

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**  
OF THE  
**One Hundred And Fifteenth Legislature**  
OF THE  
**State Of Maine**

**VOLUME VI**

**SECOND REGULAR SESSION**

House of Representatives  
March 10, 1992 to March 31, 1992

Senate  
January 8, 1992 to March 9, 1992

Tardy, Tracy, Vigue, Waterman, The Speaker.

NAY - Aikman, Ault, Barth, Butland, Carroll, J.; Duplessis, Foss, Garland, Hanley, Kutasi, Lipman, Look, Marsano, Marsh, Merrill, Ott, Pines, Reed, G.; Reed, W.; Richards, Savage, Spear, Stevens, A.; Stevenson, Tupper, Whitcomb.

ABSENT - Bailey, H.; Bennett, Bowers, Carleton, Crowley, Daggett, Donnelly, Duffy, Erwin, Gurney, Handy, Hastings, Heesch, Hepburn, Hichens, Jacques, Ketterer, Kontos, Larrivee, Libby, Luther, Mahany, McHenry, McKeen, Michael, Mitchell, J.; Nadeau, Nash, O'Dea, O'Gara, Parent, Pendexter, Pfeiffer, Pineau, Poulin, Rand, Ruhl, Salisbury, Skoglund, Small, Swazey, Tammaro, Townsend, Treat, Wentworth.

Yes, 80; No, 26; Absent, 45; Paired, 0; Excused, 0.

80 having voted in the affirmative and 26 in the negative with 45 being absent, the motion to table until later in today's session pending further consideration did prevail.

The following items appearing on Supplement No. 10 were taken up out of order by unanimous consent:

**REPORTS OF COMMITTEES**

**Ought to Pass as Amended**

Representative NADEAU from the Committee on Taxation on Bill "An Act to Protect Taxpayer Rights by Amending the Taxpayer Bill of Rights and Making More Equitable Tax Penalty and Appeal Provisions" (H.P. 1583) (L.D. 2233) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1260)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-1260) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-1260) and sent up for concurrence.

**CONSENT CALENDAR**

**First Day**

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

(H.P. 1663) (L.D. 2340) Bill "An Act to Restructure the Department of Administrative and Financial Services" (EMERGENCY) Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1267)

Under suspension of the rules, Second Day Consent Calendar notification was given, the House Paper was passed to be engrossed as amended by Committee Amendment "A" (H-1267) and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following item appearing on Supplement No. 11 was taken up out of order by unanimous consent:

**BILL RECALLED FROM LEGISLATIVE FILES**

(Pursuant to Joint Order - House Paper 1762)

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

Was read.

Representative Melendy of Rockland offered House Amendment "E" (H-1262) and moved its adoption.

House Amendment "E" (H-1262) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by House Amendment "E" (H-1262) and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the following matter: Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government for the Fiscal Years ending June 30, 1992 and June 30, 1993 and to Change Certain Provisions of the Laws" (EMERGENCY) (H.P. 1547) (L.D. 2185) which was tabled earlier in the day and later today assigned pending adoption of Committee Amendment "A" (H-1192) as amended by House Amendments "T" (H-1228), "N" (H-1219), "Q" (H-1222), "FF" (H-1252), "D" (H-1206), "L" (H-1216), and "U" (H-1230) thereto.

Representative Farnsworth of Hallowell offered House Amendment "Y" (H-1239) to Committee Amendment "A" (H-1192) and moved its adoption.

House Amendment "Y" (H-1239) to Committee Amendment "A" (H-1192) was read by the Clerk.

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

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: This is House Amendment "Y" but it is really about "WW" and "WW" has got to go. "WW" is conveniently lettered with letters that represent what it is about, which is about the work week. "WW" has to go because I don't believe that this House is ready to repeal collective bargaining but we might as well if we are going to let "WW" become law.

As you know, the function of this legislature is to receive and consider collective bargaining agreements and fund them when we consider it is appropriate. We have decided in the past not to fund certain parts of collective bargaining agreements and that sends people back to the table. That is what they did a year ago with the 7 percent increase and that is how we got the furlough days. "WW" is a part of the budget that has got to go. "WW", not only repeals that provision of the collective bargaining agreement, it also, in effect, repeals the subsequent

negotiations that they went through to deal with the fact that we didn't fund it. On top of that, I don't believe that it is clearly understood by everybody that it repeals a number of other things that were bargained. I don't know if people realized that it repeals, in effect, the differential pay for direct care mental health workers. Is that what we intend to do, get that specific about what we are going to undo about what has been bargained? I don't believe we want to do that.

I also do not believe that we want to move to the work week proposed in this amendment. I understand the concerns that people have that suggested that this was better than what we have but I think the principles involved are entirely too important. What the consequence is has been expressed in the handouts that you received yesterday, several pages with some charts in them, that show the number of hours and work days not worked that are given up by employees across state government if we go to a three hour reduction in the work week. As some of you may know, the three hours is normally from a 40 hour week but for many workers, it is from 37 hours, for example in the court system and some of the institutions, so we are talking about very few hours per week in some cases. Are we ready to cut out more than 50,000 days of employee work days in the Department of Human Services at a time when everybody knows that we have a tremendous crises in child protective workers? Are we ready to cut back a significant number of hours and days for the employees in law enforcement? I really don't believe that we are.

I think government is a joint venture that involves the taxpayers as well as the government in the form of the Executive Branch working with its employees to come to an agreement funded by us. We have broken our agreement and I think the principle is extremely important. This particular amendment, Amendment "Y" proposes a way of at least going back to the last negotiated agreement based on what we refused to fund a year ago. It does so by considering repealing tax exemptions. There has been a lot of talk about tax exemptions and I would just like to briefly state that yes, these are taxes that some people are not paying now but the question is also one of fairness. There is a sales tax in effect now but some people are not paying it. Is that so bad that we should consider whether those people should be given a break at this time in our economic situation? I don't think it is so bad to say that some of the non-profit organizations and churches, that we understand it is difficult times, but we think maybe we can no longer afford to give you in effect \$8 million dollars that I know the Appropriations Committee would not appropriate right now. If we were to say to the Appropriations Committee, you decide, would you give out these breaks if you were spending our money? We would not be doing that.

I also don't know that we would vote to give some millions of dollars to people who have retail vending machines, simply because we want to give them a tax break. For awhile, it was considered too difficult for them to administer. It is not too difficult now. Would we give a break to newspapers and short-term publications? Would we authorize the expenditure of millions of dollars? I don't believe so.

Amusements and recreations is the other item in here that I propose removing the exemption on. It is

discretionary spending. People don't have to do those things, those people that do those things do them in proportion to their income. I think with respect to amusements and recreations and newspapers and magazines, these things are discretionary forms of spending. The other two kinds of things — the vending machines is a break and I don't believe we would support that if it were passed today and non-profits is something that I simply don't believe we would be willing to spend money on if it were approached that way. So, I would seriously ask this group, this legislature, to consider the principles involved here with all due respect for all the work that went into this budget, I think that Section "WW" is seriously flawed, it has terrible ramifications for the future, it will destroy state morale in a way that we cannot bring it back, we simply cannot. It will also result in the deterioration of the quality of state government in a way that I don't believe we can repair.

I would ask you, please, to vote yes for "Y."

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

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: This is a tax increase, plain and simple, of approximately \$20 million dollars. Maine citizens will be paying \$20 million dollars more in taxes if this amendment is passed.

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

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: At this time, at the 11th hour, I think if we turn around and impose a tax on people who have not had a public hearing, who have not had the opportunity to come down here and tell us why they should not pay this tax, I think it is a little unfair. I think if we are going to go through the process and give them a public hearing, I think they should be entitled to that, but for us to do this at this late hour, I think it is a little unfair.

I like the concept, I think it is a good idea, but I think what we should do is have some public hearings on it.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I think what we have done to the state employees is a little unfair and they didn't have a public hearing. They weren't present in the workshops of the Appropriations Committee when the "WW" was proposed and put into the budget. It seems to me that the fair thing is for all the citizens of the State of Maine, not just one segment of the citizens, namely the state workers, but all the citizens of the State of Maine, should be asked to bear the burden of the financial crisis we are in. That is what I see this as doing and it does it in a way that is really as much as anything dealing with discretionary spending, we all have to pull in our belts a little bit and that is why I will support this amendment.

The SPEAKER: The Chair recognizes the Representative from South Berwick, Representative Farnum.

Representative FARNUM: Mr. Speaker, Ladies and Gentlemen of the House: I just had 600 people laid off at the navy yard down in Kittery which affects

three of my areas. No one has proposed taxes to get them back on the job or anything.

Representative Clark of Millinocket requested a roll call.

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

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

The SPEAKER: The pending question before the House is adoption of House Amendment "Y" (H-1239) to Committee Amendment "A" (H-1192). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 385

YEA - Adams, Aliberti, Anthony, Cahill, M.; Cathcart, Clark, M.; Constantine, Crowley, Daggett, Erwin, Farnsworth, Gean, Goodridge, Graham, Gray, Handy, Heeschen, Høglund, Holt, Hussey, Joseph, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Luther, Mahany, Manning, Martin, H.; McHenry, McKeen, Melendy, Mitchell, E.; Mitchell, J.; Norton, Nutting, O'Dea, O'Gara, Oliver, Paul, Pfeiffer, Powers, Rand, Richardson, Saint Onge, Salisbury, Sheltra, Simonds, Simpson, Strout, Tamaro, Tardy, Townsend, Treat, Wentworth.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Boutilier, Butland, Carleton, Carroll, D.; Carroll, J.; Cashman, Chonko, Clark, H.; Coles, Cote, DiPietro, Donnelly, Dore, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Gould, R. A.; Greenlaw, Gwadosky, Hale, Hanley, Hastings, Heino, Hepburn, Hichborn, Hichens, Jacques, Jalbert, Kerr, Kutasi, Lawrence, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Macomber, Marsano, Mayo, Merrill, Michaud, Morrison, Murphy, Nadeau, Nash, Ott, Paradis, J.; Paradis, P.; Pendexter, Pendleton, Pineau, Pines, Plourde, Poulin, Pouliot, Reed, G.; Reed, W.; Richards, Ricker, Rotondi, Rydell, Savage, Skoglund, Small, Spear, Stevens, A.; Stevens, P.; Stevenson, Swazey, Tracy, Tupper, Vigue, Waterman, Whitcomb, The Speaker.

ABSENT - Bowers, Duffy, Gurney, Marsh, Michael, Parent, Ruhlin.

Yes, 57; No, 87; Absent, 7; Paired, 0; Excused, 0.

57 having voted in the affirmative and 87 in the negative with 7 being absent, the motion did not prevail.

Representative Richards of Hampden offered House Amendment "AA" (H-1241) to Committee Amendment "A" (H-1192) and moved its adoption.

House Amendment "AA" (H-1241) to Committee Amendment "A" (H-1192) was read by the Clerk.

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

Representative RICHARDS: Mr. Speaker, Men and Women of the House: First Mr. Speaker, I want to thank you for imbuing the powers to be higher than us in giving this bill a rating of double A and hope that it is worthy of its mark.

I fully agree with Representative Farnsworth with respect to "WW." In this particular amendment to the budget, it also strikes part "W." However, we disagree on the method of getting there.

This bill does not impose a tax increase but it brings a series of cuts to the budget and, in coming up with a list of cuts to this budget, I went through a number of items that have been kicked around this House for the last year and most of the language was there, the numbers changed. What I tried to do is devise a series of cuts that would essentially affect us all, including myself. There are some items in here that everybody will dislike a little bit, probably some may like it more or they may like it less.

One of the items that is in here and it is something that I can tell you when I go back home, I am going to take a lot of heat for, and that is the closing of seven district courts. Those seven district courts that I will take the most heat for will be Bar Harbor, Lincoln and Newport. I will also take additional heat from the closing of the court up in Madawaska in that the person who owns both of those courts and leases them to the state is the same person. The other courts that this amendment proposes to close is Van Buren, Livermore Falls and Bridgton.

This bill also does some additional things. The additional things are is that it cuts Tree Growth to \$1.3 million. That is not quite flat funding, in fact, it gives an increase of \$200,000 more than with flat funding last year and that generates \$1.3 million. It also deals with the circuit breaker. It raises the threshold from 4.5 percent to 5 percent. In 1993, there will be a 15 percent increase over the previous year. Being fair, I think that this is also that should be flat funded so it is flat funded. That would generate \$2.5 million dollars.

