

# MAINE STATE LEGISLATURE

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

**VOLUME II**

**FIRST REGULAR SESSION**

**House of Representatives**  
May 24, 1995 to June 30, 1995

Representative O'GARA from the Committee on Transportation on Bill "An Act to Amend Certain Motor Vehicle Laws" (H.P. 771) (L.D. 1045) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-637) Report was read and accepted. The Bill read once. Committee Amendment "A" (H-637) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Under further suspension of the rules, the Bill was passed to be engrossed as amended and sent up for concurrence.

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By unanimous consent the Joint Order (S.P. 598) and L.D. 1045 were ordered sent forthwith.

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The Chair laid before the House the following item which was tabled earlier in today's session:

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997" (EMERGENCY) (H.P. 516) (L.D. 706) (Governor's Bill) which was tabled by Representative JACQUES of Waterville, pending adoption of House Amendment "A" (H-628).

Representative GATES of Rockport presented House Amendment "F" (H-640) to House Amendment "A" (H-628) which was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Gates.

Representative GATES: Mr. Speaker, Ladies and Gentlemen of the House: I offer a very small amendment to our budget. As we all know, the income tax cap is perhaps the most controversial element in the budget before us. Thursday or Friday evening, I have lost track, I was shadowing various members of the Appropriations Committee as they were putting this little deal together and I got to take part and listen to some of the negotiations.

The part of the revenue cap that this addresses is how we redistribute that income tax money to. Initially and as it was presented to us at the caucus it was to those with a total income of \$40,000 or less. Those were the people who would receive the tax relief from the fund we are setting aside. It ended up going a little higher for a married couple, as high as \$60,000 and once it was reduced to writing we found that they also had said \$60,000 of taxable income. All this amendment does is it changes taxable income to adjusted gross income. Folks, with a taxable income, a married couple with a taxable income of \$60,000 may have an actual income of \$80,000, \$90,000 or \$100,000. For me and I think many folks, those are not the people that we want to give tax relief to.

I want to target it to those with a lower income. By inserting adjusted gross income instead of taxable income, you are taking out all those deductions that people get for all the itemized deductions and you are targeting the people more accurately at the \$60,000 income level. I considered also amending, to go back to, the original \$40,000 figure, but I thought that would be too big a wrench to throw in the works. I urge your support for this amendment.

It is very small and it makes it much more palatable for many of us. Thank you.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House: I believe Representative Gates has great intentions on this amendment. As I have said earlier, this budget was built on compromises and this is one of those compromises. I would urge you to vote against the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Simoneau.

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: I must take issue with Representative Gates. This is not a small amendment. When negotiations were going on, a subcommittee with Representative DiPietro and myself was asked to get together with the analyst from Taxation and to come up with numbers that we thought would fairly redistribute these monies to the people who pay the tax in. Representative DiPietro discussed adjusted gross income versus taxable income and we recommended to the committee that we go with taxable income. I have heard bantered about this building the last couple of days and I just heard that someone with an adjusted gross income of \$100,000 could go down to a taxable income of \$60,000. I would like to see that happen. I suggest to you that it doesn't happen.

I have a little advantage or maybe a disadvantage over looking at tax returns that most people in this body don't have. I have been doing it for 32 years and I personally review over 650 tax returns every year. I have seen them from the small person getting the earned income credit to people who have incomes in the high six figures. Let's talk about what the concern here is. Let me point something out. My personal view toward taxes. I consider them to be our dues. They are what we pay for living here. I subscribe to a quote from Oliver Wendell Holmes that you will find on the Treasury Building in Washington. "Taxes are what we pay for civilization." I don't mind paying them. Many people I know don't mind paying them providing they are one thing and that is fair. That is what we are talking about here and that is fairness.

There will be people here, I'm sure, that will stand up and tell us that Maine isn't high in taxes and so forth. It may not be, but the perception is there that we are high on our income tax. Be that right or wrong, there is a perception. I have seen a lot of people who have lived in Maine all of their lives suddenly become Florida residents. They are there 185 days. When that happens because of the perception of high taxes, they no longer pay a single penny in income taxes to the State of Maine. You had a similar problem a number of years ago with the Maine inheritance tax. There was a large drain of money going out of the State of Maine to Florida. People were changing their residences and they died in Florida because Florida had a very simple estate tax, which is much lower than our inheritance tax. This body was wise enough to repeal that inheritance tax and go to the estate tax.

If any of you have on your desk the May 1995 report on the revenues collected by the State of Maine, take a look at the inheritance tax line. It is 6 million dollars above projections. I doubt very

seriously that that would be there had we not changed that law to reflect that drain out. By the way, total projections are only 3.8 million dollars. We would be in somewhat of a pickle if we didn't have those inheritance taxes. This is a question of fairness.

