

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Nineteenth Legislature
State of Maine

Volume 4

Second Regular Session (Continued)
April 14, 2000 to May 12, 2000

Second Confirmation Session
August 31, 2000

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

In Senate Chamber
Monday
April 24, 2000

Senate called to order by President Mark W. Lawrence of York County.

Prayer by Reverend J. John Keggi of St. Mark's Episcopal Church in Augusta.

REVEREND KEGGI: Let us give thanks for this nation and this state. Oh mighty God giver of all things, we thank you for the natural majesty and the beauty of this land that restore us though we often destroy them. Heal us Lord. We thank you for the great resources of this nation. They make us rich though we often exploit them. Forgive us Lord. We thank you for the men and women who have made this country strong. They are models for us though we often fall short of them. Inspire us Lord. We thank you for the torch of Liberty that has been lit in this land. It has drawn people from every nation though we have often hidden from its light. Enlighten us Lord. We thank You for a faith that we have inherited in all its rich variety. It sustains our life though we have been faithless again and again. Renew us Lord. Help us, oh Lord, to finish the good work here begun. Strengthen our efforts to block out ignorance and prejudice and to abolish poverty and crime and hasten the day when all our people with many voices in one united chorus will glorify Your holy name. Amen

Let us pray for sound government. Oh Lord our governor, bless the leaders of our land that we may be a people at peace among ourselves and the blessing to other nations of the earth. Lord, keep this nation under your care. To the President and Members of the Cabinet, to governors of states, mayors of cities, and to all in administrative authority, grant wisdom and grace in the exercise of their duties. Give grace to Your servants, oh Lord. To Senators and Representatives and to those who make our laws in states, cities, and towns give courage, wisdom, and foresight to provide for the needs of all our people and to fulfill our obligations in the community of nations. Give grace to Your servants, oh Lord. To judges and officers of our courts give understanding and integrity that human rights may be safeguarded and justice served. Give grace to Your servants, oh Lord. And, finally, teach our people to rely on Your strength and accept their responsibilities to their fellow citizens, that they may elect trustworthy leaders and make wise decisions for the well-being of our society, that we may serve You faithfully in our generation and honor Your holy name. For Yours is the kingdom, oh Lord, and You are exalted as head above all. Amen

Pledge of Allegiance led by Senator Marge Kilkelly of Lincoln County.

Reading of the Journal of Friday, April 14, 2000.

COMMUNICATIONS

The Following Communication: S.C. 653

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

April 11, 2000

Honorable Mark Lawrence, Senate President
Honorable G. Steven Rowe, Speaker of the House
3 State House Station
Augusta, Maine 04333-0003

Dear President Lawrence and Speaker Rowe:

Pursuant to 3 MRSA, Chapter 35, section 963, we enclose the "Report on the Government Evaluation Act by the Joint Standing Committee on State and Local Government." This report reviews the provisions and effects of Chapter 35 of Title 3 and makes recommendations for changes to the Government Evaluation Act.

Please note that Appendix B of the report includes draft legislation reflecting the changes proposed by the State and Local Government Committee. We recommend that this proposed legislation be considered by the First Regular Session of the 120th Legislature.

Please also note that Recommendation #2 (see page 1 of the Executive Summary) proposes that a subcommittee of the State and Local Government Committee meet during the interim to consider developing a revised scheduling guideline for Governmental Evaluation Act review of agencies and independent agencies. On behalf of the committee, we will be submitting a formal request for authorization to allow the subcommittee to meet during the interim.

Sincerely,

S/Sen. Peggy Pendleton
Senate Chair

S/Rep. Douglas Ahearne
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 654

**STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE & FINANCIAL
SERVICES
BUREAU OF ACCOUNTS & CONTROL
14 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

April 13, 2000

The Honorable Mark, W. Lawrence
President of the Senate
119th Legislature

The Honorable G. Steven Rowe
Speaker of the House
119th Legislature

Dear Mr. President and Mr. Speaker:

In accordance with Title 5, Maine Revised Statutes Annotated, Section 1547, I am pleased to submit the Comprehensive Annual Financial Report of the State of Maine for the Fiscal year ended June 30, 1999.

Fiscal Year 2000's Comprehensive Annual Financial Report, or CAFR, will be in GAAP format rather than budgetary. The Government Accounting Standards Board, AKA GASB, has released a new GAAP reporting model for statewide government entities, which is referred to as GASB 34. Attachments to this letter give a brief summary of GASB 34.

One of the best features of the model is the readability that will be built into its construction. Like private sector annual financial reports directed at the shareholder audience, states' annual financial reports will now be tailored to the citizen. We are enthusiastically embracing GASB 34 and expect the results in 2002 to be widely read and understood.

Your support in the transition to GAAP financial reporting was certainly appreciated. As we move through this next transition to the GASB 34 model, we will keep you informed of both progress and any unforeseen needs.

Should you have any questions about the FY99 budgetary CAFR or the planning for the fiscal year GAAP 2000 CAFR, please contact Terry Brann, CPA, Manager of Financial Reporting and Analysis; Joseph Shaw, Deputy State Controller; or myself.

Sincerely,

S/Carol F. Whitney
State Controller

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

Off Record Remarks

ORDERS

Joint Order

Expression of Legislative Sentiment recognizing:

Senator John Nutting and his wife Sandra of the Androscoggin Holsteins farm, the recipients of the 1999 Producer of the Year for Oakhurst Dairy. Oakhurst Dairy prides itself on the best quality milk in the State. John and Sandra have done remarkably well this past year. In 2 of the testing categories, Somatic Cell Count and Raw Count, they were in 1st place. They have an outstanding herd of about 45 Holsteins. Oakhurst Dairy is very proud of John and Sandra for all of their hard work and dedication. We extend our congratulations to them on this accomplishment;

SLS 527

Sponsored by Senator KILKELLY of Lincoln. Cosponsored by Representative PIEH of Bremen, Senator KIEFFER of Aroostook, Representative VOLENIK of Brooklin, Representative WATSON of Farmingdale, Representative COWGER of Hallowell, Representative GAGNE of Buckfield, Representative CROSS of Dover-Foxcroft, Representative GOOLEY of Farmington, Representative FOSTER of Gray, Representative CARR of Lincoln, Representative GILLIS of Danforth, Representative BERRY of Livermore.

READ.

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

Senator **KILKELLY:** Thank you Mr. President. Men and women of the Senate, all of you know how challenging it is to be here and do the work that we have here, and then to also do the work that is the rest of our lives. So it seems very appropriate, at this time, to honor a person in our midst who has done exceptionally well, not only in the work that he does here, but also with his Holstein farm. As one who has spent a couple of days as the resident shoveler on said farm, I can tell you that it is a wonderful place. It's not because there's a cow there named "Marge" that I feel that way. But it is a wonderful farm and it really does represent the best of Maine. Certainly Oakhurst represents also the best of Maine. I think it's a wonderful tribute to these organizations that John and Sandra have done such a wonderful job in producing wonderful quality milk for a quality dairy. I'm just very pleased today on behalf of the Agriculture Committee to recognize one in our midst whose done a marvelous job. So, congratulations to John and Sandra.

PASSED.

THE PRESIDENT: The Chair is pleased to recognize in the chamber Sandy Nutting and her husband, Senator John Nutting, and ask them to rise and receive the greetings of the Senate. The Chair is also pleased to recognize in the chamber Stan Bennett of Oakhurst Dairy and ask him to rise and receive the greetings of the Senate. The Sergeant at Arms will escort Stan Bennett, Sandra Nutting, and Senator John Nutting to the well of the chamber as well as the Senator from Lincoln, Senator Kilkelly.

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

Senator **NUTTING** of Androscoggin was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

ENACTORS

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

Emergency Measure

An Act to Clarify the Law Enforcement Authority of Game Wardens

S.P. 1088 L.D. 2691

Senator **PINGREE** of Knox requested a Roll Call.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence. (Roll Call Requested)

Acts

An Act to Establish a Method of Determining Employer Contributions to the Unemployment Compensation Trust Fund
S.P. 1019 L.D. 2588
(S "C" S-711 to C "A" S-650)

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

An Act to Regulate Commercial Large Game Shooting Areas
S.P. 457 L.D. 1332
(H "A" H-1134)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

An Act to Reconstruct 2 Small Dams on Rocky Lake in Whiting
H.P. 1768 L.D. 2481
(C "A" H-1137)

On motion by Senator **KILKELLY** of Lincoln, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

Off Record Remarks

ORDERS OF THE DAY

On motion by Senator **O'GARA** of Cumberland, the Senate removed from the **SPECIAL HIGHWAY TABLE** the following:

An Act Regarding Taxation of Low-energy Fuels
H.P. 940 L.D. 1337
(C "B" H-788)

Tabled - March 7, 2000 by Senator **O'GARA** of Cumberland.

Pending - **ENACTMENT**, in concurrence

(In Senate, February 29, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-788)**, in concurrence.)

(In House, March 3, 2000, **PASSED TO BE ENACTED**.)

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

On motion by Senator **O'GARA** of Cumberland, the Senate removed from the **SPECIAL HIGHWAY TABLE** the following:

Emergency Measure

An Act to Provide Recognition for Korean Conflict Veterans on Special Veterans Registration Plates
H.P. 1652 L.D. 2321
(C "A" H-845)

Tabled - March 21, 2000 by Senator **O'GARA** of Cumberland.

Pending - **ENACTMENT**, in concurrence

(In Senate, March 15, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-845)**, in concurrence.)

(In House, March 21, 2000, **PASSED TO BE ENACTED**.)

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

An Act to Create a Purple Heart Motorcycle License Plate
H.P. 1653 L.D. 2322
(C "B" H-790)

Tabled - March 15, 2000 by Senator **O'GARA** of Cumberland.

Pending - **ENACTMENT**, in concurrence

(In Senate, March 9, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-790).**)

(In House, March 14, 2000, **PASSED TO BE ENACTED.**)

On motion by Senator **LONGLEY** of Waldo, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

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

ROLL CALL (#400)

YEAS: Senators: **AMERO, BENNETT, BERUBE, CASSIDY, DAGGETT, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KILKELLY, KONTOS, LONGLEY, MICHAUD, MILLS, MURRAY, O'GARA, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE**

NAYS: Senators: **None**

ABSENT: Senators: **ABROMSON, BENOIT, CAREY, CATHCART, DOUGLASS, KIEFFER, LAFOUNTAIN, LIBBY, MACKINNON, MITCHELL, NUTTING, PARADIS**

EXCUSED: Senator: **SMALL**

22 Senators having voted in the affirmative and no Senator having voted in the negative, with 12 Senators being absent and 1 Senator being excused, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

On motion by Senator **O'GARA** of Cumberland, the Senate removed from the **SPECIAL HIGHWAY TABLE** the following:

An Act Regarding Length of Service, Retirement Age and Retirement Benefits for State Police Officers and Certain Other State Employees

S.P. 911 L.D. 2363
(C "A" S-643)

Tabled - April 8, 2000 by Senator **O'GARA** of Cumberland.

