

# MAINE STATE LEGISLATURE

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**Senate Legislative Record**  
**One Hundred and Eighteenth Legislature**  
**State of Maine**

**Volume 2**

**First Special Session (Continued)**  
**May 20, 1997 to June 20, 1997**

**First Confirmation Session**  
**October 6, 1997**

**Second Regular Session**  
**January 7, 1998 to March 24, 1998**

**Pages 981 - 1977**

June 20, 1997

The Honorable Joy J. O'Brien  
Secretary of the Senate  
118th Legislature  
Augusta, Maine 04333

Dear Madam Secretary:

House Paper 123 Legislative Document 147 "An Act to Extend the Jurisdiction of the Maine Labor Relations Board to Employees of Public Higher Education Institutions Who Have Been Employed Fewer Than 6 Months," having been returned by the Governor, together with objections to the same, pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

Sixty-six voted in favor and seventy-six against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Sincerely,

S/ Joseph W. Mayo  
Clerk of the House

Which was **READ** and **ORDERED PLACED ON FILE**.

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

**PAPERS FROM THE HOUSE**

**Joint Resolution**

The following Joint Resolution: H.P. 1358

**JOINT RESOLUTION COMMEMORATING THE 150TH ANNIVERSARY OF THE INCORPORATION OF THE CITY OF BATH**

WHEREAS, the Maine State Legislature approved the incorporation of the City of Bath on June 4, 1847 after it had been an incorporated town for many years; and

WHEREAS, the City of Bath has prospered as a showcase municipality in preserving its heritage and individuality as the "Gem of the Kennebec" and the "Cradle of Ships"; and

WHEREAS, the City of Bath has been uniquely successful in forging solutions to regional problems with the Town of Brunswick and the Town of Topsham; and

WHEREAS, the Bath waterfront is becoming a vibrant example of the revitalized economic development of this State's major waterways through such projects as the Rail and Sail Port of Bath; and

WHEREAS, this year the City of Bath will be celebrating its Sesquicentennial with an exciting array of events and projects commemorating the exemplary history of the city; now therefore, be it

RESOLVED: That We, the Members of the 118th Legislature, now assembled in the First Special Session, take this opportunity to commend the inhabitants of the City of Bath on

their many achievements over the last 150 years and extend our best wishes for a very happy and memorable 150th birthday celebration; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to the Bath City Council for presentation to the citizens of the City of Bath.

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

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

Senate at Ease

Senate called to order by the President.

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act to Discourage Smoking, Provide Tax Relief and Improve the Health of Maine Citizens" H.P. 1357 L.D. 1904

Committee on **HEALTH AND HUMAN SERVICES** suggested and **ORDERED PRINTED**.

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

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

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

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

Senator **LONGLEY:** Thank you Mr. President and colleagues in the Senate. When I came here this session my number one, top priority, more than all the other issues we dealt with this year, my number one, top priority was children's health, children's healthcare. We have 38,000 children without healthcare. That's a Fenway Park full of children who do not have healthcare. What we're offered today as a, so-called, compromise is to cover one section, probably section A of Fenway Park, to cover 5,714 kids, when we have 38,000 children without any healthcare. That means when they get an earache, it doesn't get dealt with until an emergency point occurs, often after hearing impairment. It means if they have a sore throat, it becomes strep maybe for a day or two or three before they get healthcare. It means hard working parents, three out four of these kids have hard working parents, at least one parent working full-time and they can't afford healthcare. We understand why, because healthcare is costing too much. We have a crisis on the national level and on the state level. Many of us campaigned saying, we were going to try and

be leaders on healthcare. Today we have a chance to cover one section of a Fenway Park full of children, all who have not one penny of healthcare. If we added those kids who are under-insured we could fill almost three Fenway Parks. Instead, we're going to do one section, section A.

I came to work today and I grabbed books off the shelf that probably summarize my conflict. One book is a book my Dad gave me, "Never Give In," and I noticed Governor King has those same quotes, "Never, never, never, never, never, never, never, give in. In nothing great or small, large or petty, never give in except to convictions of honor and good sense." The other book I carry around is the negotiating book, "Getting To Yes." How can we get to a yes, where we create a win-win situation, that much touted win-win? In my opinion, none of us are winning today with what is proposed as a compromise for us to agree to, covering just section A in Fenway Park is not enough. We can do so much better.