There is a small item — the Maine Advocacy Services that generates by cutting a position of around \$45,000.

I will leave the most contentious for last, there is a cut in parks generating around \$283,063. The next one is the Maine State Retirement System — that is a 1 percent cut for non-invested employees with less than 7 years. There is also a dedicated fund with the Maine Jobs-Start Program that is a dedicated fund and that takes the money from that dedicated fund in the amounts of \$128,733 and puts it back into the General Fund.

Now, to list off things that are contentious, I have already mentioned one, the courts closings. The first one is the AFDC gap, that would generate \$3.2 million. Let me just give you a few facts with respect to the gap. I think we all realize that AFDC's inception was a temporary program, it was not supposed to be a long-term program. It was supposed to be a temporary program that gives single-parent families temporary relief and, hopefully, a message to get off the welfare rolls and to take part in some opportunities in life, to be able to bring back an income independently of the state into the home. By cutting the gap, you still have food assistance, heat assistance, Medicaid, General Assistance, WIC, and other programs in various communities that give other additional monies on top of these.

A few facts — we are one of only nine states nationally that has a gap. Our AFDC benefits are the 17th most generous in the United States, we are ranked about 29th per capita income before the recession began this year. With respect to the monies, with respect to this cut and what that means to the average family of three gets an average total of around \$13,000 per year from AFDC, Medicaid, gap,

food stamps and other assistance. By eliminating the gap, you are going to reduce that approximately by \$1200. Some of the statistics as to who benefits from the gap, you have about 9,200 adults out of around 23,000 adults — that's about 40 percent that currently benefit from the gap. By eliminating the gap, you reduce those people that are receiving the 40 percent down to the other 60 percent who are receiving the same amount, so it is basically an equity argument.

The definition of the gap — the gap is the difference you get between what has been determined to be the standard of need that is set by the state for a family and the actual AFDC check. Remember, by eliminating the gap, you are not getting rid of other assistance such as Medicaid and the other items that I mentioned.

The other item that is also contentious on here is AFDC for single parents that have additional children. They would not get an additional stipend if that single parent had additional children. Again, Medicaid is not cut, Medicaid takes care of the pregnancy. Food stamps and all the other assistance is still available.

The other contentious item that I have proposed in here is to cut from the legislature \$600,000.

The other major contentious item in here is the Maine Health Care Program and that would generate \$4.6 million dollars, a program that I don't feel, in my personal opinion, we can afford at this time.

The other contentious item is Growth Management. Growth Management would generate roughly \$930,000. As I understand it, in the process of making this cut, \$900,000 was put back in the budget at the cost of eliminating some child protective workers. If we are going to prioritize things that are more important, I can tell you that putting several planners back into Growth Management has less importance to me than having child protective workers out there protecting children.

The other contentious item we have already debated here in a single bill is MHCFC, that would generate \$1.7 million dollars. I want to remind you, and I think it made news last year some time about the increases in salaries with MHCFC. MHCFC had approximately a 119 percent increase from 1986 to 1991. That was the time when we had people making roughly \$30,000, that elevated their own salaries up to \$50,000, while everybody else was tightening their belts. To me, that is contempt for the system. With respect to MHCFC, I think the problems that MHCFC has is that it does not know its constituency, has not been responsive to its constituency and has been an impediment in the regulatory process.

The other contentious item, maybe, is the fact that the legislators coming back to the 116th session would take a 7 1/2 percent pay cut as well as a 7 1/2 percent in constituent allowance. In all these cuts that generate well over \$20 million dollars, I believe there is a savings of roughly \$73,000 after all these cuts.

In closing ladies and gentlemen, I want to share with you something that happened to me this weekend, I have several state workers in my district who work with DHS and other parts of state government such as BMHI. I met a friend of mine at the mall this weekend, he was there with his family and three children and he said, "What else do you want?" His wife came up behind him and said, "I've got a bone to pick with you." They have always been very friendly,

I have always tried to explain what is going on down here but it really hit me because here they are and I knew they were there just to blow off steam because that would amount to a 14 1/2 percent cut by the reduction down to 37 hours from 40. I said to him in response, "You know, we have been kicking around things to cut down in state government that are very contentious, we can't do it, but you are an easy target, you are an easy hit, and that is why we did it." In my estimation, that is why we did it because it is easy, because we have contentious things here that we cannot cut and have not been able to cut and I ask tonight, ladies and gentlemen, to look hard and fast at these things and to do the right thing. To reduce state workers down to 37 hours, I don't know what we are accomplishing, you want to demoralize the state force that runs this machine that we rely on to give services to our constituents and the state, don't take it off on their backs, take it off on the backs of the institution itself by restructuring.

In committee, I realize that we debated restructuring over and over again this year. It came at the last part of the session, it surprises me that it came at the last part of the session, I wish it had come up at the beginning part of the session, it would have taken a lot of these microscopic type bills, including some of mine, and held them off until the latter part of the session.

I am also disturbed on a lot of the restructuring bills that they never really considered the physical plant in which to do that. I think if we had dealt with these things earlier on in restructuring state government, we would have taken the physical plant and we could have accommodated, we could have changed things and we would have had time to do that. Time is short and the reality is, we don't have time to do that and, hopefully, the 116th can.

Ladies and gentlemen, I would ask that you support this amendment. I think this is doing the right thing. I know that it is a hard decision, I know the courts is a very parochial issue and it is very difficult for people to do. I can tell you that this hurts everybody a little bit. I ask your support on this amendment.

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

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

I would like to ask the sponsor of the amendment if he would please elaborate a little bit more on the 1 percent contribution of non-vested employees to the retirement system?

The SPEAKER: The Representative from Lisbon, Representative Jalbert, has posed a question through the Chair to Representative Richards of Hampden who may respond if he so desires.

The Chair recognizes that Representative.

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: The answer to the question is on Page 11, that's where the language begins, it is part BBB of this particular amendment. It deals with contributions of non-vested members on July, 1992. There is a series of sections and those state employees in various sections of statutes that it would affect including the State Police, the Inland Fisheries and Wildlife officers, members not vested after July 1, 1992, Marine Resources officers, forest rangers and Maine State Prison employees. What the 1 percent actually does is it is an offset to the amount of money that the state contributes.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I learned a long time ago to never ask a question unless you know the answer. I knew the answer to begin with.

That 1 percent was first proposed and was not to make up the difference with what the state would have to pay as an employer. Under the old proposal, I don't know if it is still in existence, 80 percent of that 1 percent would go into the retirement system which is badly in need of funds. Twenty percent of that 1 percent would go into the General Fund — if that isn't asking state employees a tax to help the General Fund — but there is one thing it says here on non-vested employees. Just a few short years ago, the federal government came out and said that any state employee who came in after a certain date, and I think there are quite a few members of the House under that category, you must now pay Medicare tax. What you are doing to the non-vested employees, which are the fairly new employees, is that you are asking them, not only to pay the Medicare tax which older employees don't, but you are also asking them to pay an extra percent which will not go into the retirement fund. If it was to go into the retirement fund and alleviate the part the state has to pay as an employer, I could see it but that is not what they want to do.

We have been talking about not cutting the hourly pay for the state employees but let's hit them some other way with some extra money out of their pockets for the retirement system. That's exactly what is being done. Remember one thing, don't talk one way and say, I am trying to save the state employees from losing money in their paycheck, but I will take it from you some other way. Be careful when you start taking more money out of new employees, they already pay Medicare tax. To anybody that is new in the House, look at your W2 forms and you will find that there is a Medicare tax which was paid for by the new employees. Now, which ones are they talking about? We have two categories of non-vested employees, we've got the old ten year rule and the new 7 1/2 year rule — is that fair to a new employee as opposed to someone who is vested after 7 or 10 years? We are trying to recruit employees to come into the state, to come to work for Maine, but we are saying there are two categories here. We have hit the non-vested employees hard enough as it is, they must now go to 62 years old before they can retire. If there is an early retirement, they take a higher penalty so I don't think that this is proper amendment and I would ask that you turn it down.

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

Representative RICHARDS: Mr. Speaker, Men and Women of the House: I don't if I mentioned that the 1 percent would generate \$3.2 million. You can take \$20 million versus \$3.2 million and share the rest with everybody else, I think the \$3.2 is certainly better than \$20 million.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative Ault.

Representative AULT: Mr. Speaker, Ladies and Gentlemen of the House: I do not support a tax increase and I do not support the way this budget document handles state employees. I am supporting Representative Richards amendment to cut programs and to use the money from those cuts to return state

employees to a 40 hour work week and to return them to their expected base pay for next year.

I recognize that some of these cuts are drastic but what has been proposed for state employees in this budget is drastic and not acceptable to me. I ask you to support this amendment.

Mr. Speaker, I request a roll call.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Chonko.

Representative CHONKO: Mr. Speaker, Men and Women of the House: I appreciate what the Representative from Hampden is proposing here but I can assure him we had all these items before us through our negotiations of putting this budget together. We compromised, some were majority votes, some were bipartisan votes and some were partisan votes but the fact of it is that we did take them into consideration and what we have in the budget today is what the decision of the committee was. I hope you will defeat House Amendment "AA."

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

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

The SPEAKER: The pending question before the House is adoption of House Amendment "AA" (H-1241) to Committee Amendment "A" (H-1192). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 386

YEA - Aikman, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Butland, Carleton, Donnelly, Duplessis, Farren, Garland, Greenlaw, Hanley, Heino, Hepburn, Lebowitz, Lipman, Look, Marsano, Marsh, Merrill, Murphy, Ott, Pendexter, Pendleton, Reed, W.; Richards, Spear, Stevens, A.; Tupper.

NAY - Adams, Aliberti, Anderson, Anthony, Bell, Boutilier, Cahill, M.; Carroll, D.; Carroll, J.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Farnum, Foss, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gwadosky, Hale, Handy, Hastings, Heesch, Hichborn, Hichens, Hogle, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Kutasi, Larrivee, Lawrence, Lemke, Libby, Lord, Luther, MacBride, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nash, Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Pineau, Pines, Plourde, Poulin, Pouliot, Powers, Rand, Reed, G.; Richardson, Ricker, Rotondi, Rydell, Saint Onge, Salisbury, Savage, Sheltra, Simonds, Simpson, Skoglund, Stevens, P.; Stevenson, Strout, Swazey, Tammaro, Tardy, Townsend, Tracy, Treat, Vigue, Waterman, Wentworth, Whitcomb, The Speaker.

ABSENT - Bowers, Gurney, Parent, Ruhlin, Small.

Yes, 31; No, 115; Absent, 5; Paired, 0; Excused, 0.

31 having voted in the affirmative and 115 in the negative with 5 being absent, the motion did not prevail.

The SPEAKER: The Chair recognizes the

Representative from Mexico, Representative Luther.

Representative LUTHER: Mr. Speaker, because of a computation error, House Amendment "BB" is withdrawn and I will be presenting "GG" in its proper order.

The SPEAKER: House Amendment "BB" is withdrawn.

Representative Duplessis of Old Town offered House Amendment "CC" (H-1245) to Committee Amendment "A" (H-1192) and moved its adoption.

House Amendment "CC" (H-1245) to Committee Amendment "A" (H-1192) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Duplessis.

Representative DUPLESSIS: Mr. Speaker, Ladies and Gentlemen of the House: This amendment simply restores the requested allocation to the Child Protective Services under DHS by removing it from the Growth Management Services under the Office of Community Development.

I am sure that there are towns and cities who will be using the \$900,000 or part of that money to offset their comprehensive planning bills and they probably would not want to think that they are using that money when it could better serve children of the State of Maine by keeping these children safe.

Just a brief history on what has been going under this area in Child Protective Services — back in the Fall, DHS came to the Human Resources Committee and asked for \$3 million dollars for a supplemental to finish out the year in order to service the needed children that they already have on their list. They had, I think, approximately a thousand children that needed to have some intervention and the \$3 million would help them in doing that.

The Human Resources Majority Committee voted not to accept the \$3 million that went to Appropriations. Out of the \$3 million, the Child Protective Services got \$700,000. I think that that was a very low amount considering their needs. So, here we are cutting down \$900,000 more and I think it is a unconscionable move.

