

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

**One Hundred And Sixteenth Legislature**

OF THE

**State Of Maine**

**VOLUME II**

**FIRST REGULAR SESSION**

**House of Representatives**  
May 17, 1993 to July 14, 1993

ONE HUNDRED AND SIXTEENTH MAINE LEGISLATURE  
FIRST REGULAR SESSION  
75th Legislative Day  
Wednesday, July 14, 1993

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

Prayer by Father Royal J. Parent, Our Lady Queen of Peace Catholic Church, Boothbay Harbor.

Pledge of Allegiance.

The Journal of Thursday, July 1, 1993, was read and approved.

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

**ORDERS**

On motion of Representative GWADOSKY of Fairfield, the following Joint Resolution: (H.P. 1173) (Cosponsored by Representatives: MARTIN of Eagle Lake, PARADIS of Augusta, WHITCOMB of Waldo, ZIRNKILTON of Mount Desert, Senators: BUSTIN of Kennebec, CAHILL of Sagadahoc, CARPENTER of York, DUTREMBLE of York, ESTY of Cumberland)

**JOINT RESOLUTION RECOGNIZING  
JOHN DAVID KENNEDY**

WHEREAS, during his tenure as Revisor of Statutes, John David Kennedy has demonstrated heartfelt and selfless dedication to the Legislature as an institution and to Legislators as individuals; and

WHEREAS, despite often arduous conditions and demanding circumstances, David Kennedy served the Legislature with poise and dignity; and

WHEREAS, David Kennedy has inspired his colleagues and his staff by his example to be ever mindful of the public good in the work they perform; and

WHEREAS, his exceptional abilities have left a legacy of excellence for which the State is deeply indebted; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Sixteenth Legislature of the State of Maine, now assembled in the First Regular Session, do pause in our deliberations to express our appreciation for John David Kennedy and to recognize his sincere and unwavering commitment to the Legislature and the State of Maine; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to John David Kennedy.

Was read.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Men and Women of the House: It was with regret, sincere regret, that we received the resignation of David

Kennedy during the last week or within the last ten days. Those of you who have been here for the last five sessions have known David to be a person of exceptional talent, a person whose dedication and commitment to this process and to this institution has been unsurpassed. We have been extremely fortunate to have him during this period of time. I notice the office staff with whom he worked and has directed so admirably is behind the glass in support of David today.

I spent a good hour with him yesterday talking and kind of debriefing about how things have gone and where we want to go next with that office and he was quick to point out that some of those very people who are behind the glass have made him look very, very good.

Those who have a historical perspective of this institution know that in the old days when the Appropriations process finished and the Office of Fiscal and Program Review finished its work it used to take ten days to get a bill out of the Revisor's Office, not 48 hours or three days as we expect now. We expect a lot of that office, not knowing what they do and not knowing the demands and the time that we expect of that particular office. We are fortunate to have the commitment of these people and the service that David has provided this institution. We are very, very lucky to have had him. He is going on to somewhat of a different career where I am sure he will do equally as well.

I would hope that you would join with me in wishing him the best and thanking him for a job well done.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: We know now that the man we know as "Dave" is actually John David and that "Dave", as we will continue to remember him, has been a person who has been very helpful to all of us, a person who has helped personalize a very impersonal process.

I can think, as each one in this chamber can, of the times that we have sat in his office and said, "How in the world would we ever do this?" He said quite simply, "here, there, a few word changes" and it turned out to be a lot of word changes very frequently.

David and I enjoyed visiting, as each one of you did with him, on a subject of personal nature. He found a way of talking about something that was in common with me as he did with you to help us understand the statute process. I think all of us wish that David would be here to help us through the next session and sessions after that. I think all of us wish for the people of Maine that he could continue to be in an impartial manner the author of the statutes, the person who oversees the office that does so much for all of us.

So, today, I think all of us wish to say to Dave, "Thank you and good luck."

(Applause, the audience rising)

Subsequently, the Resolution was adopted and sent up for concurrence.

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

**COMMUNICATIONS**

The following Communication:

STATE OF MAINE  
OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE 04333

July 13, 1993

To the Honorable Members of the 116th Legislature:

I am returning without my signature or approval, H.P. 1172, L.D. 1565, "An Act to Provide Property Tax Relief for Maine Citizens." This bill will increase the taxes imposed upon the citizens of this State outside of the compromise agreement which set a maximum tax increase as the retention of the 6% sales tax.

L.D. 1565 proposes to add 25 additional revenue agents to the Bureau of Taxation to collect a questionable additional amount of money. It also proposes to raise the cigarette tax and the sales tax on automobile rentals. These increased revenues are committed to the Tree Growth Reimbursement program and to additional funding to the Maine Residents Property Tax Program.

The final agreement on the 1994-95 biennial budget was a delicate balancing of conflicting interests. The appropriate funding of the tree growth and the circuit breaker programs was specifically considered and weighed within the overall budget context, viewed in light of other equally important priorities. It is not appropriate to now take this out of the overall budget context to consider it separately.

If new priorities for spending are called for, the issues can be revisited in the next session. Other reductions in spending can be explored to increase funds for these programs if there is agreement that it is appropriate.

Because of these concerns, I am in opposition to L.D. 1565 and respectfully urge you to sustain my veto.

Sincerely,

S/John R. McKernan, Jr.  
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act to Provide Property Tax Relief for Maine Citizens" (H.P. 1172) (L.D. 1565).

On motion of Representative Paradis of Augusta, tabled pending reconsideration and later today assigned.

The following Communication:

STATE OF MAINE  
OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE 04333

July 13, 1993

To the Honorable Members of the 116th Legislature:

I am returning without my signature or approval, H.P. 1174, L.D. 1566, "An Act to Provide Funds for Community Mental Health Services."

L.D. 1566 provides that 90% of the unclaimed deposit money which is currently retained by distributors for handling and processing returnable bottles and cans will be diverted and dedicated to community mental health services. This bill ignores the delicate compromises that led to agreement on the consensus fiscal year 1994/95 budget in which funding for community mental health services was taken into consideration. Not only was additional money allocated to community mental health services in the enacted budget, but the Department of Mental Health and Mental Retardation was one of the few departments whose funding was increased in the enacted budget. Mental Health services have continually received priority funding and increased support during very difficult financial times.

This bill is the equivalent to a tax on those people that handle the demands created by the passage of the returnable container legislation passed in the 1970s. To take away the payment to distributors for handling and recycling returnable containers would likely increase the cost of these products. If such a change is to be made, it ought to be done only after appropriate public input; not on the last day of the session without a public hearing.

This is also a new proposal, outside of the compromise agreement which set a maximum tax increase as the retention of the 6% sales tax. It also creates an adversarial situation between those interested in the environment and natural resources of Maine and those interested in placing additional money into mental health services. This balancing of priorities has already taken place. To change it now would be poor public policy.

If new priorities for spending are called for, the issues can be revisited in the next session and other reductions in spending can be explored to increase funds for these programs if there is agreement that it is appropriate.

Because of these concerns, I am in opposition to L.D. 1566 and respectfully urge you to sustain my veto.

Sincerely,

S/John R. McKernan, Jr.  
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act to Provide Funds for Community Mental Health Services" (H.P. 1174) (L.D. 1566) (Governor's Bill).

On motion of Representative Paradis of Augusta, tabled pending reconsideration and later today assigned.

The Chair laid before the House the following matter: Bill "An Act to Provide Funds for Community Mental Health Services" (H.P. 1174) (L.D. 1566) (Governor's Bill) which was tabled earlier in the day and later today assigned pending reconsideration.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Fitzpatrick.

Representative FITZPATRICK: Mr. Speaker, Men and Women of the House: The current mental health system in Maine can be aptly described as a mess. Evidence of this mess are the numbers of the homeless and jailed individuals and those who constantly revolve from their families to homelessness, to jail, to emergency rooms to state hospitals and back on the street without a system of care in their own community.

