

# 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 SPECIAL SESSION  
JOURNAL OF THE SENATE

In Senate Chamber  
Thursday  
November 30, 1995

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

Prayer by the Reverend Bruce Felt of the Augusta Baptist Church.

REVEREND BRUCE FELT: Let us pray. Our Father in heaven, you have said that you would secure justice for the poor and uphold the cause of the needy. Grant that to be one of the overriding concerns of all who conduct our State's business today. Give wisdom for problems that seem to have no solutions, and may each person be courteous, considerate of others, in attitude and in speech, today. Thank you for all who serve in this Senate. Provide your guidance, we pray, through Jesus Christ our Lord. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

COMMITTEE REPORTS

House

Pursuant to Joint Order

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS, pursuant to Joint Order H.P. 1161 asks leave to report that the accompanying Bill "An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to the State Soil and Water Conservation Commission" (Emergency)

H.P. 1163 L.D. 1596

Be REFERRED to the Committee on AGRICULTURE, CONSERVATION AND FORESTRY.

Comes from the House with the Report READ and ACCEPTED and the Bill REFERRED to the Committee on AGRICULTURE, CONSERVATION AND FORESTRY.

Which Report was READ.

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

Divided Report

The Majority of the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Implement the Recommendations of the Productivity Realization Task Force" (Emergency)

H.P. 1150 L.D. 1589

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-657).

Signed:

Senators:

HANLEY of Oxford  
BEGLEY of Lincoln  
BERUBE of Androscoggin

Representatives:

KERR of Old Orchard Beach  
SIMONEAU of Thomaston  
DONNELLY of Presque Isle

AIKMAN of Poland  
JOSEPH of Waterville  
DIPIETRO of South Portland  
POULIOT of Lewiston  
MORRISON of Bangor

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "B" (H-658).

Signed:

Representative:

TOWNSEND of Portland

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-657) AS AMENDED BY HOUSE AMENDMENTS "A" (H-660), "B" (H-663) AND "C" (H-665), thereto, and HOUSE AMENDMENTS "C" (H-664) AND "E" (H-668).

Which Reports were READ.

The Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-657) Report ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-657) READ.

House Amendment "A" (H-660) to Committee Amendment "A" (H-657) READ and ADOPTED, in concurrence.

House Amendment "B" (H-663) to Committee Amendment "A" (H-657) READ.

Senator HANLEY of Oxford moved the INDEFINITE POSTPONEMENT of House Amendment "B" (H-663) to Committee Amendment "A" (H-657), in NON-CONCURRENCE.

Senator MICHAUD of Penobscot requested a Division.

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

Senator MICHAUD: Thank you, Mr. President. What this amendment does is it puts back the State nursing position that was removed by the Productivity Realization Task Force. This was not specifically addressed when we dealt with this particular department. It was an issue that, had I known, myself, I probably would have kept it there. I think it's an important position. It keeps the State's nurse's position intact over in the other building. That position has been very valuable over here in both of these buildings, and I hope that this body would vote against the Indefinite Postponement. 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 like nothing better than to join my good friend, the Senator from Penobscot, Senator Michaud, in his motion. But, as I am sure the good Senator is aware, the enabling legislation which created the Productivity Task Force, which the good Senator serves on, requires that if the Legislature fails to enact legislation that achieves the same amount of projected savings, the same amount of projected savings, if there was a corollary to this bill, or another inclusion that would offset these savings from some other area in State Government, I would be endorsing this amendment. Unfortunately, men and women of the Senate, the enabling legislation that created the Productivity Task Force requires that if we don't meet the projected savings, or deappropriations, that are put forward by the Governor, then we have no other alternative than to allow the Governor to make those cuts. If there had been some other proposal to offset these dollars, I would be endorsing this

amendment; short of that, I have no other alternative but to ask that you join me in indefinitely postponing this measure. Thank you.

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

Senator **CAREY:** Thank you, Mr. President. I would like to pose a question to the Chair of the Appropriations Committee if I may? I would like to know if the Appropriations Committee has altered any of the Governor's proposals and if they have replaced them with any other savings? Thank you.

**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 answer the good Senator from Kennebec's question, we have not reduced any of the savings or deappropriations that have been brought forward from the Governor's legislation. In fact, there were just minor modifications from the Committee's perspective that were made in this area. We would have listened to any other options as far as for projected savings to remove this element, but none were brought forward by any other members of the Legislature, or by the Administration.

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

Senator **MICHAUD:** Thank you, Mr. President. To answer the Senator's question, yes, the Appropriations Committee took out roughly \$1.8 million that they said was not Productivity Realization Task Force; and they have not replaced that, to answer the good gentleman's question. As far as having to replace this, we are charged with coming up with \$45 million over the biennium. That's one thing that the Task Force will do. The Governor will not implement the Executive cut across the board until we finish our job. So, we do not have to replace every penny that is taken out, either by this amendment, or by what the Appropriations Committee has done. I know the good Senator will probably get up and say that wasn't productivity and we should not have claimed it anyway, but that depends on how each one of us defines what productivity is and what productivity isn't. This is a good amendment and I hope that you would vote against the indefinite postponement.

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

Senator **HANLEY:** Thank you, Mr. President, Men and Women of the Senate. I beg to differ with the good Senator from Penobscot, with respect to the savings achieved by the Appropriations Committee with the bills that have been presented before you. We have matched, dollar for dollar, the savings that have been brought forward by the Productivity Task Force, brought to the Governor and which the Governor had submitted to this Legislature. We have met the letter of the law which states that we must achieve the same level of projected savings, or deappropriations. We have done that. We have placed \$1.8 million into unappropriated surplus, which this Legislature can then utilize for whatever purposes we so choose. If it's to meet shortfalls within the Productivity Task Force, if it's to meet shortfalls within revenue rejections, we can do so. But, the legislation passed out by the Appropriations Committee met, dollar for dollar, the projected savings and deappropriations brought forward by the Governor's legislation.

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

Senator **PENDEXTER:** Thank you, Mr. President, Men and Women of the Senate. I guess I just want to get away from the fiscal discussion and talk about the nursing issue in this amendment. I feel very comfortable in supporting the indefinite postponement of this amendment. Most of the services done by the nurse in that office have all been well over non-emergency types of scenarios. It's things like measuring blood pressures and those types of health supervision scenarios which may be, for a time, nice to be able to offer those types of services; but certainly, with all of the managed care and the health benefits we have, I don't understand why we have to fund a nurse in the State Office Building to do some of those services which we already have made available to us through our health plan. I would mention, as an aside, there was a Representative who serves in the other body, who had a significant foot injury last year, who went over to the nursing office wanting some aseptic measure done to her foot, basically cleaning it. She went over to the office and the nurse had nothing with which to clean her wound which ended up in a massive infection and ended up costing significant cost to this person. So, you know, I guess I would argue with you. If you go over there and you can't even have a wound cleaned, I don't know why we would want to advocate keeping such an office there. I feel comfortable in the fact that we can take care of people's health needs in other ways. I would ask you to support the indefinite postponement of this amendment.

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 Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you, Mr. President, Men and Women of the Senate. For the record, I would like to explain why I will be voting for indefinite postponement. In my opinion, when DHS was making its cuts, what I was hearing from the Commissioner was trying to make sure that the front line workers continued to fight their front line battles, and this eight hour public nurse was one of the casualties, and I believe the only casualty. In honor of the fact that the Commissioner was trying to keep people in the front line on the front line, I will be voting for indefinite postponement. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **HANLEY** of Oxford to **INDEFINITELY POSTPONE** House Amendment "B" (H-663) to Committee Amendment "A" (H-657), in **NON-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, BERUBE, CARPENTER, CASSIDY, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HATHAWAY, KIEFFER, PENDEXTER, RUHLIN,** and the **PRESIDENT,** Senator **BUTLAND**

**NAYS:** Senators: **BENOIT, BUSTIN, CAREY, CIANCHETTE, CLEVELAND, FAIRCLOTH, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, O'DEA, PARADIS, PINGREE, RAND, STEVENS**  
**ABSENT:** Senators: **ESTY, HARRIMAN, LORD, MILLS, SMALL**

15 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 5 Senators being absent, the motion of Senator **HANLEY** of Oxford to **INDEFINITELY POSTPONE** House Amendment "B" (H-663) to Committee Amendment "A" (H-657), in **NON-CONCURRENCE, FAILED.**

House Amendment "B" (H-663) to Committee Amendment "A" (H-657), **ADOPTED**, in concurrence.

House Amendment "C" (H-665) to Committee Amendment "A" (H-657) **READ.**

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

Senator **HANLEY:** Thank you, Mr. President, Men and Women of the Senate. I will be endorsing this amendment. The department has agreed that it's a clarification solely; it will have no impact on the dollar savings, either now or in the future.

House Amendment "C" (H-665) to Committee Amendment "A" (H-657) **ADOPTED**, in concurrence.

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

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

On motion by Senator **KIEFFER** of Aroostook, Tabled until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-657), as Amended by House Amendments "A" (H-660), "B" (H-663), and "C" (H-665), thereto.

On motion by Senator **LAWRENCE** of York, **RECESSED** for thirty minutes.

After Recess  
 Senate called to order by the President.

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

Bill "An Act to Implement the Recommendations of the Productivity Realization Task Force" (Emergency)  
 H.P. 1150 L.D. 1589

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

Pending - **ADOPTION** of Committee Amendment "A" (H-657), as Amended by House Amendments "A" (H-660), "B" (H-663) and "C" (H-665), thereto.

(In House, November 29, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-657) AS AMENDED BY HOUSE AMENDMENTS "A" (H-660), "B" (H-663) AND "C" (H-665), thereto, and HOUSE AMENDMENTS "C" (H-664) AND "E" (H-668).**)

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

Senator **HANLEY:** May I pose a question to the Chair? It's my understanding, Mr. President, that we have not yet dealt with House Amendment "E" to L.D. 1589.

**THE PRESIDENT:** House Amendment "C" (H-664) and House Amendment "E" (H-668) are to the bill itself. Those two amendments are to the bill itself, not to Committee Amendment "A".

On motion by Senator Cassidy of Washington, Senate Amendment "A" (S-405) to Committee Amendment "A" (H-657) **READ.**

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

Senator **CASSIDY:** Thank you, Mr. President, Men and Women of the Senate. What this amendment is, is in the Productivity Bill, when it went through Appropriations, part of that bill which didn't really affect the funding was recommended by the Commissioner to eliminate the Commission on Soil and Water Conservation. That Committee voted, eleven to five, to actually eliminate themselves and the situation that that creates is there will still be an Advisory Commission. The idea is that this will put more money into the counties to actually do some work on conservation. It was referred to our Committee; and we met yesterday; and the Committee decided, ten to two, Senator Lord wasn't present, we had a ten to two vote to support this motion that I have here on the floor. Also, last night at the annual meeting, they voted again, the Commission voted again; and it was the same vote, eleven to five, to do that. I think it's going to be a lot more productive for that Commission to do that and I ask your support on this motion.

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

Senator **HANLEY:** Thank you, Mr. President. I would just like to state that the Appropriations Committee did vote to send this to the Joint Standing Committee on Agriculture and Forestry, to have their review and to take whatever action they felt would be appropriate. Therefore, I will be endorsing the amendment from the Senator from Washington.

On motion by Senator **CASSIDY** of Washington, Senate Amendment "A" (S-405) to Committee Amendment "A" (H-657) **ADOPTED.**

On motion by Senator **CASSIDY** of Washington, Senate Amendment "B" (S-406) to Committee Amendment "A" (H-657) **READ.**

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

Senator **CASSIDY:** Thank you, Mr. President, Men and Women of the Senate. This is the same scenario, except we are dealing with the Animal Welfare Board. This also was referred back to our Committee and we dealt with this also this week. What this will do, there is some concern by the Animal Welfare Board that the new Advisory Board would not have enough folks on there to deal with animal welfare; so what we did, we added that Board to a nine member Board. So what we are doing here is adding a public sector person and also a person in animal welfare, so it will be a nine member Board. This was a unanimous, twelve to zero, vote yesterday by the Committee; and this will also create more efficiency within the department to have one board responsible for the welfare of animals. I ask your support on this also. 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. Once again, the Committee gave this issue to the Joint Standing Committee on Agriculture and Forestry for their review and analysis. I will be supporting the vote of the Committee.

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

Senator **CAREY**: Mr. President, I would ask the Chair if the two amendments that have been presented by the Senator from Washington have been distributed?

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Senate at Ease  
Senate called to order by the President.

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**THE PRESIDENT**: The Chair would answer that they have not been put into the books, but they should be loose on each member's desk. Is there anyone else who does not have a copy? The Senator may continue.

Senator **CAREY**: Thank you. I would like to pose a question to the Chair of the Appropriations Committee. Earlier you had suggested that we had to come up with a like amount as is in the bill. Is that true also of what the Agriculture Committee did?

**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. In response to the good Senator's question, it is my understanding that the Agriculture and Forestry Committee endorsed the proposal that had been brought forward by the Governor through the Productivity Task Force, except for a minor change in inclusion of an additional member onto that board. That's the only modification. It's my understanding that there has been no difference in dollars at all.

On motion by Senator **CASSIDY** of Washington, Senate Amendment "B" (S-406) to Committee Amendment "A" (H-657) **ADOPTED**.

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Off Record Remarks

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On motion by Senator **PINGREE** of Knox, Senate Amendment "C" (S-407) to Committee Amendment "A" (H-657) **READ**.

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

Senator **PINGREE**: Thank you, Mr. President, Men and Women of the Senate. What my amendment does is it looks at some figures that were counted as savings by the Productivity Realization Task Force, and not counted by the Appropriations Committee. I would just like to speak briefly about why I think these are savings that reflect productivity and why I think that they belong in the matter that we are dealing with today. This is an issue around collections from non-payment from parents who should be paying on their child support payments. I think that the Department has made a serious effort to work harder on this matter, and increase their collections. They projected what their increased collections would be this year, and then they went to work and actually received even more than they expected to get. I think this is a good example of people working harder, of using creative solutions to come up with

new ways of getting dollars back into the State. They have gotten access to new data bases. They have found new ways to find information and track down people who should be making child support payments, and getting even more than they expected. They had about \$67 million in goals for the past year and this year they are already 14% above their estimate. So, clearly, they are doing better than they had expected to do. Now, you may hear an argument that we have authorized them to hire more people, and that is why they are doing better; but this, in fact, is not a result of new hires. They are trying to hire from within the Department so they are very slow in that process, making sure that existing workers went into their new jobs in the Child Support Enforcement Department, so this is not new employees. This is merely working harder, working better, using creative ideas, and access to technology, which is an important part of what we are doing to get more money in.

Another thing that is important about this is DHS went back to their employees, which is what we all hoped would be part of this process, and said help us think smart about this. What else can we do? Increased access to data bases was one of the things that they are doing. Actually going into people's work files and finding out how much money they had and should be paying, sending out SWAT teams in local regions, which isn't included in this bill but was another one of their creative suggestions. Actually sending a director down to each department and saying give us your fifty toughest cases and let's brainstorm and get that money back in. They are now collecting money that is some of the hardest dollars to get. We got the easy dollars first. We are now into the tough dollars. This is increased productivity and I think it should be recognized. DHS has made a tremendous contribution, already, to this effort, \$15 million of the realized dollars in the Productivity Task Force are coming from DHS. Half of that is in staff reduction. Half of it is in productivity while they are also doing increases in technology. So, they have funneled some of their money back into the department for technology improvements, but still are able to come up with \$15 million.

Another part of this bill are incentive bonuses from the federal government which DHS gets because we do such a good job in our nationally recognized child support collection enforcement program. I think those incentive bonuses are appropriate for the department to collect. I think it is something that we should allow them to have. I think it is a productivity realization and I think it belongs in the bill. Thank you very much.

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

Senator **HANLEY**: Thank you, Mr. President, Men and Women of the Senate. While I appreciate the opinion of the good Senator, I respectfully disagree and would inform you that all but one member of the Appropriations Committee also disagrees with the good Senator. Maybe it's because the members of the Appropriations Committee sat down in Room 228 for eight, ten, or twelve hours a day, hammering out exactly what was going to be included in the Productivity Task Force enabling legislation. We were involved with those discussions; and we focused a lot of time on that because we wanted to be sure that the bill of goods we sold to our compatriots, in

both the Senate and the other body, could count on efficiencies and productivity as savings that would actually change the landscape of State Government. That when, and if, we ran into revenue shortfalls, other supplemental needs of the State Government, that we would have areas to turn to to realize those savings, but not tap into the "productivity" savings that the Task Force would be aiming towards. Now, the good Senator mentioned the SWAT teams, the idea that came out of the department to go into those areas and tackle the hardest cases. I agree with the good Senator. The SWAT teams are a productivity measure, so those are in the productivity bill. I agree with you on that. The other areas, though, that the good Senator wants us to put into productivity, don't mesh with the definitions that were included in the enabling legislation. One of the most important elements that, I think, the Committee agreed with, and I think most of the legislators did, as well, is that it would achieve permanent savings, not of a one time nature. I think if you overlap and overlay that on the items that the good Senator wants to include as productivity, the answer is quite clear. The good Senator wants to put almost a million dollars worth of account balances from the AFDC line into productivity. I would disagree with the good Senator that those people have not been hired. We allocated monies for 49 new positions. Not all of them have been hired. In fact, they have reduced that number by 12, so it's down to 37; but they have hired 28 employees. Now, if I employ someone at my office, I expect them to contribute work. I expect them to contribute more than I had if I only had one employee before that.

The other issue that the good Senator, I mean there are a lot of issues that the good Senator wants to bring in, and all of the issues that the good Senator wants to bring in were defeated in Appropriations as non-productivity by, in most cases, one vote, and in some cases two votes for it. The other item as far as the federal incentives, \$700,000 worth of federal incentives. Those monies would come in regardless of any productivity initiative started by the Department of Human Services. Our staff, non-partisan staff, presented us with the figures as far as which items met the productivity criteria. The items included in the good Senator's amendment do not meet that criteria. It is clearly spelled out. I appreciate the good Senator's intentions as far as to put those into productivity to meet the \$45.3 million worth of savings necessary; but I hope the Senate and the other body, when they signed onto this they wanted to see permanent savings, savings that would change the landscape of State Government. The other small items, \$20,000 for the release of the TQM contracts wants to be put in, we specifically, time and time again down in Committee, asked, or made sure, that contracts were not going to be involved. Here we are talking about including cuts from contracts in this productivity, just cuts, not that it would create more productivity. We took eleven items from the Department of Human Services that our staff had concerns about whether or not they met the productivity standard that had been set forward in statute, set forward by months of discussion in our Committee. We have replaced the SWAT teams, we said yes, we can make that nexus to productivity. We replaced the medical care contracts because we did see the redundancy in that item. We also, as far as social services, for \$90,000. We spent day after day

with the Department of Human Services. They tried to make their pitch to us. We listened to it. We took information from our staff and the Committee, sitting as a whole, made the determination. We were the ones who were involved in the discussions. We voted three of them back in; but the items that we voted out, and significantly voted out, are non-productivity measures and should not be lumped into this bill. For that reason, Mr. President, I move we indefinitely postpone this amendment. Thank you.

Senator HANLEY of Oxford moved that Senate Amendment "C" (S-407) to Committee Amendment "A" (H-657) be **INDEFINITELY POSTPONED**.

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

Senator PENDEXTER: Thank you, Mr. President, Men and Women of the Senate. I just want to clarify one perception that has been made by the debate so far; and that is, you know, DHS already has a very aggressive revenue amount to realize if we are to remain in a balanced budget. The only reason that they are okay in the first five months is because they are using their federal incentive money to add to the total. Even though they still have their head above the water, I just want to say to you that they are barely there; and they are there because they are using their incentive money. So, I don't think that we need to sit here and think that this child enforcement scenario is progressing way ahead. I would say that we are just barely there and we are there because we are including the federal incentive money for the total.

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

Senator MICHAUD: Thank you, Mr. President, Men and Women of the Senate. I hope that you vote against the pending motion. I agree with Senator Pingree that this is a productivity issue. They are purchasing roughly around 54 computers. They are going to an automated deposit system. They are also going to be able to better track the accounts so they can collect due payments to the State. They are also in the process of redesigning those jobs to help free up more time, so they can do a better job in collecting. That, I would say, is productivity. They are going to do this above and beyond those additional positions that the Appropriations and this Legislature gave the department. Mr. President, I would like to pose a couple of questions through the Chair. If we do not accept this, then would this leave a \$1.8 million hole, or additional monies, that the Task Force has to collect? That's my first question. My second question, if I understand the good Senator from Oxford, Senator Hanley, he had mentioned that Appropriations had discussed not eliminating grants for future reference in the Task Force. Does he intend to vote anything that we put out, or any amendments that deals with the elimination of grants? Thank you.

**THE PRESIDENT:** The Senator from Penobscot, Senator Michaud, 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. In response to the good Senator's two-part question. First, as far as the \$1.8 million hole, it's my understanding that the enabling legislation allowed for the Productivity Task Force to continue to report back productivity savings to total \$45.3 million; but

that this Legislature could, as long as we adopted similar savings, could enact legislation that achieves that, we would meet the letter of the law. I would respond to the good Senator that, in fact, the monies saved in the Productivity Task Force that are in this bill would be counted toward the \$45.3 million; but the \$1.8 million, which has been set aside in unappropriated surplus, not available to the Governor, but available to this Legislature, would not be. As far as the question of contracts and grants, if there is a redundancy, or if there are structural changes that render that contract able to be diminished, such as in the Medical Care Administration, the deappropriation of funds for the primary care contracts because of our managed care system, the Committee recognized those as legitimate productivity savings. The same with the regional social services, for the deappropriation of funds, or reorganization of stand-by and after hours-coverage for elder and adult services, yes, we found those to be productivity savings. So, we will be looking at them on a case by case basis.

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

Senator **PINGREE:** Thank you, Mr. President. I just want to make three brief comments on some of the things that have been mentioned already. I want to say that I appreciate the good Senator from Oxford, and all the work the Appropriations Committee did in reviewing this information, and I realize I didn't have the benefit of all the analysis that went on. I also appreciate the work of the staff, and understand their opinion on this matter; but it is not the first time I may have not agreed with non-partisan staff when it came to something like a fiscal note, which I think we have all found ourselves in that position at some time. I think, in some ways, this is being held to a higher standard, DHS, than many of the other things that have been looked over for their productivity analysis. As the good Senator from Cumberland, Senator Pendexter, said, they have an aggressive amount to realize in this department. They have a long ways to go; and discounting this only makes it harder to go back in there and cut the things that are going to have to be cut, which are the things that we provide for our most vulnerable citizens. I think it is inappropriate that we are going after this in the way that we are. In terms of those federal incentive bonuses, I think it is very appropriate for the State to keep those and to recognize those. Those are, in fact, a way that the federal government looks at us and says, "Yes, you have an exemplary program. Yes, you are doing a good job. Here, we are recognizing you for that." In our State we are going to say no, that's not productivity, that's not an incentive, we can't count that.

I think, in some ways, what we are looking at is a department, and one program, that has done a very good job. We are nationally recognized for our child support enforcement. Federal programs are being modeled after what we do with "deadbeat dads". We are doing well. The department did the only thing it could do, which was to go in there and do a better job, get more technology, get more people focused on this task and say how can we do it better. They have done better, 14% better already this year, maybe as much as 17%; and we are not allowing them to recognize that. I think we are splitting hairs here. I think this is an argument that we shouldn't

be having. It's an appropriate thing to recognize and I urge you to vote against the indefinite postponement.

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

Senator **BEGLEY:** Thank you, Mr. President. The comments in regards to the productivity versus non-productivity, again, I would simply say that as a member of the Appropriations Committee we spent, not only a great deal of time recently, but throughout the whole process. A definition, with the administration, with the Commissioners, and they fully understood our position. We had notes starting early in the deliberations so there was no doubt as to what the potential was going to be, and the definition. When you come up with a twelve to one vote to take these out, because they were not, please remember that there was a great deal of consideration in that. The savings are still there, but they have to go by what the law calls for.

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

Senator **HANLEY:** Thank you, Mr. President. I just want to respond, as far as the good Senator from Knox, and her concern about the department. Let me just state emphatically that we have asked every commissioner that came before us, whether or not they were held to a certain number of dollar savings which needed to be achieved, including Commissioner Concannon. We were informed that no, the Governor nor the Productivity Task Force had set no specific dollar amount to be achieved through any one department. So, these savings that will be achieved throughout state government, no department is singled out for a certain dollar amount.

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

Senator **LAWRENCE:** Thank you, Mr. President. I request permission to pose a question through the Chair. It's my understanding that part of the things taken out by the Appropriations Committee was the ability of DHS to essentially contract out for an attorney to challenge denials of SSI; and by appealing those denials, that would allow an increase in the number of people who are receiving SSI and decrease the amount they are receiving from AFDC. If that is not the definition of what productivity is, could someone tell me why that is not increased productivity?

**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 Oxford, Senator Hanley.

Senator **HANLEY:** Thank you, Mr. President, Men and Women of the Senate. It's not the first time I have disagreed with the good Senator from York, and not seen as clearly. To me, it's crystal clear how this is non-productivity savings. Just let me do a little demonstration for you. For those of you who aren't aware, I shared this with my Caucus. We have the State of Maine, which is paying general assistance and AFDC to Maine citizens. We are paying them out of this pocket right here, men and women of the Senate. What we are doing, what we are saying is, we don't want to pay them out of this pocket; but we want to take money from this pocket, so we can basically sue the federal government, so that they can pay them out of this other pocket in order to get those SSI benefits. Now, how are we making it more productive taking it from one pocket and putting it



into another? That's not my idea of productivity. All we are doing is pushing that cost onto the federal government in this other pocket. I don't know about the good Senator from York, but I pay federal taxes as well as State taxes, and those federal taxes are just as important to me as my State taxes are. We are not being more productive. We are just taking more money from the other pocket in doing this.

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

Senator **LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. I appreciate the good Senator from Oxford's philosophical argument. I just can't understand why, if the people from Maine are wrongly paying for something, because people have been wrongly denied SSI, why we have to pay that only out of Maine tax dollars. If they are paid out of SSI, which they should be paid out of SSI, that's paid by taxpayers across this country who have been wrongly denied and should be paid by people from California, and by people from New York. Why the good Senator wants people from Maine to bear that burden, and not have it be borne by people from this entire country. I pay federal tax. I know the good Senator pays federal tax, but I would challenge him to look at the percentage of the amount of federal tax that is generated from the State of Maine, versus the amount that is generated by other, wealthier, states. The question is whether we want the people of Maine to foot this burden, wrongly, or we want the burden to be shared nationally by those who can best afford to pay and should pay it because they are generating the greatest amount of income. I'm tired of hearing people say well, we shouldn't take the money from the federal government because it is still taxpayer money, but the people of Maine should foot the bill for that. I don't agree with that. I remember this argument being used several times and it seems the argument is used in different cases. I can remember when the armory up in Norway was discussed. There was a federal match on that. The question was whether we ought to expend the money to get that federal money. I can understand that argument. But in this case, the question is whether the people of Maine pay for this, or whether the burden is shared nationally.

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Off Record Remarks

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Senator **HANLEY** of Oxford requested and received leave of the Senate to speak a fourth 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 don't disagree with the good Senator as far as if the people, if their federal tax dollars should be coming to them, rightfully so; and they should receive that. I still disagree with the good Senator as far as how that equates to productivity. If it's savings, yes, I will agree with the good Senator that those are savings; but I don't see that as productivity. The other issue is, and I'm sure the good Senator knows this, in my practice in Oxford County, I don't handle SSI appeals. I know some other members of this Chamber do, and they do so from the private sector. They do not get any contract money from the State to

pay them to engage these SSI appeals. One would query whether or not, if you had a legitimate claim to appeal a denial of SSI benefits, that you could go to an attorney and have that appeal taken forward for you. As I said, I know there are members within this Chamber and in the other body which undergo that. They do that from the private sector. They do not take money from this other pocket to pay them to do that. While I agree that probably savings could be realized, I respectfully disagree that in any way, shape, form, or manner they could be classified as productivity.

