

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume II

May 26, 1977 to July 25, 1977

Index

**Senate Confirmation Session
September 16, 1977**

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KJ PRINTING
AUGUSTA, MAINE

SENATE

Monday, July 25, 1977

Senate called to Order by the President.

Prayer by Reverend Valmont R. Gilbert of St. Augustine Church in Augusta.

REV. GILBERT: Let us pray. Almighty God, by Your words, the Heavens were made and all came into being. Today as we come together to close this session of the 108th Legislature, we thank You for the wisdom and understanding that You have given our State Senators. We know that at all times they have tried to better through laws, the living conditions of your people. From Heaven look down upon them today. In You they place their hope. In the words of Francis Assisi make them at times instruments of Your peace. Where there is hatred let them so love. Where there is injury, pardon. Where there is doubt, faith. Where there is despair, hope. Where there is darkness, light, and where there is sadness, joy. O Divine Master grant they may not so much seek to be consoled as to console. To be understood as to understand, to be loved as to love. Where as in giving, that we receive is in parting that we are pardoned and it is in dying that we are born to eternal life. Amen.

Reading of the Journal of yesterday.

Out of order and under suspension of the rules.

On motion of Mr. Huber of Cumberland,

ORDERED, that a Committee of three be appointed to wait upon the Governor to inform him that the Senate is ready to receive any communication that he may be pleased to make.

Which was Read and Passed.

The President appointed:

Senators:

HUBER of Cumberland
MORRELL of Cumberland
MERRILL of Cumberland

Which was Read and Passed.

(At Ease)

Subsequently, Senator Huber, for the Committee reported that the Committee had discharged the duties assigned to it, and the Governor was pleased to say he would forthwith attend the Chamber.

(At Ease)

At this time, His Excellency, Governor James B. Longley, entered the Senate Chamber and addressed the Senate as follows:

GOVERNOR JAMES B. LONGLEY: Mr. President and Members of the 108th Senate: As I said to the other body, I have a great deal to learn about government when it was suggested to me that I ask for a Joint Convention and use the occasion to adjourn the session, as well as to extend my greetings because of the uncertainty of the hour of adjournment, and your own schedules. We developed a problem, I guess the Speaker brought the attention of the President that it might take the Attorney General's opinion to clarify the question, and this morning after I agreed with the President and the Speaker that the opening would be the appropriate time to do it, a question in fairness to me and out of concern for me was expressed that should it be before the caucus or after the caucus, whenever that takes place, maybe it has already, I do not know, and I left it to the discretion of the President and the Speaker as to the best time for them and for you people, and I come before you very quickly and very briefly. To thank and commend you. To wish you well, to just share very briefly a couple of concerns.

First of all, we are advised that based on a ruling from the Attorney General, which we are

still studying, that as Governor, I may ask the Legislature to meet in a One Day Special Session to clarify referendum dates, and, therefore, should there be any other items, such as the possibility of being sustained on a very important pay plan, it would be my plan to combine both on that one day Session, and I have already indicated to Leadership and I would look to the President and the Speaker and the entire Leadership and all of you for input through them, as to when would be the most convenient date for you people to come back for a One Day Session, and I pledge to work cooperatively with Legislative Leadership in determining the most convenient date for the referendum question, if you sustain me on the pay plan and the possibility of one or two other items that we might need to act on.

And secondly, I have already conveyed to the Speaker and the President and Leadership and obviously I hope all of you know, but now let me tell you that Helen and I are inviting you people to join us in a buffet from 12:00 to 2:00 schedules permitting, and the whole intention in here is to try in every way to make it easier for you people, I would ask your indulgence and understanding because I am going to be in Washington for two days unexpectedly on Indian Land Damage Claim this week, which was not totally expected. I might miss, I have already indicated this to the President and the Speaker, I might not be there for the entire period of 12:00 to 2:00, and I might miss it entirely, but Helen will be there, the very gracious Helen Longley, those of you that know her, know that she will be looking forward to seeing as many of you as can make it as possible. It will be a very light buffet, so come in and enjoy breaking bread with Helen and your other contemporaries here.

I also wanted to thank you for the consideration you have given our programs this session, and to thank you also for proving a balance budget without a tax increase. Without spending the cupboard bare. I also want you to know that we very carefully considered the 128 bills you left on our desk when this Legislature recessed. We hope we have done our duty and performed a service to the Legislature by taking another look at the scores of bills passed in the final hectic hours of the session, and by giving each of you another opportunity to review them before your final decision is made, and I hope many of you feel that as a Constitutional privilege, it is also a Constitutional responsibility which we take very seriously, and it is our understanding that this allows you an opportunity for one other look, perhaps or something that you might not have seen or been aware of or that our research might have brought to your attention. Parenthetically one of you said to me this morning that, and I think that it is appropriate, "It is a lot more important and easier to keep unnecessary laws from going on the books, than it is to take them off the books," and finally I want to respectfully ask each of you to seriously consider the objections we have raised to the pay plan. We feel that it is one of the most important decisions a Maine Legislature will ever make, and we have pleaded and are pleading with this Legislature to continue to give us the best system possible to operate Government, particularly in your absence, and as fiscal you are responsible in a humanitarian way as possible, and yet one in which I feel the American way represents. That rewards loyal and faithful service and the responsibility of a given position for the headache and the heartache and the 24 hour day, frequently 7 day a week that some dedicated people in Government continue to respond to help me and serve you.

Thanks to a former Governor, the previous Legislature and the 108th Legislature, we have made tremendous progress in improving our personnel system, and in bringing good

management practices to Government. I encourage you not to undo all the good that has been done in these final hours and please take the time to carefully examine the veto message which we mailed to your homes, and if you feel as we do that we must retain an incentive system in State Government, please sustain the vetoes, so we can come together again, and reconsider only that one aspect of the Part II Budget. I want you to know that I share the concerns expressed by many, particularly the Chairman of Appropriations, Mr. Huber, relative to the opening up of the Part II Budget, and I understand that concern. It was one of my very, very heavy concerns before I made a decision that it was in the best interest of this State, and good and dedicated people that we have and that we must retain and must attract the Government that I veto, and yet we must recognize that what now might be a surplus of a balance could very quickly disappear. We have at least five, and some people say eight to nine million necessary for education funding in the second year of the biennium. We have approximately five million depending on Federal Funds that are still not in hand, and I count things in hand before we spend them. We have very serious business that could take a million or two or three, four or five million dollars that we might very easily need. So at this point, our reading is that we do not have a balance or a surplus to spend. We cannot afford to spend an additional dollar, and I have publicly and privately, and will again commend Chairman Huber and the entire Appropriations Committee for the method and manner with which they have addressed fiscal responsibility, and I share their concern, that if you sustain our veto, that the spending not be increased.

However, regardless of the action you take on any of the bills before you today, I want to thank you for what I feel has been a very productive session for the people of the State of Maine, and I hope the remainder of the summer will be a productive and restful one for you and your families, and I thank you again Mr. President and members of this body the opportunity to visit with you and wish you happiness and health until we meet again, either in Special Session or most certainly in your January Special Session. Thank you for this opportunity for a few moments with you.

(Applause)

The Governor withdrew from the Senate Chamber.

(Off Record Remarks)

On motion of Mr. Huber of Cumberland, Recessed until the sound of the bell.

(After Recess)

The Senate called to Order by the President.

Communication
Office of the Governor

July 19, 1977

To: The Members of the Senate and House of Representatives of the 108th Maine Legislature
From: Governor James B. Longley

I am returning without my signature or approval S. P. 588, L. D. 1895, An Act Making Additional Appropriations for the Expenditures of State Government, to Make Allocations from the Highway Fund, Title II of the Public Works Act, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1978, and June 30, 1979.

I had fully intended to allow the Part II Budget to become law. However, as a result of extensive study, feedback, input and concern, I was asked and I am now asking you to consider

the adverse impact the elimination of incentive in government will have on recruiting and retaining dedicated career employees. We spent countless hours examining this measure after the legislative recess and have been informed by supervisors that the language contained in the pay plan in the Part II Budget approved by the Legislature would make it virtually impossible to retain a reasonable merit system because the language is contradictory in that it requires merit ratings but makes it practically impossible to accomplish them. I would ask this Legislature not to be responsible for taking away from dedicated, hard-working employees the opportunity to grow and progress and to be awarded for dedication, hard work and loyalty.

I also plead with this legislature to avoid at all costs a system that even smacks of a welfare approach to employee pay. State employees deserve better. We ask the Legislature not make a charade of the collective bargaining rights requested by and given to State employees.

I am fully supportive of the majority of the programs contained within L. D. 1895 and it is not our intent to rearrange legislative priorities in this regard. We only request that the Legislature consider the Alternate Pay Plan.

It would be irresponsible on the part of this Governor and this Legislature not to appropriate funds for Pineland Center in face of the class action suit, and it is for that reason that I would only ask the Legislature to consider the pay question and not the overall makeup of the Part II Budget.

I am also anxious to see passed into law increased benefits for the elderly in the areas of tax and rent relief and free drugs; additional funding for the more orderly administration of the Department of Personnel and the Public Utilities Commission; funds for tourism promotion and other needed and worthwhile programs sought by this administration as well as individual legislators.

The business of government is serving people and we have attempted, with the help of the Legislature, to develop a better system that would serve people and make government operate more efficiently. While few things in life are perfect, we feel the system which has been developed with the previous Legislature has helped, at least in part, produce a balanced budget without a tax increase and a surplus. We feel one of the most important accomplishments of this Legislature and this administration is the holding the line on taxes. One of the reasons for that success has been the management of State employee programs. Growth in the numbers of State employees has been curtailed and the development of employee incentives, supervisory responsibilities and a resultant increase in productivity would assure a continuation of fewer numbers of State employees and could negate the need for a future tax increase.

Unfortunately, L. D. 1895 contains provisions which would thwart our objectives to hold the line. That legislation retroactively eliminates incentive provisions back to last November and includes language that would require derogatory statements to be placed in employee files if merit steps are not to be awarded. This is not humanitarian let alone decent government of free people in a free enterprise society. This, in all practicality, will destroy the incentive concept and return the State to an annual increment or welfare-type system. This will result in a loss of incentive and could lead to decreased productivity, an eventual need for more State employees and possibly higher taxes.

I recognize the concerns expressed by many relative to the 60/40 concept which has been in effect. The alternate plan which we have previously suggested and which we seek to pre-

sent if my veto is sustained would merely correct the impossible language in the present bill and provide \$525,000 in the General Fund for increased merit steps effective November 1, 1977, with no specific limits on merit written into the statutes. In addition, the alternative would provide all State employees with a pay increase of \$10 across-the-board or five per cent, whichever is greater. While guaranteeing everyone an increase, this would treat approximately 3,500 additional employees more fairly.

With all due respect to the budgetary process and the very difficult task faced by the Appropriations Committee, the last-minute release of the Part II Budget left little time to develop alternative approaches to any aspect of the budget. However, we responded within 48 hours and were able to make the alternate plan available before the budget was finalized. In any event, we should not let one minute, one hour or one day prevent us from doing what is right and to tear down an incentive system that could save the State millions of dollars and avoid unnecessary additional tax dollars in the future.

The 108th Legislature is to be commended for the fiscal responsibility it displayed by enacting Part I and Part II Budgets without a tax increase and without spending the cupboard bare. It also is to be commended for the positive programs it has funded in Part II. However, our ability to have a Part II Budget was brought on in part by good management incentive and extra work on the part of career State employees. I believe we will be shortchanging these people, as well as the taxpayers of Maine if we do not take another look at the employee compensation plan which we offered as an alternative.

In the final analysis, I feel that L. D. 1895 is a good bill that can be made better, and I would encourage the Legislature to do that by sustaining my veto and coming together at the appropriate time to preserve good management in State Government.

Thank you very much.

Very truly yours,

Signed:

JAMES B. LONGLEY
Governor
(S. P. 607)

Which was Read and Ordered Placed on File.
~~Sent down forthwith for concurrence.~~

The PRESIDENT: The pending question before the Senate is shall this bill become a law notwithstanding the objections of the Governor.

According to the Constitution, the vote will be taken by the yeas and nays.

The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: Mr. President and Members of the Senate: The objection on the part of the Executive Department to the Part II Budget primarily centers on the merit rating provision which states that, "it is hereby declared to be the policy of the State that in those instances where annual merit increases are earned and warranted, as evidenced by performance appraisals, they shall be awarded. In those instances where such increases are not earned and warranted, they shall be denied." The clear implication in the policy statement and throughout Section 8 of the Part II Budget, L. D. 1895, is that we will not return to an automatic annual increase system as was the case prior to the Special Session of the last Legislature. There is considerable language within the merit rating section indicating the legislative intent that we do intend to have a merit system implemented for State Employees. I think this is an important distinction compared to the interpretation of the bill made by the Executive Department. It is not the intent of the Legislature to return to an automatic, annual salary increase under the guise of a merit system, but it is clearly the intent of the Legislature to have a merit system and to have

legislative oversight to make sure that in fact we do have a true merit system in State Government.

This seems to be the principle objection to this bill; I feel it is unwarranted. The last two paragraphs of Section 8 provide for legislative oversight and provide specific language indicating the legislative desire for a merit system within State Government. I do not feel that the criticism or objection of the bill is warranted; we will be back in session within five months, approximately. The State Government Committee is given legislative oversight to make certain that in fact we do not go back to an annual non-merit system as was the case prior to the Special Session of the 107th Legislature.

I hope, therefore, that the Senate will override this veto and let the Part II Budget become law.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: All of us when we enter public life are prepared for those opportunities when there will be honest differences of opinion over matters of philosophy, and which we have to take those differences to the public at large and make the case for what we believe in, and we generally, I think, welcome those opportunities, because in the long run the public is the beneficiary, because they become better educated and gain a more thorough understanding of the public issues that are before us.

I think the discussion which has taken place in the press, over the past few days, over the issue of the Part II Budget, is not one of those discussions that lends clarity to what is concerned, and, in fact, I think if a member of the public has the patience to wade through the thousands of words that have been written on this subject, they are probably more confused at the end of that process than they were at the beginning.

I will cover these items very briefly, because we have discussed them before, but I think that they ought to be placed in the record, particularly in light of the address of the Chief Executive earlier here today.

First, let me confront the remaining issues with regards to State Employees that have not been covered by the previous speaker, the Chairman of the Appropriations Committee, the Senator from Cumberland, Senator Huber, as regards specifically to the fact that the Appropriations Committee, against the original objections of the Governor in his address to us when we opened, decided to provide some cost of living adjustment to people who work for the State. We were anxious to spend as little money as possible in that effort because of the concerns of the members of the committee and the concerns expressed to us by the Chief Executive about holding spending within every limit that we could, so we were anxious to find a way to provide as much as we could to those who needed it most, and yet hold down total expenditures.

Obviously, we had available to us two alternatives, or a combination of both, (1) to provide raises on a percentage basis, (2), to provide raises on a fixed dollar amount basis, even across the board, and (3) to provide a combination of both. I think everybody's preference in a perfect world with unlimited fund would be to provide a combination of both; however, we were concerned about the amount of money that we would end up spending, and in recognition of the fact that when we passed the Hay plan a year ago, we in effect provided an average 7 percent increase, but most of that average went to people at the top of the income scale in State Government, and I do not mean to suggest that those people, even at this time after that increase, are overpaid, but the fact that most of that money went to the people at the top, it was the consideration of the

members of the committee that this time we would probably do best to provide an increase which was even across the board, and gave something more than the flat percentage to the people at the bottom. It was sort of recognizing our previous action in making our limited actions this year consistent with that, that we went with the flat across the board cost of living adjustment. For the State employees in the state who earn in the neighborhood of \$100.00, the Hay plan did very little for them, and they have gone many years without any cost of living adjustment, while inflation has gone up and up, and we know that intermittent employees who work 40 hours a week, who work for the Unemployment Service, who take home less money than the money they pay out to people who are unemployed, and we were concerned about that, those of us who are concerned for the State to set a good example in the way it deals with its employees.

And so recognizing our limited funds, we voted tentatively to give each State Employee \$10.00 a week pay increase, and, of course, on a percentage basis, that would give more to the people on the bottom than the top. I assume that \$10.00 earning power can be used equally by people at the bottom and the top, so it is an equal treatment of everybody in terms of what extra we have been able to give them that they can buy, or what they have been able to make up from what they lost.

After we took that action, the Senate will recall, and I hope the press and the members of the public will as well, we received a communication from the Chief Executive that made no suggestion that we acted incorrectly in that we should have provided a percentage increase as well as a flat dollar amount. We instead received a communication that suggested that we should have done nothing, and I responded to that communication in what I hope was a thoughtful and not reactionary way to the members of this Senate, and quite a bit of time passed before we finally locked up the Part II Budget. When I voted on the final recommendation of Part II, I had never once received notice from the Chief Executive that he had another pay plan in mind, that he, in fact, wanted to spend more money on the pay increase than what our committee had suggested. Only when the bill had finally gotten up to this Chamber did that suggestion become apparent to me as a member of the Appropriations Committee, and, frankly, I did not think it was timely on that occasion.

Now if we look closely at the recommendations of the Chief Executive in regards to the pay plan for State Employees that he now advocates, the one he advocated, at least, as of two hours ago, we see that the Governor in fact wants to spend more money than the Appropriations Committee as of today. He is recommending a plan with a percentage basis as well as the \$10.00 and the best estimates that we in this floor are able to calculate would cost the General Fund an extra million dollars a year, and would cost the State Government General Fund, and the other funds, including the Highway Fund, somewhere in the neighborhood of \$2 million more a year, and yet the Chief Executive stood before us as we assembled here this morning and said that he was against spending any more money.

Now the time for accountability must be here, my friends, and it would seem to me that it is incumbent upon everybody in public life to try and address the inconsistency of those two statements that are before us, to say nothing of the internal inconsistencies as the session has moved along. We acted on our best faith as to what the Governor wanted to do, decided to reject his approach to provide no increase at all and tried to move as cautiously as we could, consistent with what we thought conscionable in regard to our employees.

Now I would like to move beyond that and very quickly just address the whole panoply of other items in Part II. The Chief Executive says he has no objections to those other items in Part II. Of course, we have to recognize that if we fail to override the veto here today, all those items will be lost unless we are called back into Special Session. If we are called back in Special Session, beyond the costs of having to do that, we can certainly raise two questions: One, will the things that we put in here get back in, and that is certainly an open question given the nature of the legislative process, and second, will more items get in, now that the members of the Legislature understand the increased size of the surplus. I think that we cannot say that just because the Chief Executive says he has no objections at this time to these other items that we cannot override the veto of Part II today and be certain in our minds that all these other things will be passed into law.

The legislative process is one of compromise for all concerned, and I suggest that when the Chief Executive says that he was going to sign Part II and then decided not to, he would have been better to act on his first instincts. In this Part II Budget, if you take the trouble to go through it, and I'm certainly not going to go through it all for you here today, there are a wide variety of items. And I have a list here that has been provided by the Legislative Finance Office of those items, and at the head of that list is something we put in at the request of the Chief Executive to provide more monies to operate the Blaine House, because the Chief Executive has decided to move back to the Blaine House and do more entertaining as we approach 1978. And so that money is in there at the request of the Chief Executive. There is more money in there for the Attorney General to handle the Indian Defense Claims, a matter of such concern that the Governor has had to cut short the possibility of the time he could spend with us this afternoon to go to Washington to deal with it. Certainly if we vote against Part II today we run the risk of having those monies be available to us.

There is more money in there for the Public Utilities Commission, which I think everybody in the state is coming to have more faith in, and more pride in, as they try to deal with the problems of our growing utility rates. There is money to give them some of the money they need to do that job, money that a lot of us had hoped we could find for a long time.

There is more money in this Budget for public safety, for State Police, and for the prosecuting attorneys and all the different districts of the State to provide more money so that we can have a better conviction rate when we are dealing with people who are accused of crimes, and we can deal with that problem as we should. If we do not vote to override today those monies are put in jeopardy, and the whole prosecutorial system is put in jeopardy.

There is more money in here for the elderly, for the senior citizens. There is money for a drug program, there is expanded money for the Elderly Household Rent Relief Act. If we do not vote to override today those monies are put in jeopardy, and that needed relief for our senior citizens would be lost.

There is money in here to promote tourism in the State of Maine, something that a lot of us, and the Senator from York, Senator Danton, and others have been concerned with, a great concern with. It is a bill that happens to be sponsored by the Minority Leader in the other body, but it is long overdue, it is needed; it is a bill that among other things would try to promote some of the underutilized areas, and some of the underutilized seasons in the state, to smooth out our flow of tourists and to help us make more money from that industry.

These are some of the things that are in this Part II Budget, and things which immediately

come into jeopardy if we do not vote to override it today, and I hope sight will not be lost of that; I know it will not be here. And I hope that it will not be lost of that among members of the general public, as we deal with this issue and as it is dealt with later on.

Now I understand that the Chief Executive of the State has stated to some that should we override this veto today it will be a major issue with him, and he will travel around the state and make it one. I do not think that should concern us because I think the arguments are on our side, and I think any of us ought to welcome the opportunity to take up the case on the other side if it can be presented clearly, and if it can be understood. I do not think that there is a better case to be made against item veto than what we have before us today. I do not say that because I do not want the Chief Executive to be able to single out one item, but I say it because this clearly demonstrates the lack of need for it. The Governor's concerns about the pay plans as he expresses them today had ample opportunity to be addressed as we dealt with this bill, as most of the vetoed items that we deal with here today had ample opportunity to be addressed. If he had come forward at a propitious time and told us his concerns I would like to know what member or what committee in this room would not have given him due consideration, and would not have adjusted themselves to many of the concerns that he expresses in these twenty-two veto messages we have before us. But there is a time for everything in this legislative process, unless the Chief Executive wants us to go on a year-round basis, and the time has passed on many of these items.

I hope you will vote to override today.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President and Members of the Senate: I concur a great deal with the remarks of the Senator from Cumberland, Senator Merrill; philosophically, I very much favor merit pay, pay increase for a good job well-done and not a pay increase for those that do not do as good a job. However, we have today L. D. 1895, a yes or no vote, either we accept the pay increase and the entire Part II Budget, or we do not accept that. I do not believe we can in a day or two of Special Session work out differences, in case this does not pass today, if the Governor's veto is not overridden.

I am going to vote to override the Governor's veto, despite my strong belief in merit pay; we did initiate the Hay Plan, the new system less than a year ago, and that was supposed to place each job in its proper slot. I do not think that a \$10-across-the-board increase, or 5 percent as the case may be, is going to upset that too much; next year we can get back in step properly, and that is why I want to speak right now.

I hope that the Chief Executive will, between now and our next Regular Session in January, study and then present to us a pay increase plan, because next year the state employees are going to want, and most of them are going to be entitled to, pay increases. I hope that there will be a plan presented to us early in the next Regular Session, say by January, so that we can then act upon that and use that as our starting point for an increased pay for different state employees.

I want to mention the 60/40 relationship — that was only an arbitrary figure when the Hay Plan was proposed a year ago, assuming that perhaps 60 percent of the employees were deserving and would receive increases. Perhaps 60 percent was too small a percent, perhaps it should have been 75 or 80 percent, but the way it has worked out in practice it has not been satisfactory. Only 60 percent of those deserving of pay increases have received pay increases, and when you have three people in a job, that means only one of the three, because two-thirds is more than 60 percent, only one of

the three would receive a pay increase. In practicality it has not been satisfactory, because it was interpreted by the Personnel Administrators to allow pay increases for only 60 percent of the deserving employees, whereas the original intent was it would apply arbitrarily to 60 percent of all employees, the assumption being that perhaps 40 percent were not deserving. So I am very pleased to see the present system in practice going out of the law.

One more area I want to discuss is the pay increase, or pay for responsible positions, such as Department Heads and Supervisors. I am of the old school that believes if you pay supervisors better pay, you will attract better supervisors and they will administer their particular units in a more satisfactory fashion. I basically believe that you should pay the department heads and supervisors much greater increases than are given to the labor, or those at the very lower ends of the scale.

I noticed an interesting editorial in a recent Portland paper urging an increase in the pay to be paid to the newest Public Utility Commission Commissioners, they are looking for one now as you know and the paper urged a pay increase so as to get somebody who would have the ability to handle the job in a very fine fashion. I think that should go for more than just the PUC Commissioners, I think the Industrial Accident Commission Commissioners, and department heads and supervisors should also be paid substantially more than they are being paid now. It is not a popular thing, but it is something that we should work on in the next session.

I hope that you will vote to override the Governor's veto.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President and Members of the Senate: I think this case clearly shows the need for the item veto to which Senator Merrill voted against. The Governor is not opposed in his message, as I see, to any of those programs which the Senator has so suggested, but only is concerned with one thing, the State Pay Plan.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: Without bothering to respond to the previous speaker, let me say that if we are concerned about the issue of incentive, and if we are concerned about there being proper pay for those people at the higher level, what has been referred to as the middle management and above level, then one thing that any pay plan should address, that was thought to be a comprehensive adjustment, would be the failings of what we referred to as the Hay Plan, what we should have referred to as the Hay Plan as amended by the Governor, which put a 10 percent ceiling on the increase that anybody could have gotten in spite of what they would have gotten as a result of the recommendations made by the Hay Commission. That is something that certainly ought to be addressed in the next session, and frankly dealing with that problem is much more important to answer the concerns expressed by the Chief Executive and the Senator from Cumberland, Senator Hewes, than the minor dislocations, the minor consolidation of the span of the scale that is going to come out as a result of a dollar amount reward in pay increase this time as opposed to a percentage or a combination of both. That probably is the major issue to be addressed, I think it should be noted that there was a bill in to accomplish that, it was not endorsed now or at a previous time by the Chief Executive; had it been, I can assure you that it would have been given good consideration by the Appropriations Committee that ultimately rejected the only idea, only because of a concern with the issues raised by the Chief Executive as to protecting

the surplus available to him to deal with the problems we will face next year.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is shall this bill become a law notwithstanding the objections of the Governor?

According to the Constitution, the vote will be taken by the Yeas and Nays.

A vote of yes will be in favor of the bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Levine, Lovell, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman, Sewall.

33 Senators having voted in the affirmative and no Senators in the negative, and 33 being more than two-thirds of the membership present, it is the vote of the Senate that this bill become a law notwithstanding the objections of the Governor and will be sent down forthwith to the House for concurrence.