We have a very expensive system of care that relies far too heavily on emergency rooms, hospitalization, jails and prisons. Less than ten percent of the persons with major mental illnesses in Maine are at this moment in the hospital. The average stay for treatment of mental illness in Maine is under 14 days, yet millions of dollars continue to pour into Maine's aging institutions to serve only a fraction of Maine's most at-risk persons. Remember, this is not 1950. Persons with mental illness by and large no longer live in institutions.

So, how do we get beyond this mess and how does this relate to L.D. 1566?

The biennium budget we just passed devastates Maine's Community Mental Health System. The passage of 1566 will reduce the funding cut by two percent over the biennium, but a six percent across-the-board cut will continue to remain in the Community Mental Health budget. This is just a two percent reduction of that cut, which adds up to an eight percent cut. This will mean that a few hundred persons with mental illness will receive services, stay in their communities and stay out of the hospitals. This will help bring some hope to a system of care that is staggered by the size of the budget cuts and allow Maine to continue to move from a system that is dependent on old institutions to one that maximizes community resources.

Passage of L.D. 1566 will also send a message to general hospitals that the Governor spoke to us about when we opened this session who are deciding now whether to do business with the state and provide involuntary acute psychiatric care and that state government is serious even in bad economic times about maintaining the system of community care for some of the most at-risk persons in Maine.

I urge you to override this veto.

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

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

To anyone who may answer — every year when I was on the Legal Affairs Committee, when we went over the budget for the Liquor Commission, we found that about 40 percent of the deposits that were made to the State Liquor Stores are never returned. That is a windfall for the liquor control of this commission. Will this amount that goes back to the Liquor Commission and unaccounted for be used for this?

The SPEAKER: Would the Representative please restate his question?

Representative JALBERT: Mr. Speaker, Men and Women of the House: Forty percent of the deposits that are made by people buying liquor in the liquor store — in other words, 40 percent of the amount never comes back for their refund. They throw the bottles away. For some reason, people hate to go back to the liquor store with four or five empty liquor bottles but they don't mind going to the store with empty beer bottles, so the Liquor Commission in their budget have a windfall of 40 percent of the amount of money that is deposited by people buying liquor who never come back for their deposits. What I want to know is, will that money which is a windfall to the Liquor Commission, be placed in this particular category? If beer bottles are not returned the distributor must, according to this, turn over this fund for this purpose which is a worthwhile purpose but the Liquor Commission has that windfall to work with.

The SPEAKER: Representative Jalbert of Lisbon has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: The answer to that question is that this bill would in fact take 90 percent of the remaining windfall that goes to the Liquor Commission and other distributors of beverages. So, the answer is yes, although they would still retain ten percent of that unclaimed deposit.

You are correct in stating that this is a windfall and I would like to make a point in reference to the veto message that came from the Governor on this matter because in that veto message the statement is made that this is a tax. I think we need to be very clear that whatever this is, it is not a tax. It is a windfall and I would put it in the category of someone who wins the lottery and then the next time they play they don't win, so it's taken away — that is unpleasant but it is not something you have a right to or you suddenly discover that \$25 was accidentally computed to your bank account. You certainly regret the fact that on the next statement they subtract \$25 but that doesn't make it a tax, it is money that did belong to the citizens of the State of Maine. It was deposited, it wasn't collected, there is no reason necessarily for it to go to the distributors. We already take some of that money and use it to fund the Waste Management Agency and it is perfectly appropriate that we take more of that money and use it to help fund a critically needed service in this state.

I believe the veto message that we have in front of us is inaccurate in other respects. It makes it sound that additional money was put into Community Mental Health Services in this year's budget. It is only additional in the sense that a small amount was put in to offset an eight percent cut to Community Mental Health Services. That amount is totally inadequate and all this bill does is come up with an additional million dollars over two years to help offset that cut.

It is, as the Representative from Durham, Representative Fitzpatrick, noted, a very underfunded system right now.

I read in the newspaper over the last couple of days, the Court Master has stated that we are very clearly in violation of the AMHI Court Decree, we were in violation before this additional eight

percent cut was made in the budget, we are now going to be in even greater violation and even more subject to having this return to the courts.

In my view, the million dollars is really just a pittance from the point of view of the state doing what its job is. But, that pittance is going to make a huge difference in the lives of the citizens of this state who are in tremendous need of services out in the community. The full amount of the cut that was in the original budget would impact 1,500 to 2,000 individuals who have severe and prolonged mental illness and what it would actually mean specifically is that they are going to lose emergency services, they are going to lose crisis intervention, their families will not have a three or four day period when they can put their family members into respite care so that they can get away for four days out of a year and continue to provide that kind of home care. It is going to impact family members all across this state in every single district of this state and it is a very, very important thing. I think that this state needs to live up to its responsibilities to those in this state who cannot provide for themselves and I think that at the top of that list ought to be persons with mental illness.

I just cannot fathom the opposition to this. It makes no sense to me and I think that when you look at the harm that is going to be caused if we do not overturn this veto, you will join with me in voting to override the veto.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Mr. Speaker, Ladies and Gentlemen of the House: This is Bastille Day and I think this is an appropriate day for us to vote to overturn this particular veto because, if nothing else, the French Revolution opened up the whole question of the state and the responsibility of the state and I think that is the biggest issue involved in this. The good Representative from Gardiner mentioned it and I wanted to stress that.

This state has historically had a basic responsibility to the most vulnerable in our society. It is a moral responsibility and, frankly, it is also a legal responsibility this state has. If we fail in that, I believe we fail one of the most basic requirements of a responsible government.

The Mental Health and Retardation policy and execution of it in this state is terrible, it is awful.

About a month ago, there was another bill before you for a veto or veto override which also involved this. I hope this time when you vote on this, you don't consider this simply a scorecard whether you uphold or vote down a Governor's veto.

I must say that I was a bit disturbed listening to the radio and television, nobody discussed in any detail what this was about, all I heard about was whether or not we are going to sustain another one of the Governor's vetoes so he can have a 100 percent record. That is not why we are here. This isn't some kind of athletic contest, we should be here determining public policy and what is right and wrong.

Frankly, I think this is a matter of principle. We can talk all about the funding sources and everything else, we can talk about the representations made in this veto message but, ultimately, it comes down to the responsibility of the state.

I think this state is in danger of not only being

fiscally bankrupt, but if we support this veto, this state is also morally bankrupt. I urge you to override this veto.

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

Representative JALBERT: Mr. Speaker, Men and Women of the House: I hate to be difficult but I would like to pose another question through the Chair.

Would someone from the Appropriations Committee tell us that when they went over the budget for the Liquor Commission that this so-called windfall I am talking about was taken out of their operating budget?

The SPEAKER: Representative Jalbert of Lisbon has posed a question through the Chair to any member of the Appropriations Committee who may respond if they so desire.

The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: The only portion of the deposit law now that is designated for any purpose is the 50 percent that goes to the Waste Management Agency. So, whatever was appropriated for the Liquor Commission is what you see in the budget in Appropriations, we never designated any portion of the bottle deposit to that commission.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I urge this body to sustain the Governor's veto. I think it is important to look in the context of what the state has done in the funding for mental health. The Department of Mental Health and Retardation, as we now know it, will have a different name perhaps in future sessions of the legislature.

This legislature, since 1989, has provided a 90 percent increase in state funding for this agency during a time when total state expenditures increased ten percent. I don't think it is appropriate to suggest that we have not made a significant effort in the total context of support for the department and programs in Mental Health and Mental Retardation.

This is another out-of-budget item. It was clearly an item of negotiation and discussion during the budget agreement, before the budget agreement and obviously now since. There was ample opportunity for those people involved to include this as an item in the budget to either replace some other item there — in fact in the last minute, some other item was chosen over this. It has not been, unfortunately, a priority of those who put the budget agreement together from either side of the political aisle.