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

Senator **LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. I understand the good Senator from Oxford's argument that these people should go out and retain private counsel to appeal their SSI; but the primary point is these people don't have the money to appeal; and that's why they are falling back on the State, which must now pay out of Maine taxpayers' pockets for these people when they should be paid out of the federal taxpayers' pockets. If the primary definition of the Productivity Task Force is not to save Mainers tax money, then I don't know what it is. If it's not to find legitimate reasons why these people are being wrongly paid out of Maine tax dollars, and shift it over to where it should be, out of federal tax dollars, then I don't know what is efficiency; and I don't know what is productivity for State Government.

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

Senator **CAREY:** Thank you, Mr. President. As a courtesy to the Chair of Appropriations, realizing that we only have three members of Appropriations, unlike the House, I would like to know if I can make a motion that we suspend Rule 10, which would prohibit the Senator from speaking without unanimous consent during the debate on this bill.

**THE PRESIDENT:** The Chair would respond in the affirmative. The Chair would also respond that having debated the particular issue that the Senator from Kennebec, Senator Carey, could not make that motion at this time.

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 pending question before the Senate is the motion by Senator **HANLEY** of Oxford to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-407) to Committee Amendment "A" (H-657).

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, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, MILLS, PENDEXTER, STEVENS, and the PRESIDENT, Senator BUTLAND**

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

ABSENT: Senators: LORD, SMALL

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator HANLEY of Oxford to INDEFINITELY POSTPONE Senate Amendment "C" (S-407) to Committee Amendment "A" (H-657), PREVAILED.

On motion by Senator CAREY of Kennebec, the Senate SUSPENDED SENATE RULE 10 during debate on L.D. 1589.

On motion by Senator PINGREE of Knox, Senate Amendment "D" (S-408) to Committee Amendment "A" (H-657) READ.

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

Senator PINGREE: Thank you, Mr. President, Men and Women of the Senate. This amendment deals with some of the issues surrounding corrections. While I don't have all of the prisons in my district, I do have the largest prison in our capabilities, our Bolduc Unit and our Maximum Security Prison. This deals with an issue about how we treat our prison workers, and how we have managed to cut the budget and change some of the language around our work force. Many of the people who work in the prison work long hours, work with relatively low pay. Salary at the prison is from about \$17,000 to \$21,000. It's not a get-rich-quick kind of job and it is a very difficult job. What is proposed in this language is a mechanism to deal with much of the overtime that is accumulated in the management of the prison over the years. For years and years, going back probably to the Longley Administration, or through many, many administrations, we have used overtime as a way to not deal with budgeted time needs that had to be met in the prison system. We have always known that we have to have more hours than we ever used; and instead of adding on workers, putting in full-time workers to take care of those jobs, we have used overtime. What is proposed in this language is to stop asking our current work force to take on the overtime, but to add in part-time workers, intermittent workers who would do that job alongside full-time, well-trained workers. I think this is the beginning in our work force, here in this State, in the state work force, of what I call "Wal-Martization" of what we are doing. Adding a part-time work force to work alongside a full-time work force with less training, less long-term commitment to the job and creating a work force which is what we don't like to see in the private sector, of part-time workers who don't receive benefits and who eventually need subsidizing from the State. We, in the end, pay when we don't have full-time, high-paying jobs. I think this is the wrong thing to do here. I think it is a foot in the door for many other opportunities to do the wrong thing with our work force.

We often talk about how we should run the State more like a business, how we can be more business like. I think if you take that argument one step further, think about it, we are the employees here. We are the bosses and everyone who works for the State are our employees. We make the policy decisions that set the nature of their jobs. This is no way to treat a work force. Asking people to work alongside somebody who doesn't have the commitment to their job, filling jobs with people who aren't as well trained, particularly in the prison system where it is important to have a commitment to the job and

to have good training. I think this is the wrong thing to do. I urge you to support me in striking this language from the bill.

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

Senator BERUBE: Thank you, Mr. President, Ladies and Gentlemen of the Senate. Relative to the training aspect, the implications that the part-time workers would not be trained people, it is my understanding that, indeed, they would be, for many of them are, or would be, sheriffs' deputies and people with training in that line of work. I have heard the comment in the corridor not too long ago that minimum wages would be paid to the part-time, intermittent workers. That, indeed, is not the case; because they would be paid, according to the Commissioner, at the going rate of what the guards are presently being paid, not at time-and-a-half obviously. I also heard the comment earlier today that the guards are working forty hours a week at a very, very stressful job, and do not seek, themselves, additional overtime because it is much more stressful. So, the important question to me is where will the loss of revenue, which has been counted as a savings, which is about a quarter of a million dollars, where will it be taken from? What are the cuts to be made?

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

Senator PINGREE: Thank you, Mr. President. I would like to make two points about where the cuts are going to be made. In my previous amendment there was a tremendous change being made in the recommendations of the Productivity Task Force, and no one seemed to care about where \$1.5 million was going to be cut. In this one, suddenly, it's a big issue where these cuts are going to be made. It's my opinion that this is not the right mechanism to make a cut. If full-time workers need to be hired to fill these slots, that's the appropriate way to manage it. If people have to be cut because we can't afford to do it, that's another appropriate way to manage it. But to ask part-time workers to come in and fill the jobs of full-time workers, there's another way to do this; and this is not the right way. This is not the right way to treat our work force.

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

Senator BUSTIN: Thank you, Mr. President, Ladies and Gentlemen of the Senate. I need to put on the Record one important thing. When this bill was being debated before the Corrections Committee, and before the Appropriations Committee, I was down in the Corrections Committee and was asked if I would like to sit down in the Governor's office with Commissioner Lehman to discuss how we could amend the language in the bill as it was originally. I said "yes" and immediately called John Basser, who was the state Coordinator of Maine, to come down and do that negotiation, which, in fact, he did. We went through quite a number of hours doing that, which the result is the words that are in the current bill, as amended in the majority report. As we were doing that, John Basser consistently said to the Commissioner, and to anybody who was in those negotiations, that despite the fact that we were sitting there trying to get the best language that we possibly could, if we were going to have part-timers taking collective bargaining unit jobs, that we still did not support, will not support, the concept of part-timers coming

in and taking bargaining unit employee jobs. That's what the issue is all about, exactly that. We just had some visual aids here on another amendment, so if you will pardon me, I will use a visual aid, which isn't very good, and I will show it to you. You can't read it because it is in my handwriting, which is never good, and it's not big enough for you to see anyway, but it's something like this, in large size. All over, in Washington D.C., the Teamsters' windows, they have a building which is not far from Capitol Hill, and all over their windows is this slogan, "Part-time America won't work." That's what this issue really is all about, is part-time America won't work. What is actually happening here is that in order to manage their overtime, what they are trying to do is to use part-timers, where they don't have to pay the benefits and they don't have to pay the time-and-a-half monies, instead of hiring enough employees to take care of the overtime. That's basically what it amounts to. In a twenty four hour shift position it is very difficult to make allowance, to anticipate all allowances for all overtime that will be needed. We all know that. So, the Commissioner's, the department's and the Governor's response to that is to then bring someone in from the outside and let them do the work of the workers there at, and there is nothing in law that says what they will be paid, there is nothing in the bargaining agreement that covers part-timers as to what their pay scale is. It is merely on the word of the Commissioner who may, or may not, be there at any particular point in time, that they will be paid the same rate as, and I would assume it would be the base rate, of a bargaining unit employee. So, that is an issue that certainly is very important, but I don't think it is addressed in this bill. However, what is actually happening is that the suggestion is that there are plenty of people out there who are trained, and the training is the A and B level, not the certification. Certification means you go to the Academy. There are plenty of people out there who would be willing to come in, work for regular wages at whatever is set by the Commissioner, to do this part-time work. Well guess what? As all of you know, I also do bargaining. I also bargain for the municipalities and I bargain with the County Sheriff's Departments; and I hear the same thing there, too. What really is happening here is that the Sheriff's Department says, "We can get the corrections officers to come over and do the overtime here, but guess what? We don't want to pay them the time-and-a-half rate. We want to pay them the regular." Because, of course, for that employer over in the county, they don't have the Corrections officer on a full-time basis, so under the Fair Labor Standards Act, which, in fact, says that after forty hours you get paid time-and-a-half. So this really circumvents the Fair Labor Standards Act in a very real way. What it does is say to the employee in Androscoggin County, for instance, that you come over to the State and work your other eight hours, or sixteen, or whatever it is that you are working over your forty; but we will only pay you regular rates; because they are taking the time-and-a-half of the Corrections employee who has already worked his forty. So, then the Androscoggin Sheriff's Department, of course, will then want to say to the Corrections officer, "Hey, you come over and work the other hours that we have for free because we don't have enough full-timers. You work at the rate that

we pay, not under the bargaining unit; and you can get your other hours." The problem is in both instances the worker is actually working over forty hours, he's just not getting paid the time-and-a-half. If anybody in this room thinks that's fair, you sure don't think the way I do, nor do you think the way that we, in this State, have said that under collective bargaining, which is exactly where this issue should be, where employees can bargain, whether they get a percentage increase in their regular pay, how they handle their overtime, under the FLSA, any of those things. That's where this belongs. We are not at the collective bargaining table. In fact, this very day, at this very hour, AFSME is sitting up at 1 Community Drive with the State, bargaining this contract. This item is not on the table. It is on your table. That is not fair bargaining. It belongs up at 1 Community Drive, not at the State Capitol. I would hope that you would support Senator Pingree's amendment.

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

Senator **BENOIT:** Thank you, Mr. President. May it please the Senate. A lot of people work part-time. I know when I retired off the Court, the first thing I did was get a part-time job in hardware in Rangeley for two years. I loved it. There's something personal about hardware. I would like to call your attention to the fiscal note in this bill. It really bothers me. It's got two euphemisms in it. I don't like euphemisms because often times when you soften language, you gloss over the reality of life. The fiscal note indicates that this amendment "may", and there's the euphemism, "increase overtime costs within the Department of Corrections." That should read, "will increase." There are three sentences in the fiscal note. The last one reads that "This may result in future requests for supplemental appropriations by the Department." That should be "will result in future requests for money". So, I'm bothered by that; and I'm also bothered by the fact that the exact amount cannot be determined at this time. That is also in the fiscal note. I'm bothered by that. This amendment intends to strip language that has been approved by twelve members of the Criminal Justice Committee. It has been approved by the Appropriations Committee. Here's what it says, amongst other things this is the material language, that the Commissioner may employ intermittent positions, or people, for unscheduled and unanticipated overtime to his best ability. The Commissioner has budgeted for those things, but there may be unscheduled and unanticipated overtime. Here's the sentence that I like that this Senate amendment intends to strip, "These intermittent positions will only be used at specific posts or work sites," here it comes, "to be identified through an agreed upon discussion process with labor." Do you get the picture there that I get? Management and labor working together. Do you get that picture? That's the picture I get. Anyone attempting to strip that language must also be against motherhood, apple pie and Wal-Mart in my opinion.

Monday of this week the Criminal Justice Committee had before it a representative from labor. I give this person high marks. In his frankness he said, "You know, often there are people who take sick time who are well." Frankness is a virtue. Senator Berube has hit the nail on the head. Did you hear what she said about money? I hope so. Let me close

this way, this is Senate Amendment "D", "D" stands for "don't". Thank you.

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

Senator **CAREY:** Thank you, Mr. President. If I may, Mr. President, I would like to remind the good Senator from Franklin, Senator Benoit, that fiscal notes are not put on bills or amendments by members of the Legislature. They are put on by the non-partisan staff of the Legislative Fiscal Office.

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

Senator **LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. Whenever I hear this debate about part-time workers I always remember the cartoon of the woman working at the lunch counter. A man at the lunch counter says, "Why are you frowning? I'm reading the paper and it says the economy is booming. There are more jobs being created." And she says, "Yes, I know, I have three of them." That's what is happening in this country. The economy is booming, corporate profits are booming, the economy is growing, and people's wages are not. People's wages have stagnated for the last fourteen years in this country. We aren't putting enough money into people's pockets. We are resorting to part-time workers. It used to be in this nation that you could work a forty hour week and raise a family, you could buy a home, you could educate your children. You cannot do that now. You cannot do that now in this country. That's what is happening here and it is the wrong example for the State of Maine to be setting for the private sector to be doing that to its workers. I hope you will support this amendment.

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

Senator **RAND:** Thank you, Mr. President. I would like to thank the good Senator from Franklin, Senator Benoit. If I had any doubts about where I was on this amendment, he has certainly convinced me that it is my duty to support this amendment. The comments of the Senator from York, Senator Lawrence, are right on the money. We have become a nation of part-time employment opportunities, not full-time, forty-hour-a-week jobs with benefits. When, in the private sector, the two largest employers are Manpower and Kelly Temporaries, I think that we should stop and consider whether we, as employers, as the State of Maine, want to join those ranks. I would strongly urge you to please support Senator Pingree's amendment.

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

Senator **HALL:** Thank you, Mr. President, Ladies and Gentlemen. This is interesting discussion, and I have been on this because I sit on the Criminal Justice Committee. For the few short years that I have been here, one of my pet peeves has been the Corrections Department and their uncontrollable overtime. Uncontrollable overtime, overtime caused by sick leave being taken. Not by vacations and so on and so forth, they can plan for that. They have full-time people to fill those positions. It's the uncontrollable, where X employee calls in sick. Listening to the discussion of part-time, it appears that some people here think that all people want to work full-time. That's not the case, there are many retired people who would love a part-time job. Call me for a shift a week or two shifts a week. I would

love it, I'm already trained and I really don't want to be out to pasture 100%. Retirement isn't exactly what I thought it was. I'm talking about retired corrections officers. Using correctional officers to fill these slots from the county roll, these County Corrections Officers may work full-time; but most of you wouldn't want to live on what they are paying them. We are not paying them as much as we are paying the State Corrections Officers; and Lord knows, that's not high living. These people would love to be able to come in, regardless of whether you think you are violating their rights as far as the Fair Labor Standards Act goes. They don't have to, but it probably will be offered to some of them if they would like to come in and pull a shift. Why not let them? Why hurt them by not allowing this to go by? If you question what it will cost if you don't do this, I urge you to look at the last few budgets that we passed right here. The figures are there on how many hundreds of thousands of dollars that we have paid out, not only when we passed the regular budget, but every other year in the supplemental budgets. I wished I had looked it up because it is hundreds of thousands of dollars. You know it as well as I know it. We have to get a handle on it. There is no other way you can do it. It has to be done through this method. The idea of it has to be through cooperation with the labor union is fine; they have, and will work out the procedure; and it will work fine; and it will save the taxpayers of this State some money. Therefore, I will not support this amendment.

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

Senator **MCCORMICK:** Thank you, Mr. President, Men and Women of the Senate. I would say to the good Senator from Piscataquis that there are plenty of part time jobs in this economy, just plenty, for any retired person who might want to work part-time. The problem is, there are not enough good paying jobs with full benefits in this economy; and the further problem is that this economy is not creating those kinds of jobs anymore. It pains me to see the State of Maine go down the road of not being a good employer. That's what I think this is. A good employer pays their employees adequately and offer full-time benefits. That's the kind of employer I aspire to be in my business. That's the kind of employer I am. We are going down the wrong road and it appears over and over again in this Productivity Task Force Bill that we have before us. My constituents have told me that, even before the Productivity Task Force, in the Department of Taxation they eliminated one department, laid off all of those people, farmed it out to a temp agency. The temp agency hired back those State employees at minimum wage with no benefits. That's not the way Maine should be going. That's not the way America should be going. I want to have it stopped right here.

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

Senator **BUSTIN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I think I need to address a couple of things. One was from the good Senator from Franklin, Senator Benoit, when he indicated that in the bill is collective bargaining. I'm sorry; but you need to really read that bill; because what it says is we are not collectively bargaining whether you have part-time employees

taking full-time employee jobs; because the bill says you will. The only thing that's in there to bargain is how you will do it for a small piece of that. Let me address another issue that was brought up and that is the amount of overtime that has consistently been a problem for Corrections. Every single year, for the last fifteen years, I think, I have instructed, being the older person that I am in this Chamber, I have instructed the Appropriations Committee that if they would simply put in enough full-time positions in Corrections to man the posts that they need to man, they would reduce their need for overtime an incredible amount. In fact, Commissioner Lehman has done that. He has, in fact, said, I think in practice it's going to be a different story; but he has said that he has increased the full-time force to take care of the scheduled overtime. That means that holidays, vacations, averaged out sick leave, military leave is supposed to now be covered by the full-time employee. I don't personally believe that. I did up until about six o'clock last night, until I got some calls from employees at the institutions saying, "What? We don't see that. I don't see that it has changed anything for me, nor do I see it on the plan that it is going to change anything for me. When I go out on vacation they are going to replace me with an overtime. They are not going to replace me with a full-time person who has been hired to do that job." Nevertheless, the step has been taken to acknowledge that in order to cut overtime, you need to hire the full-time employees. That's how you control overtime, by doing that. In fact, if you listen to the Commissioner's plan, and please don't take these figures as the appropriate figures because I think they go back and forth, but they are the figures that the Commissioner had given me; but I think he's even saying that they are not exact figures, so don't take it as that, just take it as a for instance. For instance, the amount of full-time that is supposedly in the bill right now to take care of that overtime for the regular benefit time, is 79,000 hours. The total of the overtime hours currently is 117,000 hours. So, in fact, two-thirds of the problem has already been taken care of. So, we are not talking about a huge amount of money here anymore. We are not. We are talking about the principle of a collective bargaining and who is in and out of a bargaining unit. You do, in fact, have a collective bargaining law in this State. It is a law. If you are going to change something then go change that. Let us fight it up front. To come in the back door this way is unconscionable.

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

Senator **RUHLIN:** Thank you, Mr. President, Members of the Senate. I have enjoyed this debate so far this morning. I don't think I would call it memorable, but perhaps educational. In looking at the problem I think I have heard it addressed from different angles and so forth. I would like to share with you, if I could, for a moment, what I call problem identification, where you look at the problem and try to work it from where I am coming from when I look at it. First of all, the Department of Corrections does have, in fact, an operating schedule that has a hole in it of 117,000 hours of overtime. That overtime is done at a very expensive level, time-and-a-half. It's this. It's that. It puts added stress on the employees. I just want to

digress for one quick moment. As a former long-term member of the Labor Committee, and its Chair for some time, I have always considered myself to be extremely protective of any laboring employees' rights, and their opportunities for advancement and for a full, and hopefully, productive life. When I see the effects of overtime and what it does in adding stress, you look at it and say, "I wouldn't do that in my business. I don't think it's the right way to operate a railroad," if you will, so what we should do is go and identify the problem. The problem is 117,000 hours a year that is a scheduling hole within that department's time schedules. How do you address it? You address it by those things that can be scheduled. Vacations and that type of thing, and you say let's build part of it, and you increase the number of full-time employees. At the same time you are doing a couple of things. You are reducing the stress level. You are increasing, by the way, the potential membership of the bargaining units, who will be representing those employees. In that process you have added stability to your scheduling, because you now have gone ahead and taken care of, or eaten up, 80,000 hours of that hole - two-thirds of it. Your remaining amount is unscheduled; and there is, perhaps, no reasonable way in which you can predict on Thursday, the twenty-fifth day of January, that employee A is going to call in sick. You have to have other ways of handling that unless you are going to be over-employing, if you will. I think what the department has come up with, and the committees who have listened to them, is a very watchful, reasonable, forthright way of dealing with the problem that does exist; and they are doing it in a way that, I believe, will lower the stress on our employees, and it is a very stressful job, and doing it in an honorable fashion. I just wanted to share with you my problem identification and how I felt about them.

**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 comment and commend my good colleague from Portland, Senator Rand, and my good colleague from York, Senator Lawrence, and also Senator McCormick of Kennebec, in calling for more jobs in this State. I think it is a tremendous problem. I think we need higher paying jobs. I'm most hopeful that you will join us next session in helping us to cut regulations so our businesses can create more jobs, and help in cutting taxes and the terrible tax burden on our working people in this State so that we can put more money into the pockets of the hard-working people of the State of Maine.

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

Senator **LONGLEY:** Thank you, Mr. President, Women and Men of the Senate. I think if we are serious about corrections in this State, we have to be serious about the qualifications of our corrections officers. Very simply, and briefly, and to the point, I don't think hiring out part-timers to fill what is a very, very tough job; I have a neighbor who is a retired corrections officer. The last place in the world he wants to return to is the prison, knowing full well how life-threatening that job is. Twenty-four hours a day, three hundred and sixty-five days a year for all workers who are ever in that prison, trying to protect us from the you-know-who's that are in there. Thank you.

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

**Senator HALL:** Thank you, Mr. President. I will be very, very brief. Training is one thing that has been mentioned; and, apparently, when I spoke before, not everybody heard me when I said that they were planning on using retired corrections officers and already trained corrections officers from the counties. Training, I don't think, is an issue. Nobody who is untrained will be put on these posts. I enjoy hearing about creating new jobs because I have advocated for that all along. I would also like to make the point that I am as mad as heck over this Corrections budget, because I lost thirty-six correctional jobs in my area. I would love to create some more jobs. I would like to have those back. Maybe I should run downstairs and get an amendment to put them back. Maybe I would have a lot of support here. Of course, by doing that I am going to hurt some other area, you understand. But, we also have got to look at this uncontrollable, runaway, money train that has run through Corrections for years. We have to look at it. We now have a new commissioner who is looking at it and is going to solve it. This is his plan to solve it. Let's give him the opportunity to find out. If he can't solve it, he may be on the next train out; but I want to give him the opportunity. These intermittent, part-time employees, are already on the statute. He already can put these people to work for up to 500 hours a year. He wants to increase that to 1,020. That's not asking too much to save the taxpayer in this State some money. Also, we have talked about this being a stressful job. I agree. We had guards come in and tell us that one reason they took so much sick leave was because it was a stressful job. But, on the other hand, you want to work them overtime. It doesn't add up. If they work a lot of overtime, it's going to create more stress. This will actually relieve that part of the problem. Think about that.

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

**Senator GOLDTHWAIT:** Thank you, Mr. President. I move the question.

**THE PRESIDENT:** The Senator from Hancock, Senator Goldthwait, has moved the previous question.

The Chair will order 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 16 Senators having voted in the negative, the motion of Senator **GOLDTHWAIT** of Hancock, to move the question, **FAILED**.

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

**Senator LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. I appreciate the comments of my good colleague from York, Senator Hathaway. I think he missed my point entirely. It's not that we don't have enough high paying jobs in the State of Maine, it's that the jobs in Maine have stopped paying enough.

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

**Senator PINGREE:** Thank you, Mr. President. I understand the need to get this discussion over with. I just wanted to make a quick technical correction. If I understood correctly, my good friend from Franklin County, Senator Benoit, said that anyone who submitted this amendment was opposed to motherhood, apple pie and Wal-Mart. I just need to make a correction here. I am, in fact, concerned about Wal-Mart. They have caused a lot of trouble to my Main Street small businesses. I don't like their employment practices. But, I actually think that I am a great mother to three teenagers and make a wicked good apple pie, and would not be opposed to either.

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

**Senator BUSTIN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. Just to correct another technical thing. Reference was made that on intermittent employees, which is what is written into the bill, are used in other places in state government. Yes, they are used, but for 500 hours. The amendment changes that to 1,040 hours and they are not used for part-time. They are used to fill certain slots. That's a whole new concept that we are talking about here, a whole new concept.

**Senator HANLEY** of Oxford moved that the Senate **INDEFINITELY POSTPONE** Senate Amendment "D" (S-408) to Committee Amendment "A" (H-657).

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 pending question before the Senate is the motion by Senator **HANLEY** of Oxford to **INDEFINITELY POSTPONE** Senate Amendment "D" (S-408) to Committee Amendment "A" (H-657).

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, CIANCHETTE, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, MILLS, PENDEXTER, RUHLIN, STEVENS, and the PRESIDENT, Senator BUTLAND**

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

**ABSENT:** Senators: **LORD, SMALL**

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **HANLEY** of Oxford to **INDEFINITELY POSTPONE** Senate Amendment "D" (S-408) to Committee Amendment "A" (H-657), **PREVAILED**.

On motion by Senator **MICHAUD** of Penobscot, Senate Amendment "E" (S-410) to Committee Amendment "A" (H-657) **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 it puts back one field forester within the Bureau of

Forestry. Currently, there are seven out in the field. This will make the eighth. When the Task Force had dealt with this, the Department of Conservation was one of the first departments that did come up and receive a substantial amount of cuts that were unnecessary. I did check with the Chair of the Agriculture, Conservation and Forestry Committee, the Senator from Washington, Senator Cassidy, and the Senator from Aroostook, Senator Paradis, and they both support this amendment. So, hopefully, this body will adopt it.

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

Senator **HANLEY:** Thank you, Mr. President, Men and Women of the Senate. I request to pose a question through the Chair. In fact, it's a series of questions, Mr. President, to the Senator sponsoring the proposed amendment. First, I see in the amendment that there is an offset from the salary plan savings for the fiscal years involved. My first question to the Senator would be whether or not if he has checked with the Department and are there resources available to pick that up in the out years, or is that going to be an impact on the general fund? That's question number one. My second question is, was the good Senator, in his capacity as a member of the Task Force, has he already put in, or how many positions has he already had put back in, as far as these forestry positions, that had initially been recommended to be cut? The third question is, do we not have legislation coming up in January which authorizes sixteen forester positions that, if the need arises, we can use those for this purpose? Thank you.

**THE PRESIDENT:** The Senator from Oxford, Senator Hanley, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Penobscot, Senator Michaud.

Senator **MICHAUD:** Thank you, Mr. President, Men and Women of the Senate. As far as the impact on the general fund, the staff in Appropriations were the ones who put the fiscal note on this; so therefore, I would rely on their knowledge that the money is, in fact, there. I do believe that the money is in there. As far as how many positions were put back in the Department of Conservation, particularly this Bureau, it's my understanding that there were none as far as the field foresters that were put back. There were some other positions throughout the Department that were put back when the Productivity Realization Task Force dealt with that. As far as what is coming up in January, I have no idea of what is coming up as far as bills, particularly with the sixteen foresters. Clearly, this Department is way underfunded. When this Legislature passed, a few years ago, the Forest Practices Act, they were never funded to the degree that they were supposed to have been funded, as far as foresters go. This is one small step. If, in fact, there is a bill to give them sixteen additional foresters, I will support that bill. However, if we put this one back, I don't think they need sixteen. They probably should only have fifteen.

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

Senator **CASSIDY:** Thank you, Mr. President, Men and Women of the Senate. This particular issue is important to us in the forestry industry. Of all the things that have been proposed for the past several

months through the Productivity Task Force, I probably have received more letters and phone calls pertaining to this one position than anything that I have had, because of the interest in our area and in Northern Maine and particularly with the forest products industries, the paper mills and all the other forest products that we have in our area. There has been tremendous gains in my district in having a field forester there, helping people to stay within the guidelines of the present act that we now have. The other issue, last year when we discussed what was proposed by the Natural Resources Council, that we defeated in Committee, was we said we need to enforce the present act that we have. Clear-cutting, definitely, and all those other kinds of violations are on the decline; and we have the numbers from the Department to prove that. I do think that this is a real important position and that we pay that forester for that Department. Thank you.