Pending - **ENACTMENT**, in concurrence

(In Senate, April 6, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-643).**)

(In House, April 7, 2000, **PASSED TO BE ENACTED.**)

PASSED TO BE ENACTED and signed by the President.

(See action later today.)

On motion by Senator **O'GARA** of Cumberland, the Senate removed from the **SPECIAL HIGHWAY TABLE** the following:

An Act to Amend Certain Transportation Laws
S.P. 918 L.D. 2370
(C "A" S-532)

Tabled - March 27, 2000 by Senator **O'GARA** of Cumberland.

Pending - **ENACTMENT**, in concurrence

(In Senate, March 15, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-532).**)

(In House, March 23, 2000, **PASSED TO BE ENACTED.**)

On motion by Senator **GOLDTHWAIT** of Hancock, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

On motion by Senator **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence. (Roll Call Ordered)

Senate at Ease.

Senate called to order by the President.

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

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, Authorizing the Members of the Sullivan Family to Bring Suit Against Waldo County and the State
S.P. 605 L.D. 1728

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

Signed:

Senators:

DAGGETT of Kennebec
FERGUSON of Oxford

Representatives:

CHIZMAR of Lisbon
FISHER of Brewer
GAGNE of Buckfield
MAYO of Bath
LABRECQUE of Gorham
HEIDRICH of Oxford
McKENNEY of Cumberland

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

Signed:

Senator:

CAREY of Kennebec

Representatives:

O'BRIEN of Lewiston
PERKINS of Penobscot

Reports **READ**.

Senator **DAGGETT** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Senator **LONGLEY:** Thank you Mr. President. Colleagues in the Senate, this has been a roller coaster ride with everything crashing at the end of every ride. I stand up simply to say that this has been a terrible accident and the accident has continued right into the halls of this legislature. It's an accident that can and will happen again. It can and will be somebody else's constituent next time. Maybe what we need down the road, I can read the writing on the wall, maybe what we need down the road is a catastrophic insurance plan in cases where, as in my case, a half-trained Deputy Sheriff, second day on the job, when he chooses to pass as he heads up a hill, which is arguably a case of gross negligence. In cases of gross negligence all of us, as political subdivisions, and as a state, have a catastrophic plan that helps people like the Sullivans. It's an idea for another time. Many of you have been very helpful and I appreciate that. Some of you are now parting ways and I respect that. Keeping to the positive, I will just simply say, thank you for your help. I see it as an accident that will continue to happen in cases where somebody wearing a badge decides to pass as he heads up a hill. But for the grace of God go we. It will be somebody else in the future. It will be another family. I think, as a state, we have a responsibility to help. Lastly, Mr. President, I request a division.

At the request of Senator **LONGLEY** of Waldo a Division was had. 14 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **DAGGETT** of Kennebec to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: H.P. 1951

WHEREAS, this joint study order establishes the Committee to Study Access to Private and Public Lands in Maine; and

WHEREAS, the charge of this committee is vital to the interests of Maine citizens and camp and business owners in this State; and

WHEREAS, the spring and summer months begin the seasons of peak use of the Maine woods for Maine citizens and tourists and, therefore, are the optimal time for the committee to study access issues; now, therefore, be it

ORDERED, the Senate concurring, that the Committee to Study Access to Private and Public Lands in Maine is established as follows.

1. Committee established. The Committee to Study Access to Private and Public Lands in Maine, referred to in this order as the "committee," is established.

2. Committee membership. The committee consists of 2 Senators appointed by the President of the Senate and 3 members of the House appointed by the Speaker of the House. When making the appointments, the President of the Senate and the Speaker of the House shall appoint at least one member of a party that does not hold the majority of seats in that body and shall give preference to members who serve on the Joint Standing Committee on Agriculture, Conservation and Forestry.

3. Committee chair. The first named Senator is the Senate chair of the committee and the first named member of the House is the House chair of the committee.

4. Appointments; convening of committee. All appointments must be made no later than 30 days following the effective date of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. When the appointment of all members has been completed, the chairs of the committee shall call and convene the first meeting of the committee, which must be no later than June 30, 2000.

5. Duties. The committee shall hold a minimum of 6 meetings at locations to be determined by the chairs. Geographic locations of meetings must be chosen to accommodate maximum participation by landowners and people using lands that are the subject of this study. The committee shall gather information and request necessary data from public and private entities in order to:

ORDERS OF THE DAY

A. Estimate the number of acres of land owned or controlled by landowners or landowner associations to which access is controlled by checkpoints, gates or other means and estimate the number of people accessing those lands, categorize the various uses of those lands and assess environmental damage and costs to landowners associated with public access to those lands;

B. Determine the number of acres of land managed by the Bureau of Parks and Lands within the Department of Conservation or the Department of Inland Fisheries and Wildlife that are commonly accessed via roads on which checkpoints are located and fees are charged;

C. Review existing fee structures for accessing lands beyond checkpoints operated by landowners or landowner associations and compare these fees and systems of public access to access and fee systems in other states; and

D. Assess the need for legislation to ensure reasonable access to the public resources of this State.

6. Staff assistance. Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the committee.

7. Compensation. The members of the committee are entitled to receive the legislative per diem as defined in the Maine Revised Statutes, Title 3, section 2 and reimbursement for travel and other necessary expenses related to their attendance at meetings to fulfill their duties as charged.

8. Report. The committee shall submit its report together with any recommended implementing legislation to the joint standing committee of the Legislature having jurisdiction over parks and lands matters no later than November 1, 2000. If the committee requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council, which may grant an extension. Upon submission of its required report, the committee terminates. The joint standing committee of the Legislature having jurisdiction over parks and lands matters may report out a bill during the First Regular Session of the 120th Legislature concerning the findings and recommendations of the committee.

9. Budget. The chairs of the committee, with assistance from the committee staff, shall administer the committee's budget. Within 10 days after its first meeting, the committee shall present a work plan and proposed budget to the Legislative Council for approval. The committee may not incur expenses that would result in the committee's exceeding its approved budget. Upon request from the committee, the Executive Director of the Legislative Council shall promptly provide the committee chairs and staff with a status report on the committee's budget, expenditures incurred and paid and available funds.

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

READ.

On motion by Senator **PINGREE** of Knox, placed on the **SPECIAL STUDY TABLE**, pending **PASSAGE**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (4/13/00) Assigned matter:

Bill "An Act to Amend the Laws Governing the Designation of a Beneficiary of Maine State Retirement System Benefits"
S.P. 625 L.D. 1790
(C "A" S-684)

Tabled - April 13, 2000, by Senator **DOUGLASS** of Androscoggin.

Pending - **FURTHER CONSIDERATION**

(In Senate, April 8, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-684).**)

(In House, April 12, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-684) AS AMENDED BY HOUSE AMENDMENT "A" (H-1115)** thereto, in **NON-CONCURRENCE**.)

On motion by Senator **MURRAY** of Penobscot, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-684)**.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED** Committee Amendment "A" (S-684).

House Amendment "A" (H-1115) to Committee Amendment "A" (S-684) **READ**.

On motion by Senator **MURRAY** of Penobscot, House Amendment "A" (H-1115) to Committee Amendment "A" (S-684) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "A" (S-715) to Committee Amendment "A" (S-684) **READ** and **ADOPTED**.

Committee Amendment "A" (S-684) as Amended by Senate Amendment "A" (S-715) thereto **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-684) AS AMENDED BY SENATE AMENDMENT "A" (S-715) thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

Senator **MICHAUD** of Penobscot moved the Senate **RECONSIDER** whereby it **PASSED TO BE ENACTED** the following:

An Act Regarding Length of Service, Retirement Age and Retirement Benefits for State Police Officers and Certain Other State Employees

S.P. 911 L.D. 2363
(C "A" S-643)

(In Senate, April 6, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-643).**)

(In House, April 7, 2000, **PASSED TO BE ENACTED.**)

(In Senate, April 24, 2000, **PASSED TO BE ENACTED**, in concurrence.)

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **RECONSIDER** whereby the Bill was **PASSED TO BE ENACTED**, in concurrence.

Off Record Remarks

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by Senator **PINGREE** of Knox, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (4/14/00) Assigned matter:

Bill "An Act Concerning Fingerprinting and Background Checks for School Employees"

S.P. 987 L.D. 2540
(C "B" S-692)

Tabled - April 14, 2000, by Senator **BERUBE** of Androscoggin.

Pending - **FURTHER CONSIDERATION**

(In Senate, April 11, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-692).**)

(In House, April 13, 2000, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-691)**, in **NON-CONCURRENCE.**)

On motion by Senator **MURRAY** of Penobscot, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-692).**

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED** Committee Amendment "B" (S-692).

On further motion by same Senator, Senate Amendment "A" (S-735) to Committee Amendment "B" (S-692) **READ.**

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

Senator **MURRAY:** Thank you Mr. President. Men and women of the Senate, I'd like to briefly address for you what the proposed Senate Amendment would do. Before that, I'd like to just refresh our memories for a minute. As you may recall, the other day, when the Senate took up this matter, we adopted Report B on this measure. Report B, basically, focused our attention on the fingerprinting issue to the new hires, or those individuals coming into the education profession, or new education personnel for the first time who would be subjected to a background check including fingerprints. Also there was a provision that allowed for individuals who were transferring from one school district to another school district to also be subjected to this type of background check if the superintendent of the hiring school district decided that was something he or she wanted to do. That report was adopted by a solid vote here in the Senate the last time we took up the matter.