It is interesting to hear this discussed as though this money is not a tax or a new source of revenue. It clearly is a new source of revenue. I think it needs to be done in a context other than a last minute deal in a budget negotiation. There is no end to the so-called little taxes that could be used to repair individual legislators or individual issues that are seen as holes in the budget. The legislature will be back in another session to do that kind of work, not deal with a piece of legislation like this.

I urge this body to sustain the veto.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Fitzpatrick.

Representative FITZPATRICK: Mr. Speaker, Men and Women of the House: Let me respond to one of the

remarks from the good Representative from Waldo.

Yes, the 114th and 115th Legislatures put substantial funds into the mental health budget. I think if you go back in and look at those budgets, most of that money went into shoring up both Bangor Mental Health and Augusta Mental Health Institutes to enable them to secure accreditation and draw down federal money and, frankly, to make them safe so people no longer died in those facilities during the hot summer. That money by and large did not go into the community system. In fact, the budget we just passed does cut eight percent or nearly \$5 million out of the existing community system. So, the history is that the money has largely gone into the institutional system, continues to go into the institutional system, and over 90 percent of the people with mental illness in this state continue to live outside of institutions in your and my communities.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I think this is a very good bill and a good cause. I wish to thank my good friend from Durham, Representative Fitzpatrick, but we are forgetting one thing, that when this bill was drawn up, it said to the distributors. When they come back and they don't have to refund the money, that is the money that should go to this cause and I think it is a good cause. But, what about that 40 percent of the money that people give to the Liquor Commission when they buy a bottle of hard stuff that is never returned? That is a windfall. Somebody said in response when I asked about what happened to the budget — yes, they would take the money that they took back in, went to the Waste Management Agency, but with this you are saying to the distributors, you have got to give the money to the state, 90 percent of it, for this cause, but you say nothing to the Liquor Commission. That is 40 percent of the deposits that people make at the liquor stores that they never return, never have to pay it back, it is kept in the pocket of the liquor commission's budget. I don't think it is right.

I was in the 113th and 114th Legislature and twice I tried to get that changed and I couldn't get anywhere. I say it is about time that the Liquor Commission, like everyone else, is made accountable to these windfalls. This is what I think is wrong with this thing, this was completely overlooked and it is wrong, just because people have an aversion against returning liquor bottles to the liquor stores while they don't mind returning beer bottles to the grocery stores. Ask any people who pick up waste, they don't see too many empty beer bottles but they see a lot of empty whisky bottles because nobody wants to walk into a liquor store with five or six or half a dozen liquor bottles. I think it is a good bill but, unfortunately, I can't go along with it.

The SPEAKER: The Chair recognizes the Representative from Alfred, Representative Gean.

Representative GEAN: Mr. Speaker, Men and Women of the House: I think the question here is relatively simple. We let the distributors in the state keep \$1.2 million of the money that we have paid as deposit on beer bottles and soda bottles and, if we do that, it is only at the expense of mostly poor persons with mental illness, living and dying in the streets and the woodlots of this state. In our zeal, collectively, to make these wonderful

politically correct cuts in all areas, we may well be throwing out more baby's with the bath water than we are aware of.

I want to remind you of a great American author, Ernest Hemingway, who was a lousy poet long before we was a great novelist, therefore I committed one of his lousy poems to memory but I think it fits the occasion in what we are about here. It was entitled The Age Demanded. "It was the age demanded that we sing and cut away our tongues, the age demanded that we flow and hammered in the bung. The age demanded that we dance and jammed us into iron pants, and in the end, the age was handed the kind of crap that it demanded."

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: Representative Fitzpatrick has been most eloquent in his description of the 90 percent of people with mental illness who live outside of institutions. Those people live in group homes, they live in apartments with supervision, but largely they live with their families. Those families bear the burden of a crisis caused by a psychotic episode and it is a 24 hour watch that you engage in to keep someone alive and perhaps even to keep yourself safe when someone is going through an extreme psychosis.

When we cut eight percent out of community mental health centers, and I will be the first to disclose that I have a conflict, I am on the board of my community mental health center, we are making vulnerable not just the person who is having the psychotic episode and will have to be taken off to the hospital and hope that a bed is available — ladies and gentlemen, I have been in hospitals when there are no beds available and people are turned away. They go home with that very sick person and figure out how to do another 24 hours and hope that a bed is available the next day. Or, they get in the car and they drive five hours to a different hospital with a very sick person who may be attempting to leave the moving vehicle. This is the crisis that is mental illness. It is scary and that eight percent cut is not a moderate and reasonable cut, it is draconian.

There has been a lot of talk about the deal for the budget and that this is outside of the deal and not part of the deal. Well, the deal was to keep state government going to keep us functioning, to keep the people alive that we keep alive by keeping the state functioning. This is not part of the deal, but it is imperative and vital to many members of your communities lives that we continue to fund group homes and emergency resources in communities for people with mental illness.

I am terribly afraid that many people here today don't understand that an 8 percent cut in a group home with six people probably means it will convert to being a group home with five people because the contract will change by that amount of money and somebody will have to go. They will probably move to an apartment where they will fall apart and then they will go into their hospital and they will live in the hospital an extraordinarily amount of time, it is amazing how long somebody can live in a community hospital when there isn't a group home available. Then they will go home with someone who is not equipped to deal with them at all.

So, I urge you not to think about this in terms

of a veto, but to think about this in terms of our responsibility, just as we exercised our collective responsibilities a few weeks ago to keep government going and cut some kind of deal that kept us functioning and met our responsibility that we took our oath of office for. I hope that you will think today about meeting a responsibility to these most vulnerable citizens by keeping our community mental health system somewhat pieced together because it is falling apart. It is falling apart, Tri-County Mental Health, some of you are in that service area, typically has a six month waiting list for people in crisis, six months. It is not because they don't want to serve people. Often it is children and, when you don't serve people early, they get worse and they stay worse for longer.

When you do mental health legislation, you find out quickly around the country there are two ways of doing it, one is legislation and the other is litigation. We are putting ourselves in a situation where we will be doing litigation and we will all be named as defendants. It will be the first suicide that is successful when somebody isn't cared for in their community setting and we will be the defendants because we are the people who are responsible for whether we have a community system as part of the institutionalization. I think that we are taking that community system apart.

I urge you to override this veto.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: I hope that you do support this piece of legislation. I want to restate what I stated earlier to Representative Jalbert — only 50 percent of the unclaimed deposit money is dedicated to Waste Management Agency, none of it is dedicated to the Liquor Commission. The remaining 50 percent (under current law) goes to the distributors. So, even if we do not override the Governor's veto, it has no effect whatsoever on the Liquor Commission.

I also want to state, as has been stated several times, and in the Governor's message which is incorrect as well, that this is an out-of-budget item. We have lots of bills that are out-of-budget items that deal with money and that is called the table, the legislative table — those are out of the budget. In some cases, we do put legislation in the budget when we pass the budget, but in other cases where there are bills dealing with fiscal notes that are on the table that the Appropriations Committee deals with, then leadership deals with after that, they are out of the budget items as well. This is no different than any one of those other issues that we deal from off the table that requires additional money.

I do hope that you do vote to override the Governor's veto. This is a very much needed piece of legislation, it is very important and, as I stated earlier in the Appropriations Committee when we dealt with mental health, I think it is very, very important that we take care of the people who can least take care of themselves.

There were some miscommunications when we put the budget together on whether or not the Governor would find additional money. It is my understanding that Sawin was supposed to find some money so we could fund mental health, which he did not. So, I do hope that you support to override today because this is

not any different than any other piece of legislation that requires a fiscal note when we take it off the table. I hope you would vote today to override the Governor's veto.

