

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME V

FIRST SPECIAL SESSION

July 11, 1991 to July 18, 1991

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FIRST CONFIRMATION SESSION

October 2, 1991

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SECOND SPECIAL SESSION

December 18, 1991 to January 7, 1992

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SECOND REGULAR SESSION

House of Representatives

January 8, 1992 to March 9, 1992

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
21st Legislative Day
Thursday, March 5, 1992

UNIVERSITY OF MAINE SYSTEM
107 Maine Avenue
Bangor, Maine 04401-1805

February 21, 1992

The House met according to adjournment and was called to order by the Speaker.

Prayer by Reverend Victor Stanley, First Baptist Church, Gardiner.

The Journal of Monday, March 4, 1992, was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act Transferring County Jail Operations to the State" (H.P. 998) (L.D. 1447) on which the Minority "Ought Not to Pass" Report of the Joint Select Committee on Corrections was read and accepted in the House on March 2, 1992.

Came from the Senate with the Majority "Ought to Pass" as amended Report of the Joint Select Committee on Corrections read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-979) in non-concurrence.

On motion of Representative Gwadosky of Fairfield, tabled pending further consideration and later today assigned.

COMMUNICATIONS

The following Communication:

115TH MAINE LEGISLATURE

February 12, 1992

Robert L. Woodbury, Chancellor
University of Maine System
107 Maine Avenue
Bangor, ME 04401-1805

Dear Chancellor Woodbury:

We are pleased to extend an invitation to you to address a Joint Convention of the 115th Legislature on Monday, March 9, 1992 at 11:00 a.m. We understand that this date is agreeable with your schedule.

We look forward to seeing you on March 9th to hear your views on the "State of Education" in Maine.

Sincerely,

S/Charles P. Pray
President of the Senate

S/John L. Martin
Speaker of the House

Was read and ordered placed on file.

The following Communication:

The Honorable Charles P. Pray
President of the Senate

The Honorable John L. Martin
Speaker of the House

The State House
Augusta, Maine 04333

Dear Mr. President and Mr. Speaker:

I am honored by your invitation to address a Joint Convention of the 115th Maine Legislature and pleased to accept.

Monday, March 9, at 11:00 a.m. is most satisfactory. I look forward to sharing with you and your colleagues my views on the state of the University of Maine System during these difficult times.

Sincerely,

S/Robert L. Woodbury
Chancellor

Was read and ordered placed on file.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 56 and Joint Rule 34, the following item:

Recognizing:

Coach Christian Elkington; Assistant Coaches Larry Terrio, Robert Morrill and Todd Sanders; Managers Greg Lemoine and Matt Ames; and the following members of the Rockland District High School Boys Basketball Team: Chris Gamage, Greg Knight, Erik Carleson, Paul Benjamin, Mike Montgomery, Jim Montgomery, Shane Leblanc, Jeff Woodman, Chris Curtis, Tim Calderwood, Kevin Blackwell, Mark Fishman, Jamie York and Mike Norton, winners of the 1992 Class B State Basketball Championship; (HLS 873) by Representative MELENDY of Rockland. (Cosponsors: Representative MAYO of Thomaston, Senator BRAWN of Knox)

On motion of Representative Melendy of Rockland, was removed from the Special Sentiment Calendar.

Was read.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Men and Women of the House: I would like to tell you how proud and grateful the citizens of Rockland are for the varsity team and its achievements this year. They had an undefeated season, they won the Eastern Maine Class B championship and went on to win the

State Class B championship for the very first time in the history of Rockland. Coach Chris Elkington has been with us for only five short years. During those years, the Rockland District High School basketball team has played in the tournaments for four of those five years, won three of the Eastern Maine Class B's, plus what they have done this year — so we are certainly proud of him also.

I would also like to give special recognition to Coach Robert Morrill who is up in the gallery. He is retiring after 37 years of JV and Varsity coaching. He has touched the lives of so many boys in our community during his tenure and we are very, very appreciative of his positive influence.

Subsequently, was passed and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative JACQUES from the Committee on **Energy and Natural Resources** on Bill "An Act to Revise the Purpose of the Board and Department of Environmental Protection and to Temporarily Exempt Certain Activities from Certain Permit Requirements" (EMERGENCY) (H.P. 1672) (L.D. 2348) reporting "**Ought Not to Pass**"

Representative MANNING from the Committee on **Human Resources** on Resolve, Directing the Department of Human Services to Maintain Long-term Care Services (H.P. 1444) (L.D. 2056) reporting "**Ought Not to Pass**"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Ought to Pass as Amended

Representative SHELTRA from the Committee on **Business Legislation** on Bill "An Act Relating to Unredeemed Deposits" (H.P. 1519) (L.D. 2131) reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-1034)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-1034) was read by the Clerk and adopted and the bill assigned for second reading Monday, March 9, 1992.

Ought to Pass as Amended

Representative NADEAU from the Committee on **Taxation** on Bill "An Act to Exempt Certain Municipalities from Interest Imposed by the State" (H.P. 1581) (L.D. 2231) reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-1039)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-1039) was read by the Clerk and adopted and the bill assigned for second reading Monday, March 9, 1992.

Ought to Pass as Amended

Representative MACOMBER from the Committee on **Transportation** on Bill "An Act to Enforce Registration of Motor Vehicles" (H.P. 1690) (L.D. 2370) reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-1028)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-1028) was read by the Clerk and adopted and the bill assigned for second reading Monday, March 9, 1992.

CONSENT CALENDAR

First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(H.P. 1522) (L.D. 2151) Bill "An Act to Amend the Laws Governing Resident-owned Cooperative Mobile Home Parks" (EMERGENCY) Committee on **Legal Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-1030)

(H.P. 1594) (L.D. 2248) Bill "An Act to Clarify Maine's Rent-to-own Laws" Committee on **Business Legislation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-1033)

(H.P. 1458) (L.D. 2070) Bill "An Act to Ensure the Retention of Utility Lines Crossing Railroad Property" Committee on **Utilities** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-1036)

(H.P. 1630) (L.D. 2294) Bill "An Act to Provide Accountability for Certain Purchased Services Related to Substance Abuse" Committee on **Human Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-1041)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, March 9, 1992, under the listing of Second Day.

SECOND READER

Tabled and Assigned

Bill "An Act to Establish Municipal Cost Components for Unorganized Territory Services to be Rendered in Fiscal Year 1992-93" (EMERGENCY) (H.P. 1713) (L.D. 2398)

Was reported by the Committee on Bills in the **Second Reading** and read a second time.

On motion of Representative Cashman of Old Town, tabled pending passage to be engrossed and specially assigned for Monday, March 9, 1992.

ORDERS OF THE DAY
UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first item of Unfinished Business:

Bill "An Act to Amend the Maine Health Security Act" (H.P. 1093) (L.D. 1593)

- In House, Majority "Ought to Pass" as amended Report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-966) on February 27, 1992.

- In Senate, Minority "Ought to Pass" as amended Report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "B" (H-967).

TABLED - March 4, 1992 (Till Later Today) by Representative PARADIS of Augusta.

PENDING - Motion of same Representative to Adhere.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Men and Women of the House: I move that the House recede and concur.

The distinctions between the reports on this matter are extremely slight. The question is whether or not there will be a repealer added to the medical malpractice screening panels.

The Representative from Augusta, Representative Paradis, quite properly, suggests to the House by virtue of his motion that we make it mandatory to the courts and to the medical profession that they must comply.

The reason for my motion is to ask you to consider whether or not it might not be better logic to leave in the hands of the courts the idea that the next legislature will not be responsible with re-enacting the panels but will instead be given the opportunity to repeal if this slap to the head that the Majority Report gives is not recognized as being that which is necessary.

I find myself in an interesting position today because, in some ways, this places me between the forces of good, which hitherto I have always supported the Maine State Bar Association who feels that the panels have not worked, and an insurance company which feels as though they have.

The point is, my reasons for resolving this by urging you to recede and concur is that I have talked with Justice Delahanty with respect to court management to the panels. I worked hard as so many others did to see these panels in place for the purposes of resolving medical malpractice panels in a better way. Both reports contain provisions which would improve the process of resolution, both a

limitation on discovery, which I wholeheartedly support and think is the biggest problem with the panels, and also the possibility of mediation at any time that either of the parties want as these matters move forward.

If we adopt the view of Representative Paradis and adhere, there is the possibility that the wrong message will be sent. By receding and concurring, I think we send a better message which is that this may be the last chance to make these panels work. I would prefer to see us send that message and that is the reason for my motion.

In any event, the most important thing for us to do is to not get into a position where the two beneficial provisions of each report a loss, that is the discovery control and a mediation potential. For that reason, I would urge that we recede and concur. Since those who may not be making it work know that the legislature has its eye on them and they must now either work or the next legislature (I feel certain) will repeal which I would consider to be a tragedy for Maine people.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: I rise today to urge you to support the motion of the Representative from Belfast, Representative Marsano. It is probably the first time I have ever done that in this body but let me tell you why. When this body debated a cap on noneconomic damages and when we debated Joint and Several Liability, it was argued in this body that in fact malpractice rates were dropping in large measure because of actions this body had already taken including the prelitigation screening panels. What we do today, if in fact we do not vote to recede and concur, is probably to do a death knell to those prelitigation screening panels that, at least in the past several weeks, we have been told work.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will vote against the Representative from Belfast's motion to recede and concur so we can adhere. Both reports, Committee Amendment "A" and Committee Amendment "B" are identical except in one small fashion and that is, as the Representative from Belfast has stated on the Record, that Section 5 of the Committee Amendment to the bill calls for a sunset of October 31, 1993. This is to force the parties to come before the committee next year and to justify their existence to us after six long years of being in place.