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

Senator **LONGLEY:** Thank you, Mr. President, Men and Women of the Senate. As odd as this may seem, I see this as a Sears Island related bill. Having come out in favor of Sears Island, I'm not deaf to the voices that are worried about our forests. I think that we have got to protect our forests. I see our number two resource being the forest, our number one being our kids. But, for our number two resource, I will be voting for this bill with the Senator from Washington County. 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. It's never palatable for me to get up and oppose anybody, irrespective of party, more so when I have to oppose, or at least clarify, certain statements that are made by members of either party. It is my understanding that, first of all, the Department can run its work efficiently, the tasks assigned, because they will be redistricting the counties, or the work districts, favorable to the foresters who will be doing the work. Secondly, it is also my understanding that the Federal Stewardship Fund, which are monies that come in from the federal government to the states to manage certain programs, has, indeed, been cut, so that there is less work to be done by the foresters. The third concern that I have is the \$42,000 plus, for one year, cost is supposed to be taken up by salary savings. It's my understanding, again, in researching this earlier this morning, that the savings were overestimated by the people who made that in January. So, I just clarify this for your information. 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 had an opportunity to confirm with our staff for the Appropriations Committee as far as where, exactly, this amendment would leave us. While there are questions, with regard to the salary attrition for FY 96 and 97, as the good Senator from Androscoggin has pointed out, it is clear that there has been no addressing the funding of this position after this biennium ends. That concerns me greatly as far as if we are trying to make productivity savings in this area, and we are just digging a deeper and deeper hole for ourselves. It also concerns me, as far as in this department,



when the restructuring plan has been brought forward and already eighteen position have been added back in. I harken back to my good seatmate, the Senator from Piscataquis', concern about the corrections plan in his district, and should he bring in an amendment to replace those thirty-six workers that he's losing. That's the one thing that is wrong with government in general, is that we all want to do what's best for our district, and sometimes we overlook what is best for the entire State in doing that. I agree with the Senator from Penobscot and the Senator from Washington County, as far as the importance of foresters. I also understand, from the Department, that instead of one forester in the downeast, there will now be three foresters that will be overseeing that area. If the main gist, and I have heard from every member that has stood up so far, that the main gist of the Productivity Task Force is to restructure State government, provide for more efficient, more cost effective delivery of services. Here's one area. I think we need to try and be consistent at all times possible. For that reason, I will be voting against the pending motion.

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

Senator **MICHAUD:** Thank you, Mr. President, Men and Women of the Senate. I wouldn't want this body to be left with the impression that Washington County has three foresters. That, in fact, is not the case. There currently are only seven foresters out there in the field today. This will make the eighth forester for statewide. Forestry is a very important industry in the State of Maine. Yes, it's a fact, the Task Force did put some positions back in the Department of Conservation; but they did not put any position back as far as field foresters. That's what this issue is about. Clearly, when you talk about productivity, and enhancing what State workers do, it is very difficult for seven foresters to deal with a state as large as the State of Maine, extremely difficult. Yes, in fact, they will be spread out statewide; but I think this is the wrong time to start cutting back on foresters. There is an attempt, and I don't know if they received the signatures or not, to limit clear-cuts. That's primarily because the State has not done a good job as far as forestry is concerned. Even though we did pass the Forest Practices Act quite a few years ago, that act has never been implemented fully because this Legislature never funded the Bureau of Forestry to the extent that it was supposed to be, and intended to be funded, when we passed the Forest Practices Act. This is a small measure. It is neutral as far as costs, and I hope that this body will adopt it. The full Committee on Agriculture did not have a chance to deal with this because I did not get the amendment signed until this morning; but I did talk with two of the Senate members who are currently here today from that Committee, Senator Willis Lord is not here; but they both support this. I think this is a small step; and if the good Senator who had mentioned that there is a bill in to give them sixteen foresters next year, well fine, my suggestion is rather than give them sixteen give them fifteen if this one is put back in. So, I hope that this body will support this amendment. Thank you.

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

Senator **BEGLEY:** Thank you, Mr. President. Very briefly, I would remind people also of the fact that

the Productivity Task Force is concerned, primarily, with better government. This is a measure that is going to take care of something for six months; but two years down the road, it will be right back here.

On motion by Senator **MICHAUD** of Penobscot, 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 **MICHAUD** of Penobscot that the Senate **ADOPT** Senate Amendment "E" (S-410) to Committee Amendment "A" (H-657).

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: **BUSTIN, CAREY, CASSIDY, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, KIEFFER, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, O'DEA, PARADIS, PINGREE, RAND, RUHLIN, STEVENS**

**NAYS:** Senators: **ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, CARPENTER, HALL, HANLEY, HARRIMAN, HATHAWAY, MILLS, PENDEXTER, and the PRESIDENT, Senator BUTLAND**

**ABSENT:** Senators: **LORD, SMALL**

Senator **KIEFFER** of Aroostook requested and received leave of the Senate to change his vote from **NAY** to **YEA**.

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **MICHAUD** of Penobscot to **ADOPT** Senate Amendment "E" (S-410) to Committee Amendment "A" (H-657), **PREVAILED**.

On motion by Senator **HATHAWAY** of York, the Senate **RECONSIDERED** its action whereby it **ADOPTED** House Amendment "B" (H-663) to Committee Amendment "A" (H-657), in concurrence.

Senator **HANLEY** of Oxford moved that the Senate **INDEFINITELY POSTPONE** House Amendment "B" (H-663) to Committee Amendment "A" (H-657), in **NON-CONCURRENCE**.

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

Senator **LAWRENCE:** Thank you, Mr. President, Men and women of the Senate. Just to refresh everybody's memory, I believe this is the amendment that restores the State House nurse in the bill. I would ask for the yeas and nays and urge you to vote no against the Indefinite Postponement. 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 Chair recognizes the Senator from Penobscot, Senator Michaud.

Senator **MICHAUD:** Thank you, Mr. President, Men and Women of the Senate. I hope you will vote against this motion by the good Senator. I would like to clarify what he has stated earlier. This amendment does not cost the general fund any money. The Task Force will not have to find any money for this particular amendment, because it does not deal with general fund monies. So, I hope this body will stick with its earlier vote of this morning. Thank you.

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



Senator **GOLDTHWAIT**: Thank you, Mr. President. I think, in the interest of governmental efficiency, in a setting that is generally, physically low risk, to have a position that is not a full blown wellness program, but is simply a reactive position to events that occur, in a building where it is likely that there are trained medical volunteer people available, it is an unnecessary position; and I would urge you to support the motion to indefinitely postpone.

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

Senator **RAND**: Thank you, Mr. President. May I pose a question through the Chair? Where does the salary for this nurse come from if it doesn't come from the general fund?

**THE PRESIDENT**: The Senator from Cumberland, Senator Rand, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Penobscot, Senator Michaud.

Senator **MICHAUD**: Thank you, Mr. President. It is the Special Revenue Account out of special revenues. It is not general fund money.

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

Senator **BUSTIN**: Thank you, Mr. President, Ladies and Gentlemen of the Senate. I can't resist the temptation. It was indicated that, in fact, we could call on the emergency personnel or the hospital, or whatever, right here in Augusta, Maine. Well, I will remind you that the State House does not pay taxes and that what you are talking about is using those services, again, with no taxes.

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

Senator **MICHAUD**: Thank you, Mr. President. This will be the last time I get up on this issue, unless provoked. During the break, after we voted on this issue, I checked to find out what the case-load was. In the summer of 1995 through October of 1995, the health station case load was 2,415 cases. Some of those cases were serious. Some had dealt with toxins and chemical sprays. There were 25 of those cases. As far as falls and sprains, there were 30 cases. There were several cases on burns. There were 58 cases of lacerations. There were hospital referrals in 9 cases. Medical inquiries were 33. So, I think this nurse had done a tremendous job just over this past summer dealing with a lot of these issues. I think it is an important position; and, hopefully, this body will vote against the pending motion. 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. Just to inform you, the Senator from Penobscot is correct to a certain extent, that it's not directly a general fund account which pays for the State House nurse. However, it is an internal service account, which is fed by the general fund. So, it's like a cousin once removed. I mean it comes directly from the general fund, but into an internal service account.

**THE PRESIDENT**: The pending question before the Senate is the motion by Senator **HANLEY** of Oxford that the Senate **INDEFINITELY POSTPONE** House Amendment "B" (H-663) to Committee Amendment "A" (H-657), in **NON-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, BERUBE, CARPENTER, CASSIDY, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, MILLS, PENDEXTER,** and the **PRESIDENT, Senator BUTLAND**

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

**ABSENT**: Senators: **LORD, SMALL**

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **HANLEY** of Oxford, to **INDEFINITELY POSTPONE** House Amendment "B" (H-663) to Committee Amendment "A" (H-657), in **NON-CONCURRENCE, PREVAILED**.

Committee Amendment "A" (H-657), as Amended by House Amendments "A" (H-660) and "C" (H-665) and Senate Amendments "A" (S-405), "B" (S-406) and "E" (S-410), thereto, **ADOPTED, in NON-CONCURRENCE**.

House Amendment "C" (H-664) **READ**.

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

Senator **HANLEY**: Thank you, Mr. President, Men and Women of the Senate. This amendment before us has no impact, whatsoever, on the projected savings or deappropriations. Although we did not discuss it in Committee, it does not appear to adversely impact productivity savings and, in fact, may have a benefit to that; and I will be supporting it. Thank you.

House Amendment "C" (H-664), **ADOPTED, in concurrence**.

House Amendment "E" (H-668) **READ**.

Senator **HANLEY** of Oxford moved that the Senate **INDEFINITELY POSTPONE** House Amendment "E" (H-668), in **NON-CONCURRENCE**.

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

Senator **HANLEY**: Thank you, Mr. President, Men and Women of the Senate. The proposed amendment would have an incredible, chilling impact on the work of the Productivity Task Force. When we passed the enabling legislation, once again, which created the Productivity Task Force, we went to great lengths to put forward what areas the Productivity Task Force could look at, and which areas they couldn't. By limiting the scope now, I would be concerned that the Productivity Task Force would be adversely impacted. We would hamstring them and they may have a valid case to come back and say no, they can't achieve the \$45.3 million. At this point, with all of the areas of State government which are still available to them, we, as a Legislature, had voted on and endorsed and, in fact, in statute allows the Task Force to do the work which we charged to them. This would dampen that and would, most likely, adversely impact the final savings. For that reason, I would like to Indefinitely Postpone this amendment.

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

Senator **MICHAUD**: Thank you, Mr. President. I request a Roll Call. This would not dampen the Productivity Task Force. Actually, it might enhance

it, make it more productive, if we do not have to deal with this issue. It's my understanding that the Consent Decree would not allow the State to have any of those savings towards the \$45 million anyway. So, if we can't collect, or attribute any savings, why should we be dealing with the departments when we can't realize any savings? We do have a lot of work before us to reach the \$45 million in general fund money that we can use toward the \$45 million. It's my understanding that in this particular area we can't use any of those savings anyway; so, therefore, I have no problem in voting against the motion to Indefinitely Postpone. I think this is a good amendment. It's one issue that the Task Force should not have to deal with. If we pass this, clearly, that would prohibit us from dealing with the issue. Thank you.

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

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

Senator **PENDEXTER:** Thank you, Mr. President, Men and Women of the Senate. I rise to support the pending motion of indefinite postponement of House Amendment "E". In the process of the Department of Mental Health and Mental Retardation restructuring its department, whether you want to accept it or not, closing of institutions has to be part of the overall, long range, plan of how the department is going to deliver its services. I don't disagree that there will be any savings realized from closing an institution; because the Consent Decree does say that if you close AMHI, you have to use those freed up funds in the community; and I don't disagree with that. But, I think that if we strap the hands of the Commissioner and say that, in her overall plan, she will bring before us, at the Task Force level, that she cannot put in there any closing of institutions, what kind of a plan do you think she can bring before us? I don't know whether the Commissioner will bring any savings for productivity. We haven't seen her proposal. I don't know what's in it. But, I can assure you, the savings from closing AMHI will not be included in that total. I will make sure that they are not, because I am committed to reassessing those savings to community settings, because that is what we have to do. You need to realize the fact that perhaps by the end of this '96 fiscal year, there will probably be about 70 patients left at AMHI. If any of you can sit here and look me straight in the eye and say that it's okay to continue to pour out \$27 million for about 70 patients, then I have to wonder how fiscally responsible you are all being. I have been here for five years, sat in the Human Resources Committee for all of those years. I have gone through three or four Commissioners of Mental Health and have heard over, and over, and over the problems and the woes of the delivery system in the Mental Health Department. Quite frankly, I agree with everybody, it doesn't work right. I find that we are now at a crossroads where the decisions we make now will impact the delivery service system for a long time to come. The decisions that we make are extremely important; and we have to get it right this time; because if we don't, we will continue to have a mental health system that doesn't work. It doesn't work for consumers. It doesn't work for providers. It doesn't work for taxpayers. There is not a lack of money in the mental health system, men and women

of the Senate; but we do not use those resources adequately. The fact is that institutionalization in the mental health arena is a way that we used to take care of persons with mental illness. If any of you can walk the halls of AMHI and tell me that that is where you would want one of your family members, then fine; but I would say to you it's not where I would want one of my family members. There is a use for institutionalization, and I'm not denying that, but we have come to the point where we have to assess whether we need two for a small population of this State. I think passing an amendment that automatically says we're not going to close anything and we don't want the Commissioner to do anything is being irresponsible.

The consent decree is all about closing AMHI. I mean, when we are finally in compliance with the consent decree, AMHI will be closed. So, I don't understand why we are having a discussion on why we should close it or not, because the final outcome of the Consent Decree is that AMHI will be closed and that we will take those resources and reallocate them in community settings. The whole focus of the consent decree is to move on to community settings. I have heard arguments about the Augusta economy can't absorb a loss of jobs. Well, I guess I would say to you, since when do we dictate mental health public policy on a community's economic development. I mean I just don't understand the reasoning. We develop mental health policy around issues of mental health, around issues of what consumers need and how we allocate those valuable resources. I think it would be a terrible mistake to tie the Commissioner's hands. I repeat that if we close AMHI, that that \$27 million, which it really won't be \$27 million because we have to pay a disproportionate share, but whatever is left will not be used against the \$45 million; because I am committed to use those dollars in the community setting. So, I ask you to join me in supporting the indefinite postponement of this amendment. Thank you.

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

Senator **CAREY:** Thank you, Mr. President. I would tend to agree that AMHI is going to die at some point in time. However, when you look at that Consent Decree, you also see that those people who are at AMHI are supposed to be transferred into community facilities. I would ask the Senator, if I may, are the community facilities in place? Or will this, in fact, delay action in this field so these can be in place? Thank you.

**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 Cumberland, Senator Pendexter.

Senator **PENDEXTER:** Thank you, Mr. President. I would assure the good Senator that if we free up \$12 million to \$13 million to \$14 million that we can use those dollars to find the resources to place the people who can be placed out in the community. They are not there now, but there can be a transition period. I mean the Department, I am confident, will work that out.

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

Senator **MCCORMICK:** Thank you, Mr. President, Men and Women of the Senate. I guess I'm not so confident that we will work that out. I am very

tired of us putting the cart before the horse, which basically we have done continually in the AMHI Consent Decree. We have closed down sections of AMHI and put people out on the streets before the community services were in place. I, for one, would like to start doing it right and put the services in place first, which, if you are following the papers, Commissioner Peet is in the process of doing. Then close, or shrink, AMHI to its appropriate size. I also believe that by allowing the Productivity Task Force to close AMHI, or to cut AMHI, or to do whatever it will with AMHI, we are doing the voters and citizens of this State a disservice. We are circumventing the traditional reasoned process that the committees of jurisdiction, the committee that is chaired by the good Senator from Cumberland, Senator Pendexter, would ordinarily do. That is not a small point. This is a very, very huge and large issue. We are under a Consent Decree. We have done bad things in the past. We have had our hands slapped. This is an important issue to handle in the correct way. What this amendment is saying is that the correct and traditional way of discussing big, huge, policy changes, like this, should be done in this case, and that means sending it to Senator Pendexter's committee and having that committee hold a publicly accountable process, as we usually do. I definitely support that. I guess I also, since the good Senator brought up the differences in the costs, I can't help but insert that if you look at the per patient cost of Jackson Brook and AMHI, you will find that Jackson Brook is three times as expensive as AMHI. AMHI's costs do not have to remain \$27 million, they can shrink or change. If you talk to mental health professionals, you will hear that there always will be a need for an AMHI. It is the nature of biologically based mental diseases that people who live daily with them will constantly, intermittently during the course of their lives, need to come in and have the medications and the blood chemical levels adjusted and that cannot happen anywhere but at an institution such as AMHI. So, please join me in supporting the traditional way of deciding big policy decisions and do not send it to people who cannot be unelected, who do not have the strings attached to them, as we do. This decision is important enough. It belongs here in the Legislature. Thank you.

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

Senator **HANLEY:** Thank you, Mr. President. I rise to allay some of the concerns of the good Senator from Kennebec that she has expressed and on which I agree with her. The good Senator is correct as far as the way we traditionally do business. The Task Force is in no way, shape, form or manner can be considered traditional because this is the first time that we have ever attempted it. I would like to draw the Senator's attention to what we have done in the Appropriations Committee when presented with these issues, which we feel have an overriding need to be considered by the policy committees. Case in point, Banking and Insurance and Business and Economic Development, the restructuring within the Department of Professional and Financial regs, even though it didn't have any impact, and I will use this analogy, even though it didn't have any impact on general fund dollars, and much like with the closing of any of our institutions, because those dollars would be shifted into the community providers, we still send it off to the policy committees to have them review. In fact,

I think both of the Senate Chairs would agree that my concern was if you feel that there was a need to undergo a public hearing, and to take the time, you take that time. You wait until January and you do that. The same thing with Agriculture. The same thing with Marine Resources. We took the policy issues out of the Productivity Task Force. We sent it to those committees to have them review. I share the good Senator's concern; and all I can say is you have my assurances that if, and this is a big if, the Productivity Task Force recommends this, that we would not adopt it whole cloth. It would not be a rush to judgement, but that we would use the same identical methodology we used in this round of productivity, sending it to the policy committees and letting the policy committees, and I see the good House Chair here, as well. I'm sure both of the Chairs would make every provision that the public hearing process was fully utilized and that all Committee members had a sound understanding of the program and also knew that the resources were out there at the time. I think the intent behind this House Amendment is good, but I think we need to work within the Productivity Task Force enabling legislation that we did adopt. I think we can work. I think we have shown, in this first round, that it can work. In the many joint orders that we have sent out to the policy committees, I would envision the same thing. I hope that allays the concerns of the good Senator and would hope that she would then support the pending motion.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President. It seems to me that when we design a Task Force and charge them with a job as large as we have, that it does not make sense at that point in the process to take things off the table. If we are asking them to review what we do in the State for productivity, it makes sense to me to let them look at everything. This amendment simply says that they can't even consider this. They cannot even make a recommendation on this. We don't have to accept their recommendation. We have designed a process that says it will come back to us for our consideration. It seems to me that the proper approach to the process is to let them consider everything they can think of. We took GPA off the table. They might have come up with a brilliant idea that we all liked for efficiency in that area, but we didn't even let them talk about it. I think all of these issues should be left on the table at the Task Force level. They are reviewed again at the Appropriations level. They are reviewed again in the Legislature, at which point we can do anything we want, cut it out and send it to Committee, pass it, fail it, whatever we want to do. Taking things off the table that early in the process is not a good idea. I urge you to support the motion to indefinitely postpone. Thank you.

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

Senator **MCCORMICK:** Thank you, Mr. President, Men and Women of the Senate. The only difference being here is that we are under a Consent Decree in this issue. We have sufficiently gone amuck in our mental health system that the courts have had to intervene. I appreciate, although I can't see him, the Senator from Oxford's comments to allay my fears; but I have been reading the papers for months. The argument

that is going on inside the Productivity Task Force about where the savings should go, and who should get them, and whether the Productivity Task Force should get to have them or whether, as I believe, the Consent Decree determines that they need to be invested back in our decrepit mental health system. That makes me nervous. I am still nervous about that. I would love to have the advisory opinion of the Productivity Task Force, if they would like to spend some time looking at AMHI; but an advisory is about all that I trust at this point. I trust that people like us, who can be defeated in an election if we do something that the citizens of this State do not like policy wise, we should be the ones who are making this decision. Thank you.

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

Senator **BUSTIN:** Thank you, Mr. President, Men and Women of the Senate. As you all know, I am the Senator who represents the City of Augusta and some of the surrounding communities that, obviously, are the recipients of this service. I need to remind you about what the amendment actually says. What the amendment says is not whether the Augusta Mental Health Institute should remain or be gone. It's not whether or not we have community services or not. It's not whether or not we spend the money on an institution or we spend it in the community. It's not whether it is part of the Consent Decree or it is not. It is, specifically, and I will read the statement of fact, "This amendment prevents the Productivity Realization Task Force from including the closure of any mental health facility in any of its future recommendations." We are not debating the merits of whether a mental health institute is closed or not. We are merely debating the merits of whether or not the Productivity Task Force is the appropriate body in which this debate should take place. When we passed the Productivity Task Force, we did give up a whole lot of legislative work and responsibilities that I firmly believe we never should have given up. Nevertheless, we gave them up. One of those things we gave up was not a debate on closing AMHI or not closing AMHI. What we gave up to the Productivity Task Force was what could be made in savings. There are no savings to be made here. None. Zip. Zippo. All of that savings must go into the delivery of mental health services. What is the appropriate body to do that? The committee of jurisdiction in the body of the Legislature. The Legislature. That's where it belongs. It doesn't belong in a Productivity Task Force. Now, I have had a great deal of meetings, as you can well imagine. If it were in your area, you would be doing the same thing that I am doing. I am looking at how do we get from where we are to where we want to be in mental health. I am looking at how that affects the City of Augusta. In doing that, I have had meetings with the Governor, with the Governor's staff, with the Commissioner, and with the City. We had an excellent meeting just this week with like seventeen people from the City. City Councilor Mary Mayo-Wescott organized that event. I had an excellent discussion with the Governor. The prime thing that we suggested to him that we wanted to see was that this be taken off the Realization Task Force and put in the appropriate jurisdictional body, being the committee of jurisdiction of this Legislature. He said he would consider that. I believe that he is. I believe this piece of legislation, this amendment,

needs to be passed so that we can be assured that this very important, very serious, very fundamental debate, take place in the appropriate referenda. 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. I just want to share with you the time frame and the process that the Productivity Task Force uses, so, perhaps, you can see how this amendment would be counterproductive. We are scheduled to hear the Commissioner's proposal on December 11. Now, whatever legislation comes out of the proposal, whatever is accepted by the Productivity Task Force then gets worked into legislation. My understanding is the Productivity Task Force will be ready to present more legislation to us, perhaps in January, but certainly by March first. Now, to divert a little bit, the Commissioners are asked to come before the Task Force with a plan on how they want their department to function, keeping in mind, obviously, that we would like to restructure in a way so we can deliver services better, that we can perhaps save money, if that is the issue, and just provide services better to the people who need the services. I guess I'm just saying to you, I don't know if Commissioner Peet is going to have the closure of AMHI in the proposal, or BMHI, or whatever; but what if she wants it? We are saying to her, "Commissioner, you can look at how you want your department to look, but you can't touch your institutions." That's what this amendment does. The debate about whether the Legislature is going to decide that issue or not is a moot point; because, of course, it's going to come before the Human Resources Committee. I would say, with policy issues of lesser significance, the Appropriations Committee has referred any little, it'sy bitsy, piece of policy to any committee of jurisdiction. So there is no doubt in my mind, and there should be no doubt in anybody's mind, that, of course, this issue is going to come before the Human Resources Committee; and, of course, we are going to have public hearings; and, of course, we are going to work it; and, of course, the Legislature will vote on it. But what the amendment does is it just prevents the Commissioner from ever entertaining the thought of whether closing an institution could, or should, be part of her overall plan for mental health delivery services. I think that's where I have a problem and disagree with the speakers who are supporting this amendment. There will be an institution left in this State. I recognize the need for an institution. It has a place in the delivery system of mental health. Who is saying that it's not going to be in Augusta? We haven't even made those decisions, but what we are saying is the building across the river over here is antiquated. It's just sapping our resources and we have to really wonder, do we want to continue to pour about \$27 million into that resource? Twenty seven million dollars is a lot of money. We can deliver a lot of mental health services for \$27 million. In the last budget we gave the Commissioner unprecedented power to move monies around in her department any way she wants to, because we recognized that we have to give her some flexibility, because when you get close to closing an institution you need to be able to make those financial decisions and we gave her that latitude. I've never seen that happen before. She can do anything she wants to with

her budget money. So, I think we are really all sensitive to the fact that we want the Commissioner to be able to do the job, and we want her to be able to define it in the terms that she feels are appropriate. This amendment just sort of takes a piece out of whatever she might want to entertain as to what might be appropriate. So, I continue to urge you to support the indefinite postponement.

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

Senator **PINGREE:** Thank you, Mr. President. To me, this question seems simple. We should not decide whether to close any of our institutions here on the floor. We should not decide in the Productivity Task Force. There is one overriding reason here. We sent the Productivity Task Force out to deal with a \$45 million problem. If we close an institution, we have to deal with the Consent Decree. It's a very different issue than going out to find savings to fill that \$45 million problem. We dealt with this issue extensively in the Human Resources Committee, and we will again. The Human Resources Committee was the committee that gave Commissioner Peet the latitude to make tremendous changes within her department. The possibility is there to continue doing that. We looked at difficult decisions with BMHI, with the Program on Aging, with Pineland; the Committee did not sit still and the Commissioner did not sit still. We are not closing off any of our options. We are not going to stop discussing this, but the discussion does not belong in the Productivity Task Force. It's a simple issue here and I think we should be very clear about it.

**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. I rise to support my friend and colleague from Cumberland, Senator Pendexter, and for reasons that have been stated earlier about the role of the Productivity Task Force has played in other areas of State government that don't affect the general fund. I can attest to one of the committees of jurisdiction that I sit on that went through that process. We have created efficiency, we have become more productive, and we have created the opportunity to reduce fees that people who require licenses in the State of Maine. So, I see the role of the Productivity Task Force as an opportunity to bring a fresh perspective, different experiences in life, and a new understanding of what Maine needs to do to put its financial house in order. One of the most important things, in my view, that we need to do, in terms of putting our priorities and our financial affairs in order, is in the Department of Mental Health and Retardation. It pains me to know that we are spending hundreds of thousands of dollars with a Court Master and attorneys who bicker back and forth about the Consent Decree. We are spending hundreds of thousands of dollars of Maine citizens' money in a direction that does not help the people who are in harm's way. That's unconscionable. We have, as I learned in my first time, having the opportunity to sit on the Human Resources Committee, we have institutions in Maine that are energy inefficient, that at one time, and perhaps still are, violating our environmental laws. If they were a private business they would have been put out of business. I have seen first-hand some of the transformation that has occurred by taking some of our geriatric mentally

ill patients and bringing them into the private sector. I have seen nursing facilities be developed in my district that have taken some of these patients from AMHI, and do you know what? Not only have they saved money, and indeed some of the employees who were working at AMHI decided to move to this new facility, but it's a place that if it were your mother or your child, you would be proud that they were there. You would say that's an environment that is going to look after the needs, emotionally and socially and physically, of your loved ones. But, there are other perspectives that we have often overlooked. In the Economic Development Committee, we have had a number of issues come before us, dealing with housing. The Maine State Housing Authority has put before us two separate initiatives. One to increase operating costs for homeless shelters. As I go and visit homeless shelters, as I do from time to time, I am stunned by the percentage of the people who are in these shelters with biologically mental illness. So, on the one hand you are saying, "Don't touch the institutions in this fresh eye perspective in this amendment, but we can continue to go ahead and put pressures and burdens and financial requests in other parts of State government to look at our issues of mental illness." More recently, the citizens of Maine just passed a bond issue that will allow the Maine State Housing Authority to build some of these community based mental health environments that we want to create for our people in harm's way. So, from my perspective, Mr. President, this is fair. It's reasonable. It's consistent with what has been going on with the Productivity Task Force and we are very fortunate to have the Senator from Cumberland, Senator Pendexter, who, indeed, sits on that Task Force, who sits as Chair of the Human Resources Committee, who has a special knowledge and expertise in this area that can be brought to that discussion. So, I hope you will join me in supporting the pending motion. Thank you.