Office of the Governor

July 20, 1977

To: The Honorable Members of the Senate and House of Representatives of the Maine 108th Legislature:

I am returning without my signature or approval S. P. 317, L. D. 1075, An Act to Base Adjustments of Teacher and State Employee Retirement Allowances on the Consumer Price Index.

First, I am informed that the most serious flaw in this legislation is that it would provide an increase in retirement allowances this November based on the changes in the consumer price index, in addition to the increase in retiree benefits which will occur in July under the current law. Under existing law, retiree allowances will be increased in the same percentage amount as the general salary increase which State employees will receive if the Legislature passes L. D. 1895 with the modifications that we have recommended or, for that matter, if they override my veto and pass it in its current form.

I am advised that this legislation, in conjunction with the salary increase in L. D. 1895 or the recommended alternative, would create an additional \$25 million unfunded liability in the Retirement Fund which would have to be amortized starting in 1979 by adding about one-half percent to contribution ranges. Thus, this legislation is fiscally irresponsible in that no provision is made for the costs.

I reject the assumption on which this bill was passed, that it will be impossible to determine what employees are granted through the collective bargaining process and express this in an equivalent percentage of a general salary increase for all employees. Even if different bargaining units receive different salary increases in the future as a result of collective bargaining, I believe it will still be possible to determine the equivalent general salary increase granted to all State employees and base adjustments in retiree benefits on those calculations. If legislation is necessary in order for this to occur, then such legislation could be drafted and considered in the next session of the 108th Legislature without having any adverse impact on State retirees.

In the final analysis, I believe that this legislation is unnecessary at this time and that an unjustified duplication of benefits to retirees would result if it becomes law. I, therefore, urge the Legislature to sustain my veto and consider this matter, if necessary, in the Special Session to be held in 1978.

Very truly yours,

Signed:

JAMES B. LONGLEY
Governor
(S. P. 608)

Which was Read and Ordered Placed on File.
Sent down forthwith for concurrence.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, this piece of legislation is made necessary by the fact that we are moving into a series of collectively bargained increases for State Employees' salaries, and that we will not be having an overall general pay increase for State Employees in the future. This will be collectively bargained, unit by unit, and for that reason we have necessitated a new manner in which the pay increases for State Employee retirees and teacher retirees should be determined.

This bill was presented to the Committee on Veterans and Retirement, and that committee came out with a unanimous Ought to Pass Report by taking into account the necessity of providing some stop-gap measures, and some safeguards, so that the payments made out of the Retirement Fund would not be out-running the payments made into the Retirement Fund and that committee came out with the safeguard measure of providing for a 4 percent increase overall, and if the Consumer Price Index went beyond that 4 percent, the Board would have to come to the Legislature for further consideration.

I am sure that the good Senator from Knox will address the objections that the Governor has addressed with regard to the funding of the Retirement Fund, but very briefly that has been considered by the Committee on Veterans and Retirement and that Committee actuarially studied the problem and concluded that indeed there would be enough funds without the necessity of further assessing current State Employees to make sure that the fund remains solid.

For that reason, I would hope that the Senate would override this gubernatorial veto here this morning.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I too wish to urge the Senate to vote to override the Governor on this particular item. Year, after year, after year, after year, retired State Employees must come to the Legislature to petition either the Appropriations Committee or the Veterans and Retirement Committee to raise salary increases for State Employees in order that the retirees themselves may be able to meet the Cost of Living Index. This bill will take care of that, will take away the necessity for them ever to return to these Chambers, and it would be my hope that the Senate would vote unanimously to override the veto.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: About three weeks ago when we enacted this measure to base future retirement benefits on the Consumer Price Index with a 4 percent annual limit, the astute Senator from Kennebec, Senator Katz inquired about the fiscal implications. I responded that the Retirement Committee had been advised by the System that there were no negative implications.

In view of the challenge to that statement presented by the Governor, I requested Robert J. Towne, a professional actuary who is retained as a consultant to the State Retirement System, to provide me with a summary of his views on L. D. 1075 as enacted. I will quote from Mr. Towne and I will also offer a brief analysis in justification of my vote today to override the veto.

Mr. Towne has 4 points:

1. "A Change in the present method of determining retirement allowance adjustments based on an index of state employee salaries appears to be inevitable and the adoption of the Consumer Price Index in lieu thereof is probably the best choice."

2. "The present method of funding retirement benefits, including retirement allowance adjustments, by the accumulation of regular contributions by employees and employers, with contributions determined by actuarial evaluations of expected future benefit payments and investment income, would be unchanged by the adoption of the Consumer Price Index as the basis for determining retirement allowance adjustments."

3. "L. D. 1075 imposes a maximum limit on the percentage amount of any retirement allowance adjustment, that is 4 percent, whereas there is no limit of any kind under the present method of determining such adjustments. Such limit therefore would impose certain restraints on benefit increases which could result in a lowering of future costs that would arise if the present method were continued."

4. "The effective date of November 1977 for the first payment that would be due under L. D. 1075 would result in a period of dual retirement allowance adjustments if a general state salary increase is effective in July of 1977."

We have just voted an override which, in effect, establishes that general salary adjustment.

When the Committee made its decision on this bill, we did not know that the Legislature would be enacting a general salary increase or we might have pushed forward by a few months the effective date of the first 4 percent increase. As the Governor and the actuary pointed out, there will be an overlapping benefit period. The general salary increase is expected to figure about five percent. This means that for about eight months (November 1977 to July 1978), benefits will be flowing at an increase of 9 percent over the present rather than at an increase of 5 percent. However, there is an annual two percent inflation factor built into the existing actuarial funding method and expectations. Further, under current actuarial assumptions, a total investment rate of 8½ percent, including investment income and capital appreciation, would meet the funding requirements for a 4 percent retirement allowance increase rate. The more successful life insurance companies have been crediting more than 8 percent on pension funds invested in fixed income securities for the past 5 years as the money rate applicable to current investments, in excess of 8½ percent for the last 3 years and 9 percent for the last two years. I am confident that Maine's Retirement Fund can come close enough to this standard of return so that this 4 percent figure for 8 months will not require either additional appropriations or additional employee contributions as predicted by the Governor.

Let us look at this matter over a longer range of time. From 1966 to 1975, a 10 year span, general salary increases for state employees came to 59 percent. In the same period the Consumer Price Index increased 59.4 percent. At some points salary increases jumped ahead of the Index. At other points the Index jumped ahead of the salary increases. In March 1974 there was a general salary increase of 5.5 percent. The next increases in 1976-77 came to 7.7 percent. From April 1974 to July 1, 1977 the approximate increase in the Consumer Price Index was 25 percent as compared to a 13.2 percent general salary increase.

The point I am making, I think, is that over a period of time, the factors that enter into the safety, the quality of our State Retirement Fund and our State Retirement System will adjust themselves; and I do not feel that we are doing something that is fiscally irresponsible by enacting this measure. No one has deeper con-

cern for the sanctity of our Retirement Fund than I.

I urge a vote of yes on the pending question.

The PRESIDENT: The pending question before the Senate is shall this bill become a law notwithstanding the objections of the Governor.

According to the Constitution, the vote will be taken by the yeas and nays.

A vote of yes will be in favor of the bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Levine, Lovell, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman, Sewall.

33 Senators having voted in the affirmative and no Senators in the negative, and 33 being more than two-thirds of the membership present, it is the vote of the Senate that this bill become a law notwithstanding the objections of the Governor and will be sent down forthwith to the House for concurrence.

(Off Record Remarks)

Office of the Governor

July 19, 1977

To: The Honorable Members of the Senate and House of Representatives of the 108th Maine Legislature

I am returning without my signature and approval S. P. 579, L. D. 1893, An Act to Authorize Family Crisis Workers and Short-term Emergency Services for Children to Require the Designation of Return to Family Workers and to Enact Objectives and Priorities for Services to children.

I am advised by Commissioner David Smith that while there is a need to improve state services and programs for children and families, he feels L. D. 1893 does not adequately address this need, and, because it is incomplete and not integrated with other related laws, it would create serious impediments to serving children.

I am also advised that the bill is not necessary in that the essential provisions already exist in law, are included in other legislation enacted in this Legislature (particularly the Maine Juvenile Code), or are included in departmental policy.

Specifically, the bill would negate the ability of the Department of Human Services to place children who have been committed to its custody for adoption until the law is amended to clarify the court of jurisdiction and to satisfy basic constitutional requirements in regard to due process and equal protection.

To give the parents of children committed under 22 MRSA Section 3792 the rights described in Section 3803, 2, B and Section 3803, 3 would impair our full parental rights law and Section 3803, 2, D would result in the need for two levels of hearings in regard to children; the first in regard to custody, and the second for final termination of parental rights prior to placement for adoption. While such a requirement has merit, this bill creates confusion about whether the probate court or the district court would have jurisdiction for the second hearing, and it fails to set forth the procedures to be followed by the court and the provision of the basic constitutional right of due process. The bill provides that when the department places a child for adoption it indicates to an unspecified court the specific efforts it has made to maintain contact with the parents. It fails to give the parents an opportunity to be heard.

Such basic deficiencies would make the Department of Human Services unable to place

children in its custody for adoption until the law is amended.

Additionally, this bill as it affects Title 22, Chapter 1059, while intending to enhance the ability to serve children at risk, actually would as it is written limit our ability to provide essential services to children.

The children for whom short term emergency services would be provided (lost, abandoned, seriously endangered, and runaway) are the very same which the Juvenile Code addresses in its provision for interim care.

The bill defines short term emergency services as included "protective, substitute shelter care and other services which are essential to the care, maintenance and protection of the child" and then requires that if consent is given the services "shall be limited to no more than 3 consecutive days per incident" and when consent is not given, the services shall be terminated. Such language is inconsistent with the basic responsibility of the department to provide services and protection to the children of the State of Maine. The bill is further complicated in that it requires that the child's consent is required before any short term emergency services could be provided him. While such consent is desirable for children of appropriate age and understanding, the language of the bill would not allow the provision of such essential services to the child who is too young or not mentally competent to sign.

I fully support the concepts and goals of this bill and strongly encourage the reworking of this legislation to ensure that the state provides adequate services to families and children in need, that the Department of Human Services actively attempt to rehabilitate and reunite families, and that this is all done with due regard for the personal interests and legal rights of the people involved.

For these reasons, I respectfully request that you sustain my veto on this measure.

Very truly yours,

Signed:

JAMES B. LONGLEY
Governor
(S. P. 609)

Which was Read and Ordered Placed on File.
Sent down forthwith for concurrence.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Snowe.

Mrs. SNOWE: Mr. President and Members of the Senate: The Committee on Health and Institutional Services considered the measure before you; it was a combination of about six different bills that were presented to the Committee, and therefore, we decided to consolidate these bills.

I would like now to just refute some of the points that have been indicated in the Governor's veto message today. The Governor has stated that L. D. 1893 is incomplete and it is not integrated with other State laws, and as a result would create serious impediments to serving children. It was never the intent of L. D. 1893, nor the Committee on Health and Institutional Services, to make a comprehensive policy and to tie all existing laws together that which affect children, and all legislative proposals that were presented to the Committee affecting children. We minimized the bills presented to us to a considerable degree. However, it was the intent of L. D. 1893 to tie together several related but in many ways conflicting proposals considered by the Committee.

It represents a careful consolidation and examination of the bills, and a careful working out of the inaccuracies and inconsistencies amongst these bills. In no way does L. D. 1893 result in impediments to children's services. What it does do, though, is provide several new services, one of which is short-term emergency care to children, such as children at risk which would mean abused, neglected, abandoned, exploited, or run-aways from home. This service

has been documented by several different groups, there have been studies that have been done in the past several years, and also the Department is fully aware of this need and has also indicated a need to study this in the last year.

Also the bill sets up family contact, and requires the Department of Human Services to make greater efforts to make contact between children committed to its custody and the families of these children.

The bill also focuses on prevention, through enactment of general objectives and priorities and through the clarification of the use of thousands of dollars appropriated by the Legislature to the Department in L. D. 1895 that we passed back in February. The bill encourages the Department to shift its focus away from the traditional approach of providing welfare services to neglected children to a more up-to-date, positive approach of providing preventive services to all kinds of children who need and qualify for these services.

In the message it also states that L. D. 1893 is not necessary because its essential provisions already exist in law, and Departmental policy, and in the Maine Juvenile Code which this Legislature recently enacted. However, this legislation is absolutely necessary. Provisions for short-term emergency care for children do not exist in law or in policy; neither the Department of Human Services nor any other state agency is currently authorized to provide these services. Even though the recently enacted Juvenile Code provides for emergency services, it authorizes a provision for such services for only six hours, compared with three days of services authorized by L. D. 1893. The Juvenile Code does not go into effect until July 1, 1978. Furthermore, children would have to enter the correctional system before they could receive emergency services under the Juvenile Code.

Also in the Governor's veto message it states that it impairs the parental rights laws. However, this also is not the case. The provisions in this bill require the Department to provide parents of each child committed to its custody with notice of the residence of the child, serious injuries to the child, and major medical treatment of the child. Secondly, it also provides and specifically states for ample opportunity for the parents to visit the child prior to any decision by the Department not to return the child to its home. In no way do these provisions conflict with the termination of parental rights. Notifying a parent of an injury to his child or permitting a parent to see his child does not restore his parental rights with respect to the child.

The Department of Human Services has consistently argued that these provisions make it more difficult for the department to remove children from their parents. The Department is correct. It is the precise intent of Section 3 of L. D. 1893 and the Committee on Health and Institutional Services to make the Department work harder to keep children and their families together.

In addition, the veto message states that what effect that this bill would have on adoptions, and the message stated that the bill would prevent the Department of Human Services from placing a child committed to its custody for adoption, that it would result in two levels of hearings for placing such a child for adoption, and also would violate the basic constitutional rights to equal protection and due process of the natural parents of such a child who is being placed for adoption, that it would create confusion about which court would have jurisdiction for the second hearing, and that it also would fail to establish procedures for the second hearing. The Governor appears to be basing all of the above arguments in a phrase of Section 3 of L. D. 1893. Under the present system there are court proceedings when a child is removed

from his natural parents and is committed to the Department's custody, and when a petition is filed in Probate Court by the parents who wish to adopt this child. The phrase "is placed for adoption" refers to the second type of proceeding before the Probate Court. This is not a new step in the process, and this is where the difference lies. Even though L. D. 1893 refers specifically to the chapter in existing law, the Department has chosen to interpret "is placed for adoption" to mean a step prior to the adoption proceedings. It is probably at this point where I felt, to clarify for Legislative Record, that this phrase means during the adoption proceedings before the Probate Court.

All of the arguments mentioned in the veto message about these adoption issues are based on the creation of a brand new proceeding, but it has been established there is no new level of proceeding in this bill.

And lastly, the Governor states that L. D. 1893 would limit the ability of the Department of Human Services to provide essential services for children. Just the opposite is true; L. D. 1893 increases the Department's ability to provide essential services to children through enactment of language in Section 4 of the L. D. which authorizes the provision of short-term emergency care. This is a brand new type of service. Also in the message it states that L. D. 1893 is inconsistent with the Department's responsibility to protect the children of Maine. Once again, this is not true. L. D. 1893 helps the Department more fully meet its responsibilities to protect children by giving it the authorization to provide emergency services to children. The Governor has argued also that children are permitted to refuse these emergency services and the state cannot adequately protect its children. However, this also is not true. The Committee had several working sessions on this particular instance and we felt that both the consent of the children and the parent should be given in order to provide short-term emergency care, and if there were any very serious situations then there are other alternatives within the statutes that the Department can turn to in those cases.

Therefore, for all these above reasons I would hope that you would override the Governor's veto.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I first would commend the good Senator from Androscoggin, Senator Snowe, for the re-briefing to the Senate of the legislation that is presently before us, and I would only call your attention again to the current resolution that has been distributed to the Senate which was adopted back in February of this year. I would like to point out the four areas that the Senate recommended in the joint recommendations dealing with children in the future. And one of those recommendations was that we would approach this area in a four-fold approach, and one was the preventive services which promote wholesome child development, support the maintenance of an intact family, early case finding, earlier access of services, and the provision of services at the earliest period of the child's life when the symptoms of need are present, and so forth. You all have the Joint Resolution.

I think that the good Senator from Androscoggin, Senator Snowe, and I am sure that most of you will recall, that there were numerous pieces of legislation introduced as a result of a study report that was done and headed up by the former Sheriff of Cumberland County, Charles Sharpp, and a very, very able workforce; and a great contribution was made by citizens throughout the entire state with recommendations to the plans. This is one of those bills, and although the Committee has reworked it considerably and has minimized the original draft, the bill still has many of the ob-

jectives that the Citizens Advisory Committee had recommended.

Therefore, I, too, would ask and urge the Senate to join the Senator from Androscoggin, Senator Snowe, to vote to override the veto.

The PRESIDENT: The pending question before the Senate is shall this bill become a law notwithstanding the objections of the Governor?

According to the Constitution, the vote will be taken by the yeas and nays.

A vote of yes will be in favor of the bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Huber, Jackson, Katz, Levine, Lovell, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman, Sewall.

NAY — Hewes, Hichens.

31 Senators having voted in the affirmative and 2 Senators in the negative, and 31 being more than two-thirds of the membership present, it is the vote of the Senate that this bill become a law notwithstanding the objections of the Governor and will be sent down forthwith to the House for concurrence.

(Off Record Remarks)

Senator Trotzky of Penobscot was granted unanimous consent to address the Senate on the Record.

Mr. TROTZKY: Mr. President and Members of the Senate: During this past week I received calls from my constituents in Bangor concerning the fire in Baxter State Park, and they wanted more information about it and they are very concerned.

I tried to call Senator Pray in Millinocket to find out more about the fire, but understood subsequently, that he was on the front lines fighting the fire. I then called the Commissioner of Conservation, Commissioner Barringer, and he informed me that he was going up to see the fire the next day, and invited me to go with him. We flew into Millinocket Airport, and then, by the way, saw vast smoke from at least fifty miles away. Then we were taken by a State Forest helicopter, Forest Service helicopter, completely around the perimeter of the fire, and while underneath we looked down and we saw beavers, which are seaplanes from the Maine Forest Service, coming in and out from a lake, picking up water, about 100 gallons each time, taking it into the fire, and bombing the fire with the water. These pilots, it is my understanding, were flying from daybreak to sunset, at least over twelve hours.

Earl Williams, who was with us in the helicopter and who, I believe, is a District Ranger at Greenville, said this was one of the most difficult fires that he had ever seen, it was very difficult to control because of fog conditions. First the soils, there were many boulders in the soils at Baxter Park, and it was very difficult for the heavy equipment operators to bulldoze the firebreaks. Secondly, the terrain, the topography on the north side of the fire on Abol Ridge is very steep and consequently very difficult for the equipment to get in there. Third the weather conditions, the northwest winds had picked up, the fire had been under control and the fanning of the flames had taken the fire somewhat out of control. And fourth, the Blowdown, which has engendered a great deal of controversy and will, once this fire is under control.

He mentioned also that in two areas of the fire, the one in the Park where the blowdown was not harvested, the flames were very in-

tense, and difficult to control, whereas outside, on the Great Northern Paper Company lands, where the blowdown had been harvested and where roads had been built, the fire was much easier to get under control.

We then went to Togue Pond Camps, Headquarters which is about a mile and a half to two miles from the fire, and the air was completely filled with smoke, it was very stifling. Inside the camp, the Rangers of the Maine Forst Service were at that time coordinating their efforts for the next day or two; many of them were tired, weary, from fighting the blaze for many days.

Then we went on the ground, on the Great Northern Paper Company's Golden Road, and they were showing us they had the fire under control and the fire had, leaped because of a northwest wind, the fire had leaped a river which was the west branch of the Penobscot, which, I believe, is almost as wide as this Senate Chamber.

The great fear, of course, was that the wind would become a south wind and they had the problem that they could not get up Abol Ridge, and they felt that if a strong south wind came that it would just go right up the mountain.

We then drove on the firelines, and it was the first time I had ever been in a forest fire, and the ground was blackened and scorched on both sides with flames coming up in different directions; bulldozers were at work, and many, many volunteers from I believe throughout the state, probably most from the Millinocket area.

There were again at the fire, still now today, the Maine Forest Service, wardens of the Fish & Game Department of the State, hundreds of volunteers, citizens of the state, members of the National Guard heavy equipment operators in the area with bulldozers, and many other people are fighting the flames, including the good Senator from Penobscot, Senator Pray, who has been fighting the flames, I understand, for the last few days.

My impressions, again, were limitations on man's efforts in controlling a blaze of this size, and we can only hope that with God's help and the proper weather conditions, with hopefully a lot of rain up in that area, that this fire will come under control and be extinguished.

As Chairman of the Natural Resources Committee of the 108th Legislature, and I am sure I speak on behalf of all of you, behalf of our constituents, I believe we would like to thank and commend the men of the Maine Forest Service, and the hundreds of volunteers for their tireless effort under very adverse conditions in the controlling of forest fires which is threatening the destruction of Maine's greatest natural resource, Baxter State Park.

(Applause)

Senator Pray of Penobscot was granted unanimous consent to address the Senate on the Record.

Mr. PRAY: Mr. President and Members of the Senate: I would like to commend the good Senator from Penobscot, Senator Trotzky, for his praise for those individuals which have fought the fire, basically the many state employees which we have addressed numerous times today and before the day is over will address again, particularly those individuals of the Maine Forest Service, the Baxter Park Authority, and also the Department of Transportation, has some individuals up there, and the Warden Service, also the many volunteers, people from the communities of Millinocket and many miles away, further than that, and non-residents of the State of Maine who were evacuated out of the Park, or people who were just going through the area that had volunteered their time.

At the same time, I would like to address a more serious concern that I have. At one time I

spent twenty-seven straight hours on the fire. There were many individuals who spent more than thirty hours on the fire. And I was very disappointed to see the equipment that the State of Maine has, equipment that is basically out of date due to an austerity program, equipment which cannot handle a fire of this size, due to the austerity programs.

There were Canadian aircrafts that we had fighting the fire which could dump up to 1,500 gallons of water; the Senator from Penobscot, Senator Trotzky, referred to the beaver aircraft which dumps roughly 125 gallons. In a fire of this intensity, less than 20 percent of that water hits the ground, so you can see the good that it does. I think if it was not for the individuals that we had in that area, firefighters, the forst service, the fire would be at a greater extent than it is today. I think it has gone a lot further than it ever should have, basically due to the environmental suits against cleaning the areas up.

When the fire came south out of Baxter Park onto Great Northern Paper Company land, area which had been clear cut, had been harvested for blowdowns, the fire abruptly stopped and slowed down. It is those individuals, the foresters, State foresters, and individuals in land management had said that the conditions that existed, the events that happened, as happened.

I think also I was kind of disappointed to read in today's Bangor paper where groups now are going to take environmental suits against use of heavy equipment. If it was not for the heavy equipment that was in that Park, from companies such as Scott Paper Company, Great Northern Paper Company, a number of construction individuals who were working nearby in the area, as far away as thirty and forty miles, took their large bulldozers up into that area, the fire would have spread a lot faster. In one section we had roughly a fifty to sixty hard stretch of fireline. When the fire came down the side of the hill, or the mountain, and hit that section, it went across it as if it was not even there. I happened to be there and saw that, I happened to see it go across the perimeter road. I happened to see flames jumping forty and sixty feet into the air, lifting trees up and throwing them a hundred, to two hundred yards. I happened to know some of the individuals who were trapped a few days ago, and they luckily got out; I talked to the forest ranger that was with them and his concern, of course, was for the volunteers that were there with them. He said that if it was another twenty minutes they all would have been gone, because they just could not outrun the fire.

If it was not for the heavy equipment they had in that area, those individuals would have been lost because it did slow down when it hit one of the fire lines that these large D-8 bulldozers had made. When I see what a number of individuals are doing to the state in the name of preservation, I become deeply concerned. As I pointed out, I see basically three causes for the severity of the fire: one, the equipment that the State of Maine has, it is pitiful. For a state that has forest products as one of its leading products for the economy of the State of Maine, it is ridiculous what we have, what we give this Department of Forestry to fight these fires with. I am surprised a lot of these individuals have not quit. I talked with a number of Rangers that will be leaving, not due to this one fire, but just due to a series of events, and we address some of these events every day, as we are today on the pay scales, and what not. As I also pointed out, when you ask a person to do a job for the pay that we give them, and then we do not even give them the equipment to do it with, they become quite concerned as to what the future of the state is going to be.

I will say the only thing that basically I can see that is going to stop the fire now is nature itself. For those that are concerned with Baxter

Park or Baxter Peak, I talked with a number of individuals in the Millinocket area; they are concerned about the paper company land, they have seen what has happened to Baxter Park and the fact that they have lost use of it year after year after year, it becomes a greater tourist trap for non-residents, people from New York, New Jersey, Massachusetts, and Connecticut. Less and less people of the State of Maine can enjoy it.

But I would like to just peck over the praise that the Senator from Penobscot, Senator Trotzky, has given to the many state employees and volunteers. I think they have done a tremendous job. Even in the situations and the conditions of which they fought the fire, they were dedicated, and they attempted to do the best that they could. I knew one Ranger that when I was on the fire for about roughly fourteen or fifteen hours, I was talking to him and at that time he had been there for thirty-six hours without any break or rest. It is surprising what the human body can do when something is called upon to do it in the face of an emergency. But I think these individuals deserve the praise of every individual of the state, those that are environmentalists or so-called environmentalists, and those of us that feel a little bit different than they do; I think they have done a great job for all of us, particularly in this one area. I would hope then, that in the Special Session we can address some of the problems of the fire fighting equipment, perhaps get some of the Canadian aircraft that they have, or at least budget some money that we may have in surplus to have this type of equipment in stand-by. The reason we lost control of the fire after we had once gained control was that these planes had to go back into Canada to fight a fire they had on their own. We saw the difference, we saw the change in the tide of the fire, when these aircrafts had to leave us.

For these individuals to do the job they have done I think it is tremendous, and I think we all owe them even a silent moment of thought, because they are still up there and they are still working hard to try to contain the fire which is contained, but not under control. Thank you.

Office of the Governor

July 22, 1977

To: Members of the Senate and House of Representatives of the 108th Maine Legislature

I am returning without my signature and approval Senate Paper 306, L. D. 976, An Act to Provide for the Prevention of Alcohol Abuse.