To use a metaphor which the good Representative from Belfast could probably understand, "the jury is still out" on this prelitigation screening panel, they haven't rendered a finding of fact to the legislature and in particular to the Judiciary Committee that these are good panels and that they are working well. I hear two very discordant voices out there. One side says, oh, they are working terrifically well, they are preventing cases from being adjudicated in the courts and they are saving valuable court time. The other side says they are nothing more than a stumbling block, preventing fair adjudication of these tort claims, preventing citizens from coming forward in due time to state their case, they are just something there that people stumble on and it takes a couple of years to get through. I hear two different messages coming

forward. All we are saying in an 11 to 2 report with every member of the committee and this body having voted for this sunset saying forthrightly, if there is such a disagreement, let's force the issue next year. We are both willing to make improvements, both bills are identical in the improvements but what are we going to do, wait another four years before these improvements come before us and have to vote on that again? We establish panels, we establish boards and commissions and then we just sort of leave them in limbo, let them exist without ever taking a look at them. The message I hear is, let's sunset some of these boards and commissions and have them rejustify themselves to this legislature. So, the jury is far from being back in the courtroom rendering a finding of facts to this Judiciary Committee and to this House.

Please vote against the motion to recede and concur.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I was on the Judiciary Committee when the prelitigation screening panels came into being five years ago. The panels were established in 1986 as part of a medical liability bill. It was sponsored by Senator Pray and had complete bipartisan support. It was enacted with the agreement of the Maine Trial Lawyers Association, the Maine Bar Association and the Maine Medical Association. These panels were part of the tort reform package and they were established to help contain the backlog in court cases and speed cases through the courts. Since their establishment, nearly 600 cases have been screened or are in the process. Do bear in mind that no plaintiff is stopped from going to court after the panel has ruled. Ultimate success to the courts is not affected by the panel process.

As Chief Justice McKusick indicated in his presentation last week, our courts are inundated with new filings. He said that alternative dispute mechanisms should be adopted whenever possible. In his previous annual addresses, he stated that he felt that the panels were working well.

Any current delay in this process was satisfactorily explained by Justice Delahanty in relation to last year's legislation amending those panels. Justice Delahanty stated that he has been successful in recruiting 125 new panel chairs for these prelitigation screening panels. There is every reason to believe that the panels will work effectively to cure the existing backlog of cases. To subject the panels to a future repeal date at this time when we are making modifications to the statutes makes little sense to me, particularly when repeal will cost the state money. If the panels are repealed resulting in the cases going directly to court without screening, it will cost the court system \$141,000 annually in additional costs and these costs will be added to the General Fund.

I hope you will vote to recede and concur.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Lipman.

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: I wouldn't feel right if I didn't rise to debate what we could call a lawyer's type bill. I am not a member of the Judiciary Committee, I am aware of the panels, I am aware of

the problems of the panels and it is not for me to testify before you as to the number of people who can't get hearings because these panels don't have people who are willing to sit. The Judiciary Committee heard the testimony and the Judiciary House members of the Committee voted to have this sunset. It would seem to me that it makes sense to go along with what the committee did and give them an opportunity to get the thing cleaned up. If they don't get it cleaned up and they can't present a case next year, then we ought to do away with it. If they can put it together and keep it, then we will keep the panels.

I believe the good Representative from Augusta, who is the Chairman of the Committee, has made a good point. I think that this committee has had the opportunity to investigate what should be done and we ought to follow their recommendations.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Men and Women of the House: The point that should be obvious to everybody is that no one wants to do away with the panels. That is the message that the Representative from Augusta said. The question is, what is the best way to send a message to those people that say, make them work. All I am suggesting to you is that we leave in place the message that says, we, the members of the legislature, believe in these panels, now it is up to you to make them work because we feel you haven't made them work. We have already taken one strong step against you, not because of our belief that the system is bad, but because you haven't made the system work the way it is supposed to. I think we should give the system one more chance. It is in place and, in order to send the right message which the Representative from Presque Isle so adequately explained, we need to recede and concur and I hope you will do that. It is simply a philosophical difference as to the way in which to send the best message and if unfortunately the men and women in the other body should adhere, why the gains that exist in the two provisions which everybody also agree are good, would be lost. We should not take that risk.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Belfast, Representative Marsano, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

48 having voted in the affirmative and 54 in the negative, the motion did not prevail.

Subsequently, the House voted to Adhere.

The Chair laid before the House the second item of Unfinished Business:

An Act Making Supplemental Appropriations for Fiscal Year 1991-92 (EMERGENCY) (H.P. 1699) (L.D. 2379) (S. "A" S-569 to H. "B" H-981)

TABLED - March 4, 1992 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Foss of Yarmouth, under suspension of the rules, the House reconsidered its action whereby L.D. 2379 was passed to be engrossed.

The same Representative offered House Amendment "C" (H-1044) and moved its adoption. House Amendment "C" (H-1044) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Men and Women of the House: Two controversial issues have divided us on the committee, first the suspension of merit pay increases on April 1st and second the Minority's objection to converting, not extending, a contract with Blue Cross/Blue Shield which we felt in effect was giving them a \$65 million dollar contract with no competitive bidding process and without negotiations.

This amendment I present to you now addresses both of those issues, I believe, in a less confrontational way. First, it includes a concrete commitment to eliminate state employee pay raises as of July 1st outside of this contract period during these difficult economic times when many of our constituents are getting laid off or have seen their pay reduced. It also begins to control the cost of the health insurance plan. This amendment would put in that \$700,000 worth which we need to fill the hole and would be sent back to collective bargaining for agreement between union and management. If that agreement were not reached by May 31st, there would be an employee co-pay during this fiscal year to fill that hole.

It is our belief on the Minority that without this amendment, it is guaranteed that we will not find any real savings in the health insurance area next year. In fact, we could face a shortfall.

I would like to give you some history on this issue. Last December, we sent back to collective bargaining a \$3.2 million dollar agreement in the health insurance area to find some savings for this fiscal year. After those negotiations, the union would only agree to one-time parts of money with no benefit cuts like increased deductibles or co-pay. Therefore, from our perspective, there will be no long-term savings in the burgeoning cost of health insurance, only quick fixes. However, even that agreement fell short of the \$3.2 million dollar target by \$900,000 and that is why we are having the current debate. We have a hole to fill.

I should remind you also that next year's budget is based on over a \$7 million savings in that same health insurance area and with no structural cuts there, those savings will not materialize.

Last Sunday, the Lewiston paper ran an article about the generosity of this plan and I would like to quote from that for those of you who did not see it. I am quoting a Ms. Jolene Richards who describes our plan, "These people are driving a Rolls Royce." She is the Vice-President of group benefits at Healey & Associates, Inc. in Lewiston, a broker for 200 businesses employing from 25 to 1,000 workers in the private sector. I am quoting her, "It is the most inflationary medical plan that I have ever seen. I can't believe that in 1992 it is still in place." Further in the article it states, "A 1991 study by the National Association of State Personnel executives ranked Maine number 10th highest in the country in cost to the state and its taxpayers for employee health insurance. When it comes to the state retirement fund, Maine government contributes the highest percentage per worker in the country." Ms. Richards goes on to say that it is an embarrassment. "It is very nice that our state

employees are well taken care of but everyone else is having to make very difficult decisions. They are cutting benefits, increasing deductibles and increasing employee participation in the cost of their plan." I thought those facts were rather startling. In fact, Maine even has a benefit now of a \$600 lifetime threshold which no other state in the country has. We must begin to find some real savings in our health insurance plan to bring it in line with the private sector and to make it affordable to state government.

I should remind you as this article did also that the average state employee's salary is \$25,000; the average private sector employee's salary is \$19,800. Surely, those private sector workers cannot afford to subsidize the state plan that gives even more generous benefits than they themselves are receiving. We must begin to bring the costs within affordable limits.

I urge you to support the amendment before you for two major reasons. First, it avoids giving a \$65 million dollar converted contract to Blue Cross with no competitive bidding in these difficult economic times and it begins to control the cost of a health insurance plan that Maine people cannot afford to subsidize. Without this amendment, the budget would continue and remain silent on the whole issue of continuing merit pay increases for state employees and would ensure the continuation of one of the most expensive benefit packages in the country.

I ask for your vote on this amendment and I ask for a roll call, Mr. Speaker.

Representative Chonko of Topsham moved that House Amendment "C" (H-1044) be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Rydell.

Representative RYDELL: Mr. Speaker, Ladies and Gentlemen of the House: I hope that the House will go along with the motion of the Representative from Topsham, Representative Chonko, and I would like to respond to some of the remarks made just now by the Representative from Yarmouth.

I think there is agreement with respect to the state employee health insurance contract. In fact, I know there is agreement that there must be structural changes in that contract, structural changes of two types, one is the financing. We can no longer act as though we are an employer of 50 or 100 employees when instead we have 15,000 plus our retirees, plus dependents. We must act like every other corporation and every other state, we must change our financing structure and hold our reserves so that we take advantage of the cash flow that that gives us. Then we will not be paying federal taxes on insurance policies but instead keep those funds within our state, that is the financing structure and that what a change to a minimum premium would give us.

We must also change the benefit structure. That benefit structure is, as was stated in the Lewiston Sun article, outmoded. We have been told by our current carrier for the last couple of years that it is outmoded, outdated, and too expensive for the state. Why is that? First of all, it has very little managed care. It doesn't offer an HMO option or preferred provider option to any state employees. I don't know if we are the last state in the nation not to offer that but we are certainly one of the last. Every other state, every large corporation including our very largest employer in the state, Bath Iron Works, offers an HMO option. It offers its

employees the opportunity, if they want to save on their health insurance, they must give up some of their freedom of choice. We don't do that, we must change the benefit structure so that we do.