Since that time, there have been some concerns that were raised, primarily on one or two issues. That's what the proposed Senate Amendment that's before you now attempts to address as it relates to Report B which focuses on those new hires. Specifically, one of the concerns that I heard raised was that to give the discretion to an individual superintendent to decide, in those circumstances of a move from one school district to another, was going to be problematic with the FBI in carrying out these particular background checks. Everything we have done in putting together Report B focused on what would be allowed under federal law, or federal regulations. I'm fairly confident that Report B still would meet all those federal requirements. However, to address this particular issue about the discretion and the concern that raised with the FBI, the Senate Amendment before you proposes to deal with that in this way. Rather than having the individual superintendent, that would be the hiring superintendent, make that decision on his or her own as to whether that individual would be subjected to a background check, the new language in the Senate Amendment allows for, or calls for, the local governing body of that school district to make a decision that in those circumstances where there is a transfer from one district to another, the local governing body will say, "We intend to subject all applicants in that category to that kind of a background check, or we'll choose not to subject any individuals in that category to a background check" So it eliminates the discretion on the part of the individual superintendent and leaves it with the governing body of the local school district.

I want to tell you that I've worked in the interim, during the past week. I've consulted with the State Police, who had raised this as an issue that the FBI may have concerns. I've communicated with the Colonel of the State Police and the Major from the State Police who was most directly involved with this. I've shared the language that's before you in the Senate Amendment. They believe it does address the issue of that discretion and the concern that the superintendent has with the discretion. Until such time as there is a law actually in front of the FBI, I don't think anyone is going to get anything more than that by way of a gauge of their comfort level. But it does certainly address this question of eliminating the individual discretion that a superintendent would have.

The other significant thing that the Senate Amendment before you proposes to do is address another issue that was raised. Namely the issue that was raised regarding the way that Report B was originally drafted. It could be argued that all applicants in the situation of a transfer from one district to another could be subjected to a background check. The language we have proposed to narrow that makes it clear that it would be only those applicants for whom the superintendent actually intends to extend an offer of employment that would be subjected to the background check. So this will cut down on the need for anyone who submits a paper application to have to go through that procedure and background check. The other minor change is the adopted language proposed by the State Police that removes some references to the federal law and federal language of an authorized agency. The State Police folks who I talked to didn't feel that was necessary and OPLA personnel who I talked with agreed. So we removed that language.

Finally, the only other change that this Senate Amendment proposes is to change the effective date from August 1st to August 15th of this year, which merely reflects the fact that it will unlikely be the 90 day period of time by the time we actually finally adjourn. We'd be needing an August 15th deadline as opposed to an August 1st. That, in sum and substance, is what this Senate Amendment proposes. I think it's important to emphasize, in my opinion, this does not substantively change what we voted on the other day in Report B and the focus of what Report B does. It merely clarifies some issues where concern was raised, and hopefully, gives a greater degree of comfort for those who had questions along those lines. I would urge you to support the pending motion so that we can move on to adopt this amendment and engross the Bill.

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

Senator MILLS: Mr. President. I have a question for anyone who might be able to answer.

THE PRESIDENT: The Senator from Somerset, Senator Mills, may pose his question through the Chair.

Senator MILLS: Mr. President, it is my understanding that we have so far fingerprinted approximately 13,000 people employed by school districts and school units throughout the state, including teachers, cafeteria workers, and school bus drivers. This represents about a quarter of the population of people employed by the various school units. My question is, is it the intention of the Bill, or is it the wording of the Bill, that those 13,000 fingerprints will be thrown out and not used or not followed through on?

THE PRESIDENT: The Senator from Somerset, Senator Mills, poses a question through the Chair to anyone who may be able to answer. The Chair recognizes the Senator from Penobscot, Senator Murray.

Senator MURRAY: Thank you Mr. President. Men and women of the Senate, to the extent any of those 13,000 would involve individuals who would not be subject to the fingerprinting under Report B, either in its current form or if amended, yes, those individual records would be destroyed and the individuals who have been subjected to that testing would be reimbursed for whatever expenditures they've made.

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

Senator LONGLEY: Thank you Mr. President. I stand in opposition to the pending motion. I do so because, having sat in the Judiciary Committee this year, we heard one story after another of serious instances of sexual abuse. Yes, the abuse they came to tell us about was done by teachers. If 99.99% of teachers aren't even going to think of this type of activity, unfortunately, we have what is arguably an epidemic out there. When one adult abuses one child, that child's life is ruined permanently. We know that that one adult out there, whomever he or she is, isn't just doing it to one child. He or she is a perpetrator and does it to many, many children. So if we catch one perpetrator, we save several children. I've heard some of you say, "Well, this fingerprinting won't catch those. It's not going to help. It's not going to solve the problem." My response is it's going to take a multiple of approaches, several different ways that we try to get to address the fact that there are predators out there and they're praying on children. If our vote, tonight, here in any way find just one and prevent that one from ruining another several children's lives, I think it's worth it. I didn't speak last time. I felt that everyone's votes were decided, so I decided to be quiet. But my silence and the silence of others of us was misinterpreted. So I'm here to stand tonight and say, when you press that button, you have a lot of responsibility. We have a very huge problem out there and children who have come before Judiciary now as adults tell stories that shake you to your core. I can't tell you what these children look like as adults. But they, with the best of their abilities, told us how their lives have been severely damaged. I think with this Bill we have the opportunity to save at least one child from that permanent damage. I just encourage you to take this vote very, very seriously. Thank you.

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

Senator LIBBY: Thank you Mr. President. Men and women of the Senate, there are far more occasions of abuse outside of schools. It's been my experience, in my 8 years in the legislature, that there seems to be these sometimes well-meaning legislators who really want to do something about a particular problem, address a problem through the K-12 system. While there may be some good that comes from fingerprinting in the K-12 system, I think what we've come up with here is a pretty good compromise. To abandon the half decent compromise, frankly, I'd rather see no fingerprinting at all. This is a pretty good compromise. To abandon that would be, I think, a major

mistake. Again, because of the fact that is so much more abuse going on outside of the K-12 system, what is the proposal of the members of this Senate body, Mr. President, for coping with that. Will we continue to go on and on with new proposals to reach beyond K-12? Why did we start with K-12 in the first place? Those are my questions. If we can prevent transfers from coming in from out-of-state, for example, who may have a record in other states, and if this particular amendment is going to help do that and other things, then maybe that's the answer to the questions that we've all been asking. But isn't it funny that this particular Bill and this particular topic was the very first thing that this legislature was going to handle when we came in January. Isn't it funny that it's just about the last thing that we have dealt with. The reason for that, in my opinion, is because we don't have the perfect solution. We're not going to have the perfect solution to it. It's important that we have come up with a compromise that I don't like, you don't like, we all don't like, but, let's embrace it and go forward because the alternative to this is not very good. It will lead us down a slippery slope to going after a lot of other professions, an awful lot of other people who work in different fields, who come in contact with young children. I think that we ought to think twice before we do that. So I am ready to accept this amendment. It's the first I've heard of it. I'd rather have caucus on the issue and we have not done that in my caucus. But from everything I've heard and from everything I've read, I think it's the right thing to do. Thank you.

The Chair ordered a Division. 21 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator **MURRAY** of Penobscot to **ADOPT** Senate Amendment "A" (S-735) to Committee Amendment "B" (S-692), **PREVAILED**.

Senator **GOLDTHWAIT** of Hancock requested a Division.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#401)

YEAS: Senators: **BENNETT, BERUBE, CASSIDY, DAGGETT, DAVIS, DOUGLASS, FERGUSON, HARRIMAN, KILKELLY, KONTOS, LIBBY, MICHAUD, MILLS, MURRAY, NUTTING, PARADIS, PENDLETON, PINGREE, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE**

NAYS: Senators: **ABROMSON, AMERO, GOLDTHWAIT, LAFOUNTAIN, LONGLEY, O'GARA, RAND**

ABSENT: Senators: **BENOIT, CAREY, CATHCART, KIEFFER, MACKINNON, MITCHELL**

EXCUSED: Senator: **SMALL**

21 Senators having voted in the affirmative and 7 Senators having voted in the negative, with 6 Senators being absent and 1

Senator being excused, Committee Amendment "B" (S-692) as Amended by Senate Amendment "A" (S-735) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-692) AS AMENDED BY SENATE AMENDMENT "A" (S-735) thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

Senator **BENNETT** of Oxford was granted unanimous consent to address the Senate off the Record.

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

Emergency Measure

An Act to Clarify the Law Enforcement Authority of Game Wardens

S.P. 1088 L.D. 2691

Tabled - April 24, 2000, by Senator **PINGREE** of Knox.

Pending - **ENACTMENT**, in concurrence (Roll Call Requested)

(In House, April 14, 2000, **PASSED TO BE ENGROSSED**.)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#402)

YEAS: Senators: **ABROMSON, AMERO, BENNETT, BERUBE, CASSIDY, DAGGETT, DAVIS, DOUGLASS, FERGUSON, GOLDTHWAIT, HARRIMAN, KILKELLY, KONTOS, LAFOUNTAIN, LONGLEY, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE**

NAYS: Senators: **LIBBY, RAND**

ABSENT: Senators: **BENOIT, CAREY, CATHCART, KIEFFER, MACKINNON, MITCHELL**

EXCUSED: Senator: **SMALL**

26 Senators having voted in the affirmative and 2 Senators having voted in the negative, with 6 Senators being absent and 1 Senator being excused, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by Senator **PINGREE** of Knox, **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:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2000 and June 30, 2001" (EMERGENCY)

H.P. 1790 L.D. 2510

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1140)**.

Signed:

Senators:

MICHAUD of Penobscot
CATHCART of Penobscot

Representatives:

TOWNSEND of Portland
STEVENS of Orono
MAILHOT of Lewiston
POWERS of Rockport
TESSIER of Fairfield
BERRY of Livermore
KNEELAND of Easton
WINSOR of Norway
BRUNO of Raymond
NASS of Acton

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-1141)**.

Signed:

Senator:

HARRIMAN of Cumberland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1140)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1140)**.

Reports **READ**.

Senator **MICHAUD** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1140)** Report, in concurrence.