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

Senator **FAIRCLOTH:** Thank you, Mr. President, Colleagues in the Senate. The Augusta Mental Health Institute may, at some point in the future, close, or it may not. That, I think, is something that needs to be decided through the courts, the Consent Decree, and through a deliberative legislative process. This discussion should not be about jobs. I think there are those who seem to have the perspective that there is almost a lust to cut jobs, and that that is the end that we seek. There are others who seem to think that this is a debate about protecting union jobs. I don't think either of those perspectives are pertinent. The issue is how can we best provide mental health care to the people of this State. In relation to jobs I have heard people make the argument to me, as the Senator from Penobscot, that what I should do is help, in whatever way I can, to close AMHI so that we could get the jobs at BMHI. I don't think that's a very good idea or a good argument. In fact, I have heard legislators from the Augusta area suggest, since these recent proposals have come forward, that we should close down BMHI. Rather than that kind of slashing at each other, which I don't think shows a lot of caring for mental health, I think we just need to look at what is right for the people. When somebody suggested that to me about closing down AMHI and putting the people in

BMHI, I don't even know if that is feasible in any case; but I asked, so someone from Lewiston would go visit their family in Bangor, at the Bangor Mental Health Institute? I don't represent people from Lewiston, but that doesn't sound like it makes sense on the face of it. I think the good Senator from Kennebec, Senator Carey, raised the most pertinent question about whether there is going to be care in the community in place before we provide for any of this downsizing. I don't know, but I do know the history that we have seen over the recent years; and the history is very clear, that community care is not in place, even though it is often purported to be. So, I want to see that care in place before we do this and I want to see these decisions made. Maybe the decision will be ultimately to close AMHI. I don't know, but I want it to go through a judicious, deliberative process in the legislative body. The Productivity Task Force is not that body. It does not serve that function. I think all of us who are familiar with what has happened knows that it is not the type of deliberative process where we can make that kind of profound decision that affects people's mental health care.

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

Senator **RAND:** Thank you, Mr. President, Men and Women of the Senate. Have I missed something here? This amendment simply says that the Productivity Task Force cannot recommend that the State of Maine shut down any mental institutions, close them. That's all this amendment does. We are talking about a major problem that the State of Maine has struggled with for years now, for several years now. It goes from the difficulty in dealing with the mentally ill, on a very personal level, to the lack of money available to do this, the correct way to handle closures of institutions, if that's the right way to go. We even have a Court Decree involved here. This is all discussion that should be set over here. What we are talking about is whether or not this Productivity Task Force has the right to recommend mental health policy in this State, under the guise of productivity realization. I would say no. I can't see how anybody could suggest any differently. Are these mental health experts on the Productivity Task Force? Did we abdicate all thought processes when we decided to vote for this Productivity Task Force? We voted to fill a \$45 million hole in the budget. We voted to do it the easy way, supposedly, by agreeing with the Governor's creation of this Productivity Task Force. They are going to do the job for us. We did not, in any shape, form, or manner, suggest that this body be given the right to decide mental health policy. Good heavens, we've got the courts involved in that now. This simply says that the Productivity Realization Task Force, with all its mighty powers that we gave it in April, cannot be dictating mental health policy. That's all it says, to the extent where they actually say, their recommendation is that you will close one, two, three or all, I don't know, mental health institutions. It simply says let them keep their hands off whether the institutions are closed or not. It does not prevent, in any way, the Commissioner from saying, aside from the Task Force, for example, AMHI should be closed. It simply says that the Task Force cannot include the closure in its savings, in its cuts. It's a reasonable amendment, one that we should all support. Either that or why don't we have another vote, bring in another bill,

and create another Task Force that runs the ship of state and we can all go home. Please reject the motion that is on the floor and let's keep everything in perspective here. There is no money involved. There is no savings involved right now. We can do it easily. Let's stick to the subject, which is not whether the institutions should close or not, that's not what is before us. What's before us now is whether the Productivity Task Force can recommend a closure and book those savings. It's that simple.

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

Senator **BUSTIN:** Thank you, Mr. President, Men and Women of the Senate. I just want to clear up a few things. One, if you leave it in the Productivity Task Force, and it comes back to the Legislature again, we are crunched for time on making very major decisions. It is three days in the Legislature. That is not appropriate for a public discussion on an order of this magnitude. Secondly, I want to concur with the good Senator from Penobscot, Senator Faircloth, when he says this is not, nor should it be, nor will I ever enter into a discussion about whether it's AMHI, or BMHI closing. I am not into that mode at all. We are into the mode of deciding how we take care of the persons with mental illnesses and that is a very important subject and should not be left to a Productivity Task Force that is merely looking at dollars, not delivery of services. If anybody who has been here for three days this week doesn't understand that, then they don't understand a whole heck of a lot. Secondly, there was a study in 1994 that recommended that Bangor be closed, now; and I disagree with the good Senator from Cumberland, Senator Pendexter, in fact, Commissioner Peet has announced that she will be proposing the closing of AMHI to the Productivity Task Force. That is a fact. It was said to those seventeen people sitting with the Governor on Tuesday. So, it is out; and it is a fact that that is what she will do, unless, of course, she has changed her mind between then and now. So, we are up against it. You are up against the Productivity Task Force that wants to invade an issue that needs to be debated in the Legislature. Secondly, I was distressed to hear the other Senator from Cumberland, Senator Harriman, say what I took to be a statement that said that State workers can't take care of persons with mental illnesses better than people out in the community. I hope that he didn't mean that, but that's what I took it to mean. We are not talking about how workers deliver the services. We are talking about where it is delivered, whether it's in the community or it's in an inpatient facility. That's what we are talking about. We are not talking about who is delivering it, but it always gets down to whether State workers are going to deliver the service, or somebody outside is going to deliver the services. What we need to be talking about is least restrictive setting. Nobody ever talks about that. They always talk about how the workers deliver the service. That's not where it's at. I hope that when we have these discussions that's what we talk about.

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

Senator **PENDEXTER:** Thank you, Mr. President, Men and Women of the Senate. Just very briefly, I just want to continue to reiterate that the Productivity Task Force recommendation is the plan of a commission. The Task Force does not sit there and



figure out how the mental health system, for example, is going to work. The department brings forth a plan, and the Task Force merely rubber stamps it. They might make a few changes. They might take some things out. But, we are not in the business of defining and making big policy decisions. We just make a ruling on a Commissioner's plan on how a certain department should be restructured, or how it should deliver services, or how we should do things differently. It's an administrative function, being directed by the Governor's office. Every Commissioner has to go through it. Commissioner Peet is not going to be an exception. Whether we realize savings or not, who knows? That's not the issue. The issue is that every Commissioner in this administration is being asked to come before the Productivity Task Force and make a recommendation on how the department should be structured to produce better efficiencies, to deliver services better to consumers. So, the Task Force should not be seen as an entity, an unelected entity, that's making decisions. We are taking recommendations from commissioners. So, I just want to allay your fear that we are sort of making all of these decisions on our own. We are not. In fact, I have been rather vocal with some commissioners, within the Task Force, that I think sometimes we just rubber stamp things. The Task Force is not very aggressive. It's just basically passing judgement on a commissioner's plan, period. Thank you.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President. I am very concerned about what might happen to the mentally ill and the mentally retarded and the agriculturists and the foresters and the nurses and the fishermen if these cuts are made by a curtailment in allotment. We have a meter running. We started that meter ourselves. No one put us on this track except ourselves, by accepting this law which created the Task Force and set up the process. We don't have much choice at this point. Endless debate on issues where probably everyone in this room already knows how they are going to vote are not going to get us to the end point of this process, but are going to push us over a cliff where those decisions must be made in a very different manner and we will be helpless to control what affect they have on anyone. I would urge you to consider that, get this out of this room, and on it's way so that we can complete our work in the assigned period of time for the benefit of the State of Maine. Thank you.

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

Senator **CAREY:** Thank you, Mr. President. I would concur with much of what the good Senator from Hancock said about the Task Force and its duties. But, unfortunately, when you get to mental health, you have another player in the game, which is the Superior Court and the Consent Decree that was handed down; and in fact, we are currently in contempt of Court. We have until June 30, 1997 to comply. We have not really complied to this date; and because of that long period of time that we have, I would assume that things are going to be happening during that process, so the State, itself, is no longer held in contempt. So, Mental Health is, in fact, a different agency than all the other players in this game. On the fourth of April of this year Commissioner Peet vowed to comply with the AMHI Court Decree. I have

got piles of stuff that I keep going through to try and keep current and advise you as to what has been going on in the Productivity Task Force up to this point. She said that the Governor has \$21 million set aside to go to solve this consent decree. That's \$11 million less than what Governor McKernan had promised; and it was Governor McKernan who was found in contempt, even with the \$32 million. The person who put out this decree originally, on mental health, to tell you how far back we go, has been able to retire in the meantime, and is now enjoying travelling on the west coast in California and Alaska. That may happen to the next judge who has a contempt citation. Mr. Rodman, who is, in fact, the Master in this case, appeared before the Productivity Task Force; and he said that the State really had to keep moving in this area. He wants those facilities made whole for holding the people who are, in fact, mentally ill. He wants those community facilities built, manned, and financed. That would be about the only reason he would keep from seeking further contempt citations against the State.

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

Senator **MCCORMICK:** Thank you, Mr. President. Two things, first of all, this amendment does not limit, in any way, Commissioner Peet's visioning of the mental health system. She may envision closing AMHI if she wants. This amendment does nothing to that. It does nothing to limit her report to the Task Force at all. It merely says that the Task Force is not the correct body, not the appropriate body, not the traditional body, to handle a huge policy issue like the closure of an institution. That should go to the Legislature. Secondly, my concern is that this body, this Productivity Task Force that has been touted as the appropriate body to handle this kind of discussion, has already said how they feel about this issue. The good Senator from Cumberland has said we should close AMHI. She has made her decision on this. She is a member of the Task Force. The Chair of the Task Force has actually said to Commissioner Peet, inappropriately, if I may say, that if you do not close AMHI, may God have mercy upon you. That is a very close paraphrase. This is not a neutral body. We are sending a policy issue that has every right to be decided by people who are publicly accountable, like this Legislature, to a body whose minds are already made up. That is not fair. That is not right. We shouldn't do it. It does not limit Commissioner Peet's envisioning in any way. She can still propose closing it. This amendment, and let's get back to the amendment, this amendment deals with who should then decide. I think it's appropriate that the Legislature decide and that it have enough time to decide. The Productivity Task Force process does not give us enough time to decide. It puts us in pot boilers, like this session, where there is no room for considered discussion. I hope that you will join me in voting in favor of this amendment and against the motion to indefinitely postpone. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **HANLEY** of Oxford that the Senate **INDEFINITELY POSTPONE** House Amendment "E" (H-668), in **NON-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, FERGUSON,  
GOLDTHWAIT, HALL, HANLEY,  
HARRIMAN, HATHAWAY, KIEFFER,  
MILLS, PENDEXTER, STEVENS, and  
the PRESIDENT, Senator BUTLAND

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

ABSENT: Senators: LORD, SMALL

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator HANLEY of Oxford to INDEFINITELY POSTPONE House Amendment "E" (H-668), in NON-CONCURRENCE, PREVAILED.

The Bill, under suspension of the Rules, READ A SECOND TIME.

On motion by Senator MICHAUD of Penobscot, Senate Amendment "C" (S-409) 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 amendment is cost neutral. What it does is, when the Task Force had dealt with the Department of Human Services, we, and rightfully so, combined the AFDC, food stamps and Medicaid programs all in one. That makes a lot of sense. It streamlines the process. I think it's good public policy. At the same time that we did that, however, we also eliminated nine front-line supervisors. It was not brought to my attention what the error rate was at that time; because, being a former member of the Appropriations Committee, when we used to deal with the Department of Human Services, they would come in and sometimes put additional people in, which actually saved the State money. By adding people, it saved the State money. When I checked on the error rate for AFDC, in 1989 the error rate was 5.22%. In 1994 the error rate has increased to 6.82%. At the same time that error rate has increased, we, the Legislature, did cut the staff in the AFDC area by 27 staff people. These staff people are fifty-fifty, 50% funded by the feds and 50% by the State. What that means in actual dollars is in 1994, on AFDC alone, the misspent dollars was \$7.3 million. That really does concern me. At the same time, in this particular program, what we are doing is we are combining other programs. So, my concern is while we are combining programs, we are reducing staff. I think that is going to up the error rate even more. I do not believe that that makes good economic sense. Some members might argue how can you make a judgement call that, just because there is reduced staff, that that is why the error rate has increased. I think it's probably very easy because when a staff person has more work to do, and fewer hours in a day to do it, they are going to hurry up and try to get their work done; and, therefore, they are going to increase on their errors. I'm not saying that at the end of this biennium that we should not revisit this issue. I think that we definitely should revisit it and maybe look at staff at that time. But, I think this is a poor time to eliminate them at the same time we are combining those three programs. It does, in fact,

cost to put these positions back; but I took that cost from salary savings that will be attributed to monies still within the Department of Human Services. I think in the long run that it would be wise for us to put these back in and probably revisit them next session to see whether or not we should keep them. I think it is unconscionable for the State of Maine to have misspent, in federal and state dollars, \$7.3 million. That's wrong. I do not know what it is in food stamps and Medicaid, but I can assure you that it is probably equally as high. When I talked to the regional people on the food stamps, to find out what Maine's error rate was, it's 7.5% for 1994 in food stamps. He did mention, however, that some states, if they improve on their error rate, they can receive additional dollars to help the state out. In Massachusetts, for instance, they received an additional million dollars because their error rate, for food stamps, was down to, I believe, 5.9%. So, I think this is a good amendment. In the long run it will save the State a lot more dollars than what it is going to save us in this short run. Had I had this information at the Task Force level, I would have voted differently on this proposal. 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. First, let me congratulate the creativity of the good Senator from Penobscot. I mean that in all sincerity; because the good Senator, having served on the Appropriations Committee, knows where to go to make a plausible argument here for the members of this Legislature. The good Senator realizes that he can't bring a proposal forward which does not have offsetting funds. My first concern, and it's a concern I shared with you earlier when we dealt with the question on the foresters in the Department of Conservation, is that the figure that the good Senator from Penobscot is using is he is arbitrarily increasing the attrition rate for salary savings in section J of the bill. Purely arbitrary, just to back into the figures that he needs. Can that be achieved? I checked with my staff. Potentially those savings can be achieved. They can't guarantee that. That can't guarantee what the impact would be. It's the incrementalism, well, \$400,000 won't really make a big difference here. Following up on that concern, while it fills the problem, alledgedly, for FY 96 and FY 97, my question goes out again. What happens in FY 98 and FY 99 and the year 2000; because there will not be the resources there, so we will continue to postpone the inevitable to deal with the problem? That's from a financial end. Now, to get to the good Senator's intent in bringing this forward to reduce the error rate. I could not agree more wholeheartedly with my good colleague. My response would be to direct his attention to the document, where, in fact, we are spending \$459,000 in FY 96 and \$524,000 for funds for the automated child welfare information system. I would then direct his attention to the appropriation of funds to automated client eligibility of \$2 million. We are also appropriating money for the purchase of software to better handle our error rate. The purchase of laptop computers to further improve our procedure and cellular phones to the tune of almost \$150,000. That was my understanding and the Commissioner told us in Committee that those appropriations to improve technology would help any



errors that we had. Whereas it may not be individuals, I would hope that I could trust the information being provided by the Department, that, in fact, these improvements in technology will improve our overall efficiency, so that we won't have improper use of these hard-earned taxpayer dollars. I guess my response would be, if we are spending millions of dollars to upgrade technology to solve the problem, and it's not going to solve the problem, then let's not appropriate those monies; and I will sign onto Senator Michaud's bill. Just let me know which way I should go. Should we not go with the technology and go with the people, like Senator Michaud says? Or should we give the Department the opportunity to utilize the technology to increase our effectiveness? I guess that's the problem I am struggling with now. I guess I will wait to hear a response before I take any further action on this amendment.

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

Senator **MICHAUD:** Thank you, Mr. President. I would gladly like to respond. When I first thought about the error rate, I did ask the Department and they said they thought it was 6%. What I did was I called the Boston office, they told me it's 6.82%. I wanted an accurate figure on that error rate. If the good gentleman wishes to eliminate these positions at the end of this biennium, I would have no problem with that, and let the Appropriations Committee re-evaluate it at that time. The reason why I have a problem with doing it right now is because the error rate has gone up dramatically, and I think we can attribute it to increases in workload on the staff. Above and beyond that increase in the error rate, we are combining the AFDC program, the food stamp program and the Medicaid program. Each one of these programs also has different guidelines for the other programs underneath, particularly the Medicaid. So at the same time that we are cutting staff, we are giving them a lot more work to do because they have to deal with other programs. I have no problem combining those programs. I think it's important. That's the way to streamline State government and make it more effective. I think it's great. What does concern me is when I look at the misspent dollars in 1994, and it's \$7.3 million misspent, that does concern me. I think it's well worth this Legislature's time and money to put these back on. If the good Senator from Oxford wanted to leave them on just for the biennium, I would have no problem with that; and then let the Department come back if they need them and they can try to justify them before the Appropriations Committee. I think, probably, that's the way this amendment should have read. Where I do have the problem is by cutting those nine front-line people, supervisors, at the same time that we are giving them more work, that's where I have a problem. I think we are being penny-wise and pound foolish. So, therefore, I would hope that you would support this; and if the good Senator would just like to limit those positions, just for the biennium and have the Department come and try to justify them later on, I would have no problem with that.

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

Senator **FAIRCLOTH:** Thank you, Mr. President, Colleagues of the Senate. The good Senator from Oxford mentioned about the computerization within the

Department of Human Services to enhance productivity, and those are steps which I think we can all applaud. However, what we are addressing here, specifically, has to do with income maintenance supervisors. I wanted to double check on that with Commissioner Concannon. As I understand it from him, the computers for that function will not be coming on line until the end of calendar year 1997 in all likelihood. So, the efficiencies that may be achieved through the use of those, which I hope will be very beneficial, we aren't going to get for some time. In further checking on this, I contacted some people in my area, in Bangor, just to look at some of the numbers. In 1989, this is just talking about AFDC, there were 3,900 cases. We have gone up to 8,200. During that same period they went from 45 people to deal with those applications down to 34. So there is a dramatic increase in AFDC with a dramatic decrease in the people to deal with it. As the good Senator from Penobscot, Senator Michaud, has mentioned, now we are going to combine AFDC, Medicaid and food stamps, which is a good proposal. But, simply as a practical matter, I think it's probably going to be worthwhile, in the long run, to provide for these cuts; but it's not practical at all right now. It doesn't make sense immediately. So, that's why, on the merits, I think that this is a worthwhile amendment. I have heard people make arguments saying let's support this because of jobs or unions or so forth. I think that is utterly and completely irrelevant. I think what is relevant is how to most efficiently deal with the processing of these applications; and I think that the error rate, quite possibly, could increase even more than it already has; and that will lose the State of Maine money. So, what I suggest is maybe eliminating these people after the end, to coincide with when the computer and the computer training, in fact, comes on line for this area. I realize, full well, that other computer systems are coming on line immediately; but, as I understand it from Commissioner Concannon, with regard to this section of DHS, that is not the case and it won't be for some time. 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. If that's the case, as the other good Senator from Penobscot has pointed out, I would then direct my attention to page 39 of the draft legislation, where we are spending \$2 million in the administration in income maintenance to provide the automation of client eligibility. If what the good Senators are telling me is that the personnel are much better than the automating, to improve our error rate, well then let's take the money out of the \$2 million, instead of arbitrarily increasing the attrition salaries as set forth here. If you want to make up the differences, I would be willing to sign onto an amendment that basically lowers the appropriation from this automation. If the good Senators sincerely believe you will achieve more, or higher, efficiency, and less errors in the system by going with more personnel and not the \$2 million that we are putting in income maintenance on page 39.

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

Senator **FAIRCLOTH:** Thank you, Mr. President. I just want to pose a question through the Chair, because I'm not sure I understood. My point was, the

computers, which I think will add efficiency, as I understand it from Commissioner Concannon, for this purpose won't come on line until significantly later in 1997. I think they will add efficiency. I think we should, perhaps, lay off supervisors at that time, when we have that new efficiency from computers. As I understand it, from Commissioner Concannon, that's not happening until sometime later. That's my point. So, I am not opposing increased computerization, quite the opposite, I'm just saying let's deal with that when the time comes appropriately.

**THE PRESIDENT:** The Senator from Penobscot, Senator Faircloth, 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. As is often the case, maybe we hear different things, and maybe it's in the way we ask the questions. All I know is that, as a member of the Appropriations Committee, we were asked to allow the appropriation of \$358,000 before June 30, 1996. My question still remains, if this isn't going to be in effect until 1997, why are we spending the money now if the good Senators think that it should be spent on personnel? Why don't we just not spend the money in FY 96 and then spend it in 97 so that we have a coordination here? It just seems like we are pumping a lot of money in for the same net result. Let's focus on what the best utilization of these dollars are; and either we deappropriate the \$358,000 in FY 96 that's supposed to go to technology, and apply it to the good Senator's proposed amendment, or we go along with what has been proposed by the Department in their restructuring. I'm willing to entertain any of those alternatives.

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

Senator **PENDEXTER:** Thank you, Mr. President, Men and Women of the Senate. I had the same concerns, and I did ask questions when the Task Force reviewed this recommendation. I had concerns, as well, as to when does the technology arrive and are we laying people off appropriately? I was assured, by Commissioner Concannon, and believe me, Commissioner Concannon does not give up positions easily, that this was an appropriate deallocation of people power. I'm not concerned about the error rate, because technology will take care of it. We have had discussions for years now in the Human Resources Committee about one-stop shopping. We are on the verge of putting, not only the three programs, but all seven programs that the Department does eligibility for in the computer. They have the technology to actually put in all the manuals of all seven programs, so that the computer does all the work. The computer actually determines the eligibility. That's the way we have to go. So, this debate about computer technology versus people, there is no question in my mind that we have to invest in technology. I have an even better proposal, and I'm a little irritated by this amendment, because, if I remember correctly, I think that the Senator from Penobscot voted for this recommendation on the Task Force, and now he comes before us with an amendment to put people back. That irritates me. But, I have an even better proposal, and I am going to pursue it, on the Task Force level, and that is that this is a function that the Department of Human Services can

get out of the business of doing, because just seeing if people are eligible for programs is a function that can be very easily outsourced. As a matter of fact, CAP agencies are now doing it and we have a demonstration project in place that has been going on for a couple of years working very well. We can outsource to agencies so people don't have to go to DHS offices to see if they are eligible for programs. They would much prefer to go to a CAP agency than a DHS office. So, actually, I see us getting out of the business of doing this entirely. We can save, if the figure is correct that was given to me, at least \$9.3 million doing that. It's an overall figure of \$20 million. I don't know what it would cost to outsource and we need to work that through with the Department, but there is no question in my mind that we are going to get out of the business of doing this and this is just a step forward. So, in the spirit of technology, knowing that we don't have to be doing this, I would move indefinite postponement of this amendment. Thank you.

Senator **PENDEXTER** of Cumberland moved that the Senate **INDEFINITELY POSTPONE** Senate Amendment "C" (S-409).

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

Senator **MICHAUD:** Thank you, Mr. President, Men and Women of the Senate. Evidently, the Senator from Cumberland wasn't listening when I got up to speak on this issue at the beginning. Hopefully, she is listening now. When we dealt with this at the Task Force level, they did not tell us what the error rate was. It had already been put forth before the Task Force and was voted on. That does not justify that the State of Maine misspent \$7.3 million in AFDC alone. You do need the computers. I would not advocate eliminating them; however, what I am suggesting is that, at the same time that we are trying to get these computers going, and we do not have them on board, at the same time that we are doing that, we are eliminating people in the Department. At the same time we are eliminating people in the Department, we are giving the workers more work; because we are combining programs. I have no problem with combining the programs. My problem is that I think it is going to cost the State of Maine a lot more money, and I'm against that. I would not dare guess what we are misspending in food stamps or Medicaid, but I think \$7.3 million in AFDC alone is enough for misspent money. I do not believe that it is appropriate. I do believe we need the technology. I do believe we ought to leave these positions there, at least through the biennium. If the Appropriations Committee, at that time, wishes to eliminate them, at least until they can get these programs integrated, until they can get the computers up and running. That's going to take time. I think it's well worth it to spend this amount of state dollars to save who knows how many millions of dollars by these positions. So, I hope that you would vote against the pending motion to indefinitely postpone. Thank you.

On motion by Senator **PENDEXTER** 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 **PENDEXTER** of Cumberland that the Senate **INDEFINITELY POSTPONE** Senate Amendment "C" (S-409).

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, GOLDTHWAIT, HALL,  
HANLEY, HARRIMAN, HATHAWAY,  
KIEFFER, MILLS, PENDEXTER,  
STEVENS, and the  
PRESIDENT,  
Senator BUTLAND

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

ABSENT: Senators: LORD, SMALL  
18 Senators having voted in the affirmative and  
15 Senators having voted in the negative, with 2  
Senators being absent, the motion by Senator  
PENDEXTER of Cumberland to INDEFINITELY POSTPONE  
Senate Amendment "C" (S-409), PREVAILED.

Off Record Remarks

On motion by Senator KIEFFER of Aroostook, Tabled  
until Later in Today's Session, pending PASSAGE TO BE  
ENGROSSED, As Amended, in NON-CONCURRENCE.

Senate at Ease  
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 PENDEXTER of Cumberland, the  
following Joint Order:

ORDERED, the House concurring, that Bill "An Act  
to Transfer Oversight of Commercial Driver Education  
Programs to the Secretary of State" (S.P. 477) (L.D.  
1301), and all its accompanying papers, be recalled  
from the Governor's desk to the Senate.

S.P. 605

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

Senator PENDEXTER: Thank you, Mr. President, Men  
and Women of the Senate. This is the one bill that  
is sitting on the Governor's desk being threatened to  
be vetoed. This is a bill that I presented in the  
name of the Maine Highway Safety Commission to  
address some of the driver ed issues. I have,  
subsequently, spoken with the Governor and am in a  
position to amend the bill so that he will not veto  
it. So, this is why I am recalling it from his  
desk. Thank you.

Which was READ and PASSED.  
Sent down for concurrence.

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

SENATE PAPERS

Resolve, to Amend Provisions of the Androscoggin  
County Budget Process (Emergency)

S.P. 606 L.D. 1598

Presented by Senator CLEVELAND of Androscoggin  
Cosponsored by Representative: LEMAIRE of Lewiston  
Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 26.  
Reference to the Committee on STATE AND LOCAL  
GOVERNMENT suggested and ORDERED PRINTED.

On motion by Senator CLEVELAND of Androscoggin,  
under suspension of the Rules, READ ONCE, without  
reference to a Committee.

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

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

Senator CLEVELAND: Thank you, Mr. President, Men  
and Women of the Senate. Let me explain, briefly,  
the reason why we introduced this. Last year the  
Androscoggin County delegation suggested, in the  
County budget, that the County move from a calendar  
year budget to a fiscal year budget of July 1 to June  
30. That requires an eighteen month budget. Upon  
further reflection, and looking at the impact on  
local property taxes, there is no way that that can  
be done without requiring at least two payments in  
one fiscal year on local municipalities for  
counties. That will be totally unacceptable; and  
unless we act on it now, the law requires that an  
eighteen month budget be submitted; and we won't be  
able to act on it again before we come back. We do  
think it's a good idea to move from a July 1 to June  
30, but we have to plan for it and set up a better  
procedure than we did last time. So, I would  
appreciate your support on this so we can avoid a  
very unfortunate situation.