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

Representative RYDELL: Mr. Speaker, Men and Women of the House: I also hope that you will vote to override this veto for a number of reasons. First of all, it is true that up until the very last hours of putting this budget together we did expect that there would be some additional funds for Community Mental Health. It was the area that we had devastated the most as we went through the final motions of trying to balance the budget. We recognized that our commitment to Community Mental Health was not being met and that the alternative was going to be, not only diminished services to people in our communities, but it was also frankly going to be more costly for the state and for the businesses of our state because where will these people be? They will end up in crisis unable to be met by their local Community Mental Health Services. They will end up in our hospitals, some of them in our state hospitals, some of them in our local community hospital emergency rooms. Who will pay for them? All of us through increased costs in our health insurance policies, the state through increased Medicaid costs if they happen to be eligible for Medicaid through their SSI program. So, this \$1.2 million in Community Mental Health Services will ultimately save us much more than that over the next biennium.

The real reason that we need to override this veto and pass this bill and put it into law is that the people in need are everyone that we know. They are our friends, our relatives, our neighbors, our colleagues. Mental illness is not something that is not within any family in our state. If you look within your own neighborhood, your own family, you will find someone who is in need of these services. It may be just that person who is denied the service because of this small amount of money.

I talked with my Community Mental Health Center after we passed this bill and they said, yes, it is a small amount of money but they have become extraordinarily skillful at taking small amounts of money and transferring them through creative use of services, through a lot of group services and through the combination of paid and volunteer assistance, they have turned a small amount of money into an incredible amount of service.

If we do not add this amount of money but continue the devastating cuts that they now have, there will be thousands of people who will not receive service. The little bit that each Community Mental Health Center would get will go a long, long way toward covering the gap in Community Mental Health Services. We are under a Consent Decree for AMHI people, we are not under a Consent Decree for people who fall under the jurisdiction of Bangor Mental Health Institute but we have tried to treat north and south the same in this state. As we planned our Community Mental Health Services, as we planned the additional services necessary for persons who are in the class from AMHI, we tried to treat the people who are within the BMHI service area just the same.

Failure to pass this bill will mean that as the department looks at its very limited funds and they



are under a Consent Decree and the Court Master is standing over their head — where will the priorities be? They will be for those persons who are in the class covered by the Consent Decree. The devastating feelings of the lack of funds will be felt even more by those persons with chronic mental illness who are residents of the northern part of our state. We have tried very hard to avoid that but it is becoming more and more difficult. For every dollar we take away, I would say that it is more likely that the people in the northern part of our state will really get the short end of the stick.

I would ask you to think about all of these things. Think about whether we want money that the Supreme Court of our state said belonged to the people of this state to be left in the hands of the distributors, most of whom have very little if any connection to our state or we want it to be used to benefit all of us because, when we help those persons with severe and chronic mental illness, we are helping every family in our state.

I ask you to please give very, very careful consideration to what your vote can do and to vote to override this veto.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I am old enough to know better, I am old enough to know better than to speak after all of these eloquent speakers. I am old enough to know better to think that I can change the minds of many of the people sitting in here but I guess I also have a reputation of being an eternal optimist.

I have heard no one who is in support of sustaining this veto say that the money is not needed for Community Mental Health Centers. I have waited, I wanted someone to stand up and defend this veto based on the merits. I heard the good gentleman in the corner, the Minority Leader, make a noble effort to defend this veto. I heard him say that Community Mental Health Services had bigger percentage increases in other parts of the budget. I don't know the numbers but I know that a large percentage increase on a low budget doesn't amount to very much so I would ask him, percentage increase on what? Let's talk about real numbers.

I am also old enough to have served in this body when we in the '70's launched this crusade to be more humane in the treatment of mentally ill people and we began across this country and certainly in Maine taking people out of the institutions. We never ever put the proper amount of money for follow-up care into the communities. We tried, we made feeble attempts but we continued to put people out of the institutions, a good direction, but never was it intended to happen without follow-up care in the community.

We are at another crossroads. I am also old enough to have been a cosponsor of the bottle bill (that we are now talking about) with the current Governor, who was then Minority Leader and it was his bill and I don't remember any debate ever saying that most of the unclaimed deposits would be used by distributors. I guess I would urge every citizen in this state to go get every bottle and don't give them a single other unclaimed deposit because that money is our money and I don't want it to go to distributors, I want it to go for a very important state need. I hope that every citizen in this state

will pick up every bottle and can they see on the side of the road and then we will see what happens to that amount of money.

This is not a new tax. The bottle bill money was there to get our roads cleaned up and to get things back off the streets and get these cans and bottles back into recirculation to be recycled. It was not intended to be a big profit for distributors, that hasn't changed in the years that this bottle bill has been in effect, so it is not a new tax, it is redirecting its use.

I must also, and this is probably what got me on my feet too, in all those hours and hours of budget negotiations, and I watched as the Appropriations Committee, both Republicans and Democrats, struggled and struggled to close a very difficult budget. Because I was watching out for education and everything else I cared about, I spent many, many hours downstairs. I know up until the last minute we were seeking a source of funding because even members of the Appropriations Committee acknowledged that this is not a good budget for mental health. As a matter of fact, three hours before the budget was finally closed I had found a source of money, not as good as this one, but nevertheless one that would work and I was told, please don't try to unravel this budget, it is too fragile, we will try to deal with it later, fine, a good faith effort. It wasn't that the money wasn't needed, it wasn't that mental health services weren't needed but the timing was wrong.

I ask you to look at the bill, you probably don't still have it, but this is a Governor's bill. I am a little puzzled by that, this is a Governor's bill. He obviously thought it was a good idea to do something else for the needed mental health services in this state.

I would ask you — I guess Representative Lemke said it best, this is not a partisan issue, it has nothing to do with machoism or who is the strongest and who is the best and who has the 100 percent record of vetoes, it really doesn't, it has nothing to do with the executive and the legislative branch, it has to do with people who can't take care of themselves.

I have a sister-in-law who would have been in an institution to this day (she is not in this state) without the complete dedication of my mother-in-law who really dedicated her life to keep this young woman out of an institution. But, she could never, ever have made it without community mental health services. So, when you are voting today, you are voting on the lives of people who cannot survive outside an institution without mental health services. So, if ever you could put politics aside and think about the merits of a vote, there is no vote that you will pass that will be more important to people that you will never see, who will never be able to say thank you but you will know when you go to sleep tonight that you have done a very difficult thing. I hope that you will join me and the many others who are fighting to make sure that mental health services are delivered in the community. This veto can be overridden and we can fund this very important program.

The SPEAKER: After reconsideration, the pending question before the House is, "Shall this bill become a law notwithstanding the objections of the Governor?" Pursuant to the Constitution, the vote will be taken by the yeas and nays. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 233V

YEA - Adams, Ahearne, Aliberti, Beam, Bowers, Brennan, Carleton, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Coles, Constantine, Cote, Daggett, DiPietro, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Hatch, Heeschen, Hichborn, Hogle, Hussey, Jacques, Joseph, Ketterer, Kilkelly, Larrivee, Lemke, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, O'Gara, Paradis, P.; Pendleton, Pfeiffer, Pineau, Pinette, Plourde, Pouliot, Rand, Richardson, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Sullivan, Swazey, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Vigue, Walker, Wentworth, Winn, The Speaker.

NAY - Aikman, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Carr, Clukey, Coffman, Cross, Dexter, Donnelly, Farnum, Farren, Foss, Greenlaw, Heino, Jalbert, Joy, Kneeland, Kutasi, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Murphy, Nash, Nickerson, Norton, Ott, Pendexter, Plowman, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Strout, Taylor, Thompson, True, Tufts, Whitcomb, Young, Zirkilton.

ABSENT - Anderson, Hillock, Holt, Johnson, Kerr, Kontos, Martin, H.; Oliver, Poulin, Stevens, K..

Yes, 84; No, 57; Absent, 10; Paired, 0; Excused, 0.

84 having voted in the affirmative and 57 in the negative with 10 being absent, the veto was sustained.

At this point, the rules were suspended for the purpose of removing jackets for the remainder of today's session.

(At Ease)

The House was called to order by the Speaker.