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

Senator **HARRIMAN:** Thank you very much Mr. President. Good evening ladies and gentlemen of the Senate. Mr. President, I hope you'll be among the very first to join me in opposing the pending motion. If you will indulge me, I'd like to take just a moment to explain why that would be a very wise decision on your part. Before I do, let me just say to my colleagues from Penobscot, Senator Michaud and Senator Cathcart, what a tremendous honor and pleasure it has been to serve with them as a member of the Appropriations Committee. As I am sure you all are familiar, we have managed, over the two-year Legislative Session of the 119th, to bring out every biennial and supplemental budget to you as a unanimous report. We've come to a point, Mr. President, where, at this particular intersection, our paths must take a different route. Because, as you see, the budget before us prescribes to make sure that the next session of the Maine Legislature is at least \$250 to, perhaps as much as, \$300 million in the red. We're going to spew red ink so that the next legislature will have to decide what programs to cut out of this budget. The only saving grace we would have, Mr. President, is if the economy of Maine grows even faster and steeper than it is right now. Perhaps at the end of the day I may be the one with the bad attitude that things are, indeed, on their way to getting better and stronger so that the proposed structural deficit of \$250 to \$280 million will be just a fleeting moment in the legislative record. But if I'm right, if my instincts are right, that the growth rate that's already built into this budget is as good as Maine's economy is going to be in view of the fact that we have the lowest unemployment rate on record, that we've created over 60,000 net new jobs over the last 4 or 5 years, that if our economy is finally going to track what our projections are going to be, we are putting the next legislature in the hole.

I heard in the beginning of this session why it was important that we pay our bills, that we make up for the struggles of the late 1980s and early '90s where we didn't provide the funding for General Purpose Aid to education as was needed. That we weren't able to meet the demands of the AMHI Consent Decree, or children in need of mental health services, or other worthy responsibilities of government. I heard that message and I

believe that message, and in fact, was part of a unanimous budget that supported that message that, yes, we needed to pay our bills before we moved on to other ways to unleash the Maine economy.

I remember very vividly, Mr. President, like it was tonight, sitting in the hallowed chamber of the other body, listening to the State of the State Address. To me one of the most special and solemn occasions that any legislator can witness sitting in the front row, so to speak. I heard that if we were going to unleash Maine's economy that we had to be patient. That tax cuts and more money for education and roads were just a function of time and economic growth. I remember that night listening to the Chief Executive say; "I'm absolutely convinced that Maine's high tax burden is now the biggest drag on the expansion of Maine's economy." He went on to say that we are 10th in the nation in state and local taxes as a percent of personal income, but we were 36 in income. In every national survey of taxes, we're near the top. It matters. I heard that we need to look no further back than the 80's. We're in a period of economic growth. Sound familiar? We still manage to grow government at an even faster rate. Why? Because there are very few, if any, bad government programs, and there is no end to the needs that can and often should be addressed. I heard, Mr. President, a statement. It said, "Tonight I am setting a realistic goal, of reducing Maine's overall tax burden by 20%, from 12.5% to less than 11% by the year 2001." You know what, Mr. President, if the motion before us passes, the tax burden on average, middle, and low income citizens in Maine will go up to almost 13%. In the greatest economy ever in recent memory, this budget can't find the wherewithal to provide the much needed, much deserved tax relief for middle and low income families in Maine.

We came into the second session on a spirit of bipartisanship and cooperation. Indeed, we had a lot to be thankful for because the budget that passed in the first session had a structural gap, a deficit, red ink of almost \$300 million. We did so knowing that the economy was on the move. The good news, low interest rates, and prosperous stock market was permeating our economy. We grew out of that structural gap. If this legislature just passed tonight the true emergencies, paying for our state employees health insurance, the growing cost overruns in the Medicaid account, and other emergencies, we could adjourn and leave the next legislature with a surplus, a healthy surplus. I don't know about you, but when I first got here, I raised my right hand at around 11 o'clock in the morning to take the oath of office and got sworn in. It wasn't a few minutes later I started getting sworn at because we were dealing with a budget that had a deficit of over \$1 billion. Why does that happen? Because, as the experts tell us, Maine's source of tax revenues is highly elastic. In good times the revenues pile in faster than we can count them. All it takes is a little dip, a little tremor, and the tax revenues vanish quicker than we can remember how they were here before. Meanwhile, the programs, the promises, and the expectations of Maine citizens in our budgets grow. The combination of decreasing revenue and increasing expenditures will put us into chaos in the snap of your fingers.

So, in January, when this session began, I heard that a structural gap of \$200 million was at the outer edge of prudence. That we would take a gamble on the Maine economy, but there had to be a limit. Yet, tonight, we're looking at a budget that will spiral us, drill us into red ink by \$250 to \$280 million in the best-case scenario. My colleagues in the Senate said to me, "Go down there and be a team player. If \$200 million is the outer edge of prudence, we'll swallow that. But no borrowing. Don't go

borrow any money. We have \$345 million of surplus. There's no need to go borrow money." It's time for us to live up to the promises we make, to tell people we really care about local property taxes, that we really care about local aid to education, GPA. It's time to show our teachers that they really do matter. It's time to recognize that, because we are a high-tax state, the very people who have built our communities and our quality of life, our retirees, need and deserve some tax relief. Well, what do we have in our budget before us tonight? We're going to borrow \$33 million to build a new Augusta Mental Health Hospital. I don't think there's anyone in this chamber that would dispute that the time has come to build a new facility, a more modern facility. But, you know what, in the first session of this legislature, the people advocating for this facility wanted \$17 million. Tonight, they're asked for \$33 million. Mr. President, the fact is, that if we took \$29 million in cash and paid for the construction of this facility when the bills came due, we could build this project for \$29 million, not the \$33 million that's before you. Perhaps most painful, to me at least, is that we're going to borrow this money without asking for the citizens of Maine's permission, which our constitution says, "If you're going to put the citizens in debt more than \$2 million, you have to ask permission." But a unique way, I guess, or an entrepreneurial way, in today's lexicon was devised to go ahead and put the state into debt without asking them. Mr. President, in 1992, when the Government Facilities Authority was used, the total limit for this extra-constitutional way of borrowing was \$25 million. If this budget passes tonight, the Government Facilities Authority will have issued \$200 million in debts that your constituents, and mine, never had a chance to weigh in on. Do you know what the Government Facilities Authority was used for? Construction projects all over state government, from this building that is \$7 million already over budget, a 45% cost increase, to the prison systems that have come in and asked for \$22 million more. Just the cost overruns of the financing mechanism of the Government Facilities Authority would have built and paid for AMHI.

So I ask you, "Why?" Why would you come and ask my constituents and yours to take on these massive projects and tell them that we could build a Criminal Justice Academy, the new prison system, the State Office Building, the State Capital and now AMHI? They bought it, it got signed into law, and they paid for it once. Now with this budget, you're asking for them to pay for it twice. Mr. President, we have made a lot of promises to people who run our local schools. We've told them that General Purpose Aid to education matters. We've told them that we genuinely care about the unfunded liability sitting over at the Maine State Retirement System for our teachers and state employees. The amount of funding in our budget, in this budget, for General Purpose Aid to education is minuscule in comparison to all other facets of government that are standing in line in front of General Purpose Aid to education. There's not a dime of this \$345 million of surplus going over to the Maine State Retirement System to buy down the unfunded liability, to the promises that we have made to state employees and teachers. In fact, Mr. President, the folks at the Maine State Retirement System tell us for every \$1 that we put into that account now, saves \$2.50. If we could put \$10 million into the Maine State Retirement System now, it would save taxpayers \$25 million. As I know you are aware, Mr. President, at the end of the year, if revenues come in to our state checkbook that weren't budgeted, "unappropriated surplus" it's called; do you know what happens to that money? Half of it goes into the Rainy Day Fund, 50% of it. Then 25% of that goes into the unfunded liability at the State Retirement

System. I think rightly and accurately, this budget before us does say we're going to reverse that. We're now going to say unappropriated surplus, rather than going to the rainy day fund that is at its maximum cap, we're now going to take half of it and put it into the unfunded liability. Great idea. Tremendous message. But, you know what, in the back of this budget, there's some wording that says, wait a minute, oop, wait a minute, we're going to take \$20 million of that money that would go to pay off the unfunded liability, saving \$50 million in taxpayers money, we're going to do a sidestep, we're going to put that money into a technology fund. Why would we do that when we finally have an opportunity to show the citizens and teach our children, who work for state government that they don't have to worry about what the legislative priorities are in the greatest economy that we know of, to pay off the unfunded liability to their retirement plan.

Mr. President, it seems to me that we have another obligation to our teachers. They retire from our schools and we say to them, we'll pay for 30% of your post-retirement health insurance benefits. But if you're a state employee and you retire, we'll pay for 100%. The teachers came to us this session and said, "Between the taxes and the increasing cost of my health insurance, we need a little help." This budget does nothing for the increased healthcare costs that retired teachers are facing.

So many of us, Mr. President, myself included, like to talk about how Maine's economy is best served by creating an environment where people come and take the risks of creating jobs. If we could just lower our barriers and send positive messages beyond our borders, lower the tax burden, and the regulatory hassles, that this would be a great place to come and build a business. Instead of doing that, in our budget tonight, before us are tens of millions of dollars for so-called economic development. One of them, in particular, deals with a Technology Fund, a Technology Development Center in different parts of the state. Do you know that in that wording, if you haven't read it, you really ought to because it's striking, at least to me, that the state is going to go out and empower local boards to take on real estate, to turn around and lease out to emerging technology businesses. And you know what it says, you have to come up with 25% of the funding that you need on your own and if you're a non-profit organization, you know how you can do that, by grants, in-kind contributions. But if you're a for-profit business in an emerging technology business, it's considered a loan and you must repay that loan either in cash or in equity or royalties. In effect, state government is now going to become a stockholder in emerging businesses. Think about that. When really, in my view, what we need to unleash Maine's economy is to make it easier for people to set up a business. Why would state government now get into the real estate business and compete with places like the Old Port Technology Center in Portland, where a private individual is taking the risk of creating incubator space for Maine technology businesses? Why would we go into competition with a private citizen who took the risk of buying the Kimberly Clarke mill on his own. Four or five hundred thousand square feet of space, office space, railroad site, and warehouse. We're now going to go into competition with the private sector.

