking about coming down the pike two years from now, was \$50, but the average property tax increase was \$176, not exactly a good trade off. Some of the quotes from Money Magazine have been haunting us for some time. How we were the fourth highest taxed state in the country. If somebody read very closely, what the article was all about, they would have found that that was based on a \$75,000 individual taxable income. Over 95% of the people in Maine don't quite reach that level. So, we are talking about a very small minority in the long run, which might have been served otherwise. Fortunately, during a compromise, we were able to lower that so that people in the \$100,000 bracket simply, as is my understanding, will not qualify for any of the tax breaks of \$30,000 for a single individual, \$45,000 for a head of household, and \$60,000 is the upper limit for the couple filing jointly. Unfortunately, the wording in there says "taxable income" and not "gross income", so we are including a lot more people who might not really need the money anywhere near as badly as some of those people at the lower level, and therefore, they would be somewhat cheated in that what money was available had to be spread over a much larger group. We may end up with less than \$20 or \$30 as a benefit. We studied this bill, as presented by President Butland when he came before the Taxation Committee, and the report of the Taxation Committee was seven to six ought not to pass. It has found its way into the budget document and it is no better today than it was when it was before the Taxation Committee.

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

Senator **PINGREE:** Thank you, Mr. President. I had a great phone call this afternoon from one of my constituents in St. George. He started out by saying that he wanted us to stop the partisan bickering, that he was frustrated that we haven't passed a budget, and that it was about time that we did the sensible thing and passed a budget. He went on to discuss some of the issues and then finally he said, "You are a Democrat, aren't you?" I said, yes. He said, "Well, I hate to say this." I said, "Go ahead, say it." He said, "I have voted Republican all my life, but the fact is the Democrats are doing the right thing here. It is time we paid the bills

before we give people a tax break. I don't want this tax break. I don't want any tax breaks until you guarantee me that you have paid the bills and you have put the fiscal house in order." That's what this amendment would do. It would take away a tax break that we can't currently afford. I think we have dealt with some tax issues in the budget. We have worked in some language about getting rid of the hospital tax, which all of us feel was an unfortunate tax and something we shouldn't have done. We are giving more back with the property tax with the circuit breaker program that we are increasing. I'm glad to see us doing that, but we don't need to do anything else. I think this is fiscally irresponsible and we can't do it. We all know what happened over the last few years. We maxed out the credit card and we didn't pay the phone bill, we didn't pay our obligation on general purpose aid to education, we continued to borrow from the retirement fund, people's retirement savings, and we're not paying it back. We reamortized the debt and now we should be thinking about paying that back before we have a \$4 billion bill to send onto our children and grandchildren. This is one-third of our revenues in the State of Maine. We all talk about all the things we would like to do in the future, make sure that we take care of patients with Alzheimers and dementia in our nursing homes, make sure we do all these things and we say when the economy grows and things are good again we will do that. Well, now what do we say when the economy grows? Sorry, we can't pay our bills. We can't even pay for the hospital tax that we want to pay back because we are going to have a cap. This is an irresponsible thing to do, and all for what? Maybe to give people \$50. We've done it before, it didn't do anything. We give everybody a little teeny rebate and we don't pay our bills. In a state where we know it will be a shift to some other tax, in a state where we are the eleventh most dependent in the country on property taxes, where we know it's the most burdensome tax, where it costs our educational system, where it costs our elderly, people on fixed incomes, it's not a good thing to do. I encourage you to vote against this amendment. Do the fiscally responsible thing. If we are going to cap a tax, this is not the right thing to do. Vote against the motion to Indefinitely Postpone because this is a good amendment and it makes this a good budget that we can all support.

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

Senator **BERUBE:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. You know, the easiest thing to do would have been to acquiesce everybody's wish list and we would have passed a budget with no hassle, no criticism, it would have been wonderful. But that's not what we did simply because there is not enough money in the till and the taxpayer's pocket is not a bottomless pit. What we did do, however, was consider the needs of the people we represent. We prioritized the necessary versus the needs of those issues that were less than priority. This is the budget we have come up with. To those who fear that passage of this budget, which includes an income tax reduction for those persons earning \$30,000 or less, would indeed be a detriment later on to the property tax structure at the local level, I would remind them that I trust our municipal

officials to be as diligent as we have been here when we address the budget expenditures and revenues. I would also say that the income eligibility would not include those who are earning \$90,000 and \$100,000 because, it is my understanding, that if you earn \$100,000 or more, you are not eligible for exemptions, for instance, and it would be very difficult for you to bring your expenses down to the point where you would qualify for a \$30,000 income eligibility. The budget increases funding for social needs for the citizens who need it. It addresses the shortfalls of the past. We have addressed, as you heard a moment ago, the property tax reduction by increasing the income eligibility. We have also included a very good point and that is that those elderly who are not on the low-cost drug program, who fall into the cracks, is they earn \$40 or \$100 more than the income eligibility allowed for the low-cost drug program, would be allowed, if their income was not greater than 25% of the income eligibility, and if their prescription drugs were above \$400 a year, they would be eligible for the low-cost drug program. That in itself is a wonderful point. Yes, we dared give a tax break to those working men and women who earn \$30,000 or less. They are the ones who fund our entire budget, not necessarily just the ones who earn less than \$30,000, but it's a little something we have given them. They might have a few dollars left in their paycheck at the end of the week more than they have now.

There will never be enough money to fulfill the wishes of everyone, but I believe that for the most part we have addressed the true needs of our people and the citizens will be well served. I would ask, in view of the fact that the Appropriations Committee unanimously endorsed this budget, bear in mind that we are made up of thirteen people with diverse opinions and divergent views, that we managed to come together and fashion a budget that I believe will be very helpful to the people of our State. I ask that we leave it in tact and that you vote against the amendment, and subsequently vote for passage of the budget. Thank you.

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

Senator **HATHAWAY:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. It's difficult to follow the good Senator from Androscoggin, who I have come to respect and admire so much this year. I want to thank her for her words that I know are deeply felt and come from long experience and great wisdom. But, I do want to respond to the good Senator from Knox, Senator Pingree, who's Republican friend called her. I represent the City of Biddeford, which is 10% Republican, so of the thousands of people I have talked to in that city in the last year most are Democrats. I asked them two questions. Do you think that your government spends enough money? They all agree that we do. I asked them, do you think that the people of the State of Maine, who work hard for their money, pay enough taxes? They all agree that we do. All we are trying to do is let the people of Maine, who work hard for their money, have the chance to spend it, rather than to have their government continue to waste it. To call it a gimmick when we finally put some money back into the hands of real Maine people, which is where

it belongs because it is their money, goes beyond reason. I hope we all remember that the people do not serve the government, but we, in government, serve the people. So, please allow them to keep some of the money that they have worked so hard to earn. We have enough here in Augusta to spend. Thank you.