Which was PASSED TO BE ENGROSSED, without  
reference to a Committee.

Sent down for concurrence.

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

Off Record Remarks

On motion by Senator BEGLEY of Lincoln, RECESSED  
until 2:30 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:  
Bill "An Act to Implement the Recommendations of the  
Productivity Realization Task Force" (Emergency)

H.P. 1150 L.D. 1589

Tabled - earlier in today's Session by Senator  
KIEFFER of Aroostook.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED in  
NON-CONCURRENCE.

(In House, November 29, 1995, PASSED TO BE  
ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"  
(H-657) AS AMENDED BY HOUSE AMENDMENTS "A" (H-660),  
"B" (H-663) AND "C" (H-665), thereto, and HOUSE  
AMENDMENTS "C" (H-664) AND "E" (H-668).)

On motion by Senator CASSIDY of Washington, the  
Senate RECONSIDERED its action whereby it ADOPTED  
Committee Amendment "A" (H-657), as Amended by House

Amendments "A" (H-660) and "C" (H-665), and Senate Amendments "A" (S-405), "B" (S-406), and "E" (S-410), thereto, in **NON-CONCURRENCE**.

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

Senator **CASSIDY:** Thank you, Mr. President. What this actually is is we had an error this morning in Amendments "A" and "B" that we passed, where the language overlapped and was doing a conflicting thing. There is a series of things here that I have to go through to change that, to get back to the point which we intended. So this is just to correct an error.

On motion by Senator **CASSIDY** of Washington, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Senate Amendment "A" (S-405) to Committee Amendment "A" (H-657).

On further motion by the same Senator, Senate Amendment "A" (S-405) to Committee Amendment "A" (H-657) **INDEFINITELY POSTPONED**.

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Senate Amendment "B" (S-406) to Committee Amendment "A" (H-657).

On further motion by the same Senator, Senate Amendment "B" (S-406) to Committee Amendment "A" (H-657) **INDEFINITELY POSTPONED**.

On further motion by the same Senator, Senate Amendment "F" (S-411) to Committee Amendment "A" (H-657) **READ** and **ADOPTED**.

Committee Amendment "A" (H-657), as Amended by House Amendments "A" (H-660) and "C" (H-665), and Senate Amendments "E" (S-410) and "F" (S-411), thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

Senator **PENDEXTER:** Thank you, Mr. President, Men and Women of the Senate. Very briefly, I just would like to explain why I didn't offer the amendment dealing with the State Planning Office. In the spirit of wanting to move things along and not wanting to create some non-concurrence problems, I felt that it would be best to not offer the amendment at this time. I was disappointed with the decision of the Productivity Task Force, who didn't feel this was good productivity stuff; but I was very optimistic with the bipartisan support that does exist in the Legislature, relative to the State Planning Office. While there is a vehicle, presently, in the State and Local Committee, which the amendment would have sent this there anyway, I felt that the issue will be addressed when we do come back in January. So, I felt I would not offer it at this time and I just wanted for the Record to reflect that fact. Thank you.

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

Senator **LAWRENCE:** Mr. President. I was wondering if the Chair could repeat the amendments that have been adopted.

**THE PRESIDENT:** The Senate has adopted Committee Amendment "A" (H-657), as Amended by House Amendment "A" (H-660), House Amendment "C" (H-665), Senate Amendment "E" (S-410) and Senate Amendment "F" (S-411). Also by House Amendment "C" (H-664) to the bill itself. The Chair recognizes the Senator from York, Senator Lawrence.

Senator **LAWRENCE:** Point of inquiry, Mr. President. Is Senate Amendment "F" the amendment offered by the Senator from Washington?

**THE PRESIDENT:** That is correct. The Chair recognizes the Senator from York, Senator Hathaway.

Senator **HATHAWAY:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I know that before we vote on this I would like to make a couple of comments. We are told this week that we are here to cut State spending and to reduce the size of State government. I think, before we vote on this bill, we should be honest with the people of this State. I think we should let them know that we are not really cutting State spending until we are actually spending less than we were before. We're not really cutting the size of government until we actually have less government than we did before. As long as we are spending \$280 million more in this budget than in the last budget, I don't think we can honestly tell the people of this State that we are cutting spending or reducing the size of government. Getting rid of people is not getting rid of programs. I think all we have really done in this \$45 million that we are trying to achieve is shift spending from one portion of government to another. No way can we call this actually cutting or saving. I think, in fact, we could call this, perhaps, the shift and the shaft. We are shifting the money, and I can't help but feel that in some way we have shafted our State workers. I want to commend Senator Pendexter for her courage in the last few months on the Task Force, for standing up for the taxpayers of this State. Likewise, I would like to commend Senator Michaud for his courage in standing up for our State workers. I certainly support productivity and efficiency, but I don't support cutting people without cutting programs. I'm afraid that this process has, in fact, made life more difficult and has tainted the reputation and the morale of our State workers, who I find to be very dedicated people who work hard to provide services to the people of this State. We should not blame the State workers because our government taxes too much, or spends too much. That blame lies right at the top, right in this building, on this floor, in this room, on our desks. We promised people that we would make tough decisions. I don't think that this has been the vision that we promised. I think this is an illusion. We should decide what government can do well and what it shouldn't be doing at all. For example, I join my good colleague, Senator Pendexter, in looking into the future and cutting our State Planning Office. State planning was tried in Eastern Europe. It didn't work there, it won't work here. It's time to free our people of government trying to plan our lives. Likewise, I had the intent of proposing an amendment to terminate the Department of Education, where I think we have millions of dollars in savings. I think it's time to free our teachers so that they can teach our kids. I have five children in public schools in this State, and never has one of my children ever learned anything from the bureaucracy of the Department of Education in Augusta. I trust our teachers. I trust our local control. I hope that in the future you will join us in finding big savings and more freedom for our people by terminating this bureaucracy. I think it is, in fact, unfortunate that we are talking about cutting prison guards but keeping more State planners. We have to decide what our priorities in government should be, what it is we should be doing, what do we do well, and what we shouldn't be doing at all. All I ask is that, in this debate today, that

we be honest with the people of the State of Maine and don't pretend that we are cutting spending or cutting the size of government, because we are not. We are merely spending the money in other places. I just hope that you share a whole vision that someday, in this room, we can, in fact, cut spending and cut the size of State government. Thank you.

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

Under suspension of the Rules, sent down forthwith, for 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 **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Clarify the Referendum Recount Process" (Emergency)

H.P. 1149 L.D. 1588

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-669).**

Signed:

Senators:

FERGUSON, JR. of Oxford  
MICHAUD of Penobscot

Representatives:

NADEAU of Saco  
GAMACHE of Lewiston  
CHIZMAR of Lisbon  
FISHER of Brewer  
TRUE of Fryeburg  
BUCK of Yarmouth  
LEMONT of Kittery

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

Signed:

Senator:

STEVENS, JR. of Androscoggin

Representatives:

MURPHY of Berwick  
LABRECQUE of Gorham

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-669).**

Which Reports were **READ.**

On motion by Senator **FERGUSON** of Oxford, the Majority **UGHT TO PASS AS AMENDED** Report, **ACCEPTED**, in concurrence.

The Bill **READ ONCE.**

Committee Amendment "A" (H-669) **READ** and **ADOPTED**, in concurrence.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

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

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

**HOUSE REPORT** - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, pursuant to Joint Order H.P. 1161, relative to referring Bill "An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to the State Soil and Water Conservation

Commission" (Emergency) (H.P. 1163) (L.D. 1596) to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY.**

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

Pending - **ACCEPTANCE.**

(In House, November 29, 1995, the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY.**)

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

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

Senator **CASSIDY:** Thank you, Mr. President, Men and Women of the Senate. That particular bill was tabled earlier today. The reason I requested that be tabled was because we took care of that whole bill with the amendment to do away with the Commission. With that in mind, we don't actually need to deal with that, since the Committee already dealt with that this week, so I would move that it be Indefinitely Postponed.

On motion by Senator **CASSIDY** of Washington, the Bill and Accompanying Papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE.**

Sent down for concurrence.

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

Senate at Ease

Senate called to order by the President.

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

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

Senate at Ease

Senate called to order by the President.

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

**COMMITTEE REPORTS**

**House**

**Ought to Pass As Amended**

The Committee on **MARINE RESOURCES** on Bill "An Act to Implement the Productivity Plan of the Department of Marine Resources" (Emergency)

H.P. 1158 L.D. 1592

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-670).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-670).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-670) **READ** and **ADOPTED**, in concurrence.

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

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

Off Record Remarks

On motion by Senator HALL of Piscataquis, RECESSED until the sound of the bell.

After Recess  
Senate called to order by the President.

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

**PAPERS FROM THE HOUSE**  
**Non-concurrent Matter**

Bill "An Act to Implement the Recommendations of the Productivity Realization Task Force" (Emergency) H.P. 1150 L.D. 1589  
(H "A" H-660; H "C" H-665; S "E" S-410; S "F" S-411 to C "A" H-657; H "C" H-664)

In Senate, earlier in the day, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-657) AS AMENDED BY HOUSE AMENDMENTS "A" (H-660) AND "C" (H-665) AND SENATE AMENDMENTS "E" (S-410) AND "F" (S-411), thereto, and HOUSE AMENDMENT "C" (H-664), in NON-CONCURRENCE.

Comes from the House that body having RECEDED and the bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-657) AS AMENDED BY HOUSE AMENDMENTS "A" (H-660), "B" (H-663), "C" (H-665), AND SENATE AMENDMENTS "E" (S-410) AND "F" (S-411), thereto, and HOUSE AMENDMENTS "C" (H-664), "E" (H-668), "F" (H-675) AND "G" (H-676), in NON-CONCURRENCE.

On motion by Senator HANLEY of Oxford, the Senate RECEDED.

House Amendment "G" (H-676) READ and ADOPTED, in concurrence.

House Amendment "F" (H-675) READ.

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

Senator GOLDTHWAIT: Thank you, Mr. President, Men and Women of the Senate. I am unable to identify these amendments in my notebook.

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

Senator HANLEY: Thank you, Mr. President, Men and Women of the Senate. For the good Senator from Hancock, House Amendment "G" that was just previously placed on, was a compromise that had been put forward by both the Senate Republicans, Senate Democrats, House Republicans and House Democrats, as far as to deal with the State Retirement issue. It did not have any impact on productivity. In fact, there is going to be a small net savings on this matter. It was hoped that it would have been included on the initial Productivity Task Force measure. That was not the case. The Administration did not feel it was appropriate to bring it forth at this time. Members of the Legislature felt that it should be moved upon as quickly as possible; therefore, we have adopted that. The amendment in front of you, House Amendment "F", is an amendment brought forward by a Representative from the other body, dealing with the Governor Baxter School for the Deaf, which precludes the Administration from having any layoffs from the Governor Baxter School for the Deaf until March 1,

1996. It's my understanding that there is already legislation which has been held over. I believe the bill is L.D. 505, but I stand to be corrected, which is in front of the Education Committee. They are dealing specifically with this issue. There was some concern that the Administration was moving too rapidly, that some of our most needy citizens and students, utilizing the Baxter School, would be disadvantaged, not only that but the local property taxes would be impacted because those children which are currently utilizing the services at the Governor Baxter School would be mainstreamed into the public school system, with basically no infrastructure there to accommodate. That's the legislation.

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

Senator GOLDTHWAIT: Thank you, Mr. President. My House Amendments, in my book, go to 674 and we have been discussing 675 and 676.

Senate at Ease  
Senate called to order by the President.

House Amendment "F" (H-675) ADOPTED, in concurrence.

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

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

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

**PAPERS FROM THE HOUSE**  
**House Papers**

Bill "An Act to Temporarily Reestablish Eligibility Standards for Low-Income Home Energy Assistance" (Emergency) H.P. 1166 L.D. 1599

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Reference to the Committee on HUMAN RESOURCES suggested and ORDERED PRINTED.

Comes from the House, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee.

On motion by Senator KIEFFER of Aroostook, Tabled until Later in Today's Session, pending REFERENCE.

**ENACTORS**

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

**Emergency**

An Act to Clarify the Referendum Recount Process H.P. 1149 L.D. 1588  
(C "A" H-669)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with 1 Senator 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.

**Emergency**

An Act to Implement the Productivity Plan of the Department of Marine Resources

H.P. 1158 L.D. 1592  
(C "A" H-670)

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

**Emergency Resolve**

Resolve, to Amend Provisions of the Androscoggin County Budget Process

S.P. 606 L.D. 1598

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with No Senator having voted in the negative, and 25 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.

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act to Reduce the State Tax Valuation for the Town of Hope" (Emergency)

H.P. 1164 L.D. 1597

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Comes from the House, referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

On motion by Senator **LAWRENCE** of York, Tabled until Later in Today's Session, pending **REFERENCE**.

**Joint Resolution**

The following Joint Resolution:

**JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO REPEAL FEDERAL LAWS AND RULES LINKING FOOD STAMP ELIGIBILITY WITH HEATING ASSISTANCE**

**WE**, your Memorialists, the Members of the One Hundred and Seventeenth Legislature of the State of Maine, now assembled in the First Special Session, most respectfully present and petition the members of Congress of the United States, as follows:

**WHEREAS**, the federal budget allocates less heating assistance for low-income homeowners than provided in previous years; and

**WHEREAS**, food stamp assistance under certain circumstances is linked to heating assistance; and

**WHEREAS**, the significant reduction in heating assistance to 54,000 households in Maine, 12,000 of which involve subsidized housing and 7,000 of this 12,000 involve elderly households, will have a severe impact on Maine people, especially those receiving food stamps; and

**WHEREAS**, cuts to the Low-Income Home Energy Assistance Program are concurrent with cutbacks in the prescription drug program, increases in Medicare premiums and the loss of food stamps. These cuts

will be especially hard felt by Maine seniors and the disabled community who rely on these programs in their day-to-day existence; now, therefore, be it

**RESOLVED:** That We, your Memorialists, respectfully recommend and urge the Congress of the United States to change current federal policy to allow persons who meet the eligibility requirements for food stamps but who do not receive heating assistance under the Low-Income Home Energy Assistance Program to receive food stamps in the same amount as they would have received had they received heating assistance; and be it further

**RESOLVED:** That We, your Memorialists, respectfully recommend and urge the Congress of the United States to restore heating assistance and weatherization funds that have been recently cut in order that states, such as Maine, which ranks 33rd in the nation with respect to median household income, do not have to make the choice whether people starve or freeze; and be it further

**RESOLVED:** That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation.

(Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

H.P. 1165

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

Which was **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, all matters were sent forthwith.

**Senate at Ease**

Senate called to order by the President.

**Off Record Remarks**

On motion by Senator **PENDEXTER** of Cumberland, **RECESSED** until 7:15 o'clock this evening.

**After Recess**

Senate called to order by the President.

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

Bill "An Act to Reduce the State Tax Valuation for the Town of Hope" (Emergency)

H.P. 1164 L.D. 1597

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

Pending - **REFERENCE**.

(In House, earlier in the day, **REFERRED** to the Committee on **TAXATION** and **ORDERED PRINTED**.)

Which was **REFERRED** to the Committee on **TAXATION**, in concurrence.

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



Bill "An Act to Temporarily Reestablish Eligibility Standards for Low-Income Home Energy Assistance" (Emergency)

H.P. 1166 L.D. 1599

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

Pending - REFERENCE.

(In House, earlier in the day, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee.)

Which was, under suspension of the Rules, READ TWICE.

**THE PRESIDENT:** The pending question before the Senate is **PASSAGE TO BE ENGROSSED** without reference to a Committee.

Senator HARRIMAN of Cumberland requested a Division.

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 Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator HARRIMAN: Thank you, Mr. President. Good evening Ladies and Gentlemen of the Senate. Before we take the vote I would just like to offer a little bit of history, because much of the Low Income Energy Assistance Program flows through one, or both, of the committees that I happen to serve on. As you may all be aware, the recent proposal in Washington, regarding the low income heating assistance program was that the U.S. Congress had allocated \$900 million for this program, and that the United States House of Representatives allocated zero for this program. Many legislators from New England, including myself, were involved in an effort to help the Congress understand that this program was vitally important to our low income, and particularly, our elderly citizens in Maine. This program was funded in past years at a significantly higher amount. I think we were successful in communicating to Congress that they could not allow the House and Senate to come together and agree to zero out this program. In fact, it's my understanding that in the reconciliation bill that is being dealt with in Washington as we speak, much of the funding for this program will remain intact. When the numbers are finally allocated, it appears as though Maine will receive about 25% less in home heating assistance this year than last; and looking ahead, it is even more uncertain as to what Washington will do. So, armed with that information, the Maine State Housing Authority conducted a review of their current eligibility standards; and they decided that for our citizens in Maine who are previously eligible for this program, who had heat included in their rents, that they should no longer be qualified for a check from the Maine State Housing Authority for heating assistance when, in fact, in their rent payment, which may be subsidized in some form or fashion, it already included heat. I commend the Maine State Housing Authority for doing that. I think, in the final analysis, they will continue to be able to meet the needs of our low income, and our poor citizens who need a tank or two or three of heating oil throughout the season. That's what the Maine State Housing Authority did and I think they were right. Now, for reasons that have nothing to do with the Maine Senate, the program that determines eligibility for food stamps, through the Department of Agriculture in some far-flung office in Washington, I

presume, it is administered here in Maine, says that one of the criteria for getting food stamps is that you be on a heating assistance program, of which there are only two states in the country that have that connection, Maine is one of them. So, what we are asked to do is to participate in a gimmick; and the gimmick is to tell the Maine State Housing Authority to re-establish eligibility to include people who are already getting heat included in their rent so they can get some token amount, perhaps a dollar or whatever, so that they can get food stamps. I think this is an opportunity for Maine people to stand up to tell Washington to stop the gimmicks. Let's do what's right. If people are going hungry and they need food stamps, they should get them. But to connect it to getting a dollar of LIHEAP so you automatically qualify for food stamps speaks volumes on what is wrong with government. So, for me, I think this is an opportunity to do what is right. Let's establish the heating assistance program for those who truly need it. Let's make sure that they don't go through the winter cold. If there is a problem with the food stamp program, let's communicate it to Washington and get them to fix it immediately. But by passing this bill, we are going to paper over, and create, and participate in a gimmick. I don't think it's right. Thank you.

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

Senator GOLDTHWAIT: Thank you, Mr. President. I guess my only problem with that scenario is the word "immediately" because from what I have seen in the last three days, it is unlikely that anything governmental can happen immediately and eating is something that happens to some people three times a day. So that concerns me that we are going to stand on principle in this case when it may mean people will go without food. If I am following the presentation correctly, is it not possible, and I would like to pose a question if I may, to simply use the LIHEAP criteria to establish the eligibility without sending the heat payment, thereby making it possible for people to get their food?

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

Senator LONGLEY: Thank you, Mr. President, Men and Women of the Senate. In response to the question, I am reading the provisions; and it seems that what this law does is basically says that it is effective immediately, meaning until March 1. So, it gets us through the winter. It then goes on to say that in January there will be hearings to look for even better alternatives. I hope I am getting around to answering your question, but it seems like what is being said by the Senator from Cumberland makes sense, and I think those points are addressed in the wording of the provisions. Thank you.

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

Senator HARRIMAN: Thank you, Mr. President. Good evening Ladies and Gentlemen of the Senate. In response to my good friend from Hancock, Senator Goldthwait, the Department of Human Services indicates that unless there is, in fact, a payment to these people who are living in apartments, and other dwellings that have subsidized heat already in their rent, unless there is a direct payment from the LIHEAP program to them, DHS will not deem them eligible for food stamps.



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

Senator **RAND:** Thank you, Mr. President, Men and Women of the Senate. I will have to say that I believe that the good Senator from Cumberland has pretty accurately painted the scenario. I, personally, have no knowledge of why the utility allowance was hooked to the food stamps. I really don't know how that happened. It is, more than likely, something that has to be fixed. I do think that we need a little time to fix this. Today I attended a press conference on the fourth floor, and people who will be affected by us not doing something here told their stories. There were two people from Portland, a woman from Westbrook, and a couple of women from Augusta; and their stories were all very similar. They do live in subsidized housing. They do receive help with their heating, a check from LIHEAP, to the tune of maybe \$45 a year. Something that they can easily give up. But, because they receive that check and live in subsidized housing, these people with incomes of \$7,000 a year, and below, will lose almost \$1,000 a year in food stamps and their ability to feed themselves. Now, I'm not sanctioning the tie-in between the heat and food stamps. I'm not saying that it is not something that we should address; but I think that, unless we put some protections in here, we literally will have people who are unable to buy food. One example was one woman was allowed \$97 a month in food stamps. Because of what the Maine State Housing Authority was really kind of forced to do, she is now going to be reduced to \$12 a month. Also, these women had health problems that demanded a certain level of proper diet. We had people with diabetes and heart disease and what have you, and their conditions demand a certain amount of special food. It is an impossible situation to put human beings in and I would urge you to please pass this bill. It is only effective until next March. It gets us through the winter and lets these people eat. They make less than we do in the Legislature, which is remarkable. Just pass this and let it go until March. The good Senator is right. I don't know how the tie-in happened; and I'm not sanctioning that and I am not asking you to sanction that. Just let this go until March and let's work something out so that people, literally, are not hungry this winter. Thank you.

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

Senator **PARADIS:** Thank you, Mr. President, Men and Women of the Chamber. Just a quick note. I think out of 10,000 letters the State of Maine sent out, 7,000 went out to elderly people. Their pride is impacted. These people have never had anything. This is the only thing they have ever gotten. They were using the money for food stamps so they could get their meds. More and more of our people, because of the great medications we have, are able to live independently very cheaply. They were subsidizing their medications with food stamps. That is the policy problem that we might have down the road if a lot more of these people stop taking their drugs and end up hospitalized. We will be paying for it.

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

Senator **PENDEXTER:** Thank you, Mr. President, Men and Women of the Senate. There is no guarantee that March 1 is a reasonable date. I feel that this particular piece of legislation is a dose of false

hope. We have no control over what is happening because Congress has oversight over the food stamp program. Why the tie-in with the utility, why that is there, Maine is only one of three states that still has that. So, folks, we don't have a prayer in heaven in Congress because they are going to remove that connection. So, we are at the mercy of Congress. When Congress gets to vote, it's in the welfare bill, when they get to vote it's over, whether we want it to be over or not. I feel that we are just leading these people on falsely. This could last a couple of weeks, it could last a month. There is no guarantee that it is going to go until March 1. There is no guarantee that we are going to carry them over through the winter. It's a quick fix; and, unfortunately, you are referring it to the Human Resources Committee. The State of Maine does not determine eligibility for food stamps. That is a federal program and I don't know what you expect us to do about it. We can't affect who is eligible for food stamps. It's a federal program and we have to go by the federal rules. So, as much as I want people to eat and be warm and all that, this is a solution that really isn't a solution because we are not addressing the problem. It is out of our hands. It's a federal issue.

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

Senator **LAWRENCE:** Thank you, Mr. President. I appreciate the comments by the two good Senators from Cumberland regarding the bureaucratic problem we face, both in this State and in Congress; but the reality is not what is going on in Congress, it's this winter, this Christmas. It's the fact that one out of every four children in Maine is raised in poverty. They probably don't know what is going on in Congress. That doesn't sink into them. What sinks into them is very real. It's what kind of winter this is going to be for them and what kind of food they are going to be able to get for this winter. So, even if it's only a small solution, and even if we do want to call it a gimmick, I'm sure they don't care whether we call it a gimmick or not. They don't care about the terminology we apply to it. Even if we can do just something for this winter it will be a good solution.

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

Senator **HARRIMAN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I wholeheartedly agree with what has been said and I have tremendous empathy for the people who are affected by the decision that this bill will create. But the fact is that what we do here isn't going to deliver what you may go home and tell your constituents. I mean no disrespect when I say this, but I don't know how many of you were at my side, fighting for the LIHEAP funding in Washington, but it was a pretty lonely trip. Quite frankly, I think the fact that a number of legislators from New England went to Washington to fight for this program is the reason that it is still here. We came out of there with the ability to assure that our elderly people, our poor people, will have heat. What we are telling the Maine State Housing Authority to do, if this bill passes, is to go out and re-establish eligibility. I'm told that the process of doing that, between promulgating rules, holding the public hearing, getting the testimony, making a decision, determining the eligibility standards for the re-establishment of the

eligibility in this program, will take, at best, two months. So, by the time this decision is finally made, based on this bill, it is entirely likely that the federal government is going to act. We are voting on a bill that will look good on paper, that is a gimmick that no one is denying, that by the time it actually happens it will, most likely, be irrelevant. That's unfair to the people that we are trying to seek to help in this bill. Let's be honest. Let's be candid. Thank you.

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

Senator **McCORMICK:** Thank you, Mr. President. We can effect this problem with this bill. This bill meets the federal criteria for re-establishing food stamp eligibility for the people who Senator Rand, from Cumberland, and I heard this morning, describe what was going to happen to them immediately when this went into effect. This bill does solve that problem. I did take notes so let me just tell you what we are up against here. Natalie St. Pierre, of Augusta, who makes \$5,200 a year, her food stamps will go from \$97 a month to \$12 a month. Joan Corbett, from Portland, who makes \$487 a month, her food stamps will go from \$104 a month to \$12 a month. I am quoting her because I wrote it down. It made a big impression upon me. "I am going to starve without these food stamps." So, I think, bureaucratic problems are our problems. Eating, and continuing to eat, is such a big thing to people. They don't care how we do it. We just need to do it. If it takes streamlining a rule, we need to do it. That is what is wrong with government. It's too slow and too cumbersome. We should fix it at our level. We do have the power to fix it at our level. This bill fixes it at our level. Then, absolutely, let's all join the good Senator and lobby Congress to do the right thing.

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

Senator **MILLS:** Thank you, Mr. President, Men and Women of the Senate. I find it incredible that at ten minutes of eight this evening we are seriously debating sending back federal money from a poor state, like Maine, to Washington. Every year most of us in this room file a federal income tax return. Some of us file returns that go to fifteen and twenty pages in length. It is full of gimmicks. The federal government takes money from us using hundreds of gimmicks. If we can vote tonight for one little gimmick to bring some of that money back here to benefit people who will really put it to work here and use it to live on, I'm all in favor. The biggest gimmick of all in the nineteenth century was the Missouri Compromise of 1820. It made this State a state and held off the Civil War for forty years. I think gimmicks are great.

**THE PRESIDENT:** The pending question before the Senate is **PASSAGE TO BE ENGROSSED**, without reference to a Committee, in concurrence.

A vote of Yes will be in favor of **PASSAGE TO BE ENGROSSED**.

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, ESTY, FERGUSON, GOLDTHWAIT, HALL, KIEFFER, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, RUHLIN, SMALL, STEVENS

**NAYS:** Senators: BEGLEY, CASSIDY, HARRIMAN, HATHAWAY, PENDEXTER, and the PRESIDENT, Senator BUTLAND

**ABSENT:** Senators: CLEVELAND, FAIRCLOTH, HANLEY, LORD

Senator **HATHAWAY** of York requested and received Leave of the Senate to change his vote from **YEA** to **NAY**.

25 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 4 Senators being absent, the Bill was **PASSED TO BE ENGROSSED**, without reference to a Committee, in concurrence.