I felt compelled to veto this bill because I am not convinced that the Office of Alcoholism and Drug Abuse Prevention does not presently have sufficient funds to carry out such a program. I am informed that the state is already spending \$4 million in alcoholism services and I find it difficult to believe that the approximately \$350,000 sought through this bill could not be found within existing funds.

I also feel that we need a clearer indication of the effectiveness of programs already underway before we embark into a new area.

We recently appointed a special task force to examine this problem within state government and we met with representatives of the Education Commission of the states which has recently completed a three-year study and recommended several courses of action which could be taken by states in the area of prevention. We have asked this task force to examine the Commission Report and to recommend to us steps which should be taken by Maine in this regard. In view of that, I feel this legislation is premature and could better be addressed in context with a complete comprehensive program.

Perhaps the most convincing proof of the need for a veto of this measure are the complaints I have received from legislators concerning the intense lobbying carried on by the

bureaucracy in support of the legislation. It was another sad example of taxpayer dollars being used for the lobbying to spend still more dollars.

With all due respect to other programs, from my observations Alcoholics Anonymous still puts state and federal programs to shame when one carefully examines bottom-line results.

For so long as I remain convinced that we could reduce the bureaucracy in this area and still improve services, I cannot, in good faith, advocate more spending of taxpayer dollars.

I am directing our Commissioner of Education and Cultural Services to provide us information as to what additional steps we need to take within our public school systems.

I also have to say that the fact that we had to turn to volunteers and a task force headed by our Commissioner of Education to develop a program for state government does not speak well for programs already in existence.

Very truly yours,

Signed:

JAMES B. LONGLEY
Governor
(S. P. 610)

Which was Read and Ordered Placed on File.
Sent down forthwith for concurrence.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, the Senate will recall that this was the bill that we used as a compromise when we were dealing with the proposed tax on alcohol, and I think that we have given it a lot of consideration.

In his veto message the Governor makes five points, to which I wish to respond.

Point Number 1, we are already spending \$4 million dollars in alcoholism services, and we should be able to find the \$350,000.00 called for in this bill in our existing funds. My response, in the Governor's own current services budget, he calls for funding of treatment services such as detoxification centers. There is no evidence that I can find that there is a single dollar to begin a program of prevention. The implication of his veto language is that he will divert treatment dollars to prevention programs, and I am not sure the Administration can subvert the intent of the Legislature to the extent that they can reduce statutorily approved services for treatment in order to get started into prevention. Oh yes, the Governor talks in terms of a \$350,000.00 appropriation on this bill, and the press has been misled to use this figure in print. The Senate will recall our compromise funded the bill at \$250,000.00 in lieu of the new tax.

Point Number 2. The Governor says the legislation is premature, and that he has currently called for an evaluation of the three year long study of the Education Commission of the States. This report says, in effect, that our best hope is for the states to move now towards the establishment of some model community-based prevention programs. This is precisely what this bill does. It is the approach warmly acknowledged by President Carter, endorsed by the National Council on Alcoholism, and by knowledgeable professionals around the country.

Point Number 3. The Governor says the most convincing proof of the need for a veto is, and I quote, "The intense lobbying carried on by the bureaucracy in support of this legislation." I think the Governor is confused in that the tax proposal was lobbied, but with respect to this piece of legislation I think it is important that the Governor understand that the head of OADAP, the Office of Alcohol and Drug Abuse Prevention, was present on the third floor at my personal invitation, and was invited by the Republican-Senate caucus to speak briefly before it. His remarks were extremely brief, the gentleman was excused, and he left the third floor. It is my understanding that the

Senator from Androscoggin, Senator Snowe, and at least one member of the House also invited a staffer up for consultation. I take a moment to say this only because of my concern that these men should not unjustly incur the displeasure of the Governor. In any event, it is no valid basis for the veto of a bill which gives hope that our society can begin to deal with the most tragic of our drug problems.

Point Number 4. "Alcoholics Anonymous," says the Governor, "puts State and Federal programs to shame." Here again the Governor is correct, but he addresses his attention to the area of treatment and continuing sobriety of alcoholics. I join him in acknowledging the value and the contributions of Alcoholics Anonymous, but this bill deals not with treatment but with prevention, and it directs itself to community-based voluntarism.

Point Number 5. The Governor has directed Commissioner Millett to see what can be done in our schools. My response is that precious little can be done in our schools, unless the community first makes a commitment to become involved. The Committee on Education in the 107th Legislature overwhelmingly repudiated two bills which sought to salve our consciences by dumping it again on our schools with a program of alcohol prevention.

Finally, a personal note. I identify the conscience of this Legislature very clearly. We are concerned about the enormous hurt done our citizens by the improper use of alcohol. We know all the statistics, and they are horrifying. Our present budget is an enormously expensive response for bandaids to aid in treatment — for child abuse, felonies, death on the highway, welfare, broken families, unemployment — all involved the abuse of alcohol.

But this bill, based on the credible findings of a Task Force, buttressed by a distinguished group of professionals, places the burden for a beginning of prevention on local community leaders. I know that the Governor's concerns are no less than mine, but I believe him to have been significantly misled in this instance.

I ask the Senate to join with me in overriding the Governor, and permitting our prevention efforts to begin, so that, in the long run, our need for expensive treatment programs can be reduced, and the quality of life can be improved for all Maine people.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I find myself in a position of agreeing very strongly with the remarks made by the good Senator from Kennebec, Senator Katz, and also some of the remarks made by the Chief Executive.

Let me say, first, that the State has not undertaken any program of prevention. And I would say that back several months ago, prior to the convening of this legislative session, that I joined the good Senator from Kennebec, Senator Katz, and members of the Department of OADAP, to discuss the various proposals that would be coming before this session. I would have to say that I am a hard rock to crack because at that time I raised my concerns about the number of treatment facilities in the state, that we were really not making a full forced effort into setting up treatment facilities on a broader base. There were needed facilities that had not yet been established, such as in areas of Rumford, and Millinocket, and over in the Machias area.

I would state that you recall when the Part II Budget came before this session that again I raised considerable objections to the fact that there was not enough money in the current Service Budget, in the current Service Budget, to provide adequate staff, adequate funding just at the present level of funding; in other words, because of the cutbacks in Federal monies, because of the grants being done away with,

Federal grants being done away with, plus the cost of inflation, that many facilities were unable to maintain just the status quo. And yet we had a current service budget that was not meeting those needs. Because of that factor, I offered an amendment for the Senate that was accepted, and I believe it called for \$270,000.00 in each year of the biennium, and I stated at that time that if the tax on alcohol had passed, that there would be no need for the additional revenues that we had appropriated in the Part II Budget, and I certainly would have been one of those acceptable and would have moved so to strike that money out of the Part II Budget.

The tax did not pass, and we passed as a compromise the bill that is currently before us, which does establish a prevention program. It is a new program, and I think it has merit. I believe it has merit.

I agree though, again, with some of the emphases that have been made by the Governor, and that is at the bottom of the page where he states very clearly that he is directing the Commissioner of Education and Cultural Services to provide education or information within the Department of Education to the youngsters in the school. You know, we thought when we looked at the various health problems that we have, we inoculate children from measles, from mumps, and all the little diseases down through the line, and everybody looks forward to whooping cough shots, etc., etc., through the early years of school. I think that the same type of program should be initiated, and there is no reason in the world why films, things of that nature, educational material, cannot be administered. I know in the old days we used to have a day of abstinence, where one would abstain from the use of alcohol, and it used to be part of the law that one day a year we had to bring this to the attention of the youngsters. But I am not a "dry," in any way, I remember when we struck that from the statutes, and I agree wholeheartedly that something should be done on a voluntary nature, it should not be compelled. But I think that this is an area where, obviously, has grave concerns to parents as to what the future is going to be, because the Lord knows what problems the abuse of alcohol has caused, and the good Senator from Kennebec, Senator Katz, has certainly pointed those out.

I think that we should support the position of Senator Katz, because this is an area of prevention, and I am sure that even when this area of prevention, this program, is established that it may very well in some way direct itself towards the schools, toward the children. And I think that is what all of us want to see, see some way that we can cut down the seriousness. We are not out to prevent people from enjoying a cocktail by no means, but we certainly relate the problems of alcohol with the problems of welfare, etc., etc., etc.

So once again, I would just add my blessing to this piece of legislation and would hope that the Senate will vote to override.

The PRESIDENT: The pending question before the Senate, is shall this bill become a law notwithstanding the objections of the Governor?

According to the Constitution, the vote will be taken by the yeas and nays.

A vote of yes will be in favor of the bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Hewes, Hichens, Jackson, Katz, Levine, Lovell, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Usher, Wyman, Sewall.

NAY — Greeley, Trotzky.
ABSENT — Huber.

30 Senators having voted in the affirmative and 2 Senators in the negative, with 1 Senator being absent, and 30 being more than two-thirds of the membership present, it is the vote of the Senate that this bill become a law notwithstanding the objections of the Governor and will be sent down forthwith to the House for concurrence.

Office of the Governor

July 22, 1977

To: The Honorable Members of the House of Representatives and the Senate of the 108th Maine Legislature

I am this date returning without my signature and approval S. P. 250, L. D. 777, An Act Concerning Minimum Wage Law.

I am advised that if this bill becomes law it will impose a considerable economic burden on those public employers and small employers receiving public funds, and it would have a counterproductive impact on the economic recovery now under way in Maine. This legislation would require all school districts, towns, water districts, counties, sewage disposal districts, as well as the state, to pay overtime after 40 hours a week at premium rates of time and a half to all employees who would not be exempt under the Fair Labor Standards Act. As you know, the Supreme Court recently held the Federal government could not impose Fair Labor Standards Act restrictions on states and subordinate public employers. This bill, I am told, would have the practical effect of overturning the Supreme Court decision in the State of Maine. Not only would the coverage extension require increased direct costs, but it would increase administrative costs because of time-keeping and record-keeping requirements that would be necessary. If this bill becomes law any increases in the Federal Minimum Wage enacted by Congress would immediately become applicable to all small public employers in Maine. This could force some small employers out of business, and I am informed that it would have a disastrous impact on Maine's camp industry.

I am also informed that this would place a significant additional responsibility for enforcement on the State's Bureau of Labor, yet the bill makes no provisions for meeting the new obligations. This means that either we will have a law on the books which we may be unable to enforce, or that we will be forced to expand the State's bureaucracy at an unknown expense in the future.

In addition, I am told that these items are appropriate for consideration as part of the collective bargaining process. I believe that the Legislature should be very concerned with any attempt to circumvent or emasculate that process from the standpoint of the State by legislating items that should be considered in collective bargaining. These attempts cause me and, I am sure some legislators, to question whether collective bargaining is going to work at the State level in a political setting.

I do not believe that this legislation is advisable in terms of the social and economic costs which may be involved. I, therefore, respectfully request that you sustain my veto of this measure.

Very truly yours,

Signed:

JAMES B. LONGLEY
Governor

Which was Read and Ordered Placed on File.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray:

Mr. PRAY: Mr. President and Members of the Senate: Briefly, I would like to just go over the Governor's veto message because I think that it should be pointed out quite clearly that I do not think the Governor understands this

piece of legislation at all, and I came to that conclusion by reading his veto message, and I would like to go through several points in reading it which I have come to this conclusion on my own.

First of all, starting from the second paragraph, the Governor expresses a concern to the economic burden on the public employees. When this bill was introduced, in the public hearing, we had no opposition to it, and the question was raised as to what the burden would be. It was pointed out that in the vast majority of situations that these individuals are already included under the Fair Labor Standard Act, due to the unionization of many public employees that would come under this legislation. I am concerned that the Governor points out that he considers this piece of legislation to be counter-productive in the economic recovery to the State of Maine, because this bill does not deal with the private sector, but the public sector, and I would express some concern as to his interpretation of the counter-productive to the economic recovery of the State of Maine.

The third point is where he addresses the Supreme Court decision and points out in his address to this Legislature that this bill would, in effect, overturn the Supreme Court decision. That is not true, the Supreme Court decision was that the Federal Government did not have a right in this matter, this was a matter to be left up to the states to address, and it was upon that ruling that the Fair Labor Standard Act did not apply to public and quasi-public employees, and that is the intent and the reasoning for this bill being before the Legislature in this session, to address the matter which the Supreme Court said it was up to the state.

The fourth concern I have is that he addresses a concern to have an increase in administrative cost, due to time keeping and what not, and also during the hearing that question came up and we were informed that it would not have any additional administrative costs because these individuals times are presently kept and that it would be just incorporated into the present system that they have, and there would be no increased costs.

The fifth concern I have is where he mentions the minimum wage increase which is pending before the Federal Government, and by reading his sentences the way he addresses it, it seems as if this bill is accepted and passed by the Legislature, these public employees and quasi-public employees, will be affected, and if not they will not be affected. That is not true, they would still fall under the minimum wage guideline as to what the hourly pay would be. They would still have to pay them \$2.65, or \$2.85, or whatever the new Federal minimum wage goes up to. So I think he misunderstands as to the effect of the law in this instance.

He also talks about his concern that this would force some small employers out of business, and again, as I pointed out earlier, this deals with the public sector, not the private sector. He goes on to talk about the impact it would have on Maine's camp industry, and I am not sure as to what he is talking about; many of you know that I am in the camping business, and I have to pay my employees time and a half over forty hours now. In talking to several of my colleagues in this Chamber they were concerned about how it would affect summer camps, boy's, children's camps, girl's camps, these groups being such as religious, charitable, educational, that type of summer camps. Some of you may recall, in the 107th, the Labor Committee addressed this issue dealing with summer camps and at that time we separated the private sector from the public sector; those individuals that ran summer camps from profit came under the Fair Labor Standard Act that we have on our State Statutes. It was felt that those individuals that do it for a profit should be

required to pay these individuals, on that basis, the same requirements that we require other businesses and industries to do so. Under present law, there are 11 exemptions, and one of these exemptions deals with these charitable groups, religious and educational groups, and they would still be exempt. These summer camps would not fall under the Federal Fair Labor Standard Act or the State Labor Standard Act. These individuals would not have to be paid time and a half for over forty hours, so his concern in that area is also erroneous.

He talks, in the third paragraph from the end, that he is concerned about the significant additional responsibility on the Bureau of Labor, and at the Committee hearing that also was brought out, and as I pointed out earlier, there would be no additional impact for administrative costs to pay these individuals their time and a half, and we were also told at that time that with the enforcement of this legislation there would be no additional expense incurred to the state. They presently are responsible for certain legislation, for certain statutes, and the same individual that addresses the private sector at this time that addresses the public sector goes into municipalities to hear complaints of violations of statutes, are the same individuals who would be handling this case if a complaint arose or there was some question as to whether or not an individual was receiving his fair pay.

I view this piece of legislation as one of equity. In our statutes, as I read it when we debated the bill before, that the Declaration of Policy in the Maine Statutes is that it is declared public policy of the State of Maine that workers employed in any occupation should receive wages sufficient to provide adequate maintenance and to protect their health. Then the Supreme Court ruling came along saying that under the Federal Fair Labor Standard Act, these individuals cannot be included, that the Federal Government could not include them and that the states themselves had to address the issue. I think if we consider a few occupations, I would just throw a couple out as they come to my mind, for an example would be a janitor; if I in the private sector had a janitor working for me, and I worked him more than forty hours, I have to pay him time and a half. What the Governor is saying is that if he works for the state and he works more than forty hours, he should not be paid time and a half. I think if we are concerned about the welfare of the people of the State of Maine, no matter who their employer is, as long as they are individuals who work for a living, that they should have the same safeguards that we, by statute, point out for the private sector. I think that it is just a question of equity, and I am sure from going through the Governor's message on this veto, I am sorry I did not have a chance to communicate with him; I have been tied up for the last few days, but I would have liked to discuss it with him because I am completely sure that somebody should sit down and explain the bill to him.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Mangan.

Mr. MANGAN: Mr. President and Members of the Senate: For all intents and purposes I agree fully with the Speaker, the good Senator from Penobscot, Senator Pray. The only question I have on this, and I believe I raised it initially, is when we talk of County employees, for example, we look at the Deputy Sheriffs who are working seven days a week and theoretically are on duty twenty-four hours a day, and these employees would be working well over forty hours and this would mandate that we pay them, I believe, time and a half after forty hours. They are not subject to collective bargaining agreements, and I believe the Governor vetoed the collective bargaining

package, and I believe that that bill is dead for this year.

I would at least question through the Chair to anybody who may answer the questions that I have raised.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate: I would point out to the good Senator from Androscoggin, Senator Mangan, that many employees are on call twenty-four hours a day, the same as our County Sheriff's Department, and I suppose, I believe, trying to recall through my mind earlier this afternoon, that when the Senator from Penobscot, Senator Trotzky, and myself, praised the number of employees, State employees and volunteers on the fire, we both excluded the County Sheriff's Department, which have also been in that area. But I think the concern of time and a half would be their actual performance duties; we have many individuals who, I think, small town Firefighting Departments, these individuals may not actually be at work, but they are on call twenty-four hours a day. Their pay is not considered on a twenty-four hour basis, so they would not be receiving the time and a half after the first forty-hours of the weeks has gone by; this is actual performance of duty.

Also the concern that he raised, and perhaps to cut the time of debate on this bill, because I think the Senator from Penobscot, Senator Trotzky, also raised related issues like lifeguards, and what not, I think we should have a little concern about the performance of these individuals after a certain number of hours a week, or on any one particular day. If an individual is being worked eighty hours a week, then there is definitely enough of a need to hire two deputies and work them both forty hours a week. When you have those situations which emergencies arise, then an individual would be working the extra hours, and I think that is basically the way we want it, staying with the declaration of intent of the Legislative Policy in our Statutes that individuals should receive just pay, for just services rendered. I think that it is a question of equity.

The PRESIDENT: The Chair recognizes the Senator from Hancock, Senator McNally.

Mr. McNALLY: I do not know as I can answer the good Senator from Androscoggin, Senator Mangan, fully, but I will tell you that several organizations have studied this bill and states to me, particularly the Maine Municipal Association, that if this legislation is passed, this is what happens: The legislation would require all public employers, including schools, towns, water districts, counties, sewage disposal districts, the Maine Turnpike Authority, as well as the State, to pay overtime after forty hours a week at premium rates of time and a half to all employees who would not be exempt under the Fair Labor Standards Act and it also would exempt coverage to several church camps, halfway houses, "Y" camps, and notice all others receiving public funds.

I am going to gladden the Governor's heart for once. I am going to vote to sustain him on this bill.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate: I apologize for this lengthy debate at this time and for rising so many times. I had thought that I pointed out the fact that summer camps were excluded from this, and I pointed out from statute, and in no way does this legislation, L. D. 777, affect these exemptions which we have. So I again come under the opinion that perhaps Maine Municipal is also confused about this legislation. They had a chance at the hearing to state their opposition; they did not. The Committee Report was unanimous, signed out by the good Senator from Hancock, Senator McNally, for the Committee. I would

hope that all individuals understand that we are going into this number of classifications of jobs, school teachers, people that work for the water districts, or people that work for this section of Town Government, or State Government — the question is, if they did the same job for somebody else, we are requiring that employer to pay him time and a half after forty hours. Are we going to say that an individual, based upon who his employer is, should receive different standards of pay? I think the concerns that I expressed earlier today in talking with a number of state employees in the last few days, that if we keep holding these individuals off and giving them the status of a second-class citizen, a second-class employer, an individual who does not deserve the same rights and privileges as somebody else, because their employer is the Government, because you work for us, the people, the state, you do not deserve the same protections, the same provisions. I think it is a double standard that has to stop, and this is one piece of legislation that addresses it.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I intend to be extremely brief. I concur wholeheartedly with the remarks made by the good Senator from Penobscot, Senator Pray. I think it is wrong to have class legislation that prohibits other municipal or county employees from being subject to the same laws that everyone else working as public employees. I think there is absolutely no difference, that if we are going to face up to our responsibilities to allow these people to be able to meet their needs, their daily needs, their daily bread, then I think this veto should be overridden. It is on that basis, and strictly on equality, that I think every member of this Senate should vote to override.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: I have one observation that I would like to make that is a little different attack than has been addressed by any of the previous speakers, and I would certainly welcome either of the two Republican members of the Committee on Labor to answer my concern if they would. I know that they have both been private employers, and we know that as a matter of fact in many areas of activity in this state private employers, members of the private sector working under the profit motive, are in fact competing with the public sector to take on specific tasks and accomplish them. It has always seemed to me that when the State government is going to pass laws that affect what the private sector has to do, that if we believe in them then we ought to at least make it the same for the public sector. First is a matter of equity, and second is a matter of not doing anything more, or anything unnecessarily making it impossible for the private sector to compete to provide specific services. Certainly if there was a rush job that had to be done, and there was a question to the municipality or to the county as to whether to use a private contractor relationship or whether to do it themselves, I would think that the present law would put the private employer under a handicap recognizing that he would have to pay time and a half after forty hours to his employees, and the public employer would not be in that position. And so it would seem to me that those who are concerned, as I know the Republican members of the Labor Committee are, with equal treatment for private employers, would be voting for this legislation to at least give them an equal shot, and have everybody working on the same basis.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is shall this bill become a law notwithstanding the objections of the Governor.

According to the Constitution, the vote will be taken by the yeas and nays.

A vote of yeas will be in favor of the bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Conley, Danton, Farley, Levine, Mangan, Martin, Merrill, Minkowsky, O'Leary, Pray, Speers, Usher.

NAY — Chapman, Collins, D.; Collins, S.; Cummings, Curtis, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Lovell, McNally, Morrell, Pierce, Redmond, Snowe, Trotzky, Wyman, Sewall.

13 Senators having voted in the affirmative and 20 Senators in the negative, 13 being less than two-thirds of the membership present, the veto of the Governor is sustained.

(Off Record Remarks)

Out of order and under suspension of the rules, the Senate voted to consider the following.

Communication House of Representatives

July 25, 1977

The Honorable May M. Ross
Secretary of the Senate
108th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

House Paper 1407, Legislative Document 1565, An Act to Assist Municipalities in the Acquisition and Development of Land or Interests in Land, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this bill become a law notwithstanding the objections of the Governor?'

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

Respectfully,

Signed:

EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File.

Communication House of Representatives

July 25, 1977

The Honorable May M. Ross
Secretary of the Senate
108th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

House Paper 723, Legislative Document 856, An Act to Provide for Legislative Confirmation of Gubernatorial Nominations for Chairmen of the Maine Human Services Council and the Maine Committee on Aging, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

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

Respectfully,

Signed:

EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File.

On motion of Mr. Huber of Cumberland,

Recessed until 2:30 in the afternoon.

(After Recess)

The Senate called to order by the President.

Senator Katz of Kennebec was granted unanimous consent to address the Senate on the record.

Mr. KATZ: Mr. President and Members of the Senate: Immediately upon recess I went over to the Blaine House to try to be among the first in line for a delicious lunch; my motives were thwarted when I met the Senator from Kennebec, Senator Pierce, already over there having seconds.

But I just wanted to express on this very unique day my appreciation for the warmth and hospitality of our First Lady, Helen Longley. As I came in, I guess she greeted each one of us; it was a nice gesture, her warmth was genuine, and I appreciate the hospitality on a day that is filled with tensions. I felt very conscious of the fact that our First Lady really cared about our comfort for the day.

The PRESIDENT: In response to the Senator from Kennebec, I would ask the Senate to rise and give the First Lady, Helen Longley, a rising vote of thanks for a nice luncheon today.

(Applause)

On motion of Mr. Conley of Cumberland,
Recessed until the sound of the bell.

(After Recess)

The Senate called to order by the President.
Out of order and under suspension of the rules,

On motion of Mr. Speers of Kennebec,
ORDERED, the House concurring, that in accordance with emergency authority granted under Title 3, Section 2 of the Maine Revised Statutes, the First Regular Session of the 108th Legislature shall be extended by one additional legislative day, to be July 25, 1977. (S. P. 612)

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, the purpose of this order would be to allow this session of the Legislature to consider one additional piece of legislation, that additional piece of legislation to be a change in the dates of the Bond Issues to be voted on this fall. This is not an attempt to revise the situation that was defeated in an amendment two weeks ago, but it is rather an amendment to the dates on which the Bond Issues should be voted, so that these Bond Issues may be voted upon at the same time as the referenda questions that are already being presented to the people this fall. This will save the State a considerable amount of money, and I would hope that this session could be extended by the passage of this Order to consider this one piece of legislation, and this one piece of legislation alone.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I pose a question through the Chair to the good Senator from Kennebec, Senator Speers, if the changing of the dates of the Bond Issues coincides with that of the referenda to the voters on the Uniform Property Tax?

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair. The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I would answer in the affirmative.

The PRESIDENT: Is it now the pleasure of the Senate that this Order receive passage?

29 Senators having voted in the affirmative, this Order is Passed.

Sent down forthwith for concurrence.

Communication

Out of order and under suspension of the rules, the Senate voted to consider the following:

Office of the Governor

July 20, 1977

To: The Honorable Members of the Senate and House of Representatives of the Maine 108th Legislature:

I am returning without my signature and approval H. P. 1310, L. D. 1634, which is entitled An Act to Prohibit the Practice of a Mandatory Retirement Age. Very candidly, I feel the bill is misleading to the extent this act eliminates a voluntary system of retirement entered into by mutual agreement by employer and employees either with or without a fixed retirement date and/or a fixed retirement benefit. This act eliminates the voluntary, free enterprise nature for one party and mandates for that same party another statute and regulatory requirement that says the government will also set the rules and regulations on how and when you may or may not retire a person at any given age. For instance, state government presently retires State employees with a very favorable retirement plan beginning at age 60 if the employee desires, or at age 70 and in some instances I am advised even longer based on the mutual agreement between State government and the employee. This law will eliminate that voluntary arrangement which employee accepts and to which each employer commits to the employee. In other words, this law mandates a potentially greater harm to all parties, employees and employers, than the present voluntary system we now enjoy.

My decision to veto this bill was based on a very simple and basic premise. I have yet to be shown convincing evidence that enactment of this legislation would not hurt the elderly more than it would help.

I fully realize the emotional nature of this issue and I am appreciative of the good faith motives of the sponsors of this legislation and the Maine Committee on Aging and other groups which supported this bill.

The philosophy of keeping our older Americans as productive members of society is one which cannot be argued and one supported by virtually every American. It is certainly one supported by this Governor.

As a matter-of-fact, most of the arguments in support of this legislation are philosophical in nature and do not deal with the problems that enactment might cause older workers and those nearing retirement age. For example:

(1) I was never given sufficient evidence to show that workers between the ages of 50 and 65 who are seeking employment would not be severely hampered by the reluctance of employers to hire.