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

Senator **LONGLEY:** Thank you, Mr. President, Colleagues in the Senate. I think Maine people who are listening tonight know politalk when they hear it. I think we are really close to arriving at a budget and making everybody happy, or at least arriving at something that we can all live with. On my campaign trail and since, I hear about property tax relief and I hear about school funding needs. I agree with Governor King, we have a lot of bills that we haven't paid. Let's pay our bills and then let's address property tax. I think the income tax piece that's being presented, that I will be voting against, I'll be voting against it because it's the wrong focus. The focus, in my opinion, is property tax relief. I think we are close and I think I would be willing to go with a cap over which that excess money goes towards paying past bills. We have got \$240,300,000 in past bills to pay. Every Mainer understands the telephone bill that didn't get paid. It's now been compromised down to only \$3.5 million. We've got furloughs for \$15 million, payroll push for almost \$10 million, child protection issues for \$9 million, state police funding for \$5.9 million. These are the millions of dollars in overdue bills that we have to pay. I honestly think that \$240 million plus in overdue bills is more important and we have to address that first. Yes, I would like to put an extra \$50 in every Maine person's pocket, but I think we have to face our bills and then address the issues that Maine people are talking about all of the time, which is property tax relief and school funding issues. Thank you.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I, too, want to add my congratulations to the Appropriations Committee. I think they have done a tremendous service to the State of Maine, both in the budget they have put before us and in the manner that they went about that task. I also want to say that my respect and admiration for the partisans among us, meaning all of the rest of you, has grown considerably over the course of the last four months. I have come to admire your dedication to your beliefs, the tremendous persistence in trying to put those into effect, and the fact that with all those differences we are this close on the most important matter facing the State of Maine right now. I can't resist commenting on the New Jersey part. Having lived in the State of Maine for seventeen years, and having gotten seventeen years worth of grief about my roots in the Garden State, I find it quite astounding that we are sitting here tonight saying New Jersey is doing it so it must be a great idea. This is a major breakthrough in international relations. I know New Jersey, and Maine, you're no New Jersey. Putting a few dollars

into the pockets of people in Maine is far different than putting a few dollars into the pockets of one of the most densely populated states in the United States. One could expect a significant economic kick from doing it in New Jersey. In Maine we just don't have the density to get that benefit from these few dollars. My objections to the income tax stabilization plan are not because I want more money to spend, it's because I desperately want to see this State's credibility restored among the people of this State and I believe we can only do that by paying our debts. As the debate went on, often in caucuses, I decided to enlarge my own scope of understanding of this issue. I had a conversation with a team member in the State House who is a silent partner, if you will. The person that puts this Chamber to rights everyday when we leave, so that when we come in in the morning we face an orderly and pleasant work environment. I said to her, "Do you think we ought to be cutting taxes?" She looked at me without hesitation and said, "No, do you?" I found that that response was the same one that I got from anyone that I talked to who is not a part of this body or the other body, who is simply looking at it from the perspective of the common sense average person's point of view. The top priority for all of us in our homes and in our personal lives is to provide some order, to show some fiscal responsibility there. It should be the top priority for the State as well. I urge you to reconsider this effort, which I think was perfectly well intentioned, perfectly well meant, but is of only symbolic value. It's important for our sake, and for the sake of the State, to get beyond symbols. We have been doing it that way too long. We need to get to substance. Substance means paying off our bills and I urge you to defeat the motion to Indefinitely Postpone. Thank you.

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

Senator **CLEVELAND:** Thank you, Mr. President, Men and Women of the Senate. I have gotten a number of calls from my constituents back home, urging me not to shut down the state one more time. I have assured them that neither I, nor any of my colleagues, wish to do that. That is not an acceptable operating mode for this government any longer. That ought to be taken off the table and we ought to find the common ground. I explained to them that we have compromised on many issues and that many items, in fact most items, in this budget we have come to an agreement on. We found that common ground. I explained to them what that one item is that we haven't come to an agreement on and what it is intended to do. They say to me, we have elected you to use your good judgement and your common sense for what you believe is best for the people of Maine, and I understand why you take that position. That we ought not to purchase compromise at the cost of hundreds of millions of dollars for the people of this State, simply because we want to purchase a solution and buy this budget at any price. That one item that would require us to do that is the proposed income tax cap that is in this budget. It would require us to pay hundreds of millions of dollars so that we could have a budget tonight. I think that would require us to cast aside our good judgement and our common sense, simply to find that common ground. I think it's too high a price for the people of this State to pay. It would

cap income taxes arbitrarily, it would shift the cost to the other revenue sources, and in particular to local property taxes, which are the most regressive form of taxation. I have no doubt that it would do that. It has done it in other states where they have tried this measure, simply for the political purpose of returning a check on average of \$50 to individuals. They said we remember when the government did that before and it was a joke. Why do it again? What is the purpose? I also am concerned because I don't think we are being totally fiscally honest with this proposal. Because the proposal really doesn't take effect until three years from now. Only a very small portion in the last quarter takes effect. So we are not honestly saying here is how we are going to cut the budget to meet the reduced revenues. We are going to put that off to future years. We are not going to tell you that part of the story. We only want to tell you that we are going to send you a \$50 check. Because we are not willing to do the hard work of identifying where those cuts are, we could do it in this budget, we could do it this year. All we have to do is do it, but we don't. But somehow, magically, in three years we are going to know how to do this. I think that if the money is there, and we can afford the tax cuts, who doesn't want to do them? We'll do them in two years, but let's come back and honestly identify how we will pay for them and what we will give up for it for the greater benefit of a tax cut. Let's not be dishonest and say we are going to give your something in three years when we don't know where it's going to come from. I'm also disturbed by the fact that some of my colleagues suggest to me that it's okay to vote for it now, in two years we'll all vote to repeal it anyway. I don't work that way. If I say I am going to give you something, I'm going to stick by it. I can't find today where we are going to have the dollars to do that in three years. So, if we are not going to be honest enough to stick by what we say we are going to do, then let's not lose any more credibility with folks, because I'm telling you I am not going to support this because I don't know where the dollars are and I'm not going to come back and tell you in two years that I am going to try and repeal something because I dislike it in two years and we can't find the dollars to do it. Let's pay our bills first. Let's get our fiscal house in order. Let's not shift this cost to the local property tax payers. When we can do that, then I can find a budget that I can support, but not before then. Thank you.

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

Senator **CIANCHETTE:** Thank you, Mr. President. About two years ago I was in this body and I went along to pass the budget, doing something that didn't feel right. That is when we wanted to save \$100 million and not fund the State Retirement account. So, we figured out that we could save \$100 million the first year by reamortizing the \$2.6 or \$2.8 billion unfunded liability to the State Retirement fund. We were told at the time that that was going to be at a cost, over thirty-five years, of something like \$2.1 billion. Well, we now have the actuaries real report of what that move is going to cost us. It's not \$2.1 billion, for the privilege of extending that amortization an extra ten years, we are going

to put onto some of your children, and my grandchildren, \$4.5 billion for the privilege of extending that debt out ten more years. That's big bucks folks. I wish I hadn't voted for it, but I wanted to be a good guy and go along. I see this tax cap in the same situation. The tax cap is going to reduce revenues. I have seen bumper stickers saying "We mean business", I don't know of any business that can survive saying, "I'm going to reduce revenues and increase my debt." I don't know how any business can survive doing that. I commend the Appropriations Committee for having done a wonderful job of pulling this thing together, I say that very sincerely. This is one piece of a huge budget that, in my opinion, is very wrong. I would like to see the proponents of that income tax cap change that to what the Senator from Penobscot, Senator Ruhlin said, change that to a spending cap. Limit the legislature from spending more than that level of money, and take that surplus and put it into an early paydown of that unfunded liability and help save those billions of dollars of interest that we are going to be putting on your children and my grandchildren. I believe that can be done very easily. I think that it would serve lots of purposes. It would, in lieu of giving this tax cap, it would do several things. The bond agents that set the bond rates, that we are going to sell bonds in the State of Maine and how much we pay on our bonds, and that is big bucks, are going to look at this revenue decrease unfavorably. You can bet your bottom dollar that if we do this tax cap thing, we will get some increase in our bond rate in this State. But, if we say we are going to increase our revenues, we are going to cap our spending, and we are going to pay down our debt, you can bet your bottom dollar that they will reduce the bonding rates for the State of Maine. We will be a much better bargain. Any lender would love to have that kind of a creditor. It makes all kinds of sense. I think the people of the State of Maine would be proud of this legislature by putting a spending cap on and saying we are not going to spend any more of your income tax dollars on operating costs of the State, we are going to use that surplus that we can pull out to pay down the bills and the debts that we have built up, because I have heard no other plans to pay down that huge interest expense that we are accruing, and that grows every year. Out a few years, twenty-five or twenty-six years down the road, we are going to be paying four, five, six, seven, and almost eight hundred million dollars a year, which will be only interest that we will have accrued. I say we need to pay attention to that, and I would love to see this Senate understand that, do something good for the State of Maine, and turn this piece of the budget around to something that would really help the State of Maine. Thank you.