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

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

**COMMUNICATIONS**

The Following Communication:

**STATE OF MAINE  
DEPARTMENT OF STATE**

I, the Secretary of State of Maine, certify that according to the provisions of the Constitution and Laws of the State of Maine, the Department of the Secretary of State is the legal custodian of the Great Seal of the State of Maine which is hereunto affixed and that the paper to which this is attached is a true copy from the records of this Department.

In Testimony Whereof, I have caused the Great Seal of the State of Maine to be hereunto affixed. Given under my hand at Augusta, November 27, 1995.  
S/BILL DIAMOND  
SECRETARY OF STATE

**STATE OF MAINE  
PROCLAMATION**

Proposing an Amendment to the Constitution of Maine to Establish a Line-item Veto

**WHEREAS**, the One Hundred and Seventeenth Legislature of the State of Maine, in the First Regular Session, by Constitutional Resolution 1, passed by a concurrent vote of both branches June 6, 1995, proposed to the electors of the State of Maine the following amendment to the Constitution, to wit: Article IV, Part Third, Section 2-A is enacted to read:

'Section 2-A. Line-item veto of dollar amounts appearing in appropriation or allocation sections of legislative documents. The Governor has power to disapprove any dollar amount appearing in an appropriation section or allocation section, or both, of an enacted legislative document. Unless the Governor exercises the line-item veto power authorized in this section no later than one day after receiving for signature the enacted

legislation, the powers of the Governor as set out in section 2 apply to the entire enacted legislation. For any disapproved dollar amount, the Governor shall replace the dollar amount with one that does not result in an increase in an appropriation or allocation or a decrease in a deappropriation or deallocation. When disapproving a dollar amount pursuant to this section, the Governor may not propose an increase in an appropriation or allocation elsewhere in the legislative document. The Governor shall specify the distinct dollar amounts that are revised, and the part or parts of the legislative document not specifically revised become law. The dollar amounts in an appropriation or allocation that have been disapproved become law as revised by the Governor, unless passed over the Governor's veto by the Legislature as the dollar amounts originally appeared in the enacted bill as presented to the Governor; except that, notwithstanding any other provision of this Constitution for dollar amounts vetoed pursuant to this section, a majority of all the elected members in each House is sufficient to override the veto, and each dollar amount vetoed must be voted on separately to override the veto. Except as provided in this section, the Governor may not disapprove, omit or modify any language allocated to the statutes or appearing in an unallocated section of law.

WHEREAS, it appears by the return of votes cast by the electors of the various cities, towns and plantations voting upon said amendment as directed in the aforementioned Constitutional Resolution at the election held on November 7, 1995, and reviewed by the Governor on November 27, 1995, that a majority of said votes were in favor of this amendment; namely,  
 286,929 for, and  
 115,216 opposed;

NOW, THEREFORE, I, ANGUS S. KING, Jr., Governor of the State of Maine, do proclaim the Constitution of the State of Maine amended as proposed in accordance with the provisions of this said Constitutional Resolution, the amendment shall hereupon as of the date of this proclamation become a part of the Constitution.

IN TESTIMONY WHEREOF, I have caused the Great Seal of the State to be hereunto affixed given under my hand at Augusta this twenty-seventh day of November in the year One Thousand Nine Hundred and Ninety-Five.  
 S/ANGUS S. KING, Jr.  
 Governor  
 BILL DIAMOND  
 Secretary of State  
 S.C. 409

Which was READ and ORDERED PLACED ON FILE.

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

RECALLED FROM THE GOVERNOR'S DESK

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)

(RECALLED from the Governor's Desk, pursuant to Joint Order S.P. 605.)

On motion by Senator PENDEXTER of Cumberland, under suspension of the Rules, the Senate RECONSIDERED its action whereby the Bill was PASSED TO BE ENACTED.

On further motion by the same Senator, under suspension of the Rules, the Senate RECONSIDERED its action whereby the Bill was PASSED TO BE ENGROSSED, AS AMENDED.

On further motion by the same Senator, under suspension of the Rules, the Senate RECONSIDERED its action whereby it ADOPTED Committee Amendment "A" (S-331).

On further motion by the same Senator, Senate Amendment "A" (S-414) to Committee Amendment "A" (S-331) READ and ADOPTED.

Committee Amendment "A" (S-331), as Amended by Senate Amendment "A" (S-414), thereto, ADOPTED.

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

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

Off Record Remarks

On motion by Senator KIEFFER of Aroostook, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Implement the Recommendations of the Productivity Realization Task Force" (Emergency)

H.P. 1150 L.D. 1589  
 (H "A" H-660; H "C" H-665; S "E" S-410; S "F" S-411 to C "A" H-657; H "C" H-664; H "F" H-675; H "G" H-676)

In House, earlier in the day, RECEDED and the bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-657) AS AMENDED BY HOUSE AMENDMENTS "A" (H-660), "B" (H-663), "C" (H-665), AND SENATE AMENDMENTS "E" (S-410) AND "F" (S-411), thereto, and HOUSE AMENDMENTS "C" (H-664), "E" (H-668), "F" (H-675) AND "G" (H-676), in NON-CONCURRENCE.

In Senate, earlier in the day, RECEDED and /ASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-657) AS AMENDED BY HOUSE AMENDMENTS "A" (H-660) AND "C" (H-665) AND SENATE AMENDMENTS "E" (S-410) AND "F" (S-411), thereto, and HOUSE AMENDMENTS "C" (H-664), "F" (H-675) AND "G" (H-676), in NON-CONCURRENCE.

Comes from the House that body having ADHERED.

Senator HANLEY of Oxford moved that the Senate RECEDE and CONCUR.

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

Senator HANLEY: Thank you, Mr. President, Men and Women of the Senate. Sometimes, in this place, all you have is your word. There was certain understanding as far as how this bill would be

relied between the two bodies. It appears that the other chamber has decided to adhere to their action, rather than to Recede and Concur. That puts us in a very precarious position, Men and Women of the Senate. As you well know, on a motion to adhere, we are limited to the options that we can choose. This deals with the Productivity Task Force, the first level of cuts. I think I mentioned earlier today and yesterday that these cuts are the easiest, because the bulk of the cuts included in the first recommendations of the Task Force were vacancies. Yes, there is some restructuring in this first initial bill; but, predominantly, it is the vacancies that make up the lion's share of the savings. I respect the work of our two Senators who served on the Task Force, and for all of the other members of the Task Force. For that reason, I do want to see the Productivity Task Force be adopted and to show the people of the State of Maine that we can work in a bipartisan fashion and start making changes in the way State government operates and the way State government looks. However, I'm concerned with the posture that we are in currently. There are items that are on this bill, currently, that I have made a motion to Recede and Concur on, that this Senate had disagreed with the House on. We had taken votes. We have had extensive debate on the merits of the issues. The two bodies disagreed. It was my understanding, with the recent House amendments that this chamber adopted, that we had found that compromise. Maybe both sides didn't get everything that they wanted, as is often the case, and as our esteemed Governor has told us, but we had found a middle ground. To be honest with you, I am stunned at the action of the other body to basically inform us that that's not the case. You're on your own. The posture that we are in now, with the recede and concur, this bill will go down to the other body. If this body fails to enact and it is sent down to the other body, they will then have the option to either recede to our action or adhere again. If that is the case, this still would die. All of the hard work put in by the Productivity Task Force, the Appropriations Committee, the other committees which were involved in the process, could all go for naught. That concerns me greatly. I am in hopes, and have been in communication with members of the other body, hoping that we can reconcile this. I'm not sure exactly how this will play out. I'm hopeful that people will adhere to their earlier words and we can pass this measure, as both chambers would like to see it, with maybe not getting everything we want, but having a valid compromise budget put forward.

On motion by Senator HANLEY of Oxford, the Senate RECEDED and CONCURRED.

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

Senator KIEFFER of Aroostook moved that the Senate SUSPEND JOINT RULE 12 and EXTEND beyond 9:00 o'clock.

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

Senator RUHLIN: Thank you, Mr. President. Through the Chair, I would like to ask the sponsor of that motion if his intention was to name any time certain?

THE PRESIDENT: The Senator from Penobscot, Senator Ruhlin, has posed a question through the

Chair to any Senator who may care to respond. The Chair recognizes the Senator from Aroostook, Senator Kieffer.

Senator KIEFFER: No, he did not.

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

Senator RUHLIN: Thank you, Mr. President, Ladies and Gentlemen of the Senate. I would point out to the Senate a procedural matter. I would remind the Senate that if we proceed in this manner of extending beyond 9 o'clock, without a time certain, I hope you have all brought your toothbrush and your combs and your sleeping bags. Thank you.

On motion by Senator LAWRENCE of York, the Senate SUSPENDED JOINT RULE 12 and EXTENDED until 10 o'clock this evening.

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Off Record Remarks

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

On motion by Senator KIEFFER of Aroostook, RECESSED until the sound of the bell.

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After Recess

Senate called to order by the President.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Correct an Error in the Hospital Assessment Program"

H.P. 1151 L.D. 1590

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-679).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-679).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-679) READ and ADOPTED, in concurrence.

Under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, As Amended, in concurrence.

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

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ENACTORS

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

Emergency

An Act to Temporarily Reestablish Eligibility Standards for Low-Income Home Energy Assistance

H.P. 1166 L.D. 1599

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with 4 Senators having voted in the negative, and 29 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.

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Senate at Ease  
Senate called to order by the President.

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

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Off Record Remarks

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On motion by Senator **KIEFFER** of Aroostook, the Senate **SUSPENDED JOINT RULE 12** and **EXTENDED** until 11 o'clock this evening.

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Senate at Ease  
Senate called to order by the President.

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Off Record Remarks

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On motion by Senator **RUHLIN** of Penobscot, **RECESSED** until the sound of the bell.

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After Recess  
Senate called to order by the President.

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

**ENACTOR**

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

**Emergency**

An Act to Implement the Recommendations of the Productivity Realization Task Force

H.P. 1150 L.D. 1589  
(H "A" H-660; H "B"  
H-663; H "C" H-665;  
S "E" S-410; S "F"  
S-411 to C "A"  
H-657; H "C" H-664;  
H "E" H-668; H "F"  
H-675; H "G" H-676)

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

Senator **HANLEY:** Thank you, Mr. President, Men and Women of the Senate. I think it's appropriate for all of us to take a moment and pat ourselves on the back for bringing the Productivity Task Force measure as far as we have. I think it's important that we made this first step, and I think it is a baby step in the entire process. I think a lot of the more difficult work is going to come in the second and third phase. I think it is appropriate for us to look inward, as far as for the future, at the work that needs to be done, to work cooperatively

in a bipartisan fashion, to actually change the landscape of State government. I think this is a good step in the right direction. I think there is a lot more work to lie ahead, a lot more changes that the people of the State of Maine expect and want from their State government. I think this is a good start.

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

Senator **LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. I want to concur with the good Senator from Oxford. I personally want to commend the work that he has done and the Appropriations Committee has done throughout this process. Senator Berube and Senator Begley, from this body, and the Productivity Task Force, Senator Michaud and Senator Pendexter. It has not been easy. We are now on the eve of the time for action. It's never easy to make cuts. They are very difficult decisions. Some people in this body wanted more cuts. Some people wanted less. Some people disagreed with the procedure, saying the Legislature was abdicating its responsibility to make these cuts. We agreed upon a procedure. We agreed upon a process and we are following through on that very first step. Now we are here and it is time to enact this, the first measure of the Productivity Task Force. It's a big moment because Republicans and Democrats have worked together for the first time, in a way that I have never seen them work, to do something that many people said would be impossible. But it has been done. As the good Senator from Cumberland also points out, our Independent worked together in this process to make this happen. It's unfortunate that tensions got hot tonight. I know, personally, I talked to the Speaker before, and immediately after, the Senate took its action previously. He never indicated to me any deal or any relationship and it's unfortunate that that occurred. I don't know who the deal was with. I talked to all of the members of Leadership, Republicans and Democrats in the House; and they know of nothing. So, that is obviously water under the bridge at this point. What we have to do now is put that behind us, put everything behind us and work together, as Republicans and Democrats, and make continued commitment to what we committed to this spring and pass this Productivity Task Force bill. Thank you.

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

Senator **CAREY:** Thank you, Mr. President. I am not of the same mind as my two colleagues who have previously spoken. I have had a hard time with this productivity thing from day one. Misinformation, double counting, some of the things that have come out of this are a little troubling to me. For instance, on Inauguration Day, the Governor talked about Maine is on the move. Maine is on the move. That was great and he talked about signing executive orders. He signed an executive order, for instance, to freeze State hiring. He did turn down 249 out of 250 positions that came before him under federal funding. Later on, there were another 450 State jobs that came up and he approved two-thirds of those. Two-thirds, if my math is anywhere near correct, would be 300 jobs. I would certainly hope that some of those jobs went to some people who were being fired. He can call it being laid off. I call it firing; because later on, as we stood with him in November of this year to start this thing off, he

talked about we, you and I, have done this together. We, you and I, have done that together. That sounded fairly good, but I got a little sick of him basically just playing to the cameras and the people out there who have practically no idea of what has been going on in here. He had signed an executive order, for instance, that said that he was subjecting State contracts and grants from outside sources to a rigorous and thorough review. Then, on the twenty-third of February, there was \$500,000 put aside to hire consultants. When Maximus came in, and they talked about charging 9% for funding jobs to the level of \$20 or \$32 million in the federal side of the thing, a spokesman for the Governor said, "The Governor was unfamiliar with the program or the State's inquiry into Maximus." So much for a rigorous look at the job.

In a little unfairness on who was on the Productivity Task Force, if I might mention it, Tom McBrierty, who is his Team Review Chairman, who also heads up the DECD, and, hopefully, I will get done before midnight so we can work on this, Mr. President, talked about how the departments weren't coming up with enough cuts. They had to get further than what they were doing. Then, later on, he spoke about how we had to get together and do some consolidation. Then, suddenly, on the fourteenth of October, he started talking about putting the DECD, his department, into the State Planning Office. Aside from almost having heart failure, he found that that was a very poor plan. So, I guess it's one of those NIMBY's, Not In My Back Yard, please. My problems also extend to the Attorney General. When the Governor put out his Task Force news on the eleventh of February, it hit the papers on the twelfth. He was giving the Task Force the power to get into departments and fire people on the spot, to change programs, and to do everything. So, I fired off a letter to the Attorney General on the thirteenth of February. I asked if I could get some kind of a quick response. Apparently quick responses from the Attorney General take a month or more, because mine took five weeks to come back. He hadn't consulted with me in the meantime. I had to go over there to keep bringing him up to date as to what was going on. He, rather, consulted with the Governor. The Governor said to him, "No, that is not our intent at all. We wouldn't use that much power." So, I had to convince the Attorney General that, whether they used the power or not, it shouldn't be in the law. But, the Attorney General said what he was going to really be doing was not unconstitutional. Yet, in May, apparently, there was another shift in the Governor's position; because Senator Cleveland had to write to the Attorney General to get an opinion. It was a little speedier this time. That was on April eighteenth. On April nineteenth the Senator got a answer to inquiry, because it was so clear cut, the violation of constitutional rights of the Legislature and the legislative prerogative, that the Attorney General felt compelled to answer in a hurry.

Then, later on, another little discussion in September, when the Attorney General received a letter from the Speaker of the House. The Speaker of the House, apparently, was in no different position than I am; because he wrote on the nineteenth of September and he got his reply on the nineteenth of October, just simply one month away. So, maybe the next time the Republicans put up a bill to see that

the Attorney General is elected by the people, I may very well be on your side. I have too much material to really get into. As a matter of fact, there are a couple of boxes full back there. But, the Governor took exception to the fact that somebody said to him, when he was on TV addressing the general public, and they reminded him that he said he was going to cut personnel by 20%. He said, "You're going all the way back to March or April of 1994, before the election." I did a little digging; and I found that he also made the remark on the eighth of October, which quite interestingly is starting to get a little closer to the election. He said that he was going to do everything by attrition. That's it, attrition. I looked up the word attrition in the dictionary, not being a very well educated gentleman. I found that, interestingly enough, there are four definitions for the word. Three of them were very accurate. The fourth one, in theology, hit the point, as well. The first one was "a rubbing away or wearing down by friction." He certainly has caused friction within the staff of people working for the State. The second one is "a gradual reduction in number or strength due to constant stress." We don't have to worry about taking care of the people with stress because we have abolished the nurse that was over next door. The third one was "a gradual, natural reduction in membership or personnel as through retirement, resignation or death." I figured there maybe should have been a little comma there where it would then say "or fired" but it didn't. So, those three things constitute attrition. Then, in theology it says it is "repentance for sin, motivated by fear of punishment, rather than by love of God." Maybe that's the one he meant. He said that he really didn't do much about the 20%, so the day before election he runs this little blurb, about a quarter of a page, where he says, "Angus won't let you go back to those days when we were overloaded with employees."

**THE PRESIDENT:** The Senator will defer. The Chair generally gives a great deal of leeway during the debate on the floor. But the Chair would remind the members of the body that we have to be careful when referring to the Chief Executive, or his motives. The Chair would request that the Senator from Kennebec, Senator Carey, abide by that.

**Senator CAREY:** Thank you, sir. I appreciate the comments. This was the day before election, he was not Governor at the time, but I will accede to your request. It said he will reduce the State bureaucracy by 20% over four years through attrition. His continual comments about attrition, he also made the same statement on the nineteenth of May. He harped on; when he finally gave us his budget message, he gave us one, two, three, four, five, six, seven, eight, nine areas with sentences that started, "This budget is balanced because..." It's balanced without any new taxes. It's balanced but still increasing school aid. It's balanced and holds over all general funds mentioned. My problem, Mr. President and members of the Senate, is that the Governor presented the Appropriations Committee with a budget that was roughly \$300 million out of balance. Through the very able work of the Senate Chair, the House Chair and the other members of the Appropriations Committee, they were able to whittle it down to \$45 million. I think that they, as has already been said, they are due a great deal of thanks from all of us. One of the things, when we

started talking about how we were going to cut, the Governor asked them if they could, somehow or other, build a gimmick into the budget and they would book \$45 million that we don't have. They were kind enough to leave vacant positions in the budget to give them a head start, so that when he got started with his budget cutting to try and reach the \$45 million, the Appropriations Committee had given him a head start. There were times when a head start was not quite enough. In here I have comments about why we had to be doing what we were doing in cutting the budget. When his Chief Operating Officer, Mr. Hewitt, spoke out, he said, the Task Force is charged with finding \$45 million for a goal, and that was proposed by the Governor, not only to right size State government, but also to balance the new two year budget that took effect last week. Later on he talked about having an 8% reduction in the budget. Doing a little math, again, 8% of \$3.5 billion is \$280 million, which brings us back to about how much he was over when he began. So, Mr. President, without delaying any longer, I will say that I will not be supporting this measure. Thank you.

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

Senator **BUSTIN:** Thank you, Mr. President, Men and Women of the Senate. I, too, will not be supporting this measure. The reason for that is I didn't support the Productivity Task Force in the first place. The reason for that is, I believe it was not the appropriate vehicle, or the appropriate thing, for us to pass our duties onto another body. I thought that we ought to face our own duties and take the responsibilities and do it in the appropriate manner. Thomas Jefferson, I believe it was, said government grinds slowly but finely. We are the government. We are one of the branches of government. Unfortunately, and sadly, we pass it on to unelected people who are not elected by the people, and, therefore, never had to face a vote. The reason we are called to the Legislature is because of that fact, because we are sent here by our constituents and we passed that responsibility on. That was a very sad day for me, and I think it was a sad day for the State of Maine. What we have gone through in the last three days only proves that again to me. That it was the wrong thing to do. To have to deliberate so much in three days is just beyond my imagination, yet here I sit and here I stand and observe it. They always say, at least once a session, that if you don't know about the Legislature and you don't know how laws are made, you probably ought not to come and watch it; because it's kind of like watching sausages being made. You will never eat them afterwards. It's true. Sadly, it's true.

The good Senator from Oxford, Senator Hanley, talked about, on one of the other motions that we had before we sent this bill back to the other body, talked about a deal that wasn't kept. I didn't know about any deal that was made or what we were supposed to or not supposed to do; so, obviously, it wasn't made by me. It must have been made by someone else. That's one of the problems with this whole thing. For three days there has probably been so much dealing that most of us don't even know about, that it is incredible. The problem with that is the effect that it will have on the people out there. That's the problem. This morning, or yesterday, I lose track of time, I had to call up and cancel a meeting. It took me a long time to convince the

person that I really couldn't come to the meeting because we had duties to do in the Senate. Do you realize that that person did not even have a clue that one, that we were in, and two, what we were doing. The only way the people out there really know what we are doing is when the effect hits them. Then it snowballs back to you; because when the effect hits them hard enough, they call you. That's the sadness of what we are doing here today and what we did last June. That's why I can't vote for this.

I think the biggest part of this is the Corrections budget. You have heard me before on it. I think it is fatally flawed. I think the manager of that fatally flawed proposal will have to live with it. I think that you will see the results of it. The problem, however, is that we are talking about Corrections. We are not talking about sausages. We are not talking about making napkins. We are not even talking about sewing clothes together and selling them. We are talking about services and we are talking about people. That's the problem here. It won't be until the automobile accident happens and I use that term generically. It won't be until you have some more prisoners killed, it won't be until there have been some severe accidents that the State will have to pay for, because you really haven't staffed up those institutions and Corrections in this bill. I sat with the Corrections Committee for all the time, about, that they were deliberating. I sat with the Appropriations Committee for about all the time they were deliberating. I didn't see a whole lot of deliberating. I didn't see, in that Corrections bill, the Corrections Committee going down, item by item, to find out what was in that bill that should or should not be in that bill. I would probably give a bet that most of that Committee didn't even read the whole bill. There are some very significant things in there. We ought not to be passing laws and doing such major surgery in an atmosphere like this. It should be done in the legislative committees. It should be done so that people can deliberate and not have to be pushed right against the time. And, as you can see, everyone is getting nervous because it is six minutes before eleven. What's going to happen at eleven? We're going to have to extend again, because you know what? I stopped talking last session just before twelve, so a Norway Armory bill wouldn't go down the tubes. I did it for a lot of reasons. One of the reasons was because I believe in armories. Another reason is because I consider the good Senator from Oxford, Senator Ferguson, a good friend. But I'm not going to do that this time because it's too important. It's just too important. I'm not sure that anybody is listening, and I guess it really doesn't matter much, because you have taken the action. But it does make me sad to know that I had to give up my responsibilities as an elected official to another body and have their deliberations come in here for me to handle in three days that they handled in months time. I consider myself somewhat knowledgeable about corrections. I have read the plan. There are some good things in it. There is mostly bad in it. But only time will tell that.

I wish I could convince you to not vote for this bill. I wish I could convince you to vote for a bill that would do away with the Productivity Task Force. I wish I could convince you that the way to get these things done, and of course there are efficiencies that you should get in government, of course there



are ways for labor and management to work together, but it isn't under a \$45 million gun. It's under deliberatively sitting down together and saying, look we have to deliver this amount of service and it is going to cost this amount and what are we going to do about it and this is how much we have. You should give yourselves a chance, but not this way. Please, stand with me on the division.

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

On motion by Senator KIEFFER of Aroostook, the Senate **SUSPENDED JOINT RULE 12** and **EXTENDED** until twelve o'clock midnight.

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

An Act to Implement the Recommendations of the Productivity Realization Task Force

H.P. 1150 L.D. 1589  
(H "A" H-660; H "B" H-663; H "C" H-665; S "E" S-410; S "F" S-411 to C "A" H-657; H "C" H-664; H "E" H-668; H "F" H-675; H "G" H-676)

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

Pending - **ENACTMENT**.

(In House, earlier in the day, **PASSED TO BE ENACTED**.)

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

Senator BEGLEY: Thank you, Mr. President. The Productivity Task Force got its inception way back when the Governor, in his budget, offered \$244 million to committees as a marvelous possibility of getting something that you wanted. At that time he also told us that he was going to cut State government, and that was going to be \$45 million. We, and I say we, all accepted the gift and smiled and said good, the Productivity Task Force won't come to us till later. Like all of humanity, let's wait. At the time the Appropriations Committee said to the committees to come in with a conservative budget. They looked at us and said no, we will accept the gift and take the responsibility off our shoulders, as the previous speaker spoke of, and give it to somebody else. The budget would have been \$290 million increased, but the caveat was to go with the Productivity Task Force. We are responsible for the situation of three days of deliberation in this fashion. I asked commissioner after commissioner, and the chairmen of various committees, why couldn't we have done it in the regular budget? The point was time, needed interest and so forth. I still maintain that we have definitely given away something that we should have kept. Any legislature that gives away a budgetary item, as far as I am concerned, is wrong. That's strange, because I am now going to tell you how I am going to vote. I am going to vote for the Productivity Task Force, because I firmly believe that the government should be cut. The way it's being cut, as far as I'm concerned, is wrong. But, I worked on the Appropriations Committee, as other people did; and I feel the responsibility of having to approve that because we firmly believe that's the

best cut we are going to get. I would say to the Legislature, please, look in the mirror because the responsibility was yours.

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

Senator FERGUSON: Thank you, Mr. President, Ladies and Gentlemen of the Senate. I am going to vote against this measure. Largely because there are amendments added to it that I don't like. If we had an up or down vote maybe my vote would be different. I want to thank the good Senator from Kennebec, Senator Bustin, for consideration last June thirtieth. She did have me sweating there for a while. Maybe I can repay her, in some small token tonight, by my vote. 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. I don't think there has been any bigger proponent in this Chamber to cut State spending and to cut the size of State government than I have been in the last few months. As I said earlier today, I think we need to be honest with the people of this State. Let them know that we are not really cutting State spending tonight. We are not really cutting the size of State government tonight. We don't do that by cutting people. We do that by cutting money out of the budget. We haven't done that. We have a budget that is \$290 million more than the last budget that we passed. We are not cutting tonight. We are merely shifting \$45 million, or the beginning of that \$45 million, to other programs. I think all too often we have laid the blame on our State workers. That's not where the blame lies. They didn't cause this government to tax too much, to spend too much, or to grow too big. The blame lies right here, as I said, in this building and in this room. It's our responsibility. I do think this is more of an illusion than a vision. I would hope that we would make the tough decisions, the bold decisions. We haven't. But, I am proud of the Chamber and both sides of the aisle for working together; because I do think that we have taken the first step, an all important step, in setting a new direction in this State. I am really proud of the people in this Chamber tonight. I hope that you will support the Task Force, and the good work of Senator Michaud and Senator Pendexter, who have been courageous in the last few months, and our Appropriations Committee. I will be supporting this and I hope you will all join me. Thank you.

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

Senator CAREY: Mr. President. I seem to understand that maybe some people here feel that if we kill this it will go away and nothing is saved. The very last clause in the Productivity Task Force section says that the ball goes back into the Governor's court. He has to deallocate. It was his problem when we started. He gave us the out-of-balance budget. I feel that he really should get the ball back to try to make corrections in what he gave us.

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

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate with 3 Senators having voted in the negative, and with 3 Senators being absent, and 29 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.

Under suspension of the Rules, ordered sent forthwith to the Governor.

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

**COMMITTEE REPORTS**

**House**

**Divided Report**

Eleven Members of the Committee on **TRANSPORTATION** on Bill "An Act to Implement the Productivity Recommendations of the Department of Transportation and Make Adjustments to Highway Fund Appropriations and Allocations for Fiscal Years 1995-96 and 1996-97" (Emergency)

H.P. 1148 L.D. 1587

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-671).**

Signed:

Senators:

STEVENS, JR. of Androscoggin  
PARADIS of Aroostook

Representatives:

O'GARA of Westbrook  
FARNUM of South Berwick  
LINDAHL of Northport  
DRISCOLL of Calais  
STROUT of Corinth  
BAILEY of Township 27  
HEINO of Boothbay  
BOUFFARD of Lewiston  
RICKER of Lewiston

One Member of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-672).**

Signed:

Representative:

CHARTRAND of Rockland

One Member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "C" (H-673).**

Signed:

Senator:

CASSIDY of Washington

Comes from the House with Report "A" **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-671).**

Which Reports were **READ.**

Senator STEVENS of Androscoggin moved that the Senate **ACCEPT** Report "A" - **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-671)**, in concurrence.