To understand where I am coming from and to understand where we go from the adjusted gross income to taxable income, you have to look to the evolution of how you got there over the years. To go from adjusted gross income, keep in mind the personal tax returns that you file, that is that bottom line on the front page of the tax return. You have wages, business income, interest, dividends and less your IRA, those types of thing are your adjusted gross income. Now to get to the taxable income, you deduct your exemptions for yourself and your children and you also deduct itemized deductions. The facts of this, let's forget the myths of everyone writing off all sorts of things, the itemized deductions over the years have evolved to the point that essentially all you are going to get for deductions are medical, property taxes, income taxes and interest on a home mortgage. That is about it for the average person. That means somebody making \$100,000 and most of them are not going to drop down to \$60,000.

You also have to factor into that this little formula. If the income is over \$114,000, those people start to lose their exemptions. They start to lose their itemized deductions, which makes it even harder to get down to this so-called lower figure. When you look at the tax returns and you see the real estate taxes that they are paying, they don't qualify for the circuit breaker. You see the income taxes that they are paying. They are contributing money in and they are contributing over half of the money in this state. It goes to pay for people to get the circuit breaker. The fairness comes into my mind in this respect, here we have people who are paying in more than half of the taxes and yet we are going to say to them, if we exceed a certain level and cap the income taxes, we are not going to pass on to you that savings. It is like saying write a check to your neighbor who doesn't make as much as you do. That just doesn't seem to be fair, at least to my way of thinking.

If anyone deserves a break on income taxes, it is anyone who has paid in income taxes, not just a select few. This covers roughly 85 percent of the taxpayers in Maine. The real high income taxpayers will not benefit. I ask you to think about this from the point of view of fairness. It is as simple as that. Thank you.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: It isn't easy for me to get up and speak on this amendment and I want you to know that I am a vote for the budget. I have looked at shutdowns and I don't want to look at any more. While I tell you I am going to vote for this amendment, it will come as no surprise to you that if this amendment fails, I am still going to vote for this budget. I will speak about that at another time when we finally have a budget before us.

I don't want to belabor why I want to vote for this budget at this time. I do want to disagree with the good Representative from Thomaston, Representative Simoneau about the difference between the adjusted gross income and taxable income,

sometimes called net income. I know from personal experience that you can easily have an income of close to \$100,000 and even over \$100,000 and have a taxable income of \$60,000. I know many people who signed those returns. I have seen a few myself. I am familiar with those returns. It is not 85 percent of the taxpayers in Maine, I think, I think you are really talking about maybe only 5 percent of the taxpayers in Maine. If I am wrong about that, I will be happy to apologize on the floor later.

I think when you talk about people with incomes around \$100,000 in Maine, as I recall from looking at this in the past, we were always dealing with less than 5 percent and in some years we were dealing with less than 3 percent of the earners in the State of Maine. Why is it possible to have a taxable income of \$60,000 and an adjusted gross income of around \$100,000 or more? Mortgage interests, I don't know if many of you are familiar with the facts, but there is no cap on the amount of mortgage interest. If you are willing to carry a mortgage payment of \$2,000 or \$3,000 a month and maybe you don't carry that kind of mortgage, but I know many people who do carry that kind of mortgage payment. They are the professionals in our community. They live in the homes that cost between \$200,000 and \$800,000. They don't pay cash for those homes. They take out mortgages. They are smart about how they utilize their money.

Real estate taxes, I have a real estate tax bill that is about \$3,600. That is fine for me and I shouldn't get the circuit breaker. My husband is an attorney and has a comfortable income. My neighbor has a real estate tax bill also of \$3,600. They are living on social security. They have owned that home for 35 years. It is as nice a home as mine is, but the difference between the two of us and our ability to pay for our real estate taxes is considerable. We are in our prime earning years, but my neighbors are living on social security. Their earning years have gone by. I don't think they should have to leave their home and that is why I fight so hard for the circuit breaker. I am happy with what this committee has done with the circuit breaker. I truly believe there is a significant difference between the adjusted gross income and taxable income.

If Representative Simoneau needs to see a few returns, other than my own name, which I am happy not to white out, I will provide him with some from some of my friends with their names whited out. So he can see that there are many people who earn \$100,000 and in excess of \$100,000 and have a taxable income of \$60,000 or less. My concern is that when we were talking adjusted gross income, \$30,000 single and \$60,000 married, we were talking about 80 percent of the taxpayers in Maine. Once we go to a taxable income of \$30,000 single and \$60,000 married, I think we are talking about 95 percent of the taxpayers in Maine. There is a big difference there. You really have to be in that other few percentage points among the super affluent in this state in order to not get part of this benefit. You can easily be among the most comfortable residents of this state with the least financial worries and find yourself getting an enormous tax benefit from using taxable rather than adjusted gross.