I understand that there are some people in this body who do not agree with the way that things are handled under that Child Protective Services Division and I can understand that maybe you don't think they are doing things totally right but I can remember back in the early '80's, I think it was, this body agreed that we weren't educating our children very well and that we were going to reform education so we asked the public school system to be more innovative and creative. We did that by giving them some money. I think if we take money away from this area, just because we don't like what they do, is a punitive measure and I believe it will jeopardize the rights of children in the State of Maine.

I hope that you will accept the adoption of this amendment.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Ladies and Gentlemen of the House: First, I would like to make it very clear that the money involved here did not come from DHS's Child Protective Services. This money was in the budget as a match for federal coastal zone management money. If this amendment passes, we will not only have to return the unspent coastal zone management money, we will have to use this money to repay the coastal zone management money that has already been spent.

Second, this money that is now in the budget

would enable the state to fulfill its commitment that has been made to the towns and for the comprehensive planning projects. There were only 200 hundred towns in that process, 200 towns that were relying on the state to keep its word. The budget, as approved by the Appropriations Committee, with the unanimous report from the Energy and Natural Resources Committee, would enable the state to fulfill its commitment to those towns already in the process. It would not bring any new towns into the process or require any new study in the future. It would simply finish existing commitments.

Third, sound local planning is a prerequisite to good development. Sound local planning provides a consistency and predictability for local residents and developers. If we do not finish this commitment to the towns, if we do not encourage these towns to do this as our economy begins to recover, as we all hope it will, in fact we hope it has started by now, our towns will have to spend local funds to make up this loss.

I am going to go back to my first point before I close. This money did not come out of any other agency in the state, this money was in the budget for coastal zone management matching purposes and may be used only for planning type purposes. Before December, this money was supporting the Growth Management Program and when we passed the December budget, the money remained in the budget undesignated for any other purpose. If we put it to any purpose other than planning, we are going to lose it.

The SPEAKER: The Chair will order a vote. The pending question before the House is the adoption of House Amendment "CC" (H-1245) to Committee Amendment "A" (H-1192). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

21 having voted in the affirmative and 105 in the negative, the motion did not prevail.

Representative Nutting of Leeds offered House Amendment "DD" (H-1250) to Committee Amendment "A" (H-1192) and moved its adoption.

House Amendment "DD" (H-1250) to Committee Amendment "A" (H-1192) was read by the Clerk.

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

Representative NUTTING: Mr. Speaker, Ladies and Gentlemen of the House: This budget that I am holding up now that came out of Appropriations Committee — I have always felt that the budget should reflect this body's priorities and I feel strongly, as I suspect most of you do here tonight, that this budget does not reflect my priorities and I don't think yours either.

The budget that was passed out of committee, in my opinion, and as has been said earlier, hurts the working poor and many single parents trying to stay off welfare, while at the same time in my opinion, it doesn't cut the subsidies, the wealthy or people who are in educational programs in order to help them earn a very high income. In my opinion, our state government is still too top heavy. As one constituent of mine said to me last week, "We have cut some Indians" but there is still, in their opinion, too many chiefs.

I think the Lewiston Daily Sun last Fall when they published a list of all the people in state government that earn over \$50,000, some up to over a \$110,000 — people in my district and I suspect in yours were outraged at this list. I firmly refuse to



buy into the idea that we can't trim back the salary or the hours or the cost of administrating our state's upper level bureaucracy. The unanimous Appropriations Committee Report does not trim back these areas.

This proposed amendment cuts approximately \$15 million in order to reduce the work week to 39 hours, not 37. I am hopeful that other amendments can be adopted to cut the necessary money to remove the last hour of the work week reduction.

I want to briefly outline what this amendment proposes to cut, cuts that can be handled better than cutting single parents, state workers. First, it proposes to have a 10 percent pay cut for those earning over \$50,000.

Second, it suspends, temporarily for one year, the Maine Assessment Test. I support these tests but I believe we can forego these for one year. In fact, our local school district, as reported in today's paper, has developed their own tests for now, which incidentally they feel are better than the MEA's.

Third, this amendment proposes to cut \$400,000 from Tree Growth. I know that sounds controversial but it would still leave a \$1.2 million increase from last year in the amount of money spent on Tree Growth. In fact, this makes that area one of the biggest percentage increases still in the budget. It clearly defines and banks savings from an administrative cut, a bill we all voted for earlier, but to date, nothing has been done about it. It calls for a 1 percent overall cut in non-corp departments, school funding, revenue sharing, etcetera is left out. It makes the Maine Law School become self-supporting, something I have been told that the Appropriations Committee has requested be done and I feel that it is time to do it now. That may be drastic but the cuts proposed in the work week to me are even more drastic.

This amendment proposes to cut some of Maine Maritime Academy's funding but still would leave them with a \$5 million dollar per year subsidy.

This amendment would also extend the state's sales tax to large boats' docking fees. I want to take just a minute to explain this. Last summer, my family and I went to Boothbay Harbor for a few days and Jimmy Dean had his \$6 million dollar yacht tied up in Boothbay Harbor and I am glad he did. He comes most summers, I am told by the harbor master, but that yacht has a crane on the top of it that lowers another boat into the water, I guess for day trips to pick up sausage, I don't know, but that boat that they use for day trips is bigger than any boat that I've been in. In talking to the harbor master there, Jimmy Dean and the thousands of other large boats that come to Maine in the summer, a lot of them tourists, are exempt from paying a state sales tax on that docking fee. They pay a state sales tax if they dock anywhere else. I cannot see while we are proposing to cut state workers' hours back to 37 hours and we are the only state giving some of the richest millionaires in the world a tax break. It just doesn't make sense to me.

Also this amendment proposes to not fund a brand new set of computers for DHS plus it proposes not to fund a matching science grant to study whether or not we can build bridges with wooden trusses. I firmly believe that those two projects can wait and looked at to be possibly funded in the supplemental budget in January.

In summary, we cannot continue to subsidize

segments of our economy and segments of our upper level state bureaucracy while cutting the hours of state workers who, in my opinion, try to survive from paycheck to paycheck. The state workers are providing services, they are attempting to buy groceries and make house payments. The priorities in this budget, in my opinion, are not correct.

Please support this amendment to try to bring them into line.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Men and Women of the House: I would like to speak only to some parts of this. The first and most important part is the proposal to cut \$900,000 out of the Maine Times Technology Commission, this is the money which is a state match for the federal grant that you all read about in the paper last week. That grant would support, basically, Search and Development in Maine. The most promising fact was mentioned by Representative Nutting regarding research into the development of a Timber Trust Bridge Structure. This structure has tremendous potential for future job development in this state, absolute tremendous potential. If you think of economic development as a four-legged stool, three legs are education, infrastructure and high quality natural resources and the fourth leg is research and development. Research creates new knowledge, development turns new knowledge into new jobs. If we rescind this matching money, this commitment that we have already made to the feds, we will not only lose the grant that was awarded to us about two weeks ago, we will also lose our standing in the UPSCORE program under which that grant was made. That program is intended to stimulate research in states that have done a poor job of it so far. Maine ranks 50th out of 50 states in public support of research and development. Yet, research and development is an absolutely essential ingredient of any long-term economic development program. The whole point of this federal program, under which we have gotten this grant and for which we have to supply this match, is to bring Maine out of that position of being last in the country and a key element of economic development to develop within Maine the high quality of researchers and personnel who will transform inventions and new knowledge into new jobs. That will bring us out of the 19th Century, out of the 18th Century and into the 21st Century. If we hope to compete in a world economy in the future, we must do this.

I would also like to speak briefly about the Maine Maritime Academy. Maine Maritime Academy, along with the University of Maine and the Vocational/Technical Systems, have already experienced large cuts. Maine Maritime Academy is an extremely valuable educational institution in this state, not only for our maritime industry, but for our pulp and paper industry. We cannot expect them, while continuing to take cuts, to also continue to produce the high quality technically educated graduates that the State of Maine is going to need. It is, again, extremely shortsighted in my view to cut the Maine Maritime Academy any further.

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

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I wanted to speak specifically about the across-the-board cut on this bill but I do want to reenforce the position of the

prior speaker on the National Science Foundation Grant. We all have specific feelings about the Maine Educational Assessment Test, I personally feel that is for strong support of our general non-college bound students, it has done an enormous amount for girls in school, the identification of the gender gap, and other things. I know there is serious disagreement on that issue but I don't understand how anyone can disagree on the National Science Foundation Grant of \$10 million dollars for science and math in our schools. The United States and the state itself does not do anywhere near enough for our children in that area and, to me, for us to be in a position as finalists, to be even considering not funding that grant, would be a tragedy for this state.

I do want to speak though on the across-the-board cuts. I failed to get up earlier and I hope that we have a chance to reconsider the position we took on privatizing the Youth Center because, after sitting on my committee for five years, it is very appealing to talk about across-the-board cuts because it seems simple but it isn't. When you look at the language and the accounts that are off the table and will not be counted or taking across-the-board cuts, you look at General Purpose Aid, that is \$515 million out of the budget and Retirement Debt Service, etcetera, there are hundreds of millions of dollars that will be off the table when you take that cut. That is very few programs in small departments that will be taking disproportionate cuts. It will be in the mental health area, it will be in the corrections area and it is the worst form of public policy I think this legislature could endorse. I hope that you will reject this amendment.

The SPEAKER: The Chair will order a vote. The pending question before the House is adoption of House amendment "DD" (H-1250) to Committee Amendment "A" (H-1192). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

13 having voted in the affirmative and 94 in the negative, the motion did not prevail.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, there is a mistake in House Amendment "EE" and it will come out under "NN."

The SPEAKER: House Amendment "EE" is withdrawn.

Representative LUTHER of Mexico offered House Amendment "GG" (H-1253) to Committee Amendment "A" (H-1192) and moved its adoption.

House Amendment "GG" (H-1253) to Committee Amendment "A" (H-1192) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Luther.

Representative LUTHER: Mr. Speaker, Men and Women of the House: This amendment proposes a one year sales tax at the rate of 3 percent on most goods and services that are currently exempt under the Sales Tax laws. The tax applies to sales occurring between July 1, 1992 and June 30, 1993. The only remaining exemptions are sales of groceries, staples, sales of prescription medicines and sales that the state cannot tax under the Constitution of Maine, the United State Constitution or federal law, including federal food stamp purchases. The revenue generated is used to offset the removal of part "WW" which required a reduced state employee work week.

In a real break for the House, I will be brief because my throat hurts and I can't talk long.

Most of all, a tax should fall evenly on all citizens so I cannot buy the argument that to look at the tax exemptions is a new tax. People who are not now paying tax should be paying tax. We should all either pay this tax or if it is dreadfully unfair, repeal the tax so that none of us pay it. We should go only to a state income tax, the people who make the most money will pay the most money. The people who don't make very much money won't pay very much money. That would be much more fair than exempting certain people in certain businesses in certain places from paying a tax that everybody else has to pay.

To take the whole \$20 million dollars from 13,000 state workers is just simply and completely unfair. It is like shooting ducks in a barrel, they have no place else to go.

I want to tell you that this will not be the easy way out that you think it is. I am from a town that suffered a terrible strike, we are blood brothers to a town that suffered an even worse strike, you will get the demoralization from this and you will pay dearly for that. The least of that cost will be the fallout next November.

I urge you to pass this amendment, although I don't have any illusions about it, but I do urge you to pass it because it is fair.

Mr. Speaker, I request a roll call.

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

A vote of the House was taken and less than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was not ordered.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Barth.

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

I am not sure I heard the Representative from Mexico correct. I thought she said a 3 percent sales tax. In the bill, it says .3 or 3/10ths of a percent as I read it and I just wanted clarification.

The SPEAKER: The Representative from Bethel, Representative Barth, has posed a question through the Chair to the Representative from Mexico, Representative Luther, who may respond if she so desires.

The Chair recognizes that Representative.

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Kevin Madigan of the Taxation Department did the figuring on this for me and as I understand it, there is a 3 percent sales tax which makes up completely the \$20 million plus the cost of administering the tax. If there is a misprint in it, then as I understand it from Mr. Madigan, it is a 3 percent sales tax.

The SPEAKER: The Chair will order a vote. The pending question before the House is adoption of House Amendment "GG" (H-1253) to Committee Amendment "A" (H-1192). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

35 having voted in the affirmative and 77 in the negative, the motion did not prevail.

