

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

## **One Hundred And Fifteenth Legislature**

OF THE

## **State Of Maine**

### **VOLUME V**

#### **FIRST SPECIAL SESSION**

July 11, 1991 to July 18, 1991

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#### **FIRST CONFIRMATION SESSION**

October 2, 1991

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#### **SECOND SPECIAL SESSION**

December 18, 1991 to January 7, 1992

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#### **SECOND REGULAR SESSION**

House of Representatives

January 8, 1992 to March 9, 1992

A vote of Yes will be in favor of of **INDEFINITE POSTPONEMENT**.

A vote of No will be opposed.  
Is the Senate ready for the question?  
The Doorkeepers will secure the Chamber.  
The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators **BALDACCI**, **BERUBE**, **BOST**, **BRANNIGAN**, **BRAWN**, **CAHILL**, **CARPENTER**, **CLARK**, **COLLINS**, **CONLEY**, **DUTREMBLE**, **ESTY**, **FOSTER**, **GAUVREAU**, **GILL**, **GOULD**, **HOLLOWAY**, **KANY**, **LUDWIG**, **MILLS**, **PEARSON**, **RICH**, **SUMMERS**, **THERIAULT**, **TWITCHELL**, **WEBSTER**, **THE PRESIDENT - CHARLES P. PRAY**

**NAYS:** Senators **BUSTIN**, **CLEVELAND**, **ESTES**, **MATTHEWS**, **MCCORMICK**, **TITCOMB**

**ABSENT:** Senators **EMERSON**, **VOSE**

27 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **BRANNIGAN** of Cumberland, to **INDEFINITELY POSTPONE** House Amendment "UU" (H-831) as Amended by House Amendment "A" (H-849) thereto, in **NON-CONCURRENCE**, **PREVAILED**.

Off Record Remarks

On motion by Senator **TITCOMB** of Cumberland, **RECESSED** until 3:15 in the afternoon.  
After Recess  
Senate called to order by the President.

**Unfinished Business**

The following matters in the consideration of which the Senate was engaged at the time of Recess, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Senate Rule 29.

The Chair laid before the Senate the following:

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 Law" (Emergency)

H.P. 1402 L.D. 1985

(In House, December 19, 1992, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "C" (H-785), "V" (H-804), "W" (H-805), "Y" (H-807), "BB" (H-810), "LL" (H-821), "NN" (H-824), "WW" (H-833), "BBB" (H-839), "CCC" (H-840), "III" (H-848) and HOUSE AMENDMENT "UU" (H-831) AS AMENDED BY HOUSE AMENDMENT "A" (H-849) thereto.**

(In Senate, December 19, 1992, Report **READ** and **ACCEPTED**, in concurrence. The Bill **READ ONCE**. House Amendment "C" (H-785) **READ** and **ADOPTED**, in concurrence. House Amendment "V" (H-804) **READ** and **ADOPTED**, in concurrence. House Amendment "W" (H-805) **READ** and **FAILED ADOPTION** in **NON-CONCURRENCE**.

Subsequently, **RECONSIDERED** and **ADOPTED**, in concurrence. House Amendment "Y" (H-807) **READ** and **ADOPTED**, in concurrence. House Amendment "BB" (H-810) **READ** and **ADOPTED**, in concurrence. House Amendment "LL" (H-821) **READ** and **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**. House Amendment "NN" (H-824) **READ** and **ADOPTED**, in concurrence. House Amendment "WW" (H-833) **READ** and **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**. House Amendment "BBB" (H-839) **READ** and **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**. House Amendment "CCC" (H-840) **READ** and **ADOPTED**, in concurrence. House Amendment "III" (H-848) **READ** and **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**. House Amendment "UU" (H-831) **READ**. House Amendment "A" (H-849) to House Amendment "UU" (H-831) as Amended by House Amendment "A" (H-849) thereto, **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

Under suspension of the Rules, the Bill **READ A SECOND TIME**.

On motion by Senator **DUTREMBLE** of York, Senate Amendment "O" (S-493) **READ**.

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

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I move the Indefinite Postponement of Senate Amendment "O". This, I believe, is another partial approach to the budget and even though not as extensive as the last one that we voted on it does remove certain portions, those that are most difficult for us to vote for and therefore more sympathy for it. However, it does the same thing as before. It postpones pain and gives false hope to some that we can, through some mechanism in the near future, taxes I'm afraid is the one that people have hope for, that we can postpone that pain for municipalities indefinitely. I believe that if we do have problems that are so sufficient, so serious, in early 1992 that any relief that we can get will need to be applied at that time. And so, I ask you to support my motion of indefinite postponement. Thank you.

Senator **BRANNIGAN** of Cumberland moved to **INDEFINITELY POSTPONE** Senate Amendment "O" (S-493).

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

Senator **DUTREMBLE:** Mr. President, members of the Senate, when we started this process the Governor of our state said that he would not accept any taxes and I think that a lot of us agreed with that. A lot of us also said that we shouldn't shift the burden onto the property taxes. As a matter of fact both caucuses, if you remember, took firm stance not to shift the burden to the property tax payer. So what's happened in the last few months? We had a situation where you had some groups going around saying let's raise taxes to solve the problem. I didn't support that, most of you didn't support that and that sort of died. We had some other people saying let's look at tax exemptions. I could have supported some of those but that's gone by the board. We had just about everybody, everybody, saying no shift to the property tax. People back home, people we work with, municipalities, schools, democrats in the legislature, republicans in the legislature, right up and down the line. We said no shift to the property tax, no shift to the communities.