The article stated that "it's a Rolls Royce" — if you use hospital care, the most expensive hospital care and the most expensive technology, perhaps that can be said to be true. But, for most of us, the health insurance plan that we have does not cover some very important benefits. It does not cover primary and preventive care to any great extent, it does not cover checkups, you have to have some other reason for going to the doctor. If you go just for a checkup, it doesn't cover it so we need to change that benefit structure and, in doing so, we need to offer alternatives that will allow employees to make some choices. If they are willing to enter into a managed care arrangement, they will have an opportunity to keep their costs down, more so than if they want to retain total freedom of choice. That is one option we could offer that would save some funds for our state.

The \$600 lifetime threshold — there's an interesting story behind that, that wasn't brought to the bargaining table and agreed upon after a great deal of negotiations, that was discussed peripherally at the bargaining table and the then Commissioner of Administration said, this is an easy item, let's just accept this and move on to the next. Union negotiators have told me that they were very, very surprised. Well, it turns out that it is not a very expensive benefit to be offered. Eliminating it would give us about \$173,000 in a six month period but certainly it is something that we must reconsider and it certainly will be reconsidered when the current contract is renegotiated.

If we turn to this amendment though and we look at what it is asking us to do, it is asking us to achieve \$875,000 in savings in a one month time period. If collective bargaining is successful by May 31st, then that process would change the benefit structure for the month of June. Any insurer cannot change a benefit structure overnight, it takes four to five weeks to implement the changes. Four to five weeks brings us into the new fiscal year, plus the fact, how could we achieve \$875,000? We could drop the coverage of prescription drugs, that's about a little under a million dollars a month but we would also have to say that you couldn't, once you lost your prescription drug card, charge these drugs to your major medical, you wouldn't be able to collect on that, otherwise, you wouldn't have the savings. If we had the savings this year, we would lose it next year as people filed their claims after July 1st.

We could change the Blue Shield structure which is now at 80 percent. We could go to 40 percent, think of what that would do to the retirees. Again, they could reclaim this on the major medical unless we change that so it would be very difficult in the benefit structure to recoup that amount of money. So we could go the next possibility which is to increase the employee contribution rate, again for the remaining of fiscal year 1991-1992 an amount sufficient to achieve the savings specified in Section 7 and 8. That is \$875,000. Well, rough calculations and I have not had time to do complete calculations but I believe we would have to increase the employee contributions by more than 50 percent and perhaps as much as 75 percent of what they are now paying for family coverage. What would that do

to the family coverage of state employees? What would they do in that one month, would they get by or would they just quickly run to the State Employees Health Office and say, "For this month, you had better drop my coverage." Then what happens when they want to get back on? Chaos would be created and the likelihood would be that we would not achieve those savings.

We have now on the bill an amendment that would achieve the savings that we need. I believe it is the prudent way to go. It would allow discussions on the changing of the finance structure and the changing of the benefit structure, not to be done in haste, not to be done in a one month period of time, but to move on and do it the way that other states have done and to get us back in line. We are a couple of years behind every major corporation and every state in the nation. In fact, in some cases, we are more than a couple of years behind but we cannot do this overnight. Obviously, we have been trying, some of us, to get these changes for more than two years and it hasn't happened. We need to get moving. We need to move on and change our contract but to do it quickly to achieve \$875,000 in savings in a one month period of time is, I don't believe, either possible, feasible or desirable but to do it the way it ought to be done and I believe we have that right now and I believe we should continue to work in that direction.

I hope you will vote to indefinitely postpone this amendment.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to respond to the points made by Representative Rydell but most of all remind you of the language on the merit pay increase in this. I thought it was brought home, and this I want to make clear, it is for July 1st which had a unanimous vote of support in our committee last Saturday. It is not in this contract year and I thought it was brought home particularly clear this morning in the Portland paper when the unions, who had not already agreed to forego their pay increases last year, reversed their votes to protect the jobs of their colleagues. They decided that they would not take their pay increases beginning July 1st because they understand that the city is in difficult economic times.

I also want to remind you that that co-pay would not come into play unless there was no agreement on some benefit change. Most of our constituents are paying higher deductibles than we have in our plan and are paying a portion of their health insurance.

Mr. Speaker, I request a roll call.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, Men and Women of the House: This has been a very difficult issue for all of us on the committee and all of us here in the House and in the other chamber as well.

Last week on Saturday morning, we did unanimously in committee vote for merit increases to be out of the FY93 budget. That was a commitment of this legislator and of all members of that committee. There are a number of things that I would like to see in this particular budget that would reassure my beliefs of things that would happen for 1993. There would be a lot of language that I would love to have in here that would reassure that but it is not here.

What we have in this chamber and this legislature is an element of trust when a legislator's vote and legislator's word is his or her word. I would hope that we still maintain that element of trust and that faith that, when we vote unanimously that this is going to be in a budget, that we will stand by that. This deals with 1993, part of this amendment, not with 1992. I don't think it is necessary, I don't think we need it in this budget, the commitment has been there and the commitment will stay there for 1993. Let's deal with 1992, we will deal with 1993 when it comes back up here.

I would urge you to support the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Ladies and Gentlemen of the House: The Representative from Gray has just made a couple of interesting comments that I think deserve a response. That Representative and two other Representatives did find the elements that are contained in Representative Foss's amendment agreeable two days ago. I think that that further emphasizes the point that this amendment makes that we need (now) to start in statute making the statement that we will not be granting pay increases and that we will start to cut one of the most expensive benefit packages in the nation.

There are two key elements to this package that we are about to go on Record of either supporting or not supporting. It is time that this legislature replaced words with actions.

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: Let's be clear about what the issue is before us today. We are talking about the FY92 Supplemental spending request that Governor McKernan has submitted to us. It is not anything more than that. There are those who wish to stuff all kinds of extra things in the FY92 budget for their own reasons. I will not debate those today. We are debating and voting today on one thing and one thing only, a supplemental spending plan or supplemental request that Governor McKernan gave us for FY92. There isn't one nickel (as I said the other day) in this budget, the FY92 budget, for merit pay increases, not one nickel. It is wrong to insinuate that there is, it is wrong to bring FY93 issues into the FY92 budget. Make no mistake about it.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I have to rise in response to that. There is a nickel, there are many dollars in this budget for merit increases from April 1st to June 30th, which was in Governor McKernan's — the suspension of those raises was in his budget.

My amendment avoids the controversy that was raised by that because of the AG's opinion that it was likely unconstitutional. I would prefer to see those merit pay increases frozen April 1st. There is money in this budget to pay those raises. However, because there are members of this House who felt strongly that it was interfering with the contract, even though that is not in the contract, and the Attorney General ruled the other day that we can do anything in some of these areas except for that and health insurance and others right now. There is

money in this contract for that but my amendment states that because of the controversy over that, that language would start suspending merit pay increases on July 1st, not April 1st.

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

Representative MAYO: Mr. Speaker, I would like to pose a question through the Chair to the Representative from Yarmouth, Representative Foss.

My question is, could she tell me on what line in L.D. 2379 there is an appropriation for merit pay?

The SPEAKER: The Representative from Thomaston, Representative Mayo, has posed a question through the Chair to the Representative from Yarmouth, Representative Foss, who may respond if she so desires.

The Chair recognizes that Representative.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: It would be in every "Personal Services Account."

Representative MAYO: Mr. Speaker, I believe the Representative from Yarmouth misunderstood my question. I asked about L.D. 2379, not the budget that is the current law.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: In every "Personal Services" line in that budget, there is implied merit increases as of April 1st.

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I think the fact that the question was not answered proves the point. There is no money in this L.D. for merit pay, it is part of current law.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Topsham, Representative Chonko, that House Amendment "C" (H-1044) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 329

YEA - Adams, Aliberti, Anthony, Ault, Bell, Cahill, M.; Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, Dore, Dutremble, L.; Erwin, Gean, Goodridge, Gould, R. A.; Graham, Gray, Greenlaw, Gurney, Gwadosky, Hale, Handy, Heeschen, Heino, Hichborn, Hichens, Hogle, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lawrence, Lipman, Lord, Luther, Macomber, Mahany, Manning, Marsh, Martin, H.; Mayo, McHenry, Melendy, Merrill, Michaud, Mitchell, E.; Morrison, Nadeau, Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Parent, Paul, Pfeiffer, Pineau, Plourde, Pouliot, Powers, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Salisbury, Sheltra, Simonds, Simpson, Skoglund,

Spear, Stevens, P.; Strout, Swazey, Tammaro, Tardy, Townsend, Tracy, Treat, Vigue, Waterman, Wentworth, The Speaker.

NAY - Aikman, Anderson, Bailey, H.; Bailey, R.; Barth, Bennett, Boutilier, Butland, Carleton, Carroll, J.; Donnelly, Farnum, Farren, Foss, Garland, Hastings, Kutasi, Lebowitz, Libby, Look, MacBride, Marsano, Murphy, Nash, Pendexter, Pines, Reed, G.; Reed, W.; Richards, Savage, Small, Stevens, A.; Stevenson, Tupper, Whitcomb.

ABSENT - Bowers, DiPietro, Duffy, Duplessis, Farnsworth, Hanley, Hepburn, Lemke, McKeen, Michael, Mitchell, J.; Ott, Pendleton, Poulin, Rand.

Yes, 101; No, 35; Absent, 15; Paired, 0; Excused, 0.

101 having voted in the affirmative and 35 in the negative with 15 being absent, the motion to indefinitely postpone House Amendment "C" (H-1044) did prevail.

On motion of Representative Carroll of Gray, under suspension of the rules, the House reconsidered its action whereby House Amendment "B" (H-981) as amended by Senate Amendment "A" (S-569) was adopted.

The same Representative offered House Amendment "A" (H-1045) to House Amendment "B" (H-981) and moved its adoption.