Representative Plourde of Biddeford offered House Amendment "HH" (H-1254) to Committee Amendment "A" (H-1192) and moved its adoption.

House Amendment "HH" (H-1254) to Committee Amendment "A" (H-1192) was read by the Clerk.

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

Representative PLOURDE: Mr. Speaker, Ladies and Gentlemen of the House: The reason I put this in is that we seem to be in conflict. This body has overwhelmingly supported the Bureau of Alcohol operations as far as the state operating it and it would seem only appropriate to restore the Director's position in that bureau.

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

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will vote against this amendment. This was an effort to consolidate and save one of those infamous administrative positions and I hope we won't be restoring administrative positions through the amendment process.

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

Representative LAWRENCE: Mr. Speaker, Men and Women of the House: I hope you will support this amendment. Over the last several months, we have been in the process of undoing what is 50 years of liquor policy in this state. In this time of crisis in liquor policy in this state, to go without a Director exclusively for alcoholic beverages, is extremely dangerous to the public out there when we are going through such catastrophic changes in our liquor policy in this state. I hope you will support this amendment.

Representative Whitcomb of Waldo requested a roll call.

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

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

The SPEAKER: The pending question before the House is adoption of Houses Amendment "HH" (H-1254) to Committee Amendment "A" (H-1192). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 387

YEA - Aliberti, Clark, H.; Daggett, DiPietro, Dutremble, L.; Farnsworth, Farnum, Goodridge, Gould, R. A.; Hoglund, Hussey, Kerr, Kilkelly, Lawrence, Macomber, McHenry, Murphy, O'Gara, Paradis, P.; Pineau, Plourde, Poulin, Powers, Reed, W.; Ricker, Sheltra, Simonds, Stevens, A.; Strout, Tammaro, Tardy, Tupper, Vigue.

NAY - Adams, Aikman, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Boutillier, Butland, Cahill, M.; Carleton, Carroll, D.; Carroll, J.; Cashman, Cathcart, Chonko, Clark, M.; Coles, Constantine, Cote, Crowley, Donnelly, Dore, Duffy, Duplessis, Erwin, Farren, Foss, Garland, Gean, Graham, Gray, Greenlaw, Gwadosky, Hale, Handy, Hanley, Hastings, Heeschen, Heino, Hepburn, Hichborn, Hichens, Holt, Jacques, Jalbert, Joseph, Ketover, Ketterer, Kutasi, Larrivee, Lebowitz, Lemke, Libby, Lipman, Look, Lord, Luther, MacBride, Mahany, Manning, Marsano, Marsh, Martin, H.; Mayo, McKeen,

Merrill, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nash, Norton, Nutting, O'Dea, Oliver, Ott, Paradis, J.; Paul, Pendexter, Pendleton, Pfeiffer, Pines, Pouliot, Rand, Reed, G.; Richards, Richardson, Rotondi, Rydell, Saint Onge, Salisbury, Savage, Skoglund, Small, Spear, Stevens, P.; Stevenson, Swazey, Townsend, Tracy, Treat, Waterman, Wentworth, Whitcomb, The Speaker.

ABSENT - Bowers, Gurney, Kontos, Melendy, Nadeau, Parent, Ruhlin, Simpson.

Yes, 33; No, 110; Absent, 8; Paired, 0; Excused, 0.

33 having voted in the affirmative and 110 in the negative with 8 being absent, the motion did not prevail.

Representative Kilkelly of Wiscasset offered House Amendment "II" (H-1256) to Committee "A" (H-1192) and moved its adoption.

House Amendment "II" (H-1256) to Committee "A" (H-1192) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Ladies and Gentlemen of the House: This amendment is an attempt to restore minimal fire tower service to coastal areas in the southern part of the state. I recently attended the Knox and Lincoln County Fire Warden and Fire Chiefs meeting that was sponsored by the Department of Conservation and met with some very angry people, people that are very frustrated about protection in their areas, people that are very concerned about the service that they consider vital not being there when the fire season comes around.

In order to maintain revenue neutral in this amendment, we have eliminated three administrative positions. The three administrative positions are the Forest Fire Planning and Training Coordinator, a staff Forest Ranger and a Forest Ranger III, who has been serving as the Fire Prevention Specialist. I have talked to a lot of rangers and folks are feeling that training needs can be met at least for a year by the folks that are already in the field. The concern of the fire fighters that I have met with is that, as the folks on the ground have been reduced, as a number of direct service people have been reduced, the number of administrative people have been increased. We have seen that happen over and over again.

I believe that this amendment is an opportunity for people to make a cut at the top. They could cut at the top and restore services where people say they need them. There were at least a hundred people that were at those two meetings and I know there were meetings down in Representative Lord's area and what we have tried to do is to restore towers in parts of the state where people have said the need was most important. Those towers include Mountain Hill, Mt. Hope, Mt. Ararat, Harris Mountain, Streaked Mountain and Blue Hill and the amount of time would be for 15 weeks so we are looking at a significant reduction of over 32 weeks, which was done in the past.

I would urge you to support this amendment.

The SPEAKER: The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: I listened very closely to the firemen and fire chiefs in the Knox/Lincoln and local areas. I have also talked with the Department and the forest rangers.

What this bill does is it will eliminate those three positions, as the Representative from Wiscasset, Representative Kilkelly, has stated. It would restore a \$121,000 to transfer over to keep these six fire towers open and that is what the fire chiefs and all the people involved in the areas would like to see during this transition period where they institute these surveillance flights. It is only going to keep them open part-time and when I say part-time, I mean 15 weeks per year during the worst of the fire season. These are mostly along the coast where it is kind of unique with its long peninsulas and other irregularities.

The towns that are involved are Blue Hill, Jefferson, Topsham, Buckfield, Sanford and Dixmont. These are real strategic locations for fire towers and they believe it is really worth the while. They believe that these positions aren't that critical, they have just been created lately, and it is a lot more important to have the people go out there in the field protecting the fire hazards in these densely populated and high valued areas.

It is true, if you look at the graphs, fire towers do not detect that many major fires but as I was talking with a ranger he said, "No, you don't see the number of major fires that have been detected but they do put out a lot that just gets started." A lot of smoke is reported to these people, they go to the rangers, they go to the spots and they find out that a lot of people have started fires illegally that could turn into major fires. So, there is a lot of prevention in this program that really doesn't get reported as major fires so there is a lot of good to what they are trying to do. The main thing is that the state is saving a lot of money by instituting these surveillance flights but, during this period, if they could just use some of that money to continue the fire towers for a period of time and see how that transition goes.

I urge you to adopt this amendment.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, My Learned Colleagues: I would be remiss if I didn't get up and speak on this. We have had two fire towers down in York County, one on Ossipee Mountain in Waterboro and the other one up in Mt. Hope in Sanford. I am not working for the Waterboro Ossipee Mountain tower because they figure there is a transmission interference because of the State Police radio tower up there but I am saying this, "An ounce of prevention is worth a pound of cure." For those of us who have lived through the '47 fire down there can't understand for the life of us why you want to shut down that tower. I have had many, many older people say, "What are you trying to do to us down there?" When we went through that, a lot of them had to build new homes. A lot of these places where these homes are, where you had one farm house, now you have 50 smaller homes. If you have a catastrophe — you know, last summer was pretty dry for awhile until it started to rain, we could have been in a real situation. Anybody who says that this can't happen again, they don't know what they are talking about. Look at what happened out in California — conditions are right, the same thing could happen here in the State of Maine again. I say, "An ounce of prevention is worth a pound of cure."

The firemen down my way were at a meeting of the York County Fireman's Association and the firemen

down there unanimously said, "We would rather have the towers in the summertime than some of the forest rangers." If you don't want to take the position up here, go down in the areas where the forest rangers are and eliminate them, but let's have these tower, please.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Reed.

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: Rising to oppose the twin towers of Kilkelly and Lord may call my judgment into question. However, I want to do it only briefly.

I have the greatest respect for the proponents of fire towers and my time on the Appropriations Committee I have learned more than I thought I could or wanted to about fire towers. Their support is unbelievable.

However, I must respectfully disagree with the characterization of these positions as administrative and I want to tell you briefly what they are, those that would be proposed to be eliminated.

The fire training officer runs a training program that has trained over 7,000 fire fighters in the last two years so I think that is a bit more than administrative and I think we ought to know that. It also provides continuous training for the ranger force and other field forestry personnel. The Fire Prevention Specialist makes sure that the bills get paid when your fire fighters in your towns fight state fires so I think that is an important function as well. The staff forest ranger is the safety officer for the Fire Control Division and handles all the financial grants for towns so I think we ought to be really careful about this and I hope that you will oppose this amendment.

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

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: There is saying, "Where there's smoke, there's fire" but as a matter of fact, if you are in the air looking for the fires, it is harder to see. For that reason, the Department of Conservation, starting on April 1st I believe, is going to be restricting burning permits. They can now burn during the daytime on weekends but starting in April, they are only going to be able to burn after five seven days a week.

People in my district that have to deal with fires and are supportive of the towers are very concerned that we are going to lose control because people honor that and they are willing to wait for the weekends to burn. They are not necessarily going to do that if they can only burn after five. They can only do that because we don't have the towers up. I think, although that regulation may not be affected by this bill, the consequence of not having the towers there is very great.

This bill is about fire control and I urge your adoption of this amendment.

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

Representative NUTTING: Mr. Speaker, Ladies and Gentlemen of the House: I wasn't going to stand up on this issue, but after hearing Representative Reed talk about the critical nature of these administrative positions, I had to stand up. I thought for sure that I had heard it all.

In talking to the fire chief for the town of Leeds — last summer, a train went through during

August when it was really dry, the train started three small fires next to the track. They were extinguished, the fire chief from Leeds filed the fire report to the Fire Prevention Specialist and he had the report returned to him. The Fire Chief in Leeds called up the Fire Prevention Specialist, supposedly a key position, and was told that he had to file a separate fire report for each one of these three fires that were set on the same day by the same train on the same track. He asked why and he said it helped the way things looked because it ended up being three fires rather than one.

I support this amendment. These administrative positions — we can do without them.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Gould.

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I just want to point out the fact that the Energy and Natural Resources Committee has gone over this quite extensively for two years in a row and we have voted, I believe, 11 to 2, to support the cut of the fire towers. It has been done up in the northern section and it has worked very nicely. They are finding the fires just as nicely and these three people do more than just sit behind a desk, they train volunteer groups to go out and fight forest fires. In Greenville, we have a group known as the "Hot Shots." These are high school kids that are well trained by these people and they go out and put out fires.

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

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: There is a fire tower within two miles of my home. That was closed just a few years ago and the people in that area were seriously disturbed for a short time but since then we have had, in my immediate neighborhood, three small fires, all of which were detected very quickly by overflight surveillance and they were put out quickly and we are very satisfied. I don't think you have anybody over there now who would even want to have that fire tower replaced.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: One of the things that I think has frustrated the fire chiefs that I have talked to the most is the fact that we probably cannot have one fire detection fire prevention and fire suppression system in this state because the state is very diverse. In the northern part of the state, there is very little urban forest interface. That means that there are very few people that are actually living within the wooded areas. Down in this part of the state, it is much more common. There are many reasons to have fires, there are reasons to have fires because folks are camping, picnicking, people are burning out in their backyard or whatever.

It is interesting to me that closing the fire towers one of the things that has happened is the 9 to 5 burning ban and that is something that really has concerned the local folks. The reason they are concerned about that is that your fire chief and your fire warden is going to have to meet with the citizens in your town and say, "I'm sorry, the state says you can't burn right now." The reason in the report that was filed with Appropriations indicated the reason for doing that ban was because of concern

at the beginning of this process as to whether or not they would be able to differentiate easily between what would be considered friendly smoke and what would be considered a problem. So, I would say that it must not be an equal service or they would not have needed to make that change.

I would urge you to support this amendment.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Greenlaw.

Representative GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: I didn't intend to get up but after thirty years in the service and now seeing anyone in a fire tower do much of anything other than talk over the radio about chocolate chip cookies and never having seen one put out a fire, I support the position of not adopting this amendment.

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Skoglund.

Representative SKOGLUND: Mr. Speaker, Ladies and Gentlemen of the House: One point that hasn't been brought up here tonight (or if it has, I missed it) was stress by the fire chief in St. George. The fire tower in Jefferson serves as a coordination unit for all the units in Knox and Lincoln County. When there is a fire, mutual aid has to communicate through the fire tower. This is my understanding of how it works.