People talk about bologna sandwiches, I'll talk about bologna sandwiches. It seems that this place here that the people of Maine want you to do

something you don't do it. And if they don't want you to do something then you go ahead and do it. That's why we have restaurants selling bologna sandwiches of politicians out there. I don't want to fault the work of the Appropriations Committee. I think that they did the job that they had to do with the guidelines that were given to them and the guidelines were always you have to include cuts to revenue sharing, cuts in general purpose aid. Those were the guidelines. I don't think if I were to follow those guidelines as a member of Appropriations I could have come out with anything different. There's no question about it.

But, you know there's only thirteen members to that committee. There are 186 members in this body and a lot of them know as much about their committee as you people know about your committee. They're the experts in all the departments that their committees hold the jurisdiction over and they were not asked to come in. They were told that if you have some suggestions bring it over, give them to us and we'll decide whether we're going to accept them or not. The committees weren't told to come in and do what they do best. They were told to make suggestions. People who serve on committees weren't told to come in and represent their constituency, they were told to make suggestions to the Appropriations Committee and they would make the decisions.

We've got people who were meeting in Unitarian churches and other parts of the state here who wanted to do something, who wanted a place to present their ideas but they were not called in. And they were told that when you come here if you want to make any changes to this budget it's got to be revenue neutral. You have to come up with the money. Now all of a sudden we're saying it's okay for you to be involved but you only have these few days to do it and if you can't do it we're going to oppose any amendment that comes up that does that. It's unfair to the legislators of this body and it's unfair to the people they represent. I want you to remember that the people in this body represent their constituency. They don't represent the Governor, they don't represent leadership, of which I'm a member of by the way. They represent their constituency and we did not allow the members of this body and the members of the other body to do that.

This amendment here does what we, as a united group, pledged a few weeks ago. No shift to the local property tax base. That's what this amendment does. It takes away the general purpose aid cuts and it takes away the revenue sharing cuts. It restores them and it books all the others. It will allow us to take all the rest of the money as cuts. So what does that leave us? It leaves us with this situation. It leaves us with a situation where we take the 67 or 68 million dollars, whatever the figure is, and what we have left to make up is 34 million dollars. If the Governor wants to present an Executive Order to make up that money, go right ahead. At least we'll have the opportunity to come back in to try to make up that. We will allow the committees of jurisdiction to come up with their own cuts. Cutting state government, cutting bureaucracy, not shifting it to the local municipalities. We're talking about the same thing the only difference is we're not putting into law that once you book it you can never get it back for those municipalities. You leave those out there, all the Governor has to make

up is that 34 million dollars and he can do that with his Executive Order is he wants to.

I wonder if people remember 1989 and the mandate law passing on costs to municipalities and the fight that we had up here? I requested an opinion from the Attorney General on that. We put into law that any time we pass on expenditures to the municipality that we have to pay for it. It's unclear whether or not that means cuts or not. This amendment stands whether or not the Attorney General's opinion comes back the way they want it to or not or the way it should come back. But at one time, in 1989, we said any expenditures that we pass on to the communities, and you remember that battle, the legislature would be responsible for it. It didn't take us long to turn around on that didn't it. Sort of makes you understand why we have bologna sandwiches being passed around in restaurants in the state of Maine. So I hope you will support this amendment because what it does, again, it restores the cuts that were made to revenue sharing and general purpose aid. It books all the others and it leaves us with 34 million dollars. The Governor can still, by Executive Order if the legislature doesn't act, make up that money if he wants to or he can allow the legislature to come in and do its job and try to find cuts in the bureaucracy of the State of Maine. Thank you.

The Chair ordered a Division.

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

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

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It's certainly very difficult to vote against this amendment to vote for the motion. I'd just like to make it very clear that this amendment would require, would at least envision, the committees of the legislature coming back into session individually or together sometime between the start of our session and finding 34 million dollars in cuts to make up the now problem. Now, if people feel that their committees, maybe they have extra money in special funds, maybe they have extra ways of finding that money, but that's what's expected here. And when, I believe, we vote to keep our municipalities whole as all of us would like to do and we were never under any mandate to keep cuts in revenue sharing or general purpose aid if we could have found 34 million dollars some way we would have done it in a minute. I believe that working with the committees some could be found but 34 million over Christmas and New Years? That's what we'll be voting on as we vote on this amendment.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I just want to stress this point one more time. If you book all the money that the Appropriations Committee has come up with in their appropriations bill, that's 68 million dollars, and you take out the 34 million or whatever the amounts are. If you take out that 34 million the Governor can still issue his Executive Order. If there's only a shortage of 34 million then that's what his Executive Order has to make up over the next six months. At least we can as committees come back and see if we can find some of that money. It doesn't put us in a worse position. We book the money. We still have to make up the same 34 million

dollars that you're talking about. He can issue his Executive Orders whenever he feels he has to to make up that money. But the only difference is it allows us to come in and see if the committees can find some money so that we don't have to pass on those cuts to the municipalities. Mr. President I withdraw my motion for a roll call.

Senator **DUTREMBLE** of York requested and received Leave of the Senate to withdraw his request for a Roll Call.

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. There's nothing that would stop the committees from examining their programs in their areas of jurisdiction and responsibility now, nothing whatsoever. Hopefully they can find further savings and they will offer those to the legislature in January and February and March and April and May, I hope we aren't here in April and May, we're hoping to get out in March, if necessary. But this amendment would once again unbalance our budget for this fiscal year and I just believe that that is not responsible for us to do that under our Constitution in which the people of this state have directed us to provide a balanced budget unless we unbalance it by long term bonds that have been approved by the citizens of this state.