Mr. President, the citizens of the State of Maine had enough when it came to the so-called "snack tax". Every session that I've had the honor of sitting here, there has been a bill to repeal the so-called "snack tax" and every time it has gone down to defeat. But this time over 40,000 Maine citizens said, "Are you listening Maine Legislature, we want you to repeal this unfair discriminatory tax." You know what this budget does, it says we heard you. The law that should go into effect 90 days after we

leave session, which is in August, when this tax should be repealed, we're going to turn around and amend it. Now it won't take effect until January 1. What does that do? Just puts \$7 or \$8 million more in the state checkbook for us to spend. Mr. President, we are rewarding the very initiatives that came before the Appropriations Committee before I had the pleasure of serving there, who sold us on the notion that they could build new facilities, new buildings ranging from this building to our prisons. Because we're in a surplus situation, I guess, at the end of the day it was okay to say, "We're going to reward you for the mistakes that you made. We're going to reward you for not being able to deliver on the promises you made to this legislature to construct these buildings on time and on budget." We're not talking \$1 million or so, we're talking \$30 or more million in projects that also had within them a so-called "contingency account" for unforeseen expenditures or problems. We're way beyond that and now we're into \$30 million more. There is \$7 million in this budget that recognizes that this construction project is already 45% over budget. Mr. President, there's \$10 or \$12 million of Government Facilities Authority bonding attributable to the renovation of the State House that hasn't even been exercised yet. There's an undetermined amount of money in the so-called Capital Preservation Restoration Fund that hasn't been accessed yet. But this budget says even though you've got all that money left to complete your project, here's \$7 million more. We can't provide more money for GPA. We can't provide indexing of your income tax rates for inflation. We can't create on an ongoing basis personal exemption for your state income taxes that mirrors the federal. We can't recognize in the greatest economy in recent history that we can send a real strong, powerful, clear secure message to the State Retirement beneficiaries that we're going to be there when they need them. But we can say, in the greatest economy in recent memory, we spent every last dime. We borrowed \$33 million more. We've said to the next legislature, "Get ready, you've got a \$250 to \$300 million structural gap.

Perhaps I haven't been as eloquent as I would have liked to have been, Mr. President, but I sure hope that I have at least appealed to your intellect to say, "Maybe he's got a few points worth talking about." I do thank you very much, Mr. President.

Senator **BENNETT** of Oxford questioned the presence of a quorum.

QUORUM CALL

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#403)

PRESENT: Senators: ABROMSON, AMERO, BENNETT, BERUBE, CASSIDY, DAGGETT, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KILKELLY, KONTOS, LAFOUNTAIN, LIBBY, LONGLEY, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

EXCUSED: Senator: SMALL

25 Senators having answered the Roll with 1 Senator being excused, the Chair declared a quorum present.

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

Senator **MICHAUD:** Thank you Mr. President. Men and women of the Senate, I do hope that you support this 12 to 1 report. It's a good budget. It deals with a lot of issues. As the good Senator from Cumberland, Senator Harriman, had mentioned, it deals with economic development issues. This is the first time in a long time that I've seen a budget put together that focuses a lot on economic development as a priority of the state. We're in hopes that with the money for the Applied Technology Center, the marketing money, the bio medical research, that these will enhance even more jobs for the State of Maine. Education is also a priority. This budget invests over \$111 million for education, over \$111 million. That's a big investment for education. That is something that all of us can be proud of, as well as another top priority, health care. This budget document, because we put in the tobacco settlement piece in this, invests over \$100 million in health care. \$10 million goes to elderly prescription drugs. Money is in there for substance abuse, for cub care parents. There are a lot of good health care issues in the budget as well as tax cuts. There have been several tax cuts. We've eliminated some of the taxes that were established during the early 90s to help solve the budgetary problems that we were faced with then. We're eliminating those. It's a very good budget. It takes into consideration a lot of different aspects.

The good Senator from Cumberland, Senator Harriman, said that there's no money in here for unfunded liability for retirement. I want to remind this body that we did, and we do put, on an annual basis, roughly \$50 or \$60 million a year to help pay off the unfunded liability in the Retirement System. Once AMHI is built, the state will receive roughly two-thirds from the federal government. What this budget does is it takes that money and that money will go into the unfunded liability. We also, in this budget, move up the time frame in which to pay off the unfunded liability. Currently, it's scheduled for 23 years. We're moving it forward to 19 years. That move alone will save the taxpayers roughly \$1.8 billion. The good Senator had mentioned that if you paid cash for AMHI, it would cost \$29.7 million. That is not correct. AMHI costs \$33 million. Where that \$29.7 comes in is if we did have cash, the interest off that cash would raise the remainder to bring it up to \$33 million. There is also a Bill pending that deals with the interest on the Rainy Day Fund in fiscal year '04. That money, if passed, would go into the unfunded liability. So I think that's being fiscally prudent in trying to take care of the pension issue for the retirees, as far as paying that off. As far as this budget being fiscally irresponsible, and I've heard a comment tonight anywhere from \$250 to \$300 million. I never heard the \$300 million. I've heard anywhere from \$229 to \$260 million gap. Which, if I had my preference, it would be at the lower end. However, when you're working out a compromise, you have to take into consideration all aspects. We do not get all that we want. That's the art of politics. We have to compromise and in that compromise, the gap was higher than I would like to see it. However, I feel comfortable with this report because when you look at the other report, which is not before us. If you look in Fiscal Year '03, we're spending or eliminating

taxes at the amount, roughly at the same amount. Actually, this report is more fiscally responsible because when you take it out into Fiscal Year '04, some of the taxes that are proposed in the other report go up even further. So as far as fiscal responsibility, even though the next legislature will have a higher gap, at the end of the next legislature in Fiscal Year '03, those dollars are the same either in spending or in tax reductions. So to say that this budget is not fiscally responsible, or has too great of a gap, I would not say is a legitimate argument.

One thing I can say is that this budget does take care of some of the concerns and some of the overruns in state government that has to be taken care of. We heard a lot from a lot of committees that reported back to the legislature to the Appropriations Committee. A lot of those reports were unanimous. We accepted a lot of them. We could not accept all of them, clearly because we did not have the money. I think expectations were built so high at the beginning of the session, it was extremely difficult to bring them down. Extremely difficult. That is a part of the frustrations on the Appropriations Committee, when people go around and start proposing different proposals and committees coming up with their own proposals, then that builds up expectations even greater. I came to the realization that we were not going to be able to come out of here without some type of structural gap. However, I feel confident that the one that we currently have is manageable, particularly when you look at Fiscal Year '03. It's roughly the same as the minority report. It just spends it differently.

Also, if you had a chance to really look in the budget document, you'll see that we have taken care of the overruns in the Criminal Justice Academy which will have an affect on local police departments. We've taken care of a lot of concerns at the Department of Labor, which is supposed to deal with OSHA rules and regulations. There are a lot of safety concerns. This budget document takes care of that. We've also taken care of a lot of concerns at Bucks Harbor with EPA violations. So this budget document takes care of a lot of the state's business. I know these are not sexy issues. They are not issues that people like to spend money on. But they're issues that have to be done. If you look at what has happened over state government over the years with our infrastructure in buildings, they haven't been taken care of because any time we had money, we've always spent it on programs or given money back to municipalities. We have not been taking care of state facilities. It's not a sexy issue. It's one that legislators really don't like to deal with. They'd like to have programs so you can go back to their districts and brag about all the stuff that they've done. But you also have to take care of the infrastructure problem and this budget does that. It also helps out a lot at the local level, when you look at the money that we have given to GPA. It helps out the people who need help, the elderly, the children, the people with mental illness, the AMHI building which has been deteriorating over the years; it's a disgrace. I'd love to have paid cash for it; however, part of compromise is that we have to give and take. I have no problem using Maine Government Facilities Authority to do that, particularly when the money does come back in. Then that money will go in to take care of a concern, and help pay down at a faster rate the unfunded liability in the Retirement System.

This is a responsible budget. It's a budget that addresses a lot of the needs in the state. But there's a lot more that can be done and should be done, but we cannot do it and still be fiscally responsible. So I would encourage you to please support the 12 to 1 majority report. Mr. President, when the vote is taken, I request a roll call.

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

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

Senator **AMERO:** Thank you Mr. President. Ladies and gentlemen of the Senate, it was only less than a year ago that we passed a \$4.7 billion biennial budget. The Appropriations Committee at that time voted unanimously for that budget and we had pretty much consensus in this chamber. I wonder what would have happened if we hadn't had a surplus this year. You know, we've heard all the stories about all the needs that need to be addressed, all the issues that have to be funded. What would we have done if we had not had this \$345 million surplus? I think we're fortunate to have this extra money that we didn't expect, that we didn't plan for in the biennial budget that we passed. I would have hoped that the supplemental budget would better have reflected existing needs that we have in the state. I want to speak about General Purpose Aid to education because I don't think there's any higher priority in the state than investing in our children's education. We have spent years of not being able to give appropriate and adequate amounts to General Purpose Aid to education. We had that opportunity this year. I don't believe that this budget reflects what we could have done for our schools. I can't, for the life of me, understand why we would set aside \$50 million in an endowment fund when we have schools that aren't being funded properly and where we have schools that are falling down around us. Why would we take \$50 million, set it aside, and not address the existing needs that we have in education in this state? I don't think that is a good compromise. I think it's a reason why many of us cannot support this budget.

There's another reason why some of us cannot support this budget. It has to do with not only spending the \$345 million; but being willing to go out and borrow more besides. I think we're asking for trouble. You know these are good times. But there are indications that the good times are not going to last forever and anybody who followed last week's activities in the stock market knows that we're in a very volatile situation. What kind of legacy are we passing on to the next legislature, when we are passing on at least a \$250 million structural gap which requires not only that the good times continue to roll but that the good times get better in order to fund the structural gap. You know we've been proud in this legislature of reducing and getting rid of many of the gimmicks that came about as part of the recession that occurred in the early '90s. We've worked really hard over the years to get rid of those gimmicks. But, you know, there are gimmicks in this budget. One of them is the enactment of the "snack tax" and then its amendment so that we can reclaim over \$3 million in order to make this budget balance. I think that's a gimmick. I think some of the tax relief measures in the budget that put in language, but put off implementation until after the present administration is out of office in the year 2003, is no more than a gimmick. I think borrowing through the Government Facilities Authority, particularly when we have a surplus of this size, is another gimmick. So, for those reasons, the fact that we are not taking care of existing needs in education, that we are leaving a huge structural gap for the next legislature, and for the fact that there are gimmicks in this budget, I hope that you will vote against the pending motion so we can go on to consider a far more responsible budget. Thank you, Mr. President.

The President requested the Sergeant-At-Arms escort the Senator from Knox, Senator **PINGREE** to the rostrum where she assumed the duties as President Pro Tem.

The President took a seat on the floor.

The Senate called to order by President Pro Tem **CHELLIE PINGREE** of Knox County.