The new high tech system just is not suitable, they are are not hooked up for it to communicate effectively. If the new system worked well, I am sure the fire departments in Knox and Lincoln Counties would be all for it. It does not work well, it will not work well, and my fire chief pleaded with me, "Do what you can to keep the fire tower in Jefferson." If it were not necessary, I don't think he would have told me so.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Paul.

Representative PAUL: Mr. Speaker, Men and Women of the House: I didn't plan on getting up tonight to talk about this but where there aren't many days left in this session and I am not running again, Mt. Hope happens to be in my district and the tower sets on a mountain west of Sanford and the fire tower person can see for a distance of about 20 to 25 miles, all the way to the Atlantic Ocean.

In 1947, I had a brother that had nine small children and lost his home because we didn't have fire towers and the fires got out of hand. We didn't have the up-to-date equipment. In 1950, I happened to be in Sanford and I helped fight forest fires all the way from Sanford to the Kennebunks and I would hate to see these fire towers be eliminated and unmanned by men and women during the 15 weeks just because we don't want to spend that kind of money and have somebody lose their home. The conditions and the economy is bad enough today without taking a chance on somebody losing their homes.

I hope you will vote in favor of this amendment.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I fully intended to stand up. So far I have voted against the elimination of the State Board of Education, I have voted against the elimination of the State Planning Office, I have voted against the transfer of some funds that I have never heard of, I have voted for a set of amendments which were designed to offset the disproportionate impact that state employees are receiving and I am

rising on this particular amendment to say that cannibalism has returned. I support fire towers. I don't know about these state positions, I really don't know what they do but when I don't know, I tend to vote no and I am voting no on it for that reason.

We recently restored \$10 million dollars to the State Subsidy Fund and I was glad about that but that money has to come from somewhere and it can't come from singular sources. I was going to save this little discourse until another tax was proposed and I was going to say that the value in that tax was that it defined the scope of the problem. I will tell you where the scope of the problem is taking me at this moment and I think we in this House and this state are taking ourselves away from any kind of tangible state tax policy and we are substituting for that tangible, reliable, consistent state tax policy off into a series of unrelated amendments. I will be picking and choosing but I had to stand up, both to stretch and to vent my frustrations.

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

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: I, too, intend to vote against this amendment. To help clarify Representative Norton on what some of these positions do, the staff ranger forester is a safety officer for the Fire Control Division which handles financial grants to the towns and is a liaison person with the Federal and State Emergency Management Agencies.

The other couple of positions I have not had time to fully find out what their responsibilities are but I do agree with the Representative, I do not think that we ought start finding positions within departments and eliminating them to fund these fire towers. It has been an issue ongoing for the Energy and Natural Resources Committee, we dealt with it long before this administration had taken over, we put language in the budget that required them to make a report back to the Energy and Natural Resources Committee.

It is my understanding, Representative Gould, that the Energy and Natural Resources Committee did deal with this issue this afternoon. They voted with three members opposing not to accept this amendment and I would hope that you would go along and defeat this amendment.

The SPEAKER: The Chair will order a vote. The pending question before the House is the adoption of House Amendment "II" (H-1256) to Committee Amendment "A" (H-1192). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

42 having voted in the affirmative and 78 in the negative, the motion did not prevail.

Representative Mahany of Easton offered House Amendment "KK" (H-1258) to Committee Amendment "A" (H-1192) and moved its adoption.

House Amendment "KK" (H-1258) to Committee Amendment "A" (H-1192) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: As some have already indicated here this evening, the state employees have been hit rather hard. While I commend the Appropriations Committee for its work, it has been a really tough job for them and I know they have worked hard and that their intentions are the best, yet I

think it is appropriate for us to explore ways to soften the blows to the state employees, thus this amendment. Briefly, (I promised myself I would never use that word so I will take it back) this raises \$15.7 million dollars against the \$20 million and it would limit the time that state workers would lose in a week to one hour and would leave us with a surplus over and above that of \$2.3 million. I am not going to explain that particular item to you as to why we have the surplus because it involves too much time.

What does it do? First of all, this amendment would repeal the sales tax exemption for short-term publications, I believe that is publications that come out in the time less than three months, so to put it in language that you understand, that's a lot of magazine and newspapers. It would repeal the sales tax exemption on water purchased for residential use, that is to say some of us go out and buy bottles of water at Shaw's or Hannaford Brothers or wherever and we drink that instead of tap water or whatever. It also extends the definition of taxable services to include amusements or recreation services.

As to the amount left over from the \$20 million after you subtract \$15.7, this amendment also provides that the state workers' MSEA can negotiate about that.

Having said that, I would like to first turn my attention to the extension of the definition of taxable services to include amusements or recreational services. I want to read to you (it isn't very long) from the final report of the Select Committee on Comprehensive Tax Reform that was brought out January 30, 1991. Some very eminent people served on that, Representative Walter Whitcomb, Representative Guy Nadeau, Senator Steve Estes, Senator John Baldacci, Sawin Millett, Rod Scribner, Bonnie Post, etcetera.

Let me read what it says with respect to entertainment and recreation. It says that there is some inconsistency in this area. "Currently, the main inconsistency with respect to services is in the entertainment and recreation area. The Maine Sales Tax presently applies to the rental of video tapes and extended cable television. These entertainment modes defined as taxable services compete with other types of entertainment such as sporting events, plays, etcetera, which are not taxed. In a more general sense, they compete against the broad range of recreational activities such as golf, bowling and so on, also not taxed." Given this existing inconsistency and the fact that entertainment and recreation are discretionary, the subcommittee recommends that strong consideration be given to the extension of the sales tax to entertainment and recreation. Due to the the extenuating circumstances with which we are faced in these times, I think personally now is a good time to do this, to extend this tax and I think that is the only fair thing to do in view of the fact that other entertainment modes are already taxed. That is the biggest item in the raising of this \$15.7 million. It raises close to \$9 million.

With respect to newspapers and similar publications, we all know if we have been reading the newspapers that the newspapers themselves have recommended that we look at tax exemptions and so I assume newspapers will embrace this as a good move. It really doesn't involve that much money if you are buying a paper, you can spend a little extra to prevent one class or one group of people from getting

hurt so badly.

With respect to the bottled water, given the nature of the State of Maine, there is water all around us and most of it you can drink except that on the coast, I don't see any reason in the world why bottled water shouldn't be taxed, no reason in the world. I don't have anything against yuppies but yuppies and people like me are the ones that mostly buy that I think and I don't think we need to be worried. I am not terribly affluent but I can certainly afford the few cents tax. If I can go out and buy the water when I have so many other options, I can certainly afford a couple of extra cents. Other states tax these items, ladies and gentlemen, it is not, you know, some really criminal thing we would be doing here. It makes sense, these taxes, that is to say, I am going to watch my terminology because I don't think the tax exemptions I am addressing here are really taxes and I have a word to say about that, but extension of taxable services to recreation and entertainment is only expanding it, I should say, and it is only fair because we already have some entertainment that is taxed. As to the other items, I don't really think taxing those items, bottled water, short-term publications, is going to break anyone.

So, as far as tax exemptions are concerned, if you take the tax exemptions off, then to say that you are raising a tax — well, I may be nitpicking but you can see it two ways, I prefer to see it this way — we have to see a tax exemption as something that has been appropriated by this legislature and then expended. It took a special move to put a tax exemption without our taking a special step to put a tax exemption in statute, the paying of all of these would be automatic. I think a tax exemption is really an expenditure. I don't think we should nitpick too much around it because the state employees right now might say, "Well, in effect you are taking money out of our pocket and that adds up to the same thing as a tax increase." It seems to me the difference is, are we spreading the revenue around a little, that which we are taking in, or are we targeting certain groups to get our revenues? It seems a lot more just to me to spread it around a little.

I would call your attention to the fact that some very renowned and much beloved people, I think, in this state have asked us to take a look at tax exemptions and one of them is former Governor Kenneth Curtis whom I highly respect and I am sure that all of you do too.

As to the fact that I am taking this step and we haven't had a public hearing, I think I recall a bill or two in the past being passed by this legislature that didn't have a public hearing, I don't really think that it is a situation where there is no precedent for what we are doing, so I guess in view of the extenuating circumstances, my conscience isn't terribly disturbed by that fact. I have said all I have to say, ladies and gentlemen, and I hope you will give this your consideration and give the people that this is going to help your consideration and let's go for a more progressive tax policy here.

The SPEAKER: The Chair will order a vote. The pending question before the House is adoption of House Amendment "KK" (H-1258) to Committee Amendment "A" (H-1192). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

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

Representative Gean of Alfred offered House Amendment "MM" (H-1268) to Committee Amendment "A" (H-1192) and moved its adoption.

House Amendment "MM" (H-1268) to Committee Amendment "A" (H-1192) was read by the Clerk.

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

Representative GEAN: Mr. Speaker, Ladies and Gentlemen of the House: This amendment does two things. Simply put, it increases the state sales tax on cigarettes by 20 cents per package, one cent per cigarette. It takes that 20 cents, converts it into \$20 million dollars and removes part "WW" of the budget package, thus restoring the \$20 million that was cut from the decreased work week of the state workers.

Some may view this as a very regressive tax bill. As a matter of fact, I have heard that repeatedly. Others may view it as our final attempt to be fair and just with the workers of this state. For a moment, I would like for you to review it as a critical health care issue. At present, we tax cigarettes at the rate of 37 cents per package for a package of 20, 43 cents per package for a package of 25. At the end of fiscal year, 1990, the state collected a little over \$43 million at that rate, although it was increasing during this time. At the end of fiscal year, 1991, the state collected \$46 million dollars. This year the state budgeted at this present rate \$56 million and, as of February, were 2 percent above the projection for collections this year. A 20 cent tax increase will do several things besides keeping the tobacco industry lobbyists busy, the first thing it will do is generate a minimum of \$20 million to go in to remove the part "WW" and provide the workers with the salary we had contracted with them. That amount, I feel, is fairly certain. Kevin Madigan had worked this up a couple of different ways and it will actually, if there were no decrease in sales, generate in the neighborhood of \$30 million dollars. What they have done is applied some retortype formulae to this number and conservatively estimate that \$20 million dollars will be generated by this tax.

Secondly, it will wipe out part "WW" of this budget and it will save lives. According to the national cancer institute of the U.S. Department of Health and Human Services, a 10 percent increase in the price of a tobacco product results in a 5 percent decrease in the quantity demanded or in the State of Maine about 12,500 Mainers who might quit smoking and live an average of 13 years longer and cost us millions less.

Now, the Maine Grocers Association has provided us with additional information today you will note and I am grateful for that. What they point out in their letter is that with this 20 cent increase on taxes, Maine will be the highest taxed state in the country as far as cigarettes are concerned. On the other hand, the U.S. Center for Disease Control reports that Maine has the third highest rate of smoking among the 18 to 34 year olds. In other words, we are going to be the highest cigarette taxed state in the nation, the other side of that being we have the third highest rate of smoking in that 18 to 34 year old group of people, which I think leads us to the real benefit of this amendment. Again, the Department of Health and Human Services report, and

this has to do with children, when you look at what I have just said and convert that to the 12 to 17 year old group, we find that a 10 percent increase in the price of the tobacco product results in a 14 percent decrease in smoking in the 12 to 17 year old group. The significance of that comes when you understand that of all the adult smokers in the world, 95 percent of them become addicted to nicotine before they are of an age when they can legally buy cigarettes. The impact here then being that that 10 percent increase will result in a 14 percent decrease in people beginning to smoke.

Nearly 250,000 adults in this state smoke, 2,000 of them die each year from smoking related illnesses. Smoking shortens the lives of smokers an average of 13 years and 6,000 children under the age of 18 begin to smoke each year. Smoking accounts for about 21 percent of all deaths in Maine, 90 percent of chronic obstructive pulmonary disease, 25 percent of the deaths from coronary artery disease and 83 percent of lung cancer cases.

On the fiscal side of this, it is estimated in direct and indirect health care costs that smoking costs the State of Maine \$270 million dollars per year, \$150 million dollars in direct health care costs. The worst case scenario that I can imagine from this regressive, nasty little tax in attempt to do justice with the state workers is that every smoker in the State of Maine would quit smoking and we would lose \$56 million dollars. That is the worst most awful case anybody could imagine, I guess. The problem with that is that it would be wonderful because the State of Maine would save \$214 million dollars in health care costs.