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

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. men and women of the Senate, I rise to urge you to vote against the pending motion and to vote for this amendment sponsored by the good Senator from York, Senator Dutremble, and I would just state to the body that if we do not vote for this amendment and defeat the pending motion then, as has been mentioned, we are advocating a tax increase at the local level. The most regressive of tax increases through the property tax. I have just gone through, as the good Senator Kany and the other members of the delegation, a rough time with the people up in my area in Winslow. We're facing the loss of 250 jobs at the Scott mill in Winslow. The prospects in the other mill in Somerset of another 125 salaried people. Ladies and gentlemen what happens if we go ahead with the budget that we have had proposed before us? We're going to raise those property taxes to those that, least now, could least afford to pay them under normal circumstances but now will find themselves impossible to meet the rising cost of property tax.

And I find it interesting in the debate today to hear the comments about the issue of cost shifting and our concern that many of these shifts have emanated from Washington. I don't disagree with that. I think priorities from Washington have been misguided over the last few years. I agree. But I think it's incumbent upon us as members of the Senate to ask those same questions about priorities here in this chamber. Do we set priorities? Do we stand by our commitment and our word? Is education a priority? Are our local municipalities and that kinship and that working relationship a priority? Is trying to deal with lessening the burden on the property tax a priority? I think the answer is yes. We can't change overnight Washington but we have an opportunity today to stay true to our commitment to find and to fund the priorities. And the legislative process, as it has been mentioned and has been

written about, is sometimes a crazy, chaotic, cumbersome process. But you know that crazy process we call democracy is something that people are aspiring to all over this planet today and we hail them and we cheer them but when we get in our own situations in America, sometimes, we want to go away from an open process.

I don't envy and I'm glad I'm not a member of the Appropriations Committee, you have a tough thankless job. But I would say to the members of that body that you are one committee. There are other members of committees here that do want an opportunity to come in and try to help you solve the problems that face the state. I believe if we went with this amendment, dealt with the problem we have, not break our commitment to municipalities and to education, come back in here or stay here, find the answers, I think that's a responsible process that we call democracy and we are proud of. So I urge you to defeat the pending motion and I strongly urge the support of the good Senator from York, Senator Dutremble's amendment.

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

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I'll be very brief. Many of us over the last few weeks and months have taken positions in various forms with regard to the Governor's proposal on municipal revenue sharing and general purpose aid. I count myself among them. I support the amendment which has been offered by the good Senator from York, Senator Dutremble, because I think it deals with the issue in a way that perhaps we should have dealt with it several weeks ago. And that was to provide each committee of jurisdiction with an appropriate target. That target was not there and those committees, that did in fact meet, found themselves in a very awkward position of having to allocate or reallocate, reprioritize many of the projects, many of the programs that members on those committees had created over the years.

Had each one of those committees been given a tangible target and told that they were to emerge with that dollar figure intact and then send that forthwith to the Appropriations Committee I think the level of appropriate cuts, which I do not believe are deep enough at this point, would have been there to offset the current proposed reductions in general purpose aid and municipal revenue sharing. The Taxation Committee took a firm position in agreement with the Appropriations Committee several weeks ago that, we felt at this juncture, 104 million dollars in cuts should be found and could be found in order to offset the Governor's proposals in those two strategic areas. So I will be supporting this amendment recognizing full well that it may give the appearance of conflicting with the committee process, the Appropriations Committee process, one which I respect and I would request a roll call.

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

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise as well to urge you to vote against Senator Brannigan of Cumberland's motion and to support Senator Dutremble of York's amendment. As I've stated before, one of the underlying principles in supposedly this budget

balancing process was that it was going to be balanced by cuts in state government and that there were going to be no revenues added to balance our budget. We weren't going to spend our way out of it this time. We were going to do the hard cuts.

The budget you have before you has 34% revenue increases to balance the budget in fees, in fines and in taxes at the local level, 34% of it. Yet there was no discussion allowed in what was a fair and equitable and just and progressive means of asking the citizens of this state how they should pay for the government they need. Was not allowed, not allowed by the Governor, not allowed by the Taxation Committee or leadership or others. Yet we find it in this budget in a backhanded method. Specifically in this amendment which is one of the last vehicles we have ladies and gentlemen to address this question of a backdoor method of increasing the regressivity of the tax policy in this state by taking revenue from municipalities through the municipal revenue sharing program and through aid to education. Taking that money, particularly the municipal revenue sharing which is not in your budget. You will not find a word of it in the state budget. Stealing. Stealing the money from local municipalities so that we can fix the state's problem regardless of the difficulty and the problems in the middle of a budget year it creates for municipalities. It's not honest, it's not fair, it's not balanced and it slides us into a process by which we are rapidly marching forward into the 1930's to another regressive system of the way government is run and financed.

I would urge you not to support Senator Brannigan's motion to indefinitely postpone. It is the last opportunity you're going to have, that I know of, to undo bad policy.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **BRANNIGAN** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "0" (S-493).

A vote of Yes will be in favor of the motion by Senator **BRANNIGAN** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "0" (S-493).

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators **BRANNIGAN, BRAWN, CAHILL, CARPENTER, COLLINS, CONLEY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, KANY, LUDWIG, MILLS, PEARSON, RICH, SUMMERS, WEBSTER, THE PRESIDENT - CHARLES P. PRAY**

**NAYS:** Senators **BALDACCI, BERUBE, BOST, BUSTIN, CLARK, CLEVELAND, DUTREMBLE, ESTES, ESTY, MATTHEWS, MCCORMICK, THERIAULT, TITCOMB, TWITCHELL**

**ABSENT:** Senators **EMERSON, VOSE**

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **BRANNIGAN** of Cumberland, to **INDEFINITELY POSTPONE** Senate Amendment "0" (S-493), **PREVAILED**.

On motion by Senator **BUSTIN** of Kennebec, Senate Amendment "A" (S-479) **READ**.