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

Senator **BERUBE:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I may have heard incorrectly, but I thought I heard a previous speaker say that this income tax reduction would be hundreds of millions of dollars. I hope I heard wrong, and I know it must have been an error when the gentleman said so, but I checked for the figures this noon, and it was going to be approximately \$38 million for this tax reduction, so that we can have our working men

and women have a little more left in their paycheck at the end of the week. There was also a previous speaker who mentioned that we should be paying our bills. Well, indeed, the budget is approximately \$240 million greater than it was last year, but \$140 million of that is to repay the bills, like the telephone of \$3.5 million, the state troopers have been addressed, the payroll push has been addressed, there will never be anymore of that, we have addressed the deferral to the tune of \$7.5 million, we addressed the shutdown days. I think the budget is the result of a great deal of thoughtful work and we took suggestions from everyone that we could see, and this is the result. I think the people of Maine would be very happy to have us pass this budget in tact. Thank you.

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

Senator **PENDEXTER:** Thank you, Mr. President, Men and Women of the Senate. This amuses me to sit here and Senators stand up and talk about we have to cut spending. I have been here five years, and the first year I came here I was ready to cut spending. Legislators in these halls didn't even believe we were in a recession, they didn't even believe the budget numbers. They didn't believe we were a billion dollars in the hole. So we didn't cut spending, because people didn't believe we were there. We raised taxes and we did gimmicks, and we did this for three more years. I haven't voted for a budget since 1991 because I have wanted to cut spending, but the majority of the people in these halls just can't do it. You cannot do it. We all went through the exercises in our Committee, because the first task that was asked of us in Appropriations was to do level funding. That's not even cutting. That's doing level funding. We couldn't do it. If you look at the charts, state spending goes up, up, up every year. So, I'm willing to try something different. I'm going to start turning the faucet off because we have an appetite in this place to spend every red cent that comes to us. I'm convinced, after being here for five years, because we have to agree to budgets that are consensus and compromises, that we will never be able to cut spending even though everybody wants to stand up and talk about how we should cut spending. It's not going to happen. You know, we talk a lot about economic development, attracting jobs, getting businesses to come here, and in the last four or five years, when businesses have entertained the thought of coming to Maine, and they decided to settle elsewhere, they were given an exit interview. Why didn't you stay here, why didn't you settle here? One of the big things they say over and over and over is that your income tax is too high. So, it makes sense to me, to at least start addressing that concern. If we are concerned and serious about attracting business and having industry settle here, let's start working on the number one problem that they have told us is the issue. This is not the way I would like to do it, but it's the only thing we can get for now. It's moving in the right direction. It's cutting revenues, because I'm convinced we will never cut spending in this place as long as we have money to spend. So, I'm willing to try this new scenario. You know, cutting taxes is saving taxpayer money. I don't see how any of us can be against that. Thank you.

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

Senator **HANLEY:** Thank you, Mr. President, Men and Women of the Senate. I just wanted to stand and ever so briefly let the Senate Chamber know that I am proud to be a member of this Senate Chamber tonight more than any other night as a member of the Legislature. I came into the legislature in 1986 and why I am more proud tonight than any other night is because it's June 27, and it's the beginning of a new fiscal year, a new biennium, and for the first time this Chamber is not talking about what taxes to increase, we're fighting about which taxes to cut. I feel like I'm at a summer tent revival for fiscal conservatives, and it's a wonderful feeling. I say that with all sincerity because I think we have turned the corner. I think we have collectively turned the corner and we are now going to proceed on a path which is not only going to make the people of the State of Maine proud, but we're going to make our neighbors to the west, New Hampshire, stand up and say wait a second, maybe Maine actually is on the move, and maybe we're going to have to start competing for those jobs, for those businesses who want to expand, for those businesses who want to move into the state. But, while we are on this path, let's make absolutely sure that everyone is totally aware of the issues we are dealing with. There has been some discussion as far as this income tax and it's a cap at \$676 million, only until we can reduce the tax rate by 20%, then it's off. So, it's not like some people are thinking of this, as a continuation, that this tax cap is going to continue on ad infinitum. No, this is a booster shot for the people of the state, for the businesses of our state. Some members of this chamber have said that in doing so, we will adversely impact the property tax. Let me state right here and now, the budget before you spends \$16 million more for property tax relief for the people of the State of Maine. For those of you who want to provide the property tax relief, this is the vehicle, \$16 million above what the Governor had earmarked, \$42 million in total for property tax relief. Some members have said well where are we going to find the dollars for this income tax stabilization program. You won't have to find \$676 million, because it's going to be there until the 20% reduction is achieved. As far as whether or not that is going to be passed on to the property tax payers, you only have to look at yourselves, and those members who will fill those seats in the years to come, whether or not that will happen, because it is in our hands. We will determine whether or not there will be an offset onto the property tax. Some members have said we haven't paid the bills. I would echo the comments of the good Senator from Androscoggin, yes we have, and we have a proposal to address all of them. We have taken care of almost all of the gimmicks in the budget, not all of them. The gross receipts is still there, the sick tax is on to a certain extent, but we are working and this is a positive step in the right direction. I cannot agree more wholeheartedly with those who have said the unfunded liability on the Retirement System is going to have a \$4 billion impact. If we see the amortization schedule out for the full thirty-two years. Some have said there is no other plan. I would differ. I would only ask the

members of the Senate to take a look at our current statutorily set Rainy Day Fund, a fund which is supposed to help us out in those times when our revenues don't meet the projected estimates. That fund, which only has statutory protection, has been used for its statutorily defined purpose once, but yet has been raided over three dozen times for other reasons. So, for those who espouse fiscal conservatism, I'm sorry that I can't put a constitutional amendment in the budget. The Attorney General's office has advised us that's not possible. There is another plan, in fact I have two other plans which have come out of Committee. You will have an opportunity, so if that's what's holding you back tonight, I would implore you, do not shut state government down because we have other options available for you. If we combine together in this congenial atmosphere that I feel now as far as we do want to do what is right, that we don't want to spend the cupboard dry, but that we also recognize the importance of returning some of the money to the hard earned taxpayers of our State. Let me correct another misperception. Some people, I'm not sure where they got the figures as far as the \$50 average to the taxpayers, well, that's incorrect. We have had our analyst run the figures, and as far as into the second year in the tax cap, the average in the second year would be \$163, that's in the second year. As we continue to decrease the tax rate, that \$163 will grow for the average taxpayer. I'm not talking the high end. I'm talking the average taxpayer, for my brother the carpenter in Auburn, as I have told you before, that would take him through quite a few diapers. He could use that money. That's not a trip to the movies, that's not seven trips to the movies, that's half a year's worth of diapers. Those are the essentials that the people of the State of Maine need. Those dollars they work hard for every single day. So, it's important that we give them an opportunity to keep a few more of those dollars. We don't imperil the state, as the good Senator from Androscoggin pointed out, in FY 98 that would be \$38 million, not \$100 million, not hundreds of millions. Nor will this be the fiasco that the Senator from Androscoggin, Senator Cleveland, pointed out as far as sending checks back. No, let's make it quite clear. They will take a look at their income tax return for FY 97, they will take a look at the rate and they will say okay, if I'm earning a taxable income of \$28,000, I will be taxed at this rate, and that rate will be reduced by whatever growth we had in that line. The State won't be sending a specific check back, they just won't be paying as much in their income tax. Will the State still take in the \$676 million? Yes, it will, and it will continue to take that in until we achieve the 20% reduction. This is a reasonable proposal, and for the fiscal conservatives, and I join you in your ranks, there are two other vehicles for us to embrace. I look forward to working with you on that but the issue before us today is are we going to pass a budget and concur with the other chamber and keep Maine moving forward and not shut state government down. That's what I am working for, that's the pledge I have made and that's the pledge I intend to keep.