There are no winners including tobacco and maybe that, for me, is what counts most. We have to take what we've been given and we haven't been given much. The 37 cent tax we're going to take and put on tobacco, not one penny has been designated to children's healthcare. Not one penny to help cover the 38,000 to 81,000 kids who are out there uninsured or under-insured. As one person put it yesterday, "The Governor has given us an apple and he's kept the orchard." With that apple, my vote today is in great hopes that seeds from that apple can help start to grow an orchard, because we, in Maine, we're scrappers. And he might not understand the importance of healthcare and the need for healthcare and what a crying shame it is that not one penny of the 37 cents is going to be put for kids.

It's incumbent on me and many of us, over the course of the next year and however long we last in office, to time and again say that healthcare, there's a crisis out there. And every which way we can, we've got to increase the number of people, good people, who simply cannot afford healthcare. We've got to help them get healthcare. We wanted it for kids. We wanted it for elderly. We got not one penny out of the cigarette tax for that. There are no winners today including tobacco. For that reason I'll be voting for this package but it's one apple out of an orchard and we're only getting the apple, not the orchard. We've got a lot of work to do and I encourage everyone to help do that work. Thank you.

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

**Senator GOLDTHWAIT:** Thank you Mr. President, ladies and gentlemen of the Senate. I'm delighted to see this bill here today because, as I have in the past, I intend to support every opportunity that I have to raise the cost of cigarettes in the State of Maine. We have good information from other states that have done this, that it actually does work particularly in regard to decreasing youth smoking which, I think, is the main goal here. I heard a statistic the other day, forgive me a point or two but I think this is close. Ninety-four percent of the people who are life-long smokers started before they were age 16, so anything that we can do will be helpful. I believe that this combination of an increase in cost, in addition to some of the changes that we made this year regarding how cigarettes may be sold in stores will be helpful in decreasing youth smoking.

Two interesting calls I had this week, one from a gentleman who owns a tobacco store asking me to vote in favor of this bill, one from a life-long smoker who said, "I've tried to quit over and

over again. I can't do it. Please raise the cost. Maybe that will help me." I am enthusiastic about supporting this bill.

I do want to go on record with one objection, and that is the fact that the Healthcare Task Force is set up in a way that eliminates the possibility of my participation and that is a great disappointment to me. Everyone got here the same way. I got here the same way all of you did and it is not right for one person to be excluded from full participation in this body. And so, I wanted to register my official objection, but I do urge you to support the bill. It's a good one. It's an important one. It's important for our children and I hope you'll all vote in favor of it. Thank you.

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

**Senator CAREY:** Thank you Mr. President and members of the Senate. I've been opposed to the increase in the tax from the beginning. I can't see raising \$30 million and spending a tenth of it, only a tenth of it, on dealing with the subject that we're trying to cure. I do have, yet, a minor problem, so I'm basically shifting to be on the fence because this bill is a very good improvement over what we have been having. But I have to tell you that I do have a minor problem which is on page 2 of the bill in section 3, out of 4563D. We've talked about vending machines and it says, "Notwithstanding any other provision of this chapter, it is presumed that all cigarette vending machines are full to capacity on the 1<sup>st</sup> of November of '97 and the tax imposed by this section must be reported on that basis." So what we're saying is, if the machine is not full then the State of Maine will, in fact, be stealing 18 1/2 mils per pack on the people who own those vending machines, who are, in fact, servicing those machines. I think if we're raising \$30 million, it's a crime to suggest that we may be able to steal another \$50,000 or \$100,000.

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

**Senator HALL:** Thank you Mr. President, ladies and gentlemen of the Senate and good afternoon. I've already been here three hours longer than I anticipated today but, I'm sure we'll be done in a few minutes.

I rise today to, once again, complain about raising taxes in the State of Maine. I want to give you just a little history, recent history. I just called New Hampshire within the last hour because a week ago their cigarette taxes held up their state budget. It has now passed. They increased their cigarette tax 12 cents a pack which now brings them up to our present level of 37 cents a pack. Their new 12 cents a pack will be used for their kindergarten students. About 85% of the schools in New Hampshire have kindergarten so they want to fund the rest of them. It amounts to \$750 per kindergarten student. If you bothered to read, Mr. President, some of the literature that I put on your desk today, you will notice that yesterday in Washington D.C., the tax panel elected to put 20 cents more on a pack of cigarettes. Gorry, some of that's going to go to take care of the children in this country who don't have healthcare. Quite obviously, they'll probably do it.