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

Senator **LAWRENCE:** Thank you Madam President. Men and women of the Senate, first of all I want to thank the members of the minority party for their good faith negotiations. We spent a lot of time negotiating on this budget, deciding how and what to do. Unfortunately, we were unable to reach an agreement. This is a bipartisan majority report. It received support of Republicans, but, unfortunately, we were not able to reach an agreement with the Republicans in this body on this budget.

Debate has been given about what the minority report would do for education and General Purpose Aid to education. What concerns me is what was left out of that discussion. What concerns me most is what the minority report would not do, what the minority report would gut from the majority budget. It would gut over \$15 million for higher education for the University of Maine system. It would take out capital projects, operations support; the Patent Program. It would eliminate revenue sharing too, municipal revenue sharing going back to the taxpayers to help them reduce the costs of the property tax. What we have in the majority budget that's not in the minority are many things for public safety. What we have in the majority budget is money to restore the Kennebec River. It's not there in the minority budget. We have money in the majority budget for Inland Fisheries and Wildlife hatcheries, not there in the minority budget. We have money, most importantly, for economic development, that's not in the minority budget. The Small Growth Enterprise Fund does not get the \$3 million in the minority budget. In the majority budget, we have money for continued marketing efforts at the Department of Economic and Community Development, for applied technology centers, for micro enterprise initiatives, and for regional economic development assistance. It's not there. It's simply not there. One of the things that concern me most is, as you know, we face a crisis in our technical college system. We can only train 70% of the people we need to train for job growth in the State of Maine. The majority budget increases that and adds another 250 students. It's gone with the minority report. You can always look at the good things in one report and talk about them, but you have to eliminate some things to get there. My concern is what has been eliminated. It doesn't help education in the State of Maine to eliminate funding from higher education to help K through 12. You have to have a balanced approach and the majority report is a balanced approach and I hope you will support it. Thank you.

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

Senator **BENNETT**: Thank you Madam President. Fellow members of the Senate, I appreciate the beginning remarks of the good Senator from York, Senator Lawrence. I wasn't clear which motion was actually before us. I thought it was the majority report. But I do think that we need to look at these two budget documents together and that's why I did not stand and object when we started debating the minority report. The rhetoric that I'm hearing here is almost amusing. The good Senator from York, Senator Lawrence, talks about gutting programs, eliminating programs. These are programs that don't exist. How can you possibly gut a program that doesn't exist? Maybe it's what Senator Michaud, the good Senator from Penobscot, was talking about. The notion of creating expectations, creating an appetite, that even \$345 million can't sustain. I think that truly underscores the difference between the two proposals that are before us tonight. I understand there's a bunch of amendments from both Democrats and Republicans. Some Democrats are not content with this document as it stands. This well thought compromise is not, indeed, a solid document. There's some shakiness there. The good Senator from Penobscot, Senator Michaud, said that this budget takes into account a lot of different aspects; in fact, it takes in all aspects. The art of compromise, that's what this is about. This isn't about compromise. This is about meeting competing demands, not through compromise, but by buying everything in sight. Compromise, give and take. This is all about taking. The one compromise that does seem to be present in this unholy deal represented by the majority report is that a majority in this legislature, apparently, thinks that it's a good idea to disregard a lot of the rhetoric, the bipartisan sentiment, against the Governor's laptop proposal and that this proposal before us tonight capitulates to that proposal and swallows it whole. \$50 million, \$30 million in a direct appropriation and \$20 million in lapsed balances, money that should be going to the unfunded liability in the Retirement System. Instead, we're going to create yet another new program. An ill defined, ill conceived program that does not yet exist. I suppose if we remove it from the budget that we will be gutting in a terrible way this program, eliminating it. What other fanciful programs could we create that we say the majority report or the minority report guts, eliminates? I would suggest that is an object of fantasy and that any one of us can gut and eliminate any program that we wish to choose because it doesn't appear here. What was given for this laptop proposal? Nothing, there wasn't room in \$345 million of windfall, unexpected windfall, 10 months after we passed the biennial budget, there wasn't enough room for \$50 million for the laptop proposal, indeed, \$30 million of direct appropriation. So we had to go out and borrow \$30 plus million. A device that I consider extra-constitutional is the expansion of the Government Facilities Authority. I think that is unfortunate indeed

This isn't compromise, this is about buying everything in sight, using other people's money to satisfy the demands not of making critical choices, critical choices in a time of plenty, but in this feeding frenzy, this spending frenzy; that I frankly object to. My bottom line objection to this majority report is that it does create a lot of new state commitments before adequately meeting our existing obligations, as pointed out by the Senators from Cumberland, Senator Amero and Senator Harriman. Nothing more important in a bipartisan way than funding General Purpose Aid to education, school repairs, retired teacher's health benefits. But notwithstanding the inadequacy of the funding in those areas, this budget creates a structural gap that I think is unsustainable. It is predicated on economic growth beyond where we are today.

This is a dangerous document and those who vote for this majority report, I hope, will not be chagrined with the next downturn in the economy, where we may be looking again at a replay of the late 1980's followed by the fiscal debacle of the early 1990's, which many members in this body went through and experienced. History seems to be repeating itself. For those reasons, Madam President, I ask for you to vote against the majority report. Thank you.

The President Pro Tem requested the Sergeant-At-Arms escort the Senator from York, Senator **LAWRENCE** to the rostrum where he resumed his duties as President.

The Sergeant-At-Arms escorted the Senator from Knox, Senator **PINGREE** to her seat on the floor.

Senate called to order by the President.

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

Senator **RUHLIN**: Thank you Mr. President. Ladies and gentlemen of the Maine Senate, I'd like to share with you tonight, if I can, my philosophy on government. Government is all about reasonable people joining together to prepare for a better tomorrow for the citizens of this state. It's about investing in a future, the future of our children and our grandchildren. It's about investing in our poor, in our downtrodden. It's about investing enough of ourselves so that we can reach a hand out to give somebody a hand up.

This particular document, the budget before us, I had some fears and concerns, quite frankly earlier, on how it was going to come about, how it was going to finish up as a product. As I look at it, I want to assure you this is a document that talks about investing. This is a document that talks about people of good faith, of both parties, from both bodies coming together to bring forward a majority report. This is a document that says we will invest in education. We will invest, not only in GPA, but we will invest in the buildings that house those students to the level we have not done in the past. We will invest in a smaller classroom size until we're one of the smallest classroom sizes in the nation. That is one of the most important keys to a good education. It goes on beyond that education to invest in technology, not laptops. Not 1 penny in this document is for laptops, not 1 penny is for technology. Any future expenditure for any type of computer must be approved by a future legislature, must go through acceptance of a legislative panel on technology. If we are to live in the 21st Century successfully, we must invest in the technology for our children. That's what this budget is about. It's an investment in technology, an investment in the future.

But it goes beyond that, it's a majority document supported overwhelmingly, not only in committee, but in this building. This majority document invests in the health care of our families, for the people who we love. It invests in the health care of our fellow citizens in many ways too numerous to go into tonight. But you know, you've studied them; you've seen the different proposals go through here. This invests. One of the greatest damages in our society today, to the health of our society, is smoking and this has strong smoking cessation. This has strong biomedical

research about the harms of tobacco and other illnesses brought about. This is an investment in the health care of our citizens.

If we are to continue an economy that will be robust, the best we can do is invest in that economy and invest our economic development. This is investment in that economic development. I see no other document before us that invests to this level in the small businesses in the State of Maine. Pure and simple, this invests in our future economic development. This document invests in a better tomorrow for our citizens by paying our bills today. This document pays off the unfunded liability, reduces that from a 24 - 25 year cycle to a 19 year cycle. You compute that out and, there may be people in the room who are better at math than I am, but I'm going to say I computed it out and somebody else computed it out and somewhere in the vicinity of \$1 billion you save by doing that. This document starts on that path of amortization to the unfunded liability in our Retirement System. I call that a major investment. I have talked to the voters of this state considerably. Two years ago we had a surplus. The Tax Committee went to the people to find out what it is they wanted. You know, I was curious. I've continued that quest to ask them, "What is it you want with this money, what do you want done with it?" They always say education first, then they say, pay our bills, pay me up front, get rid of the gimmicks, make an investment in our state. This document does that. It makes the investment. It pays the bills. Then they say, and I'm very proud of them, "If there's anything left over, if, after you've taken care of our elderly, and the health care of our children and our family, if there's anything left over, we would like to have some of it back." Between now and July, this particular document returns \$32 million in the biennium as a direct tax reduction. There are many other tax reducing elements to this document, but it also, I would remind the Senate, it carries on with a \$60 million sales tax cut that goes into effect this July. That is a very significant tax cut for people of the State of Maine here and now. So I would say that we have returned some to the people. This particular document invests in those people in many ways. So, I would say to you, you have an opportunity tonight to invest yourselves in our future by voting for this majority document. Vote for Maine's future. Show the people that you do care and that you are willing to make those investments. I hope you will vote with the majority Ought to Pass report.