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

Senator **PARADIS**: Thank you, Mr. President, Men and Women of the Senate. Many, many times I would sit in this Chamber and hear people talk about too much government in my life. So, I made a statement one evening on the floor of the Senate and said that if people really had too much government in their lives to move up to Aroostook County. I could guarantee them they could go for weeks, months, whatever, and see very little, or no, government at all. This evening I hear that there has been this incredible governmental largesse that went out to certain districts where people got tons of money, to the point where now their constituents are saying cut it off, we are getting so much. I cannot believe that we have been, in the County, tightening our belts, doing without forever and ever and a day, and there are some people here in this Chamber whose areas have been inundated with cash that is beyond the beyond. We, in the Transportation Department, know that year after year after year we have been raiding the transportation budget, the highway fund, to balance the budget of the State of Maine. So, the highway system that we still don't have in 1995, from Houlton to the Valley, a reduced highway system, any type of a system that still does not exist, is not about to exist because I'm hearing now that we have blown the money all over the State of Maine, you never got it and you never will, because it's not fair anymore. The people who have been getting this money, it's too late. I'm going back north, and I have to tell them, again, there is not a dime for any of this, but I am hearing this evening that somehow, when the going was great, when the bucks were being handed out, we never got any, for whatever reason. Now, the spigot is turned off, it's still not our turn, and never will be our turn, even when we know that the economic evolution, or development of the County, is predicated on the highway system. In the meantime there is a brain drain. You don't have to worry too much about welfare in the County because people leave. We have a missing generation of children, our beautiful kids that are, luckily, populating a lot of southern Maine communities, and serving southern Maine communities very well. But, I cannot believe that I am hearing that, again, we are going to be doing this and insuring that any type of a highway system, any type of a way to get into the County, is forever being precluded from happening, because we have decided that you all have had plenty of money and now it's time to turn it off.

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

Senator **HATHAWAY**: Thank you, Mr. President, Ladies and Gentlemen of the Senate. I would just like to respond to a couple of comments that I heard. The good Senator from Somerset said that he doesn't know of any businesses that have succeeded when they can't pay their bills. Well, I will say that I have never known a business to succeed when it continues, year after year, to spend more than it takes in. That is exactly what our government does year after year. This year our budget came in with hundreds of millions of dollars of new spending. Thirty-six out of forty agencies has increases in their spending. DEP had a 33% increase. He asked, do we mean business? I would assure the good Senator from Somerset, let there be no doubt, that we do mean business. Tonight will mean a new direction for the

State of Maine. We will, from this point forward, cut spending and cut taxes. To say that the people of Maine will have to pay for these tax cuts could not be any more wrong. It is the people's money. The people will keep their money this year. It is not our money to spend. I would like to say that, as we have heard in past years about tax cuts, particularly of the temporary nature, as I read something from two years ago when it's talking about the temporary tax cuts, asking legislators, would you vote to continue them. We need those dollars so that the property taxes will not increase. Deja vu all over again. It was felt that after two years, things would get better. I would just like to ask the good Senators who responded to this questionnaire, who answered would you vote to continue these taxes, their answer was no. I am sure that Senator Amero, Senator Butland, Senator Carpenter, Senator Hall, Senator Hanley, Senator Harriman, Senator Kieffer will keep their promise. Tonight I would ask Senator Lawrence, Senator Esty, Senator Pingree, Senator Paradis, will you keep your promise?

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

Senator **LAWRENCE**: Thank you, Mr. President. I would ask the President to instruct the Chamber on section 124 of Masons Manual.

THE PRESIDENT: The Chair would direct the Senator from York, Senator Hathaway, to refocus his comments towards the pending motion.

Senator **HATHAWAY**: My apologies, Mr. President, and to my good colleagues in the Senate. But my point is simple. Perhaps there are past bills that have to be paid. I want to remind you that there are past promises that have to be kept. I think those are more important. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator **HANLEY** by Oxford, that the Senate **INDEFINITELY POSTPONE** Senate Amendment "D" (S-358) to House Amendment "A" (H-628).

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.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, CARPENTER, CASSIDY, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, MILLS, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

NAYS: Senators: BUSTIN, CAREY, CIANCHETTE,
CLEVELAND, ESTY, FAIRCLOTH,
GOLDTHWAIT, LAWRENCE, LONGLEY,
LORD, McCORMICK, MICHAUD, O'DEA,
PARADIS, PINGREE, RAND, RUHLIN

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator HANLEY of Oxford to INDEFINITELY POSTPONE Senate Amendment "D" (S-358) to House Amendment "A" (H-628), PREVAILED.

On motion by Senator CASSIDY of Washington, Senate Amendment "C" (S-356) to House Amendment "A" (H-628) READ.

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

Senator CASSIDY: Thank you, Mr. President. Good evening Men and Women of the Senate. This amendment that I offered, unlike the previous vote that we just took, does change the funding in this proposed budget, but it doesn't change it by one cent as far as adding or taking away. What this amendment does, it refers to the school funding formula, which is part of your budget package. What my amendment does, it offers the minority amendment to this budget that we are going to be voting on this evening. I hope that I won't need to stand and talk to you as long as we heard the last hour and half debate, so I will try to summarize my thoughts a little quicker, so that you won't be totally tired of sitting here listening to all of us. Mostly, what this amendment does, on the proposal that you saw before you on the majority report out of the Committee, what happens to the funding this particular time is that the funding is shifted to a small percentage of the schools. I think probably the best way to explain it is I went through both proposals, both the majority and the minority proposal, and I noticed that twenty-four Senate districts, and you know who you are, in this minority report, would receive more money than in the majority report. So, I assume then that there must be twelve people in the majority who are going to receive more money than the other twenty-four. Also, on this minority report, if you look at the numbers, you can see that even in some of the schools that are going to gain, rather than gaining 29%, for example, this year they may gain 22% or something along those lines. Obviously, we all look at our own districts, but on education it's a little different situation than just looking at my district. What we are looking at here is a fair and equitable education for all children in the State of Maine. We, in this country, and in our state and in our communities, have put education as the number one priority that we fund to educate our children. We decided that this is the most important thing to us by virtue of the money that we raised in our budgets to do that. As you know, if we who have children, and are educating them, we are paying taxes and our kids are receiving an education, but you folks who have never had children, or who already have your children grown, you're going to continue to pay for education, unfortunately, until the day you die, as we all will. This is kind of a commitment we have all made to our children in this country. As I look at my

district, especially on the majority report on the educational formula, our area, and I represent District four, and as I was talking in Caucus the other day, I looked at Cumberland and York, and I saw that we have eleven Senators between those two counties. I said I'm the only act in town in Washington County. I don't really have a lot of support here, but if you look at the minority report, that particular report was listed by district. I have thirty-eight schools in my district. I use a page and two on the next. None of you even come close to that, even the good Senator from Aroostook, Senator Paradis, although she has a lot of trees up there, I don't think she has as many schools at least. All of those schools in my district are going to lose money again this year. They are going to lose money again next year. They lost money last year. We are looking at cuts in our area where we are going to be losing possibly an art teacher, or maybe a phys ed teacher. When we lose an art teacher we are losing an art program in those small schools. We don't have five art teachers or two phys ed teachers in middle schools. I could go on and on with a lot of examples, but what I am going to do instead is ask you to support this amendment, that we go with the minority report on this funding formula, be fair and equitable to all of the children throughout this State, and I think it would go well to make this budget work and be proud to have a vote on it. Thank you for your time.