House Amendment "A" (H-1045) to House Amendment "B" (H-981) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, Men and Women of the House: This amendment is an attempt to address the major concern that was expressed in this body a few days ago. This amendment, in essence, does away with the minimum premium agreement, the extension and conversion of the Blue Cross/Blue Shield contract with the State of Maine. It then makes up the money by saying to Blue Cross/Blue Shield that, in our contract year that expires June 30th, the estimated dividends that the state will have accrued between January 1st and June 30th we will ask those to be paid prior to the end of this fiscal year. That will leave the budget balanced and it addresses the concerns. This amendment was discussed in the committee yesterday as a means of a compromise to move forward and the whole committee was there. It wasn't an agreement made by the committee, it was done openly and I must say that prior comments saying that we agreed to a language with a couple of legislators we agreed to bring that language to committee to discuss it with the rest of the committee. That was what the agreement was. That agreement was honored, we discussed the previous amendment, we discussed the concepts in this amendment and it does do away with that image of no bid of a \$65 million dollar gift of a sweetheart deal and it keeps the budget balanced.

I urge your adoption of this amendment.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Men and Women of the House: I hope you will not support this amendment. It is another one-time part of money to make the problem go away. It does nothing to find any real savings, an unaffordable health insurance plan and it also does not address the issue of merit pay.

I request permission to pose a question through the Chair, Mr. Speaker.

To the sponsor of the amendment, it is my

understanding that Blue Cross/Blue Shield doesn't even know if they will have a surplus this year and has the sponsor had a guarantee from Blue Cross/Blue Shield about this premium surplus? I believe this amendment is dependent on \$491,000 or \$500,000 of that and will that in fact be available to kick back from July into June?

The SPEAKER: The Representative from Yarmouth, Representative Foss, has posed a question through the Chair to the Representative from Gray, Representative Carroll, who may respond if he so desires.

The Chair recognizes that Representative.

Representative CARROLL: Mr. Speaker, Men and Women of the House: I would be pleased to respond to that question.

In our subcommittee room we were dealing with this health insurance issue and the one thing that we all agreed to, all parties, was the revenue by source numbers. The revenue by source numbers for 1992 estimated premium dividend agreed to by the union coalition and the administration was \$1 million from January 1st to June 30th. All parties agreed that that number was there, that that number was an accurate number. We are using \$491,100 from General Fund and another \$250,000 from the other ancillary groups as we have done in previous times to fund that budget. Those are numbers that are guaranteed, those are numbers that were agreed to by both unions, the subcommittee and the administration.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose another question through the Chair.

I just want absolute clarification for the Record. We may agree on numbers downstairs but we may agree on behalf of other people and I just want for the Record the clarification that there is assurance from Blue Cross/Blue Shield that that money will be available in July to move into June?

The SPEAKER: The Representative from Yarmouth, Representative Foss, has posed another question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: The assurances from Blue Cross/Blue Shield are reflected in the numbers that were given to our subcommittee, numbers that were agreed to by all parties, the unions and the administration. If all parties agree on the numbers given to them by Blue Cross/Blue Shield, I would be safe to say that some assurances are there and that those are accurate.

The SPEAKER: The Chair will order a vote. The pending question before the House is adoption of House Amendment "A" (H-1045) to House Amendment "B" (H-981). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

80 having voted in the affirmative and 29 in the negative, House Amendment "A" (H-1045) to House Amendment "B" (H-981) was adopted.

House Amendment "B" (H-981) as amended by Senate Amendment "A" (S-569) and House Amendment "A" (H-1045) thereto was adopted.

Representative Whitcomb of Waldo requested a roll

call on engrossment.

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

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

The SPEAKER: The pending question before the House is passage to be engrossed as amended. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 330

YEA - Adams, Aliberti, Anderson, Anthony, Ault, Bell, Boutillier, Cahill, M.; Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, Dore, Dutremble, L.; Erwin, Farren, Gean, Goodridge, Gould, R. A.; Graham, Gray, Greenlaw, Gurney, Gwadosky, Hale, Handy, Heeschen, Heino, Hichborn, Hogle, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Lord, Luther, Macomber, Mahany, Manning, Marsh, Martin, H.; Mayo, McHenry, Melendy, Michaud, Mitchell, E.; Morrison, Nadeau, Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Parent, Paul, Pfeiffer, Pineau, Plourde, Pouliot, Powers, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Salisbury, Sheltra, Simonds, Simpson, Skoglund, Spear, Stevens, P.; Strout, Swazey, Tammaro, Tardy, Townsend, Tracy, Treat, Vigue, Waterman, Wentworth, The Speaker.

NAY - Aikman, Bailey, H.; Bailey, R.; Barth, Bennett, Butland, Carleton, Carroll, J.; Donnelly, Farnum, Foss, Garland, Hastings, Hichens, Kutasi, Lebowitz, Libby, Lipman, Look, MacBride, Marsano, Merrill, Murphy, Nash, Pendexter, Pines, Reed, G.; Reed, W.; Richards, Savage, Small, Stevens, A.; Stevenson, Tupper, Whitcomb.

ABSENT - Bowers, DiPietro, Duffy, Duplessis, Farnsworth, Hanley, Hepburn, McKeen, Michael, Mitchell, J.; Ott, Pendleton, Poulin, Rand.

Yes, 102; No, 35; Absent, 14; Paired, 0; Excused, 0.

102 having voted in the affirmative and 35 in the negative with 14 being absent, the bill was passed to be engrossed as amended by House Amendment "B" (H-981) as amended by Senate Amendment "A" (S-569) and House Amendment "A" (H-1045) thereto in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the third item of Unfinished Business:

An Act Relating to the Division of a Member's Rights and Benefits under the Maine State Retirement System Pursuant to a Qualified Domestic Relations Order (EMERGENCY) (H.P. 711) (L.D. 1016) (C. "A" H-924)

TABLED - March 4, 1992 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and later today assigned.

The Chair laid before the House the fourth item of Unfinished Business:

Bill "An Act to Prohibit the Sale and Distribution of Certain Milk Products" (H.P. 1163) (L.D. 1704) (H. "D" H-992 to C. "A" H-897) TABLED - March 4, 1992 (Till Later Today) by Representative MAYO of Thomaston.
PENDING - Motion of Representative HUSSEY of Milo to Reconsider Passage to be Engrossed as amended by Committee Amendment "A" (H-897) as amended by House Amendment "D" (H-992) thereto.

Representative Mayo of Thomaston moved that L.D. 1704 be tabled until later in today's session pending the motion of Representative Hussey of Milo that the House reconsider its action whereby L.D. 1704 was passed to be engrossed.

Representative Nutting of Leeds requested a roll call.

Subsequently, Representative Mayo of Thomaston withdrew his motion to table.

Subsequently, on motion of Representative Hussey of Milo, the House reconsidered its action whereby L.D. 1704 was passed to be engrossed as amended.

The SPEAKER: The Chair recognizes the Representative from Leeds, Representative Nutting.

Representative NUTTING: Mr. Speaker, may I pose a question to the Chair, please?

The SPEAKER: The Representative may pose his question.

Representative NUTTING: Mr. Speaker, is the status of the bill now that it has passed its second reading and it will go to the other body?

The SPEAKER: The Chair would answer in the negative.

On motion of Representative Nutting of Leeds, tabled pending passage to be engrossed as amended and later today assigned.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the first tabled and today assigned matter:

Bill "An Act to Ensure the Retention of Utility Easements in Foreclosure Proceedings" (H.P. 1419) (L.D. 2031)

TABLED - March 4, 1992 by Representative MAYO of Thomaston.

PENDING - Adoption of Committee Amendment "A" (H-1023)

Subsequently, Committee Amendment "A" (H-1023) was adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-1023) and sent up for concurrence.

The Chair laid before the House the second tabled and today assigned matter:

Bill "An Act to Require a Right-to-cure Notice in Residential Mortgages" (H.P. 1466) (L.D. 2078)
 TABLED - March 4, 1992 by Representative MAYO of Thomaston.
 PENDING - Adoption of Committee Amendment "A" (H-1024)

Representative Paradis of Augusta offered House Amendment "A" (H-1042) to Committee Amendment "A" (H-1024) and moved its adoption.

House Amendment "A" (H-1042) to Committee Amendment "A" (H-1024) was read by the Clerk and adopted.

Committee Amendment "A" (H-1024) as amended by House Amendment "A" (H-1042) thereto was adopted.

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-1024) as amended by House Amendment "A" (H-1042) thereto and sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act Transferring County Jail Operations to the State" (H.P. 998) (L.D. 1447) on which the Minority "Ought Not to Pass" Report of the Joint Select Committee on Corrections was read and accepted in the House on March 2, 1992; came from the Senate with the Majority "Ought to Pass" as amended Report of the Joint Select Committee on Corrections read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-979) in non-concurrence which was tabled earlier in the day and later today assigned pending further consideration.

On motion of Representative Anthony of South Portland, the House voted to recede.

The same Representative offered House Amendment "B" (H-1037) to Committee Amendment "A" (H-979) and moved its adoption.

House Amendment "B" (H-1037) to Committee Amendment "A" (H-979) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: House Amendment "B" is exactly the same as an amendment that Representative Duffy of Bangor had prepared. It takes what was our original intent to develop a plan for transferring county jail operations to the state and instead requires that the group that would be pondering that ponder the broader issue to study the feasibility of transferring county jails to the state. It would also include consideration of various other options.

This bill in this state of affairs would present a significant opportunity for substantial property tax relief dealing with our county jails. It would allow us to incorporate the county jails effectively into our system of Corrections in some fashion. It was the view of the majority of the members of the Corrections Committee that they should be transferred to the state. There are many problems if you are going to be doing that. Several members of the Minority Report felt that that is a good idea. It is clear that that is not the consensus of this body and

thus this study will look at the feasibility of doing that and various options for some form of coordination and integration of county jail operations with state correctional operations.

