

MAINE STATE LEGISLATURE

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

VOLUME V

FIRST REGULAR SESSION

Senate

June 19, 1995 to June 30, 1995

FIRST CONFIRMATION SESSION

September 14, 1995

FIRST SPECIAL SESSION

House of Representatives

November 28, 1995 to November 30, 1995

Senate

November 28, 1995 to November 30, 1995

The following Joint Order:

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

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

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

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

H.P. 1167

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

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

Off Record Remarks

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

Off Record Remarks

Senate at Ease
Senate called to order by the President.

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

ENACTOR

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

Emergency

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

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

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

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

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

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

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

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

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

Senator **LAWRENCE**: Thank you, Mr. President, Men and Women of the Senate. I have briefly discussed this with representatives of the Administration. They were not objectionable. It was my idea. I initiated it in order to get some kind of solution to this bill, but they did not raise an objection to it.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

emergency preamble off it, which causes everyone who shared these concerns to begin with, to say what was the big problem to begin with? It shouldn't have happened this way. There are solutions to these problems, and we have to demonstrate the courage to change the way we do business around here. One of the best ways we can do it is to sit down and come up with other ideas that I have already discussed, not to mention the \$4.7 million that is supposed to come over from the Maine Turnpike Authority to MDOT anyway. I believe we can restore the trust and the confidence of the people of the State of Maine in this institution by dealing with these problems head on, finding the solutions that are true, that make sense, that don't put us into future problems. Instead, we got put into this someone is going to win and someone is going to lose. That's not what we came here to do. Thank you.

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

Senator CLEVELAND: Thank you, Mr. President, Men and Women of the Senate. I think we are losing sight of what the issue is that we are trying to accomplish this evening. The issue is, we have a real problem right now to resolve, and that is to find, with some certainty, how to address a major shortfall to meet our obligations that we made for funding of major projects, and to ensure the flow of federal funds into this State to meet the needs of the individuals here, for their well being and the economic benefit of this State. It would have been better to have that certainty by passing it by two-thirds to know that it was in place, certainly. Does it look like that is possible? No. The alternative before us, then, is to say we will then pass this legislation and at least we know there is some certainty within ninety days that there is a resolution to address this issue, within ninety days. The other alternative that is presented to us here this evening is one of uncertainty and speculation, that somehow there is going to be some ability in January or February or March or April, that the committees are going to come up with some solution that is going to be acceptable and pass by a two-thirds vote so it can take place immediately. Because, if they don't, and we have to revert to a majority vote again in March or April, we have to wait ninety days from that date, which means that we don't have certainty until June or July on how to resolve this issue. So, instead of being ninety days away, we have lost six or seven months in dealing with this critical issue. That's the difference. Those of you who present to us this possibility that somehow we are going to find this resolution and have this debate in January and resolve it, I say to them good, let's go do it. Let's pass this, and then, in January, when you come back, and you find a better solution that you want to substitute for this; you introduce the legislation and you say, notwithstanding what we did back in the special session, we are going to do it this way. And it gets substituted. In the meantime we have some certainty that we know, notwithstanding anything else we fail to do, on March 1, at least we do have one proposition. So, let's have that discussion. Let's have those ideas. Let's bring them forward. Let's not waste one day. Let's start tomorrow on trying to put those together so that, in January, you are ready to make a presentation and we can consider them and we can adopt them. We'll set this aside; but let's not lose that opportunity tonight, or this morning,

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

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

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

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

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

ABSENT: Senators: BERUBE, LORD

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A Division has been requested.

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

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

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

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

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

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

ENACTOR

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

Emergency

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

S.P. 477 L.D. 1301

(S "A" S-414 to C "A" S-331)

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

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **ABROMSON**, **AMERO**, **BENOIT**, **CARPENTER**, **CASSIDY**, **ESTY**, **FAIRCLOTH**, **FERGUSON**, **GOLDTHWAIT**, **HALL**, **HANLEY**, **HARRIMAN**, **HATHAWAY**, **KIEFFER**, **LAWRENCE**, **MILLS**, **PENDEXTER**, **PINGREE**, **SMALL**, **STEVENS**, and the **PRESIDENT**, Senator **BUTLAND**

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

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

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

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

Senate at Ease

Senate called to order by the President.