Presently, the federal government sees fit to put 24 cents a pack on each pack of cigarettes which brings the tax in Maine to 61 cents today, taxes on cigarettes. Well, if we add another 37 cents, that's going to bring us up to 98 cents a pack plus the 20 cents, \$1.18 a pack. Surely, 61 cents tax per pack of cigarettes

hasn't slowed down smoking. We've made it illegal to sell to minors. We've made it illegal for minors to smoke, possess tobacco and yet, somebody comes up with statistics telling us that we're number one in the nation in youthful smoking. I'm not sure where they get that information, but all the taxes we've put on cigarettes hasn't worked. Hasn't worked. I don't think that this is going to work any better. What's 37 cents to somebody today who smokes? If you have a nicotine habit you will furnish that habit regardless. You will go without something else if that need be the case. If kids don't have the money, they'll steal them, flat and simple, or they'll steal something else to sell. To me, this is only a smoke screen to raise taxes again in the State of Maine.

Let's talk just a second about some of these programs. One letter on my desk today came with a study and a report which Maine's included in, it's Medicaid. It started in 1965 with President Johnson. I'm sure you all read this but maybe, in case you didn't, this was a federal, state healthcare delivery system for lower income Americans. Today, Medicaid spending is the second largest budget expenditure in many states, costing the typical American family more than \$2,000 a year. The study was done in April. Maine fared poorly in the study, receiving a grade of D-. The authors of the study arrived at this grade because the state's Medicaid burden, over time, has risen much more than the national average. Per recipient costs are well above national norms and many non-poor receive benefits. I guess they know what's going on in Maine. We've known it, ignored it not only on this but on some other things. We keep raising the benefit of the Property Tax Relief Program. You raise it just a little bit more and I'm going to qualify. Thank you very much, I think I'll take advantage of it once you get there. You're awfully close. Your intentions are fine. There are many good programs. You could come up with 100, if I gave you time to write them out, but I'm telling you we can't afford them. I mentioned three weeks ago that I felt the goal was to be number one in the nation in taxes and, by gorry, that's one goal that we're going to achieve, and I predict that we'll do it with one more legislative term. One more, we'll be number one. When that happens the tax payers in this state will turn and I hope I'm right there with them. I will be voting against this bill today, obviously. Thank you.

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

**Senator MACKINNON:** Thank you Mr. President, women and men of the Senate. Today is a very difficult day for me. While I certainly support the idea that we should have no smoking in our youth, that we should cut that down and cigarettes, you know, they do kill. I think it's also very important to realize that we have a law that says, "under 18, you cannot procure cigarettes" at this particular time. It would be very easy for me to sit back and say nothing, and to vote with this and go along. I'm from York County and some of things that I'm really worried about are the unintended consequences of this bill. If this bill's successful, yes, it will reach its objective, but if our law of 18 year-olds is successful, it will also reach that objective. I'd much rather have those items that we talked about, the good Senator from Waldo, Senator Longley, talked about healthcare for children in the budget, and vote for it, up or down, because I think it's that important. I think the unintended consequences of taxes, that we have a high sales tax, we have a snack tax, if we have the higher cigarette tax which we know will be about \$6.83 more a carton, we'll be driving a lot of people from York County over to New Hampshire. The consequence of that may be people moving,

may be lower taxes collected here because of the sale of our products, it may be loss of jobs because small business owners can no longer keep that plus one person on. And when that occurs then our whole economy in York County which is supposed to be very good, goes down. We'll no longer be the gateway, we'll be the fade away area of the state. Today we're starting to come back out. There are pockets in York County that are 7%, 8% and 9% unemployment now. I'm worried about those things. I'm worried about the unintended consequences of passing this. I do support the idea that we should have no smoking and the health benefits, but I will be voting against this. Thank you.