I would urge your support.

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: Once again, I ask you to carefully consider this proposition of transferring the county jails to the management of the state and ownership of the state.

I am glad that Representative Anthony has explained his amendment. It confirms even more the need for us to look at this. He mentioned that this would reduce property taxes and it would. However, when you have a bill to be paid, who pays it? We all do, whether it be from one pocket or the other. Transferring this responsibility to the state will not decrease the cost of operating jails, it will only add to it.

Furthermore, why do we need another study? With the finances of the state as they are now, we need to look at trying to cut the costs and hold the line within the realm of our revenues at this time. Therefore, I ask you to continue to support the position that you did the other day and not allow this transfer of county jails to go to state operations.

The SPEAKER: The Chair would advise the Representative that the pending motion is only on House Amendment "B."

Representative LOOK: Thank you, Mr. Speaker, I understand that it is and I would ask for a roll call on the vote on this amendment.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, I move that House Amendment "B" to Committee Amendment "A" be indefinitely postponed and request a Division.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Larrivee.

Representative LARRIVEE: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote against the pending motion to indefinitely postpone this amendment and would ask your support so we may go on to pass the bill.

Representative Look mentioned an interesting point about who pays. The point I think she neglected to mention is that when we pay this in our county tax bill, we pay it on property tax. When we pay it on our state tax, we pay it with a more progressive tax, not a good tax, but a more progressive tax than the property tax.

I urge your defeat of the current motion.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Belfast, Representative Marsano, that House Amendment "B" to Committee Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

47 having voted in the affirmative and 53 in the negative, the motion to indefinitely postponed did not prevail.

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

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

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Duffy.

Representative DUFFY: Mr. Speaker, Ladies and Gentlemen of the House: Representative Anthony did present the amendment that I would have presented yesterday. I do believe that this question of whether the state should take over county jails has to be studied and answers have to be given. I sincerely believe that if we go ahead with the study that we will find that it is unfeasible, but unless we have the answers, unless we really study what would happen, who would do it, how they would do it and so on and so forth, I believe that we will be seeing this bill forever and ever. I think it is about time that we do what we have to do and that is find out.

The SPEAKER: The pending question before the House is adoption of House Amendment "B" to Committee Amendment "A." Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 331

YEA - Adams, Aliberti, Anthony, Bell, Boutilier, Cahill, M.; Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Cote, Crowley, Dore, Duffy, Erwin, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hoglund, Holt, Hussey, Jacques, Joseph, Kerr, Ketover, Ketterer, Kontos, Kutasi, Larrivee, Lawrence, Lemke, Libby, Lord, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, Melendy, Michael, Michaud, Mitchell, E.; Morrison, Murphy, Nadeau, Nutting, O'Dea, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Pineau, Plourde, Pouliot, Richardson, Rotondi, Ruhlin, Saint Onge, Simonds, Simpson, Skoglund, Stevens, P.; Strout, Swazey, Tardy, Townsend, Treat, Waterman, Wentworth, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, R.; Bennett, Butland, Carleton, Carroll, J.; Constantine, Daggett, Dutremble, L.; Farnum, Farren, Foss, Garland, Greenlaw, Hastings, Heino, Hichens, Jalbert, Kilkelly, Lebowitz, Lipman, Look, Luther, MacBride, Marsano, Marsh, Merrill, Nash, Norton, O'Gara, Parent, Pendexter, Pendleton, Pines, Powers, Reed, G.; Reed, W.; Richards, Ricker, Salisbury, Savage, Sheltra, Small, Spear, Stevens, A.; Stevenson, Tammaro, Tracy, Tupper, Vigue, Whitcomb.

ABSENT - Bailey, H.; Barth, Bowers, DiPietro, Donnelly, Duplessis, Farnsworth, Hanley, Hepburn, McKeen, Mitchell, J.; Ott, Poulin, Rand, Rydell.

Yes, 83; No, 53; Absent, 15; Paired, 0; Excused, 0.

83 having voted in the affirmative and 53 in the negative with 15 being absent, House Amendment "B" (H-1037) to Committee Amendment "A" (H-979) was adopted.

Committee Amendment "A" (H-979) as amended by House Amendment "B" (H-1037) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-979) as amended by House Amendment "B" (H-1037) thereto in non-concurrence and sent up for concurrence.

By unanimous consent, all matters having been acted upon requiring Senate concurrence except those held were ordered sent forthwith to the Senate.

The following item appearing on Supplement No. 1 was taken up out of order by unanimous consent:

SENATE PAPER

The following Joint Order: (S.P. 939)

ORDERED, the House concurring that when the House and Senate adjourn, they do so until Monday, March 9, 1992, at 10:45 in the morning.

Came from the Senate, read and passed.

Was read and passed in concurrence.

(Off Record Remarks)

(At Ease to Gong)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 5 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Emergency Measure

An Act Making Supplemental Appropriations for Fiscal Year 1991-92 (H.P. 1699) (L.D. 2379) (H. "A" H-1045 and S. "A" S-569 to H. "B" H-981)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

Representative Marsano of Belfast requested a roll call on enactment.

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

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

The SPEAKER: The pending question before the House is passage to be enacted. This being an emergency measure a two-thirds vote of all the members elected to the House is necessary. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 332

YEA - Adams, Aliberti, Anderson, Anthony, Ault, Bell, Boutilier, Cahill, M.; Carroll, D.; Cashman,

Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Graham, Gray, Greenlaw, Gurney, Gwadosky, Hale, Handy, Heeschen, Heino, Hichborn, Hichens, Hogle, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Kutasi, Larrivee, Lawrence, Lemke, Lord, Luther, Macomber, Mahany, Manning, Marsh, Martin, H.; Mayo, McHenry, Melendy, Michael, Michaud, Mitchell, E.; Morrison, Murphy, Nadeau, Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Parent, Paul, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Salisbury, Sheltra, Simonds, Simpson, Skoglund, Spear, Stevens, P.; Strout, Swazey, Tammaro, Tardy, Townsend, Tracy, Treat, Vigue, Waterman, Wentworth, The Speaker.

NAY - Bailey, H.; Bailey, R.; Barth, Bennett, Butland, Carleton, Carroll, J.; Donnelly, Duplessis, Farnum, Farren, Foss, Garland, Hastings, Hepburn, Lebowitz, Libby, Lipman, Look, MacBride, Marsano, Merrill, Nash, Pendexter, Pendleton, Pines, Reed, G.; Reed, W.; Richards, Savage, Small, Stevens, A.; Stevenson, Tupper, Whitcomb.

ABSENT - Aikman, Bowers, DiPietro, Hanley, McKeen, Mitchell, J.; Ott, Rand, Richardson.

Yes, 107; No, 35; Absent, 9; Paired, 0; Excused, 0.

107 having voted in the affirmative and 35 in the negative with 9 being absent, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

The following items appearing on Supplement No. 3 were taken up out of order by unanimous consent:

SENATE PAPERS

Unanimous Ought Not To Pass

Report of the Committee on Human Resources reporting "Ought Not to Pass" on Resolve, to Revise the Charter of the Van Buren Hospital District (EMERGENCY) (S.P. 858) (L.D. 2182)

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

Ought to Pass as Amended

Report of the Committee on Business Legislation reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-584) on Bill "An Act to Govern Residential Propane Gas Suppliers" (S.P. 898) (L.D. 2317)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-584).

Report was read and accepted, the bill read once.

Committee Amendment "A" (S-584) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time, passage to be engrossed as amended by Committee Amendment "A" (S-584) in concurrence.

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act to Amend the Laws Governing Solicitations by Police Officers" (S.P. 830) (L.D. 2134)

Signed:

Senators: MILLS of Oxford
KANY of Kennebec
SUMMERS of Cumberland

Representatives: LAWRENCE of Kittery
JALBERT of Lisbon
PLOURDE of Biddeford
POULIN of Oakland
RICHARDSON of Portland
STEVENS of Sabattus
HICHENS of Eliot
BOWERS of Sherman

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-580) on same Bill.

Signed:

Representatives: DAGGETT of Augusta
TUPPER of Orrington

Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted.

Reports were read.

Representative Lawrence of Kittery moved that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I hope you will oppose the motion and go to accept the Minority Report.

I would like to speak to this issue which is a little bit convoluted and I hope you will make an effort to try to follow me on this.

I have had a copy of the roll call from last year passed out to help refresh your memories on some of the discussions that took place regarding this law that was passed last year. It was a very close vote, and in regard to solicitation by law enforcement officers, there seemed to be very little interest on the part of the committee and I guess on the part of most of you in prohibiting law enforcement officials for soliciting for their charities. Part of this law indicated that if a police officer or law enforcement officer was not going to get any tangible benefit, any benefit to them personally, then it was okay.

A part of my concern last year and my continuing concern is that the issue has gotten extremely mushed up. We have taken a look at what law enforcement officials are doing with the money they solicit

instead of taking a look at how they solicit. It is my feeling that the coercive issue and the real issue here is the method of solicitation. It has nothing to do with what the money or the article solicited and what happens on that part of the equation. The equation and the problem is the relationship between law enforcement and who they are soliciting from, not whether it is for their own benefit or whether it is for Special Olympics or whatever it is. We seem to have difficulty focusing on this piece of it.

This is what happened. The law passed and it passed very narrowly, you can see that it was not a real mandate and it was challenged in court. I might remind you that there had been no laws in place before this one was passed because we had already lost a challenge in court. Anyway this law was passed, it was challenged in court and while the committee was doing its deliberations, we found out that a federal magistrate had declared this law unconstitutional. As far as I am concerned, I wasn't a bit surprised by it and I hope those of you who were with me last year weren't surprised either because the relationship had not been spelled out carefully. We had been given directions by the court, there had been a decision already in place that said, "The legislature needs to carve out the situations that are inherently coercive." We did not do that with the bill and that was my complaint.