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

**PASSED TO BE ENGROSSED WITHOUT REFERENCE TO COMMITTEE**

Bill "An Act to Make Technical Corrections in Recently Enacted Laws" (H.P. 1176) (L.D. 1567) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by Senator CARPENTER of York and Representative: ZIRNKILTON of Mount Desert) (Governor's Bill)

(The Committee on Judiciary was suggested.)

Under suspension of the rules, without reference to a committee, the bill was read twice, passed to be engrossed and sent up for concurrence.

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

The Chair laid before the House the following matter: Bill "An Act to Provide Property Tax Relief for Maine Citizens" (H.P. 1172) (L.D. 1565) which was tabled earlier in the day and later today assigned pending reconsideration.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Hogle.

Representative HOGLE: Mr. Speaker, Men and Women of the House: L.D. 1565 will provide true property tax relief for Maine's low and middle income families. The Maine resident property tax program was put in place to assist those Maine residents whose property tax are disproportionately high in relationship to their household income. Primarily these people are the working and lower middle income classes and elderly persons on fixed incomes whose property values have increased over time.

The bill seeks to provide relief to the residents living in high property value areas such as the coast and who saw real estate speculation trends of the 1980's greatly increase their property values, while their income did not rise proportionately.

Without meaningful property tax relief, many will be faced with defaulting on their property tax bill or selling a home in which they lived in for many years.

L.D. 1565 will provide an additional \$1 million for Tree Growth Reimbursement for fiscal year '95, thereby restoring funding for Tree Growth at the 90 percent level required by statute. The bill will provide temporary relief agents to enable the state to realize about \$10 million of additional revenue by enforcement of tax codes. The bill is a means of getting people who consistently default on paying their taxes. This group of non-taxpayers raises your taxes and mine.

Funding for L.D. 1565 would come from increases in the rental tax on automobiles from 7 to 15 percent and an increase of 2 percent on the cigarette tax.

L.D. 1565 will provide meaningful property tax relief for about 60,000 Mainers with maximum household incomes of \$40,000.

The maximum benefit payment will be \$750. As an example, a Yarmouth resident with a \$30,000 household income and \$2,500 property tax bill under the budget receives \$280. But, under L.D. 1565, they would receive \$575. A Presque Isle resident with a \$10,000 household income and an \$800 property tax bill, under the budget will receive \$70, but under L.D. 1565, they will receive a benefit of \$175.

If we are serious about property tax relief for Maine people, if we believe Maine people should be allowed to keep their homes, we need L.D. 1565.

Men and women of the House, I have been here for a long time and I do know that times are tough. I do know that we need to cut back spending. I do know that there is not the projected revenues but I also know that there are going to be 28,000 people cut if this does not pass.

I think I did the responsible thing in voting for the budget. I think I have done the responsible thing in putting this particular law before you because these people, for once in their life, may

need a property tax break. These are the people who are paying for the government, these are the people who are paying the taxes for these programs to happen. Once or twice (sometimes) in a lifetime of a low-income or middle class working person, you pay all the bills but you get in a jam and can't pay your taxes. It is not a benefit, it is just a relief to help in continuing to pay state government and these programs that we need so badly.

Thank you. I urge you to vote yes.

The SPEAKER: The Chair recognizes the Representative from HOWLAND, Representative Hichborn.

Representative HICHBORN: Mr. Speaker, Men and Women of the House: L.D. 1565 is a bill that more than many others we have seen in the past two years has some good points and has some bad points. I want to help the Governor, not to get a veto passed, but to prevent a very serious injustice and an adverse impact on some of the poorest people in the poorest towns in the State of Maine.

I want to talk about Tree Growth and Tree Growth alone and I will give you an example of some of my towns. I have towns where trees grow. The good Representative from Portland has pointed out that they have problems too. I recognize that and we talked about two Maine's and people say we shouldn't talk about two Maine's but I have no problem in talking about two Maine's because we have two Maine's, we have three Maine's, four Maine's, a lot of Maine's and we all have problems. The problems in one part are not necessarily a problem in another. There are more of you people from southern Maine than there are from northern Maine and I have come to find out and to understand that the people in southern Maine have hearts and they have understanding.

The good gentleman from Westbrook talked about responsibility and I heard that word. It didn't seem to show up when we just voted but that is neither here nor there.

I want to talk about fairness and to give you an example of what happens in a town where Tree Growth is a major problem. I have many towns where 70 percent of the property in the town is in Tree Growth. Now, the Tree Growth law is a good law, it is supposed to guarantee forever that there will be a renewable resource available for the paper companies and the lumber companies and the people who are in the forestry products industry. It is supposed to encourage good forestry practices and that is what we all want. It is supposed to regulate development to the advantage of all people and not to the disadvantage of many.

To give you an example of what happens in a little town where we have few people, I will give you a sample. A town with 194 people in it, evaluation of \$10 million, 70 percent of the land is in Tree Growth, 70 of the property is in Tree Growth and Tree Growth property is valued at roughly one-third of what other property is valued. That means that in this community of 194 people that the tax paid by the local people is on a \$3 million base and the property on the Tree Growth people, which is valued at \$7 million, has for a tax base \$2,300,000 in rounded figures. Whereas in this town where a couple of hundred thousand dollars is raised each year, if you were to value everybody equally, the 194 people would pay \$60,000 in taxes and the people with Tree Growth would pay \$140,000. But, because of the Tree Growth law, they do not pay the \$140,000, they pay \$86,000. That means that the 194 people have to add to their

\$60,000 tax another \$54,000 in order to raise \$114,000. And the Governor calls that tax relief and will veto a bill which would make it possible and require the state to reimburse these towns for 90 percent of their tax loss? That is not the kind of relief that my people in the little towns that I represent can understand, that is not relief to them.

I can give you another example, Last year, I purchased an 83 acre of land, it happened to be in Tree Growth. I didn't want it in Tree Growth, I had no advantage in that. I have a neighbor, a very good neighbor, one of the best you could have. He has an 83 acre lot and his tax is three times what I have to pay on mine. I went to the selectmen and said I want to get mine out of Tree Growth, I want to pay what my neighbors pay, a fair share. They said, you can do that but you will have to pay the tax benefit that somebody else gained while it was in Tree Growth and I said I am willing to do that. Then they said there will be a penalty too. For \$3,500, I can increase my tax for three times. I got no advantage out of that. That is not fairness.

I have a number of towns where the Tree Growth land is more than 70 percent of all the value in that town and who gets the benefit of this? It is not the someone who has ten acres or 100 acres in Tree Growth, it is the people who pay taxes on 100,000 acre lots, people who are doing their business around the corporate boards in San Francisco, Chicago, New Orleans, New York and other places, they are the ones who are getting the benefit. The benefit they get you are taking out of the pockets of the little people in these little towns.

I know a lot of you folks don't understand the position that we have in our little towns up north, in fact all over the state, you have them in Washington County, you have them over in the western part too, but up where I come from, many of the smart ones grow up and go away to work. They have to find a job and then leave old duffers like me behind. I don't want to leave, I want to stay there, but I do object to helping pay the tax of somebody who perhaps has never been in the State of Maine and is doing his business outside of the state. I don't think that is fair. I am not speaking for myself but I am speaking for a lot of little people in the little towns that I represent and I hope that when you vote today that you will vote to override.

I am going to swallow and swallow hard on some of these items that are included in this bill, but I think to get reimbursement back to these towns to the degree that this law will allow is the direction in which we should move. We reimbursed them last year for 64 percent. The Governor proposed cutting it to 32 percent this year and my understanding is that the Taxation Committee has approved a 64 percent reimbursement this year with a 90 percent reimbursement next year which is the requirement in the law. I hope that you will go along with this proposal to override this veto on the basis of fairness to the little guy.

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

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: There was some confusion as to where I stood on this when we voted the last time. I am not opposed to the principle of the circuit breaker, I think it is a good idea and I totally agree with much of Representative Hoglund and

Representative Hichborn have said. However, I think we have to question the method that is being proposed to fund this and also question the level of help that we should be providing.