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

**Senator BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I just wanted to tell you, ladies and gentlemen, that this really is a technical amendment. I failed to put it in under bills in the second reading so don't think that I'm before you as Chair of the Bills in Second Reading. It is a typographical error as I understand it and what it is is the OUI offenses in the budget bill says it would be taken off your record within a six month period and it's always been a six year period. So you effectively wipe out all multiple offender on OUI if you have this six month and not the six year. So that's what this amendment is about.

On further motion by same Senator, Senate Amendment "A" (S-479) **ADOPTED**.

On motion by Senator **BUSTIN** of Kennebec, Senate Amendment "M" (S-491) **READ**.

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

**Senator BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is not a technical amendment. This has to do the boards and commissions and it has to do with four of them that have no effect on the budget and if they are to be taken off the books ought to be taken off by the committees of jurisdiction and not through the budget bill. I've always opposed this kind of language in budget bills. It has nothing to do with money and this is one of them. This amendment would restore the State Government Internship Program Advisory Committee, the Maine Veterans Small Business Loan Board, the Forest Fire Advisory Council and Advisory Committee on Home Health, all of which I think are needed. We have reviewed most of these up in Audit and Program Review and have passed on them so I appreciate your support.

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

**Senator BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I move the indefinite postponement of Senate Amendment "M". I am reluctant in all of the board and commission situations. Certainly others that I'm not sure what all of these do but I'm sure there are others, I know what they do, and it pained me and others greatly to cut. However, just to let you know where we're coming from, and I'm not always up here to protect that appropriations process, not at all. But just to let you know how we arrived at these decisions, the Governor had suggested over thirty boards and commissions and we made a decision there was no way we could go through those thirty and pick them apart and choose this one or that one. There were some that some would want to get rid of immediately. Others they would want to fight almost to the death for and so we decided unanimously that we'd keep them in a package. For two rounds we kept them alive, some of us, the last round we decided we needed to do more cutting in size of state government as well as in funding and so we voted as a group that they were to go.

If someone feels that some board or commission is absolutely necessary we feel that they can come roaring back in three weeks and give those reasons. But for us to begin to pick through here because there are certainly others that I would rather save so I encourage you not to support this amendment. Thank you.

**Senator BRANNIGAN** of Cumberland moved to **INDEFINITELY POSTPONE** Senate Amendment "M" (S-491).

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

Senator **BUSTIN**: Thank you Mr. President. Ladies and Gentlemen of the Senate. Again I am at odds with my good friend from Cumberland, Senator Brannigan, and I respect the position he has taken. However, again, we are allowing in this budget document for a committee to make decisions for other committees because somebody sent up a bill in a particular form with no particular justification for why these particular ones should be on that list, or for that matter, any of the others. The reason that I picked these and there is an amendment to this amendment coming, if it passes, because I had forgotten to put in this amendment the one that oversees the bid process for purchases in this state which I think is a very important one, which really is an internal government thing and doesn't cost any money.

These are some important committees with important input from the public. Heaven forbid we should consider the public when we start spending state money. And that's really what these particular advisory boards do is to assist state government with input from the public when they do their business in their meetings. The public really doesn't have much more input than that. For the Appropriations Committee, because it was included in a bill, to make that arbitrary decision, I think, is wrong. What the good Senator from Cumberland, Senator Brannigan, as Chair of the Appropriations Committee is suggesting is that this body, the legislature, spend more money to print another bill to go through a committee to get the very law in in the statutes that we already have that they choose to take out. I think that's irresponsible on the part of the Appropriations Committee that's trying to find all this money.

So, I'm bringing before you, in all fairness, and submitting to you that this costs no money, that they are needed. That if they aren't needed let the committees of jurisdiction tell you that. Don't ask me to put in another bill to restore them after you take them out. I could give you some old farm language on that but I won't bother. You probably all know what I mean. It's sort of backwards to do it that way. I suggest that you accept this amendment so we don't have to go through that fiasco. It really is a fiasco. I'm sorry to even have to present this amendment. I'm sorry to take the time of the legislature to do it because I don't think it's necessary. I don't think it ever should have been in there. So I urge your support of this amendment and ask, Mr. President, when the vote is taken I would ask for a division.

Senator **BUSTIN** of Kennebec requested a Division.

**THE PRESIDENT**: The pending question before the Senate is the motion by Senator **BRANNIGAN** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "M" (S-491).

A Division has been requested.

Will all those in favor of the motion by Senator **BRANNIGAN** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "M" (S-491), please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

24 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **BRANNIGAN** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "M" (S-491), **PREVAILED**.

On motion by Senator **BOST** of Penobscot, Senate Amendment "H" (S-486) **READ**.

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

Senator **BOST**: Thank you Mr. President. Ladies and Gentlemen of the Senate. This would restore funding which was cut in the current budget document that we're considering now from the Office of the Chief Medical Examiner and remove a commensurate level of funding from the Maine Development Foundation. So it would achieve that objective in a revenue neutral fashion. Thank you.

On further motion by same senator, Senate Amendment "H" (S-486) **ADOPTED**.

On motion by Senator **BERUBE** of Androscoggin, Senate Amendment "B" (S-480) **READ**.

**THE PRESIDENT**: The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I'd like to explain what the amendment does. First of all, it strikes out the fee increases in the DEEP program. The non DEEP individual, that is the offender who is not going through the DEEP program, would be assessed a \$50 registration fee. At the present moment it is zero.

Secondly, the first time offender under 21 years of age would go from \$105 dollars to \$150. The first time adult remains at \$105. However, in the current law that \$105 buys both education and assessment and in the present budget structure it eliminates the education portions. So, in effect, it is an increase because somebody's gonna have to pay for the education portion as well as the assessment.