My complaint this year is that, if you go with the Majority Report, you are going to leave that unenforceable law on the books, the Attorney General's Office intends to appeal that again and we have already lost it once. When we lose, we pay, not only our own expenses in fees, we pay the other side's fees. The other side has indicated that we paid about \$40,000 for the defense of this which is now unconstitutional. We were given no reason to believe that this is going to be upheld on appeal. If there was a reason given, if there was some new argument, then I would be more than happy to consider it. I don't think there is any reason to believe that this is not going to be upheld. If that happens, we will be spending our own time and efforts to litigate. We will be paying the other side's fees if we lose and we still will not have a bill that will pass constitutional muster if we lose.

My concern and my interest here is that our time be spent fashioning something that will pass constitutional muster. My great preference would be that the AG's Office and the interested parties get together and come up with something. I would submit to you that we have been given every suggestion and direction on how to do this, it is just that nobody wants to do it. So, that is why I am hoping you will vote against this motion and you will join me in repealing this so that we won't throw good money after bad and so that perhaps a reasonable law can be fashioned.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lawrence.

Representative LAWRENCE: Mr. Speaker, Ladies and Gentlemen of the House: The Representative from Augusta raises many good points. Unfortunately, I don't agree with many of her conclusions.

What we have now in this case is a magistrate's opinion has come out that the law is unenforceable, it is unenforceable. The Attorney General's Office is not going to enforce it so solicitation by police are going to go on out there regardless of whether you vote for the Majority "Ought Not to Pass" or the

Minority Report. The problem we are facing is that the State Supreme Court has told us what is a constitutional prohibition on solicitation and the magistrate has told us something else — we don't really know what is constitutional and what is unconstitutional. We have no guidance to guide us on how to fashion a piece of legislation until we let the appeals process go. If that is what the intent of the Majority "Ought Not Pass" Report is, is to let the appeals process go, get an opinion from a court, not just a magistrate because the magistrate is not a court's opinion until it is approved by a court — get an opinion from a court on what the constitutional prohibitions on solicitation are and leave it for the next legislature to sort this out. If we don't do that, we throw away everything that has been done by this legislature, by the Attorney General's Office, by the courts and we are back to square one and we have to do it all over again in the next legislature without any guidance on what is constitutional and what is not constitutional. The Law Court has told us one thing, the federal court tells us another thing and we have got to get an answer.

I urge you to vote for the Majority "Ought Not to Pass" Report so we do get clear direction on what this legislature can do.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Handy.

Representative HANDY: Mr. Speaker, Members of the House: Let me try to restate some of the points that were made so very well by the Representative from Augusta, Representative Daggett.

The law that we had on the books was challenged. It was struck down and it cost the state money. The federal magistrate said, no, the law is too restrictive, struck down again. Yet, the Attorney General's Office wants to appeal this latest decision. We had legislation in last year that was agreeable, that was restrictive but agreeable to those people in the law enforcement community that set out a very restrictive set of parameters under which solicitations could take place. This legislature saw fit not to pass that, which is fine, but keep in mind after that happened, this law was appealed and the federal magistrate said, the law we have on the books right now is not a law that will hold up to constitutional muster.

Granted the Representative from Kittery, Representative Lawrence, is right, the federal magistrate is not a law court that makes the final decision but he knows from his law schooling that a federal magistrate's decision, more often than not, is upheld. So, I would ask you members of the House to join with me in supporting Representative Daggett in voting against the motion that is before us and then we can craft a restrictive set of statutes that will allow the solicitation to take place within the confines that will allow for the least possible coercion.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I think there is misunderstanding to what the L.D. does to amend the law governing solicitation by police officers. If this was to go through, you would have nothing on the books. I think the Representative from Kittery did state it, that there is still a final decision to be made by a higher authority in the court system.

I feel that there ought to be something. I think we are very fortunate to have good law enforcement officials in this state but something must be on the books. There is that sense of intimidation when a police officer comes around to request something.

Less than a week ago, we had an example in the lobby of this building when a certain bill came up before one of the committee's, I didn't know that that many law enforcement officials had their uniforms that way. What I resented was, not only were they dressed up in full regalia, but some even had side arms. I think that that was in poor taste.

There is intimidation when you see them. I have seen it in my hometown. We were debating a question on the police budget in our town meeting and the former chief of police brought all his troops in and lines them up there. They were watching everybody as they raised their right hand. I made a motion just before they asked for a show of hands that we go to the checklist which is the secret ballot and a young officer approached me and said, "You are going to pay for that." The budget was turned down. Unfortunately, there is a sense of intimidation.

I remember years ago when we used to have a state trooper in my hometown who volunteered to take up a collection in church dressed as a state trooper with side arms and all. The pastor didn't complain because you should see that basket fill up and I was one of the first to throw my five dollar bills in.

You must have something on the books. I don't think we can afford to sit back, as the good Representative from Kittery said, and wait until the Law Court determines the constitutionality of this thing. Some people seem to think that one person in Portland makes a decision. In my life, the way I look at it, and I am getting closer to that day, there will only be one person to make the final decision. As of today, I am that much closer but I say, with all due respect to the good charming lady from Augusta, I feel that something should be done, they should change it and give the police officers a little more leeway when it comes for a good cause.

In the Legal Affairs Committee, we have bent backwards and this legislature was very good. When they came and wanted to solicit funds for the memorial which is out front — that legislature was more than willing to help them and told them to go out and do it. But, you have got to have something on the books, at least until such time as the final decision is made.

I would request that you go along with the motion of the good Representative from Kittery.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Plourde.

Representative PLOURDE: Mr. Speaker, Ladies and Gentlemen of the House: I hope you support the pending motion on the floor of "Ought Not to Pass." We have discussed this issue for at least three years and we have desperately to come up with some type of compromise. It has failed. I think we should follow the advice as presented to us by utilizing the court system.

I would just like to add that recently in my county the law enforcement agency was doing some soliciting and it was true, some people in the county indicated that they were intimidated by that agency to give money to a cause. It was editorialized a couple of times in our local paper. I think that we would be doing something correct by supporting the pending motion.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Men and Women of the House: It is my feeling that a couple of those people who have spoken in favor of this report have indicated that they agree with me. So, I would ask you to take a very close look at what is being said and how it is being worded.

This issue of law enforcement solicitation is going to be with us for a long time. It is a difficult issue and it is difficult to deal with. Again, as has been said to you by those on the opposite side from me, the issue is how the money is collected, not what it is spent for. That is one reason this piece of legislation, this law, was declared unconstitutional because it left that potentially coercive situation allowable in law. It did not discriminate between the times when you can approach someone for a contribution and when you can't. It did not do that. We don't have any reason to believe that the appeal will be upheld.

Earlier you were told that we were given conflicting advice — one from one court and one from another — I would submit to you it was not conflicting, it was simply additional advice. In the one case, we were told to carve out those instances that are considered coercive. In the magistrate's opinion, there was even a specific example given of the type of collection that is not coercive, that is if you put a bucket on a counter with a little sign on it that says, "Please donate to thus and such" — that is not coercive. We have been given ample direction albeit from two different jurisdictions but it is ample if anyone would like to take the time to read and see what it says.

So again, I would urge you to join me in voting against the motion on the floor so that we could repeal this unenforceable law and move on to something that is appropriate.

Mr. Speaker, I would request a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Kittery, Representative Lawrence, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 333

YEA - Adams, Aliberti, Anthony, Bell, Bennett, Cahill, M.; Carleton, Carroll, D.; Cashman, Cathcart, Chonko, Coles, Constantine, Dutremble, L.; Erwin, Farnsworth, Garland, Gean, Goodridge, Graham, Greenlaw, Gurney, Hale, Hastings, Heeschen, Hepburn, Hichborn, Hichens, Hogle, Holt, Jalbert, Ketover, Ketterer, Larrivee, Lawrence, Lemke, Lipman, Look, Lord, Luther, MacBride, Macomber, Mahany, Manning, Marsano, Martin, H.; Mayo, McHenry, Melendy, Michael, Morrison, Murphy, Nadeau, Nash, Norton, O'Dea, Oliver, Paradis, J.; Parent, Pendleton, Pfeiffer, Pineau, Pines, Plourde, Poulin, Pouliot, Richardson,

Ricker, Rydell, Savage, Sheltra, Simonds, Small, Stevens, A.; Stevens, P.; Stevenson, Swazey, Tardy, Treat, Vigue, Waterman, Wentworth, The Speaker.

NAY - Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Butland, Carroll, J.; Clark, H.; Clark, M.; Cote, Daggett, Donnelly, Dore, Duffy, Duplessis, Farnum, Farren, Foss, Gould, R. A.; Gray, Gwadosky, Handy, Heino, Hussey, Jacques, Joseph, Kerr, Kilkelly, Kontos, Kutasi, Lebowitz, Libby, Marsh, Merrill, Mitchell, E.; Nutting, O'Gara, Paradis, P.; Pendexter, Powers, Reed, G.; Reed, W.; Richards, Rotondi, Ruhlin, Saint Onge, Salisbury, Skoglund, Spear, Strout, Tammaro, Townsend, Tracy, Tupper.

ABSENT - Aikman, Boutillier, Bowers, Crowley, DiPietro, Hanley, McKeen, Michaud, Mitchell, J.; Ott, Paul, Rand, Simpson, Whitcomb.

Yes, 83; No, 54; Absent, 14; Paired, 0; Excused, 0.

83 having voted in the affirmative and 54 in the negative with 14 being absent, the Majority "Ought Not to Pass" Report was accepted in concurrence.