I asked to have a little table distributed to you. I think you all have it and I am not going to bore you by going through all of it, I think it pretty much says what I would say except I would sum up two things for you. There were 30 states in 1991 that had a circuit breaker program. Only ten of them provided relief to all homeowners. Only nine of them provided relief of over \$500 and only four of them allowed people with incomes of over \$25,000 to qualify. Looking at those facts, I don't think we have anything to be ashamed of with what is in the budget by using a \$25,000 level of income and the maximum of \$500.

The thing that disturbs me the most is funding on what I call balogne, that these revenue agents are going to produce this money, that's balogne. I analyzed what was in the bill and you are hiring one full group. You are hiring 18 field agents, one group manager and six clerical positions. Now, let me ask you this — from the point of view of the appearance of fairness in tax administration, which one of you wants to volunteer to be the first person to be audited by a revenue agent whose job depends upon raising \$500,000? That is precisely what we are doing. We are hiring 18 field agents, putting them out in the field and say, okay, you have to raise \$18 million. If you look at the fiscal note that is on that bill in round numbers, we are talking in a two year period of raising just below \$18 million. Keep in mind we are not talking about income taxes. Mr. LaFaver has admitted that the most of his income tax receipts comes from the federal audit. We are talking about sales tax. That means that 18 people have to go out and find just below \$9 million of unreported sales each year. Does that make sense to you?

I forget what the total staffing of the Bureau of Taxation is but when they were talking about deappropriating the enforcement group, I think the number 67 revenue agents comes to mind. A lot of those are already committed by a prior legislature to raise a half a million dollars in taxes a year. Think about that. Simple math.

They have got to find \$300 million of unreported income in two years. That's a lot of money per person. I think to send people out and say, okay, you've got to find this in order to fund this program and if you don't find this, your job is abolished. It is a pretty poor way to raise money or to fund a program. Therefore, I would urge you to vote to sustain the veto.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House: This is one of the times in the Maine Legislature that I really don't enjoy and that is having to vote against and speak against two of my best friends in this legislature. That is Representative Hوجلund and Representative Hichborn.

I believe in the circuit breaker program, I believe in it very strongly, but some of us on the Taxation Committee wanted it done in the budget and we had hoped that there would be an increase in the budget but that did not come about. However, we did go along with this but now that the Governor has chosen to veto it, I have given this a lot of thought

and taken a lot of time.

I drove to Augusta yesterday, it took me two hours, I drove home last night and that took me two hours — this piece of legislation was on my mind both times. It was on my mind this morning coming up and I really didn't know where I was going on it. I had to weigh a lot of facts. I had the opportunity this morning to speak with the Governor and I told him my concerns on this. He promised me that we could look at this again in January and be able to fund it in a different way. I believe what he told me, I believe he will keep his promise. Representative Spear and myself talked to him and, therefore, I am going to have to support his veto.

You know, it is no secret to the members on Taxation that I was not fond of the rental car tax, not that I am against taxing rental cars but when we start reimbursing businesses for excise tax in this state by raising taxes, I went against the whole tax policy there. I was the only member on Taxation who voted against that. We signed jackets but it never did come out of committee and then it was put into this bill. I held my nose, swallowed hard and I voted for it, but I wasn't happy. If they had taken the whole increase of the sales tax, I had no problem. I certainly was against the SWAT Team and I don't think there was a member of that Taxation Committee that like the idea of a SWAT Team but some of them felt very strongly that this was a very important bill and it certainly is. But, I would like to come back in January and really fund this in a way that we all can be proud of and we haven't got to go home and tell our people that we put a SWAT Team out there of internal revenue agents to go after you.

I know how I would answer the question that Representative Simoneau just asked, "I don't want to." I try to pay my taxes and my accountant does the job that I hope is keeping me out of trouble and I certainly don't need an audit from the State of Maine or anyone else. I have been through audits, I don't get too concerned about them but you never know — if they have got to earn a half a million dollars, they are going to be pretty picky and there isn't any of us who doesn't once in awhile make a mistake. I don't think any of us do it to be dishonest but it is because we don't know any better. Those of us who have been in business know how easy it is to not know the tax laws because we don't have time to keep up with the tax laws, especially in the State of Maine the way we change them.

I would have to urge you to vote to sustain the Governor's veto and I am doing it really very disheartened but that is the way I am voting today.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Rand.

Representative RAND: Mr. Speaker, Ladies and Gentlemen of the House: My good friend and committee member Representative Simoneau has, I feel, insinuated that the revenue agents will somehow demand tax money from Maine citizens that is not legitimately due the state. I don't believe that is true at all. According to Mr. LaFaver from the Bureau of Taxation, the state presently only has the ability to audit approximately 2 percent of the businesses in the state.

As for the 98 percent, it is true that I am sure that there are small business people particularly who do make some mistakes but the fact remains that if tax money is legitimately due the State of Maine, it

is certainly within the purview, in fact it is the duty of the Bureau of Taxation to collect those monies and to point out the errors to the business people.

As far as the jobs of these revenue agents depending on raising those revenues, I believe if you read the legislation you will find that these jobs are eliminated in two years, so we will not have 25 wild people out there scrambling madly in order to hold onto some lifelong position. The positions dissolve in two years.

I would really urge you to override this veto. This is a totally non-partisan issue and we have hardworking Maine people in all of our districts who are in desperate need of some type of property tax relief. I believe that the reductions that have been made in the present circuit breaker program are considered and should be considered legitimate cuts. We are not asking to fully fund the circuit breaker at the high levels that they were funded previously.

I have received the most phone calls on two items this year, one was the proposal to eliminate the nursing home beds and the circuit breaker program. Our people are in desperate need of some relief and Representative Hichborn, who is much more familiar with the Tree Growth situation, but he certainly eloquently pointed out the need in that area for property tax relief.

I urge you to please vote to override this veto.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I did not expect to get up on two issues today but this was the item I did expect to address you on. I apologize for taking up your time, we would all like to go home and enjoy what there is left of the summer, so let me be brief.

I was first elected in 1986. In 1987, I came in and asked the other tax committee and worked with Representative Zirnkilton from across the aisle the most comprehensive and important piece of serious property tax relief that this state has ever put forward. In the end, it was supported in a bipartisan fashion by this legislature. It was negotiated and supported in a bipartisan fashion.

Every single one of us who has ever run reelection, maybe not your first election, but boy when you run for reelection, you take around those circuit breaker forms, just like you take around your brochures. You teach people who say I can't stand it, I am choking on this bill how to fill out the forms and if in fact they are choking on their property tax bill, they get some relief.

For some of my constituents, it fills their oil tank in the winter, that is a significant amount of relief in a state like Maine.

This was something good we did to help people because in the 1980's the frenzied real estate market increased the values of property around the state, particularly coastal properties, lakefront properties and urban communities, at an incredible accelerated rate. Now when that market died, and I was a realtor in that market, it was an enjoyable time to practice real estate, but when that market died, today you can't find anyone who calls himself a developer, those property taxes didn't go down.

I got my property tax bill the other day, it is \$300 a month. I can handle that property tax bill, I don't need any relief. My neighbor down the street has the same property tax bill, they are living on

Social Security, they cannot handle that property tax bill.

The nice thing that is left in this program is that the elderly virtually receive no reduction in terms of qualifying for the elderly property tax program but there is a 64 percent reduction in the non-elderly part of the circuit breaker program as it exists. As we are proposing to do it, there is no \$3,000 check anyone is going to get in the mail. The maximum check is \$750 if your tax burden is excessively high and you are only going to get an amount of 50 percent co-pay, fifty percent of your excess burden over four and a half percent of your income.

This is a very limited program that we have proposed to have left for people. It is the first time that we would really honor our commitment to the Tree Growth program.