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

Senator HARRIMAN: Thank you very much Mr. President. Good evening ladies and gentlemen of the Senate. Mr. President, I have listened with great curiosity to the comments of all of my colleagues here as we work our way toward a decision on the pending motion. I would just like to add, for your consideration, some thoughts regarding some of the more salient issues that have been raised tonight because, like my good friends from Penobscot, Senator Michaud and Senator Cathcart, we have worked diligently, literally day and night on your behalf making sure that we bring back to you for consideration the very best knowledge, insight, and recommendations. In fact, Mr. President, we have been meeting 7 days a week, 12 and 14 hours a day, in that effort to do the very best by the people of the State of Maine. For me it seems as though there's been a couple of issues that have been able to wrestle or finesse, or whatever you want to call it, their way into a higher priority than the original budget document that was presented to us by the administration. Particularly, it's been mentioned tonight, that part of the priorities

that the majority report establishes is that higher education has been put in a position that it rightly deserves. I would argue, perhaps, far ahead of the priority of General Purpose Aid for our local schools. But, nonetheless, that's as it is before you. I want to say this. The original proposal in L.D. 2510 that was presented to us by our Governor, provided higher education at the University System \$6 million. \$1 million of it was to match the challenge grant from the Osher family and \$5 million was presented to us because, as it was described, the employee relations agreement with the University system was such that they ended up having to settle those agreements for a higher amount because of the contracts that were settled with the state employees. So there was \$6 million put in front of us. I would submit to you that, first of all, they're not state employees. They're University employees. Second of all, we give them a direct line appropriation, well over \$320 million to the University system. We should all be very proud of that. In fact, we provide 58%, I'm told, of the funding for the cost of the University system. We're still struggling to reach the goal of 55% for our local schools. Some would say, "Well, the 20 something million that's in the budget for the higher education at the University of Maine is our responsibility to help them meet the capital improvements." You know what I would say to you, "We did that in the biennial budget. This legislature gives a direct line appropriation, one check to the higher education system, and they spend that money however they wish." To come back and say, "Oh, but we had a labor issue that needs more money." I don't feel it is our responsibility. We have a Board of Trustees and a Chancellor. All very capable, impressive people. But you know what else we did, ladies and gentlemen of the Senate, in the first session of this legislature, we increased the revenue bonding authority of the University of Maine by, I believe, \$50 million. So what we're saying is you can go out and put more debt on the system and you can come to the legislature and say, "We need additional capital improvements," and what came in at \$6 million is leaving at about \$22 million. I was flattered and honored to have been invited by the President of the Maine Technical College system to have lunch with him. I'm very impressed with what the technical college system has done and is doing to foster hope and opportunity for Maine citizens. They are an equal, in my view, to the good work at the University. What I heard at that luncheon was, first of all, "Thank you for all of the good things that you did to help the Maine Technical College system in the last session and we got more than we could have hoped for when you approved to put out our bond issue that passed by the voters. All we ask, if you can find your way to support additional funding, is to allow us to increase the band width for our internet system and enable us to deploy the video teleconferencing." We did that and millions more. Because we felt, I guess, in the majority report an obligation to solve the University's problem with their funding of contacts, to be fair, we had to put money in the Technical College system and the Maine Maritime Academy. When you add it all up, there's millions and millions and millions and millions of dollars that I would say to you is icing on the cake. Money that should be going to our local communities.

Mr. President, we've heard a little bit tonight about the biomedical research. We had another piece of legislation through here a few weeks ago dealing with how to delve into the Fund for Healthy Maine. A minority report addressed the biomedical research directed specifically at finding causes to chronic diseases related to smoking. We have in the majority report a \$10 million appropriation that says to the biomedical community, "We want you to come here and do research and

help find new cures," but we're also going to consider a Bill that says to the pharmaceutical company that depends on that research, "We're going to put price controls on you."

I must ask, if someone can help me understand, if the \$50 million enabling the Technology Fund is not for access to laptop computers, someone please tell me what it's for. Because if it's not why don't we just leave the money unallocated. In fact, Mr. President, you mentioned earlier about some of the things that were "woefully inadequate," my words not yours, in the minority report. We see the vision of technology in the future. We believe that we need to get into the digital revolution. There's \$8 million sitting down at the Public Utilities Commission left over from the Bell Atlantic Rate Case that was used to wire every school and library in the state to the internet. When that was completed, there was \$8 million left over. Our budget brings that into the Department of Education and creates a fund to assure access to technology for teachers and students.

Mr. President, I want to apologize, I perhaps have monopolized too much of the Senate's time at this late hour. I just want to say that 8 years ago when I came here, 8 years ago is a lifetime, yet it was yesterday, and I would drive down the hill and the lights were out in this building, literally the capital dome lights were out. When you walked through the rotunda of this building, there was a blue tarp over the railing because the ceiling was peeling and falling to the floor. I can't think of any greater symbol than to drive down this hill at night and see the capital dome lit. I can't be more proud when I bring constituents into this building and walk into the middle of the rotunda and ask them to look straight up, and they are in awe of this magnificent building. For me it symbolizes where we've been in these last 8 years and where we are today. We've come a long way. We have a lot to be proud of. All of us have had a hand in restoring Maine as a place of hope, growth, and opportunity. It will be real easy for me, and in fact I've wished many times, because the last few weeks have not been easy, being the lone member of this prestigious committee to say, "Whoa, what are we doing here?" Sure it would be far easier, the Governor of the State of Maine is my constituent, a man I admire, know and like, to stand up and defend a minority position has not been easy. Sure it would be easy. I'm not coming back. I could vote for all of this stuff and more. To the people who join us in these chambers, I could say yes to all of them and let the chips fall where they may when a year from now I'll be watching on the television what you're doing here on a night not dissimilar to this one. But I can't do that. I can't do that. Because if you don't stand for something, you're going to fall for anything. I'm here tonight to stand up and ask you, please, to remember all of the good things that we have accomplished, all of the progress we have made, all of the good attitudes that have permeated out of this building and into our communities. You know, if the comments I've made tonight, Mr. President, are wrong and the economy is going to get even greater prosperity than it's generating today, I'll be the butt of a few jokes, perhaps I already have been. But if I'm right, and all it's going to take is just a little turbulence in the economy, a little flicker in the stock market, a little increase in interest rates, or another company to say, "Perhaps, there's a better place to do business." I don't want to be sitting in my living room watching the 11:00 news on a night like this saying, "What is it that I didn't say to convince my colleagues that now is the time to stop and pause and not repeat the problems we just crawled out of." Thank you, Mr. President.

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

Senator **LIBBY:** Thank you Mr. President. Women and men of the Senate, I rise briefly to speak to the remaining members of the Senate chamber here to discuss just a few small items. The first of which is one of the things that has really hurt my constituents back home over the past year or so is this idea that we should have last year raised the gasoline tax by 3 cents a gallon. I remember the debate about this issue, Mr. President. The debate about this issue centered around the fact that we could not make a transfer from the General Fund into the Highway Funds. One of the things that bothers me about this budget, and by the way, there's not that much that bothers me about this budget because this budget does not raise my taxes substantially as some of the prior budgets that I've seen come through this body. But one of the things that bothers me is that it's okay now. It's okay, we're making a transfer. It wasn't okay last year. It's okay this year. You hurt my constituents by taking the gas tax and ringing it up every time they go to the pump, and they're still ringing it up, and then the gas prices rose, and then we all got hurt, and we continue to get hurt. Now, we make a transfer to the Highway Fund. That's not responsible. That's hiding from an issue. It bothers me greatly. It's not a major thing here. It's not the end of the world, but it's making up for past mistakes by making them worse. You know, it's okay now. It wasn't okay then. I don't understand that kind of logic. It bothers me. When it comes right down to it, this budget, I talked to an awful lot of folks in this chamber and outside, down to the Governor's Office. I explained to them, "I might be able to vote for this budget." I was really pleased to be able to say that because the budget, when you look at it, really doesn't raise a lot of taxes, does do several good things, and I think that both parties and the unenrolled, I think they worked together this term, better than last, frankly. I saw some very good things. It's funny that when it came right down to it, we're really only talking a difference of \$30 million and the \$30 million is borrowed. Somebody is telling me here today that we can't negotiate and take that borrowing out. I'm telling you that you are saying to me, those of you who will not do that and will not push for a unanimous budget, you're telling me that it will be our way or the highway. Mr. President, we can walk out of here with a unanimous budget, I believe, if we take out the borrowing. \$30 million. I've talked to other members of my caucus. All of the rest of these items on the budget are, you know, basically difference in Christmas tree items. The minority budget has retirement for teachers; the majority budget has some economic development incentives. They're different priorities, and you know what, when you count heads, when you count heads the majority party obviously has more of their will in the budget because they have more heads here. But you can't compromise on \$30 million. You can't say that we shouldn't borrow after all? We can negotiate until we get to this one last item. Keep the laptops aside. Throw them in. Do whatever you have to do. The technology budget or whatever you want to term it or call it. We've got \$30 million of borrowing and a lot of Senators would walk away from this budget if you just take it out. That doesn't make sense. I'm one who will stand here right now and say, "I'll vote for this budget if you take it out, no borrowing." We'll walk away and say, "Hey, look, you know, some of the items in the budget we like, some of them we don't like, but that's the way the cookie crumbles." That doesn't make sense to me either. Those two things are really minor things. So where is it that we can't

negotiate and compromise. Where is it? That might sound pretty simple, Mr. President, but I think it is. It comes down to, you know, it's not fiscally responsible to borrow that money for AMHI. It's not. We should find another way. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Michaud to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#404)

YEAS: Senators: BERUBE, DAGGETT, GOLDTHWAIT, KILKELLY, KONTOS, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, NUTTING, O'GARA, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, CASSIDY, DAVIS, FERGUSON, HARRIMAN, LIBBY, MILLS

ABSENT: Senators: BENOIT, CAREY, CATHCART, DOUGLASS, KIEFFER, MACKINNON, MITCHELL, PARADIS, PENDLETON

EXCUSED: Senator: SMALL

16 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 9 Senators being absent and 1 Senator being excused, the motion by Senator MICHAUD of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1140)** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-1140) **READ**.

On motion by Senator PINGREE of Knox, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-1140), in concurrence.

Off Record Remarks

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

ENACTORS

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

Acts

An Act to Create a Heating Oil Emergency Management Program
H.P. 1922 L.D. 2668
(H "A" H-1136)

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

An Act to Create Employment Opportunities by Clarifying Maine's Tax Laws Regarding Mutual Fund Companies
H.P. 1694 L.D. 2400
(H "A" H-1133 to C "A" H-867)

On motion by Senator MICHAUD of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: H.P. 1952

ORDERED, the Senate concurring, that Bill, "An Act to Establish a Patient's Bill of Rights," H.P. 543, L.D. 750, and all its accompanying papers, be recalled from the Governor's desk to the House.

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

READ and **PASSED**, in concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Off Record Remarks

ORDERS OF THE DAY

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

Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2000 and June 30, 2001" (EMERGENCY)

H.P. 1790 L.D. 2510

Tabled - April 24, 2000, by Senator **PINGREE** of Knox.

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-1140)**, in concurrence

(In House, April 24, 2000, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1140)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1140)**.)

(In Senate, April 24, 2000, Reports **READ**. On motion by Senator **MICHAUD** of Penobscot, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1140)** Report **ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "A" (H-1140) **READ**.)

On motion by Senator **MILLS** of Somerset, Senate Amendment "I" (S-731) to Committee Amendment "A" (H-1140) **READ**.