The following items appearing on Supplement No. 4 were taken up out of order by unanimous consent:

SENATE PAPERS

Divided Report

Tabled and Assigned

Majority Report of the Committee on **State and Local Government** reporting "Ought to Pass" on Bill "An Act to Implement Constitutional Provisions Restricting the Imposition of Unfunded State Mandates" (S.P. 767) (L.D. 1963)

Signed:

Senators: EMERSON of Penobscot
BERUBE of Androscoggin

Representatives: NASH of Camden
LOOK of Jonesboro
WATERMAN of Buxton
GRAY of Sedgwick
SAVAGE of Union
KILKELLY of Wiscasset
KERR of Old Orchard Beach

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Senator: BUSTIN of Kennebec
Representatives: LARRIVEE of Gorham
HEESCHEN of Wilton
JOSEPH of Waterville

Came from the Senate with the Majority "Ought to Pass" Report read and accepted and the Bill passed to be engrossed.

Reports were read.

On motion of Representative Gwadosky of

Fairfield, tabled pending acceptance of either report and specially assigned for Monday, March 9, 1992.

CONSENT CALENDAR

First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(S.P. 836) (L.D. 2140) Bill "An Act to Provide Increased Local Participation in Comprehensive Land Use Planning" Committee on **Energy and Natural Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-573)

(S.P. 859) (L.D. 2183) Bill "An Act to Clarify Adult Protective and Guardianship Responsibilities" Committee on **Judiciary** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-574)

(S.P. 866) (L.D. 2213) Bill "An Act to Amend Child Labor Laws" Committee on **Labor** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-575)

(S.P. 856) (L.D. 2180) Bill "An Act to Amend the Laws Concerning Adoption Assistance" Committee on **Human Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-592)

(S.P. 815) (L.D. 2014) Resolve, to Direct the Department of Mental Health and Mental Retardation to Develop a Proposal to Improve Staff Retention in Community-based Programs Serving Persons with Mental Retardation (EMERGENCY) Committee on **Human Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-593)

Under suspension of the rules, Second Day Consent Calendar notification was given, the Senate Papers were passed to be engrossed as amended in concurrence.

(At Ease to Gong)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 6 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Provide Community Rating of Health Insurance Providers (H.P. 507) (L.D. 701) (H. "A" H-1014 and H. "B" H-1035 to C. "A" H-1007)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter: Bill "An Act to Prohibit the Sale and Distribution of Certain Milk Products" (H.P. 1163) (L.D. 1704) (H. "D" H-992 to C. "A" H-897) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Subsequently, the bill was passed to be engrossed as amended by Committee Amendment "A" (H-897) as amended by House Amendment "D" (H-992) thereto and sent up for concurrence.

The following item appearing on Supplement No. 7 was taken up out of order by unanimous consent:

SENATE PAPER

Non-Concurrent Matter

Bill "An Act to Authorize Bond Issues for Transportation and Public Infrastructure Capital Improvements and Other Activities Designed to Create and Preserve Jobs for Maine Citizens" (H.P. 1707) (L.D. 2388) which was passed to be engrossed in the House on March 3, 1992.

Came from the Senate passed to be engrossed as amended by Senate Amendment "D" (S-594) in non-concurrence.

Representative Melendy of Rockland moved that the House recede and concur.

On motion of Representative Lipman of Augusta, the House voted to recede.

The same Representative offered House Amendment "D" (H-1043) and moved its adoption.

House Amendment "D" (H-1043) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Lipman.

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: I promise to be brief but this is a very important measure for the people in central Maine. What I have had drafted here is an amendment that will permit FAME to lend \$10 million dollars to the mall for Augusta, Maine. If it is a feasible project, FAME can lend it; if it's not a feasible project, they don't have to lend it.

What does this mean? This is a jobs bill and this means that the mall in Augusta will consist of approximately 800,000 square feet. The cost is \$75 million dollars. This is going to provide 500 new jobs during construction, 500 to 600 jobs setting up the stores and it is estimated that this is going to mean new jobs in central Maine of 2,500 new and part-time jobs and that is forever. This means additional tax revenues.

This is what a bond issue like we are suggesting here really means, it is the creation of new jobs.

I would ask you to vote for the amendment.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: I move indefinite postponement and I hope you will go with me on this. I commend you for doing this and wanting to do this for your community; however, this has been a very

complex issue, the two committees had gone back to their own committees and whittled down the package to where we felt it could be addressed by the whole House. It would bring the package down to \$90.3 million and I hope you will vote with me to indefinitely postpone this pork barreling procedure.

The SPEAKER: The Chair will order a vote. The pending question before the House is adoption of House Amendment "D" (H-1043). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

81 having voted in the affirmative and 14 in the negative, the motion to indefinitely postpone did prevail.

Subsequently, the House concurred.

By unanimous consent, ordered sent forthwith to the Senate.

The following item appearing on Supplement No. 8 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Bond Issue

An Act to Authorize Bond Issues for Transportation and Public Infrastructure Capital Improvements and Other Activities Designed to Create and Preserve Jobs for Maine Citizens (H.P. 1707) (L.D. 2388) (S. "D" S-594)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

Representative Marsano of Belfast requested a roll call.

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

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

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Richards.

Representative RICHARDS: Mr. Speaker, I would like to pose a question dealing with bond issues.

As you know, up in Judiciary we have had over 80 something bills and I have been trying to follow this bond package and trying to understand what we are doing with bonds. As I look at Senate Amendment "D" which as I understand is on the bond package bill and I looked at Page 2 which indicates that there is \$30 million for municipal infrastructure capital improvements — I don't want to be cynical but the title says a lot, it creates jobs for Maine but I don't quite understand how the \$30 million is going to be spent, what that means and how we are going to create jobs. I look at the fiscal note that says we are going to increase the size of state government to administer this bond to create jobs. I just don't quite understand in reading this what it actually means.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative

Crowley.

Representative CROWLEY: Mr. Speaker, I would like to pose a question through the Chair.

Pertaining to the bond issue, I understand and I am not familiar with what has been taken out and I wonder if someone could explain what has been taken out of the bond issue?

The SPEAKER: The Representative from Stockton Springs, Representative Crowley, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: The amendment that was added on in the other body basically has tried to address the concerns of many of you. Both committees, the Transportation Committee and Housing and Economic Development Committee went back, met again yesterday and tried to pare down the package. The biggest concern that we were hearing was that the package was absolutely too big so this amendment is decreasing the bond amount from \$106 million down to \$90.3 million with the breakdown being \$48 million for highways, local roads, rail, air, pier port vessels — that's \$48 million. For the Housing and Economic Develop portion of it, we broke ours down because there also were concerns that we were pork barreling so the breakdown for us is \$42.3 and it deals with \$30 million for municipal infrastructure, \$5.3 for schools, and \$7 for FAME to help those businesses that are in recall and in similar situations, not being able to borrow the money.

We felt that there were many of you who have voiced over and over and over again in this past year the problems of the revenue sharing and GPA. By keeping the municipal infrastructure and the schools there, we felt we were addressing your biggest concerns. There are many of us who were also concerned about other portions of the package but you said you didn't want pork barreling so that is why I had to oppose that last amendment that was suggested.

I hope you will support this.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Graham.

Representative GRAHAM: Mr. Speaker, Ladies and Gentlemen of the House: I would like to try to address a couple of the questions that have been posed so far but before I do, let me just say that most people here know that I was opposed to the \$106 million dollar amount. I was aiming for something more like \$70 million if we could pare it down but the efforts to bring it to \$90.3 million have been made in good faith. It is kind of a halfway point between the two sides and I am now comfortable with this amount of \$90.3 million.

The Representative from Hampden asked about the \$30 million for municipal infrastructure improvements. Let's just remember that one of the goals that we had as a committee in working on these bond issues was to create jobs. The second goal was to ensure that those jobs, as far as possible, went to Maine citizens and did some brick and mortar type of work. We on the committee have a feeling inside of us that by putting the bulk of this money in the hands of our municipal officers, our town councils and boards of selectmen and budget committees, that they would do those kind of works and that they would be doing projects that would be tailored-made for the local contractors to handle. That is why I feel very

comfortable with the fact that so much of the money in this bond issue is going directly into the hands of our municipalities because what better way is there to participate and make sure that this money is going where you want it than to go to town meetings and ask in person.

The second question came from Representative Crowley regarding what has been taken out of the housing side of the bond issue. What has been taken out is \$700,000 for rural health centers, \$1 million dollars for group homes, \$4 million for technical colleges and \$2 million for the University of Maine.

As far as the technical colleges and the University of Maine go, I have a feeling that those were taken out by the sponsor of the amendment because those two groups already have a number of bonds authorized but unissued so by issuing the bonds that are out there already for those two entities, they can participate in what we are trying to do. Rural health centers and group homes are worth doing, they are valuable projects but they are very small projects. Some of the money going to municipalities — perhaps if the municipalities think it is important it will be directed toward those activities.

I think we brought this down to municipal infrastructure — \$5.3 is back in for local schools which is one of my top priorities and most people here claim that it is amongst their top priorities and that money is entirely appropriate. Then you have the money for the Finance Authority of Maine. I know that there are some people who will argue about the money for the Finance Authority of Maine and let's just be clear on what that does — it means that companies who have a situation where their collateral drops sometimes can be refused anymore funds by their bank simply because of that drop even though they have not missed any payments. I checked with a representative of FAME earlier and there are at least 250 businesses that fit this description with a potential of up to 400. If we really wanted to help all those businesses, we would have to raise around \$50 million alone to deal with that. However, what we are trying to do here is to make sure that businesses do not go out of business simply because of the technical rules within the banking industry. These are solid companies that have jobs already out there and it makes no sense to me for us to lose those jobs on the one hand while we try to create jobs on the other hand. That is why the FAME money has been in here from the beginning.