Thirdly, the first time offender with an aggravated offense goes from the current \$350 to \$425. Collectively, or totally, this will supposedly raise in revenues \$171,600. So, you might think that this amendment creates an unbalanced budget but it does not because that \$171,600 is immediately earmarked, redirected toward the general fund portion into the Executive Department to correct cuts that have been made in the past. So, actually it's a wash. I offer the amendment and hope you accept it. It's a wash Senator.

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

Senator **PEARSON**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I don't follow that particular fiscal analysis that the good Senator from Androscoggin, Senator Berube, just gave us. If it's being counted in the budget to the tune of \$171,600 and you eliminate it how does that wash?

**THE PRESIDENT**: The Senator from Penobscot, Senator Pearson has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE**: Thank you Mr. President. Ladies and Gentlemen of the Senate. On page 201 of the revenue section you will notice that under Part Y lists 171,600 as revenue and if you turn to page 172 of the budget it reallocates \$171,600 to the Executive Department to be earmarked for Office of Substance Abuse, \$171,800. It's on page 172. I took the liberty of double checking this with staff of the Appropriations and it was clarified for me. Thank you.

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

Senator **BRANNIGAN**: Thank you Mr. President. Ladies and Gentlemen of the Senate. Even though the

Senator from Androscoggin, Senator Berube, doubled checked with our staff in Fiscal and Program Review, that staff prepares the fiscal note and the fiscal note says that there would be \$171,000 drain on the general fund. I think what the Senator has perceived is that the money is brought in and is allocated but it is still filling a hole that is in the general fund.

**THE PRESIDENT:** I would move the indefinite postponement of this amendment and also point out to the members that we have, with some reluctance, eased the burden for first offenders and like to note that as we were gathering information I got long lists, as did other members, of cuts and changes that should be made. From one Senator, I believe it's a Senator, they thought first offenders should be charged \$5,000 and, I'm not sure if it was and or, a year in jail. Some people feel very strongly about this issue and so I feel that the slight increases are not unjustified. I would hope that anyone who wanted to change them would find \$171,000. Thank you.

Senator **BRANNIGAN** of Cumberland moved to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-480).

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

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Again the good Senator from Cumberland, Senator Brannigan, is stepping on my toes accept that this time I support him in this amendment. Basically, the reason that he's stepping on my toes is in fact I'm reviewing DEEP up in Audit and Program Review and yes, we are looking at the first offender program, going into the second offender program and yes, there are lot's of things that need to be done. But most importantly the \$171,000 is part of the money that's used as the commitment money, or the match money, for the feds and we are just barely scraping by with that match in alcohol and substance abuse money. If we don't do it then we're going to be in some fairly deep trouble like three years from now when there's a federal audit if we don't have our maintenance of effort monies in there.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I certainly don't want to belabor the point nor will I ask for a roll call out of deference to the Chair of the Appropriations Committee. However, I would like to correct something the Senator from Kennebec has mentioned. Maintenance of effort. Maintenance of effort as I understand it is that you maintain the same appropriation this year and next year as you had the previous year. Maintenance of effort in order to qualify for those wonderful zillions of federal dollars that come down the pike. I would like to point out to you that in the 1992 budget the DEEP Program is allocated \$675,869 minus a \$29,723 cut and in the 93 budget they are allocated the same amount of money, \$675,869 which tells me we've maintained a little bit more maintenance of effort. The Office of Substance Abuse in 1992 has 5.3 million, in 1993 5.6 million. I think that should satisfy the federal people that we are indeed maintaining effort with general fund dollars and I guess my main reason for opposing those drastic increases of fees, you know there's a limit where you can tap people's pockets and I think we've expropriated and it's not too tough a word, enough money from the people we represent but I'll let it go at that. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **BRANNIGAN** of Cumberland that Senate Amendment "B" (S-480) be **INDEFINITELY POSTPONED**.

The Chair ordered a Division.

Will all those in favor of **INDEFINITE POSTPONEMENT** please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

27 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator **BRANNIGAN** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-480), **PREVAILED**.

On motion by Senator **DUTREMBLE** of York, Senate Amendment "I" (S-487) **READ**.

Senator **KANY** of Kennebec moved to **INDEFINITELY POSTPONE** Senate Amendment "I" (S-487).

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The comments that I expressed to you earlier still apply so I'm not going to go through the whole thing again and I just wanted to explain to you the difference here. The difference here is that it allows for 10 million dollars in General Purpose Aid cuts be made to the local schools because it has probably been expressed to some people that there may be some cuts that can be made there through furloughs or whatever other methods and they'd probably withstand that amount of money and that would mean that we would be up to 80 million dollars in cuts that we can book leaving 24 million dollars to make up for the committees of jurisdiction to come in and do the job that they're supposed to do.

Two points that I want to make before I sit down. One of them is something that the good Senator from Kennebec, Senator Kany said earlier about the constitutional obligation to balance the budget. I think that all of us here understand our obligation to balance the budget and we've met that any other year that I've been here but I do want to point out that that does not have to be done until June 30, 1992. It doesn't have to be done on December 19th, six days before Christmas and the reason I bring that up is because we've gone through this before and I made a statement downstairs in the cabinet room amongst leadership and the Governor in that those people who don't learn from history are condemned to repeat it and we are repeating it right now. Same process we went through last year at this particular time, deadlines, not deadlines that are there, self imposed deadlines, or deadlines that people put up there. They aren't really there and we're going through the same process and we always told ourselves, at least I told myself, after last year that we should never go through this again.

We should have learned from what happened last year and I don't think we've learned enough because here we are, six days before Christmas, same procedure we went through last year and we're doing it again and it doesn't have to be done. There's plenty of time to come back in with this amendment being accepted understanding that we can book the 80 million dollars and 24 million dollars if the Legislature can't come up with the Governor still has the authority to issue an Executive Order and it will be alot better than what you're saying will happen if we don't pass this budget. Everybody is saying we



should do this because if we don't you should see the Executive Order the Governor has got for us. Well, if we do this, if we do it this way, the most the Governor needs is 24 million dollars. He can spread that over any way he wants to but it's not going to be any worse to municipalities and it won't be any worse for our schools, it won't be any worse for anybody. The only thing is, it will allow us to come in and cut state government.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **KANY** of Kennebec to **INDEFINITELY POSTPONE** Senate Amendment "I" (S-487)

The Chair ordered a Division.

