

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Eighteenth Legislature
State of Maine

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ROLL CALL

Off Record Remarks

YEAS: Senators: ABROMSON, BENNETT, CAREY, CASSIDY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

On motion by Senator **RAND** of Cumberland, **RECESSED** until 6:30 in the evening.

After Recess

Senate called to order by the President

NAYS: Senators: AMERO, BUTLAND, HARRIMAN, LIBBY

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

ENACTORS

ABSENT: Senators: BENOIT, LONGLEY, PARADIS

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

EXCUSED: Senator: HALL

27 Senators having voted in the affirmative and 4 Senators having voted in the negative, with 3 Senators being absent and 1 Senator being excused, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

An Act 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, 1998 and June 30, 1999

H.P. 832 L.D. 1137
(H "FF" H-73; H "HH" H-75; H "KK" H-108 to C "A" H-15)

Resolve

Resolve, to Establish a Study Group to Assess the Needs of the Office of the State Fire Marshal and Ensure Prompt, Effective Response to the Public's Fire Safety Needs H.P. 295 L.D. 359 (C "A" H-21)

Off Record Remarks

Which was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

Resolve, to Establish the Commission to Study the Use of Pharmaceuticals in Long-term Care Settings H.P. 122 L.D. 146 (C "A" H-10)

Senator **MICHAUD:** Thank you Mr. President, men and women of the Senate. When the vote is taken, I request a Roll Call. I hope that this Body will vote to enact this budget. First of all I would like to thank, once again, the Senator from Oxford, Senator Bennett and the Senator from Androscoggin, Senator Cleveland for the hard work that they have put in the budget. It's been stated several times that the Democrats are really moving along, they're proceeding with everything swiftly and it's good to see things moving. I must state however, that if it was not for the Appropriations Committee and the members of the minority party we clearly would not be able to have the budget before us this evening. They were not obstructionists in the process and they did move along as quickly as the rest of the committee, so, I do appreciate that effort. However, I'm sorry that we were not able to get a unanimous report out of Appropriations. Over the last couple of weeks there's been a lot of comments made about the budget and I feel I must address some of them. Some of the comments made by the Senator from Cumberland, Senator Amero that approving this budget is one-sided and it totally excludes the other side. That is not true. This budget was put together in Appropriations Committee by members of both the majority party and the minority party. There are items in here that got in the budget by a slim vote of 6 to 7, or, voted out of the budget. So, this is not totally, I would say, a Democratic budget because it is not. I might also add that a lot of the items in the budget were from recommendations from joint standing committees and a lot of those recommendations were unanimous bipartisan recommendations. I think that shows that

On motion by Senator **MICHAUD** of Penobscot placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**.

Resolve, Authorizing the Transfer of a Parcel of Land in Webster Plantation to Hazen and Theo Jipson H.P. 479 L.D. 650 (C "A" H-28)

On motion by Senator **MICHAUD** of Penobscot placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**.

Senate at Ease

Senate called to order by the President.

we did listen to a lot of the input from those joint standing committees. Clearly, if members of the opposite party wish to offer an alternative budget, they had that choice, their choice, to do so. As a matter of fact, unbeknownst to me, until I saw it on TV, they were putting together their budget, they had it completed long before the full committee even had its budget completed. And if they chose to present that budget at the time we took the final vote, that was the time for them to do it. The good Senator from Cumberland, Senator Harriman had mentioned the other day about growth and spending. Yes, this budget does have growth and spending of approximately \$265 million, but ladies and gentlemen of the Senate, let me explain where that growth comes from. It comes from paying for tax cuts that the 117th Legislature put into effect without fully funding them. The biggest bulk of that was the hospital tax. That roughly added up to \$116 million. The other items that have a big price tag, where as we adopted earlier, the transportation budget, switching back State police from 80-20 to a 60-40, that item cost \$11 million. The District Attorney's, putting those into the General fund, \$2.7 million. Weights and measures in agriculture, transferring those over to the General fund \$1.2 million. As stated earlier, by an earlier amendment by the Senator from Somerset, Senator Mills, the BETR Program, that increased the budget by an additional \$28 million. Teacher retirement, the growth in the teacher retirement in this budget is \$42 million. Increase in General Purpose Aid, we've increased General Purpose Aid by roughly \$36 million. Tree Growth, \$6.3 million. That's where the bulk of the spending went in this budget. I must also address the comments made by the Senator from Somerset, Senator Mills about the public hearings, not having public hearings and items in the budget, and he had mentioned several of them. He mentioned Sears Island, he mentioned the Family Court, he'd mentioned the liquor stores. Well, ladies and gentlemen of the Senate, we did have a public hearing in Appropriations, these were part of the budget in Appropriations. Granted, there are bills for each one of these items in other committees but we also heard them in Appropriations. The issue about public hearings, for those of you who have been involved in the budgetary process well know, sometimes items we deal with in the budget do not have a public hearing. There are some items in here that did not have a public hearing. But, some of these items were supported by both sides. A good example, the Maine Courts Facility, that was voted in the budget, that was a bipartisan vote. The issues from Fisheries and Wildlife, the watercraft issues, fees, that came from unanimous recommendation from the Fisheries and Wildlife Committee. It did not have a public hearing. They presented it to Appropriations. The Appropriations Committee voted bipartisanship to include that in the budget. Another good example of another one, we had dealt with exemptions for personal property of greater than 1,000. We didn't have a public hearing on that but that vote, I believe, was almost unanimous, we repealed that provision of the law. Both parties voted for the repeal. And another one, during negotiations, when we were trying to negotiate to come up with a unanimous report, members of the other party wanted us to include items in the budget. One of those items was a magnet school for arts, and they wanted us to include that in the budget, without a public hearing. Getting back to the liquor stores, we did have a public hearing on the liquor stores in the original budget. The committee chose not to accept the Governor's proposal, instead we put forth our own proposal. There has been a lot said about the liquor stores, however, I'm not certain that a lot of members