**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 just make some points of clarification with you. Some things that do happen with this bill and, guess what, some things that don't happen with this bill. Let's start off with the very first one. This establishes tax policy in the State of Maine for the people of the State of Maine. It is not a tax policy that is established on the basis of what our neighbor is or is not going to do. It's not a tax policy that's established on what the federal government may or may not do. It's established in the State of Maine to achieve a social goal. A social goal that has been considered by this Legislature as being a worthy social goal. As a member of the Taxation Committee, who's charged with making recommendations to you on good fiscal policy, I must add that I think when you add or make tax policy based on trying to achieve social goals, we are already walking on some thin ice. You really are if you look at taxation to achieve a steady, constant revenue stream for the cost of government. However, we have, since we were a nation, the taxation policy of various eras and so forth, up through notably, the Great Depression and we continue to, on occasion, use taxation to achieve social goals. This is not a tax that is done to raise new revenue, although it, in fact, does so. It is not a tax that's in there to create new programs and it does not do that. It is a tax, pure and simple, to achieve what has been judged a necessary and laudable public purpose of the government of the State of Maine. We have the highest youth smoking rate in the nation. That situation is untenable. How are we going to correct it? We can, again, try the great, noble experiment and do a mini Prohibition Act, here in the State of Maine and have prohibition and create criminals of our youth as we attempt to do that. The noble experiment did not work in the '20's and it will not work in the '90's, so let's discard prohibition. We have put in age restrictions. They have not worked. It is apparent. So, we have one other, and I am more than willing by the way, at some point to listen to even further suggestions on curing this problem, this health problem that's a social problem. The only one that's been presented to us is the opportunity to tax to affect a social outcome. That's what this is. Don't paint it with any other brush because this is the only brush that fits it. If you want to vote against youth smoking then you vote for this bill, pure and simple. It may not work, but at least we will have given it a try. We will have made the effort. We will have done it with both branches of government, the executive and the legislative branch working in unison. It's been a rough road to get to this point. We are at this point. We now have the opportunity to go ahead and achieve what is truly our worthwhile goal for the youth of America, this state in particular, to recognize the high cost to society of smoking, itself, to recognize that one in

three of those youths, and I want each and every Senator, please remember that. One in three of every new smoker, who starts to smoke at the age of 16, will die of smoking related problems, prematurely. That is what you're voting for today. That's what this is about, taxation to achieve a social end, to lessen the potential mortality and health problems of our youth. I hope that you will keep that in mind when you vote today. I hope you'll keep in mind that this tax does not create a new program. There is a new program recommended in the bill but it is not funded from this tax. The only thing that is funded, that's new in this and I want to correct that, that is new in this is an anti-smoking campaign to make not only the increased cost more effective in deterring people from smoking but also to go out and advertise an aid of cessation of existing smoking problems. That's the only new program. The other new program that people keep talking about isn't from this tax, no. It's from the budget process, the budget process that this state has gone on through since we were a state, and that we will continue to go through. But please keep in mind, when this roll call is done today, what it is that you're voting on, a vote to discourage and deter the smoking especially of our youth and thereby encouraging better health in the future. That is what you're voting on. Thank you.

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

Senator **BENNETT:** Thank you Mr. President, fellow members of the Senate. I rise today as one who is not necessarily opposed to increasing taxes on cigarettes but I have yet to see a proposal before this body, or frankly even considered in the public domain, that I could support. The reason comes down to the issues that others have raised which is what do we do with the money? Because whatever public ends are achieved, and good public ends are achieved by raising the tax on cigarettes, we still have the question, what do we do with the money? And it is not an insignificant question. It is a tremendously important question. My view is that our state already taxes its citizens enough, that state government already has enough revenue. We need to live within our means. New programs, new spending, if it is a priority, must come from existing resources. We must address priorities within our existing budget. This bill does not do that. Let me just speak to three specific issues however, that others may not address. I know others will more articulately deal with some of the other questions and already have, but I want to share with you some real grave concerns that I have about some of the debate that has occurred over the last couple of days with regard to this issue.

The first that I think we all have to think about carefully is that there's been a tremendous amount of unfortunate talk about a particular windfall in the estate tax revenue in this State of Maine General Fund. It has been widely reported, I heard it on the radio coming into the Senate today, I've seen it in the newspaper, about an individual named Elizabeth Noyes who passed away leaving a sizable estate. You know, I didn't know Betty Noyes personally, but I knew her by reputation and I think we all knew and respected her. Betty Noyes, by reputation, was a person of tremendous public spirit in philanthropy but she was also a very private person and someone who not only eschewed the kind of recognition for her philanthropy that she deserved, but often gave her gifts, made her generous acts in anonymity and preferred that. I find it immensely disturbing that a particular amount of money can be attributed to a tax payment from the estate or from the income, or from any other occurrence in a person or a