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

Senator STEVENS: Thank you, Mr. President. What we have before us here now is a highway bill that came to the Committee on November 16. We had three workshops, twenty-five hours of discussion; and our vote came out eleven to two for the proposal that was handed to us to begin with to solve a matching highway and bridge capital improvement commitment of \$250 million, of which 80% will be paid by federal, and 20% by the State, which is a \$50 million obligation. Of that, Part C of the piece of legislation seems to be what is drawing the most resistance, which is using monies from the Turnpike, which are due the Department of Transportation each and every year. It's not money that's bonded by the State. It's money that will be coming to the State over the years, bringing it forward in a ten year payment so that we can use it to put together this \$50 million project. I don't think that I'm going to try to give too much of a speech on this. Everybody else has had time on other items. I think we have had a lot of discussion on this; and unless there are any questions, I would like to call for a vote and a Roll Call. Thank you.

On motion by Senator STEVENS of Androscoggin, 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 Aroostook, Senator Kieffer.

Senator KIEFFER: Thank you, Mr. President. Certainly, I have all the respect in the world for the work of the Transportation Committee. I think they have done yeoman's service here in the last few days on an issue that certainly should never have come before this body. This special session was called for the specific purpose of dealing with the Productivity Task Force, and here, on an issue that should have been brought up before us in the last session of the Legislature, or certainly it could have been dealt with thirty days from now when we are back here in regular session. So, they were placed in a position that no one is envious of. However, everyone in this Chamber, I am sure, and in the other body, wants good roads. No one is encouraging potholes and everyone wants the bridges completed. I don't think that that is what this argument is about at all. This debate is not about good roads, I think that it's about responsibility in government. I think we have been neglecting our duties in facing up to that for some time now. You can call it a subterfuge or whatever you want; but whatever you say, the Constitution of Maine requires any capital expenditure in excess of \$2 million to be put out to the public in referendum. I don't think this is anything new. Presently there are three bridge construction jobs in Maine. We are told that the money is not there to fund those jobs. These jobs were 80% federally funded, and 20% with State of Maine money. In each case the 20% of State match is in excess of \$2 million; yet, as far as I have been able to determine today, the State match in excess of \$2 million on those three specific projects, only one of them was ever put out to referendum. In addition to that, when these jobs do go out on a bond issue, they go out as a general obligation bond; and this is

a prospectus on a particular State of Maine general obligation bond that was dated May 1, 1995. These bonds are issued for specific purposes. On the front page of this, and this is readily available for anyone, it reads "the bonds will be general obligation bonds of the State and the full faith and credit of the State are pledged to the punctual payment of principle and interest on the bond as more fully described herein. The bonds will be issued to finance the acquisition, construction and improvement of certain public properties as more fully described within." Now that doesn't make any mention of taking the proceeds from this bond and putting them into a slush fund and using them however you want them to come out. They are specifically earmarked for that project. It's kind of obvious, apparently, from what I have heard here in the last two or three days, that that hasn't been the case here. We have been robbing Peter to pay Paul.

In addition to the fact that these bonds would be issued through the Maine Turnpike Authority and be used as an end run around the Constitution, or subterfuge, or whatever you want to call it, last spring the Transportation Committee had a bond issue to put out to the people of the State of Maine in the amount of \$51 million. Through negotiations they were asked to increase that amount of the bond issue to \$58 million. That difference of the \$7 million was supposedly a catch all to clean up a bunch of loose ends, as I understand it, that were still out there and were not paid. We were assured that this was going to bring us all current, and the Transportation Committee reluctantly agreed to the amount of \$58 million. I supported that \$58 million bond issue at home, and I'm sure many of you did. Two days after the bond issue was approved and passed big time, we were told that we are just \$50 million short. I have a little problem with that kind of arithmetic. Over in the Department I understand, and I have all the respect in the world for our Commissioner, and I know he is new and his assistant is new; but they are the only people over there who are new, everyone else has been there for a long period of time. If this condition had been festering, had been building up, why in the world wasn't it brought to us last spring when we were here in session? We have been trying here now to find a way to pay our bills, to continue these road jobs, to continue the bridge construction, for the three days that we have been here. We have offered to negotiate and have been met by a brick wall. We have been told that there is absolutely no room to negotiate. Yet tonight, after the vote in the other body, I understand there was some type of a concession made. Well, I think it's just too late. It's too bad that we have to be faced with this, what I consider to be, management by pandemonium. Every time that you make a fast decision, don't have time to properly analyze it and look into every corner, I have always found that I made a mistake. I don't want to make that mistake today. Since there is no room for negotiation, and since I am convinced that there is enough money in the Department to continue these work projects, and that there will not be any layoffs, and that these projects will not be stopped, I'm going to vote against this. I would hope that I would have enough support to either require that a compromise be reached on this, or this be carried for another month. We are going to be back here in another month. Then we can sit down and give the

Transportation and Appropriations Committees a little better chance than we have had here today.

Another thing that I think would be very worthwhile at that point in time is that we will have another two months' figures from our tax department. We will have a little better idea, the income from the State of Maine has been going up and down like a roller coaster. I just think we ought to take a hard look at this. Thank you.

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

Senator **CAREY:** Thank you, Mr. President. For the Record, I would like pose a question, if I may, through the Chair to the Chairman of the Transportation Committee. Is it my understanding, Mr. Chairman, that this is a one shot deal? That, in fact, \$40 million is the top figure that can be bonded and that there will be absolutely no bonds under this section after June 30, 1997?

**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 Androscoggin, Senator Stevens.

Senator **STEVENS:** Thank you, Mr. President. Yes, that is right. This will take care of all the back projects before 1995 without using the bond money that we just passed in November.

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

Senator **HANLEY:** Thank you, Mr. President, Men and Women of the Senate. It's no surprise that I rise in opposition to my good friend from Androscoggin, Senator Stevens. Having been a member of the Legislature for more years than I would like to remember now, and having seen quite a few of the gimmicks that have been put in by the previous administration, which was an administration of my own party, but even with that, I didn't agree with the gimmicks that we used to balance our State budget. I think this is right along the same lines. If I could just share with you a portion of an editorial. "They found it. Governor Angus King and his administrators found a smokey mirror left over from the McKernan years. The King administration wants the Legislature to borrow \$34 million from the Maine Turnpike Authority to help pay for bridge construction projects in Portland, Brunswick and Waterville. It seems that the Maine State Department of Transportation needs another \$60 million to pay for the State's share of the bridge projects. Under the King plan the MTA would bond the \$34 million in loan to the DOT. Candidate King was sharply critical of one time revenue sources, such as selling part of Interstate 95 to the Turnpike Authority. But Governor King's proposal ranks right up there with the smoke, mirrors, and gimmicks of the past and adds to public debt without public approval. Citizens don't vote on bonds for the Turnpike Authority. They do for the DOT. The King turnpike bond proposal still leaves a multi-million-dollar shortfall. The Governor promised to smash the smokey mirror. The shame is he succumbed to its murky image." I don't always agree with Fred Nutter and his editorials, but I thought that he hit the nail square on with that one. I question the fiscal responsibility of pulling revenues nine years in the future and pulling them all forward. There has been other proposals that have been talked about. I'm sure we will have an opportunity to discuss them later. There are other

alternatives, rather than resorting to this one time funding source, to get the DOT over the hurdle they are facing now, to put them on sound financial footing, to improve their cash flow. To restore another gimmick in the process, that being to restore the State Police to a fifty-fifty from the general fund and Highway fund, the time is now for us to address these tough, difficult issues, and not put them off again. Yes, the decisions are difficult to make; but that's why we ran for office; and that's what the people expect us to do.

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

**Senator STEVENS:** Thank you, Mr. President. I don't think this is a problem that really started over night. It has been working for about twenty years here. First the general fund would borrow money and then the highway fund would borrow money, back and forth. In 1983 we had a five cent gas tax. Each penny generates \$6.5 to \$7 million. One of the highways that the five cent tax at that time was going to be improving was Route 196, from Lewiston to Lisbon. They are working on part of it now. That's from 1983 to 1995. In 1988 we had a five cent gas tax. One cent of the funds for construction of eight bridges. The three bridges that we are talking about at the present time are three of the eight. It also says that the bridges are in need of repair at that time, which was in 1988. A lot of this money has been borrowed from the Highway Department through the general fund, when we would have some financial problems over the years. I do not want to go ten years into the future and bring the money back on these projects. I would rather have the project worked in another manner, if possible. We had a couple of proposals come before our Committee. Possibly there was some money there that we could work with, but I got the impression it was for whoever got to the mailbox first. I couldn't get the Department, or the Administration, or Appropriations to give me a complete list that I could say alright, here are some other funds other than bringing this forward that you can have without injury to some other account. At that time I said I was willing to listen to anyone with any proposal. I know it's late but I still will listen. I will withdraw my roll call at this time and will put it on later. Thank you.

**Senator STEVENS** of Androscoggin requested and received leave of the Senate to withdraw his motion for a Roll Call.

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

**Senator PARADIS:** Thank you, Mr. President, Men and Women of the Chamber. The latest poll this weekend listed teachers, clergy people, and doctors being at the top of the popularity list. Politicians have finally dropped to last place, below prostitution. We were always one above them before. How can we blame the people for feeling as they do? We, who are part of the process, are often repulsed, angered and frustrated by our democracy being continually hijacked by reasons that appear to be ego driven. Monday I feel that that happened to us. An individual came to our Committee with an easel and a marker and said that there were places where millions of dollars could be grabbed. We looked at one another and said, "Ah, Nirvana, heaven on earth, wonderful, great, tell me more." Many of us soon realized from the murmur that erupted in the room

immediately after this presentation, that all is not well in River City and maybe was not as wonderful a plan as was proposed to us. What transpired after wasn't pretty. We literally suspended our work as a Committee. We tried to hang around wherever they were discussing a transportation issue. It had been completely removed from our jurisdiction. We sat in on an Appropriations hearing and for the next two days we were demagogued, cliched galore, lectured, preached to, even scripture was quoted extensively to point out the error of our ways. We were educated, taught, patronized, demeaned, "have you thought of this", "have you thought of that"; and in notes to us we never knew that there were so many geniuses who knew so much about transportation issues. I listened earlier, and I saw people who I have never seen before and they had all of these wonderful ideas. I wish they had been with us as the Committee was deliberating on these issues before the special session. We could have saved ourselves a lot of travel time and energy and time. It did, eventually, become very clear to us that specifics were wanting. It was go into the general fund, go after Grandma, go after the kids, go after whatever, raise taxes on cities and towns is exactly what it means. It was gamesmanship, who was going to blink first, who was going to win. Use the highway budget as a gun and aim it at people's heads, like has been done over and over. It's deja vu, deja vu, deja vu.

I remember, very well, when the highway fund was being raided in the Appropriations Committee, for \$80 million in a very short amount of time. The Appropriations room was silent, eerily so, like a tomb, as the money was grabbed to shore up the general fund. At the same time the people of Maine were being told by the CEO of the State that we had plenty of money to run our State government. Again, when the money was grabbed, one didn't hear protest and howls of displeasure and objection like we are hearing today, that the people were being robbed and their hard-earned taxes were being hijacked. Voting against the budget then, that took about a second. We didn't hear the protests. It might have been there but it was a silent protest. Now, hearing this fine innocence, this incredulity, the shock and surprise regarding the effects of the highway robbery of yesteryear befuddles me. The cacophony of displeasure is loud and raucous in expressing disdain for the Administration's proposal. We are also pure, untainted, clean, like the freshly driven snow. We have never, ever, submitted to subterfuge before. We are pointing the finger. We are placing blame. Yet, when we had the opportunity here earlier to get real good information the room vacated. There is maybe a few thousand dollars in this bill for District 1 that is fifty towns. There is still not anything there for us. There has never been anything for us. The responsibility goes back forever. After I listened to the presentation from the Commissioner earlier, I felt how poorly our District has been represented over the years; because we have not been able to achieve any better roads than we have now; and it doesn't look like there is anything on the chopping block. It would have been much easier to pay the bills as we were encumbering them. It didn't happen. We didn't seem to be too upset about it. But, I'm pleased to announce that sanity returned. We got our Committee back yesterday afternoon and it felt real great to be together and we got the work done. We all have to admit that there is a price to

pay for what has gone on. I'm hoping that tonight we will let this process go forth, so we don't waste one more dollar, we don't waste one more amount of energy to put this show behind us. I vociferously support the proposed highway plan even, like I said, it doesn't do too much for my area. We have compromised. We have compromised this before it got to us. The compromise went on a long time ago. Let's get the show on the road.

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

Senator **HATHAWAY:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I have an answer for the good Senator from Aroostook, Senator Paradis', question as to why politicians suffer so lowly in the popularity polls. The reason is because we continue to pass gimmicks like this. This is politics as usual. When we run out of money, the answer is always borrow more money. What it should be is when you run out of money, you should cut your spending. You cannot borrow your way to prosperity. It seems to me it's a little bit like this time of season, going out and finding a Christmas present for a loved one, not having the money to spend to buy it, but going to ask your employer for ten weeks of salary in advance so that you can purchase something that you can't afford. I think we all want these projects to be completed. That's not the issue. The issue is simply where are we going to find the money to finish the projects. The problem I have is that we have been told that the repayment of these bonds is guaranteed. It will be guaranteed by the Maine Turnpike Authority. I think, in our discussion with the Commissioner today, we found out that, in fact, they are not guaranteed, that this is merely a surplus. As long as a surplus is there, the bonds will be paid. What we are doing is we are changing the priority. We are no longer giving a surplus over to DOT, but we are now committing and encumbering the Maine Turnpike Authority, and giving priority to that money to pay off new creditors. If, by chance, the surplus is not available, to me there is only one way for the Maine Turnpike Authority to repay that debt, and that is to raise tolls. That is their only source of revenue. The only guarantee that I can make is that I will never, on this floor, vote for any gimmick that sometime in the future will increase the tolls of the good people of the City of Biddeford that pay for that turnpike. If you want to further indebt the taxpayers of this State, then do it the way you are supposed to. Don't circumvent the Constitution and further burden the people in the City of Biddeford who work hard for their money, who use that road, who pay for that road. Don't jeopardize their use of that road in the future. The solution to this problem is very simple. The problem, we are told, is that in the past the Department of Transportation has kindly put money into the general fund to solve some problems. If that is the problem, let's solve the problem. Let's take the money out of the general fund and give it back to the Department of Transportation where it belongs. Let's end that gimmick right now. That money has been identified. It is there in the general fund. Let's solve this problem now, simply, and in the right way, not by using gimmicks. We need to end gimmicks. We need to end politics as usual. So I hope that you don't support the use of this bond. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator STEVENS of Androscoggin that the Senate ACCEPT Report "A" - OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-671), 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.

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator STEVENS of Androscoggin to ACCEPT Report "A" - OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-671), in concurrence, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (H-671) READ.

On motion by Senator HANLEY of Oxford, Senate Amendment "B" (S-413) to Committee Amendment "A" (H-671) READ.

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

Senator **HANLEY:** Thank you, Mr. President, Men and Women of the Senate. The amendment before you addresses a number of problems facing the State of Maine. We have been informed by the Executive Officer of this State, by the Commissioner of Transportation, that there is a problem which needs to be solved. A problem that has been generated, not over night, and often times when you have a problem that has been generated not over night, it takes a little bit more to solve that problem. As we have discussed on this floor repeatedly, and in Appropriations, we would like to solve the problems without resorting to gimmicks, without resorting to pulling revenues from nine years in the future for one time spending now. We have discussed the potential ramifications of that. Men and Women of the Senate, I will hearken you back to October of 1995, the Appropriations Committee met, as we do on a monthly basis, to review how our incomes, our revenues, were coming in. We were advised that our top three lines; sales, income, corporate - were plummeting downward, that we could anticipate that the problem would be \$24 to \$31 million of revenue shortfall. That was in October. Men and Women of the Senate, we were fortunate in the month of October for those revenues to pick up. We have been advised, although these numbers have not been certified by the Revenue Forecasting Committee, that we can anticipate a 14.8 revenue reprojected downward. In the course of one month, it changed a potential of 31 down to 14.8. My question to you, Men and Women of the Senate, is what would we have done if it had remained at \$31 million? The answer is quite simple. The Governor, in concert with the Legislature, would have gone into the general fund to find those cuts. Why? Because we need to have a balanced budget. We need to abide by the Constitution of this State of Maine. We would have made the tough decisions. Yes, some people in this chamber and in the other body probably wouldn't have been happy with those. But, a lot of the decisions that need to be made in these days and in these times, whether they be in Augusta or in your own home at your own kitchen table when you are writing out your own bills, they don't get any easier. We have a problem that has been identified by our Governor and by our Commissioner of Transportation. I have heard, repeatedly, that that is a priority, that we have to insure the integrity

of the infrastructure within our State; and I could not agree more. What I can't agree to is resorting to a gimmick when we can bite the bullet, make tough decisions, prioritize and act accordingly, with fiscal responsibility. There have been many members of this Chamber who I have heard, on different debates in different sessions, talk about gimmicks and deride the use of those gimmicks. I think it's time to face up to the facts that you may want to have the project in your district, you may want to have the road paved, you may have had money coming back for your sand and salt shed storage; but, Men and Women of the Senate, we have to face the facts. The facts are if we were to adopt the proposal before you, take the money from the general fund, we would be able to accomplish restoring the State Police gimmick to 50% from the general fund and 50% from the highway fund. The Attorney General's office has basically informed us that that level is acceptable. The levels that we have been riding on for the last six or seven years is unacceptable. By adopting the proposal in front of us, we would be able to avoid \$13 million worth of interest, at a higher rate than the State would currently pay on their own bonds. We would improve the cash flow of the Department of Transportation into the twenty first century. It would appear to me that if we make the tough choices now, we will no longer have the gimmick that has been utilized in the Department of Transportation in order to fund projects using other bond monies. Let's remedy that gimmick now, like we did the furlough days. Let's bite the bullet, make the tough decision now, so that our kids and grandkids can enjoy that. To restore the Department of Transportation and the Highway fund to where it should be. I hearken you back to the meeting of the Appropriations Committee in October, when we were told that the September revenues were headed downward in a death spiral. If that had continued, the Appropriations Committee, this Legislature and the Governor would have had to step up to the plate and make the cuts which are talked about in the proposal before you. That's all. If the revenues had continued downward, and who's to say they won't come next spring, all I'm saying is if we take the initiative now, we will have something to show for it next year and the year after that. The Department of Transportation won't have to be making \$4.7 million payments, with interest, to the Turnpike Authority. The Turnpike Authority won't have to be wondering whether or not they will have surplus to pay those bonds. The people of the State of Maine can say yes, the Legislature made the tough decisions, they didn't resort to gimmicks and yes, maybe I felt a little pain in fiscal year 96 and fiscal year 97, but we did what was right. We did what the people of the State of Maine elected us to do, come and make the tough decisions. I hope you support the proposal in front of you. It's not perfect, but at least it starts us in the right direction and it is no different than what our Committee and this Legislature would have been faced with if we had had a revenue shortfall, as it has initially been projected. No different.

On motion by Senator AMERO 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 of Senator HANLEY of Oxford that the Senate ADOPT Senate Amendment "B" (S-413) to Committee Amendment "A" (H-671).

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, CARPENTER, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, PENDEXTER, SMALL, and the PRESIDENT, Senator BUTLAND

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

**ABSENT:** Senators: BERUBE, LORD

14 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 2 Senators being absent, the motion of Senator HANLEY of Oxford to ADOPT Senate Amendment "B" (S-413) to Committee Amendment "A" (H-671), **FAILED**.

Committee Amendment "A" (H-671) **ADOPTED**, in concurrence.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, As Amended, in concurrence.

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

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

**ENACTOR**

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

**Emergency**

An Act to Authorize Appropriations and Allocations for the 1996-1997 Biennium and to Change Certain Provisions of the Law Necessary for the Operation of State Government

H.P. 1160 L.D. 1594

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

Senator LAWRENCE: Thank you, Mr. President, Men and Women of the Senate. It has been a long day, so I will just remind you which bill this is. This is the bill that separates out the \$1.8 million out of the Productivity Task Force. I would urge you to oppose it.

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

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

Senator HANLEY: Thank you, Mr. President, Men and Women of the Senate. Just so everyone is quite aware of what this will actually do, and I'm sure the good Senator from York has informed them, failure to enact this will not meet the letter of the law, as far as the enabling legislation for the Productivity Task Force and the Governor will now have the ability to achieve these \$1.8 million worth of savings through the curtailment of allotments.

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

Senator RUHLIN: Thank you, Mr. President. I would like to ask if the good Senator could expand upon his comments.

**THE PRESIDENT:** The Senator from Penobscot, Senator Ruhlin, 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. I would direct the good Senator's attention to L.D. 1412, which was enacted into Public Law, chapter 99. The specific section for the good Senator to go to is D-4, section 3 which states that if the legislature fails to enact legislation that achieves the same amount of projected savings or deappropriations in fiscal year 95/96 and fiscal year 96/97, as those identified by the Governor in subsection 1, the Governor is authorized to achieve the savings through the use of temporary curtailment of allotment.

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

Senator **CAREY:** Thank you, Mr. President. I would ask for some kind of an interpretation of the reading that the Senator from Oxford has made, and would ask is that on each and every individual part that he sends us, or is it, in fact, on the total of the \$45 million plus?

**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:** My interpretation, and the interpretation of my staff, is that any legislation that the Governor brings forward, we have to achieve that level of savings. It does not specify in the enabling legislation that that has to be set aside for productivity, or that it cannot be set aside in unappropriated surplus, which is where this money would be sent.

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

Senator **LAWRENCE:** Thank you, Mr. President. I will strongly disagree with the good Senator from Oxford. It's not the first time this evening, or perhaps I should say this morning very soon, but that's certainly a very creative interpretation of the Productivity Task Force. It seems to me if things were determined to be productivity, and the Appropriations Committee has said these are non-productivity items, how can the Governor make these curtailments if they are not productivity? It seems to me these items we said that the Productivity Task Force could come back and report out a bill on productivity items. If we did not approve those items, then the Governor has the capability to reduce those allotments. If the Appropriations Committee is saying that these are not productivity items, then I do not see where the statute, or certainly any interpretation of the intent of the statute, would give the Governor the ability to curtail these in allotment.

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

Senator **HANLEY:** Not to belabor that, but I think the clear letter of the law speaks to that fact. If the Governor presents legislation to us with a certain dollar amount of savings, we can either enact legislation that achieves that same dollar amount of savings, or not. We have, in this case, in two separate pieces of legislation.

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

Senator **MICHAUD:** Thank you, Mr. President. I

disagree with the good Senator from Oxford, Senator Hanley. First of all, the Appropriations Committee took this out of the \$45 million, so it is not included in that \$45 million. Secondly, the Governor does not have to curtail allotments to make up that difference, because we are not done, as a Task Force. If we kill this bill, nothing happens. This is not counted, according to the Appropriations Committee, as part of the \$45 million. Therefore, I agree with the good Senator from York, Senator Lawrence, and will not be voting for enactment of this bill.

**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, BEGLEY, BENOIT, 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, McCORMICK, MICHAUD, O'DEA, PARADIS, PINGREE, RAND, RUHLIN**

**ABSENT:** Senators: **BERUBE, LORD**  
This being an Emergency Measure and having received the affirmative vote of 17 Members of the Senate, with 16 Senators having voted in the negative, and with 2 Senators being absent, and 17 being less than two-thirds of the entire elected Membership of the Senate, **FAILED OF ENACTMENT**.

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

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The following proceedings were conducted after 12:01 a.m., Friday, December 1, 1995.

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

**ENACTOR**

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

**Emergency**

An Act to Correct an Error in the Hospital Assessment Program

H.P. 1151 L.D. 1590  
(C "A" H-679)

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.

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

**PAPER FROM THE HOUSE  
Joint Order**

The following Joint Order:

**ORDERED**, the Senate concurring, that the following specified matters be held over to any special or regular session of the 117th Legislature:

Committee: Agriculture, Conservation and Forestry  
An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to the Animal Welfare Board, the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council (EMERGENCY) (H.P. 1159) (L.D. 1593)

Committee: Legal and Veterans Affairs  
An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to Harness Racing (EMERGENCY) (H.P. 1157) (L.D. 1591)

Committee: Taxation  
An Act to Reduce the State Tax Valuation for the Town of Hope (EMERGENCY) (H.P. 1164) (L.D. 1597)

H.P. 1167

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

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

Off Record Remarks

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

Off Record Remarks

Senate at Ease  
Senate called to order by the President.

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

**ENACTOR**

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

**Emergency**

An Act to Implement the Productivity Recommendations of the Department of Transportation and Make Adjustments to Highway Fund Allocations for Fiscal Years 1995-96 and 1996-97

H.P. 1148 L.D. 1587  
(C "A" H-671)

Comes from the House having **FAILED OF ENACTMENT**.

On motion by Senator **LAWRENCE** of York, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED, AS AMENDED**.

On further motion by the same Senator, Senate Amendment "A" (S-416) **READ**.

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

Senator **HANLEY**: Thank you, Mr. President, Men and Women of the Senate. I guess I don't understand something here. I would like to pose a question through the Chair. In all of the conversations I have been involved in, it has been made quite clear what a dire emergency it is that we resort to this gimmick now. That if we don't, we will be paying

massive penalties on contracts. That we need to have the commitment for the federal government to ensure that those monies come forward. I guess my question is is the Administration supportive of the Senator's amendment, or is this just his own initiative?

**THE PRESIDENT**: The Senator from Oxford, Senator Hanley, 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. I have briefly discussed this with representatives of the Administration. They were not objectionable. It was my idea. I initiated it in order to get some kind of solution to this bill, but they did not raise an objection to it.

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

Senator **HANLEY**: Thank you, Mr. President, Men and Women of the Senate. I have seen a lot of things in my ten years in the Legislature; but it would appear to me that right now the legislature has been sold a false bill of goods, as far as if we have been standing around here until 2:10 Friday morning, December first, to deal with this; and now the Emergency can be stripped off so it won't take effect until March first. Where is all the dire emergency, the reason to resort to this one time gimmick, the reason to do an end run around the Maine Constitution? Does this mean that we are not going to be assessed these penalties? That we are not in jeopardy of losing the federal funds on the bridges? Men and Women of the Senate, I am in a state of shock. As far as I knew, we need to deal with this today, before the session ended, to have resolution, to have the money on the books. Funny how things change in this place, and yet sometimes they seem to just stay the same. I won't be supporting this, but I think this has shown the true colors as far as where this Legislature should go in addressing the problem. I will, again, extend the same invitation I extended down in the Appropriations Committee, to work with the Administration, and to work with members of this Chamber and the other chamber, to find real savings, not gimmicks, to fund this. If we have until March 1, then maybe someone should make a motion to recommit this bill, and all it's accompanying papers, to the Joint Standing Committee on Transportation. Then they can bring up the challenge on January 1, work hand in hand with the Appropriations Committee, and the rest of the Legislature to find the cuts necessary and not resort to one time gimmicks which have burned us in the past and will continue to burn us in the future.