even read the language, what the bill says about the liquor stores. When we were trying to come up with some additional monies, what that liquor store language says is, "Governor, here is one option on how to raise additional money in liquor stores, you may lease some land," it's totally up to the Governor, this is up to 2 liquor stores, that's permissive. It's up to the Governor whether he wants to put in 1 or 2 liquor stores. It's not a mandate. So, all the concern about this liquor store issue, I think, is unfounded because ladies and gentlemen of the Senate, having talked with administration, there's no way they are going to put any additional liquor stores on. So this language that's permissive gives him the authority to do it, if he so chooses, will never happen because they disagree with it. The other part of that language does leave it up to the Legal and Veterans Affairs Committee to come up with a proposal and report back to the legislature. Budget documents are not always pretty. There are a lot of things in there that members do not like. There are things in this budget document that I do not care for or like, however being a realist, we cannot get everything that we want. And I think that even though there are some items in here I disagree with and voted against and lost, I don't think it's worth not voting for this budget. This budget is a good budget. It provides substantial property tax relief to the municipalities through Tree Growth, through increased funding and revenue sharing, through General Purpose Aid. Everyone that talks about education, how important education is, but this is the first substantial amount of money that education has received since the early nineteen-ninety's, not only in General Purpose Aid but also for higher education. I think it's a good document, granted it could be better but I think it's a fair document and I believe it's worth each and every one of you voting for this document. Thank you Mr. President.

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. I'm pleased with the areas in this budget in which we have agreement and those are in two general areas, education and property tax relief. And I'm also pleased that the Republican budget, when it was presented several weeks ago, included, for the first time, a 5% increase in the budget over the biennium. And I'm pleased that the opposition party was willing to put that money into the budget toward education. Property tax relief, I do think that we did have a "meeting of the minds" on making sure that this budget did fund areas that would make certain that we were not putting more pressure on local property taxes, and I think that's great. But also in this debate, I think we came to a philosophical impasse and I think that this budget is testimony to that impasse, because the real difference between the two parties has been demonstrated by this budget. This is a budget that repeals the income tax cap that was passed 2 years ago. It's a budget where the major pieces of tax relief were also passed 2 years ago. There's nothing really new in this budget as far as tax relief goes but there's plenty new in this budget as far as spending goes and I see that as the philosophical impasse that we came to. The Republicans wanted real income tax relief in this budget, the Democrats wanted to spend whatever money was available

and they did so in this budget. And for me, that is where the differences came down to and that's where the impasse was created and that's why I will not be voting for this budget. I'm also concerned about the process that has been used and I've already had an opportunity to talk about that. But, I'm concerned that the negotiations, so-called negotiations, which led up to this budget, were not done in good faith. I never felt that we really got to the negotiating table. Things that were put on the table that both sides came forward to, that we didn't expect to get passed, however, I don't feel there was any in-depth good faith effort to try to come to a consensus budget. It was more or less a charade. I'm also concerned that last Friday, when we debated this budget and put forward many amendments, there were several responses to those proposed amendments that made reference to the fact that these were items that could be taken care of in a supplemental budget. It seems ridiculous to me, that in March we already talking about a supplemental budget. I think we've just begun a spending frenzy in the 118th and I am really concerned about what is going to happen in the next few months. And for these reasons I urge you to not support the pending motion.