company's life in this state. And as a matter of fact, not only is it, in my view, offensive and unethical, it is, in fact, illegal. In title 36, section 191, it says very clearly, I'll read it to you, "It shall be unlawful, with very narrow exceptions for legal reasons, it shall be unlawful for any person who, pursuant to this title, has been permitted to receive or view any portion of the original or a copy of any report, return, or other information provided," pursuant to this title, that is their tax law, "to divulge or make known, in any manner, any information set forth in any of those documents, or obtain from examination or inspection under this title of the premises or property of any taxpayer." It is abundantly clear. I think it's a disservice to the debate and to the good work of Betty Noyes that this information has become public. And I hope that there is some effort to find out how this came about and I hope that the Governor will address this issue. That information never should have left the Bureau of Taxation.

My second point, along the same lines, is the notion of using, as an excuse for a new program or for a new spending, particular tax contribution of one individual or corporate entity of this state is, in my opinion, bizarre at best. This, I understand was created as part of a compromise. It's a compromise I want to have nothing to do with.

My third and final point is that there is \$8 million in seed money, if you will, to fund this new program which is yet to be defined. The \$6.2 million comes from, what has been called, unexpected surplus. Surplus, by its definition, is unexpected. Just two weeks ago in the Appropriations Committee, Democrats and Republicans alike tried to get an understanding from the administration of what the size of our surplus would be at the end of this fiscal year, and we could not get an answer. It was a range, a range much broader than \$6.2 million. It was a range of \$10 million or \$20 million, \$30 million to \$40 million, maybe \$50 million. At the time we were looking at numbers that said \$67 million. The truth is that surplus money, under the law, the budget that was passed by this Senate less than three months ago, surplus money in tax revenue will go into the tax relief fund and it is to be used for tax relief. Seventy-five percent of the surplus money, under that bill, goes for tax relief, 25% goes to the unfunded liability in our retirement system. Any money that we choose to take from surplus is coming from the tax relief fund. No shell game can dispute that fact, and that is what we're looking at here, nothing more than a shell game. Three quarters of the \$6.2 million of that money should be going to tax relief not new spending. In just three months, less than three months, we're already violating the promise of tax relief for Maine people by passing this bill. Give it a few more months, how much more money will disappear from that so-called tax relief fund? In short, this is, no matter any amount of rhetoric, nothing short of a tax increase to spend for new programs. Some people in this Chamber are happy with that and that's fine. That is fine. That is an honorable position, but people who espouse one thing and do another, I think, ought to be called to account. I thank you for your attention.

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

Senator **BEHOIT:** Thank you Mr. President, may it please the Senate. I hadn't intended to speak on this matter. I've had occasion, an opportunity to speak on the issue on other legislation on this subject. But a couple of comments have been made and one of them, I join with Senator MacKinnon, the Senator from York, in his assessment that this is a pretty hard

issue. I find it, Mr. President, to be a very difficult issue because this piece of legislation comes to be more acceptable to me than other bills on the subject in this session, but I still am not able to support it. Senator Ruhlman, the Senator from Penobscot, made a comment that went to address a comment before his today, and that is the comment about New Hampshire's tax policy. Senator Ruhlman seems to have said today, as I understand his remarks, that we should not be looking towards New Hampshire or any other state for tax policy because this is Maine tax policy that we're talking about. That would be all well and good except, of course, we don't live in a vacuum, here in the State of Maine. We do have neighbors. And if, in fact, the Senator was correct then perhaps we should not have voted as we did, to give financial aid to Bath Iron Works because, remember what we did there? We looked all the way toward Mississippi to see what Mississippi's policy was concerning shipbuilding, and on the basis of that policy, we thought it advisable to give some relief to our shipbuilding industry and I voted for that. We do not live in a vacuum. We have to take into account what's going on with our neighbors and I think that's only right. After all, it is public information.

Mr. President, I would conclude with this, to echo some of Senator Halls remarks which I support. Every legislative session without fail, we have to fight the dreaded legislative malady of taxitis. It permeates the State House this session, as it always does, and we have succumbed to it, some of us. It would be nice to see a session, Mr. President, where we come here inoculated against that malady so that we can give relief to the citizens of the state regarding the tax burden. I refuse, respectfully, to play a part in seeing us move from 8<sup>th</sup> to 9<sup>th</sup> place on tax burden on our citizens towards 1<sup>st</sup> place no matter what the tax may be. I just can't bring myself to do it. It doesn't seem right. And this is just the sort of thing that happens, now it's tobacco, oh, it's noxious, let's tax it some more. It's still a tax and it moves us towards 1<sup>st</sup> place. Mr. President, I just can't do it, no matter how well-founded. Thank you.