Will all those in favor of **INDEFINITE POSTPONEMENT** please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

17 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **KANY** of Kennebec to **INDEFINITELY POSTPONE** Senate Amendment "I" (S-487), **PREVAILED**.

On motion of Senator **THERIAULT** of Aroostook, Senate Amendment "L" (S-490) **READ**.

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

Senator **THERIAULT:** Thank you Mr. President. Ladies and Gentlemen of the Senate. What this amendment does is it provides a safety net for the smallest of our small schools. Presently, we have some independent schools that have essentially only the bare minimums in order for them to be in operation and I'm talking about things like a classroom, a teacher, a school bus, and maybe a part-time bus operator. They have absolutely no fluff and there's no way they could cut and those same communities most of the time have a large portion of their tax effort towards education and if we do not provide some kind of a net for those types of schools we're going to be in serious trouble and I would want to add that this particular amendment is revenue neutral. Thank you.

Senator **BRANNIGAN** of Cumberland moved to **INDEFINITELY POSTPONE** Senate Amendment "L" (S-490).

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

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The amendment to the bill because I think it is to the wrong bill. I think that I would encourage the Senator from Aroostook, Senator Theriault to consider LD 1986 as the proper vehicle for dealing with the distribution of any cuts to the schools that we may have to make or we are having to make, that I believe we will have to make and it would be more proper, I believe, to deal with that in that debate rather than in debate on the budget in general.

Senator **THERIAULT** of Aroostook requested and received leave of the Senate to withdraw his motion to **ADOPT** Senate Amendment "L" (S-490).

On motion by Senator **MCCORMICK** of Kennebec, Senate Amendment "F" (S-484) **READ** and **ADOPTED**.

On motion by Senator **CAHILL** of Sagadahoc, the Senate **RECONSIDERED** its action whereby Senate Amendment "F" (S-484) was **ADOPTED**.

**THE PRESIDENT:** The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I appreciate that courtesy that was just extended to me. I just have a

question to the sponsor of this amendment if I may. I understand the issue, or I think I understand the issue, but does this amendment extend the retirement benefits or it does not effect retirement benefits for county and municipal employees, therefore will the participating local districts be required to pay for this and is that therefore a mandate to the local government?

**THE PRESIDENT:** The Senator from Sagadahoc, Senator Cahill has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. No. A municipality must take an affirmative action in order to eliminate the impact of furlough days on municipal employees on their average annual compensation. They must vote, they must take an action but they are allowed to do so under this. This is a permissive amendment. It allow them to do so but there must be an action taken on a local level so its not a mandate.

One more informational point. This just brings municipal employees into the same category as teachers and state employees in decisions that we've made to not effect their average annual compensation. These are the forced furlough days but it does take affirmative action on the municipalities part.

On further motion by same senator, Senate Amendment "F" (S-484) **ADOPTED**.

On motion by Senator **BOST** of Penobscot, Senate Amendment "C" (S-481) **READ**.

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

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Very simply, this amendment clarifies the intent of Part II, page 190 of the budget bill which makes specific reference to administrative costs of various positions throughout state government reflecting most of the original language, however, instead of allowing the rescision of salary adjustments to essentially be voluntary in a number of instances, it states that those will in fact occur and it also adds language which insures that vehicle stipends which were awarded to administrators in a number of areas of state government earlier this year after we, in the last budget document, had removed access to those vehicles, that those stipends would no longer be granted. Thank you.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It appears to me on quick reading here that the amendment singles out the University of Maine system, the Maine Technical College system and the Maine Maritime Academy and suggests that certain rules be enplaced that would prohibit the utilization of motor vehicles by those people that are currently authorized to use them. I guess my concern about this is that it would appear to me that while the Legislature has the responsibility in funding, in part, those particular organizations, those are governed separately by their respective boards of trustees and it seems to me that we infringe upon that when we pass legislation of this type. So, I would hope that you would defeat the motion to adopt this amendment because it is really not an appropriate thing for the Legislature

to be involved in. It seems to me the Legislature has a great deal of influence over those respective agencies through the appropriations process and I respect and am pleased that they do but it seems to me that the actual operation of the University and the Maine Technical Colleges and the Maine Maritime System are not an appropriate place to legislate against in this fashion and I hope that you will reject this amendment. Thank you.

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The good Senator from Aroostook, Senator Collins, said that it prohibited the use of the motor vehicles by people entitled to use vehicles. I would wish that he would point out where in the amendment it does that because I don't see it. As I understand it, people who are entitled to use vehicles at the University level would go to a motor pool and check out a vehicle. He said, and I quote, "prohibits the use of motor vehicles by people entitled to use vehicles", I don't see it. Please show it to me.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It seems to me that under Part 00, Section 00-1, it says not withstanding any other provision of law, no commuting vehicle stipend may be awarded, authorized or implemented to any non represented employee of the University Maine System and so forth and so forth. That seems to me to imply that they currently do that and I presume that they do it under authority of those respective institutions. So, in my reading of that I guess I assumed that they currently have the ability to do that and that this in effect takes it away.