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

Senator **RUHLIN**: Thank you, Mr. President, Ladies and Gentlemen of the Senate. I would say to the good Senator from Oxford, I don't think thou protests too much a little bit. The process of trying to have an emergency legislation, very wisely, says that it should be two-thirds. If you don't have two-thirds of both bodies, you don't get your emergency legislation. Your legislation dies if you don't do something to adapt it. If it dies, that certainly denies you resolution legislatively of that problem. And we do have a problem. We have a problem with trying to access \$150 million worth of federal funds that will be gone. I would rather go to them with a promise. Unfortunately, I would really rather go to them and say the deal is done; but if I have to, with



a half a loaf, if you want to identify with it that way, and go and say here is a promise. The Legislature of Maine has spoken. It has acted, along with the Executive branch; and it will commit the money that we have discussed here in this legislation. Unfortunately, it's going to be a "check's in the mail" routine and you won't get it until March 1; but we will commit ourselves to this course of action to access that money. That is one way of resolving it. I don't think it's the best way. The best way would be to, in fact, do it with an emergency preamble; and I certainly appreciate all the efforts of the Transportation Committee; and the hard work they have done in trying to do that while watching the other body fail to get a two-thirds, recognizing that that is not going to happen there, recognizing that that is not going to happen here. Those of us who do want to protect our infrastructure and more forward feel that this is one way of bringing it to a resolution. It's fine to protest the parliamentary procedure of stepping down from an emergency step to a regular legislative step that requires the ninety days; but, at least, it gets the job done. Thank you.

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

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

Senator HANLEY: Thank you, Mr. President, Men and Women of the Senate. Maybe it's the lateness of the hour, but something just doesn't seem right here. For those of you who have been listening to this debate evolve, who have heard the facts that have been brought forward and the rationale for going with the funding mechanism before us, to be supporting the removal of the emergency preamble, basically saying we don't need to do this right now, we can wait until March 1, that's the action that you will be taking here. Now, when I was on the floor of the House on Tuesday, in Joint Convention, I heard the Governor of our State tell us that he didn't want to have winners and losers. I believed him. I also believed him when he said he wanted to work together with us to resolve the problems of our State. I believed the Governor, and what I would like to do is give our Governor an opportunity to work with this Legislature to find that compromise. Now, I think everyone can read the writing on the wall; and everyone understands that stripping the emergency off this bill will delay the impact until the first of March. Men and Women of the Senate, that gives us all of January, all of February, to work towards a compromise as members of the Transportation Committee, or at least some of them, have embraced, who would like not to resort to gimmicks, who, in fact, would like to solve some prior gimmicks which are still inherent in the highway fund. If that's the case, why doesn't someone in this Chamber move to recommit this bill and all of its accompanying papers to the Joint Standing Committee on Transportation, so that when we come back in January, they can sit down and continue to work towards a resolution? So that, once again, there won't be winners and there won't be losers, and the people of the State of Maine and the Legislature can hang their heads high. I do not understand why we are not going to give our Legislature an opportunity to resolve this. I really can't. If we can wait until March first, then we can let the Joint Standing Committee on Transportation

hit the ground running in January and find that resolution, as a lot of them have been working to do now.

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

Senator BEGLEY: Mr. President. I move to recommit this bill and all of its accompanying papers back to the Committee on Transportation.

**THE PRESIDENT:** The Chair would rule that that motion is out of order at this time. We are dealing with the amendment to the bill and not the bill at this time. The Chair recognizes the Senator from Somerset, Senator Cianchette.

Senator CIANCHETTE: Thank you, Mr. President. It is obvious that there are strange things that happen here. Some things change and some things don't, as has been said. It's also obvious that the strain may be getting to some of our Senators; and it reminds me that perhaps it is a good thing that earlier in the day we did vote to keep the State nurse on in case some Senator goes into shock, we can take care of it.

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

Senator CASSIDY: Thank you, Mr. President, Ladies and Gentlemen of the Senate. Good morning. Back home I would say that I am wicked tired. I know you folks all are, too. I want to say that we have worked a lot of hours in the last forty-eight hours trying to resolve this thing to make sure that we could secure the funding for all the projects that you all know we need. I was very disappointed because I sensed real early in the negotiations this week that this bill probably would not pass at least one of the houses, if not both. I was sort of trying to work on some negotiations myself and offer some things that we may look at and try to come up with a solution. Unfortunately, the Administration and the people that was representing it, didn't seem to want to realize that maybe we do need to negotiate on this thing. I, for one, really want to see the funds for these projects and we need to continue with them; but I think when we start talking about stripping the emergency off of this particular bill, we are going to be back here in five weeks. Maybe it will be less if we don't get home before long, but we will be back here shortly. I think at this point in time we are not going to save a whole lot of time. We are going to cost more money if we wait. If this did pass after the emergency was stripped, you are looking at another \$1.8 million in interest and those kinds of things that are going to happen. I think it would make more sense, at this tired time of the day, to have this thing go back to the Committee and take a look at what we can come up with for some alternatives, and have some serious negotiations and look at some of these situations. I certainly want to see these projects passed, and I can't see that I will be voting to take the emergency off this bill. Thank you.

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

Senator CAREY: Thank you, Mr. President, Members of the Senate. It seems as though it was only last spring when we had a situation similar to this happen, as far as stripping an emergency off the bill. It was also something that would require federal funds. We were told at that time that if we passed it without the emergency, and the federal government, knowing that we had made the commitment

that it would become law within three months, they reserved the money for us and we were able to get our money for whatever that thing was. I can't remember what it was. I've been spending all of my time on the productivity stuff. I don't have any problem with that. As for working in January, February or December, or however the months go, I would point to my young colleague from Oxford, Senator Hanley, that being a little older than he, I remember when we used to shut the jobs down in November and not start up again until the middle of April. So there will not be, really, a big blow to it because I seem to have a problem trying to imagine bridge work being all wrapped up in poly. I don't know what you would anchor it to.

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

Senator **RUHLIN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I will try to be very brief, but I do think there was a comment that needs to be responded to. The procedure of passing legislation by a two-thirds vote is a very wise procedure. It's good that we have it. It protects us in a lot of ways. That means that we have to have so much agreement on something that it becomes very important that we all have to come together. If we can't come together, here, tonight on the first day of December, after coming down and realizing the situation, realizing that we do have to go forward with this and that we can't get two-thirds, that's the only reason we are doing this. I'm not sure I like the fact of stripping off the emergency, but for a totally different reason. But we are not proposing to take the emergency off to delay it. We are proposing to take the emergency off so it doesn't get killed. You say we could wait and do this in January. Why not wait until April? Is it going to be any easier in April or in January to get two-thirds, when we all have other things on our minds, as well, than it is tonight? The two-thirds is a very stringent demand, properly so, but a very stringent demand that we put on certain pieces of legislation. It will be no easier the first day in May or the first day in January than it is here, now, tonight, to get two-thirds. So, when you say let's wait until the future, let's wait and have a chance for more discussion, let's wait and see if we can talk this through some more and hold the whole thing off, what you are really saying is let's kill it. Let's put off doing our work. Let's put off fulfilling our responsibilities and we'll do it in the future sometime. We won't go and tell the federal government that we are going to commit ourselves and the State to proper care of our infrastructure. We don't have to do that. We can put off that responsibility until January, maybe we can even put it off until April. Let's do it that way. That's what you are really saying when you say that you don't want to strip the emergency; because, in fact, you will be coming to some form of resolution. You are saying that you don't want to come to resolution. Thank you.

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

Senator **HARRIMAN:** Thank you, Mr. President. Good morning, Ladies and Gentlemen of the Senate. Regretfully I can say that we should have, and could have, anticipated that this discussion would take place. Unfortunately, not at 2:30 a.m. in the morning, because there were many of us, back in June,

who looked at the budget that we were voting on, that assumed that these optimistic projections for additional revenues would come true. We are learning, early on in our two-year budget process, that they may not. Many of us, in particular myself, was very troubled by some of the commitments that we didn't live up to when we had the chance, like fulfilling our responsibility to share our cost of the State Police fifty-fifty with the highway fund and the general fund. We had a chance to do that back in June, but we chose not to. I could go on and on and on, citing examples of the opportunities that we had to fix the problems that bring us to situations just like this. Whether or not this bill is killed or not, or referred back to Committee, that's not really the challenge that we face here tonight, Ladies and Gentlemen of the Senate; because, as you all know, the Governor can put in a bill anytime he, or she, wants. I presume that if a better alternative is created, we will see a bill, or this bill if it is recommitted, reworked. The point is, as has been stated many times today, it has been our inability to stop putting together fact finding committees and do some fact facing. The fact of the matter is that the reason that we find the Highway Department in this problem is because of decisions that were made in this Chamber. I commend Commissioner Melrose. I think he has done a very professional, credible, candid, ethical, way of handling himself over the last several days. I think it's about time that we recognize that his style of management is that he wants to start with a clean slate. He no longer wants to rob Peter to pay Paul, so to speak. He is stepping up and saying we are going to change the way we do business. We are going to do it differently. He deserves the chance to do that, and we want to help him do that. Many of us, when we came into this special session, expressed our concern that creating this funding mechanism was not the right way to do it. The vast majority of the comments that I read and hear is that why would you want to go take advantage of one funding scheme to take care of a past funding scheme? So, the message was sent, certainly from this Chamber, of a desire to listen to the Administration and to listen to our concerns and come up with a solution. Unfortunately, that didn't take place. I found \$1.8 million, approved by the Productivity Task Force, approved by the Appropriations Committee, \$1.8 million of unappropriated surplus that could go to fix this problem; and we didn't have a chance to negotiate with it. In conversations with the Chair of the Transportation Committee, he shared with me other ideas. This \$3.7 million of seatbelt money that we may be able to work with. This is a permissible use of the Rainy Day Fund, one of the few times we might use it without putting notwithstanding language in front of the enabling legislation. But we didn't have a chance to discuss it. There were other ideas that the Chair of the Transportation Committee shared with us. The point is we got brought to the brink at 2:30 a.m. on a Friday in early December, where the message was sent before we got here that we wanted to work with the Commissioner, that we want these projects to go forward in a good faith, collaborative, teamwork effort. We wanted to help solve this problem but in a different way than was currently being proposed, and we didn't have a chance to discuss it. So now we are put in a dilemma of dealing with a piece of legislation that strips the

emergency preamble off it, which causes everyone who shared these concerns to begin with, to say what was the big problem to begin with? It shouldn't have happened this way. There are solutions to these problems, and we have to demonstrate the courage to change the way we do business around here. One of the best ways we can do it is to sit down and come up with other ideas that I have already discussed, not to mention the \$4.7 million that is supposed to come over from the Maine Turnpike Authority to MDOT anyway. I believe we can restore the trust and the confidence of the people of the State of Maine in this institution by dealing with these problems head on, finding the solutions that are true, that make sense, that don't put us into future problems. Instead, we got put into this someone is going to win and someone is going to lose. That's not what we came here to do. 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 think we are losing sight of what the issue is that we are trying to accomplish this evening. The issue is, we have a real problem right now to resolve, and that is to find, with some certainty, how to address a major shortfall to meet our obligations that we made for funding of major projects, and to ensure the flow of federal funds into this State to meet the needs of the individuals here, for their well being and the economic benefit of this State. It would have been better to have that certainty by passing it by two-thirds to know that it was in place, certainly. Does it look like that is possible? No. The alternative before us, then, is to say we will then pass this legislation and at least we know there is some certainty within ninety days that there is a resolution to address this issue, within ninety days. The other alternative that is presented to us here this evening is one of uncertainty and speculation, that somehow there is going to be some ability in January or February or March or April, that the committees are going to come up with some solution that is going to be acceptable and pass by a two-thirds vote so it can take place immediately. Because, if they don't, and we have to revert to a majority vote again in March or April, we have to wait ninety days from that date, which means that we don't have certainty until June or July on how to resolve this issue. So, instead of being ninety days away, we have lost six or seven months in dealing with this critical issue. That's the difference. Those of you who present to us this possibility that somehow we are going to find this resolution and have this debate in January and resolve it, I say to them good, let's go do it. Let's pass this, and then, in January, when you come back, and you find a better solution that you want to substitute for this; you introduce the legislation and you say, notwithstanding what we did back in the special session, we are going to do it this way. And it gets substituted. In the meantime we have some certainty that we know, notwithstanding anything else we fail to do, on March 1, at least we do have one proposition. So, let's have that discussion. Let's have those ideas. Let's bring them forward. Let's not waste one day. Let's start tomorrow on trying to put those together so that, in January, you are ready to make a presentation and we can consider them and we can adopt them. We'll set this aside; but let's not lose that opportunity tonight, or this morning,

to put in place at least a solution with some certainty, so that by March 1 at least we have some solution that can take place within that ninety day period, not six or seven months from now.

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

**Senator BEGLEY:** The process by which we are considering the amendment was presented to us some time ago by the Administration that, once again, it had to be done. At that time we, who felt that the process, or the procedure by which it was going to be done, was not the best for the State of Maine, both philosophically and economically, said we do consider, if you are telling us the truth, the seriousness of this. Therefore, we would like to work with you on that serious bit and keep it as a process that will be done on a two-thirds, emergency measure. We were told no, we will stay with this until it doesn't appear as though we are going to get that emergency. Then, all of sudden, even to our face, saying I guess it wasn't that bad, but we still want that same process that we proposed. We would rather have that, than we would the emergency. That is where the compromise broke down. There isn't any compromise. This is not a compromise in my estimation. This is simply a way around getting a proposal, to fund it in that way that they want it. I don't think they were fair to us, and I don't think this bill is.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator LAWRENCE of York that the Senate **ADOPT** Senate Amendment "A" (S-416).

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

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

**ABSENT:** Senators: BERUBE, LORD

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator LAWRENCE of York to **ADOPT** Senate Amendment "A" (S-416), **PREVAILED**.

Senator BEGLEY of Lincoln moved to **RECOMMIT** the Bill and Accompanying Papers to the Committee on **TRANSPORTATION**, in **NON-CONCURRENCE**.

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

**Senator BEGLEY:** Thank you, Mr. President. I would simply hope that you noticed that the members of the Transportation Committee were perfectly willing to have this happen by their vote. Certainly, that is where this belongs. They have worked very industriously and they will probably give us as good an answer as anyone.

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

Senator **RUHLIN**: Thank you, Mr. President. I just have to respond to that. The last word that I heard from the Transportation Committee was that eleven members felt that we should go ahead and do something immediately, and two members felt otherwise. I don't know exactly why and I don't want to get into that too much, but the entire Transportation Committee felt that we should be responsible now and move forward now. I guess I would like to ask a question through the Chair. Why is it felt that we cannot act responsibly, and move forward, toward a resolution of this problem tonight? Why would it be a benefit to the State to delay the collection of \$150 million in federal funds? Why would it be a benefit to the State of Maine to delay notifying the federal government that we are, in fact, planning to go ahead with these projects? Why would it be a benefit to the State to commit ourselves to a future course of action to protect the infrastructure of the State?

**THE PRESIDENT**: The Senator from Penobscot, Senator Ruhlín, 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 certainly don't have the answer to that. All I know is that if we pass this bill as presented to us now, it won't become law until March. That gives us two months, at which time we will have better information than we have this evening; because, again, we have not been allowed any kind of deliberation on the other side. If that happens, there certainly isn't any loss. You talk about whether or not they would bring it back to us at that time. You are worried about whether or not it will get two-thirds. In another deliberation you, hopefully, will have more intelligence than we have this evening.

Senator **LAWRENCE** of York requested a Division.

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

Senator **CLEVELAND**: Thank you. Men and Women of the Senate, I am actually very encouraged this evening to see such enthusiasm and great ideas about ways in which we are going to meet this goal. What I would recommend is that immediately, before leaving tonight, all those who believe that they have that will circulate a request to the Legislative Council to ask to introduce a bill immediately to do exactly what the good Senators have said they can do. There is nothing here that prevents you from doing that. Please do it. Please come up with a solution so that we don't have to adopt this if you have a better one. But, I would recommend that you not go with the good Senator from Lincoln. Lincoln County is the only one where I got a big spike in my tire, going through Senator Begley's district. I would say that if that is the case and that is what you want to do, then introduce a bill and do it. But let's, this evening, put in place at least a fall back position where we can proceed to do the business of the people of the State of Maine. There is no need to refer this bill to the Committee. The Committee can have its own bill and do its thing and come back to report to us.

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

Senator **HANLEY**: Thank you, Mr. President. In response to the good Senator from Androscoggin's comments. First, I think the good Senator is on a

Roll Call as having voted against an alternative that had been presented to him, a viable, workable alternative. I don't need to present a bill to Council. There was an amendment presented to this Legislature. The good Senator also talks about certainty. We need certainty. The only thing I see certain about the bill in front of us, if adopted, is that we are certain to adopt a gimmick that we will regret for the next ten years. That's the only certainty. I would then ask, it was my understanding that not only was it important to get the federal commitment, but that we have contractors out there who need to get paid and we don't have the resources. If we don't come up with this money, then we will be liable for penalties under those contracts. That's the question I'm having a real hard time resolving, as far as how is this going to get us past that problem? Now, the good Senator from Cumberland, Senator Harriman, had mentioned a brief conversation in the corner with the Chairman of the Joint Standing Committee on Transportation. I think there was a good sharing of ideas at that time, creative ideas, ideas which, I don't believe, the Governor has asked of the Chairman of the Transportation Committee, ideas that can get us over this problem if only people would realize that we need to compromise in order to get this problem resolved. You can't just say "it's either my way or the highway" and expect to have this problem resolved. It's not going to happen. We have to work together on this.

**THE PRESIDENT**: The Senator from Oxford, Senator Hanley, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Androscoggin, Senator Stevens.

Senator **STEVENS**: I believe the Transportation Committee, with the help of both bodies, with the help of the Administration on the second floor, I do believe we have members enough right here in this room at the present time to form a committee, if the bill were to come back to us, to see if we couldn't find a solution; because of the three days that we have been negotiating, and I haven't negotiated with the Governor directly, I have with some of his aides and some of the people who work for him, I do think there has got to be a solution to this. I do not want to stop the projects. I do not want to stop federal money. But, let's see some actual figures of just exactly what has got to be done to solve this problem between now and the first of the year.

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

Senator **CLEVELAND**: Thank you. Just so there is no confusion in the Record, the good Senator from Oxford, Senator Hanley, suggested, correctly, that I did not support the alternative presented by Senator Hanley earlier on. He's absolutely correct about that. He's completely incorrect, and it's only his opinion, that it was a viable alternative that I did not support. I might remind this body that I was on the prevailing side in this body of members who felt it was not a viable solution.

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

Senator **HANLEY**: Thank you, Mr. President. I take some offense to that remark. The good Senator is welcome to his opinion; but based on the information that our staff has available to this Legislature, and the monies available to us, and what

course of action we would have taken if we had a \$30 million shortfall, the plan presented before this Chamber was viable. The \$15 million in allotment reserves has not been encumbered. That money will be available. The cuts can be made. I would like to have the good Senator explain to me how that plan was not viable; because, maybe, this will be the linchpin, if, in fact, the good Senator will be convinced in fully evaluating this, determine that the plan is viable, maybe then the good Senator would support that alternative, rather than the gimmick before us.

**THE PRESIDENT:** The Chair would remind the Senators that we are debating the motion of the Senator from Lincoln, Senator Begley, to recommit this to the Committee on Transportation. The Chair would please ask that the Senators keep their comments focused on that motion. The Chair recognizes the Senator from Penobscot, Senator Ruhlin.

Senator **RUHLIN:** Thank you, Mr. President, Honorable Senators of Maine. I would point out to you the hour is late. It is ten minutes of three on the first day of December of 1995. Here we are, we've got a problem we are trying to resolve it. I know everybody is getting tired. I guess it's maybe time to look at the olive branch and look at what we all can do together for our State. I have really been impressed, and I mean that sincerely. Of all of the years that I have spent here, I think in the last couple of days I have seen some things that I have really appreciated; and I think it is for the betterment of the State. I am tying this in, Mr. President, to the motion before us, very rapidly. I think there is a way that we can continue in this same spirit and still accomplish two things. We can, in fact, refer, or we can make an order of some type, that will commit this body to assuring that some plan, a possible alternative plan, would go before the Transportation Committee that could be worked on between now and the ninety days that a regular piece of legislation would take. If we pass this piece of legislation that is proposed to you tonight, it will take ninety days for that to take effect. We will be coming back the first week in January. That's approximately thirty days out. That gives you approximately sixty days to come up with an alternative proposal, an alternative way of doing it with an emergency preamble. Putting it to the Transportation Committee, having the Transportation Committee join with the Appropriations Committee, whatever that you think you want to do in a Joint Order. You can do that. So we can accomplish the two things. We can A, assure future reasonable discussions that give an opportunity for other alternatives and inventive ways of financing the needs that we have; and B, we can move forward now, making a commitment to the federal government to free up \$150 million in demonstration projects. We can make a commitment so the plans can be done, so these projects know that they will be funded and the funding shortfall will be addressed, and that they will go forward appropriately. Whether it be one form or the other, the State has committed itself. The way to do this, the way to accomplish this dual aim, both for the benefit of the State of Maine, is to vote against the motion to refer the entire bill to the Committee and consider an alternative, and move this particular piece of legislation onto its final passage and resolution of the problem.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **BEGLEY** of Lincoln to **RECOMMIT** the Bill and Accompanying Papers to the Committee on **TRANSPORTATION**, in **NON-CONCURRENCE**.

A Division has been requested.

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

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

16 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion of Senator **BEGLEY** of Lincoln to **RECOMMIT** the Bill and Accompanying Papers to the Committee on **TRANSPORTATION**, in **NON-CONCURRENCE**, **FAILED**.

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

On motion by Senator **RUHLIN** of Penobscot, ordered sent forthwith for concurrence.

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

**ENACTOR**

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

**Emergency**

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

S.P. 477 L.D. 1301

(S "A" S-414 to C

"A" S-331)

On motion by Senator **PENDEXTER** 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 **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, BENOIT, CARPENTER, CASSIDY, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, MILLS, PENDEXTER, PINGREE, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

**NAYS:** Senators: **BEGLEY, BUSTIN, CAREY, CIANCHETTE, CLEVELAND, LONGLEY, McCORMICK, MICHAUD, O'DEA, PARADIS, RAND, RUHLIN**

**ABSENT:** Senators: **BERUBE, LORD**

This being an Emergency Measure and having received the affirmative vote of 21 Members of the Senate, with 12 Senators having voted in the negative, and with 2 Senators being absent, and 21 being less than two-thirds of the entire elected Membership of the Senate, **FAILED OF ENACTMENT**.

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

Senate at Ease  
Senate called to order by the President.

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

**PAPERS FROM THE HOUSE  
Non-concurrent Matter**

Bill "An Act to Authorize Appropriations and Allocations for the 1996-1997 Biennium and to Change Certain Provisions of the Law Necessary for the Operation of State Government" (Emergency)

H.P. 1160 L.D. 1594

In House, November 30, 1995, **PASSED TO BE ENACTED**.  
In Senate, December 1, 1995, **FAILED OF ENACTMENT**, in **NON-CONCURRENCE**.

Comes from the House, that Body having **ADHERED**.  
Senator **KIEFFER** of Aroostook moved that the Senate **RECEDE** and **CONCUR**.

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

Senator **LAWRENCE:** Thank you, Mr. President. I hope you will oppose this motion. Again, this is the bill to separate the \$1.8 million.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **KIEFFER** of Aroostook to **RECEDE** and **CONCUR**.

This being an Emergency Measure and having received the affirmative vote of 16 Members of the Senate, with 15 Senators having voted in the negative, and 16 being less than two-thirds of the entire elected Membership of the Senate, **FAILED OF ENACTMENT**.

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

**ENACTOR**

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

An Act to Implement the Productivity Recommendations of the Department of Transportation and Make Adjustments to Highway Fund Allocations for Fiscal Years 1995-96 and 1996-97

H.P. 1148 L.D. 1587  
(C "A" H-671; S "A" S-416)

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

On motion by Senator **SMALL** of Sagadahoc, 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 Sagadahoc, Senator Small.

Senator **SMALL:** Thank you, Mr. President, Men and Women of the Senate. I apologize for taking a brief moment to speak at this late hour. Oftentimes people get up and explain why they are voting on a bill, and most of the time I don't really care. Probably no one really cares about why I am speaking; but this vote tonight is so out of the ordinary for me, and such a tough one, and one that goes against so many of my principles, that I felt that I, at least, wanted to put a few reasons on the Record. I am going to vote for final passage of this transportation bill tonight because I cannot, in good conscience, go home without a resolution to the funding shortfall in DOT. We have tried a number of alternatives tonight and none of those were successful. We have a project in my district that is partially completed. There is a portion of a bridge, sitting in a field, waiting for the connecting bypass to be finished. I live in fear that the bridge in the field that goes nowhere might be named for the good Senator from Sagadahoc County. I do believe

that we need to be honest about this proposal before us. We need to be honest with our constituents and admit that this is another gimmick and that it is to tide us over, once again, until the revenue picture becomes rosier. Some won't support further cuts to fill the gap. So, once again, creative financing, and I use that term very loosely, becomes the only choice remaining. We have one choice left before us tonight. I am discouraged that compromise was not possible, and will vote, regrettably, for this latest and, I fervently hope, final, gimmick. Thank you.

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

Senator **LAWRENCE:** Thank you, Mr. President. Would a motion to add the emergency clause back on be in order now?

**THE PRESIDENT:** The pending motion 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, BUSTIN, CAREY, CASSIDY, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, RUHLIN, SMALL, STEVENS**

**NAYS:** Senators: **AMERO, BEGLEY, BENOIT, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, PENDEXTER, and the PRESIDENT, Senator BUTLAND**

**ABSENT:** Senators: **BERUBE, CARPENTER, HALL, LORD**  
22 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 4 Senators being absent, this bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senate at Ease

Senate called to order by the President.

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

**PAPERS FROM THE HOUSE  
Non-concurrent Matter  
Emergency**

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

S.P. 477 L.D. 1301  
(S "A" S-414 to C "A" S-331)

In House, November 30, 1995, **PASSED TO BE ENACTED**.

In Senate, December 1, 1995, **FAILED OF ENACTMENT**.

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

Senator **LONGLEY** of Waldo moved that the Senate **RECEDE** and **CONCUR**.

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with 1 Senator having voted in the negative, and 25 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was

presented by the Secretary to the Governor for his approval.

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

**ORDERS**

**Senate Orders**

On motion by Senator **KIEFFER** of Aroostook, the following Senate Order:

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

S.O. 33

Which was **READ** and **PASSED**.

The President appointed the Senator from Aroostook, Senator **KIEFFER** to deliver the message.

On motion by Senator **AMERO** of Cumberland, the following Senate Order:

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

S.O. 34

Which was **READ** and **PASSED**.

The President appointed the Senator from Cumberland, Senator **AMERO** to deliver the message.

**Senate at Ease**

Senate called to order by the President.

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

At this point, the Senator from Aroostook, Senator **KIEFFER**, reported that he had delivered the message with which he was charged.

At this time, the **HONORABLE ANGUS S. KING, JR. GOVERNOR** of the State of Maine, entered the Senate Chamber and was escorted by the Sergeant-at-Arms to the Rostrum. (Amid applause, the Members rising.)

**GOVERNOR ANGUS S. KING JR.:** Thank you for inviting me here. Thank you for the hard work that has been done today. Thank you for what I think was an historic accomplishment in connection with the Productivity Task Force, for working hard, for airing our differences, for debating, for talking. I wish you all a happy holiday season and we will see you in January. Thank you very much.

The Sergeant-at-Arms escorted Governor **ANGUS S. KING** from the Senate Chamber. (Amid applause, the members rising.)

At this point, the Senator from Cumberland, Senator **AMERO**, reported that she had delivered the message with which she was charged.

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

On motion by Senator **BEGLEY** of Lincoln, at four o'clock a.m. on Friday, December 1, 1995, the Honorable **JEFFREY H. BUTLAND**, President of the Senate, declared the First Special Session of the 117th Legislature, **ADJOURNED SINE DIE**.