I think you have to ask yourself if you are for tax equity. I have absolutely no problem collecting \$10 million from delinquent taxpayers. I have no problem if Representative Simoneau wants to volunteer, we will go through that audit together from those first auditors. He is an accountant, I know that he does a very good job of keeping his books, I am sure he can defend himself because he pays his taxes. He knows who my accountant is, I am sure I can do a very good job in defending myself because I pay my taxes, but if there is \$10 million out there in tax delinquent money by people who cheat on their taxes, I have no problem turning that money over to people who have excessive property tax burdens and have paid their taxes all along, no problem whatsoever.

I am uncomfortable with the cigarette tax and I will tell you honestly why — because I want to save it for health care but this is an important priority and I am willing to do the 2 cents. I am not at all uncomfortable with the car rental tax because maybe no one has explained to you that they came in and asked us to do that to them so they could increase their fleet size so they don't away tourists looking for cars. If you can't rent a car when you fly into Maine, you don't fly into Maine, you don't spend your money here. There is a shortage of rental cars for people flying into this state, both to do business and for tourism. The industry came to us and said, do this tax thing, return our excise tax to us, you get a short windfall and we will increase the amount of dollars spent by people doing business in Maine and the amount of dollars spent by tourism. That's a pretty good win, you know. Not many people come to the Taxation Committee and say, would you mind taxing us because it is a win/win, it will be good for business, it will be good for Maine, but they did come to us so I have no problem with that tax.

Fundamentally where there is a problem here is a 64 percent reduction in the circuit breaker program and if you don't think that is a problem, you want until you hear from your constituents on it because they don't even know about it now. They sure are going to let you know about it this Fall when they no longer qualify and you tell them that it was too generous a program for them and they've got too much money and they don't deserve it and they ought to move to a cheaper house.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and

Gentlemen of the House: Very briefly, I rise this morning on two points, first to reference a handout that I distributed earlier this morning, an article that appeared this week in the Waterville Morning Sentinel and I have had it distributed it because I think it very accurately describes our failure to adopt this legislation as a very clear, direct cost shift. I reference that first from that perspective. I don't particularly share the views that they have described to the Minority Party, I think that those were unfortunate, unnecessary, but perhaps somewhat typical of the media's generalistic interest in the political dynamics that we all operate here from day-to-day.

Secondly, I rise to reenforce comments that have been made this morning, both by Representative Hogle and Representative Rand, when they discussed the issue of middle class tax relief. Maine's working class families, Maine's working middle class families in your district and in mine, the same families that we have asked for two decades now to finance every single government program that comes down the Pike will, should this veto be sustained, once again, be taking it on the chin.

Contrary to the Governor's almost mandatory chant to reduce taxes or at the very least not to raise additional taxes, his veto of this legislation amounts to nothing less than a tax increase for nearly 30,000 Maine families, families in your district and in my district.

The property tax, as you know, is one of the most regressive means of raising revenues in this state and will, once again, pose an enormous threat to thousands of Maine citizens who look towards the circuit breaker program for some sort of relief. Unlike tax breaks that we have adopted and loopholes that we provided for the wealthy in our society, unlike the safety net programs that we attempt to provide for the least advantaged among us, the working middle class is always struggling to make ends meet have so few programs that go right to the heart of their economic programs. The circuit breaker program is that program. It is the program that provides the assistance to Maine's working families, programs and assistance that they desperately need.

In the Governor's veto of this legislation to restore even a respectable amount demonstrates a devastating retreat on a bipartisan commitment we made to Maine's working class families many, many years ago. I think it is important to be honest about one thing, whether we are successful in overriding the veto today or not, somebody's taxes are going to rise. Whether we are successful in overriding this veto or not, somebody's taxes are going to rise and the question is, should those taxes be cigarette taxes or car revenue taxes, should they be the collection of taxes that are already owed to the State of Maine but we have been unable to collect through the use of revenue agents or should that increase in taxes be provided, once again, by an increase in the property tax on Maine families that they will have to pay, once they are dropped from the circuit breaker program? To me, the choice is crystal clear and I would hope that you would join with me in maintaining our commitment to Maine's working families by supporting this vote to override the veto of the Governor.

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

Simoneau.

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: Very quickly, just to respond to a couple of things that should have been said. Keep in mind that we are not talking about income tax audits here. Mr. LaFaver made it very clear that we are talking about sales and use taxes. If we were talking about income taxes, each one of these people would have to find a minimum of \$5 million of unreported income each year to meet these numbers.

The 2 percent audit rate was mentioned, the 2 percent audit rate is higher than the federal audit rate for their audit program. Again, we are talking sales and use taxes. We are talking about taxes that supposedly are already owed to the State of Maine. Before the Joint Committee on Taxation, in answer to my question to Mr. LaFaver, I asked him what the compliance rate of the people of Maine, voluntary compliance rate, was and he said in the high 90's. My Lord, if we have a compliance rate in the 90's, where is all this money that we are talking about? Think about that and I urge you to sustain the veto.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: I do not find that it is a comfortable time to be trying to protect people who are out there who may not be paying sales and use taxes. I understand there is some skepticism about this payment mechanism but at least it is not new taxes.

I also believe that during the course of the Taxation Committee we did identify some areas where most of us, from just our common experiences, felt that probably people are not aware that there need to be taxes paid including short-term rentals, for example, and that there may well be monies collectible without massive audits of every business in the state through education, identifying sources and through probably more staff people in the Department of Taxation.

The bottom line for me is that this is not, as the Governor has suggested here, something to put the budget out of whack or that is imbalancing the budget. This is a separate matter and it was my understanding as a member of the Taxation Committee that both the Appropriations Committee and members of this body and the other body were very aware throughout the process that we were very likely to address property tax issues outside of the budget in terms of redressing the severe cuts that ended up in the budget. That, to me, says that every person here should feel very free to look in their own districts and understand the impact that we have just put on them by the budget in terms of property taxes and feel free, regardless of party, regardless of prior statements, to make that fair and protect people in the modest way that this bill does. Without this kind of bill, we are asking people who may have spent their entire life in one place or whose family has left them a place to live who have no income right now, who can't sell their house because of the market, to forego and to possibly suffer foreclosure.

This is an extremely desperate situation as the Representative from Portland said earlier and I urge you to feel free to do what you know is right and rectify increases that are necessarily going to happen in the property tax. That is what this bill

is all about.

The SPEAKER: The Chair recognizes the Representative from Mount Desert, Representative Zirkilton.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: Representative Simoneau — maybe this is something that was gathered from the NCSL and if these figures are accurate, even what is being proposed without this bill, what is going forward in the existing budget, would give us about the 5th most generous circuit breaker program in the nation.

I did serve on the Taxation Committee years ago when we put this into effect along with Representative Dore. However, my departure in 1988 I believe was prior to the program becoming the most beneficial program in the entire nation.

I represent an area which has very significantly high property values and it has always been a great concern of mine that especially the elderly who have been in their homes for a long period of time not be forced out of that home simply because of economic conditions which have gone beyond their ability to keep pace. I am not sure, however, that this is the way to go about it. In fact, I came forward with a bill to the Taxation Committee, which was rejected by Representative Dore and the other members, which would have recognized that the value of the property is there. You cannot deny that. As we go forward and we talk about these issues, there is an equity position, there is a value to that property and what you are talking about is taking General Fund monies that are paid in by the wealthy and the poor, those that can't afford a house at all, you are taking that money and giving it to those who in fact have a significant equity position. The concern that we should be going forward with is not to try and forgive a tax responsibility but rather find a way maybe through delaying or some other means, find a way to make it so that individual will not be forced to leave that home, perhaps have some sort of abatement for a period of time with the responsibility to pay it to come later. That is what I had proposed, some way to recognize the value and to recover the money later on but not force the individual to leave.

I question how many people who don't earn the kind of money that is being discussed here today who can't afford a house think that it makes sense that their tax dollars should go toward subsidizing those who have very substantial equity positions in their homes.