(2) I was never convinced that employers would not use this law as a "cop-out" to avoid developing meaningful pension plans for its employee or plans to supplement Social Security.

(3) I was never shown convincing evidence that we would not be taking away more rights and opportunities than we would be granting.

(4) I am concerned with the possible inhumanity that results from the system that singles out individuals because they can no longer perform because of age, and I question the ability of government to apply a uniform standard in each individual case.

(5) I have been advised and have heard it stated at the federal level that a real concern with eliminating mandatory retirement is that a bottleneck is created in the entire employment system and younger people are discouraged or prevented from advancing at a fairly normal and healthy rate. Right now Maine suffers from the exodus of young people from the State because of the lack of job opportunities here in Maine. I fear that this legislation would worsen that situation.

(6) I'm advised that a national economist and lawyers have expressed concerns regarding potential liability attributable to individuals retired under a prior fixed-date retirement plan. I've been further advised by one of the leaders of Maine's elderly and an activist with the Committee on Aging and an opponent of this legislation that this legislation could be defeated on the national level because once emotionalism is removed the liabilities offset the advantages.

I simply do not feel we have a right to pass legislation of this magnitude with unknown implications in the final hours of a hectic session. I don't feel it is fair to the elderly and I don't feel the emotional lobbying that led to its enactment is fair to individual members of this Legislature who were faced with many major issues in the final days and hours.

We should not ride our emotions into an area of unknowns when we can take a few months and carefully study the full and exact impact of this legislation on the lives of our elderly. It is not too late to pause and approach this problem on a sound, reasonable basis. It may forever be too late to right the wrongs we have done the elderly.

The bill in question is filled with unanswered questions. For example, has the teachers union leadership (MTA paid staff) seized upon this legislation to write restrictions that would benefit themselves and make it impossible for school boards to administer. We have to ask whether paid union leadership seized upon last-minute legislation in this and other areas to advance their own interests at the expense of legislators and the taxpayers of Maine.

I will admit that my concerns in this area might be greater than those of others because this was my field in private business. I have witnessed what can and does happen to persons nearing retirement and persons who have retired from firms which did not provide adequate pension benefits or supplemental programs to Social Security. I cannot, in good faith, support this legislation without some assurances that it will not lead to firms in the private sector having an easy out.

I would be supportive of any legislation that would protect elderly employees but I cannot be supportive of a bill based primarily on emotionalism, particularly in view of the fact that we have time to study this issue and act on it in a calm and reasonable fashion in the early days of a future legislative session.

If the facts show that the elderly will be helped rather than hurt by such legislation then it would have my full support. However, at this point in time I have not been shown such facts and I cannot, in good faith, sign this law despite the emotionalism surrounding it.

I respectfully ask that my veto of L. D. 1634 be sustained and that the Executive and Legislative branches embark on independent study effort and see if we can make a determination as how to best aid and assist those approaching retirement as well as those of retirement age who want to continue in productive work and employment.

Thank you very much.

Very truly yours,

Signed:

JAMES B. LONGLEY
Governor
(H. P. 1847)

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on File in concurrence.

The accompanying Bill, "An Act to Prohibit the Practice of a Mandatory Retirement Age." (H. P. 1310) (L. D. 1634)

Comes from the House, with the following endorsement: In the House, July 25, this Bill, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of

Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

112 voted in favor and 22 against, and accordingly, it was the vote of the House that the bill become a law, notwithstanding the objections of the Governor, since two-thirds of the members of the House so voted.

Signed:

EDWIN H. PERT
Clerk of the House

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President and Ladies and Gentlemen of the Senate: I am not going into a long debate as we have debated this bill on mandatory retirement at length on several different occasions. I believe the last vote was something like 26 to 1 to pass this bill; now I have looked around here some today and I see some feeling, some people have changed their mind. But actually, I do not think they have any right to change their mind. The Committee on Human Resources has four different versions, had four different bills, which we consolidated into one bill, which was then again amended by the good Senator from Kennebec, Senator Pierce, to amend the private sector out of the bill. So that now it only has the public sector in the bill, and that does not take effect until July 1, 1978; consequently, we are going to be here all winter, and I am sure the Committee on Human Resources would be perfectly willing to hear any objections at that time and see that they are corrected in the bill. The private sector is amended out.

Now in the United States House of Representatives one hundred and forty Representatives co-sponsored a bill in the public sector to ban mandatory retirement at age 65, and it has the endorsement of the Carter Administration, and later they are going to work on the private part of this bill. So consequently, this bill is going to come before us sooner or later. And I feel very confident that the people will not change their mind today; I feel certain that they will not.

For instance, a professor, down at the University of Houston, did a great deal of study, and he comes out and states that out of every hundred people who reach 65, only 2 percent are financially independent. With inflation today, 95 out of every 100 so-called "Golden Agers" are flat broke. Now if people cannot work after they are 65, in many cases, not necessarily mine when I got that age I was very greatly depressed, but it causes many cases of suicide, it causes much, much depression. A person who does not have any hobbies loses their ambition. I do not have any hobbies. My hobby was charity work, civic work, and so forth. I never went hunting or fishing in my life, and I was very greatly depressed when I retired. And I am sure that most of you will be when you get to be the age of 65.

For example, actress Ruth Gordon, 80, "work is life, and life is work. I would not know how to fill my time if I did not work." Averill Harriman, 85, diplomat and former New York Governor, "Above all, a man or woman should not be forced out of work at a given age unless they are unable to continue further." Attorney Thomas Cochran, 76, who helped fashion Franklin D. Roosevelt's New Deal Administration, says "There is so much to be done in this country, that there is almost nobody who does not have to stay in a hospital bed who can be employed somewhere for the social good."

I would urge every member of this Senate to vote to override the Governor's veto on this bill. Thank you very much, please take the positions; please do not change.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I would like to ad-

dress my remarks today in just two areas of concern. One, about the young people, who might be affected by the passage of this, and two, I would like to talk about some men management skills that would be necessary if this bill is to pass. And then after I get done I am going to ask you to continue supporting this bill as you have in the past, and to vote to override the Governor's veto.

First, about the young people. Our society simply has not ever found a way to put our young people to work. In the forties we had a war, and we drafted them into service and we solved our unemployment problem in that respect. Prior to the war and going back some years we had an agrarian society and we put them to work on the farm. But since the war, and increasingly in recent years, we have been unable to find ways to put all our young people to work. And to tie this problem in with this bill I think is a copout. It is a separate problem, and it is a problem that is going to exist whether or not this bill is passed, or whether this bill is defeated.

Second, management skills. The principle opposition to this bill comes from management, and management says, and I sympathize with them, how are we going to compassionately separate people from their job just because they cannot cut the mustard. At least presently we have retirement at 65, and if we have somebody at 63 and they are not performing at least we will keep them on, because we know they are going to retire at age 65 anyway.

This bill is going to create some problems for management. Acknowledge it. But accept it. Earlier today we debated a system of merit pay for State employees, and there seems to be general support for the whole concept of merit pay for State employees in the Senate. But if merit pay is to be meaningful, it requires the careful and professional evaluation of every employee's performance on the job, because without this careful evaluation, merit pay is a sham and a hoax. I think merit pay is going to require the development of a whole new set of skills in public employment, and I am supportive of it; and I say it is long overdue.

Well along comes this bill and the relationship should be very clear. If State employees are permitted to continue working after their ordinary retirement age, it is going to take that kind of skill to determine whether the employee is productive, and whether that employee should be severed because he no longer can adequately perform on this job. But the severance of the employee is not going to be based upon his age, it is going to be based upon his performance; and I ask you, isn't this the way that this should be anyway. To say that you are being compassionate in voting against this bill, so that there will not have to be the enormous sense of trauma in our senior citizen because he is told he cannot perform any longer, I say friends like this, older people simply do not need.

If an older person chooses to remain on the job, and he is capable, and his evaluation by his supervisor indicates that he is capable, where is the justice in pushing him out of a job because chronologically he has reached an age where it is convenient to do so. Inconsistent, inhumane, and has no place in our compassionate society.

The Ford Foundation is just doing some interesting work on our population, and they find that the population aged 75 and older will grow at two and a half times the rate of the rest of the population, and by 1990, the dependency ratio of the number of workers per retired persons will drop from 4.6 to 3.5. I would say that any reasonable person must raise the question as to whether our present system of forced retirement can work, whether any retirement pension trust can afford the enormous burdens that are being pushed upon it. And I would ask the Senate whether or not the security of the pension trusts we have would better be served by

letting those workers who are capable of continuing to perform stay on the job.

This is the basic issue as I see it.

I guess that all of us could get emotional with personal experiences. To indicate, people whom we have seen retire and wither away, because they have been emotionally unprepared after an active lifetime of service to assume the mantle of inactivity, when they are capable of continuing an active life in their job. I am not afraid of this bill. If you believe in our ability to evaluate the performance of a worker, based upon his actual job performance and not on his age, I would urge you with a clear conscience to maintain the position which you have already taken. Nothing has happened since we last voted on this to change our minds; there has been no evidence, there have been no new issues raised, and if you have a sense of pride in the vote that you cast, cast it again today.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, and Ladies and Gentlemen of the Senate: This is a very solemn occasion that we are faced with this afternoon, perhaps the most solemn occasion that has come before the Senate certainly today in the various veto messages that have been presented to us.

This body has a rare opportunity to adopt a change in a broad public policy, and it is a change that will have a very far reaching effect, not only upon the people of the State of Maine, but which will have an effect upon the rest of the people in this nation as well, because it is indeed a national question which is being asked here today. And we in this Chamber, at this time, have the opportunity, the very rare opportunity, to answer for the people of the State of Maine at least, that question that is being asked across the nation. And that question very basically, is simply whether or not an individual who is entirely capable of continuing to work, and who has the desire to continue to work, should be forced into retirement simply because of an arbitrary passage of time. We have adopted public policies in the past, we have adopted public policies in our national Congress, and we have adopted public policies in our various state legislatures, and we have been faced with the questions of adopting public policies in this Legislature in the past.

We have again before us today the basic choice. We have answered the question once already, we have said that we wish to adopt a public policy in the State of Maine that individuals should not be retired against their will simply because they have reached an arbitrary age, and I hope that we adopt the same stance that we have already adopted when we vote on this bill again today.

The opposition to this matter has stated that there are many questions which remain unanswered. The answers have not yet been forthcoming. Indeed, I do not even feel that the questions have been put very clearly. But I would simply state that when you adopt a broad public policy, it is very difficult to answer all of the questions that might be raised, not only for the present but on into the future as well. And when we have adopted broad public policies in the past; for example, the Anti-Discrimination and Civil Rights Acts that have been adopted, not only in this body but in the national Congress as well, we, of course, were faced with a great many questions as to the various ramifications of those policies, and many results we were unable to predict. But we forged ahead and adopted that policy because the policies were right. And as I mentioned when this bill was before us before, if the Founding Fathers in adopting the Constitution of the United States, the most-basic public policy that we have in this entire nation, had waited to answer all of the questions and all the ramifications that the adoption of that document could have raised,

then we would still be debating the Articles of Confederation in Philadelphia today.

I ask this body to adopt a policy because the policy is right; that an individual who has the ability and desire to continue to work not be forced to retire because of the passage of time, and on that arbitrary basis alone. This body adopted that policy before and I hope that it will continue to adhere to this position and vote to override the veto that has been presented to us.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: Again, I wish to be extremely brief. All three of the previous speakers have addressed themselves to this piece of legislation, and it certainly was well debated through the legislative channels in the past.

I would only say that I believe this is a very worthwhile bill, and I think that the Maine Senate should hold as firm today as it did when this bill originally came before this body. I look around the Senate and I see how representative it is of our senior citizens. I would just call your attention to Article 4, Section 6 of the Constitution of the State, which says that, "one must be twenty-five years or older, to serve in this body, and yet at the other end of the House one may serve at the time they are twenty-one." There must be a reason, and the reason obviously is that one assumes to have matured a little bit more, and that is the justification of our forefathers establishing the Constitution to read that way.

I look around this Senate and I see several individuals who have obviously gone by the age limit of 65. Would we write the Constitution to prohibit them from serving in this Maine Legislature? Should we, or should have our forefathers written the Constitution to prohibit them? And I would say no, I think we have got great response, great reception, great ideas, from many individuals who have certainly passed the age of retirement, so to speak, the age of 65; many ideas, good ideas, have become law.

So once again, I would not wish the Senate to perform another hoax, that after overwhelmingly passing this bill to now turn around and sustain a veto that to me is meaningless. And I would only ask that we remain consistent and to override the veto.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Mangan.

Mr. MANGAN: Mr. President and Members of the Senate: I rise today for probably the ninth time on this bill to support this legislation, again. I supported this legislation when it came into Committee, the Human Resources Committee, and we supported this piece of legislation unanimously in Committee. This piece of legislation came before both bodies and it was supported very strongly in both bodies six times. This matter was tabled and brought back to both bodies, and subsequent to that time has been vetoed by the Governor.

Briefly, it is difficult to conceive that someone would be forced to retire because they are 65. When there is some sort of a guarantee that someone is all done at the age of 65, then I may support retirement at 65. But until someone can show me that an individual who has reached 65 is no longer of worth to society, then we have a problem. I feel that we have had all kinds of arguments on this bill, we have had indications that at age 65 we should make anybody over the age of 65 second-class citizens, we should force them off payrolls because it is good for the youth; we should take people who are 65 years old and give them pensions, ranging from \$100.00 a month on up. It is very difficult for somebody who is 65 to live on a \$100.00, it is very difficult for somebody who is 70 to live on a \$100.00 a month, and it is difficult for somebody who is 35 to live on \$100.00 a month. And what we are saying here, if we do

not pass this legislation, if we do not override the Governor's veto, is yes, you are right, \$100.00 a month is sufficient for somebody who is over 65; but, if you are under 65, of course, you can work fully.

Now people have said, well now, people who are over 65 generally could be very senile, and how can you tell somebody that they are senile. There is no guarantee that someone is senile over the age of 65. As the Honorable Senator from the County of York, Senator Lovell, did read out several individuals who are performing some very valuable services over the age of 65. How many of our Presidents have been over 65 years of age, and have had the burdens of running a country? President Eisenhower, if I recall correctly, was approximately 70 years old. He was 66 when he ran for his second term. Was he senile? Did anybody raise at that time an issue that maybe he should be retired?

Now, as far as union negotiations are concerned, the issues have been raised that it is going to foul up all the collective bargaining agreements; yet unions, can work out Blue Cross and Blue Shield agreements easily enough, unions can work out vacation and disability programs easily enough; why can they not work out retirement, depending on when the individual himself desires to retire, instead of mandating the individual to get out as soon as he is 65?

I think it would save a lot of money for a lot of companies to have some well qualified individual aged 65 to continue working instead of having to hire probably two or three people to replace that one individual. I have read the "Override the Veto Message" written by Charles G. H. Evans in the Portland Press Herald of this morning and I would urge those members of the Senate who still have their Portland Press Herald available to read this. It is very interesting.

In one final statement which I think is interesting, from my favorite constituent, in his veto message stated that he was never given sufficient evidence of any of the claims that have been put out by this bill. It is interesting that the opponents of this bill have had up to two months to work on this, and still they have not found sufficient evidence to oppose this bill. I would suggest that there is no evidence to indicate that people should be forced to retire at the age of 65, and I would urge the members of the Senate to override, and override strongly.

The PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Mr. CHAPMAN: Mr. President, and Ladies and Gentlemen of the Senate: The subject of this bill is quite close to me from events in my own family. I have seen sad effects of mandatory retirement.

We have debated this bill at great length. The Governor's veto message contains no new issues of fact. A lot of careful and thorough thought is going into this subject. The Bill is effective in the public sector only in 1978 and establishes a further study by the State Planning Office on the impact that this legislation would have in the private sector. As a safeguard to the concerns of the private sector over this issue, positive action in the next 109th Legislature is necessary before these or similar provisions would apply to the private sector.

I think we have a bill before us that is in good posture right now and I urge the Senate to hold to its previous position in favor of it. We can recognize here in Maine now that age alone is not a valid criteria of a person's ability to work. It is, in fact, the abilities to perform the job that should dictate and to this end, the person can be old at 60 and young at 70 and age per se really is not the determinant factor. I respectfully urge the Senate to vote yes to override this veto.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: I have spoken on this issue before.

I would just like to address one point that is raised in the Governor's veto and has been raised in this discussion and that is the issue that somehow by protecting the right of our older people to stay on the job if they are able to do so, we are going to be hurting the younger people who want to work and that is an issue that is of concern to me because I can tell you of people in this body of candor that there is no greater concern to me than providing jobs for our young people who are in the process of raising families as I am and providing them with a livelihood in this State. But sometimes I think we take too narrow an approach when we pit one group against another as those who oppose this bill and those who side with the Chief Executive do, on this item. And let me just make a simple analogy that may not be valid all across the board but I think points out what I am trying to say. It is the month of September and we are concerned with two families. One family has an axe, knowledge of how to use it, no wood and because of sickness the people in that family are unable to go out and use the axe as they know how. The second family has no axe, does not have the knowledge of how to use it, they have enough wood to get through the winter. You are asked for your advice on the question as to what the proper economic step is to take. Now, those who would divide one group against another all the time on these economic issues would suggest that the proper approach to take, I suppose, is for the person who has the wood to keep it. I think those of us with a little more vision would suggest that through the two parties cooperating that there can be greater wealth created in both families who have enough wood to get through the winter and I think that is the sort of issue we face here if you agree with me that we can ultimately add to the productivity of our society by keeping able-bodied people on the job.

So I think the real question before us as far as the issue of our young people is concerned, is that do we make a more productive Maine and a more productive United States, by saying as this bill in its long range of implication says that we are going to keep people, able of mind and able of body on the job. If we do make America and the State of Maine more productive by that approach, then all that remains to insure that the young people as well as the old will be better off, is to address the problems of the distribution of that wealth in some fair way. I think that that is an issue that can be addressed if, and when, it has to be. I think that this bill will make America more productive and as the Senator from Kennebec, Senator Katz has so eloquently pointed out, will make America more humane.

And so, and not in spite of, but because of my concern for the young people of the State of Maine, I am going to vote as I previously have to see this bill become law.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: Mr. President, I have a lot of compassion in my heart for those who are senior citizens, but for the past two weeks I have been in contact with a lot of them, and a lot of the people who work in the plant with me. And I can find no one, absolutely no one, except one elderly lady who is present in this Chamber and has been all through the debate upon this bill, who has contacted me that is in favor of this bill. Unalterably, they are opposed to it, so, therefore, I am.

I have talked with a lot of them but I have to think of what the good Senator from Androscoggin, Senator Mangan, said about collective bargaining, and how would we bargain for Blue Cross and Blue Shield, what rights we are going to have or what benefits we

are going to get. We can negotiate our disability pensions, but we do this all collectively and by majority. Now there are others that are looking to progress up in the line of promotion and there comes a time when that person that is working, who is 65 years of age, is holding a job that another person in the line of promotion could be having and that person retiring would be retiring with a pension pretty near equal to what he is earning for a living, the wages, salaries as such. And I take exception to the remarks that this is a cop-out. I am reminded that there is increased technology in this country and that more and more we are going to have unemployed. And this here is just going to help increase that unemployment.

There was an article in the Bangor Daily News, I think it was two weeks ago last Saturday, July 9th, it was the "Vanishing Mainer" and it had to do with the good Senator from Penobscot, Senator Trotzky and myself. It is about the exodus of 30,000 of our Maine youth each year from this state and perhaps about 35,000 immigrating into the state, but perhaps about 35,000 of those immigrating into the state, perhaps half of them are moving here to retire. I can see this in the future as becoming a retirement state. But I have not heard anyone give me any reasons to expect anything good to happen with any of our pension plans, and I would like to remind you of an article this morning in the Lewiston Daily Sun, an editorial and the Senator does not very seldom write anything that pleases me, but I think that this will perhaps show some of the regard I have for this legislation and I will read it to you.

It says "Good intentions are not enough, especially when dealing with people. The timely ways of case in point relates to Federal Government efforts to protect employees rights in private pension plans. Since the law was passed in 1974 as many as 30 percent of the pension plans involved have been terminated. The Employee Retirement Income Security Act was expected to have an adverse effect on some pension plans, but the drop in programs is 4 to 5 times what has been expected. It involves 100,000 to 150,000 plans according to the Internal Revenue Service, which is conducting an investigation. The financial reporting requirements of the law are considered the problem. Maine Legislatures meeting in Augusta today considered vetoes by the Governorship consider the Federal experience as they decide what to do about the Mandatory Retirement Bill."

Does anyone in this Chamber know what is going to happen to any of our retirement pension plans as they are now? I do not believe anyone has addressed this, no one knows the answer and what is going to happen to them. Well I can give you an example as to what is happening right now in Oxford Paper or Boise Cascade Paper. There are bills like this and perhaps the process they may be faced with going to the Human Rights Commission and the Courts again, where we have to hire a certain number of certain persons. The company cannot operate efficiently any longer, so now they are asking each and every person in that mill to work seven days a week, 16 hours a day so they will not hire any more people, and this is a fact and it is posted on all of our bulletin boards. I am wondering what this is going to do.

Mr. President, I think that if we want to get into the merits of what the bill is all about, and I think that everyone has been through it and through it, I voted for it as a compromise measure but I cannot in good conscience vote for this bill and I am going to vote to sustain the Governor.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, in brief response to the remarks of the Senator from Oxford, Senator O'Leary, who I know has a real concern about this area.

First, let me remind every Senator that we have had a great deal of input as far as the technical aspects of retirement plans actuary came up here, and I think that those concerns have honestly been answered.

And let me make a final observation because the Senator from Oxford, Senator O'Leary makes reference to an article in a paper that talked about a vanishing Maine and Maine is in a state of change I think. But part of what Maine means to me and part of what I would like to preserve in Maine is held by the people who have lived here over long periods of years and who have endured a great deal of hardship probably in living in a state whose climate at least is hard to survive in, and who have something to contribute to us all, about what Maine has been. I am not suggesting that Maine should not change but I am suggesting that if we do not want the Maine that we love to vanish, then we ought to be anxious to reinclude into our midst those people who have lived here the longest and who have a vision that is different to ours maybe, and which together with our own vision of the future, can help us to preserve what is most meaningful about the state that we all love. And what we love is certainly more than the natural beauties that we have been surrounded by. It is an attitude towards life and the value of the human beings that we surround ourselves with and the sense of community that has been developed. I think we would do well if we wanted to preserve this Maine that we love and not see it vanish, not to vanish some of the people from our economic system that have made it what it is.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, this bill has had a number of votes in here, the most important one occurred on July the eighth on the final enactment. Then the final analysis the enactment of a piece of legislation is the final expression of conscience of each of us.

I would like to read into the record that Roll Call, because I felt at the time it was an extremely courageous expression from the Senate. Of those members who are in the Chamber present and voting, Senator Michael Carpenter, yes; Senator John Chapman, yes; Senator Donald Collins, yes; Senator Samuel Collins, yes; Senator Gerard Conley, yes; Senator Minnette Cummings, yes; Senator Theodore Curtis, yes; Senator Peter Danton, yes; Senator Robert Farley, yes; Senator Edwin Greeley, yes; Senator Richard Hewes, yes; Senator Walter Hichens, yes; Senator Bennett Katz, yes; Senator Matthew Levine, yes; Senator Ralph Lovell, yes; Senator Thomas Mangan, yes; Senator Roland Martin, yes; Senator Cecil McNally, yes; Senator Philip Merrill, yes; Senator Carroll Minkowsky, yes; Senator Richard Morrell, yes; Senator Donald O'Leary, yes; Senator Richard Pierce, yes; Senator Charles Pray, yes; Senator Andrew Redmond, yes; Senator Olympia Snowe, yes; Senator Jerrold Speers, yes; Senator Howard Trotzky, "No"; Senator Ronald Usher, yes; Senator Hollis Wyman, yes.

I plead to you today that unless there has been significant evidence which has changed the facts as you see them that you will sustain the validity of your position and vote again yes.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President and Members of the Senate: I would like to ask one question. Is our own re-election more important than the proper management of State Government?

Senator Chapman from Sagadahoc, stated that in the bill there will be a study under private sector. We are not enacting this in the private sector because there was a great deal of pressure from the private sector. But yet we are dumping the problem right into the public sector, it is very simple to do that. Yet, I do not

know if we have had any, and by the way the Senator from Kennebec, Senator Katz, has stated that the objection has come from management. Well, let me say here and now that I believe the management of our Government here and of State Employment comes directly from this Legislature and I feel that we have an obligation to try and manage that Government as efficiently as possible. We throw this problem or this bill right on to all our municipalities, into our schools and so forth. I do not hear any support coming for this bill from our City Councils, from our Selectmen of our towns, yet these are the managers of public employment. I do not hear support coming from the Maine Teachers Association, the State Employee Organizations. The support is coming from the Legislature and I have not had that many calls from my constituents saying that they want to eliminate mandatory retirement ages.

Now, the issue that I see here is that I feel that each group should be able to determine its own policy on retirement, whether it be a private corporation or a municipality. And I do not look at this as discrimination against one group because each of us will at one time reach the age of 65 or the age of 70 or whenever that mandatory retirement takes place. Many groups have not instituted mandatory retirement and allow capable and competent workers to work on. I will also say that Senator Conley made an analogy to the State Legislature in stating that we have people here over 65, but let me say also that everyone of us has a forced retirement every two years.

The problem is going to come in terminating employment. How are you going to terminate, let's say, a teacher's employment. How are you going to prove that teacher incompetent to do the job? These are some of the questions that are going to have to be faced in the public sector and, we have, to a certain extent, eliminated the 60/40 in State Government, the merit system because it was very difficult in public employment to choose those employees who were performing well and those who were not performing satisfactorily.

So, I feel that it is an easy cop-out to pass this bill and dump it on to the public sector. I feel that if we are going to protect the private sector by having a study of the impact on this, I feel it should be done on the public sector also, if we are to manage public employment properly.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Levine.

Mr. LEVINE: Mr. President and Members of the Senate: I rise today to urge my fellow members of this body to be consistent in their vote and to vote to override the Governor's veto on this particular issue.