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

Senator HANLEY: Thank you, Mr. President, Men and Women of the Senate. I rise with some trepidation to speak against the motion that my good friend from Washington County, Senator Cassidy, has proposed, because I do have a great deal of respect for Senator Cassidy and his years of experience in the field of education. I don't think anyone in this chamber has any question as far as his commitment, not only to the students that he has taught, but for all of the students across the state. If I was just to use the printouts that were provided, I should probably go along with the good Senator from Washington, because I am one of those twenty-four Senate districts which would benefit by this proposed amendment. But, as I stated earlier, and I don't wish to belabor this point too long, this is a compromise that has been crafted through the legislative process. As one member of the Committee who has worked to find that compromise, to support this risks putting the \$44 million of additional money for education, nearly a quarter of all additional spending in this budget, has been earmarked towards education. Everyone in this chamber can be proud of the fact that we have put kids first and we have put education first. While this amendment will garner some support from just a dollar viewpoint, I view it in a greater vision, as far as for the entirety of the budget process. There are some who are concerned that if we don't include the school funding formula in the budget, that we will not have these dollars sent forward to our school districts, and that they will continue to be questioning as far as how it's to be distributed and when and if they will receive it. We have to put faith in the legislative process. While we may not get everything we want, hopefully, in the final

analysis, we'll get what's in the best interest of all of the people of our state. For that reason, I move the Indefinite Postponement of this amendment.

Senator HANLEY of Oxford moved that Senate Amendment "C" (S-356) to House Amendment "A" (H-628) be INDEFINITELY POSTPONED.

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

Senator SMALL: Thank you, Mr. President, Men and Women of the Senate. I hope you will support the Indefinite Postponement of Senate Amendment "C". The Education Committee worked, I don't know if as long and hard as the Appropriations Committee did, to come up with an agreement, but we did work many hours and we spent days and days going over different variations of the funding. We spent a couple of months just getting familiar, for some of the new members, with how the funding formula works. Then we spent a couple of months talking about what we wanted to see in the new funding formula, and then we went through a process of trying to come together and at least get a majority, if not unanimous, to go along with a new funding proposal. When the Education Committee approached the task of a new funding formula we agreed on a couple of basic principles. We wanted pupil equity, and that was tied very directly to taxpayer equity. This focus tied to the ability to pay, not the willingness to pay, which runs the gamut across the state, but the ability to pay. The old formula used only property valuation to determine a community's wealth. Our new formula will add income and cost of living as additional determinates in a community's ability to pay for their children's education. With the help of the Governor and a facilitator, the committee, representing diverse regions of the State, agreed on income and COLA being introduced into the formula. We compromised by increasing the local mills required for operating costs to be increased from 4.93 to 6.06 mills. This doesn't sound very significant to the rank and file, but it increased the amount of education dollars that go through the formula, and it favored the low property value districts, which are the high receivers. So, the low valuation communities got an increase in the required local mill rate, and the high property value communities got a 15% weight for income and COLA. It is important to understand in the majority report, income and COLA are combined. COLA is not part of the minority report. We had an expert come in from Market Decisions to come in and speak to our Committee about the affect of that income without cost of living. This is the major difference between the two reports. Mark Ayerman's main point about income and cost of living adjustments is that neither is effective without the other. The income factor measures taxpayer resources available for all funding needs. The COLA factor measures taxpayer cost of living in different areas of the State. The net of the two produces a more accurate picture of taxpayer resources available to fund education than income alone or property valuation alone. He also made it clear that income without the cost of living adjustment is untrustworthy. He advised the Committee not to use income alone and added that pure property valuation, though flawed, would be preferable to property value and income only. Even

though the Committee agreed to introduce income and COLA into the formula for future years, we still had to overcome the dilemma of how to distribute next years dollars. Here it is, June 27, most local budgets have been set and voted on, and the legislature is still deliberating over how the source of distribution method. The Commissioner of Education sent out proposed allocations in February that were based on current statutes at the proposed funding levels, which included Governor King's 2% and 3% increases for fiscal year 96/97. The majority of the Committee finally decided, eleven members, the best and most reasonable course of action was to use the budgeted amounts and try to push in those hardest hit by reductions from last years subsidy. So, the majority report phases in income and COLA, and allows next year's subsidy, the one probably already voted on in your local budget, to remain as anticipated, except for districts that lose more than 3% of their budget from last year. We added \$2 million more to the formula to cushion any school district losing over 3% of their budget from fiscal year 1995 to 1996, and that are making at least a seven mill effort. The majority felt if you are making under a seven mill effort, which is below the State average, you can afford to make up the loss between the two years. But if you were losing, say 5% of your allocation from last year, and you were already making a seven mill or greater effort, we will provide additional dollars and cushion the loss to no more than 3%. We also took \$1.5 million off the top and put it into transportation costs to help the rural school districts who rely on busing of their students.

Some will argue you are still losing money next year from this year, and for some cases that is very true. If you look at the printout you received that is labeled Plan 8 - Fiscal Year 96, and I know you had a hundred printouts that came by, but this was one of the long ones, it had a column four, which showed the pupil loss or increase over last year to this year. In column five it shows the valuation increase or decrease. If you lost students and gained valuation, you lost money. That's how the formula works. Many districts were cushioned from this loss in the previous two years by cushions the legislature passed. The fifty-fifty cushion in 1994, and the sixty-forty cushion in 1995 helped districts experience the loss to make plans for the decrease, or to make the necessary cuts or tax increases over a number of years, instead of just one. But the time has come to accept the changing conditions. An increase in local valuation means a decrease in State aid. Likewise, a drop in local valuation means an increase in State aid. Even with the income and the COLA the major determining factor in the amount of school subsidies school districts receive, will still be local valuation and number of students. The addition of the 15% on income and COLA will help stabilize the amount districts receive and lessen the swings we saw in the eighties and early nineties, as valuations soared and plummeted. You may wonder, you may ask, is this the perfect funding plan? My answer will be, no, there is no perfect plan that helps everyone. At least not with our present funding levels. But it does direct some aid to the schools that are bearing the greatest burden and local property tax dollars. There are communities where the median income taxpayers in that community pay as little as one half of one percent of their income for

education, and there are other communities that must raise five percent of their income for education. This new funding formula will lessen the gap in local support for education. It will not bring parity. Our work is still ahead of us to convince local districts that education funding is a priority for them, as well as the State, but we also need to assist those who have borne the burden to the point they can no longer afford to pay. I hope you will accept the majority compromise report and reject the minority amendment. Thank you.

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

Senator **CASSIDY:** Thank you, Mr. President. I would like permission to pose a question through the Chair. I was just wondering if the good Senator had any idea what community the expert that was brought in resided in.

THE PRESIDENT: The Senator from Washington, Senator Cassidy, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Sagadahoc, Senator Small.

Senator **SMALL:** I do not.

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

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

Senator **LONGLEY:** Thank you, Mr. President, Colleagues in the Senate. For those members in this Chamber who were on the Education Committee, I have been noticing how hard you have been working and there is no place I would have rather been this session than there with you. This is my best attempt at shaping the policy around education funding. The history of education funding has been a tug-of-war, it seems to me, between equity for students and equity for taxpayers. I think both deserve attention. What I don't understand is when I'm in southern Maine, visiting family and friends, and as I drive north, it certainly seems to me that the ability to pay seems to decrease with each mile. You just look around you and you realize the differences. I don't understand how Waldo County, where there is a lot of trailers and shacks, and I invite every one of you to the schools in Waldo, the town of Waldo, and what it is those parents and kids have had to give up. I invite you to come and see, and how we come up with a so-called equitable formula, that hits us in the gut to a tune of over half a million dollars, a \$517,000 difference. We were all excited about income being factored in, the average income is \$18,000, 22% of our children live in poverty. We factor in income, we don't have a lot of property wealth, and we end up losing over half a million more in the process? I applaud your attempt, but I question the results. For that reason, I will be supporting the amendment. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator O'Dea.