It is funny this process at times. A few minutes ago we were talking about the great need of Community Mental Health and the Representative from Vassalboro, Representative Mitchell, said that no one here was denying the need, she is right, no one was denying the need, no one will deny the need for this or for educational matters or corrections matters or many other matters. The fact is the money tree in which this state has become so heavily dependent is not in full bloom anymore. Like the rest of the people that we represent, we must learn to prioritize. This is not some kind of big toy store that we can walk around and pick out the things that we want.

A minute ago, the tax we were talking about was some kind of a float. Well, now we are talking about a different tax. So, is the priority different now that we are talking about increased enforcement and rental car taxes and some other things? Now all of a

sudden the priority is circuit breaker, it is not Community Mental Health any more. Which is the priority, is it married to the tax here?

I remember years ago when Representative Gwadosky stood back there and I was somewhere in this section — then the real estate transfer tax was 55 cents per thousand and then it went to \$1.10, then to \$2.20 and then it was imposed upon the buyer also with \$2.20. Increases after increases after increases. If you want to provide people with tax relief, lower their taxes, don't come up with smoke and mirror gimmicks that take money from one pocket and put it back into another and lead them to believe that you are doing something that is helping them. Lower their taxes, that would be the best way to provide some kind of relief.

Evidently those that participated in this compromise, this consensus budget as it was referred to from the rostrum and many other times as we have gone forward, did not feel by consensus that this was enough of a priority to be included in that so-called consensus budget. That really is the issue, it was not a priority at the time that that budget moved forward with the necessary number of votes to get it past this body and past the other body and down to the Governor's desk for his signature. It is an after the fact issue.

If next year you feel that this in fact is more of a priority than other issues, then you will have an opportunity to come forward with some of other vehicle, some other way to try and address this and make it a priority. If you can get the necessary number of votes, you will then move forward.

I ask that you sustain the Governor's veto.

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

Representative SULLIVAN: Mr. Speaker, Ladies and Gentlemen of the House: I simply want to make a comment. I stated this once before in a previous debate on the floor some weeks ago and that is, I guess when we are looking at the word relief, it depends on whom that word is being applied to. We continually have heard for many many years but particularly during this past year, during the Economic Growth Council meetings and subsequent to that that businesses were looking for relief, for tax relief, continually, that is all they want, please. Now, we are looking for some tax relief for Maine citizens, for the people who need it because they cannot live in their own homes if they do not get this relief or else they are going to be mortgaging their homes to the banks to pay the taxes and then have those properties sold when they die or when they move and so forth.

I am asking you to please consider to whom this relief is to be applied, to Maine citizens who need it so desperately to stay in their homes. In some cases, the homes that have been in their families for two or three generations, don't ask them to move out now. Don't ask them to lose their homes because they can't pay the taxes. Please vote to override this veto.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Hوجلund.

Representative Hوجلund: Mr. Speaker, Men and Women of the House: I apologize for getting up again except I just could not go on without talking about this circuit breaker tax table. There are pages preceding it and pages after and obviously we never pulled out everything that explains everything so



this is not a true document of what the property tax relief is on all these states. What happens is that Maine takes the total income, period, of a household income. Other states use total assets, other states use dependents, other states have different sales tax. They all have different criteria so without reading the full context of the NCSL problems here — and we discussed this Representative Simoneau, and I know you are not supposed to do names on the floor but I feel it necessary to say that we did discuss it and to let you know that we did. It is not a true picture and what happens is, you are reading the wrong information unless you read the whole thing.

The other issue is — on the income tax, that is not the issue, it is sales tax, 2 percent of our sales tax gets audited. It doesn't mean a SWAT team is going out there and they are going to have to come up with \$500,000. What it means is that our tax department right now is so overloaded that it can't get to those people and they are just going to end up people for two years, they are terminator jobs.

The other part is the car rentals. We joke about the car rentals. They did come in, as Representative Dore said, and ask us to tax them but they didn't say tax me because I want to be taxed, they said tax me so I can have tax relief. That is exactly what we did, we added a percentage on, gave them back a tax relief for the excise taxes they pay to this state for registering their cars. So, we took a portion of it, not all of it, we were good people and we gave them some and we took some but our tax relief is to go for our people and that is what the true property tax relief is in this state.

The SPEAKER: After reconsideration, the pending question before the House is, "Shall this bill become a law notwithstanding the objections of the Governor?" Pursuant to the Constitution, the vote will be taken by the yeas and nays. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 234V

YEA - Adams, Ahearne, Aliberti, Beam, Bowers, Brennan, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Coles, Constantine, Cote, Daggett, Dexter, DiPietro, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Hatch, Heeschen, Hichborn, Hognlund, Hussey, Jacques, Joseph, Ketterer, Kilkelly, Larrivee, Lemke, Lemont, Libby James, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, O'Gara, Paradis, P.; Pfeiffer, Pineau, Pinette, Plourde, Pouliot, Rand, Richardson, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Stevens, K.; Sullivan, Swazey, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Winn, The Speaker.

NAY - Aikman, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Carleton, Carr, Clukey, Coffman, Cross, Donnelly, Farnum, Farren, Foss, Greenlaw, Heino, Joy, Kneeland, Kutasi, Libby Jack, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Murphy, Nash, Nickerson, Norton, Ott, Pendexter, Pendleton, Plowman, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Strout, Taylor, Thompson, True, Tufts, Whitcomb, Young, Zirkilton.

ABSENT - Anderson, Hillock, Holt, Jalbert,

Johnson, Kerr, Kontos, Martin, H.; Oliver, Poulin, Vigue.

Yes, 85; No, 55; Absent, 11; Paired, 0; Excused, 0.

85 having voted in the affirmative and 55 in the negative, with 11 being absent, the veto was sustained.

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

PASSED TO BE ENACTED

An Act to Make Technical Corrections in Recently Enacted Laws (H.P. 1176) (L.D. 1567) (Governor's Bill)

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.

At this point, a message came from the Senate borne by Senator Bustin informing the House that the Senate had transacted all business before it and was ready to adjourn without day.

The Speaker appointed Representative GWADOSKY of Fairfield on the part of the House to inform the Senate that the House had transacted all business before it and was ready to adjourn without day.

Subsequently, Representative GWADOSKY reported that he had delivered the message with which he was charged.

The Chair appointed the following members on the part of the House to wait upon his Excellency, Governor John R. McKernan, Jr., and inform him that the House had transacted all business before it and was ready to adjourn without day.

Representative CHONKO of Topsham  
 Representative POULIOT of Lewiston  
 Representative CARROLL of Gray  
 Representative MICHAUD of East Millinocket  
 Representative RYDELL of Brunswick  
 Representative HICHBORN of Howland  
 Representative FOSS of Yarmouth  
 Representative MacBRIDE of Presque Isle  
 Representative REED of Falmouth

Subsequently, the Committee reported that they had delivered the message with which they were charged.

Representative Dutremble of Biddeford was granted unanimous consent to address the House.

Representative DUTREMBLE: Mr. Speaker, Ladies and Gentlemen of the House: On March 23rd, there was



an Order to remove Speaker John Martin and to conduct a new election. I received many phone calls and many letters from different people all over the state on why I did not vote on that day. In 1992, in April and May, I had 34 radiation treatments. I had appointments in October and March 23rd at Maine Medical Center and that is the reason I didn't vote but what I did wrong was I should have paired my vote with someone else.

To the individual letter I received from Gardiner, Maine, I misplaced that letter, I was supposed to answer him and did not because I misplaced that letter. That is why I want to be on Record that even that I did not vote that day, if I would have voted, I would have voted in your favor Mr. Speaker.

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The Chair recognizes the Representative from Howland, Representative HICHBORN.

Representative HICHBORN: Mr. Speaker and Members of the House, I move that the House stand adjourned without day.

The SPEAKER: The Representative from Howland, Representative Hichborn, moves that the House adjourn sine die. Is this the pleasure of the House?

The motion prevailed and at 12:36 p.m. Eastern Daylight Saving Time, Wednesday, July 14, 1993, the Speaker declared the House adjourned without day.

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