A lot has been said here about problems. Well, there is one problem I see here right now that is a problem that we have throughout our society. That problem being that once a person in this society reaches the age of 65 we no longer consider them necessary for the functioning of our society. We turn them out to pasture, we put them in nursing homes, turn them out, shove them away, get rid of them, hide them in the closet somewhere. Well, perhaps it is time we took them out of the closet. I do not know where our society has gone astray, but somewhere the premise that those members of our society who have worked the hardest and the longest and have been with us the longest and guarded the most knowledge and wisdom in their respected areas, those are the people that we should push aside. I am very sorry but I do not agree with that viewpoint. I think that those people are necessary to our society, I think our society is lacking a good deal of compassion and is lacking a good deal of knowledge because of this policy that we have had in the past, a policy that I would like to see end, and therefore, I would ask my fellow

members of this body; my fellow Senators, Ladies and Gentlemen, please vote to override this veto.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: I would like to respond briefly to the remarks of the Senator from Penobscot, Senator Trotzky, when he asks us which is more important — reelection or good management of state government. My concept of good management does not require turning people out of work who are capable of working.

I said earlier that I consider this to be an issue that had us to look face to face with our own vision of Maine and our own vision of our future. Let me give a specific example based on the other question that the Senator from Penobscot, Senator Trotzky, asked. I grew up in a very small community. There were 48 people who got signed diplomas in the graduating class which I graduated. One of the teachers in that school was a lady by the name of Marion Harmon, who had dedicated her whole life to teaching Latin at the school to which I went. And she was a very vital woman, she never married, her whole life was dedicated to teaching. I never really learned English grammar, as a matter of fact, until I had this woman for a teacher. She was a vital person, she knew all the baseball players, she knew a great deal about sports, she had an active and vital mind. She is a person to whom I give a great deal of credit to whatever good qualities I managed to garner as I went through my developmental years. She had to retire because she reached a certain age. My vision of Maine would not require that. Her mind was vital and what she had to contribute was great and the sense of humanity that all of us gained from her presence was important.

I think that if there is anything that means something about the State of Maine, it is that we are small enough still to judge each other as human beings. That we still are fortunate enough in Maine, unlike larger states, with which others may be more familiar, we are still fortunate enough in Maine to make judgments not on the basis of age and not on the basis of arbitrary classifications, but on the basis of what we have to give. And I do not think that good management requires turning people out of their jobs, who are capable of doing them. I think good management requires managers to look into the qualifications that the people have to bring and to keep them on the job if they have something to offer. So the examples he mentions, how to fire a teacher, strikes a very personal note to me and I think that we can add to the humanity of us all if we strike down one more arbitrary classification. One more way in which we avoid looking at a person and making a judgment about who he is or who she is. Instead, start looking at those people as individuals. That is good management. That is my vision of what Maine should be and I will hope that we will confirm that vision today and stick by our previous vote in this issue.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I have a little difficulty in analogies made by the good Senator from Penobscot, Senator Trotzky, when he speaks of the fact that all we are concerned about is our own re-election and yet he has stated that the labor unions are against it or have not come forward to speak on it, that the municipal officials have not come forward to speak on it. Well, that ought to be some sort of a sign. Then who is speaking for it, who is asking you to vote for this bill. To me obviously it is the elderly and I would ask you what impact do they have if we are trying to be self serving to our own reelection so to speak. Just what sort of an impact does the elderly have in one concentrated

group. I would say it is very minimal in comparison to the overall voting public, but I think on the other hand that they are trying to convey a message to this body and to this Legislature that they have done, particularly at the public hearing and, that is that maybe they just feel that, maybe their sons and daughters should not be mandated to retire at age 65 like they were forced to retire at 65, that they had no choice. Maybe they feel that their lives could be more productive if not forced to take a back seat in society. I think this is what the legislation is all about and I think that they see a very bad sign on the horizon if things do not change. When they retired perhaps they felt that they could not live with their pension as it was drawn up years ago and not counting on the rate of inflation and not counting on the fact that society was going to be the way that it is today.

I think this is a good pilot project for public employment. That we can judge by it as to what effect it is going to have. Now I think they are going to be favorable effects. In fact, I think it is going to be so favorable that very shortly we may, we may pass legislation that will take in the private sector, and I think that all of our citizens, irrespective of their age, may work until they please. It seems strange to me that we are fighting to get people off welfare and get them on the employment rolls and yet on the other hand we are striking people off when they are 65, telling them that they cannot work anymore, when they are able, willing, and willing to work. And I think that is what this is all about.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: I apologize for prolonging this, but I just want to touch briefly on something that the good Senator from Penobscot, Senator Trotzky, alluded to, just a little bit. He mentioned the merit pay comparison with State Employees and how difficult it was to get rid of people who are not functioning. I think for years the mandatory retirement issue has been a cop out and this is one of the main reasons I will vote to override the Governor's veto today. Because how many times have we all heard "Well this employee or that employee is not the best but they only have three years to go to retirement or they only have two years to go to retirement and you know — we will let them. . . ." well maybe now somebody is going to have to bite the bullet and say, "well they may not just have two years, maybe they are going to want to stay on until they are seventy. Maybe they are going to have seven or eight years to go and we won't tolerate this anymore."

I have no problems with supervisors, people with supervisory positions having to make difficult decisions. I have no problem as far as merit increase for State Employees where the supervisor has to rank the three people that work for him, if it was a just system which I do not feel that the old, the now extinct 60/40 system was fair because of the way it was set up. But I have no problem with that at all and I think that perhaps we will make supervisors and we will make administrators have to make that tough decision, have to stand the heat that they have in previous years, have been able to say "Well, we won't worry about this particular teacher or this particular employee because they only have a couple of years to go and it will be taken care of when they have to retire." But if we take away this mandatory retirement crutch that some supervisors or administrators have been using, maybe, must maybe, and maybe I am too idealistic also, but just maybe we will get rid of some of the dead wood that we do have in our society and we will make the supervisors be supervisors and make administrators be administrators and managers be managers rather than just paper shufflers. I

would hope that we would vote to override today and give this rather unique and novel concept a try and as it has been pointed out, we will be back here for quite a few days next year and if we run into more problems I think we can deal with those as they come along.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, I have some questions about this piece of legislation, which I hope someone who is more familiar with it than I am, will be able to respond to. It has to do with the employees of the University of Maine, The Maine Maritime Academy, and the Maine Turnpike Authority. I found that in rereading the bill, it seems to me that the language is perhaps a little bit more tortuous than was necessary, but I am sure that the drafters of the legislation had good reason to write it the way they did. At any rate, I would like to read one section of this Statute and then ask for anybody who would care to respond as to whether or not University employees are or are not covered, whether or not Maine Maritime employees are or are not covered and whether the employees of the Maine Turnpike Authority are or are not covered by this legislation. The language in the bill that is before us would read as follows:

"It shall be unlawful employment discrimination to discriminate on account of age, so as to terminate employment in compliance with the terms or conditions, of any bona fide retirement or pension plan, except where such termination involves an employee for the University of Maine, it is prohibited pursuant to Section 1006 or is prohibited pursuant to Title 30, Section 8 or Section 2157."

The PRESIDENT: The Senator from Penobscot, Senator Curtis, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President, the good Senator from Kennebec, Senator Pierce, and a group rewrote the amendment on this bill, and I have before me a notice from two people who have studied the bill, and they state at the end, "there is a very minor technicality in the bill that can be easily corrected in the next Errors and Inconsistencies Bill before the effective date of this legislation."

In other words there would be no effect at all. This legislation does not go into effect until July 1, 1978 and while I am on my feet, I might simply say that if you noticed in today's Portland paper there are eight people throughout the state on the Mandatory Retirement Bill that were interviewed and their pictures were in the paper, and every single one of them wanted the Mandatory Retirement Bill and you do not very often see everybody in a paper, generally there is some diversions of opinion, but every single one wanted that in the paper.

As far as the good Senator from Oxford County, there is 33,000 people leave the State every year and 36,000 enter. Out of the 33,000 that leave, there is approximately 10 or 11 thousand of the younger people which are college graduates. Our percentage of unemployment is 9 percent, it is higher than the national average of 6.9 percent, but I do not feel that this is going to make much difference, as the good Senator from Kennebec, Senator Katz said. This is not going to make much difference on the younger people. Many of these younger people that leave the state, leave the state because they are not satisfied with any job that they can get in Maine, and they are not satisfied with staying here unless they rob, steal and what not, so maybe we are better off with some of those younger people not being here.

Now the older people coming in, fine, I think that we have nothing in this bill in regard to the private sector. That comes up at a further time, so I would hope that everybody will stick to the

good Senator Katz reading of the good Senators that voted for this bill last time.

Thank you very much and God bless you.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: Mr. President, I voted for every piece of legislation coming through this Senate that would benefit the senior citizens of this state. And I voted for Lifeline too and I would like the good Senator from Kennebec, Senator Katz, to read that Roll Call vote. I am sure on that Roll Call vote you will find his name as well as that of the good Senator from York County, Senator Lovell's name on the No vote on that.

Now this is a program I believe in, Sir, that is good for the senior citizens of Maine, but this bill, in my estimation, is taking the wrong course. We should not be saying you do not have to retire at 65, we should be saying that you have to retire at 60. This is the course we should be taking. And we should be providing out of that \$17 million an ample retirement system for these people to live on, so they could enjoy the State of Maine that they choose to live in. I was out of contact with the citizens of my constituency for the two weeks prior to the last vote, but I will tell you that I have heard from them the last two weeks. And two to one they are opposed to this piece of legislation.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President and Members of the Senate: I would submit that this is good legislation. I think that a person should be allowed to work, irrespective of his or her age. My dad worked until he was 75 and God willing, I hope to do the same. When I see these people in the hall of the Senate here today, some are senior citizens and I cannot believe that some of the others are senior citizens, as they do not look nearly that old, but they feel so strongly on this that they are up here doing their all so that this bill become a law.

The good Senator from York County mentioned the eight people who answered questions today. They range from Waldo County down to York County, they ranged from students up to retirees, and all eight to a person favor this type of legislation. If per chance there is an error in legislation, some minor change needs to be made, it can be made at a future session.

I sincerely hope you vote to override the Governor's veto.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, I do not suggest that there is an error in this bill. I would just like to know what it says. If I rephrase my question, perhaps somebody would answer it. Would passage of this bill permit or prohibit the following employers from having mandatory retirement plans for their employees?

- A. The University of Maine.
- B. The Maine Maritime Academy.
- C. The Maine Turnpike Authority.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, the intent of that language, most of which is repeated from the Human Rights Act and existing law, includes the identified employees into the provisions of this bill, and as such will apply the prohibition against mandatory retirement.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, I understand the answer, I think I would agree as regards the interpretation applied to the University of Maine employees. I am not sure why the Senator from Kennebec, Senator Katz, includes the Maine Maritime Academy and the Maine Turnpike Authority employees in his answer.

The PRESIDENT: The pending question before the Senate, is shall this bill become a law notwithstanding the objections of the Governor.

According to the Constitution, the vote will be taken by the yeas and nays.

A vote of yes will be in favor of the bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, S.; Conley, Curtis, Danton, Greeley, Hewes, Hichens, Katz, Levine, Lovell, Mangan, Martin, McNally, Merrill, Minkowsky, Pierce, Pray, Redmond, Snowe, Speers.

NAY — Collins, D.; Cummings, Farley, Huber, Jackson, Morrell, O'Leary, Trotzky, Usher, Wyman, Sewall.

22 Senators having voted in the affirmative, and 11 Senators in the negative, and 22 being more than two-thirds of the membership present, it is a vote of the Senate that this bill become a law notwithstanding the objections of the Governor.

The Secretary will present the bill to the Secretary of State.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I move reconsideration of our action and ask the Senate to vote against me.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that the Senate reconsider its action whereby it voted that this bill become a law notwithstanding the objections of the Governor.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President, I request a Roll Call.

The PRESIDENT: A Roll Call has been requested on reconsideration.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I pose a question through the Chair, if it is the simple majority needed on the voting of reconsideration?

The PRESIDENT: The Chair would answer in the affirmative.

In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call, please rise in their places to be counted.

Obviously more than one-fifth having arisen, a Roll Call is ordered.

A yes vote will be in favor of reconsideration. A nay vote will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA — Collins, D.; Hichens, Jackson, Morrell, O'Leary, Trotzky, Usher, Wyman.

NAY — Carpenter, Chapman, Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Huber, Katz, Levine, Lovell, Mangan, Martin, McNally, Merrill, Minkowsky, Pierce, Pray, Redmond, Snowe, Speers.

8 Senators having voted in the affirmative, and 24 Senators in the negative, the motion to reconsider does not prevail.

(At Ease)

Out of order and under suspension of the rules, the Senate voted to consider the following:

Senate Paper

Mr. Speers of Kennebec presents, Bill, "An Act to Consolidate the Time for Voting on Certain Initiated and Referred Legislation." (Emergency) (S. P. 611)

Approved by a Majority of the Legislative Council pursuant to Joint Rule 25.

Under suspension of the rules, the Bill read twice, Passed to be Engrossed, without reference to Committee, and ordered printed. Sent down forthwith for concurrence.

Communication Office of the Governor

July 12, 1977

To: The Honorable Members of the 108th Maine Legislature

I am returning without my signature and approval H. P. 1249, L. D. 1471, Resolve to Authorize the Conveyance of the National Guard Armory in Auburn to the City of Auburn.

This bill would require that the state convey the National Guard Armory in Auburn to the City of Auburn if the facility is "not necessary for further utilization as a National Guard Armory."

While I support increasing utilization of these facilities for the benefit of Maine youth and/or elderly and/or others in need, and while I do not support allowing these facilities to go unused or to have the law unduly restricted, I believe this bill should not become law for the following reasons:

1. I am advised that the National Guard has no present plans or intention to recommend conveying this facility. Although the budget which I submitted requested cutting funds to close armories which I was advised were not necessary, the Legislature restored those funds to the National Guard budget. Consequently, the bill is premature to the extent that no decision has been made, either by the Legislature or the National Guard, as to the advisability of closing this facility.

2. I am advised that if the State conveys the Armory, it would have to assume the burden of reimbursing approximately \$50,000 to the Federal government, yet this bill provides for conveying the facility free of charge.

3. I question whether the State wants to establish the precedent of giving away State property without at least adhering to a procedure which attempts to dispose of the property at a fair market price.

In summary, I support the purpose of increasing public access and utilization of these facilities. However, this bill sets a precedent which in fairness would require the state to offer the same free conveyance of State property to any and every community in which State property is located. If allowance is to be made for community contribution, then a formula should be established which takes all the equities into consideration and any State property should be disposed of pursuant to a uniform, consistent policy that we can live with in regard to every similar situation. In essence, there are still too many unanswered questions, and while sentimentally and emotionally I support the purpose, I cannot as Governor accept this approach.

I commend the Auburn Delegation for their concern, and I pledge to work with them and the Legislature during the next session to develop a procedure which would grant each community the same rights of use and purchase on an equitable basis that will serve the best interests of the community as well as the State.

I respectfully request that you sustain my veto of this measure.

Very truly yours,

Signed:

JAMES B. LONGLEY
Governor
(H. P. 1841)

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on File in concurrence.

The accompanying Resolve, to Authorize the Conveyance of the National Guard Armory in Auburn to the City of Auburn. (H. P. 1249) (L. D. 1471)

Comes from the House, with the following endorsement:

In the House, July 25, 1977, this Resolve, having been returned by the Governor, together with his objections to the same pursuant to the

provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Resolve become a law notwithstanding the objections of the Governor?'

103 voted in favor and forty against, and accordingly, it was the vote of the House that the Resolve become a law, notwithstanding the objections of the Governor, since two-thirds of the members of the House so voted.

Signed:

EDWIN H. PERT
Clerk of the House

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Snowe.

Mrs. SNOWE: Mr. President and Members of the Senate: I was disappointed to see that the Governor had vetoed this measure since the final plan that we passed here was a compromise between the Bureau of Military Affairs and National Guard and the City of Auburn.

We recognized that there were not any immediate plans for the closure of the Armory but the major impetus for any kind of vehicle this session regarding the Armory was because the Governor, had in fact, made a recommendation to the Legislature for the closure of three Armories; however, it was obvious that the Legislature was not going to support closing of any kind of Armory but Auburn felt that it was in a unique situation because it had a greater investment in the Armory than the State of Maine. The final plan that we did finally pass only stated that in the event the National Guard was no longer going to utilize the Armory or that it was going to abandon it, then the title of it would automatically revert to the City of Auburn, particularly since the investment that the City of Auburn has had was in the neighborhood of \$52,000.00 plus the land that the Armory is located on.

There is nothing to prevent or preclude the Legislature for setting up a uniform procedure to dispose of any kind of Armory in the next session of the Legislature, nor is there anything to preclude the Governor from submitting that kind of legislation but because Auburn was in a unique position we felt that we wanted to handle this situation this session particularly because there was serious consideration in conveyance of that Armory to the City of Auburn. The Bureau of Military Affairs had made several responses to the City of Auburn. They had asked the City of Auburn if they were interested in procuring that Armory and obviously the City of Auburn was interested; however, things changed since that time. The Appropriations Committee saw fit to reinstate the money to support the Hasty Memorial Armory. We recognized that position, we understood it and we feel that is fine; however we feel that we also should protect our future interest and that is what this bill represents. The City Council recently passed a Resolve that it would also reassure that in the event that the National Guard did abandon the Armory and the title did reverse the City of Auburn and that there was any federal equity involved, that the City of Auburn would assume that burden and would reimburse the Federal Government for its equity.

Therefore, I would urge your consideration on this matter and I would hope that you would override the Governor's veto.

The PRESIDENT: The pending question before the Senate, shall this bill become a law notwithstanding the objections of the Governor.

According to the Constitution the vote will be taken by the yeas and nays.

A vote of yes will be in favor of the bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, D.;

Collins, S.; Conley, Cummings, Curtis, Farley, Greeley, Hewes, Huber, Jackson, Katz, Levine, Lovell, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman, Sewall.

NAY — Danton, Hichens, O'Leary.

30 Senators having voted in the affirmative, and 3 Senators in the negative, and 30 being more than two-thirds of the membership present, it is the vote of the Senate that this bill become a law notwithstanding the objections of the Governor.

The Secretary will present the bill to the Secretary of State.

Communication
Office of the Governor

July 12, 1977

The Honorable Members of the Senate and House of Representatives of the 108th Maine Legislature

I am returning on this date without my signature and approval H. P. 1891, L. D. 1618, An Act to Provide Legislative Oversight of Appropriated Fund Transfers.

As I have indicated to you previously, it is my feeling that the best leadership of state government requires a strong Legislature to complement, stimulate and direct a strong Executive Branch. With the passing of the Executive Council, we had the opportunity to reaffirm the separate roles of each of these equal branches of government. The administrative responsibilities were continued in the Executive Branch, placed squarely with the Governor, with reasonable discretion to exercise those responsibilities. It was clearly the Legislature's determination and intent, in keeping with the basic constitutional precepts and practical management needs of government, that it should continue to be concerned with establishing broad policy and general program intent. The Governor must have the authority for managing and administering state government, and should not be shackled with interference which creates cumbersome road blocks for exercising the freedom necessary to carry out the Executive Branch responsibility.

L. D. 1618 distorts the respective functions of the roles of the Legislative and Executive Branches. It would place a restriction on the Executive Branch to administer government programs in the most effective and economical fashion. The bill would result in a departure by the Legislative Branch from general policy areas into day-to-day operations of state government. This bill could cause appropriated fund transfers which are so important to efficient day-to-day operations of state government to be delayed when the Legislature is in session and to be delayed to even a greater degree when the Legislature is not in session. As an example, this bill could result in the possibility of the state not meeting payrolls on a timely basis as funds often must be transferred in order to be available to meet payroll obligations.

At the same time I realize the importance of keeping the Legislature aware of the Executive's actions in this area. It has been our custom and will continue to be our custom to supply the Legislative Finance Office with copies of the Financial Orders which authorize the appropriated fund transfers. Further, we make every effort to answer questions the Legislative Finance Office may have in this regard. It is our strong feeling that this is sufficient to keep the Legislature aware of our actions in this area, and that any additional Legislative interjection into the Executive role will only weaken the process and create serious management problems with respect to the separate Legislative and Executive Constitutional roles.

For these reasons, I respectfully request that you sustain my veto.

Very truly yours,

Signed:

JAMES B. LONGLEY
Governor
(H. P. 1842)

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on File in concurrence.

The accompanying Bill, "An Act to Provide Legislative Oversight of Appropriated Fund Transfers." (H. P. 1391) (L. D. 1618)

Comes from the House, with the following endorsement:

In the House, July 25, 1977, this Bill, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

98 voted in favor and 48 against, and accordingly it was the vote of the House that the Bill become a law, notwithstanding the objections of the Governor, since two-thirds of the members of the House so voted.

Signed:

EDWIN H. PERT
Clerk of the House

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Collins.

Mr. COLLINS: Mr. President, this bill came out of the Committee on State Government with unanimous Ought to Pass Report and failed through both bodies with very little debate.

It provides for legislative oversight of departmental transfers and it is a substitute perhaps, for the work that was once performed by the Executive Council. Small transfers of less than \$100,000.00 or 10 percent of a program's funding could be made without legislative approval; but this deals with larger transfers and I would like to call the attention of the Senate to some of the transfers that have occurred during the 1976-77 years.

For example, funds were transferred to and from 174 or 59 percent of the 294 General Fund accounts and 60 or 23 percent of the 257 Special Revenue accounts. Furthermore, there have been instances where there were transfers made to a particular program wherein there was no money funded or appropriated by the Legislature and it seems to me that this is not a small area of concern, but a large area of concern to the Legislature if it is to keep a handle on the appropriation process and this is the vehicle that is now available to us and I would hope that you would support overriding the veto so that the Legislature can have some oversight on transfers within departments.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, I shall vote to sustain the veto on this particular piece of legislation and I have several reasons for it.

The first one of which I think we ought to provide the greatest amount of flexibility as possible to the Executive in carrying out the duties which are properly presented to the Executive by the Legislature. When we and people of the state voted to abolish the Executive Council, we had to rewrite all of the laws of the state, almost every title in the state laws had to be revised to take out the Executive Council. In the process of doing that last year, we tried very carefully, I think, to avoid entangling ourselves any more than necessary, as a Legislature in the activities of the Executive Branch and every time that we were tempted to say, "there should be the Legislature written in the place where the Executive Council used to be, as a check and a protection upon the Executive Branch," we tried to say very carefully, "is it really necessary to have a check on the Executive Branch or can we provide that review and that check in some other means?"

I am concerned about several specific provisions in this legislation and I would point to the last section of the law which provides for the review by the Legislature of the subjects transfers in the Executive accounts, the subject transfers of course, being those which are \$100,000.00 or more or 10 percent of the agencies budget or more when the Legislature is not in session. The language provides, what I think is probably the intent of the Legislature, and that is that notification be sent to the Legislative Council, to the members of the Joint Standing Committee on Appropriations and Financial Affairs, and to the Legislative Finance Office, what troubles me is that the last paragraph says, "transfers recommended while the Legislature is not in Session shall also take effect 30 days after the date of submission of recommended transfer to the Legislature unless disapproved by majority vote of both Houses." Now, I am not sure if it is possible for the Executive to notify the Legislature that it is making a transfer of accounts by merely notifying the Legislative Council, the Appropriations Committee and Legislative Finance Officer, and if it is not possible to do that, it would seem to me it would be impossible for the Executive to make any transfers while the Legislature is out of session in the subject categories of \$100,000.00 or more or 10 percent of the budget or more unless the Legislature were called into Special Session. First of all, so it could be notified and secondly so it could decide whether or not it wanted to disapprove the transfer by majority vote of both Houses.

I think that the legislation is unnecessarily restricted. A suggestion has been made that perhaps the ability to transfer so far this year has been used unnecessarily by the Executive and I would suggest that it has long been traditional for transfers to be made, true, with the approval of the Executive Council in many, many instances. Some cases, this is the emergency necessity, partly to provide for the payment of personnel as the end of each fiscal quarter is reached. Partly this is to enable the Executive to increase the number of dollars that are available to provide state services for the people of this state by matching them with various federal programs, which might be administered through one or another agency which is slightly different than the one already funded in the Appropriations Bill.

It seems to me that the flexibility that is lost, the ability for the Legislature to thwart the Executive's intent, unintentionally perhaps, by this 30 day delay when emergency transfers are necessary is one that we ought to approach very carefully, and not write into the law unless it seems to be necessary and my review of the transfers of funds this year, since the Executive Council ceased to exist, would indicate that in every instance which has been called to my attention and which I have reviewed, (and I have tried to do this each time with Mr. Siebert, the State Budget Officer), there are perfectly reasonable and logical answers for why the monies were transferred.

Sometimes, it is true, that the Legislature enacts legislation and does not provide for any funding for the carrying out of the duties. I will give you one example. This year, we enacted a Sunset Bill. We provided that the state Auditor's Office shall review agency programs. We did not provide any funding, additional funding at all to the Auditor's Office. Now it seems to me that unless we provide some funding in the future to the Auditor's Office, somebody is going to have to make a transfer from apparently one account to another in the Auditor's Office to carry out the intent of that particular piece of legislation.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Collins.

Mr. COLLINS: Mr. President, I think that we recognize that there may be some difficulties

with the duties of the Executive with respect to transfers, but let me suggest to you a few transfers that were made under the present system.

For example, the Legislature appropriated no money for federal program administration and the account number 1201.4 in the Department of Education and Cultural Services. However, \$57,600.00 was transferred into this account. Likewise, the Legislature appropriated no money for Crippled Children's Services in the Department of Human Services. \$88,702.00 was transferred into this account. Another example is a transfer in the Department of Human Services of \$23,000.00 out of the Office of Dental Health Account. In this instance, the Department killed a legislatively established program by transferring the entire amount of the appropriation out of the account. Now, I recognize that the day-to-day management by the Executive must continue and that there are occasions when he must transfer money, but it seems to me that there are a couple of safeguards in this bill. One is that he can transfer without legislative approval up to \$100,000.00 or 10 percent of the particular program budget and further, I would remind you that any of the transfers that are not acted upon by the Legislature within 30 days are automatically approved. It seems to me that if the Legislature, through its appropriations process, wants to retain a handle on its programs and its funding, that this is a method by which it can be accomplished.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I simply wish to join the good Senator from Aroostook, Senator Collins and urge the Senate to override the veto.