In the Taxation Committee over the years, Representative Simoneau and I have often discussed taxes. We have always discussed them in terms of the adjusted gross income and not the taxable income. It was sort of a sharp response for me to find out that

on the Appropriations Committee, a committee I respect very much, that the conversation had turned from adjusted growth to taxable. It is one of the reasons I believe the tax policy ought to be set in the tax committee and not the Appropriations Committee. Having said all that, I want you to understand again that I am going to vote for this amendment. If this amendment fails, I am going to vote for this budget and later I will tell you why. I think it is a grave mistake on Tuesday the 27th day of June for us to not have a two-thirds budget. I respect what Representative Simoneau said and I respect what Representative Kerr has said. We need a two-thirds vote on the budget. If I thought this was a budget breaker, I wouldn't vote for it.

I don't think it is and I think that the intention in the negotiations was to return the income tax to the 80 percent of Maine taxpayers who are at \$60,000 adjusted gross and not the 95 percent who would fit under taxable income of \$60,000. There really is a difference between taxable and adjusted gross. It is a tremendous difference. It is the difference of being able to have the luxury of having many deductible items. You can afford the mortgage payments and the tax payments on those many deductible items.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Mr. Speaker, Ladies and Gentlemen of the House: In my profession when two parties walk out of the courthouse grumbling it means that either the judge or the jury made a good and fair decision. To me this budget represents a fair decision. As Representative Kerr has indicated, it is a compromise. It was worked out in the committee process through the push and pull and the give and take of a fair and just hearing. Each of us in the committee or each of us in this body could probably make a compelling argument for either increasing or decreasing the amount of money that we want to allocate or take away from some program or to eliminate or extend or expand a program or in this case change taxable to adjusted gross.

I suppose if we were going to take this budget document and turn it page by page probably we could find 107 other changes. I don't think it is the time to do it. It is not the time to be parochial. This is the time, I think, to look for the greater good of the state. I think this budget package that is now before us, we have a document that eliminates the gimmicks and addresses the needs of Maine as it moves forward. I ask you not to support the pending motion. Don't let this budget unravel because of amendments. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sedgwick, Representative Volenik.

Representative VOLENIK: Mr. Speaker, Men and Women of the House: I would concur with Representative Dore and I would question Representative Simoneau's statistics. I am looking here at 1992 income tax statistics and it looks to me like 95 percent of the returns would be eligible under the current plan and only 90 percent if we adopted this amendment. If my figures are correct and Representative Simoneau's figures are correct, because there is a three year difference here in figures, then it would indicate that the vast amount of wealth is beginning to accumulate very quickly at the top and, in fact, we probably don't even need an income tax at all. Thank you.

The Chair ordered a division of adoption of House Amendment "F" (H-640) to House Amendment "A" (H-628).

Representative SIMONEAU of Thomaston requested a roll call on adoption of House Amendment "F" (H-640) to House Amendment "A" (H-628).

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The pending question before the House is adoption of House Amendment "F" (H-640) to House Amendment "A" (H-628). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 254

YEA - Adams, Benedikt, Berry, Bunker, Chartrand, Chase, Daggett, Desmond, Dore, Etnier, Fitzpatrick, Gates, Gerry, Gould, Green, Heeschen, Johnson, Jones, K.; Kontos, LaFountain, Lemaire, Lemke, Luther, Mitchell JE; Richardson, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Stevens, Treat, Tripp, Volenik, Watson.

NAY - Ahearne, Aikman, Ault, Bailey, Barth, Bigl, Birney, Bouffard, Brennan, Buck, Cameron, Campbell, Carleton, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Damren, Davidson, DiPietro, Donnelly, Driscoll, Dunn, Farnum, Fisher, Gamache, Gieringer, Goolley, Greenlaw, Guerrette, Hartnett, Hatch, Heino, Hichborn, Jacques, Jones, S.; Joseph, Joy, Joyce, Joyner, Kerr, Kneeland, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbr, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Murphy, Nadeau, Nass, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rotondi, Savage, Simoneau, Sirois, Spear, Stedman, Stone, Strout, Taylor, Thompson, Townsend, True, Truman, Tufts, Tuttle, Tyler, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor, The Speaker.

ABSENT - Dexter, Keane, Kilkelly, Labrecque, Morrison, Poulin, Yackobitz.

Yes, 36; No, 108; Absent, 7; Excused, 0.