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

Senator **GOLDTHWAIT:** Thank you Mr. President, ladies and gentlemen of the Senate. There was a reference earlier by the good Senator from Piscataquis, Senator Hall, and though it wasn't posed as a question, I would like to answer it anyway. And that was a reference to the fact that somebody, an unidentified, had some statistics that this is really an effective way to decrease youth smoking. So, I just want to give three very quick specifics about who those resources are. The first is a statement. "That numerous studies have concluded that youth are more price sensitive to tobacco tax increases than adults." That's from the National Bureau of Economic Research. The second is the statement "Given that almost no smokers begin smoking after age 20, large sustained increases in cigarette excise taxes are among the most effective means of achieving substantial long-run improvements in health." That's from the United States Department of Health and Human Services. And the final one is, "Increases in the price of cigarettes can reduce per capita consumption and the prevalence of smoking." And that is from the report published by the Massachusetts Institute of Technology Press. Thank you.

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

Senator **PINGREE:** Thank you Mr. President, women and men of the Senate. I know that we've talked for a long time and I do not intend to continue this debate for a long time further, but I did want to make two quick points. As has already been pointed out many times, we are not here today just to raise this tax and I find it very frustrating when we talk about the issue of taxes, as if they were somehow separate from the rest of the business that we do. They are simply a mechanism for us to accomplish what we think is important.

Today we're looking at this increase in the cigarette tax, as it has been well explained, because it will reduce the amount of youth that smoke. There's been some talk today about Medicaid or children's healthcare and, again, talked about in the context of just creating new programs, spending more money, increasing government spending and, in fact, looking at the report that we have at our desks saying that we got a "D" because, in fact, we were doing a very good job in Medicaid spending. I want to look at it, just briefly, from the other side. We don't spend money through Medicaid. We don't spend money on prescription drugs for the senior citizens or for children's healthcare just to raise taxes and spend money. We do it because part of our job as legislators is to perceive a need and to meet that need, and that's the program that we have before us today. Granted, much scaled down than what we'd originally talked about, but was to look at the need of children's healthcare, the perceived need and the understood need of making sure we meet our responsibility. Also to look at the problem of the cost of senior citizens prescription drugs. That's why this is in here, not because we have some desire to be the number one state in the country for taxes, that's the mechanism for what we do. And we try to do what we do very frugally and thriftily.

We put a lot of money aside this session for tax relief and we're going to continue to do that and I think that should be noted. The reasons that we are doing this today are very different than trying to become number one, and I needed to state that. I urge you all to vote in favor of what is a very minor compromise compared to what we started with but will go a long way to facing this problem that we've been unwilling to deal with and that's the problem of uninsured children and senior citizens prescription drugs.

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

Senator **KIEFFER:** Thank you Mr. President, ladies and gentlemen of the Senate. Obviously, most of this rhetoric, as we want to term it as such, was fully discussed in the debate over this subject when it was here before. However, there are a few new items and, I guess, I would just have to briefly comment on them. First of all my position on smoking has not changed since the debate here before. I'm totally opposed to not only our youth smoking but the adults smoking as well, and I speak as someone who quit smoking some 25 years ago.

I would vote tomorrow, or today, as I spoke before to totally ban the sale and possession and the use of cigarettes in the State of Maine if I thought that it would do anything towards lending better healthcare to our children, reducing heart attacks and various types of cancers in those who do smoke. I'm disappointed in the statistics that I continually hear because statistics are, I guess you can twist them around and make them say anything that you want. If a 37 cent increase will reduce smoking 15%, and I've heard \$1 will reduce smoking 20%, and

therefore, \$2 would reduce smoking 40%, and therefore, a \$5 increase would eliminate smoking all together. So, if that's the route we're using, if that's the way we want to go, let's look at a \$5 tax increase. I don't think it's that simple. The State of North Carolina has no cigarette tax at all, as I understand it. If that's true, I know from my area we have many potato trucks deliver potatoes as far as Florida and when they dead-head back, from rough calculations, if they can make, probably in the vicinity of \$300,000 to \$400,000 by bringing back an illegal load of cigarettes, I would think that's probably going to be quite attractive.