It seems to me that when the Appropriations Committee sits in judgment and particularly when they labor over a budget from the middle of January, say, until the latter part of May, before it is presented to the Legislature, and all of the work that has gone into that budget, it would appear to me that the Legislature should take an action on that budget, it would appear to me that the Legislature would like what is in that budget to be carried out. I think that when we get into a situation where as was earlier stated, that \$34.4 million is, or \$23.8 million out of the \$34.4 million is just transferred in and out of accounts without anyone putting the stamp of approval on it, then I think we ought to have some sort of checks and balance, and I think that this bill, this law, provides that checks and balance and I think it gives certainly substantial reasons for having such legislation on the books.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, all three of these specific examples which were provided, were for amounts which were under \$100,000.00. I would assume in each case, then, that the appropriation which was transferred was more than 10 percent of the appropriation of the agency that was involved, or otherwise, this legislation would not affect that transfer at all. Assuming it was, and I do not know what the educational account number 1201.4 was with the \$57,000.00. The Crippled Children account and the Dental Health account, as I understand it, were transfers which were made in order to consolidate the budget process within Department of Human Services and to increase the number of federal dollars which might be made available so that the true legislative intent could indeed be carried out.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Farley.

Mr. FARLEY: Mr. President, I move the previous question.

The PRESIDENT: The Senator from York, Senator Farley, now moves the previous

question. Is it the pleasure of the Senate? It is a vote.

The pending question before the Senate, is shall this bill become a law notwithstanding the objections of the Governor.

According to the Constitution, the vote will be taken by the yeas and nays.

A vote of yes will be in favor of the bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, D.; Conley, Cummings, Danton, Farley, Greeley, Hewes, Huber, Katz, Levine, Lovell, Mangan, Martin, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman, Sewall.

NAY — Collins, S.; Curtis, Hichens, Jackson, McNally.

28 Senators having voted in the affirmative, and 5 Senators in the negative, and 28 being more than two-thirds of the membership present, it is the vote of the Senate that this bill become a law notwithstanding the objections of the Governor.

The Secretary will present the bill to the Secretary of State.

Communications House of Representatives

July 25, 1977

The Honorable May M. Ross

Secretary of the Senate

108th Legislature

Augusta, Maine 04333

Dear Madam Secretary:

House Paper 1273, Legislative Document 1501, Resolve, to Authorize a Study of the Judicial Pension System of the State of Maine, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

Fifty-two voted in favor and ninety-four against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Respectfully,

Signed:

EDWIN H. PERT

Clerk of the House

Which was Read and Ordered Placed on File.

House of Representatives

July 25, 1977

The Honorable May M. Ross

Secretary of the Senate

108th Legislature

Augusta, Maine 04333

Dear Madam Secretary:

House Paper 1476, Legislative Document 1709, Resolve, to Authorize the Maine Guarantee Authority to Issue payment in Lieu of Taxes to the Town of Pittsfield, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

Ninety-one voted in favor and fifty-three against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Respectfully,

Signed:

EDWIN H. PERT

Clerk of the House

Which was Read and Ordered Placed on File.

Communication
Office of the Governor

July 20, 1977

To: The Honorable Members of the Senate and House of Representatives of the 108th Maine Legislature:

I am as of this date returning without my signature and approval H. P. 1482, L. D. 1698, Resolve, Directing the Bureau of Taxation to Provide Credits for the Commuter's Income Tax Imposed by New Hampshire for the period January 1, 1975 to March 19, 1975.

While I fully understand and am sympathetic to the motivation behind this particular bill, which will relieve Maine taxpayers who have paid an illegal commuter tax to the State of New Hampshire, I cannot in good conscience support this measure for the following reasons:

1. The State of New Hampshire has created this problem by imposing upon some of our citizens an illegal commuter tax and I feel that it is unfair to ask that all taxpayers of Maine be asked to carry a financial burden that rightfully should be borne by the State of New Hampshire;

2. We have been advised by the Attorney General's Office that should this bill become law the State of Maine may be unable to recover from New Hampshire the \$120,000 in question since Maine taxpayers, reimbursed through our tax credit, will no longer be "aggrieved" by the State of New Hampshire. I could not in good conscience explain to all taxpayers of Maine that I have allowed \$120,000 of Maine's money to be spent to correct a problem created by New Hampshire, while New Hampshire might never be forced to pay one cent towards reimbursing Maine citizens or the State of Maine;

3. We must also be careful to avoid the unfortunate precedent that this bill would create. The State of New Hampshire has aggrieved certain citizens of our state, and those citizens have a legal remedy against the State of New Hampshire which our Attorney General is pursuing. For the Legislature to inject itself into this legal process by attempting to rectify the situation and compensate those citizens, thereby undercutting the legal process, would be unfortunate. While I am told that the legal remedy may be time consuming, I am advised that it is the appropriate course to pursue in order to rectify the situation so that Maine citizens may be compensated but not at the expense of the entire citizenry of the State.

While I understand the efforts of the sponsors of this bill to represent to the best of their abilities the frustrated and burdened taxpayers of their area, I must point out that the Legislature and this Governor have a responsibility to the taxpayers of this entire state, and I question the advisability of taking any action which I am advised may undermine the legal arm of the State.

While I am sympathetic to the plight of these taxpayers and while I can understand their frustration, I must urge the Legislature to retain their perspective in addressing this question by keeping in mind that the party responsible for this entire affair, the State of New Hampshire, should be the party burdened with financially solving this problem. I do not believe that it is a question of should the State help or assist. The question is when, and I am advised that the best answer is after the State has had the opportunity to pursue the legal remedies which are available to it on behalf of the aggrieved parties. For these reasons I respectfully request that you sustain my veto.

Signed:

JAMES B. LONGLEY
Governor
(H. P. 1848)

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on File in concurrence.

The accompanying Resolve, Directing the Bureau of Taxation to Provide Credits for the Commuter's Income Tax Imposed by New Hampshire for the Period January 1, 1975 to March 19, 1975. (H. P. 1482) (L. D. 1698)

Comes from the House with the following endorsement:

In the House, July 25, this Resolve, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Resolve become a law notwithstanding the objections of the Governor?'

One hundred thirty-seven voted in favor and seven against, accordingly it was the vote of the House that the Resolve become a law notwithstanding the objections of the Governor, since two-thirds of the members of the House so voted.

Signed:

EDWIN H. PERT
Clerk of the House

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Members of the Senate: I am not going to talk to any extent on this bill. I think you all know the merits of the bill. In all fairness to the people along the Southern area of the State of Maine who are unfairly taxed by the State of New Hampshire, and the court case which is now pending, whereas some were instructed, not officially, that they did not have to pay the tax, and others very dutifully went along and paid it and have since been double taxed, this is a fair reimbursement to those people. Hopefully the court will rule that the State of New Hampshire has to reimburse the State of Maine, but in all fairness to the people who have tried to be fair with our state I would hope that you would vote to override the Governor's veto.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is shall this bill become a law notwithstanding the objections of the Governor.

According to the Constitution, the vote will be taken by the yeas and nays.

A vote of yes will be in favor of the bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Levine, Lovell, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman, Sewall.

33 Senators having voted in the affirmative, and no Senators in the negative, and 33 being more than two-thirds of the membership present, it is the vote of the Senate that this bill become a law notwithstanding the objections of the Governor. The Secretary will present the bill to the Secretary of State.

Communication
Office of the Governor

July 19, 1977

To: The Honorable Members of the Senate and House of Representatives of the Maine 108th Legislature:

I am returning without my signature and approval H. P. 1680, L. D. 1874, An Act to Revise the Maine Tort Claims Act.

I have carefully studied this bill and the decision to veto it has not been an easy one. I un-

derstand that certain sections of this bill are very important to municipalities because these sections better define the areas of municipal, as well as state, responsibility and liability. Unfortunately, another part of the same bill contains the controversial proposal which would virtually extend blanket immunity for everyone who works for the State.

I cannot allow this bill to become law because of the following concerns relative to serious policy questions and practical problems, which I feel warrant reconsideration by the Legislature.

1. It seems that this extension of sovereign immunity to State employees for virtually all negligence where the damages are property damage, injury or death is contrary to the purpose of the original undertaking to eliminate sovereign immunity. Previously we made a policy decision to eliminate the defense of sovereign immunity in certain instances and provide the usual legal remedies for an injured party; yet this bill would have the effect of again reimposing immunity for a wide range of negligent conduct.

2. The Tort Claims Act, which currently is in effect, already establishes a greater degree of protection for State employees than existed prior to this legislative session. Up until the beginning of this Session, the State was completely immune from suit and State employees were completely liable for their negligence, just as their counterparts were and still are in the private sector. In response to this situation, the Tort Claims Act extended immunity to State employees in specific areas, including those areas involving discretionary judgment.

3. By extending immunity to employees for their own negligence, we are creating a special class of citizens who would enjoy the unusual status of not even being responsible for their own negligence. I question the justification for creating such a privileged class at this time, and I also question this extension as a matter of policy.

4. Do we want to risk the possibility of lowering the standards of conduct in State Government to the potential detriment of all other citizens? This bill could have that effect, and in that regard could be very costly and unfair to Maine taxpayers. I feel it is incumbent that we not act precipitously and that we take no drastic action without compelling reasons or justification.

5. This bill extends this unusual status of immunity only to State employees and does not extend it to local and county employees. I am advised that there is no policy justification for drawing this arbitrary line. On the contrary, I am advised that the only reason State employees are included to the exclusion of local and county employees is on the basis of political influence and lobbying power.

6. This bill also requires that the State defend the employee in situations involving negligence or alleged negligence, and also requires the State either to insure or indemnify the employee up to \$10,000, after which blanket immunity is granted. Currently, when deciding whether or not to defend and/or indemnify an employee, the State decides whether or not the employee was acting within the scope of employment during the time of the alleged negligence. Under this bill, the State no longer has the discretion to decide if the employee was acting within the scope of his or her employment and it is conceivable that the first lawsuit brought under this act will be against the State by an employee or employee organization seeking to compel the State to defend and indemnify or insure. In other words, the first taxpayer dollars under this act could be consumed in defending the State against lawsuits by employees who in the State's opinion were not acting within the scope of their employment.

7. My staff has researched to determine if there are instances under the current law where the State has failed to represent or indemnify an employee who was being sued because of alleged wrongs arising from the scope of the employee's employment. We are not aware of any instance where the State did not properly defend and indemnify the employee. The State's record in this regard has been very fair; I know of no instances where there has been abuse or neglect on the State's part. In short, under the current system the State already can do exactly what this bill would mandate, and I am advised that the State has in the past performed equitably and fairly with respect to protecting the rights of State employees.

8. There are also considerable insurance problems arising out of this legislation, and it is questionable whether or not the State will be able to purchase insurance, or purchase insurance at a reasonable, affordable price.

In summary, I have not been made aware of any justification at this time for creating this extension of immunity. The Tort Claims Act has not even been in effect one full month. In fact, this bill seems to be directly contrary to the approach of proceeding deliberately and cautiously with respect to eliminating the rights of our citizens as this bill would establish a special class of protected employees and grant them a privileged status not being granted to their counterparts in the private sector and in local and county government.

For these reasons, I respectfully request that you sustain my veto of this measure.

Very truly yours,

Signed:

JAMES B. LONGLEY
Governor
(H. P. 1845)

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on File in concurrence.

The accompanying Bill, "An Act to Revise the Maine Tort Claims Act." (H. P. 1680) (L. D. 1874)

Comes from the House with the following endorsement:

In the House, July 25, 1977, this Bill, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

140 voted in favor and 6 against, and accordingly, it was the vote of the House that the Bill become a law, notwithstanding the objections of the Governor, since two-thirds of the members of the House so voted.

Signed:

EDWIN H. PERT
Clerk of the House

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate: The Governor has pitched his veto around the same philosophical problems which I espoused when this matter was debated at length in this Senate.

However, this whole area of law is a balancing act. The demand of our state employees for a measure of protection has been presented in some form to every Legislature in the past 14 years. I feel that the compromise adopted by this bill is a fair compromise. Most of us are insured by our business organizations for liability, but this does not make us more negligent. No one likes to be sued, even when they have good insurance, and state employees remain liable for suit within the \$10,000.00 area in which they are not immune. The State itself will insure most of this exposure and when in-

surance cannot be obtained, the State will defend its employee when the negligence was in the course and scope of the employment.

Discussions between the Maine Insurance Advisory Board Office and Finance Commissioner O'Sullivan indicate that there are adequate funds for such insurance as is contemplated. This is consistent with our previous policy of opening up liability where insurance is obtainable at a reasonable cost.

There are other important things in this bill that must be considered. The Governor's veto creates an extremely serious problem for every municipality or Governmental entity in the State of Maine.

You will recall that we adopted the Maine Tort Claims Act last February after rather hasty action necessitated at the beginning of the Session because of action by the Supreme Judicial Court. We knew when we passed it that it was not perfect and we restored the immunity situation for the time being and opened up certain areas of liability commencing July first.

We asked the Insurance Industry to find out for us what they could insure and what it would cost. And they met our request and came back and gave us better words, better definitions and certain suggestions about improving the Act to make it insurable. The original Act created certain liability, substantial liability for a small town, especially, which is either totally uninsurable or not insurable at a reasonable cost. The purpose of this revision, the basic reason for it in the beginning, is to reduce the non-insurable areas to a minimum and the cost to a reasonable level. Failure to enact the amendment, leaves towns vulnerable to judgments far in excess of any reasonable ability to pay out of their own tax revenues.

One important area to think about here is the liability for what we call Existence Hazards of streets, roads, and other public ways. In some states there have been gigantic judgments in this area and we must more clearly define this area and have done so in this amendment. Another area that is important is every utility district. Public utility districts which are imperiled by lack of a pollution limitation. We have made provision that the liability applies here only to the sudden accidental type of thing. The longer range of slow pollution type of thing is something that I just cannot at the present juncture of the insurance industries work be insured by most of our utility districts.

So if we are not to jeopardize the financial security of our other governmental entity in the State of Maine, we have some overriding reasons in this area alone for overriding the Governor's veto.

I am sure there are others here who know the insurance side of this better than I, but I would certainly urge that we vote yes on the pending question.

The PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Mr. CHAPMAN: Mr. President and Members of the Senate: This bill is the result of a large amount of hours of intensive study on the part of the members of the Legislature and the insurance industry, legal profession and others.

The cost of insurance to the 497 individual communities will escalate substantially if this veto is not overridden. Being close to the insurance industry I am acutely aware of this particular problem and should this not pass, some communities will very likely find it difficult to get proper insurance, some possibly not at all and those that can will probably get it at a significantly higher cost. Further there is a great concern that a number of major insurance companies might feel that they must withdraw from the market place in this particular area of coverage, out of concern for the exposures that will exist, that are not accep-

table at any price, as far as they are concerned.

In terms of taxpayer costs the reduction in potential liability to both State and towns under this bill far exceeds the modest additional costs because of the immunity provisions for state employees for which the Governor has expressed concern. I urge the Senate to override this veto.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate, is shall this bill become a law not withstanding the objections of the Governor.

According to the Constitution, the vote will be taken by the yeas and nays.

A vote of yes will be in favor of the bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Levine, Lovell, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman, Sewall.

NAY — O'Leary.

32 Senators having voted in the affirmative, and 1 Senator in the negative, and 32 being more than two-thirds of the membership present, it is the vote of the Senate that this bill become a law not withstanding the objections of the Governor.

The Secretary will present the Bill to the Secretary of State.

Communication Office of the Governor

July 18, 1977

To: The Honorable Members of the House of Representatives and the Senate of the 108th Maine Legislature

I am this date returning without my signature and approval H. P. 1144, L. D. 1391, An Act to Provide a Uniform Basis for Recognizing the Right of the University of Maine Employees, Maine Maritime Academy Employees, Vocational-Technical Institute Employees and State Schools for Practical Nursing Employees to Join Labor Organizations.

I disapprove of this bill for several reasons:

1. I am advised that it is an attempt by one particular union, which has already failed to persuade the Maine Labor Relations Board of the merits of its unit proposals in hearings and appeals held under the State Employee Labor Relations Act, to subvert the purposes of that Act and to impose, by statute, bargaining units which competent professionals have found to be inappropriate.

2. It would set an adverse precedent for other special interest groups elsewhere in State Government to go to the Legislature to establish small fragmentary units for their own selfish purposes contrary to the provisions in the State Employees Labor Relations Act which state: "The State shall be considered as a single employer and employee relations, policies and practices throughout State service shall be as consistent as practicable."

3. I am advised that it would conflict with the Personnel Laws and organization of State Government by requiring that certain employees in the Department of Educational and Cultural Services are not State employees for collective bargaining purposes but would be covered by the collective bargaining law enacted for the University of Maine.

4. It would place employees in the same State classifications in different bargaining units, thereby creating a situation which could result in different terms and conditions of employment for employees doing the same work in different State agencies.

5. Because Maine Labor Relations Board

proceedings would be required to determine which groups of employees belonged in the three bargaining units created by this Act, I am told that collective bargaining privileges would be delayed for the approximately 400 employees which have already been placed in the seven State bargaining units.

6. I feel that it would increase the cost of contract negotiations and administration without resulting in a commensurate benefit to the employees affected, State administration or the citizens of Maine.

7. Finally, I believe this legislation is not necessary to ensure that the interest of the VTI faculty will be adequately represented in collective bargaining under the existing determinations made by the Maine Labor Relations Board.

For these reasons I hope that the Legislature will resist this first attempt to subvert the collective bargaining process by involving itself in the administration of the State's collective bargaining law which is the responsibility of the professional staff of the Maine Labor Relations Board. This is unnecessary and counterproductive legislation, and, if it becomes law, will only encourage other groups to resort to similar acts to achieve their means through legislative channels rather than through the orderly process under the State Employees Labor Relations Act.

Very truly yours,

Signed:

JAMES B. LONGLEY
Governor
(H. P. 1844)

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on File in concurrence.

The accompanying Bill, "An Act to Provide a Uniform Basis for Recognizing the Right of the University of Maine Employees, Maine Maritime Academy Employees, Vocational-Technical Institute Employees and State Schools for Practical Nursing Employees to Join Labor Organizations." (H. P. 1144) (L. D. 1391)

Comes from the House with the following endorsement:

In the House, July 25, 1977, this Bill, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

107 voted in favor and 38 against, and accordingly it was the vote of the House that the Bill become a law, notwithstanding the objections of the Governor, since two-thirds of the members of the House so voted.

Signed:

EDWIN H. PERT
Clerk of the House

The PRESIDENT: The Chair recognizes the Senator from Hancock, Senator McNally.

Mr. McNALLY: Mr. President and Members of the Senate: This is a case to me, that it seems that there has been a judgment by a certain board that has not allowed a Union to be called a unit. It is a Union that has been set up, that has had its wages all established, especially in the Southern Maine Technical Institute and was doing all right until they were put in with 3,000 other people. Their wages dropped and they were told that they could not receive any raise in pay due to the Hay Plan. It looks to me like it is a case of a unit not being allowed to be represented and that the ones that placed them in that position do not want to admit their mistake.

I am going to vote for the bill, it is something that I think they ought to have and I will read you just one mailgram that I received and it is

not from the Southern Maine Vocational Technical Institute. It says, "A vote to override the Governor's veto of L. D. 1391 is a vote of confidence in the VTI instructors. Please allow us to serve with professional dignity." Signed: Frederick C. Cushman, President of the Faculty Association of the Eastern Maine Vocational Technical Institute. Thank you.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is shall this bill become a law notwithstanding the objections of the Governor.

According to the Constitution, the vote will be taken by the yeas and nays.

A vote of yeas will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, D.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Jackson, Katz, Levine, Lovell, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman, Sewall.

NAY — Collins, S.; Hichens, Huber.

30 Senators having voted in the affirmative, and 3 Senators in the negative, with 30 being more than two-thirds of the membership present, it is the vote of the Senate that this bill become a law notwithstanding the objections of the Governor.

The Secretary will present the bill to the Secretary of State.

Communication

Office of the Governor

July 12, 1977

To: The Honorable Members of the Senate and House of Representatives of the 108th Maine Legislature:

I am on this date returning without my signature H. P. 1739, L. D. 1888, An Act Relating to Campaign Reports and Finances.

While I recognize that this bill is largely an amendment to existing law, and while I support tightening up the disclosure aspects of this law with respect to reporting the sources of money spent to defeat or promote referendums, I cannot sign this bill because of my concern that the existing law and to a degree this bill represent a threat to the ability of an independent candidate to have a reasonable chance to run for elected office.

The status of an independent candidate differs significantly from that of a party candidate. There are no party fund raising functions; there are no party staffs or volunteers available; and the independent does not have access to the resources within the party structure for purposes of deciphering and coping with detailed laws and regulations. However, I do not believe that any of these reasons should deter the establishment of stringent disclosure standards. Personally, I believe that what is important to the voter is knowing how much money a candidate receives from each source. I believe that arbitrarily establishing contribution limits, if not unconstitutional, at least is a harsh and severe inhibition against the exercise of an individual's freedom of choice and to a certain extent freedom of speech. More significantly, however, an independent, who does not have the best party resources available for fund raising and other assistance and promotion may have to rely upon a large number of small contributions and a small number of large contributions to have a reasonable chance to seek elected office.

Again, I realize that this bill does not establish the initial contribution limit. However, this bill does change the law with respect to contributions from one's family. Again, although the classification appears innocuous on

its face, it is an arbitrarily drawn line which may not have any effect on party candidates, but to the extent that it inhibits an independent from being able to draw upon resources to allow he independent a reasonable chance to compete with established party candidates, I cannot allow this bill to become law. Any measure that directly or indirectly detracts from or eliminates the possibility for non-party candidates to seek election is, I believe, contrary to the democratic process and contrary to the best interest of Maine citizens.

I joined in a suit which challenged the constitutionality of the original Federal law, and if I had to do it over again I would fight hard to challenge those provisions of our law which inhibit the individual's right to seek office and the voters' right to have a meaningful choice. I believe that better and more thorough disclosure laws could accomplish the purpose of allowing voters to scrutinize every source which finances a candidate's election, while allowing an independent candidate without the vast party resources to have a reasonable opportunity to seek elective office.

For these reasons, I respectfully request that you sustain my veto.

Very truly yours,

Signed:

JAMES B. LONGLEY
Governor
(H. P. 1843)

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on File in concurrence.

The accompanying Bill, "An Act Relating to Campaign Reports and Finances." (H. P. 1739) (L. D. 1888)

Comes from the House with the following endorsement:

In the House, July 25, 1977, this Bill, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

118 voted in favor and 27 against, and accordingly, it was the vote of the House that the Bill become a law, notwithstanding the objections of the Governor since two thirds of the members of the House so voted.

Signed:

EDWIN H. PERT
Clerk of the House

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, L. D. 1888 is a produce of work of the Joint Standing Committee on Election Laws. It is a big bill, it is an important bill and it does a lot of interesting things. It amends the Campaign Finance Law and certain provisions of Title 21, dealing with recount appeals in order to clarify the language, close the loopholes in reporting requirements, update laws to comply with recent court decisions, consolidate reporting schedules and eliminate obstacles to the efficient and just administration of the Statutes. It also provides a new chapter to correct the deficiency of present requirements reporting activities concerning the initiation, promotion or defeat of questions.

The Governor takes issue with one very small part of this bill, which deals with the limitations on the financial support that members of a candidates own family can give to the candidate as he runs for election. The Commission of Governmental Ethics and Election Practices was involved in the drafting of this legislation; and their concern was widely shared by the Committee on Election Laws, that the very controversial referendum in November is going to create a lot of problems for us, if the clarifica-

tions, the corrections, the cleaning up of the language in L. D. 1888 are not put into the law books. This one small portion of the bill which pertains to the contributions of the members family, really ought to be taken care of, the Legislature wanted to face this issue in January. He is concerned, and I will not give the merits of his concern one way or another, that an independent candidate could be put at a disadvantage because an independent candidate does not have the benefit of the fund raising activities of a political party. If the Legislature wishes to face this issue in January, it may do so, but the Committee on Election Laws felt that it was absolutely essential for orderly progress of referendum in November and for the beginnings of our election year that L. D. 1888 be enacted into law notwithstanding the objections of the Governor.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: My political party has been carrying a \$30,000.00 debt for about the last six years and we would be willing to share that asset that we have in running for office with anybody running for office, Independent or Republican who would like it.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate, is shall this bill become a law notwithstanding the objections of the Governor.

According to the Constitution, the vote will be taken by the yeas and nays.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Huber, Jackson, Katz, Levine, Lovell, Mangan, Martin, Merrill, Minkowsky, Morrell, Pierce, Pray, Redmond, Speers, Trotzky, Usher, Wyman, Sewall.

NAY — Hewes, Hichens, McNally, O'Leary, Snowe.

28 Senators having voted in the affirmative, and 5 Senators in the negative, and 28 being more than two-thirds of the membership present, it is the vote of the Senate, that this bill shall become a law notwithstanding the objections of the Governor.

The Secretary will present the Bill to the Secretary of State.

Communication

Office of the Governor

To: The Honorable Members of the Senate and House of Representatives of the Maine 108th Legislature:

I am returning without my signature and approval H. P. 874, L. D. 1067, An Act Relating to Workmen's Compensation for State Law Enforcement and Institutional Personnel.

This bill will provide special benefits to wardens, some institutional personnel, and law enforcement officers in the Department of Public Safety by giving them favorable treatment relative to the accumulation of sick leave and increased pay periods for workmen's compensation claims.

Also, I am advised that although these same provisions were repealed by the 107th Legislature, they were again enacted this session.

Because I feel that this bill is discriminatory and not justifiable at this time, I cannot allow this bill to become law and respectfully request that the Legislature in its deliberations consider the following concerns and questions:

(1) How can special benefits of this type be justified unless we are willing to do the same for other employees, both in the public and private sector?

(2) I feel that this bill would involve a dangerous and discriminatory precedent. I am advised that there are other groups of employees, with equally compelling cases, that could demand of future Governors and Legislators benefits similar to those contained in this bill.

(3) I do not believe that substantive changes of this nature should be made on a piecemeal basis. It seems that there are serious policy questions involved and that any changes should be the product of a conscious, well-thought out decision which we can accept and apply on a uniform, equal treatment basis.

(4) I am also advised that this legislation will entail considerable expense to the State. I question whether the spending of additional taxpayer dollars can be justified on the basis of this bill, not only in terms of fiscal responsibility but also in terms of what is right and fair.