I would like for you to support this amendment. It may not be the most popular with those people who really do understand taxes but I think it has something in it that spells fairness and justice for all.

I would also like to request a roll call, Mr. Speaker.

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

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: Gee, after listening to that great speech, I think I am going to give up smoking my cigars.

The only thing I would like to say is that the presentation just made is going to save lives and by all means everybody in this room wants to do that. My only concern is that if they don't buy their cigarettes here in Maine, they are going to go to New Hampshire if we keep taxing them to death. Just the same as they buy their booze in New Hampshire, they will go to New Hampshire to buy their cigarettes. You may not think that is possible but stop at any gas station on the way back from watching the Celtics play and you will see that they get their gas there and then they buy their carton of cigarettes. Yes, they are stopping smoking in the State of Maine but what they are doing is buying them in New Hampshire so I ask you to think very seriously and hard about this bill because 20 cents a pack is a lot of money to put on the people who do have a problem and they can't give up smoking.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote

yes; those opposed will vote no.

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

The SPEAKER: The pending question before the House is adoption of House Amendment "MM" (H-1268) to Committee Amendment "A" (H-1192). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 388

YEA - Adams, Anthony, Cahill, M.; Carroll, J.; Cathcart, Clark, H.; Clark, M.; Coles, Constantine, Crowley, Daggett, Duffy, Duplessis, Dutremble, L.; Farnsworth, Gean, Graham, Gray, Heeschen, Hichens, Hoglund, Holt, Joseph, Kerr, Ketover, Ketterer, KilKelly, Larrivee, Lemke, Mahany, Manning, Marsh, McKeen, Melendy, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Pfeiffer, Rand, Richardson, Saint Onge, Savage, Simonds, Simpson, Skoglund, Stevens, A.; Stevens, P.; Stevenson, Tamaro, Tardy, Townsend, Treat, Tupper, Wentworth.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Boutillier, Butland, Carleton, Carroll, D.; Cashman, Chonko, Cote, DiPietro, Donnelly, Dore, Erwin, Farnum, Farren, Foss, Garland, Goodridge, Gould, R. A.; Greenlaw, Gwadosky, Hale, Handy, Hanley, Hastings, Heino, Hepburn, Hichborn, Hussey, Jacques, Jalbert, Kutasi, Lawrence, Lebowitz, Libby, Lipman, Look, Luther, MacBride, Macomber, Marsano, Martin, H.; Mayo, McHenry, Merrill, Michael, Michaud, Murphy, Nash, Ott, Paul, Pendexter, Pendleton, Pines, Plourde, Poulin, Pouliot, Reed, G.; Reed, W.; Richards, Ricker, Rotondi, Ruhlin, Rydell, Salisbury, Small, Spear, Strout, Swazey, Tracy, Vigue, Waterman, Whitcomb, The Speaker.

ABSENT - Bowers, Gurney, Kontos, Lord, Parent, Pineau, Powers, Sheltra.

Yes, 62; No, 81; Absent, 8; Paired, 0; Excused, 0.

62 having voted in the affirmative and 81 in the negative with 8 being absent, the motion did not prevail.

Representative Tardy of Palmyra offered House Amendment "00" (H-1275) to Committee Amendment "A" (H-1192) and moved its adoption.

House Amendment "00" (H-1275) to Committee Amendment "A" (H-1192) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Palmyra, Representative Tardy.

Representative TARDY: Mr. Speaker, Men and Women of the House: I would like to point out that this started out as House Amendment "H" that was almost agreed to and then we went back and changed it so it would be agreed to.

What it does is it restores approximately \$100,000 to the Harness Racing Commission for drug testing which is dearly needed in the industry to maintain its credibility and, indeed, its economic viability. It is an industry that returns approximately a half million dollars to the General Fund, about \$350,000 goes to keep the agricultural fairs running. Eighty some odd percent goes back to the bettor so you have a lot better odds of getting some money back than you have playing the lottery.

It funds this by increased enforcement of sales tax at flea markets. It is not a new tax, people



that are at the flea markets who should be charging sales tax and are not or who are charging sales tax and putting it in their pocket and not remitting it to the state are the ones that would be picked up in this enforcement provision. It does leave a provision in for the one person in the Taxation Department which I understand that they can live without. This is why we let the amendment die earlier between the bodies because we didn't want to create the position but, at the same time, we didn't want to lose the fiscal note.

Subsequently, House Amendment "00" (H-1275) to Committee Amendment "A" (H-1192) was adopted.

Representative Pendleton of Scarborough moved that the House reconsider its action whereby House Amendment "D" (H-1206) to Committee Amendment "A" (H-1192) was adopted.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote against reconsideration as I feel we have had ample debate about it. If people have questions, I certainly am available and will continue to be available to answer questions about the privatization of the Youth Center. Simply, it does not make sense the way it is being proposed. There are 19 unanswered questions that we still don't have answers to about how this could possibly work in a way that is fair and decent to the juveniles in the system and thus to the law enforcement agencies, to all of our citizens. If we are not going to do a decent job with the juveniles in our care on account of law enforcement violations, then we are really buying troubles down the road. We have too many graduates of the juvenile system already going on into the adult system and committing crimes in our neighborhoods and we have got to do as good as possible job as we can. The way that this is being proposed — to take the Youth Center, which is the one program that we have that works and divide it up into little parcels at the Youth Center grounds and lose all the advantages of having one coherent program in one place, it just simply doesn't make sense.

I would urge you to vote against reconsideration of this.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Ladies and Gentlemen of the House: This is a proposal to get \$2 million of federal money that we are not currently getting. I just don't feel that we are in a budget position where we can be turning down \$2 million dollars of federal money. That is really all this proposal does. It enables us to get our Medicaid funds for certain kids at the Maine Youth Center. Two million dollars in federal money, folks — look real hard before you say no to this in this kind of a budget situation.

I hope you will support reconsideration.

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

Representative RYDELL: Mr. Speaker, Men and Women of the House: I understand the intent of this amendment and I sympathize with the concerns that Representative Anthony has. We have those same concerns in the Appropriations Committee and we asked many of those same questions. We understand that

there are some unanswered questions. We also understand that the RFP for this has to go out, there has to be a response to it and there has to be an opportunity to see whether or not it will work.

I am most concerned about the funding for this. There is an across-the-board cut in here. It is a small across-the-board cut but I would remind everyone that there is already an across-the-board cut in the budget. An additional across-the-board cut with the elimination of many programs like General Purpose Aid, Retirement and all of our entitlement programs mean that the across-the-board cuts come from the remaining accounts. Those remaining accounts are not that many and, within those accounts, are some very small programs. Those very small programs, some of which we can't even identify, may in fact be eliminated. We don't know exactly what would happen with any further across-the-board cuts. We tried to keep it at the point where there wouldn't be any elimination, there is an across-the-board cut, anything further could be very, very damaging to our state services. I am not just talking about Human Services, I am talking about each and every department and agency in state government. Some of them, remember, are very, very small. I am very concerned about it. It does not mean that I don't have sympathy and concern for questions regarding the intent of this amendment. I really do hope, and I asked these questions in our committee, that the Department of Corrections, the Department of Human Services and other members of the administration are going to think long and hard about how they implement any change at the Maine Youth Center but I am very concerned about this across-the-board cut. I hope you will be too as you consider this on top of what is already in the budget.

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

Representative LARRIVEE: Mr. Speaker, Men and Women of the House: I did not, when I stood before, give you some additional information which I would now like to have you understand about this process. There are more than simply unanswered questions about this. Perhaps others will be a little gentler on the floor but this proposal was pulled out of the air, there is no substantiation for \$2 million dollars to be made here.

I will read to you again from the report of the American Correctional Association. These are the experts that were brought here by the state to look at the Maine Youth Center to see whether or not it was appropriate for privatization. Besides their statement which I read to you before regarding that it was doubtful that a fiscally sound organization could be found, they also indicated and I quote directly, "Medicaid eligibility should be obtained in writing before any contract is signed." The question of Medicaid eligibility is very shaky, it is very much up in the air. The questions have not been answered about whether or not Medicaid is going to pay anything at that facility. The reasons for that are enumerated here, I won't read them all but the ones that are very important — "secure facilities such as training schools and detention centers are never Medicaid eligible. Facilities which otherwise meet the requirements for Medicaid eligibility lose that eligibility if the facility is located on the grounds or immediately adjacent to a large institution or multiple purpose complex. The facility would be required to demonstrate that it is

independent and discreet in regard to budget, management, administration, intake and discharge, program development and purpose." Again, that last sentence means that it must be independent and discreet in regard to budget, management, administration, intake and discharge, program development and purpose. That means that we do not have control over what goes on in that facility at all.

It is my firm belief that there are serious questions about the Medicaid eligibility and to book that \$2 million at this point in time is perpetrating a fallacy as well as poor policy. I would appreciate your rejecting the reconsideration at this point.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: First, I would like to address that yes, there is an across-the-board cut. Three-tenths of one percent, that is \$3.00 that comes out of every \$1,000 that is appropriated to an account. That is the magnitude of the cuts that we are talking about, \$3.00 out of every \$1,000.

I would also point out to you among the various questions we asked was a question about education. Every single one of you in this House that has somebody in your district going to the Youth Center will end up paying more in part, because as it is now educational expenses at the Youth Center are totally absorbed by the Youth Center budget. Any residential treatment center, however, you pay for it out of district placement for that person. This proposal calls for creating residential centers, basically small ones, as I call them, little fiefdoms, on the Youth Center grounds. Each one of those fiefdoms will have some of your constituents and when they are there, you will pay out of your local property tax, out of your local school budget for the education of those kids. That is one of the concerns that we expressed.

So, this is not exactly free money. To say that there will be \$2 million generated from the federal government, we don't know what will be generated by the federal government. And, as the previous speaker just said, we even doubt that any money can be. If it can, fine, I support it but not placing it at the Youth Center and doing it in a way that tears down what we already have.

I want to tell you about the Cottage 9 program. The Cottage 9 program is for the violent sex offenders. It has national recognition, national. That is one that is targeted to be turned over to a private provider, what will happen to it? I don't have any idea but I am real worried and I hope you are too.

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

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I am a little concerned about some of the comments that have been made on the floor tonight about this proposal being pulled out of the air and that somehow we are going to be throwing kids out on the street. I don't think we can forget the point that it will bring down \$2 million in Medicaid money, but I think there is a greater issue here about what we are trying to do at the Youth Center.

I want to commend Representative Anthony for his commitment to those children and I would like to

personalize a little bit also. I volunteered at the Maine Youth Center for several years in the 1970's. I had a group counseling session with A. L. Carlisle and some of the girls there and did some psychological testing. I would never support a plan that would leave those kids without the proper care.

I also think it is an act of faith and commitment to Commissioner Allen and Deputy Commissioner A. L. Carlisle who are very committed to the kids at the Youth Center. I am convinced that their plan will be thoughtful and caring. I am concerned about the rather cavalier attitude about, it is only a little across-the-board cut. I have concerns about many other programs, about Child Protective Services and the Mental Health Institutions and a little cut there is a big cut in some cases. I don't think we should forget how damaging a little cut across-the-board could be to some other programs. I hope you will support the motion to reconsider.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: Last Spring when my committee took it upon themselves to look at the budget, the Commissioner of Mental Health came to me and the committee and said, "I have a \$10 million hole in this budget." I went down to you, Representative Foss, and I told your committee we had a \$10 million hole in the budget and your committee did nothing about it.

The SPEAKER: The Chair would advise the Representative that the Appropriations Committee is the legislature's committee.

Representative MANNING: Sorry, Mr. Speaker.

We have 19 unanswered questions here. We are going to go home in a few days. I want to know, because this legislature and a few of you are over there smiling because you don't represent the City of Portland but your own kids go to that Youth Center and end up in my city when they escape. They end up breaking into my city's homes. I want to know tonight, who is going to chase and re-arrest those children? Because if this is turned over to a private organization under the current statutes right now, admitted by A. L. Carlisle, admitted by Donald Allen, they cannot re-arrest those individuals.