I also have to comment on this, "setting money aside." We've done this many times in the past. Originally, the lottery money was to be set aside for education, loon plate money, look what's happened to that. We've made promises of repeal of the one cent "temporary" increase in the sales tax from 6% to 5%. How much of this has ever come to be? We can't bind future legislators. And this money, so-called set aside in some special account for a purpose that sounds good to us right now may not sound so good when we're not here in a couple of years.

I, like Senator Bennett from Oxford, was very disappointed to hear that there is absolutely no confidentiality any longer among our tax returns. I think that's a very, very sad situation. If this now sets a precedent, how many of us can expect to see our names on the front page of the paper, next year or the year after, with the amount of income tax we have paid, and that being designated for some specific purpose. I think this needs an investigation and certainly, if it were under my jurisdiction, I'm afraid that there would be some heads rolling.

If this were strictly a healthcare issue, as I said earlier, I would support it in a heartbeat. I don't believe it is. I believe it's a tax issue and obvious that no one is arguing over the healthcare issue of this. We're only arguing over how to spend the money that's raised as the tax. Anything else I have said has been said before and is already on the record, for those reasons and for the reasons I've said today, I believe we can do better than this and I can't support this legislation, Mr. President. Thank you.

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

Senator **PARADIS:** Merci Monsieur President, ladies and gentlemen of the Senate. I, too, did not want to get up on this issue because we have been discussing this in our Committee since January. We have file drawer after file drawer of material on every aspect of this problem. We have a youth smoking problem in this state. It's horrendous. It's an abomination. We need to do something about it. When we had a high pregnancy rate of teenagers in this state, we did something about it. Let's get on with this. We are spending tons of money and people who have been smoking, the state tax payers, are paying the bill. It happens every day. You meet your constituents and you know what's happening. You, the taxpayers are paying the bill. And for us to keep saying that this is totally separate, this is two different issues, that doesn't even sound like it's in the realm of possibilities.

I just drove through Massachusetts, and I only drove through it, and I had the radio on, and they had the most incredible, beautiful smoking cessation program targeting everybody. I can't help but think it's going to work. We were monitoring that when we talked about this legislation. We know how to do it, let's get on with it. Let's do it.

I live on the Canadian border and you can bet your bottom dollar, the Canadians are going to keep coming here to buy their cigarettes because theirs are so much higher. I did spend my money in York County. That's where I chose to stop for a couple of days, and I'm hoping now, I'm sending invitations to my friends from York County to come up to Aroostook County for their vacation.

Again, we have done our job well in our Committee and I urge your support for this important piece of legislation. Thank you.

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

Senator **HARRIMAN:** Thank you very much Mr. President. Good afternoon ladies and gentlemen of the Senate. I was skeptical, yet, willing to believe the very people who I spend a fair amount of time with, who advocate for the legislation that's before us because they've earned my respect and confidence and their message was very simple. "We need to raise the cigarette tax because we can prove to you, Phil, that it will deter youngsters from smoking." While skeptical and believing in the people who advocate for these programs, I said, "Okay, let's find a way to raise the tax to discourage teenage smoking." And yes, I'll agree that it would make some sense to put some of that money into an education program and, in fact, I was very pleased to see, the other night at my daughters third grade, end of the year musical, tacked up against the wall in the gymnasium all of the affidavits signed by the students saying that they will never smoke or chew tobacco already underway without this legislation. So I said, "Okay, let's give it a chance." Let's do so without creating an avenue or an opportunity for government to grow and expand. And we've had that opportunity, and for reasons that I've come to believe are more political posturing and campaign positioning, we lost it, and that's okay. That's the way things go around here sometimes. Then as I sat here this afternoon, listening to the debate, I was really disappointed to hear what the dismal state of children's health is in this state, because I've heard, time and again, about the tremendous job we've done, prenatal care, live births, immunization, on and on and on, I could. We've done a good job. We've done a great job. We can be proud of what we've done for our children in this state. Yet, today, in the guise of some, perhaps, political maneuvering, in my view, we're painting the picture that we've turned our back on our children and that's unfair and untrue.