(5) Last, but very significantly, it is my understanding that the very same benefits which are proposed in this bill are subjects appropriate for collective bargaining and in fact have been addressed in that manner by other states and even by municipal employees within Maine. I am extremely concerned with any legislation which subverts or emasculates the collective bargaining process, and I feel such continued efforts raise serious questions regarding the appropriateness of collective bargaining at the state level in a political setting.

Again, I feel this bill is discriminatory and inappropriate, and I respectfully request that you sustain my veto of this measure.

Very truly yours,

Signed:

JAMES B. LONGLEY
Governor
(H. P. 1846)

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on File in concurrence.

The accompanying Bill, "An Act Relating to Workmen's Compensation for State Law Enforcement and Institutional Personnel." (H. P. 874) (L. D. 1067)

Comes from the House with the following endorsement:

In the House, July 25, this Bill, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

129 voted in favor and 17 against, and accordingly, it was the vote of the House that the Bill become a law, notwithstanding the objections of the Governor, since two-thirds of the members of the House so voted.

Signed:

EDWIN H. PERT
Clerk of the House

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President and Members of the Senate: I hope that you will vote to sustain the Governor's veto on this L. D. 1067. As I understand the bill it would discriminate in favor of a certain group of state employees and that is discriminating in favor of them against other employees, but against employees generally. Employees that are covered by the Workmen's Compensation Act. The theory of Workmen's Compensation Act to compensate injured employees but also to encourage them to return to work when they have recovered from their injuries. As I understand, this bill, an employee, let us say he is making \$210.00 a week, they would receive Workmen's Compensation benefits of two-thirds of that amount,

which is \$140.00 a week. But as I understand this bill, they would also receive sick leave in addition thereto, so that by not working they would receive \$210.00 a week, whereas if they worked, they would take home only \$180.00 or \$190.00 a week. So they actually would do better by not working and staying out of work, than by going back to work. So where is the incentive to return to work? I submit that the bill is not a good bill and I hope that you will vote to sustain the Governor's veto.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate: I have to disagree with the previous remarks that were made. It was definitely not my understanding of the bill as it went through the Labor Committee.

As I read the L. D., which I have before me, it takes a class of individuals who are basically assigned the duties of enforcing the Statutes of the State of Maine, such as the Department of Public Safety, Wardens of the different departments that we have and individuals whose job assignment it is to take care of inmates at our State Institutions and at Thomaston. As I read the Statement of Reference to sick leave, what it states is that sick leave will not be charged against them if they receive an injury in relation to their work. This is not discriminatory legislation the fact that we presently give it to Fire Fighters. In the second section of the bill it says that Compensation for incapability to work shall be payable for the first three days of incapability except that firemen and then the amendment comes along to include the Law Enforcement Officers which I previously named. Under the present system they have a waiting period, which they presently have to take their sick leave that they have available to them to get them by for those days. This bill would put them under Workmen's Compensation from day one, from when the injury occurs.

I have read the veto message to great lengths and I cannot really understand the yo-yo reasoning of the Governor. One bill he comes in and says one thing, I refer to L. D. 777 which the Senate sustained earlier, in reference to Paragraph 1 for his reasons of vetoing the bill that he does not feel that we should differ between the public and private sector; but yet earlier he said that we should. So there is definitely a lack of consistency in his reasoning as to why he would oppose legislation. I think that we should remember these other veto messages in relation to state employees and compare them all when they come down, when in one bill he says one thing and in the next bill he says completely the opposite reasons for vetoing it. And again, I do not see them receiving a double payment; they presently have to take their sick leave and this will put them under Workmen's Compensation for what we consider basically kind of a hazardous duty, such as individuals that are enforcing the laws on the highways or individuals in the prisons.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President and Members of the Senate: I understand that sick leave can accumulate up to 90 days, a maximum of 90 days, they do not have to take their sick leave, as I understand it, but under this law they would receive sick leave benefits and yet that would not be charged against their accumulation of sick leave benefits.

The Senator from Penobscot says it is not discrimination, but I point out two ways it is. These and perhaps firemen would be the only employees who would receive Workmen's Compensation Benefits from day one rather than after three days of disability. Why the discrimination? But basically why should a State Trooper, who receives a broken leg in an auto accident be treated any different than a

salesman or inspector who receives a broken leg in an auto accident? I think this is discrimination; and I hope you will vote to sustain the Governor's veto.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: Sometimes in public life we get to use a word so much that it becomes destroyed. The word "discrimination" is not a dirty word, per se, it is a dirty word when it is done on a basis that is not reasonable and treats things that are equal in an unequal way without justification. What we are talking about in this case is certainly discrimination, it is discrimination that is saying we are going to treat differently those individuals who we ask to take on especially hazardous occupations. That to me seems to be a rational basis on which to discriminate, if it does not, then we ought to go along with the Senator from Cumberland, Senator Hewes.

We have in our Workmen's Compensation Law something I suppose similar in theory to the idea of insurance policies where you have to pay a certain amount at the beginning, maybe a hundred dollars, and that is to weed out the smaller claims and that lowers the rate in some cases. In Workmen's Compensation we have a similar program which allows three days of non-coverage, it is a similar sort of, I support, contribution by the party aggrieved. This bill says that for those individuals, that we in the public sector ask to take on special risks, like the policemen who go out and expose their life and their limb in the cause of protecting the rest of us, for those individuals we are not going to ask them to make that sort of contribution before they start collecting benefits. To me that is a reasonable distinction. If you agree with me that it is, if you agree with me that when we ask somebody to take on especially hazardous duties we ought to be prepared to pick up what may be the result of those hazardous duties, if unfortunately they come about, then you will vote to override the veto. If you do not think that is a reasonable distinction, then I suggest you vote with the Senator from Cumberland, Senator Hewes.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President and Members of the Senate: In response to the Senator from Cumberland, as to this three day period of not receiving compensation benefits, as I understand the Act — The Workmen's Compensation Act — after two weeks if the injury is serious enough so the injured party is out of work for more than two weeks, he or she then will receive the three days of Workmen's Compensation benefits for the first three days following the accident.

During the last two hours I have spoken with the Chairman of our Industrial Accident Commission, John V. Keaney for those of you who do not know, he has been President of the National Association of Industrial Accident Commissioners and he is not in favor of this particular legislation, whether it is unequal or whatever the Senator from Cumberland wants to call it, it treats a certain class of employees differently then, as far as I know, any other class of employees in the state, with the exception of the Firemen that the Senator from Penobscot mentioned and I think it is not a good precedent and I hope you will vote with the Governor and vote no on this particular bill.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I would only suggest that Commissioner Keaney run for the Legislature and exercise his powers to vote on these bills.

But secondly, I just want it to be known that people in this body think that I am against police. Well, I think that when police are in-

jured in the performance of their duty that they should be compensated and I do not think anyone in this Chamber relishes their job, that is the job of policemen, I certainly do not. But I think that when they are injured in the performance of their duty then they should receive compensation from the day they receive that injury and therefore, I would urge the Senate to vote to override this veto.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate: I would just point out one last fact that John Keaney did not, at any great lengths, and I do not believe he appeared as an opponent to this legislation at the Committee Hearing on it. He was there in case we had some questions to ask and never at any time did he point out to the Committee or to myself as a member of that Committee, that he was opposed to this legislation.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate, shall this Bill become a law notwithstanding the objections of the Governor.

According to the Constitution, the vote will be taken by the yeas and nays.

A vote of yes will be in favor of the bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Conley, Cummings, Danton, Farley, Jackson, Katz, Levine, Mangan, Martin, Merrill, Minkowsky, O'Leary, Pierce, Pray, Speers, Usher.

NAY — Chapman, Collins, D.; Collins, S.; Curtis, Greeley, Hewes, Hichens, Huber, Lovell, McNally, Morrell, Redmond, Snowe, Trotzky, Wyman, Sewall.

17 Senators having voted in the affirmative, and 16 Senators in the negative, and 17 being less than two-thirds of the membership present, the veto of the Governor is sustained.

Communication

Office of the Governor

July 22, 1977

To: The Honorable Members of the Senate and House of Representatives of the 108th Maine Legislature

I am returning on this date without my signature and approval H. P. 1387, L. D. 1676, An Act to Provide for Budgeting of State Expenditures of Federal Funds.

This bill would require the submission of a federal expenditures budget document to the Legislature by the Governor for the purpose of describing, identifying and funding State programs involving Federal funds. While I have been advised this would be a progressive step in the State budgeting procedure, I cannot endorse this particular legislative method of accomplishing that goal for the following reasons:

(1) The procedures outlined in this bill would place an administrative burden on the agencies who would be covered by the procedures, especially the Budget Office. Even though the Budget Office is provided with two additional staff persons this increase for this particular purpose is especially inappropriate in light of our consistent and repeated requests to the Legislature for additional positions in the Budget Office for duties other than that specified in this bill which would have been a greater service to State government than these positions.

(2) I have also been advised that federal programs that would be subject to this process are large in number, but as some are small in dollar value the burden might lessen agency interest in applying for available federal dollars. This process would be exceedingly detrimental in those areas where federal and state objectives are consistent and the burden is just an ad-

ded administrative cost and federal dollars replace the need for state dollars.

(3) I have also been advised that there is a question as to the appropriateness of designating the Treasurer of State as the recipient of federal funds rather than the Governor. Questions have been raised concerning whether or not the Treasurer of the State would have the executive authority necessary to carry out the purposes of the Federal law.

(4) Detailed legislative control of executive program objectives may not be in keeping with the Separation of Powers. This constitutional question has been raised in other states. The legislature should exercise its constitutional responsibilities to assure fiscal control but in doing so should not restrain executive initiative and managability by reducing the ability to act quickly in those instances where it would benefit the State.

(5) I have also been advised that this particular legislation has been based on model legislation which is being seriously considered nationwide. However, the best examples of this model legislation being incorporated into a state budget structure has been in states where there is a full-time legislature. Given the fact that the Maine Legislature sits for a very limited period of time and also has considerable amounts of budgetary matters to consider during that time period, I cannot endorse adoption of legislation that, even though its purpose may be laudable, is one more step toward a full-time legislature and also adds one more extremely time consuming task which may work to the detriment of the legislature's work in other vital areas.

(6) I have also been advised that requirements of this legislation include creating a large volume of information that is really not that useful and is duplicative of information that is easily available by reference to the Federal Catalog and to other available sources.

The fact that Maine taxpayer dollars will be spent in accumulating information that is available elsewhere, as well as developing a budgetary process that could be accomplished in a much more economical fashion, would alone justify my veto of this particular bill. However, as the result of the additional questions which were outlined above, I cannot in good conscience support this legislation.

On May 27th, I forwarded to many legislators my views on this particular bill as well as recommendations for either a cooperative study of this area or a modified budget document that would more closely reflect the federal funds spent within the State of Maine. I still feel that either of those proposals would be preferable to this attempt to make model legislation fit what I consider to be the unique Maine experience, and I am prepared to implement, with the assistance of Commissioner John O'Sullivan and the Budget Officer O. W. Siebert, alternative methods within the Executive Branch to more closely identify and monitor the use of federal funds. I feel that the adoption of these alternatives would be appropriate especially since they can be much more economical than this present legislation.

Therefore, for the reasons outlined above, as well as my pledge to explore alternatives in this area, I respectfully request that you sustain my veto of this measure.

Very truly yours,

Signed:

JAMES B. LONGLEY.

Governor

(H. P. 1851)

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on File in concurrence.

The accompanying Bill, "An Act to Provide for Budgeting of State Expenditures of Federal Funds." (H. P. 1387) (L. D. 1676)

Comes from the House with the following endorsement:

In the House, July 25, this Bill, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

117 voted in favor and 28 against, and accordingly, it was the vote of the House that the Bill become a law, notwithstanding the objections of the Governor, since two-thirds of the members of the House so voted.

Signed:

EDWIN H. PERT
Clerk of the House

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Morrill.

Mr. MORRILL: Mr. President and Members of the Senate: I will vote to override the Governor on this issue. Frankly, his veto of this bill confuses me. Just a few weeks ago we received a support from the Governor or from his Department of Finance and Administration entitled, 1976 Federal Funds in Maine. And I would like to read you a few paragraphs from that report. Talking now about Federal Funds. "It is important in the future to closely scrutinize Federal Funds for the following reasons:

1. Available Federal seed money dollars as they relate to potential future liability resulting from start-up programs dumped on the State in the future

2. Situations in which the federal priorities of bureaucratic approaches are not in accordance with State priorities felt to be in the best interest of the State, justification for closer scrutiny."

Further, and I quote, "Given the fact that increasing numbers of Federal Programs are in the form of block grants, the State will have increasing ability to control these dollars within her jurisdiction. For this reason, it becomes even more important for Maine to know how much Federal money she receives and where it is going. Increased and improved knowledge is essential with the additional responsibilities the states are being given by the Federal Government." Further, "if Maine is going to continue using State generated dollars to match Federal Programs, and even if the Federal Government contributes 100 percent, there are indirect and future costs to the State which often go unheeded. She must have a capability for improved decision making in this area based upon statewide priorities and criteria. Although the A-95 project review process within the State Planning Office has been tracking grants for some time now, the process has not been a well used planning tool. Authority to develop a comprehensive system does already exist, but it has not been implemented through the clearing house mainly because agencies have not been sufficiently interested." Lastly, and I continue to quote, "Increased interest in improved resource utilization has already become evident in both the Legislative and Executive in Maine. There is growing realization that currently available data is frequently unable to satisfactorily provide the answers needed to successfully resolve increasingly complex problems in the area of Federal funding. Maine should begin an organized effort to identify and define statewide goals and objectives."

And it goes on and on. I submit, members of the Senate, that the Governor has presented to us this report outlining, in detail on every page, the need to get a handle on state funds at the beginning of their implementation so that we can determine what their effect is going to be on the State Treasury down the road. I think this bill which he has vetoed is the first tangible, serious effort in this regard. It is going to

be difficult. It is going to take some time. Its implementation will cost some money, ultimately, in that regard. But hopefully save us some as we further define those priorities we want to meet and those we do not want to meet. I would hope this afternoon that we would vote to override the Governor and his veto.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I will be very brief, I know the hour is late and people are ready to vote on this issue, I just want to echo the remarks that the Senator from Cumberland, Senator Morrell and say that I wish that we did not have 22 vetoes today for many reasons. One of them being, so that if this was going to be vetoed it could receive greater attention on the part of the public, because there is no issue on which I have a stronger difference of opinion with the Chief Executive than the one that is presently before us.

I think that if this measure is long overdue on our part and if we are to make meaningful our obligation under the Constitution to spend the people's money, then we certainly have to know how all the monies that are being spent by the state are being handled. The State of Maine passed a General Fund Budget this year for the biennium of about \$830,000,000.00. This morning we passed a Part II Budget of about \$17,000,000.00. If you divide that in two you have a rough figure of how many general fund dollars we are spending for each one of the two years. And yet the total expenditures of the State of Maine when added up for the fiscal year that we are just beginning now with this month, will come to somewhere in the neighborhood of a billion dollars. A great deal of the difference is federal money and certainly when there is a possible overlap, we cannot on the Appropriations Committee and you cannot as members of the Legislature in general, make meaningful decisions unless we have the information. This is a bill to see that the information is provided to us and it does nothing more than that. I would certainly hope that this would be overridden and look forward to this added information being available to the Committee in the future. If we had the time and if it was not so late in the evening, I would go through some specific examples of where we in the Appropriations Committee this year have been thwarted in trying to exercise our will because of the lack of information. The only example I can give you is where we finally came up with it and I am sure there are many that we missed and this will help us to get that information on a regular basis.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I, too, wish to be brief, but when the Governor has made reference to the fact that the administrative burden receiving federal dollars, I would just like to point out two documents that take the administrative burden, and that is applying for the grants through the Federal Government. Now it is obvious to me that if this is an administrative burden then certainly we should be aware of the fact as to the dollars that are coming in from the Federal Government and how it is being utilized. I do not look upon it as being any additional burden which is already encumbered by the Department.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is, shall this bill become a law notwithstanding the objections of the Governor.

According to the Constitution, the vote will be taken by the yeas and nays.

A vote of yes will be in favor of the bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA — Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Levine, Lovell, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trozky, Usehr, Wyman, Sewall.

ABSENT — Carptner, Mangan.

31 Senators having voted in the affirmative and no Senators in the negative, with 2 Senators being absent, and 31 being more than two-thirds of the membership present, it is the vote of the Senate that this bill become a law not withstanding the veto of the Governor.

The Secretary will present the Bill to the Secretary of State.

Communication

Office of the Governor

July 22, 1977

To: The Honorable Members of the Senate and House of Representatives of the 108th Maine Legislature:

I am on this date returning without my signature and approval H. P. 1230, L. D. 1475, An Act to Expand the Availability of Certain Social Services by Increasing Income Eligibility.

I support the following points made by Commissioner David Smith in advising me on this legislation, and I present them for your consideration:

1. Title XX has no funds to implement this bill unless funds are diverted from the low income individuals now being served by the program and given to people who have substantially higher incomes. The Department of Human Services has denied many requests for additional monies for poor families because funds are not available and have even supplemented the Title XX Program with the Priority Social Services Program because of the lack of Title XX funds. To provide welfare benefits to a family of four with an income of \$14,872.00 a year is inappropriate when we cannot meet the service demands of the poor.

2. Although services are limited to 20% of the total services delivered for these additional eligibles, the number of people eligible for these services is huge. If we are going to 115% of median income over 50% of the people in the state are eligible. Many people, although eligible, will be denied services.

3. The Department put a fiscal note on this bill but it was ignored. It is impossible for them to administer the bill without additional resources. The only other alternative will be to not audit or manage this legislation and assume an honor system will not result in audit exceptions by the Federal government.

4. The Department has the administrative authority to do everything proposed by the legislation. If funds do become available they can implement the intent.

For the above reasons, I respectfully request that you sustain my veto of this measure.

Very truly yours,

Signed:

JAMES B. LONGLEY
Governor
(H. P. 1850)

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on File in concurrence.

The accompanying Bill, "An Act to Expand the Availability of Certain Social Services by Increasing Income Eligibility." (H. P. 1230) (L. D. 1475)

Comes from the House with the following endorsement:

In the House, July 25, this Bill, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after

reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

112 voted in favor, and 31 against, and accordingly, it was the vote of the House that the Bill become a law, notwithstanding the objections of the Governor, since two-thirds of the members of the House so voted.

Signed:

EDWIN H. PERT
Clerk of the House

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Snowe.

Mrs. SNOWE: Mr. President and Members of the Senate: L. D. 1475 would require the Department of Human Services to establish sliding fee scales for Child Day Care Services. At the same time it would expand income eligibility to include lower to moderate income families from participating or becoming eligible for day care services. I think this is a particularly important issue within this bill, since most of these families are borderline income situations, it would also provide income incentive and perhaps prevent them from being on welfare rolls in the future if one or both parents were prevented from working. I think often times we feel that middle income is high but \$10,000.00 to \$14,000.00 is not often enough when you have four children involved, and I think this way, when we can provide this kind of incentive to the middle income people, it is a step forward.

In the veto message it is stated that by offering services non-eligible people on a fee per service basis, it will also require decreasing services to low income people. However in the fiscal year 1976 the state failed to use nearly \$3 million of a \$16.2 million allotment under Title XX. In 1977 the latest estimates are that the State will fail to use more than \$4.5 million of a \$16.6 million allotment.

I think the pattern is clear. The state has consistently had substantial money available which could have been used to supplement fees and providing services to other non-eligible persons. Since this money is not presently used at all, it would not have to be diverted from serving Title XX eligible persons in order to provide for a sliding fee scale. Even if the entire 20 percent of services authorized under the bill for the lower to middle income people used by non-Title XX eligible persons in the current year the State would still have failed to use more than \$1 million of its total allotment. It was also pointed out in the veto message that the fee scale approach would create a large number of newly eligible persons and that many of these people would be denied services because of lack of funds and that the 20 percent limitation and the conclusion is that everyone should be denied services because not everyone would be able to be served. I suppose that we could make that same analogy for the free drugs for the elderly, or the Elderly Property Tax Relief Program. Perhaps these programs should be dismantled because not everybody eligible would be receiving these kinds of services. I do not think that anyone would argue that all families eligible either need or are likely to use these services available.

Another additional concern that was mentioned in the Veto message was that the Department could not administer the program without additional money. Well, first of all Title XX does provide for a 50 percent charge by the Department to pay for the administration of the contract programs. Currently \$500,000.00 is available under this provision and the Department is only using \$300,000.00. Secondly, the agencies will be producing most of the administration of the fee scale approach and little need for additional funds to the Department has been demonstrated.

One last concern mentioned in the veto message, was that the Department of Human Ser-

vices could do this administratively and that the fee scale approach could be done and could carry out the intent of this bill without having to have one passed. However, the Department has been telling the Legislature for more than two years that it was about to implement the fee scale approach and the only progress that was evident was a model project in one service area proposed earlier this year, and that project was rejected by the Federal Government because it failed to apply to the entire state and was criticized by service providers because of what was considered excessively high fees.

In summary, the Department has shown little enthusiasm for the fee scale approach at all. One result of this lack of enthusiasm is this bill before us. Roughly one half of other states are already using the fee scale approach. For these reasons I urge you to override the Governor's veto.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I just want to echo the remarks made by the good Senator from Androscoggin, Senator Snowe, I think this is one of the most important bills to come before the Legislature this session, dealing primarily with fee scales and dealing with Title XX funds.

There are many people who could take advantage of this program if the fee scales were adopted. Time and time again we have heard from the Commissioner of Human Services that this was going to be done and it is unfortunate because of the fact that now we get into the situation where we have to mandate legislation. By doing it, a number of our citizens throughout the state will be able to take advantage of these programs and I would urge the Senate to again vote to override.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is, shall this bill become a law notwithstanding the objections of the Governor.

According to the Constitution, the vote will be taken by the yeas and nays.

A vote of yea will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hichens, Huber, Jackson, Levine, Lovell, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trozky, Usher, Wyman, Sewall.

NAY — Hewes.

ABSENT — Katz, Mangan.

30 Senators having voted in the affirmative, and 1 Senator in the negative, with 2 Senators being absent, and 30 being more than two-thirds of the membership present, it is the vote of the Senate that this bill become a law notwithstanding the veto of the Governor.

The Secretary will present the Bill to the Secretary of State.

Communication Office of the Governor

July 22, 1977

To: The Honorable Members of the Senate and House of Representatives of the Maine 108th Legislature:

I am on this date returning without my signature and approval H. P. 910, L. D. 1158, An Act to Coordinate, Effectively Utilize and Comprehensively Plan the Service Needs of Maine's Children and Families by Establishing a Maine Council of Families and Children, County Councils on Families and Children and a State Office for Children and Families.

The stated purpose of this legislation is to improve the effectiveness and coordination of

publicly supported services to Maine's children and families. However, this particular bill attempts to accomplish that purpose by providing another bureaucratic mechanism for oversight of social programs rather than accomplishing the purpose by directly appropriating funds for assistance to needy children and families within our state.

I am advised by and support the conclusions of Commissioners David Smith, George Zitnay, and Sawin Millett that this particular legislation duplicates the task of existing programs and agencies within State government and is inconsistent with the major commitment of both this Governor and this Legislature to enhance the quality of life for Maine's children and families by direct assistance rather than by the creation of a new or expanding bureaucracy.

Specifically I would like you to consider the following points:

1. The Maine Human Services Council, as created by a past legislature, has the same mandate as this legislation with respect to all human services except services to older people. I have been advised that adoption of this legislation could possibly lead to more separate, categorical and narrowly defined programs and would set a precedent for other single interest groups to seek an office within the Executive Department.

2. I am advised that progress is already being made in this all-important area within the existing agencies charged with responsibility for matters relating to children. For example, the Department of Human Services, utilizing funds appropriated by this Legislature through the Title II Public Works Program, has established a 24 hour emergency referral service to serve children in need of assistance. The Department of Mental Health and Corrections has also shown initiative in the area of children's services by planning for the creation of a separate Children's Services Bureau within the Central Office, a separate juvenile services division within Probation and Parole and, through our contract agreements with mental health centers, a requirement that they be responsive to the needs of children both for evaluation and treatment.

3. Programs such as those listed above are to be accomplished with the guidance of and with input from the Inter-Departmental Coordinating Committee made up of staff from the Departments of Human Services, Mental Health and Corrections, and Education. This Legislature has asked that these three departments work together to further the interest of children in this state, and the departments plan to do so by utilizing the ICC.

4. In addition to the duplication created by this legislation as evidenced above, there are serious questions regarding both the structure of the State Office of Children and Families and the Maine Council of Families and Children which are mandated by this legislation.

The State Office for Children and Families is to be located in the Governor's Office and yet the appointment of a director who shall be directly responsible to the Governor can only be made after approval by the Legislature. This is inconsistent both with the location of the director in the Governor's Office as well as inconsistent with the practice of not including staff positions within the Executive Department among appointments needing legislative approval. Closer study of the laws indicate such important positions as the Directors of the State Planning Office and the State Development Office were not included in those positions requiring legislative confirmation and even the Director of the Office of Energy Resources, an analogous position to that now being considered, is not subject to legislative confirmation. I am aware of no reasons or justifications for departing from established policy.

In addition there is even some confusion as to

the appointment of the Maine Council on Families and Children since two current members of the Governor's Committee on Children and Youth are to be designated by the Governor as members of the new council. However, the Governor's Committee on Children and Youth was not reactivated this legislative session and the bill introduced to establish a permanent Committee on Children and Youth was not enacted. As of June 30 of this year any credited appropriation to the Governor's Committee on Children and Youth lapsed into the general fund and all members serving on the Committee have had their terms expire. Therefore there appears to be a legal question as to how the Governor could be mandated to appoint from a council that is no longer even in existence.

I would have to state that a variety of questions have been raised concerning the mechanics of this particular legislation. Even if those questions were legally answered, I feel that the major issue that must be faced is the duplication of existing services and as well as the creation of an additional bureaucracy in an area where the primary emphasis should be on direct service to our citizens rather than on a growth of programs, offices and councils.

I have been very pleased with the deserved attention that has been focused on the needs and problems of children and families by various groups both inside and outside of State government. From their recommendations much worthwhile legislation has emerged and I wish to see this emphasis continued both in the Legislative and Executive Branches. However I cannot in good conscience support a measure that duplicates the effort of many public and private agencies and workers without significantly providing direct assistance to our needy citizens, and I therefore respectfully request that you sustain my veto.