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

Senator **MILLS:** Mr. President and men and women of the Senate, Senate Amendment "I" is your opportunity to ratify the plea that is made on practically every editorial page in the state. To abolish, prospectively, the infamous "BETR/TIF Double-Dip". You've all heard my speech before. If you're interested, try to remember the video. I don't choose to indulge myself on the subject this evening. However, since the last time I spoke at such length on this topic, I reflected back with some satisfaction that the Portland Press Herald, Bangor Daily, I believe the Kennebec Journal, the Sentinel, and I think the Lewiston Sun as well, nearly all of the newspapers in the state have picked up and endorsed the idea that we ought to get rid of this duplicate incentive. It is indeed the most vulnerable by far of the defects in the Business Equipment Reimbursement System. It is absolutely indefensible and it deserves to be repealed, not for the businesses who have made investments in reliance on this double inducement. The amendment before you is entirely prospective and it says, "Only for TIF districts that are created after this coming summer, only for the future would the BETR program not be available for equipment that lies within a TIF district." You'd be entitled to one benefit or the other benefit but not both and it's only prospective. It's a very fair way of enacting this change and it's a change that has been called for very broadly in our state. Thank you, Mr. President.

Senator **RUHLIN** of Penobscot moved Senate Amendment "I" (S-731) to Committee Amendment "A" (H-1140) be **INDEFINITELY POSTPONED**.

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

Senator **RUHLIN:** Thank you Mr. President. First of all, ladies and gentlemen of the Senate, I'd like to point out when we're talking about editorials, who elects whom around here? The last time I recall, they elected us not the editorial writers. We are the ones who are responsible and obligated to come here and learn the issue, make a judgment on the issue, and do what's best for the people of the State of Maine. In this case, I think we all will agree and have had many opportunities in the past to agree, that a uniform state policy is best. TIFs are policies that allow local governments to act in their best interest for economic development, but BETR is a uniform state program that is administered through the Bureau of Revenue Services and, as I say, it's uniform in its placement. I agree with the good Senator from Somerset, that double dipping is not very palatable. I don't like it and don't want it. We don't need it in the state; however, you should not aim your arrow of correction at BETR, which is a uniform state policy. If you want to make corrections in that, the way to do it is to take your TIF at the local level, if you want to interfere with their government, and say to them, "You may not give any property tax reimbursements that have already been BETR'd, if you will, or have had the BETR reimbursement." That, I would find very acceptable, but that is not the better, that is not what this amendment does tonight and that's why I say to you this amendment needs nothing better than indefinite postponement and I hope you will agree with me.

The Chair ordered a Division. 17 Senators having voted in the affirmative and 2 Senators having voted in the negative, the motion by Senator **RUHLIN** of Penobscot to **INDEFINITELY POSTPONE** Senate Amendment "I" (S-731) to Committee Amendment "A" (H-1140), **PREVAILED**.

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

Senator **HARRIMAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I know the hour is late and the responsibility of the document before us, to move it forward posthaste, is well understood. I just want to say for the record that I had prepared an amendment that would address an oversight. The budget was to contain 9 domestic violence prosecutors, as we've all learned in this session. The good Senator from Piscataquis, Senator Davis, proposed a separate legislative document that came before our committee. The Governor accurately and poignantly dramatized for us the epidemic that is festering in our state in domestic violence. Indeed, 9 prosecutors were to be put in the budget. Through an oversight, only 8 were installed and I had prepared an amendment to correct that. I understand that doing so would open up this document. That is not going to happen, so I respectfully yield to the wishes of the chairs of the committee and for the record put this on there. Thank you, Mr. President.

The same Senator requested a Division.

On motion by Senator **RAND** of Cumberland, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-1140), in concurrence. (Division Requested)

Off Record Remarks

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committees on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **TRANSPORTATION** on Bill "An Act to Make Supplemental Allocations for the Expenditures of State Government, Highway Fund, and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2000 and June 30, 2001" (EMERGENCY)

H.P. 1808 L.D. 2534

Reported that the same **Ought to Pass As Amended by Committee Amendment "A"** (H-1139).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-1139).

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

READ ONCE.

Committee Amendment "A" (H-1139) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-1139), in concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

On motion by Senator **PINGREE** of Knox, the Senate removed from the **SPECIAL STUDY TABLE** the following:

JOINT ORDER - relative to Establishing the Joint Select Committee on School-based Health Care Services
H.P. 1864

Tabled - March 3, 2000, by Senator **PINGREE** of Knox.

Pending - **PASSAGE**, in concurrence

(In House, March 3, 2000, **READ** and **PASSED**.)

(In Senate, March 3, 2000, **READ**.)

On further motion by same Senator, Senate Amendment "A" (S-721) **READ** and **ADOPTED**.

PASSED AS AMENDED BY SENATE AMENDMENT "A" (S-721), in **NON-CONCURRENCE**.

Sent down for concurrence.

On motion by Senator **PINGREE** of Knox, the Senate removed from the **SPECIAL STUDY TABLE** the following:

JOINT ORDER - relative to Establishing the Committee to Study the Further Decriminalization of the Criminal Laws of Maine
H.P. 1914

Tabled - March 31, 2000, by Senator **PINGREE** of Knox.

Pending - **PASSAGE**, in concurrence

(In House, March 31, 2000, **READ** and **PASSED**.)

(In Senate, March 31, 2000, **READ**.)

On further motion by same Senator, Senate Amendment "A" (S-722) **READ** and **ADOPTED**.

PASSED AS AMENDED BY SENATE AMENDMENT "A" (S-722), in **NON-CONCURRENCE**.

Sent down for concurrence.

On motion by Senator **PINGREE** of Knox, the Senate removed from the **SPECIAL STUDY TABLE** the following:

JOINT ORDER - relative to Establishing the Joint Select Committee to Study the Creation of a Public/Private Purchasing Alliance to Ensure Access to Health Care for all Maine Citizens
H.P. 1857
(S "B" S-626)

Tabled - April 3, 2000, by Senator **RAND** of Cumberland.

Pending - **PASSAGE AS AMENDED**, in **NON-CONCURRENCE**

(In House, February 29, 2000, **READ** and **PASSED**.)

(In Senate, April 3, 2000, on motion by Senator **LAFOUNTAIN** of York, Senate Amendment "B" (S-626) **READ** and **ADOPTED**.)

On motion by Senator **PINGREE** of Knox the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Senate Amendment "B" (S-626).

On further motion by same Senator, Senate Amendment "B" (S-626) **INDEFINITELY POSTPONED**.

On further motion by same Senator, Senate Amendment "C" (S-720) **READ** and **ADOPTED**.

PASSED AS AMENDED BY SENATE AMENDMENT "C" (S-720), in NON-CONCURRENCE.

Sent down for concurrence.

On motion by Senator **PINGREE** of Knox, the Senate removed from the **SPECIAL STUDY TABLE** the following:

JOINT ORDER - relative to Establishing the Joint Study Committee to Study Bomb Threats in Maine Schools
H.P. 1938

Tabled - April 7, 2000, by Senator **RAND** of Cumberland.

Pending - **PASSAGE**, in concurrence

(In House, April 7, 2000, **READ** and **PASSED**.)

(In Senate, April 7, 2000, **READ**.)

On further motion by same Senator, Senate Amendment "A" (S-724) **READ** and **ADOPTED**.

PASSED AS AMENDED BY SENATE AMENDMENT "A" (S-724), in NON-CONCURRENCE.

Sent down for concurrence.

On motion by Senator **PINGREE** of Knox, the Senate removed from the **SPECIAL STUDY TABLE** the following:

JOINT ORDER - relative to Establishing a Committee on Gasoline and Fuel Prices
H.P. 1774

Tabled - April 8, 2000, by Senator **PINGREE** of Knox.

Pending - motion by Senator **O'GARA** of Cumberland to **RECEDE** and **CONCUR**

(In House, March 31, 2000, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and **PASSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-957)**.)

(In Senate, April 3, 2000, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, April 6, 2000, that Body **ADHERED**.)

The same Senator moved the Senate **RECEDE** from whereby it **ACCEPTED** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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

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

Senator **CASSIDY:** Thank you Mr. President. Men and women of the Senate, just briefly, we did discuss this earlier when this Bill was before us. I think the issue that came before our committee was that, number one, we here in Maine don't have much control over fuel prices since they are usually directly related to the cost that is set by OPEC and foreign countries. The other thing is that there was some discussion about the federal reserve of oil, which again we have no control over. Also, since this Bill came before our committee, the Attorney Generals in New England also have been doing a study on the cost of this. I think that this was just one of those studies that will just waste the taxpayer's money. Thank you, Mr. President.

At the request of Senator **BENNETT** of Oxford a Division was had. 10 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox to **RECEDE** from whereby the Senate **ACCEPTED** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED**.

Senator **PINGREE** of Knox moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Senator **BENNETT** of Oxford moved the Joint Order and accompanying papers be **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

The Chair ordered a Division. 9 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **BENNETT** of Oxford to **INDEFINITELY POSTPONE** the Joint Order and accompanying papers, in **NON-CONCURRENCE, FAILED**.

On motion by Senator **PINGREE** of Knox, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-957) **READ**.

On motion by Senator **PINGREE** of Knox, Committee Amendment "A" (H-957) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On motion by Senator **FERGUSON** of Oxford, **ADJOURNED**, until Tuesday, April 25, 2000, at 10:00 in the morning.

On further motion by same Senator, Senate Amendment "B" (S-719) **READ** and **ADOPTED**.

At the request of Senator **BENNETT** of Oxford a Division was had. 11 Senators having voted in the affirmative and 10 Senators having voted in the negative, **PASSED AS AMENDED BY SENATE AMENDMENT "B" (S-719)**, in **NON-CONCURRENCE**.

Sent down for concurrence.

On motion by Senator **PINGREE** of Knox, the Senate removed from the **SPECIAL STUDY TABLE** the following:

JOINT ORDER - relative to Establishing the Commission on the Study and Prevention of Child Abuse
H.P. 1930

Tabled - April 14, 2000, by Senator **RAND** of Cumberland.

Pending - **PASSAGE AS AMENDED**, in concurrence

(In House, April 14, 2000, the Report **READ** and **ACCEPTED** and **PASSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1135)**.)

(In Senate, April 14, 2000, Report **READ** and **ACCEPTED**, in concurrence. Committee Amendment "A" (H-1135) **READ** and **ADOPTED**, in concurrence.)

On motion by Senator **PINGREE** of Knox the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-1135), in concurrence.

On further motion by same Senator, Committee Amendment "A" (H-1135) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "A" (S-723) **READ** and **ADOPTED**.

PASSED AS AMENDED BY SENATE AMENDMENT "A" (S-723), in **NON-CONCURRENCE**.

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.