Senator **O'DEA:** Thank you, Mr. President, Men and Women of the Senate. I would begin my brief remarks by congratulating the Senator from Sagadahoc, Senator Small, for the work that she, and the rest of her Committee, did on the school funding issue this year. As the former Chair of the Committee, I, too, spent a few hours embroiled in that topic and can tell you that it is a thankless task. The worst part about it, and probably the most thankless part of all, is bringing a Committee's report to the floor and to try to get any substantial number of people up to speed on what is contained in the document, and to try to get legislators to focus on the real issue, which is the formula and the public policy behind the numbers. I was sitting here, over the course of the past couple of days, and the Senator from Washington, Senator Cassidy, and a couple of others have been walking around trying to figure out what to do with this issue. I was trying to explain it to a colleague of mine just how I saw it. They asked me about equity. I looked at the two plans and I realized that both plans are quite equitable. They really are. But they are striving towards slightly different ends. While neither is perfect, and both reflect a great deal of work, it's important to recognize that the ends they are striving for are not maybe the ends that are most apparent on their face. The Committee report, and I don't wish to take anything away from it, because the Committee really did a good job of bringing some new factors into the formula that haven't been considered before. The Committee report takes another step towards achieving taxpayer equity, something that has been wanting in our school funding formula for a number of years. When presented with the choice tonight between the majority report and the minority report, I would ask you to think about a different kind of equity, student equity. I would just ask you to look at the printout on the minority report, only because it breaks down by geographical region, rather than by letters of the alphabet, the affect of the minority and majority reports. As you page through this, and look at what happens in the counties of Aroostook and Piscataquis and Penobscot and Washington and Oxford and others, you will see that what this majority report represents is a further acceleration of the shift of school funding money to the southern part of the state. Before my good friend from Cumberland, Senator Rand, jumps to her feet, I will tell you that there is a reason for that, and it's legitimate, and they have some very legitimate taxpayer issues and student equity issues in the southern part of the state. But let's look at where the money is coming from. It is largely coming from those communities that are the least affluent in our State. If you look at the fourth page of the minority report, and look at SAD 77, East Machias, one of the least affluent communities in our state. They have been hammered year after year after year. In communities in Aroostook and Piscataquis it's the same story. Education funding, many times, comes down to a battle between the north and the south. Two years ago I sat on the Education Committee as we dealt with the school funding issue. This session I sat on the Committee on Criminal Justice. They got to deal with what are, in many ways, the failures of our educational system. The children that are affected by the decision that we will make tonight, are citizens of our state and we will either enjoy their success or we will suffer through their failures. If

you look around this state at what are the least affluent communities, and the resources that those communities have to educate their children with, I think that you may come to the same conclusion that I have, which is that we cannot afford to send more dollars to the more affluent communities. This is probably one of those times when property taxpayer equity can, should, and must take a backseat to student equity, I would ask you to support the Senator from Washington in his effort tonight. Thank you.

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

Senator **HALL:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. If I stumble tonight it is because I am tired. I am extremely tired this evening. These long days are catching up with all of us. I can only echo what the Senator from Penobscot and the Senator from Washington said. I watched very intently this spring as the Education Committee met and asked almost daily what the progress was, because back in Piscataquis County and western Penobscot, times have been very tough for the last few years. Every year they have taken more and more cuts. The calls at home, the letters that come, the people on the street, the people that come to my house say "Senator, what can you do? Don't they realize in Augusta what they are doing to us up here? Don't they realize that our children are not getting the same quality education that they are getting in other parts of the state?" I said I think they do. I tell them. Yes, we will all stand here and beat for our own districts, \$44 million more going into the educational funding. It was mentioned that we should be very proud. I guess so. But, I go home, we're not getting any of that. As a matter of fact we are going to take another cut of over \$1 million. A cut that we can't take. We can't go up on our property taxes because the people can't afford to pay them. They can't afford what their taxes are now. Go talk with the Town Manager in Milo, see how many tax liens there are on property in that small town. We reached the end of our rope last time. We have fallen off the rope this time. I don't know what to tell them anymore. Please vote against the pending motion of Indefinite Postponement. Think about it, think about it long and hard before you vote.

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

Senator **MCCORMICK:** Thank you, Mr. President, Men and Women of the Senate. I really appreciate Senator Hall passing out this yellow sheet, but I believe that the discussion that we are having tonight, which compares the majority report and the minority report to each other, is invidious at best, and that what we should be looking at, after two months of negotiations that I also followed carefully, by the very diverse group of people that were sitting on the Education Committee, and I appreciate what must have gone on in that room, what we should be looking at is column 2A, under the majority report. Those of you who have it, if you were to flip through this and look, increase from column 2A, which is increase from what Superintendents thought they were going to be getting. If you flip through that it is almost an increase or zero for every town, and very rarely is

it a hit for any town, and usually those are Plantations that get a lot of other money. So, I think we are looking at the wrong thing. We have a hard fought compromise. We have a compromise that gives a needed amount of money to southern Maine. I am a high receiver district. I represent every single town as a high receiver district, I want you all to hear that. I would do better under the minority report probably, but I look at the make-up of the people on the Education Committee, and I know, from being through this discussion before, that that's the hardest argument that we have here. Thank you.

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

Senator **ESTY:** Thank you, Mr. President. Our goal, on the Education Committee, was to develop a fair plan to distribute the education funding dollars that were available this biennium and into the future, as well. We wanted to bring everyone together to again create one Maine and to avoid the brutal bloodbaths and deviousness of the past. We were able to do that. We worked hard and fought hard for four months. In the end we had a plan, we met our goal and we avoided the historic battles of the past. We developed a plan supported by Committee members from the north, Committee members from the south, Committee members from the east, and Committee members from the west. That consensus determined that it was fair and it was based upon our goals and principles. This amendment destroys that agreement. This amendment pits one individual need against another. It's an incomplete piece of work based on satisfying individual interests. Let's avoid creating two Maines again, by defeating this amendment. Thank you.

On motion by Senator **KIEFFER** of Aroostook, Tabled until Later in Today's Session, pending the motion by Senator **HANLEY** of Oxford that Senate Amendment "C" (S-356) to House Amendment "A" (H-628) be **INDEFINITELY POSTPONED**.

Senator **KIEFFER** of Aroostook moved to **SUSPEND THE RULES** to **EXTEND** until 9:30 o'clock this evening.

THE PRESIDENT: Pursuant to Joint Rule 12, the affirmative vote of two-thirds of the members present and voting is necessary to transact business after 9 o'clock p.m.

The Chair ordered a Division.

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.

31 Senators having voted in the affirmative and No Senator having voted in the negative, and 31 being more than two-thirds of the membership present and voting, the Rules were suspended and the following proceedings were conducted after 9 o'clock p.m.

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

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997" (Emergency)
 H.P. 516 L.D. 706
 (C "B" H-387)

Tabled - earlier in the day by Senator KIEFFER of Aroostook.

Pending - the motion by Senator HANLEY of Oxford to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-356) to House Amendment "A" (H-628). (Roll Call ordered)

THE PRESIDENT: The pending question before the Senate is the motion by Senator HANLEY of Oxford that the Senate **INDEFINITELY POSTPONE** Senate Amendment "C" (S-356) to House Amendment "A" (H-628).

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.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, CAREY, CARPENTER, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LORD, McCORMICK, MILLS, PENDEXTER, PINGREE, RAND, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

NAYS: Senators: BUSTIN, CASSIDY, GOLDTHWAIT, HALL, LONGLEY, MICHAUD, O'DEA, PARADIS, RUHLIN

26 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator HANLEY of Oxford to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-356) to House Amendment "A" (H-628), **PREVAILED**.