Sincerely,

Signed:

JAMES B. LONGLEY
Governor
(H. P. 1849)

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on File in concurrence.

The accompanying Bill "An Act to Coordinate, Effectively Utilize and Comprehensively Plan the Service Needs of Maine's Children and Families by Establishing a Maine Council of Families and Children, County Councils on Families and Children and a State Office for Children and Families." (H. P. 910) (L. D. 1158)

Comes from the House with the following endorsement:

In the House, July 25, this Bill, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

121 voted in favor and 25 against, accordingly, it was the vote of the House that the Bill become a law, notwithstanding the objections of the Governor, since two-thirds of the members of the House so voted.

Signed:

EDWIN H. PERT
Clerk of the House

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Collins.

Mr. COLLINS: Mr. President, we have discussed the problems of the elderly and many other identifiable groups in our society. This bill addresses the concern that we have with children. One-third of Maine's population are children under the age of 18 and if this bill is vetoed there will be no agency that is involved entirely with the concerns that we have with children and the family.

This legislation seeks to establish an office within the Executive Department that would concern itself with children's problems, that would coordinate the activities of other state departments that relate to children and would get input from various county organizations that would be set up under the terms of the Bill with respect to our dealings with children. It seems to me that with one-third of our population in such a category, that we can well afford to establish an office for this purpose. The office would be established as a very modest one, the money involved in the bill is only \$20,000.00 the first year, and \$30,000.00 the second year. There would be substantial input from the various county organizations that would be set up and they could monitor all the programs that are involved in the Department of Education, Mental Health and Corrections and other units in State Government.

I would hope today that you would see fit to override the Governor's veto, many of you may recall that the Committee on Youth that was established some two years ago, was terminated the first of July, so that if this bill does not pass, there would be no office that is concerned entirely with the Youth of our state.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Pierce.

Mr. PIERCE: Mr. President and Members of the Senate: I would like to pose a question through the Chair to the Chairman of the State Government Committee. There seems to be several things which the Governor brings up, some legitimate points here, one of which is that the state's, that two of the Council members are to come from the Committee on Children and Youth. Since I understand there is no longer a Committee on Children and Youth, could we find out where these people would then be appointed from or how this would be addressed?

The PRESIDENT: The Senator from Kennebec, Senator Pierce has posed a question through the Chair.

The Chair recognizes the Senator from Aroostook, Senator Collins.

Mr. COLLINS: Mr. President, the good Senator from Kennebec has raised a legitimate question that I do not have the answer for. At the time the legislation was evolved, there was such a committee and of course, it is now defunct. I would suspect; however, that this could be taken care of in due course. There are some 20 people who would be involved on the basic Committee and two of them were identified as having belonged to the former Committee on the Governor's Committee on Youth.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Pierce.

Mr. PIERCE: Mr. President and Members of the Senate: Although I fully agree with the intentions of this bill, it seems that clearly here, we are creating a new bureaucracy which can and no doubt, will grow in direct response to newly identified programs. It seems to me that the Legislature has already, in several areas, addressed programs for children. I know the Education Committee has evolved three Commissions, Education, Human Services, Mental Health and Corrections in some of the problems in their areas and I wonder if where the programs are in the Departments, and the funds are in the departments, if the answer to this question, or the best answer for us is to create a new independent super department, and increase the bureaucracy and in light of this, I would ask that you would support the Governor and sustain his veto.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: It is not very often I speak on legislation that I have had no input into, however, I think there is a legitimate concern here.

I would like to recite to the members of this body an experience that I had a few years ago. I

think it was 1965 or '66, at that time I was a member of this body and a certain young lady came to me and told me of an experience of her mother prostituting her and her sister. There was a gentleman that went to the State Prison for a year and the daughter wound up at one Stevens Training Home, but the other sister did not like the outcome at all so she went to the authorities and tried to bring some kind of pressure. The mother succeeded in having her put in the Mental Institution for psychiatric treatments and such; and it was found that she was perfectly sane, so this girl floundered around and looking for someone to assist her with a problem that she thought was going to occur in the future. She had two more sisters; one 11 and one 13, and she was afraid that her mother was going to start prostituting these as soon as she had an opportunity. I went to the Department of Health and Welfare at that time on Lisbon Street in Lewiston. I think it was the Division of Family Planning or Family Services, Children's Services or what be it, and I was told in so many words that "it is none of your damn business." Now, this mother became pregnant and she had not been living with her husband for perhaps a period of six or seven years and she was about to have a child and did not want it, was going to put it up for adoption. The Health and Welfare Department at that time, went to her husband, who was living in a community about 40 miles away and asked him to sign the papers and he said "I don't see why I should, the child isn't mine." However, he was threatened with a lawsuit and perhaps jailed if he did not, and have to pay up his back things, but I look at this as being something, will perhaps assist us or assist these children who have problems and I think as the good Senator from Aroostook, Senator Collins has stated, this is one-third of the population of this state and if we can do anything to help them and assist them with their problems, I am all for it.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I just wish to concur with the remarks made by the good Senator from Aroostook, Senator Collins and point out as he stated, that 80 percent of all Maine families, include children, and if this bill, before us, the veto is not overridden, there will not be any agency dealing primarily with the problems that this Bill addresses. I think it is extremely important, in fact, I look upon it as probably being one of the most important bills that we have dealt with today, including Part II so I would ask the Senate to give it serious consideration and vote to override the Governor's veto.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is, shall this Bill become a law notwithstanding the objections of the Governor?

According to the Constitution, the vote will be taken by the yeas and nays.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Collins, D.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Jackson, Katz, Levine, Martin, Merrill, Minkowsky, Morrell, O'Leary, Pray, Snowe, Trotzky, Usher.

NAY — Chapman, Collins, S.; Hewes, Hichens, Huber, Lovell, McNally, Pierce, Redmond, Speers, Wyman, Sewall.

ABSENT — Mangan.

20 Senators having voted in the affirmative, and 12 Senators in the negative, with 1 Senator being absent, the veto of the Governor is sustained.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, having voted on the prevailing side, I now move reconsideration to the previous question.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now moves that the Senate reconsider its action whereby the veto of the Governor was sustained.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: I know the hour is late but I do think that this is an important matter and it pertains to probably the most important responsibility of the State, which is to act as the ultimate guardian for our children, to look out for those who are not protected amply by the family circumstances in which they find themselves. It is a matter that I find of great personal concern knowing my own personal knowledge of many people whom I knew as I was growing up. I think that this is a small but important thing we can do for these people and I would point out that the Appropriations Committee took a stand in favor of this Bill when reported out and Leadership took a stand in favor of this Bill when they reported it out. I have stood before this Body before and urged positions that were taken by the Appropriations Committee because I thought it was important for us to work together and I would hope that all Members of this Body, particularly those Members that played a role in the previous special decisions on this Bill would reconsider their opinions. It was a close vote and I would hope that we would have an opportunity to turn it around and pass this Bill, notwithstanding the veto of the Governor.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of reconsideration please rise in their places to be counted.

Will all those Senators opposed to the Motion please rise in their places to be counted.

19 Senators having voted in the affirmative, and 10 Senators in the negative, the Motion to reconsider does prevail.

The PRESIDENT: The pending question before the Senate, is shall this Bill become a law notwithstanding the objections of the Governor.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Mr. PIERCE: Mr. President and Members of the Senate: I certainly just do want to make it clear that the intent again, I think is good, but for us to establish a Maine Council, establish County Councils, establish a new state office for children and families, I think I do have to agree with the Governor. We are creating a duplication of services, we are creating an additional bureaucracy right at the time when we should not, and I think if you look at the record of this Legislature, with child abuse and our Commissions that we got together for handicapped children and so forth, we are doing a great deal in this area and will continue to do it without creating a new bureaucracy.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President, I would like to draw your attention to one of the paragraphs in the Governor's message where he states that, "I am advised by, and support the conclusions by Commissioners David Smith, George Zitnay and Sawin Millet. This particular Legislation duplicates the task of existing programs in agencies within the State Government and is inconsistent with the major commitment of both this Bill and the Legislature to enhance the quality of life for Maine's children and families by direct assistance rather than by the creation of a new or expanding bureaucracy".

That is the reason I voted to sustain the Governor's veto and I hope that those who voted along with me will stand to their original position because we do not need the bureaucracy, we are having direct assistance now and it is done in a good way.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate, I share the concerns expressed by the Senator from Kennebec, Senator Pierce and the previous speaker, the Senator from York, Senator Hichens, about growth of bureaucracy and I think that any Member of the Appropriations Committee would certainly testify that I have been as rigorous in the tests that I uphold for continuance of bureaucracy positions particularly those not connected with direct delivery as any Member of that Committee, and so I come from the same philosophical concern and frankly, the issue raised by the two previous speakers has been one of concern to me; however, I would point out that the duplication referred to, is the duplication with the Human Services Council and they certainly do a good job. As a matter of fact, I might say, using one of the Governor's favorite grammatical constructions: "parenthetically," that the Governor in his original budget did not fund the Maine Human Services Council this year and that oversight which, of course, was illegal as it was done by the Chief Executive, was corrected by your Appropriations Committee and by your actions on Part I Budget.

I think that the problems of children is important enough and large enough a concern so we can treat it as we treat the problems of the elderly, and have a special consumer organization. What we are really talking about here, is an organization that is designed to see that all the myriad of government services are monitored by those who sit in the position of consumers, and this is an approach that we have taken and other states have taken in the last few years and it is working out very well, and the input that we get from the Maine Human Services Council is often times more accurate as to what the government is in fact, doing, than the information that we get from the government itself; and I suggest that we should single out the problems of children and youth because of our special obligations in regards to children as we sit as a State Government. We single out children as we treat them in a criminal law and we have dealt with that this session and this would simply allow us to deal with children in a separate way as far as the consumer advocacy group is concerned.

I think that it is a good Bill, if it has the affect of focusing special attention on the children in this State that are not getting the sort of love and attention and concern that those of us got when we grew up, I think that it is a \$20,000.00 of state money well spent. I would urge the Senate to reconsider its position.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Farley.

Mr. FARLEY: Mr. President and Members of the Senate: I wish that you would vote to reconsider and to override this particular piece of Legislation.

I would like to bring up one example. Maybe a lot of you who belong to service or fraternal organization, I can remember last fall, State Police Departments and Local Police Departments throughout the state went around to these organizations trying to solicit some help from members of those organizations and one case in particular, those people who come into Maine on vacation, and in some cases where the parents have gotten sick or in automobile accidents, local policemen have taken these children into their homes for two or three days until a relative comes down to pick them up, and I understand this Legislation here would require the Department of Human Services to be

more involved in this and I say it is a problem, state and local police and all fraternal and service organizations in their state to help them and I think with this piece of Legislation, that it would go to aiding that particular problem there.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate, is shall this bill become a law notwithstanding the objections of the Governor.

According to the Constitution, the vote will be taken by the yeas and nays.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Collins, D.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Levine, Lovell, Martin, Merrill, Minkowsky, Morrell, O'Leary, Pray, Snowe, Trotzky, Usher.

NAY — Chapman, Collins, S.; Hewes, Hichens, Huber, Jackson, McNally, Pierce, Speers, Wyman, Sewall.

ABSENT — Katz, Mangan, Redmond.

19 Senators having voted in the affirmative, and 11 Senators in the negative, with 3 Senators being absent, and 19 being less than two-thirds of the membership present, the veto of the Governor is sustained.

Paper from the House House Paper

Bill, "An Act Concerning the Referendum Date for An Act to Annex the Town of Otisfield to Oxford County." (H. P. 1856)

Comes from the House, Passed to be Engrossed without reference to Committee.

Under suspension of the rules, the Bill Read Twice without Reference to Committee in Concurrence.

Passed to be Engrossed in Concurrence.

Communication

Office of the Governor

July 22, 1977

To: The Honorable Members of the Senate and House of Representatives of the 108th Maine Legislature:

From: Gov. James B. Longley

I am this date returning without my signature and approval H. P. 369, L. D. 460, An Act Relating to the Payment of Registration Fees for Motor Trucks and Truck Tractors.

Although I recognize and appreciate the cash flow problems experienced by the trucking industry, I cannot support what I am advised is special interest legislation for a particular industry.

I am also advised that this Bill, if it became law, could also place the Secretary of State in an awkward position by forcing him to devise regulations which I am told could be discriminatory or arbitrary to the extent that certain size trucks or number of trucks may have to be excluded from special treatment.

Furthermore, and more importantly, who has the ability and/or the authority to determine that the cash flow problem is greater for a firm operating 1,000 trucks, 500 trucks, 50 trucks or even 5 trucks? This law seemingly forces the Secretary of State either to make this determination or include all trucks and thereby create an additional burden on his agency.

In addition to making a decision with respect to size of fleets that might qualify, the Secretary of State must then make a decision as to the necessity and amount of any surcharge. The question I must ask is "Are we in effect making a banker out of the Secretary of State for one special interest?"

Clearly, cash flow is a problem for all types of businesses. It is not the specifics of this bill which I find most unacceptable; rather, it is the

notion of providing one specific industry or business with a special break which we do not provide for other businesses and industries as well as private citizens.

For the reasons stated above, I respectfully request that this Legislature sustain my veto.

Very truly yours,

Signed:

JAMES B. LONGLEY
Governor
(H. P. 1852)

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on File in concurrence.

The accompanying Bill, "An Act Relating to the Payment of Registration Fees for Motor Trucks and Truck Tractors." (H. P. 369) (L. D. 460)

In the House, July 25, this Bill, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

99 voted in favor and 24 against, and accordingly, it was the vote of the House that the Bill become a law, notwithstanding the objections of the Governor, since two-thirds of the members of the House so voted.

Signed:

EDWIN H. PERT
Clerk of the House

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is, shall this Bill become a law notwithstanding the objections of the Governor.

According to the Constitution, the vote will be taken by the yeas and nays.

A vote of yes will be in favor of the bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Conley, Cummings, Curtis, Hewes, Jackson, Levine, Martin, Merrill, Minkowsky, O'Leary, Pray, Redmond, Snowe, Speers, Usher, Wyman.

NAY — Collins, D.; Collins, S.; Greeley, Hichens, Huber, Katz, Lovell, McNally, Morrell, Pierce, Trotzky, Sewall.

ABSENT — Danton, Farley, Mangan.

18 Senators having voted in the affirmative, and 12 Senators in the negative, with 3 Senators being absent, and 18 being less than two-thirds of the membership present, the veto of the Governor is sustained.

Communication Office of the Governor

July 22, 1977

To: The Honorable Members of the Senate and House of Representatives of the 108th Maine Legislature:

I am returning without my signature and approval H. P. 1268, L. D. 1496, An Act Authorizing Expenditures for Health Care Alternatives. I have been advised by Commissioner Smith of the following points, and I support them and ask that the Legislature reconsider its previous action.

(1) The appropriation of \$50,000 for each year of the biennium is inconsistent with Section 2 of the bill which reads in part as follows: "To meet the expenses of emphasizing preventive health care and home health care, the department is authorized to expend for each type of care not less than 1.5% of the total sum of all funds available to administer medical or remedial care and services eligible for participation under the United States Social

Security Act, Title XIX and amendments and successors to it."

"The total sum of all funds available to administer medical or remedial care" and 1.5% thereof, are as follows:

	FY	Expenditures	1.5%
75 Actual	\$66,998,742.57	\$1,004,981.14	
76 Actual	76,923,973.29	1,153,859.60	
77 Appropriated	81,687,501.00	1,225,312.52	
78 Requested	105,450,722.00	1,581,760.83	
79 Requested	119,299,486.00	1,789,492.29	

(2) In view of the fact that for home health care, the total State and Federal Medicaid Funds expended were:

FY 75	\$515,144.44
FY 76	607,499.61
FY 77 (11 months)	585,114.64

I note that the program appears to have a healthy growth within existing budgetary requests and does not need an additional appropriation at this time.

(3) I am in agreement with the intent described in the title of this Act and the statement of fact, namely that there is need to provide greater emphasis in a comprehensive range of preventive health and home health services rather than the present method of institutionalization of patients in need of health services. I am also in favor of Section 3 of the bill which requests that the Department of Human Services shall submit a report to the Joint Standing Committee on Health and Institutional Services prior to February 1, 1978.

(4) As an alternative to approving the funds appropriated by this Act, I am directing the Department of Human Services to make every effort to use existing resources within the Department to expand preventive health and home health care services. In addition, I am requiring that a report be submitted to me which I will transmit to the Health and Institutional Services Committee by February 1, 1978, defining all preventive health services now being conducted by the Department, the cost of same, source of funds, accomplishments resulting from such an investment and recommendations for future directions in preventive medicine that should be undertaken throughout the State.

For the above reasons, I respectfully request that you sustain my veto of this measure.

Signed:

Very truly yours,

JAMES B. LONGLEY
Governor
(H. P. 1853)

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on File in concurrence.

The accompanying Bill, "An Act Authorizing Expenditures for Health Care Alternatives." (H. P. 1268) (L. D. 1496)

Comes from the House, with the following endorsement:

In the House, July 25, this Bill having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

123 voted in favor and 7 against, accordingly it was the vote of the House that the Bill become a law, notwithstanding the objections of the Governor, since two-thirds of the members of the House so voted.

Signed:

EDWIN H. PERT
Clerk of the House

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is, shall this Bill become law notwithstanding the

objections of the Governor.

According to the Constitution, the vote will be taken by the yeas and nays.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Levine, Lovell, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman, Sewall.

ABSENT — Danton, Farley, Mangan.

30 Senators having voted in the affirmative, and no Senators in the negative, with 3 Senators being absent, and 30 being more than two-thirds of the Membership present, it is the vote of the Senate that this Bill become a law notwithstanding the objections of the Governor.

The Secretary will present the Bill to the Secretary of State.

(At Ease)

Communications Committee on State Government

July 25, 1977

The Honorable Joseph Sewall
President of the Maine Senate
State House

Augusta, Maine 04333

Dear President Sewall,

In Accordance with 3 M.R.S.A., Chapter 6 Section 151, and with Joint Rule 37 of the 108th Maine Legislature, the Joint Standing Committee on State Government has had under consideration the nomination of William B. Manheimer to the position of a member of the Maine Guarantee Authority.

After a public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 108th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Assistant called the roll with the following results:

YEAS:

Senators 2
Representatives 10

NAYS:

Senators 0
Representatives 0

ABSENT:

Senator Martin

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the committee that the nomination of William B. Manheimer to the position of a member of the Maine Guarantee Authority be confirmed.

Sincerely,

(Signed) D. F. COLLINS

Senate Chairman

(Signed) PETER J. CURRAN

House Chairman

Which was Read and Ordered Placed on File.

Mr. PRESIDENT: The Joint Standing Committee on State Government has recommended that the nomination of William B. Manheimer be confirmed.

Mr. PRESIDENT: The pending question before the Senate is: Shall the recommendation of the Committee on State Government be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 37 of the 108th Legislature, the vote will be taken by the yeas and nays. A vote of yes will be in favor of overriding the recommendation of the Committee. A vote of no will be in favor of sustaining the recommendation of the Committee. Is the Senate ready for the question?

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate: I am pleased today to rise in support of Governor Longley's nomination of William Manheimer to the Maine Guarantee Authority. Earlier today, the State Government Committee held a public hearing on Mr. Manheimer's nomination and after listening to testimony, all Members of the Committee who were present and voting recommended Mr. Manheimer be confirmed as a Member of the Maine Guarantee Authority. I think it is fair to say that the Committee felt that Bill Manheimer has excellent qualifications to serve on the Maine Guarantee Authority. He has wide ranging experience in business, law, commercial real estate, and banking and should provide the Authority with some very valuable expertise. I believe if confirmed today, Bill Manheimer, will be a fine asset to the Maine Guarantee Authority; therefore, Mr. President and Members of the Senate, I respectfully urge you to uphold the Committee's recommendation.

The PRESIDENT: Is the Senate ready for the question?

A vote of yes will be in favor of overriding the recommendation of the Committee.

A vote of no will be in favor of sustaining the recommendation of the Committee.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA — Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Levine, Lovell, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Troitzky, Usher, Wyman, Sewall.

ABSENT — Carpenter, Danton, Farley, Mangan.

No Senators having voted in the affirmative, and 29 Senators in the negative, with 4 Senators being absent, and none being less than two-thirds of the Membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of William B. Manheimer is confirmed.

Public Utilities Commission

July 22, 1977

Honorable May Ross
Secretary of the Senate
108th Legislature
Augusta, Maine 04333

Dear Secretary Ross:

Pursuant to the provisions of the Older Citizen's Lifeline Electrical Service Law, P.L. 1975, C. 583, at Section 85, the Commission herewith transmits its findings and recommendations to the Legislature.

Sincerely,
(Signed) RALPH H. GELDER
Chairman

Which was Read and accompanying papers Ordered Placed on File.

Order

An Expression of Legislative Sentiment recognizing that:

Rudolph Marcoux of Castine has retired as a member of the Board of Trustees of the Maine Maritime Academy after 17 years of dedicated service, (S. P. 606) is presented by Senator Wyman of Washington.

Which was Read and Passed.

Sent down forthwith for concurrence.

Papers from the House

Joint Order

Expressions of Legislative Sentiment recognizing that:

The Honorable Armand LeBlanc of Van Buren who has served his constituents faithfully and well during the 106th, 107th, and 108th

Legislatures, is retiring from service with the Maine House of Representatives. (H. P. 1855)

Comes from the House, Read and Passed.

Which was Read.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: It is late, and certainly we are anxious to leave and not to have long speeches on Joint Orders; however, as one who has served with the Honorable Armand LeBlanc on the Appropriations Committee and who has had a chance to observe his public service, I would like to commend him as he goes on to future endeavors and commend the Senators to vote for this Order in recognition of an outstanding public servant.

Which was Passed in concurrence.

Joint Resolution

A Joint Resolution In Memoriam

Whereas, the Legislature has learned with deep regret of the death of Normand J. Vermette of Auburn, Director of the Androscoggin County Bureau of Civil Emergency Preparedness, and a loyal and devoted public servant, (H. P. 1854)

Comes from the House, Read and Adopted. Which was Read and Adopted in concurrence.

**Communication
House of Representatives**

July 25, 1977

The Honorable May M. Ross
Secretary of the Senate
108th Legislature
Augusta, Maine 04333
Dear Madam Secretary:

Senate Paper 306, Legislative Document 976, An Act to Provide for the Prevention of Alcohol Abuse, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

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

Respectfully,
(Signed) EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File.

**Papers from The House
Enactor
Emergency**

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

An Act to Consolidate the Time for Voting on Certain Initiated and Referred Legislation. (S. P. 611) (L. D. 1899)

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, the closing days of last Session and since we recessed, we have discovered we have made a couple of errors.

One, an oversight and I consider one in judgement. This Bill, L. D. 1899 is to take care of the error we made and oversight and not understanding that we were creating a situation where two days for special elections would be required.

The error in judgement, I feel that we made, was in putting all of the Bond Issues out at the same time. I have never, never seen an occasion where the people of the State of Maine, at the time of the year when there will be the lowest possible voter turnout, we are asked to vote upon so many important Bond Issues. I sincerely feel it was an error in judgment. I now find that as a result of our act today, through this Bill, that the earliest we can have a Special election to vote on the Bond Issues, is

November 25th. November 25th is getting well into the winter season in the State of Maine. There is nothing very, very attractive on a special election where there are no candidates to pull people out to the polls, anyway. Consequently, I would ask the Senate to support an Amendment which is being prepared and which will be along shortly.

Mr. President, because of my grave, grave concern to delay final enactment on this measure. We are not talking about just another Bill for Otisfield, we are not talking about just a special purpose Bill for a community, or a special group. We are talking about what I consider to be some extremely important and potentially expensive Bond Issues going out to the people of the State of Maine, and if you feel as the Senate did last time, when we took this up, that it is wrong to put them all out at the same time, then I would ask this Bill be tabled momentarily until you might consider the adoption of an Amendment which would split up the Bond Issues into two packages. Part of the special election to be held no earlier than November 25th of this year and part during the primary election in June of next year.

(At Ease)

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, instead of requesting that this matter be tabled pending the reproduction of an Amendment, I guess I will simply say why I am going to vote against enactment.

The earliest that the referendum can be held is November 25th of this year. It also can be deferred into February. No candidates, just an issue, and a bunch of Bond Issues. Earlier this year, we discussed the advisability of trying to put up Constitutional Amendments and other questions at the time of the greatest possible voter turnout. We are sending out probably the largest, at least in amount, the largest amount of Bond Issues in my Legislative experience, all at one time, at a special election, in the beginning of the winter, where I predict the voter turnout will be inadequate to express the total opinion of the people of the State of Maine. I think that it is ill advisable; however, prudence will indicate that I not completely inalienate the small select group of friends I have in this Body by delaying the procedure so I will just express my sense of conscience and vote against enactment and let the rest of you carry the day.

This being an emergency measure and having received the affirmative vote of 22 Senators, and 5 Senators in the negative, was Passed to Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

**Papers from the House
Enactor**

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

"An Act Concerning the Referendum Date for An Act to Annex the Town of Otisfield to Oxford County." (H. P. 1856) (L. D. 1900)

Which was Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Out of Order and under suspension of the rules.

On motion of Mr. Speers of Kennebec.

ORDERED, that a message be sent to the House of Representatives informing that Body that the Senate has transacted all the business which has come before it and is ready to Adjourn Without Day.

Which was Read and Passed.

The PRESIDENT: The Chair would appoint

the Senator from Kennebec, Senator Speers to deliver the message to the House of Representatives.

The Chair recognizes the Senator from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. President and Members of this Humble Body, I am pleased to inform you that the House has transacted all the business before it in its regular current session.

The PRESIDENT: The Chair hears the message, and sincerely thanks the messenger.

(At Ease)

The PRESIDENT: The Chair recognizes the Senator from Kennebec Senator Speers.

Mr. SPEERS: Mr. President, I have delivered the message with which I was charged.

The PRESIDENT: The Chair hears the message and thanks the messenger.

The Chair recognizes the Senator from Waldo, Senator Greeley.

Mr. GREELEY: Mr. President and Members of the Senate: It is quite evident that the 108th Legislative Session is coming to an end, and to be sure that it takes effect immediately, I move this Senate adjourn sine die.

Therefore, at 8:27 p.m. on Monday, July 25, 1977 the Honorable Joseph Sewall, President of the Senate, declared the Senate of the 108th Legislature adjourned sine die.