You have already cut a number of dollars out of revenue sharing in the City of Portland and the school budget. We are probably going to be laying off police officers. The City of South Portland is having a tough time. Where are these children going to go? The first two places they go is Portland and South Portland.

We don't know who is going to educate these kids. As Representative Anthony said, our own communities are probably going to have to pay now (for the first time) to educate these kids. Nobody understands that, I don't think. Nobody understands these 19 questions because, quite frankly, the Department of Corrections can't answer these questions.

In 90 days, roughly, they are going to start to privatize the Maine Youth Center. Nineteen questions — we are so anxious to get out of here so we can go home and tell everybody we did a great job. I can't imagine that our own city councils and our own town selectmen would ever buy something without having these questions at least answered ahead of time. That is what you are asking us to do.

If you think the Point 3 is a bad position, then

let's have a hole in the budget because last year we had a \$10 million hole in the budget and it was admitted by the Department of Mental Health, \$5 million overtime and \$5 million for Workers' Comp and the Appropriations Committee left a hole in the budget. Now, if this is such a great program that you are proposing, then I suggest putting a \$2 million hole in the budget and coming back in the Fall or next January and take a look at that. But, let's have some of these answers first, whether or not it is capable of going under a Medicaid program, whether or not we are going to be educating those kids or whether or not each and every single community that sends a kid there is now going to educate those kids. Who is going to arrest those kids?

I would like to hand this out because I think most of you would be shocked to see that these questions are not answered. The Department of Corrections, as of Friday afternoon, could not answer these questions.

I have heard us talk about kids around here the last couple of days — well, these are the most serious, disturbed children in the state and I think we ought to wait to have these questions answered before these most serious kids in the state are running all over the state. They said at the Maine Youth Center the other day, for the first time in their lives, because they have been to these residential places, they have been to the Homestead's of the world, they have been to the Spurwink's of the world, they have been to the Sweetser's of the world, they have been out-of-state, but for the first time in their lives, these kids have heard the word "no, you can't do this." If we are going to ruin that — we are already overcrowded at Thomaston, we are already overcrowded at the correctional center, and if you want to pump more of these individuals into these systems, then go ahead and vote for this stuff. If you are so concerned about the Point 3, then maybe we ought to be concerned. Let's have a \$2 million hole in this budget and let's come back in January and try to find out how to solve that problem because we had a \$10 million hole in the biennial budget and the Appropriations Committee knew it. But, this is a proposal that I can't believe any one of your school boards or your town selectmen would ever vote on without knowing what they are going to be voting on. I hope you take a hard look at this.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion to reconsider House Amendment "D" (H-1206) to Committee Amendment "A" (H-1192). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

58 having voted in the affirmative and 71 in the negative, the motion to reconsider did not prevail.

Subsequently, Committee Amendment "A" (H-1192) as amended by House Amendments "D" (H-1206), "L" (H-1216), "N" (H-1219), "Q" (H-1222), "T" (H-1228), "FF" (H-1252), "U" (H-1230) and "00" (H-1275) thereto was adopted.

The SPEAKER: The Chair will order a vote. The pending question before the House is passage to be engrossed as amended by House Amendments "D" (H-1206), "L" (H-1216), "N" (H-1219), "Q" (H-1222), "T" (H-1228), "FF" (H-1252), "U" (H-1230) and "00" (H-1275) thereto. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken .

20 having voted in the affirmative and 107 in the negative, the motion did not prevail.

On motion of Representative Gwadosky of Fairfield, the House reconsidered its action whereby L.D. 2185 failed of passage to be engrossed as amended.

On further motion of the same Representative, tabled pending passage to be engrossed as amended and later today assigned.

The Chair laid before the House the following matter: SENATE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "B" (S-527) - Minority (4) "Ought Not to Pass" - Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide State Funding of any Mandate Imposed on Municipalities (S.P. 42) (L.D. 66) - In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Resolution passed to be engrossed as amended by Committee Amendment "B" (S-527) as amended by Senate Amendment "A" (S-535) thereto and Senate Amendment "B" (S-555) which was tabled earlier in the day and later today assigned pending the motion of Representative Joseph of Waterville that L.D. 66 and all accompanying papers be indefinitely postponed. (Roll Call requested)

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

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

The SPEAKER: The pending question before the House is the motion of Representative Joseph of Waterville that L.D. 66 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 389

YEA - Adams, Cahill, M.; Cashman, Farnsworth, Goodridge, Handy, Heeschen, Hoglund, Holt, Jacques, Joseph, Ketover, Larrivee, Michaud, Oliver, Pineau, Rand, Richardson, Skoglund, Stevens, P.; Treat, Wentworth.

NAY - Aliberti, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Boutilier, Butland, Carleton, Carroll, D.; Carroll, J.; Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, DiPietro, Donnelly, Dore, Duffy, Duplessis, Dutremble, L.; Erwin, Farnum, Farren, Foss, Garland, Gean, Gould, R. A.; Graham, Gray, Greenlaw, Gwadosky, Hale, Hanley, Hastings, Heino, Hepburn, Hichborn, Hussey, Kerr, Ketterer, Kilkelly, Kontos, Kutasi, Lawrence, Lebowitz, Lemke, Libby, Lipman, Look, Lord, Luther, MacBride, Macomber, Mahany, Manning, Marsano, Marsh, Martin, H.; Mayo, McHenry, McKeen, Melendy, Merrill, Michael, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Norton, Nutting, O'Dea, O'Gara, Ott, Paradis, J.; Paradis, P.; Pendexter, Pendleton, Pfeiffer, Pines, Plourde, Poulin, Pouliot, Reed, G.; Reed, W.; Richards, Ricker, Rotondi, Ruhlin, Rydell,

Saint Onge, Salisbury, Savage, Simonds, Simpson, Small, Spear, Stevens, A.; Stevenson, Strout, Swazey, Tammaro, Tardy, Townsend, Tracy, Tupper, Vigue, Waterman, Whitcomb, The Speaker.

ABSENT - Aikman, Bowers, Gurney, Hichens, Jalbert, Parent, Paul, Powers, Sheltra.

Yes, 22; No, 120; Absent, 9; Paired, 0; Excused, 0.

22 having voted in the affirmative and 120 in the negative with 9 absent, the motion to indefinitely postpone did not prevail.

The SPEAKER: The pending question before the House is the motion of the Representative from Waterville, Representative Joseph, that the House accept the Minority "Ought Not to Pass" Report, a roll call having been requested.

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

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

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Heesch.

Representative HEESCHEN: Mr. Speaker, Members of the House: When I started to talk to people about this bill last year, a curious fact came to mind and that was many people said to me, you know this is a terrible bill, you have got to make sure it fails, but I have got to vote for it. I hadn't even been trying to sell any position on this bill when I would ask people what they thought about it.

A while back, I came across something in the Legislative Record from January 12, 1955. The Speaker was Representative Clifford McLaughlin of Portland and among the comments that he made at that time were, "Have the courage to vote according to your convictions. Believe it or not, I have had several men, in my experience, tell me that they thought I was exactly right but they did not dare to vote with me. I say that a man or woman that doesn't have the courage to vote according to his or her convictions is weak indeed and has no place in this legislature." Then he went on to say, "Make your own decisions, don't try to pass the buck back to the people who sent you here and don't let politicians or lobbyists tell you what to do, you be the master of your own decisions."

I would ask you all to think very carefully about your vote here and the implications of putting a constitutional amendment in place and what it would do this state and the people in this state.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Holt.

Representative HOLT: Mr. Speaker, Men and Women of the House: Thank you for your indulgence. If we sent this question out to the citizenry, it would be like asking them if they love their country. Of course the majority will say, "vote yes." I would have voted yes too before I became a member of this Legislature where I am learning more and more each session about the complexities of state government. It is those complexities, I believe, that have led to the flurry of amendments which we have seen to this bill and about which we have heard hints. If these many amendments have been spawned as afterthoughts, perhaps this is not a bill solid enough to penetrate

the rock of our constitution. Will future state legislatures have to open up the Constitution to insert more amendments as it is discovered we have found another important piece that doesn't fit?

This past year, I asked the local officials in the district I represent to tell me which mandates are most burdensome for them. They had no answers for me except for one official, the cemetery superintendent in Bath who said he agreed with me, we should place a moratorium on mandates while we look at the issue more closely and intelligently than we had done. That was the conclusion I arrived at after reading "Mandates", cases in state and local relations put out in September, 1990 by the Advisory Commission on Intergovernmental Relations which has been lying in our Law Library waiting for us to come educate ourselves on this subject. It concludes by saying this, "Mandates themselves are not the issue and a new level of leadership and commitment is needed to address the bigger problem, the bigger problem of properly sorting out state and local service responsibility. The twin irritants of less federal aid and intense mandate friction has stimulated a major examination of programs, funding and service delivery that, if done correctly, will result in more cost-effective government. The result is too important to be obscured by the non-issue of mandates."

I believe we can explain this to sensible people. I cannot vote for L.D. 66. I spent a lot of time last summer reading this as I knew we were going to be facing this again. I voted for it and against it when we started the debate on the law we have already on the books but my opponent used it against me anyway just before the election last time. I am not going to be pushed around that way.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: It is always very difficult to be on the opposite side of issues with people you care about and respect a great deal. I am finding it very difficult in this situation. However, I must take exception with — well, maybe actually what I am doing is agreeing with Representative Heesch. I do think that it is very important that everyone in this body vote their conscience, vote what they believe in, and vote what they think is proper for this state.

I happen to be supporting L.D. 66. I am doing that because I happen to believe in that. I am not doing it because I am concerned about what somebody is going to say or concerned about the letters I have gotten from the town managers or the selectmen in my district. I am doing it because I believe it is the responsible thing to do. I believe that each level of government must take responsibility, not only for making decisions, but actually for looking at how those decisions are going to be funded. We have been very critical in this body of county government, even to the point of saying that we need to review county budgets because we are concerned about the impact on local property taxes. We are concerned about what is going to be happening because the counties don't have to take responsibility for raising the property taxes so the counties don't understand what the problem is. What is the difference between that and imposing upon a community a mandate that we are not funding? There is no difference.

I see this bill as an opportunity to have the

information before us that we need to make decisions. If we can get to the point of having put in amendments that I think are very important in clarifying this issue, there will be more that can be said about what the opportunities are. I would urge, please, that we do not accept the "Ought Not to Pass" Report and get on with this bill.

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

Representative LARRIVEE: Mr. Speaker, Men and Women of the House: I have here a 1987 state mandate report done by the Maine State Legislature which was one of the guides that I used in committee. I would like to tell you a couple of pieces of information that were in there.

One of the processes that they used was to look at other states which had both mandate bills and had some type of constitutional amendment. This comes from review of cost estimating of reimbursement programs from the General Accounting Office. A witness with the Office of Municipal Affairs in Rhode Island estimated that only two states have a true reimbursement program. The reason offered for the discrepancy between the number of states which have programs of this sort and actual functioning are these things — it had been their finding that the legislature waive the requirement when it sees fit, that the legislature doesn't fund the reimbursement, that funds for reimbursement come from monies which would have gone to local governments under a different guise. There is no net increase. Local governments fail to submit requests for reimbursement and the reimbursement is filled through indirect reimbursement. They go on to say that many states, which have chosen to restrict mandating through Constitutional Amendment, report routine circumvention of the intent of the amendment. There are other pieces of information but I think that that just lets you know that there are still problems with this. Our best bet is still for us to have the will not to pass these mandates along and to do the work piece by piece in our committees. A Constitutional Amendment is not the right direction. I urge you to accept the "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: When I hear that each level of government should be responsible for funding all of the activities and functions of that government, I wonder if we are suggesting that the legislature has or is acting irresponsibly. I said this morning and I am saying this evening that I believe that there is no member in this House that does not believe that every piece of legislation that leaves this body should have a fiscal note and that we should have actually looked at how that would be funded. I do not believe that we should put this measure into the Constitution of the State of Maine. That is the issue here before us, not whether or not funding of mandates is right or funding of mandates is wrong. In fact, we have a statute on the books, effective July 1, 1991 — this government has so little money that that particular law requires two positions in the Office of Fiscal and Program Review, those positions have not been filled. In fact, that office has lost one additional position. We are interested in finding out what the fiscal impact is to any community, to any group and to any individual in this state. We are a very conscientious body and I don't

believe that we are acting irresponsibly.