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. First of all let me extend my congratulations to the majority party, I think you have done a masterful job of implementing your agenda and you've done so with enthusiasm and focus and determination and it appears as though you will succeed. I genuinely want to congratulate you for maneuvering through the legislative process so stealthily. And, I hold no ill-will. I think this is the power of the majority and you have a lot to, from your perspective, congratulate yourselves for. And having said that, I still think that hopefully, as you have been candid with us that you will allow me to be candid with you, in respect that we do have differences of opinion and that is what participating in a democracy is all about and I am honored and happy to be part of that democratic process but, that doesn't mean that I should compromise my principals and my belief just to create the illusion that all is well in Augusta. I think time will tell, that we will be back, as my good friend from Cumberland, Senator Amero, has said, we will be back. Who knows how many times, having to recalibrate, if you will, this budget because of unintended consequences that I believe will come our way. I also want to say Mr. President, that I have a great deal of respect for the time and the effort that the Appropriations Committee has put into the budget, clearly the most important bill that comes before any legislative session. And as my friend from Penobscot, Senator Michaud says that this budget does include \$265 million of new additional spending and I am genuinely concerned about the people who pay the bills, the people who don't have the advocates here in the State House every day. Their incomes are not growing fast enough to pay the increases that we're thrusting upon them. And I feel it's a little disingenuous to say that in this budget contains \$116 million of so-called tax cuts for the hospital sick tax, because as I remember it, when I first came to the Maine Senate, this was one of those so-called gimmicks. This was a gimmick that said if you are sick and you need help by going to a hospital we've got an additional tax for you. When you take the money out of your front pocket, so that we can use that to take more money out of your back pocket, coming from Washington. And in the last

sessions, as I'm sure we all remember who were here, there was a genuine concern that many rural hospitals in Maine would indeed close because of this gimmick. Now we're calling it tax relief. And in the name of so-called tax relief, it's okay to spend \$265 million more. We all remember the gross receipts tax, where if you paid your own way, if you assumed your own personal responsibility to pay your own way in a nursing home, the reward for assuming responsibility for your own way in life was we had 7% meals and lodging tax for you. We pulled that out of your front pocket so we could use the money to take \$2 out of your back pocket in Washington. That was a gimmick. Today it's called tax relief. We heard that in this budget we've spent more money on the highway department for the sharing of the State police. It's now 60-40, but the truth is, the law is that it should be 50-50 and we're led to believe that in this budget we've given relief to the highway fund, when we can all acknowledge that a number of maneuvers have been used to pull money out of the highway fund to feed the general fund budget. And indeed, in the general fund budget for the highway department that just passed today, in the name of fees, we increase taxes in the highway fund. That's my real concern Mr. President. It's not that people here haven't come with honorable intentions or who have their heart in the right place or who really believe that this is the right direction for Maine. I don't quarrel with that, I respect you for that. I admire your ability to maneuver through the process. What concerns me more than anything is that I look to the horizon, what concerns me is that we haven't dealt with the fundamental problems that confronts Maine government and has for as long as I've been here and that is that we have been unable to restore fiscal integrity like sharing State police 50-50 with the highway fund and the general fund, like getting rid of gimmicks and calling them gimmicks because that's what they were and not calling them tax relief, and that's where we need to move to. And that's what I'm anxious to work with all of you to accomplish because our very future depends upon it. And so Mr. President, regretfully, and I do mean regretfully, I won't be supporting the enactment of this, but not out of political partisanship or spite but because I genuinely believe that until we make the fundamental changes necessary to restore financial integrity, Maine's not going to move forward. Thank you Mr. President.