On motion by Senator **McCORMICK** of Kennebec, Senate Amendment "B" (S-355) to House Amendment "A" (H-628) **READ**.

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

Senator **McCORMICK:** Thank you, Mr. President, Men and Women of the Senate. I will be very brief because the hour is late. This amendment would include the income tax stabilization program in the budget, somewhat as it is now, but it would leave the \$674 million cap and do exactly what my two almost seatmates, Senator Ruhlin, and Senator Cianchette, wanted, which was to put any excess into a pay our bills fund, which would do just that, help us pay our bills. I'm going to hold up a graph of the unfunded liability, and this is why I am presenting this amendment. The red line that is going up into the sky at a swooping rate, is our amortization schedule. I took it off a paper from last year when I was on the Aging, Retirement and Veterans Committee. The horizontal red line is the level of our income tax stabilization, \$674 million. It doesn't take a rocket scientist to figure out that we have a problem. So, my amendment basically gives us that cap for operations, and puts everything else into a pay our bills fund, of which, clearly, one of the most important bills we have to pay is the amortization schedule, which I call the State's mortgage. Thank you.

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

Senator **HANLEY:** Thank you, Mr. President, Men and Women of the Senate. I would first like to say that I applaud the good Senator from Kennebec, Senator McCormick, for her proposal. I think it bears merit and will be supportive of the concept of setting forth a reserve fund to deal with the huge cost of our unfunded liability. But, as I pointed out before, the concern I have with the proposal is first, it messes around with a compromise that has been crafted. A very fragile compromise on the Appropriations Committee. Also, we have in existence a statutorily set reserve fund, which is what the good Senator is proposing in her amendment. I think, if we don't learn from history, we are doomed to repeat it. The history in this case is the Rainy Day Fund, which is directly analogous to the proposal put before us. That Rainy Day Fund, which only has statutory protection, has been used for its purpose once. Three dozen other times it has been raided for its non-statutorily designated purpose. I would hate to have the good Senator put her efforts towards this measure, which may not address her concerns, which are my concerns, which are the concerns of the Senator from Somerset, of a huge interest cost in expanding the amortization schedule on our unfunded liability. What we need to do, and what I was hopeful we could do in this budget, is integrate a constitutional amendment to protect that fund. The Attorney General's office has advised me, as well as the remainder of the Committee, that that is not possible in a budget document, and to give you the protection that not only you want, but that I want, and the other members of this chamber have asked for, we need to go with a separate instrument. The budget document will not provide the protection that you and I, and other members of this chamber, so dearly want. I am supportive of the concept, and also supportive of addressing this in a stronger fashion, but let us not dilute the fragile compromise we have here today, which had a strong showing in the other chamber.

THE PRESIDENT: The Chair would advise the Senator from Oxford, Senator Hanley, to confine his comments to the actions of this Chamber, and not the other Chamber, or the actions of the Governor.

Senator **HANLEY:** Thank you very much Mr. President. Sorry to the members of the Senate. I would just close in stating that we have before us a document that will keep state government working, will keep Maine moving, it will not force a state shutdown. I agree that we have other areas where we can work on to address the unfunded liability. Unfortunately, this is not the proper document. There are other documents that we have before us in other capacities to deal with that issue. Therefore, I will move the Indefinite Postponement of this amendment.

Senator **HANLEY** of Oxford moved that Senate Amendment "B" (S-355) to House Amendment "A" (H-628) be **INDEFINITELY POSTPONED**.

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

Senator **CAREY:** Thank you, Mr. President. As we discuss unfunded liability, and the efforts on this particular amendment, I would like to pose a question or two to the Chair of the Appropriations Committee. When your budget deliberations started, can you tell me how much money was in the Rainy Day Fund? Can you tell me how much money is left in the Rainy Day Fund today? The thing that we talk about protecting statutorily.

THE PRESIDENT: The Senator from Kennebec, Senator Carey, 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, Mr. President, Men and Women of the Senate. To respond to the good Senator's question. When we first began deliberations back in the first of the year, there was roughly \$14 million in the Rainy Day Fund, of which monies were spent in the two supplementals to take care of gimmicks, to avoid future interest that was starting to compound on other expenses. Then, as this Committee well knows, the second supplemental that was passed by the Legislature took \$9.7 million out of the Rainy Day Fund to take care of the payroll push for the State employees. Currently, it is my understanding, that there is probably not more than \$1 million in the Rainy Day Fund and would state for the same reasons, the same concerns that I raised for the other Senator from Kennebec, that you need to have stronger protections in that Rainy Day Fund, or whatever funds you want, so that for all of the good intentions of the legislature, that money isn't spent elsewhere, and so that the legislature is forced to make cuts elsewhere and to prioritize. The state government is, we have had an opportunity to review the revenues for May and projected revenues for June, and we anticipate a \$6 million surplus over revenues, of which, the good Senator knows, 50% of that would go towards the Rainy Day Fund, unless, and what I am proposing to do in another budget document, would be to not withstand again, and have 100% of the revenue surplus go into the Rainy Day Fund.

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

Senator **CIANCHETTE:** Thank you, Mr. President. I will be very brief. I just want to point out to everybody here in the Senate that this argument about the protection of putting the money into the unfunded mandate, it has the same protection under the statute as a cap on income tax. The cap on income tax can be changed by the next legislature, just as easily as could the unfunded liability thing be capped. I believe if this legislature does the right thing, then future legislatures will see the wisdom of that and it will be well protected by the people in this body.

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

THE PRESIDENT: The pending question before the Senate is the motion by Senator **HANLEY** of Oxford that Senate Amendment "B" (S-355) to House Amendment "A" (H-628) be **INDEFINITELY POSTPONED**.

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.

The Secretary will call the Roll.

ROLL CALL

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

NAYS: Senators: BUSTIN, CAREY, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, GOLDTHWAIT, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, O'DEA, PARADIS, PINGREE, RAND, RUHLIN

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **HANLEY** of Oxford to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-355) to House Amendment "A" (H-628), **PREVAILED**.

On motion by Senator **MICHAUD** of Penobscot, Senate Amendment "A" (S-354) to House Amendment "A" (H-628) **READ**.

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

Senator **MICHAUD:** Thank you, Mr. President, Men and Women of the Senate. This appears to be the last

amendment that the Senator from Oxford, Senator Hanley, might be able to support. What this amendment does is it leaves the income tax stabilization the way they have it in the bill, except that rather than cutting taxes, what it will do, it will go to the unfunded liability of the Maine State Retirement System, which you heard a lot about. But, it also will go for the unfunded liability in workers' comp. As of June 30, 1994, the unfunded liability on workers' comp is over \$82 million. The State pays either \$10 million a year or over the biennium for workers' comp claims. I think we have to get our house in order. Also, part of this could be used for infrastructure repairs that must be paid. I think it's a grave mistake linking the budget to a tax cap. We have a bill to deal with that, we ought to deal with it separately. I don't think we should link it. People, of course, want a tax cut, they would like to have a tax cut, however, their top priority is getting the State's fiscal order in shape. That's their top priority. I was at a town meeting that Congressman Baldacci had in the northern part of my Senate district, which is the most conservative part of that district. There were a lot of Republicans at that meeting. The Congressman got hammered on what they were doing out in Washington when they were talking about tax cuts. The general sentiment is take care of the deficit. I'm hearing those same remarks here in the State of Maine. As a matter of fact, the people of the State of Maine had a choice over a year ago when there was a gubernatorial candidate who ran on this very issue of cut off the income tax and stop the spending. They ran on this very issue in the Republican party. The people of the State of Maine, in that primary, soundly rejected that idea. So, I think it is a bad mistake. I heard the Senator from York, Senator Hathaway, talk about how this isn't a gimmick. I've been in the legislature for fifteen years, and this is the worst gimmick that has come about. That's all this is is a gimmick. All of the other gimmicks that have been done over the last four years dealt with trying to balance a current budget. This gimmick has nothing to do with the current budget, nothing at all. What this gimmick and irresponsible idea does is going to force the next legislature to cut. So, I would hope that this body would adopt this amendment so we can start getting our houses in order and do what most of us, if not all of us, campaigned on, and that is take care of business, get your own financial house in order. Mr. President, when the vote is taken, I request a Roll Call.