I don't understand why this bill, at least from my position, appears to be three pieces of legislation in one, cobbled together for a political solution. Bill number one says, let's raise the tax, siphon some of it off for an education program and give the rest back to the people who sign their names on the front of the check, to pay their taxes that arrive here in Augusta. Bill number two is, let's create a couple of task forces. That's okay, we do that fairly regularly, from time to time. But what despairs me more than anything, Mr. President, is that this bill, the third piece of this bill plants that seed that says we are going to pre-fund, pre-commit and be ready to pre-plan for the role of state government to grow in ways that, I predict, we haven't begun to think about. We're saying, up front, that government will be the solution to children's healthcare in Maine. And yes, government will be the solution to prescription drugs for the elderly. And you know, maybe that's the proper solution, but it's the first time in my experience here, where we set up a task force and we tell them, before they begin their journey, that here's the commitment.

Here's the financial commitment, \$8 million. Go out and do your work and we're ready to implement it.

So, rest assured that all of us in this chamber do care about the children. I, for one, am very proud of the role that this legislature, and past legislatures, has done to lend a helping hand, to reach back and to reach up, to help those in need. What disturbs me is that this bill has come together in a fashion that says, we are going to tell government that's it's okay to grow and expand. It's just a question of when. And I believe that we need to look to our families and our neighbors and our communities and our employers for those solutions, not the state government.

So, for those reasons, Mr. President, I hope you will respectfully understand that my vote, today, is not against the children or the elderly or for a principle. This says that government has grown large enough that we are not the solution to every social problem that comes before us, and that we need to look at each other and our neighbors and our communities to find those solutions. Thank you Mr. President.

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

Senator **CAREY:** Thank you Mr. President. Mr. President and members of the Senate. I had hoped that the amendment that I had prepared would have arrived by now. I understand that it is almost complete down at the Revisor's Office. I'm somewhat embarrassed to ask that someone even table this matter. It would have taken care of what my original complaint was about the State running around as a bandit, actually stealing money from the people who would have to pay it without getting a chance at getting their money back. And while it's not an immense amount of money, I don't believe that if we had planned on raising \$30 million out of this that we should stoop to stealing pennies. I know I had to make the explanation, so it leaves me without the authority to make the motion, but if anybody would make that motion, I certainly would appreciate it.

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Senate at Ease

Senate called to order by the President.

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Off Record Remarks

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

Senator **RUHLIN:** Thank you Mr. President, Senators of Maine. I share the concerns of the good Senator from Kennebec. I've not had the opportunity since this morning to review it with the Taxation Committee Analyst, but as I read the bill and try and reconstruct what happened some time ago, this vendor issue and the taxation of those packages of cigarettes that are in a vending machine was an item that was discussed in depth by the Taxation Committee. The transition from an existing excise tax amount of 37 cents to 74 cents was covered, I assure you, in great detail by the Taxation Committee. There were many problems associated with this by the way. When you have a new tax level going in and you have inventory, what they call floor inventory, and on a certain date it all must have the same stamp.

It could, even for the small Mom and Pop stores, institute a fiscal hardship immediately of \$2,000, \$3,000, or \$4,000 that they must come up with. The Committee was very sensitive to that. They tried to address. The language that is in this particular piece of legislation, to the best of my ability, short of having professional analysis from our analyst, appears to be the language that we, in fact, instituted at that time, after great discussion. I feel that it is. I feel that the problem that the good Senator from Kennebec has brought forward to the Senate is legitimate. I feel it could and probably will be able to be handled administratively. If, however, it is not capable of being handled administratively, I want to assure the Senate that, as Chair of the Taxation Committee, we will do what we can to bring about a legislative solution in the next Session of the 118<sup>th</sup> Legislature. 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, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

**NAYS:** Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, FERGUSON, HALL, HARRIMAN, KIEFFER, LIBBY, MACKINNON, SMALL

**ABSENT:** Senator: MITCHELL

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the Bill was **PASSED TO BE ENGROSSED**, without reference to a Committee, in concurrence.

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

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

**ORDERS**

**Joint Orders**

On motion by Senator **MICHAUD** of Penobscot, the following Joint Order: S.P. 680

**ORDERED**, the House concurring, that Bill, "An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 for Landfill Closure and Remediation," S.P. 88, L.D. 268; that Bill, "An Act to Authorize a General Fund Bond Issue in the Amount of \$8,500,000 to Fund Capital Expenses for Vocational High Schools," H.P. 413, L.D. 558; and that Bill, "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 to Address Federal and State Accessibility and Public Safety Issues," S.P. 612, L.D. 1813, and all their