I need to say to you all tonight that, when we had the public hearing last year on this piece of legislation, at least (and I am being conservative) 80 municipalities appeared before our committee, one by one by one. In each case, the questions that the committee asked and that I asked as Chair of that committee is, in your opinion, what is a mandate? In no cases did we hear the same definition of mandate. It is a matter of interpretation by those communities who are experiencing the same hardships that this state government is experiencing. But more than that, it is groups of municipal officials up against the same kinds of problems — can we cut state government? We have tried. Can we save money? Can we restructure? We are trying. Can we say no to those people who need the services that state government delivers to them, the needy, the poor, the children, the poor children? Our municipal officials are up against the same kind of battle we are and they are having a difficult time saying no as well. They are also looking very hard to find answers. But, amending the Constitution isn't the answer.

Representative Holt said it right, do you love your country? Of course I love my country. We know that if we send this out, the people of the State of Maine will vote for it. This will paralyze state government. This will bankrupt state government, if it isn't already.

I urge you to not frivolously tamper with the document that is the Constitution of the State of Maine that you have sworn to uphold, that future legislators will swear to uphold because the Constitution is not a flexible document.

I urge you to vote for the "Ought Not to Pass" Report.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Joseph of Waterville that the House accept the Minority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 390

YEA - Adams, Cahill, M.; Clark, M.; Coles, Dore, Erwin, Farnsworth, Gean, Goodridge, Handy, Heeschen, Hoglund, Holt, Joseph, Ketover, Larrivee, Michaud, Oliver, Pfeiffer, Pineau, Rand, Richardson, Rydell, Saint Onge, Skoglund, Stevens, P.; Treat, Wentworth.

NAY - Aikman, Aliberti, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Boutilier, Butland, Carleton, Carroll, D.; Carroll, J.; Cathcart, Chonko, Clark, H.; Constantine, Cote, Crowley, Daggett, DiPietro, Donnelly, Duffy, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Gould, R. A.; Graham, Gray, Greenlaw, Gwadnosky, Hale, Hanley, Hastings, Heino, Hepburn, Hichborn, Hussey, Jacques, Kerr, Ketterer, Kilkelly, Kontos, Kutasi, Lawrence, Lebowitz, Lemke, Libby, Lipman, Look, Lord, Luther, MacBride, Macomber, Mahany, Manning, Marsano, Marsh, Martin, H.; Mayo, McHenry, McKeen, Melendy, Merrill, Michael, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Norton, Nutting, O'Dea, O'Gara, Ott, Paradis, J.; Paradis, P.; Paul, Pendexter, Pendleton, Pines, Plourde, Poulin, Pouliot, Reed, G.; Reed, W.; Richards, Ricker, Rotondi, Ruhlin, Salisbury, Savage, Simonds, Simpson, Small, Spear, Stevens, A.; Stevenson, Strout, Swazey, Tamaro, Tardy, Townsend,

Tracy, Tupper, Vigue, Whitcomb, The Speaker.  
 ABSENT - Bowers, Cashman, Gurney, Hichens,  
 Jalbert, Parent, Powers, Sheltra, Waterman.  
 Yes, 28; No, 114; Absent, 9; Paired, 0;  
 Excused, 0.

28 having voted in the affirmative and 114 in the negative with 9 absent, the motion did not prevail.

Subsequently, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "B" (S-527) was read by the Clerk.

Senate Amendment "A" (S-535) to Committee Amendment "B" (S-527) was read by the Clerk.

On motion of Representative Gray of Sedgwick, Senate Amendment "A" (S-535) to Committee Amendment "B" (S-527) was indefinitely postponed.

Senate Amendment "B" (S-555) was read by the Clerk.

On motion of Representative Gray of Sedgwick, Senate Amendment "B" (S-555) was indefinitely postponed.

Representative Gray of Sedgwick offered House Amendment "D" (H-1237) to Committee Amendment "B" (S-527) and moved its adoption.

House Amendment "D" (H-1237) to Committee Amendment "B" (H-527) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Cherryfield, Representative Farren.

Representative FARREN: Mr. Speaker, Ladies and Gentlemen of the House: I have supported L.D. 66 since it was introduced last year in the form that it was at that time and in the form that it was before us a while ago, with one exception — I had offered an amendment to correct that exception.

While I am reluctant to accept the amendment that has just been offered, I also have a concern that the municipalities across the state deserve something. I don't happen to believe that the amendment that we are addressing here at the moment will give them what they deserve. There is no stability that I can see in that and they are still subjected to actions that future legislatures might take.

The decision that I have to make at this point is whether or not I will support the current amendment. I do feel an obligation to have it on the Record that I have made an effort to try to get some relief for the municipalities that we might pass along to them.

Subsequently, House Amendment "D" (H-1237) to Committee Amendment "B" (S-527) was adopted.

Committee Amendment "B" (S-527) as amended by House Amendment "D" (H-1237) thereto was adopted.

Subsequently, the bill was read a second time.

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

Representative LARRIVEE: Mr. Speaker, Men and Women of the House: I apologize for getting up so many times on this bill, but as you can tell, it is important to me.

Let me clarify what House Amendment "D" does in my opinion, and that is, placed in the Constitution, a payment to communities for state mandates to 90 percent unless we vote by two-thirds to override it. It seems illogical to me to put something into the Constitution for which we have already set up the process by which to go around it and, therefore, I would ask you to vote against the passage to be engrossed.

Mr. Speaker, I request a roll call.

The SPEAKER: A roll call has been requested.

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

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

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

Representative DORE: Mr. Speaker, I would like to pose a question through the Chair. With this amendment in the current state that it is in — it has been hard to follow it through this process — I would like to know if the mammogram legislation that was passed by the House and Senate last year mandating coverage from mammographies, if we would not be able to pass that if L.D. 66 with this amendment were enforced? Because, of course, municipalities carry health insurance and, therefore, they might have an increase in their health insurance due to the mandated requirements to cover mammography? I would like to know if I were going to be voting for L.D. 66 under its current amended version, would we then have to fund the additional health insurance cost, however tiny, for the coverage for mammographies by municipal employees? I don't think that is what you all intend to do but maybe it is.

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

The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Ladies and Gentlemen of the House: My answer to that would be no because we do not mandate that the towns carry health insurance.

On motion of Representative Hanley of Paris, the House reconsidered its action whereby Committee Amendment "B" (S-527) as amended by House Amendment "D" (H-1237) thereto was adopted.

The same Representative offered House Amendment "F" (H-1273) and moved its adoption.

The SPEAKER: The Chair would advise the Representative that House Amendment "F" is in violation and conflicts with House Amendment "D" which has been adopted. House Amendment "D" would have to be indefinitely postponed in order for the Representative to add House Amendment "F."

The Chair recognizes the Representative from Paris, Representative Hanley.

Representative HANLEY: Mr. Speaker, I move that the House reconsider its action whereby House Amendment "D" (H-1237) to Committee Amendment "B" (S-527) was adopted.

I move the indefinite postponement of House Amendment "D" (H-1237).

The SPEAKER: The motion is out of order.

Representative HANLEY: Parliamentary inquiry?

The position that the bill is in currently is to reconsider the action whereby we adopted Committee Amendment "B?"

The SPEAKER: The Chair would advise the Representative he has just moved to reconsider adoption of House Amendment "D" and may not move to indefinitely postpone a motion to reconsider.

Representative HANLEY: Mr. Speaker, I thought the motion to reconsider was granted?

The SPEAKER: The Chair would answer in the

negative.

The Representative may speak to that motion if he so desires.

Representative HANLEY: Mr. Speaker, Men and Women of the House: I would ask that we reconsider House Amendment "D" in order to go on and adopt an additional amendment that would make the change where House Amendment "D" would refund or would require the state to reimburse at 90 percent only. I would like to propose an amendment that would change that percentage from 90 percent. I would hope you reconsider adoption of House Amendment "D."

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I would urge you not to reconsider our action whereby House Amendment "D" was adopted to this bill. The reason is this bill has been with us for a long, long time and it is a bill that makes a great deal of sense.

I would like to read to you right now the first sentence of the amendment that we are talking about. "For the purpose of more fairly apportioning the cost of government and providing local property tax relief, the state may not require a local unit of government to expend or modify that unit's activities so as to necessitate additional expenditures from local revenues unless the state provides annually 90 percent of the funding for these expenditures from state funds not previously appropriated to that local unit of government." It says it all. Ninety percent makes sense and it makes sense because we are talking about a partnership, a partnership between local units of government and state government.

We talked a lot about co-payments and how co-payments make people more responsible because it puts them in some kind of control of what is going on. Well, a ten percent co-payment, if you will, makes a great deal of sense. To reconsider our action and possibly lose this amendment and go on to a 100 percent amendment, I don't believe makes sense because we need to all work together. I believe that the 90 percent that is outlined in this particular amendment makes a great deal of sense to create that partnership. We all need to work together especially in these very, very difficult times.

I urge you to defeat the pending motion and go on and allow this bill to be engrossed and go on and have it passed.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Heesch.

Representative HEESCHEN: Mr. Speaker, Members of the House: Actually, I would urge you to reconsider adoption of House Amendment "D", but not for the same reasons the good Representative from Paris is asking but simply because if the bill before with the amendment it had before was bad, frankly House Amendment "D" will make somewhat of a mockery of the Constitution which is supposed to be somewhat of a fairly fixed document. So, I would urge reconsideration of this so that we can postpone it.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Hanley of Paris that the House reconsider its action whereby House Amendment "D" was adopted. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

36 having voted in the affirmative and 70 in the

negative, the motion to reconsider did not prevail.

Subsequently, Committee Amendment "B" (S-527) as amended by House Amendment "D" (H-1237) thereto was adopted.

The SPEAKER: A roll call has been ordered. The pending question before the House is passage to be engrossed as amended by Committee Amendment "B" (S-527) as amended by House Amendment "D" (H-1237) thereto. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 391

YEA - Aikman, Aliberti, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Boutilier, Butland, Cahill, M.; Carleton, Carroll, D.; Carroll, J.; Cathcart, Chonko, Clark, H.; Constantine, Cote, Crowley, Daggett, DiPietro, Donnelly, Duffy, Duplessis, Farnum, Farren, Foss, Garland, Gean, Gould, R. A.; Graham, Gray, Greenlaw, Gwadosky, Hale, Hanley, Hastings, Heino, Hichborn, Hussey, Kerr, Ketterer, Kilkelly, Kontos, Kutasi, Lawrence, Lebowitz, Lemke, Libby, Lipman, Look, Lord, Luther, MacBride, Macomber, Mahany, Manning, Marsano, Marsh, Martin, H.; Mayo, McHenry, Melendy, Merrill, Michael, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Norton, Nutting, O'Dea, O'Gara, Ott, Paradis, J.; Paradis, P.; Paul, Pendexter, Pendleton, Pines, Plourde, Poulin, Pouliot, Reed, G.; Reed, W.; Richards, Ricker, Rotondi, Ruhlin, Salisbury, Savage, Simonds, Small, Spear, Stevens, A.; Stevenson, Strout, Swazey, Tammaro, Tardy, Townsend, Tracy, Treat, Tupper, Vigue, Waterman, Whitcomb, The Speaker.

NAY - Adams, Clark, M.; Coles, Dore, Erwin, Farnsworth, Goodridge, Handy, Heesch, Heglund, Holt, Joseph, Ketover, Larrivee, McKeen, Michaud, Oliver, Pfeiffer, Pineau, Rand, Richardson, Rydell, Saint Onge, Skoglund, Stevens, P.; Wentworth.

ABSENT - Bowers, Cashman, Dutremble, L.; Gurney, Hepburn, Hichens, Jacques, Jalbert, Parent, Powers, Sheltra, Simpson.

Yes, 113; No, 26; Absent, 12; Paired, 0; Excused, 0.

113 having voted in the affirmative, 26 in the negative, with 12 absent, L.D. 66 was passed to be engrossed as amended by Committee Amendment "B" (S-527) as amended by House Amendment "D" (H-1237) thereto in non-concurrence and sent up for concurrence.

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

The following item appearing on Supplement No. 16 was taken up out of order by unanimous consent:

SENATE PAPER

Non-Concurrent Matter

Bill "An Act to Facilitate Self-insurance and Group Self-insurance under the Maine Workers' Compensation Act" (S.P. 877) (L.D. 2238) which was passed to be engrossed as amended by Committee