Senator MICHAUD of Penobscot requested a Roll Call.

Senator BEGLEY of Lincoln moved that Senate Amendment "A" (S-354) to House Amendment "A" (H-628) be INDEFINITELY POSTPONED.

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

Senator HALL: Thank you, Mr. President, Ladies and Gentlemen. I want to thank the Senator from Penobscot, Senator Michaud, for waking me up. I haven't been here fifteen years. I have been here three. I have worked on two budgets. I came to Augusta to right a wrong. That wrong is to continually spend more money. I haven't been able to

do it yet. This is a start. It's a poor start. It's a small start. It probably won't do anything, because we probably won't have any money to cap the way we are going. You can't keep spending. There is \$232 million more in this budget. You probably won't do it with my help, because I don't think you're going to have it over the next two years. We have got to stop spending. In three years I have learned one thing, you're not going to do it unless, as has already been quoted, the faucet is turned off, your feet are brought to the fire. That's when you will make the cuts, when it's not there, just like the folks back home. If it's not in the paycheck, they're not spending it. They're not trading cars, they're not upgrading their standard of living. I don't know who some of you people listen to, but it sure is not the same people that are talking to me. Support that motion to Indefinitely Postpone and any other amendment like it.

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: The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator CAREY: Thank you, Mr. President, Members of the Senate. I have heard a lot of chatter about how we have got to cut spending. Show us a plan, show us what you are going to cut, and then maybe it will be something that we can buy.

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

Senator HARRIMAN: Thank you, Mr. President, Ladies and Gentlemen of the Senate. Before we take the vote tonight, I would just like to add a little something to the debate that may not affect your decision but hopefully, some reassurance. Like the good Senator from Penobscot, Senator Michaud, I share his concern about the unfunded state employees workers compensation fund. I was astonished, when I was elected in the last session, to find out that the State of Maine doesn't live by the same rules that we expect private industry to live by with workers' compensation. There is no insurance company, there is no reserves, there is no plans. As a result, the State has about \$80 to \$100 million in unfunded workers' compensation claims. So, doing what I thought was prudent, I suggested legislation in this session that would bring together the best and the brightest talent surrounding this issue in the State of Maine, to take a look at our workers' compensation program for state employees, in hopes that we might come up with some recommendations to help people get back to work, improve work safety, et cetera, et cetera, and settle claims. At the public hearing, most everyone there supported me. When we got to the work session, organized representatives of the state employees, Mr. Gorham at AFL-CIO, came and testified and said they had taken a look at the plan that's proposed by the new administration and that it's fine. He had no problem with it, it seemed to look great, and as a result my bill went nowhere. Thank you.

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

Senator **HATHAWAY**: Thank you, Mr. President, Ladies and Gentlemen of the Senate. The good Senator from Penobscot, I have not been around either for fifteen years. I was glad to hear you admit that people do want tax cuts. However, I am sad to hear that you think that forcing the next legislature to make spending cuts is some type of dastardly deed. I would like to remind you that the person you mentioned, our Republican candidate for Governor, had a very responsible plan to cut taxes, cut spending, stimulate the economy and create badly needed jobs in this State. I would like to remind you, also, of another candidate in whose book wrote that we should cut taxes, we should cut spending, yet today says that we should shut down the government instead of putting through those tax cuts. I can't agree with that. I don't think that we will be part of a shut down. I urge you to support this motion. Thank you.

On motion by Senator **KIEFFER** of Aroostook, Tabled until Later in Today's Session, pending the motion by Senator **BEGLEY** of Lincoln to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-354) to House Amendment "A" (H-628).

Senator **KIEFFER** of Aroostook moved to **SUSPEND THE RULES** to **EXTEND** until 10 o'clock p.m.

THE PRESIDENT: Pursuant to Joint Rule 12, the affirmative vote of two-thirds of the members present and voting is necessary to extend.

The Chair ordered a Division.

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.

31 Senators having voted in the affirmative and 1 Senator having voted in the negative, and 31 being more than two-thirds of the membership present and voting, the Rules were suspended and the following proceedings were conducted after 9:30 p.m.

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

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997" (Emergency)
 H.P. 516 L.D. 706
 (C "B" H-387)

Tabled - earlier in the day by Senator **KIEFFER** of Aroostook.

Pending - the motion by Senator **BEGLEY** of Lincoln to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-354) to House Amendment "A" (H-628).

THE PRESIDENT: The pending question before the Senate is the motion by Senator **BEGLEY** of Lincoln that the Senate **INDEFINITELY POSTPONE** Senate Amendment "A" (S-354) to House Amendment "A" (H-628).

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.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, CARPENTER, CASSIDY, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, MILLS, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

NAYS: Senators: **BUSTIN, CAREY, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, GOLDTHWAIT, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, O'DEA, PARADIS, PINGREE, RAND, RUHLIN**

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **BEGLEY** of Lincoln to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-354) to House Amendment "A" (H-628), **PREVAILED**.

THE PRESIDENT: The pending question before the Senate is **ADOPTION** of House Amendment "A" (H-628), in concurrence.

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

THE PRESIDENT: The pending question before the Senate is **ADOPTION** of House Amendment "A" (H-628), in concurrence.

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

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, BERUBE, CARPENTER, FAIRCLOTH, FERGUSON, HALL, HANLEY, HATHAWAY, KIEFFER, LORD, MILLS, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

NAYS: Senators: BUSTIN, CAREY, CASSIDY, CIANCHETTE, CLEVELAND, ESTY, GOLDTHWAIT, HARRIMAN, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, O'DEA, PARADIS, PINGREE, RAND, RUHLIN

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, House Amendment "A" (H-628) **ADOPTED**, in concurrence.

Which was **PASSED TO BE ENGROSSED**, As **Amended**, in concurrence.

Senate at Ease

Senate called to order by the President.

THE PRESIDENT moved to suspend the Rules to send the bill forthwith to the Engrossing Department. The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY**: I object to sending it forthwith Mr. President.

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

Senator **CIANCHETTE**: Would it be appropriate to have a discussion about why we are going to send it forthwith?

THE PRESIDENT: The Chair would advise the Senator from Somerset that that discussion has taken place. The Chair recognizes the Senator from Somerset, Senator Cianchette.

Senator **CIANCHETTE**: Could we be informed?

THE PRESIDENT: The Suspension is not debatable, but it is to send the bill forthwith to the Engrossing Department. The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY**: Mr. President, it is my recollection that we attempted to amend the Committee Amendment, which is amendable at the first reading. We have not, to my knowledge, suspended the rules to give it the second reading on the same day, so that we can have the second reading before going to Engrossing.

THE PRESIDENT: The Bill had been previously engrossed when it was recalled from the files and came back in that posture. The Senate receded, put on House Amendment "A", and engrossed it as amended. The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY**: If it came back and it had been pre-engrossed, when we amended it with House Amendment "A", it was no longer engrossed. Therefore, I believe it needs its second reading to engross it. That is my parliamentary inquiry.

Senate at Ease

Senate called to order by the President.

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

Off Record Remarks

On motion by Senator **BEGLEY** of Lincoln, **ADJOURNED** until Wednesday, June 28, 1995, at 9 o'clock in the morning.