36 having voted in the affirmative and 108 voted in the negative, with 7 being absent, House Amendment "F" (H-640) to House Amendment "A" (H-628) was not adopted.

Subsequently, House Amendment "A" (H-628) was adopted.

Representative GWADOSKY of Fairfield requested a roll call on passage to be engrossed as amended by House Amendment "A" (H-628).

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The pending question before the House is Engrossment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 255

YEA - Ahearne, Aikman, Ault, Barth, Benedikt, Berry, Birney, Bouffard, Brennan, Buck, Cameron, Campbell, Carleton, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Damren, Davidson, Desmond, DiPietro, Donnelly, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Hatch, Hichborn, Jacques, Johnson, Jones, K.; Jones, S.; Joseph, Joy, Joyce, Joyner, Kerr, Kneeland, LaFountain, Lane, Layton, Lemaire, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbr, Luther, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nass, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Pouliot, Povich, Reed, G.; Reed, W.; Richardson, Ricker, Rotondi, Samson, Savage, Saxl, M.; Simoneau, Sirois, Spear, Stedman, Stone, Taylor, Thompson, Townsend, Tripp, True, Truman, Tufts, Tuttle, Tyler, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor, The Speaker.

NAY - Adams, Bailey, Bigl, Bunker, Chartrand, Chase, Daggett, Gould, Green, Heeschen, Heino, Kontos, Rice, Robichaud, Rosebush, Rowe, Saxl, J.; Shiah, Stevens, Strout, Treat, Underwood, Volenik, Watson, Winn.

ABSENT - Dexter, Keane, Kilkelly, Labrecque, Poulin, Yackobitz.

Yes, 120; No, 25; Absent, 6; Excused, 0.

120 having voted in the affirmative and 25 voted in the negative, with 6 being absent, the Bill was passed to be engrossed as amended by House Amendment "A" (H-628) and sent up for concurrence. Ordered sent forthwith.

Reference is made to Bill "An Act to Require Notification to the Landowner When Land Is Being Considered for Placement in a Resource Protection Zone" (H.P. 609) (L.D. 819)

In reference to the action of the House on June 27, 1995, whereby it Insisted and Joined in a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

- Representative GOULD of Greenville
- Representative BUNKER of Kossuth Township
- Representative MARSHALL of Eliot

On motion of Representative TREAT of Gardiner the House reconsidered its action whereby Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (S.P. 251) (L.D. 648) (C. "A" S-332) (EMERGENCY) was passed to be engrossed.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (S-332) was adopted.

By unanimous consent, Joint Rule 21 was suspended to introduce an amendment.

The same Representative presented House Amendment "A" (H-638) to Committee Amendment "A" (S-332) which was read by the Clerk and adopted.

Committee Amendment "A" (S-332) as amended by House Amendment "A" (H-638) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-332) as amended by House

Amendment "A" (H-638) thereto in non-concurrence and sent up for concurrence. Ordered sent forthwith.

**BILL HELD**

Bill "An Act to Prohibit Retrofits of Nuclear Power Plants without Permission of the Public Utilities Commission" (H.P. 676) (L.D. 927)

- In House, Minority "Ought to Pass" as amended Report of the Committee on Utilities and Energy read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-435) on June 21, 1995.

- In Senate, Majority "Ought Not to Pass" Report of the Committee on Utilities and Energy read and accepted in non-concurrence.

- In House, House Adhered.

HELD at the Request of Representative ADAMS of Portland.

On motion of Representative ADAMS of Portland, the House reconsidered its action whereby the House Adhered.

On further motion of the same Representative, tabled pending further consideration and later today assigned.

**TABLED AND TODAY ASSIGNED**

The Chair laid before the House the following item which was Tabled and Today Assigned:

Resolve, Establishing the Task Force on Alcoholic Beverage Sales (EMERGENCY) (H.P. 1075) (L.D. 1514) (Governor's Bill) (H. "A" H-614 to C. "A" H-477)

TABLED - June 26, 1995 by Representative MITCHELL of Vassalboro.

PENDING - Passage to be Engrossed.

Subsequently, the Resolve was passed to be engrossed as amended and sent up for concurrence. Ordered sent forthwith.

On motion of Representative LEMKE of Portland, the House recessed until 6:45 p.m.

(After Recess)

The House was called to order by the Speaker.

The following items were taken up out of order by unanimous consent:

**ENACTORS  
Bond Issue**

An Act Authorizing a General Fund Bond Issue in the Amount of \$15,000,000 to Expand Telecommunications Capabilities and Student Learning Opportunities in Maine Schools (S.P. 171) (L.D. 432) (C. "A" S-308)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 108 voted in favor of the same and 11 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.