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

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I always suspected that one day that this would happen to me. I believe that just to clarify this section for Senator Collins and just give a bit of history, this does not deny access by anyone to vehicles which are currently made available through a motor pool. What this does is follow up on an action which was taken earlier this year which removed access to personal vehicles used by administrators. It was learned after that action was taken in tandem with similar action that was taken by this Legislature about personal use of vehicles among officials within state government that a transportation stipend was awarded to those administrators to help them defray whatever hardship they might endure having had that vehicle taken away. This would simply state that the second half of that vehicle stipend which was originally 4 thousand dollars, two of which has already been distributed to those administrators, the second half would not be awarded. But, to answer the concern of the good Senator from Aroostook, no it does not limit access to motor pool vehicles by those administrators.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would also inquire if under Section 2-1 and 2-2 it appears to me that this also makes some salary adjustments. Is that the intent of the legislation or am I reading this wrong?

**THE PRESIDENT:** The Senator from Aroostook, Senator Collins has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Penobscot, Senator Bost.

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I'd be more than happy to answer that. It really is rather self explanatory. This reflects, as I said earlier, language which was inserted in the budget by the Appropriations Committee which rescinded salary adjustments which have been made to a number of positions, persons not represented by bargaining units, in state government above and beyond their base salary and beyond that it also reflects the language in the Appropriations bill with regard to adjustments of \$50,000 and over for those employees, many of whom would be administrators and creates a 2% salary adjustment downward to reflect these 5 and 7 percent salary adjustments that were made to employees elsewhere in state government. We felt that that was only equitable in these very difficult fiscal times.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. My question that I would pose is does this exclude people who make \$50,000 or more who are in a bargaining unit?

**THE PRESIDENT:** The Senator from Aroostook, Senator Collins has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Penobscot, Senator Bost.

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The answer is yes. Those are covered by agreements which both the Appropriations Committee and the sponsor of this amendment could not alter in any way.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **BOST** of Penobscot to **ADOPT** Senate Amendment "C" (S-481).

The Chair ordered a Division.

Will all those in favor of the motion by Senator **BOST** of Penobscot to **ADOPT** Senate Amendment "C" (S-481), please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

16 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **BOST** of Penobscot to **ADOPT** Senate Amendment "C" (S-481), **PREVAILED**.

On motion by Senator **MILLS** of Oxford, Senate Amendment "N" (S-492) **READ**.

Senator **CAHILL** of Sagadahoc requested a Division.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **MILLS** of Oxford to **ADOPT** Senate Amendment "N" (S-492).

A Division has been requested.

Will all those in favor of the motion by Senator **MILLS** of Oxford to **ADOPT** Senate Amendment "N" (S-492), please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

19 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **MILLS** of Oxford to **ADOPT** Senate Amendment "N" (S-492), **PREVAILED**.

On motion by Senator **DUTREMBLE** of York, Senate Amendment "P" (S-494) **READ**.

Senator **KANY** of Kennebec moved to **INDEFINITELY POSTPONE** Senate Amendment "P" (S-494).

On motion by Senator **DUTREMBLE** of York, Senate Amendment "A" (S-495) to Senate Amendment "P" (S-494) **READ**.

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

Senator **TITCOMB:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I must tell you that it's confusing following what all these senate amendment A's and B's and P's and so forth. I guess what I would ask is for the good Senator from York, Senator Dutremble, to explain what Senate Amendment "A" to Senate Amendment "P" what provide so that it's clear to the body.

**THE PRESIDENT:** The Senator from Cumberland, Senator Titcomb has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from York, Senator Dutremble.

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The Senate Amendment "A" to Senate Amendment "P" clarifies the fiscal note in Senate Amendment "P" because there is a mistake in Senate Amendment "P" on the fiscal note and this just clarifies it.

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

Senator **TITCOMB:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I'm not sure Mr. President if it is appropriate at this time but could we ask the good Senator from York to explain Senate Amendment "P" and how Senate Amendment "A" would modify that? Thank you.

**THE PRESIDENT:** The Chair would state that debate about Senate Amendment "P" is not proper at this time. Debate about Senate Amendment "A" to Senate Amendment "P" is appropriate at this time.

On motion by Senator **DUTREMBLE** of York, Senate Amendment "A" (S-495) to Senate Amendment "P" (S-494) **ADOPTED**.

Senator **KANY** of Kennebec moved to **INDEFINITELY POSTPONE** Senate Amendment "P" (S-494) as Amended by Senate Amendment "A" (S-495), thereto.

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

Senator **DUTREMBLE:** Thank you Mr. President. I must take some lessons from the Senator from Oxford, Senator Mills, because when he presents an amendment he doesn't have to say anything. Maybe I should announce I'm retiring. Senate Amendment "P" would eliminate the Office of Waste Management and place it in the Department of Environmental Protection this is a duplication of effort. In the time of fiscal responsibility it's important that we stop duplicating our efforts. There's money to be saved here and since we're looking for it and if you had supported my earlier amendment this would have been the beginning of the first million dollars. So, I offer this amendment for your consideration.

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. There are many reasons why I oppose this amendment. I'll just point out one. I would once again allow commercial solid waste facilities to be developed throughout the state of Maine. Senator Webster of Franklin is well aware of

the problems that the people of Norridgewock have in his district with CWS no owned by Waste Management and this would allow that type of facility to be developed any place.

The Legislature made a wise decision, a very wise policy decision I believe, when we prohibited the development of new commercial solid waste landfills like that for a number of reasons. One is if we only have new public facilities then we, the people of Maine, can decide who our customers are and that is a way we can prohibit the importation of out-of-state waste, out-of-state ash, out-of-state sludge and so on. Otherwise, we could have lots of facilities taking sludge from not only all over the United States but from all over the world. This amendment would allow that.