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

Senator **RUHLIN:** Thank you Mr. President, honorable Senators of Maine. First of all I'd like to share some thoughts with you tonight of how this one Senator feels that we came to be here, where we are tonight. Now in the course of conducting the necessary business of a just and responsive, we hope, government in which the goodness or the badness, and the strength and the weaknesses of its actions are of the utmost importance to its citizens. We have to have, and it's only rightfully so, a common need to move forward, at times even an urgent need to move forward. Inaction is the very enemy of good government. If a duly elected majority must conform its actions, unfortunately, to a will of a persistent, stubborn, yes I'm going to say it, at times obstructionist, minority, then our cherished form of democracy is indeed threatened. The representative form of democracy that we all cherish is ended. The rights of the citizens, the rights of progress is endangered. Consequently, I feel the people have elected us, all of us, to come here and do their business, conduct their business, if you will, for them in an

intelligent, forthright and efficient manner. This document has done this, I think, in no way that I have ever seen before. It's been efficient, it's been hardworking and it's been fair, it's been far-reaching and it does it to the point, it does it to the point of betterment of all the citizens of our State. And just look at what it does and how it accomplishes this. It includes the reports of all 17 joint standing committees of this legislature. I remember when I first started, the Appropriations Committee did not ask the policy committees what they thought about it. They weren't invited in to share their viewpoints. They were told what was going to be. We've changed that formula of doing business. Now, the 17 joint standing committees are invited to give their input. Most of them did it in a unanimous form, some only near unanimous. That input in the legislature at large, the greatest amount of input that we've had was assimilated by the Appropriations Committee as a whole and became a part of this budget document we're discussing tonight. And in this budget document, we are also taking a step away from our near distant past because in this document we're doing tax relief. And when you relieve a tax, it's still tax relief. But what this is, that it has an advantage over its predecessor is tax relief that's paid for, it's not the rubber check that was written here, in these Chambers of 2 years ago. This is tax relief that's up-front, that tells the people how much it's going to cost, how much it's going to save and it sets about to do it in a forthright, sincere and genuine manner. That's what this document does. That's what this document has as an advantage over itself over the previous documents, that were budget documents passed in the 117th Legislature. I want to point out to you, even though this document puts an end to that failed fiscal policy of an income tax cap, or whatever other name you want to call it, and good riddance to it I might add, because it was poor fiscal policy and as I've already said, it was nothing more than a rubber check on Maine's future. This ends that failed policy. That by itself, by the way, is enough to make me vote for this budget, just to have an end to that failed policy. But, even though we were called of greatness for that, let us remember tonight, as we sit here and cast our vote, that our work is not done. We still have the work of the people before us. This is only one step in a journey that we all must make together. I ask you to come together and vote with the majority. We extend our hand out to you, join us, this is your opportunity, we welcome you. Vote with us for a unanimous budget, hopefully, where you all can share the great sense of pride that I have in this document. Thank you very much.

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

Senator **BENNETT:** Thank you Mr. President, fellow members of the Senate. I want to begin this evening by thanking my colleague on the Appropriations Committee, the good Senator from Penobscot, Senator Michaud for his kind comments and as well as the Senator from Androscoggin, Senator Cleveland. We sat next to each other for many weeks on the Appropriations Committee, Senator Cleveland and I and we shared a lot of good humor, as well as hard work, honest disagreements and when given the chance, sensible compromise. I enjoyed serving with both Senators and I look forward to getting back to work on some of the other issues that are coming before the committee. That is how the committee worked, I think, particularly at the outset, with good humor and hard work and honest disagreements. I wish that Senator Ruhlin's rosy picture of the budgetary process were valid but

from my perspective, sitting on the Appropriations Committee it wasn't as clean and neat and tidy as that. The problem is that that last piece of what I was talking about, sensible compromise, I think was sacrificed because of the pace of this budget moving through this legislature and even moving through the Appropriations Committee. We did work quickly. The minority on the committee, particularly I think, recognizing and suspecting as has been shown the case, that the process could be abbreviated. Early on we were told that if we could just move quickly through the public hearings in the Appropriations process, we could have all the time we wanted in the work sessions, all the time we wanted to consider these matters, to engage in debate, to talk through ideas. The Senator from Knox, Senator Pingree the other evening, suggested that my caucus had traditionally and has traditionally supported the notion of moving the legislature more quickly, dealing efficiently with matters that were just showing up here again this evening. I have absolutely no problem with that. I think that's the way we ought to do business. I've always supported that and worked in that fashion in the Appropriations Committee. But it's easy now, forgetting the then, just a few weeks ago when I was working and the other committee members of the Appropriations Committee were working in good faith under the instruction that we'd have all the time in the world in work session, to consider the important issues in the budget. It's easy to forget that at that time we were not looking at the prospects of passing a budget with a majority vote, with a simple majority. We were looking at passing a consensus document, a consensus budget with a super majority, with over two-thirds of the people and the problem with this process has been simply that I was not told, and I don't believe any other member was told, at least on my side and I question even the other side of the aisle, that we were moving toward a March 31st, March 24th, March 15th deadline until probably the first of this month, or the end of February, well after the public hearings had finished. It's all well and good to move efficiently and quickly to speed up this process and that's fine, as long as everybody is moving in the same direction, the same rate and knows what the end date is going to be because then we can all tailor our work to that date. I was disappointed that the committees of jurisdiction were not given ample opportunity. Many members of this legislature being brand spanking new to this institution, in this and the other Body, coming in and the first thing they do in committee, before they have a chance to consider any real bills and learn how these agencies and departments work, the first thing they do, is they have to vote on multimillion dollar budgets for these agencies. It's not the way this oversight should work. In my view, that should be done the second year of the session, preferably, when we all have more knowledge and can know. Appropriations Committee is an example of the committees in this legislature and we're an experienced group, compared to a lot of the other committees. I think we all have prior legislative experience but 9 of our 13 members had never served on the Appropriations Committee before. We had to learn quickly. We worked hard. We worked in good faith. I greatly appreciate Senator Michaud's recognition of that and I thank him for it. But, the breakdown came later. The breakdown came when the bill was rested out of the hands of the committee and further deliberations within the committee were not allowed because of the new deadline, the new deadline of April 1. It's true, we did present our budget priorities as a minority. We did that with the recognition at the time and the majority party and the Appropriations Committee, that we were contributing to the debate. We felt it responsible to