As far as the criteria for FAME, we must remember that bond banks and rating houses are always looking over FAME's shoulder and making sure that FAME only goes after those businesses, guarantees those loans which are most likely to be successful. Their loss ratio is under 2 percent and I think that is better than a good number of banks that are out there.

I hope that we have answered some of your questions about what's out, what's in, why what's in is in and how we came to the figure \$90.3 million. Please remember that nothing in this bond issue is really going to address long-term, decade long needs of the State of Maine's economy. We have no program before us at present that can deal with that. I don't know how we could do that. What we need to do is ensure that people stay employed, stay off welfare until the economy picks up and gets going again.

I think this package before you has been battled over, people on both sides have compromised in good faith, it is a solid package that will help the State

of Maine and I encourage you all to vote for it today.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, I would like to pose a question through the Chair.

It is my understanding and I don't understand that this amendment changed it, but so I can tell my constituents, that while we vote on this up or down here today, when it goes out to referendum, there will be actually two votes for them to choose from, one for the highway and one for the municipal portion? Everyone is nodding their heads so I guess everyone knew but me.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Macomber.

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, we have gone over the other side so I will tell you a little bit about the highway portion. If you will recall, we came in at \$56 million, we discussed it quite a lot the other day and where we have made some of our changes — in the highway and bridge improvement, it is \$25 million. That was money that was divided amongst all the divisions in the state DOT program so that each section of the state would get their share of money to create jobs. Salt and sand sheds was \$3 million and that has been cut out. Those were not the municipal sand and salt sheds but the state's sheds. The local road assistance program is \$10 million which was left in. That \$10 million in local roads gives you 50 percent more than you are getting right now. It is a one-time shot, you get it this year and this year only.

On the other side, the ferry and the port improvements was \$13.6 million. A cut has been made there, we cut \$1 million in small port facilities and \$1 million from the international ferry facilities, \$1.5 million in the Casco Bay Ferry Facility and \$1.5 million from the Maine State Ferry Service. On the \$4 million that was the international ferry terminal, we cut \$1 million and there is \$3 million left there and that is enough to start the program and continue it until additional financing comes along. On the Casco Bay ferry facilities, there is \$750,000 left and there is \$450,000 left for Peaks Island and the Timber Pier. There is \$300,000 left for the Abenaki and that \$300,000 creates federal funds that picks up the rest of the costs. We have \$1.85 million left in the Maine State Ferry service with the improvement to Bass Harbor, Vinalhaven and Swans Island. The \$400,000 for the hanger improvement at the Augusta Airport are still in there because we feel that we have to keep that facility going. It is a state-owned facility and repairs must be made.

The only other thing is the \$4 million for rails that are still in there, \$2 million of that is the Amtrak portion which generates federal funds for it. The other \$2 million is to refurbish lines that the state has taken over in the past two years. I think that brings our total down from \$56 million to a total of \$48 million which with the economic development package brings it to \$90.3 million, I believe.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative O'Dea.

Representative O'DEA: Mr. Speaker, Men and Women of the House: I am a little bit disappointed that in the 11th hour we have managed to remove the component of the bond issue that would have gone to education.

We have heard a lot about creating jobs for Maine people and starting all these great projects while we can afford them and the importance of jumpstarting our economy. But, we have a university system and a technical college system that have been chronically underfunded for years. During some of the years in the late 1980's we were able to make some program in catching up in funding those institutions. In the past two years, we have gone backwards to the point where some would argue that we are in worst shape now than we were at the end of the Longley years.

There has been a real lack of commitment through this over the course of the past two years to education. It is K through 12 education and it is public higher education in both the technical colleges and the University of Maine System.

Representative Graham, my good friend from Houlton, said that there is no long-term fix for our economy, that there is no package we can put together that will be helping us out ten years down the road, that this is a short-term package, one that will help get us through the next few months into next year. I would suggest to you that that is our problem. There is no long-term approach, no long-term goals. We have education presidents, we have education governors and everyone of us says we are for good high quality schools and good public education and an adequate funding of it but we don't do it.

Here we are with this bond issue, which I will vote for today because we need to do it. We need to turn it out to the people and let them decide if they want to embark on this sort of investment. We talk about schools failing us, we talk about the dismal performance of our students from one end of the state to the other and, indeed, from one edge of the country to the other and we have to ask ourselves if the schools are failing us or if we are failing our schools.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Richards.

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for getting up but the fact of it is that I am elected by my constituents and I have a right to speak on this floor but to those who are ho-hum, I guess they can leave the floor and don't have to listen to me.

The SPEAKER: The Chair would suggest to the Representative that no one suggested anything — to the contrary and would the Representative kindly deal with the issue and refrain from making additional comments on anything but the bill.

Representative RICHARDS: Thank you Mr. Speaker.

I agree in part with my good colleague from Orono with respect to education, I think that ought to be a priority with us dealing with jobs and that is creating a labor force in this state. That would be through our technical colleges and our University System as well as a good education K through 12. The problem I have is that this is short-term and if we are talking about a short-term welfare program, I think we are leaning toward more disaster and more economic problems down the road.

If we were to make a worthy investment on things, then we ought to do it with specific projects that would create jobs for the long-term. There is no guarantee in this bond package with \$30 million going out to municipalities that with 13 percent unemployment in South Paris, they that need it the most will get more dollars. There is no guarantee in here at all and that is the problem I have with the

bond, there is no equity in the way it is being distributed so for that reason, I will be voting against it.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Men and Women of the House: To address some of the concerns raised by the Representative from Hampden — the committee worked closely with the Department of Economic and Community Development in establishing criteria to evaluate projects that are submitted for approval for this bond money. Many of those criteria included such things as the percentage of labor force that would be employed and that would be local projects that had equitable geographic distribution throughout the state, projects that could include some kind of local match for funds so the bonded money could be spread out even more widely than we might have been able to if a project received full funding and that criteria would be available to the Representative for him to look at since it will be DECD that will be administering the bond money if it is approved. We worked on that part of the issue but, frankly, it didn't need to appear in statute in order for us to allow that to take place in the DECD. So, the committee did address some of those issues and I know that we would be happy to provide that list of criteria to you if that is part of your concern.

Secondly, to the Representative from Orono, one of the things we heard and as an educator, I, too, was concerned about the piece of the package that had to do with education. One of the things we learned in the course of our discussions was people who came before us, including the State Treasurer, was that \$16 million dollars worth of bonds were authorized in 1989 by the voters of this state and have not yet been issued. Eleven million of those bonds were issued as of March 1st, that were already authorized and will be issued this month.

The technical college had \$11 million dollars worth of bonds authorized and not issued. As of March 1st, \$7 million will be issued so part of the reason those of us who support education that served on the committee that viewed this issue could look at this as being one piece that could be expendable and put the emphasis on the municipal side since we knew authorized bonds were being issued this month for capital improvements. I don't believe the bond package, even with the additional amount dedicated to education, addressed the issues of quality and development of education in this state that the good Representative was probably thinking about in part.

The SPEAKER: A roll call has been ordered. The pending question before the House is passage to be enacted. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House is necessary. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 334

YEA - Adams, Aliberti, Anthony, Bell, Boutillier, Butland, Cahill, M.; Carleton, Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Daggett, Donnelly, Duffy, Dutremble, L.; Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Hastings, Heeschen, Heino, Hichborn, Hogle, Holt, Jacques, Jalbert, Joseph, Ketover, Ketterer,

Kilkelly, Kontos, Larrivee, Lebowitz, Lemke, Macomber, Mahany, Manning, Martin, H.; Mayo, McKeen, Melendy, Michael, Mitchell, E.; Morrison, Nadeau, Norton, Nutting, O'Dea, Oliver, Paradis, J.; Paradis, P.; Parent, Paul, Pendexter, Pendleton, Pfeiffer, Pineau, Pines, Plourde, Poulin, Pouliot, Powers, Reed, W.; Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Sheltra, Simonds, Simpson, Skoglund, Spear, Stevens, P.; Stevenson, Strout, Swazey, Tammaro, Tardy, Townsend, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth, The Speaker.

NAY - Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Carroll, J.; Crowley, Dore, Duplessis, Farnum, Farren, Foss, Garland, Greenlaw, Heppburn, Hichens, Hussey, Kerr, Kutasi, Lawrence, Libby, Lipman, Look, Lord, Luther, MacBride, Marsano, Marsh, McHenry, Merrill, Murphy, Nash, O'Gara, Ott, Reed, G.; Richards, Salisbury, Savage, Small, Stevens, A.; Whitcomb.

ABSENT - Aikman, Bowers, DiPietro, Hanley, Michaud, Mitchell, J.; Rand.

Yes, 102; No, 42; Absent, 7; Paired, 0; Excused, 0.

102 having voted in the affirmative and 42 in the negative with 7 being absent, the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

By unanimous consent, all matters having been acted upon requiring Senate concurrence except those held were ordered sent forthwith to the Senate.

MATTERS PENDING RULING

Bill "An Act to Ensure Voter Participation in the Siting of Storage and Disposal of Radioactive Waste" (EMERGENCY) (H.P. 1642) (L.D. 2305)

TABLED - February 11, 1992 by Speaker MARTIN of Eagle Lake.

PENDING - Ruling of the Chair.

The SPEAKER: The Chair will point out that there were two L.D.'s that were in last session, L.D. 1083 and L.D. 946. Both of those were rejected by the legislature, a combination of 2305 takes part of both bills and, therefore, the Chair would rule that the matter is improperly before the body in violation of the rules.

(Off Record Remarks)

On motion of Representative Farnsworth of Hallowell,

Adjourned at 2:10 p.m. until Monday, March 9, 1992 at 10:45 a.m. pursuant to Joint Order (S.P. 939).