put our viewpoints and our priorities out in the public eye to move the debate forward. We did not present our budget as an L.D., as a bill, that wasn't our intention. We presented it as our preferences at a time when tax paying families are struggling to meet their obligations, the obligations in their own homes, let alone giving up their hard-earned money to the obligation in other people's homes. As Senator Amero of Cumberland has said, we have a lot to agree on in this budget. It's really a shame that it's come to this. I think we're in 98-99% agreement on most of this budget. One huge area of agreement is in education and I was proud to have a role in the budget priorities in the minority in putting education at the top of the list in our priorities. It's imperative. We led the way in moving from the Governor's 1 and 2% increases for General Purpose Aid, to a combined 5% increase, plus now, another \$6 million. It's a good, right thing to do. Despite however, the reduced revenues that might be caused by the tax cuts passed by the last legislature, that have been eluded to earlier, the hospital sick tax, the gross receipts tax. \$265 million in new spending above 2 years ago, I read a document earlier, coming from the other side of the aisle that suggested that it was nearly \$300 million and the debate, at its essence, was over how much of that \$250 to \$300 million ought to be going to tax relief for the hard working people of Maine? How much of that new money we should devote to tax relief? I would have liked to seen the income tax stabilization fund work. It's an elegant and simple and responsible way to bring tax rates down. I acknowledge that it doesn't have enough support in this Body to be given a chance to work. But the notion that this tax relief fund which is in this document, is a substitute or is truly tax relief confounds me. Aside from \$6 million or so that may be available from a variety of one-time sources to put in the tax relief fund in this budget, the relief fund will get its revenues by taking three quarters of available surpluses. That is money that we've taken from tax payers that we shouldn't have taken. Surplus revenues, by their very definition, are mistakes. They are money that came in higher then what we projected to come in. Somebody, a forecaster, made an error and because of that we ended up taking in too much money from tax payers. In my view 100% of that money ought to go back to tax payers. That's where it came from, it ought to go back to them. Not 75%. And to suggest that when we overtax somebody, we generously give it back to them as some form of tax relief, I find equally confounding. You see, I think that we can all come to agreement on spending. It's always easy to spend tax payers money and we can always come to grips with that. We can always compromise on how to spend the money. But cutting the growth, and doing so responsibly in State government, is the challenge and it takes time, it takes hard work, it takes sensible compromise, it takes commitment and dedication on the part of all of us. And it does take time and that is what was lacking in this process. That's what's lost here. I too, am sorry that I will have to vote against this budget. I wish we could have a consensus budget. I wish we could have a unanimous budget. That's what I worked for. I know that's what my colleagues in the Appropriations Committee were working for. But, it will not happen and that's unfortunate and it's unfortunate because ultimately it's the tax payers who'll be paying for it. So I, regretfully, will be voting no. Thank you.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

- YEAS: Senators: CAREY, CATHCART, CLEVELAND, DAGGETT, GOLDTHWAIT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE
- NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, FERGUSON, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MILLS, MITCHELL, SMALL
- EXCUSED: Senator: HALL

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being excused, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senate at Ease

Senate called to order by the President.

On motion by Senator **PINGREE** of Knox **ADJOURNED**, until Wednesday, March 26, 1997, at 10:00 in the morning.