Furthermore, if we have only facilities that are publicly owned we will make certain that they are carefully taken care of. We will be able to monitor the waste stream so that we know what toxics are landfilled. We will be able to monitor and to ensure into the future that there is proper monitoring of the ground water. This would allow such facilities any place including more in Norridgewock, as an example. I certainly hope that we don't take a giant step backwards and once again allow these facilities that have ended up costing us millions and millions of dollars in clean up throughout the United States but here in Maine especially. In fact we have spent billions of dollars on cleaning up landfills. I think there is no worse waste of taxpayers money than cleaning up something that could have been prevented and this amendment is a huge step, once again, backwards in that direction.

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

Senator **TITCOMB:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I must tell you that this particular amendment concerns me a great deal for several reasons. All of those that were just stated by the good Senator from Kennebec, Senator Kany, but in addition because I see before us very broad reaching, significant policy changes that are specific to the Energy and Natural Resources Committee being decided in a budget bill. I think it is highly inappropriate that this sort of action be taken. Certainly there may be modifications that it is appropriate to make concerning this agency. Certain coordination between this agency and the Department of Environmental Protection but, truly, these modifications need to take place before the public hearing process and through the legislative committee and I'm very concerned that this sort of broad reaching change could take place here in the budget.

I think that there are some questions that we need to ask as we make this decision. The first one is this whole issue of out-of-state waste and I think we have to search our own souls as to what sort of control we feel that the state needs to have specific to the import of out-of-state special waste.

The second, is how extensive is our support going to be for those very communities we go back home to who are making strides ahead in their recycling efforts and need to have this sort of support from the state level that, frankly, we would be compromising in a very big way because the transfer of funds would be minimal to DEP.

Thirdly, what is our effort going to be in reducing solid waste? Certainly we know that if

there's a big ticket item on our local budgets it is the cost of dealing with waste and this is one agency, whatever the modifications to it might be, that can do that job.

And the fourth issue is, one more time to repeat, the whole idea of us losing a handle on the special waste that enters this state. For an update, the status of the search for a special waste site right now, we are in the process of reviewing the last site that would be considered for the state. The reason that it is being considered last is simply because it asked the agency to consider it last and frankly, from all the reports that I've heard I do not think the agency is going to find this site suitable. But it's premature for us to say that. Certainly the process merits our actions to allow it to go forward and at least do a full meaningful review of each of the sites being considered.

I know that the Energy and Natural Resources Committee has begun to look at other options for dealing with special waste then those sites that have been considered over the last several months. I would encourage you not to support this amendment. I believe it is a step in the wrong direction. I think it takes a very significant question out of the committee of jurisdiction and it makes decisions that can have truly far sweeping consequences. I would ask you to oppose this amendment.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I should point out that the Arundel-Biddeford site is the last site to be considered so there's no question about that. I just question the remarks that I've heard that the wise decision that we gave the power of setting dump sites in the state to a state agency. At the time that this happened there seemed to be a tremendous need for it. That need seems to have vanished over the last year. At that time we decided to expend some money at the state level to do something like that.

The question right now is whether we should continue this process when there are people being laid off, programs being dismissed that can actually hurt people and we're over here spending money on garbage dumps. That's one point.

The other point, let me give you an idea of what happens when you take an issue as important like this which should belong to an agency that has experience on it and you create an agency which has to go out and start doing everything from step one. The sites were selected, some of you are very aware of this but I just want to remind you of it, by taking maps out and looking and saying this looks good, this looks good, that looks good, let's fly over it and that looks really good, let's take that. That's how the sites got picked. Now there's no question about that, it sounds funny but that's exactly how it was done. The problem with that is this, communities have expended large sums of money because they knew that their sites weren't adequate. Eighty thousand, a hundred thousand, fifty thousand, forty thousand and here we are, we're talking about taking revenue sharing money away from them and we're not doing anything else to help them along the way.

Our communities are actually having to spend money to prove to the state that their site is not good. The state should have been doing that. This process has been flawed from the very beginning. The

good Senator from Androscoggin, Senator Gauvreau, earlier said if it ain't broke don't fix it, well this is broke, let's fix it.

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

Senator **WEBSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I felt an obligation to stand up and defend my good friend and ally from York County, Senator Dutremble, in his effort to repeal this law. Many of you now know, if you didn't know before, as the good Senator from Kennebec has told you, I do represent Norridgewock, Maine where we have one of two commercial landfills in the state and I am a little concerned that if we were to repeal this law there might be some new commercial developments and that would be one aspect of this repeal that would concern me. I do know that the chances of having a commercial landfill again in this state are rather minuscule especially since the legislature will be back here in two weeks or three weeks and I'm sure that someone would be sure that that didn't happen.

I think what concerns me is at what point does a legislature say we're going to start cutting? I'm not going to make the speeches about whether this budget, which I will not vote for in the end probably, does what I want it to do but I would like to ask you at what point do we say we want to eliminate something? Every program has a following. It's easy for me to vote against this because I didn't vote for it to begin with. It's easy for me to vote against a lot of things that I suggest we ought to cut because I didn't vote for them. The simple fact is that the DEP is an established agency that a lot of us don't care a lot about. But the fact is it's there and if it's doing its job it ought to be able to do this.

At some point we have to set priorities just like everybody else out there in the real world does, we have to set priorities to decide what we can do and what we can't do. And what we can't do is everything. We can't have a state agency to do everything that possibly might have to be done by government. If DEP is there and doing its job why do we need to duplicate those efforts? Seems to me that the good Senator from York County has a good amendment here and I would ask you to endorse it.

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

Senator **BALDACCI:** Thank you Mr. President. Ladies and Gentlemen of the Senate. We had a caucus a long time ago in Fairfield where we took up these issues in trying to come up with budget cutting measures and one of the subgroups was on natural resources. And in that subgroup were members of the Energy and Natural Resources Committee and myself and one of the issues that we felt and agreed upon at that time was the fact that this particular agency in its duplication of purposes, in remembering it was established as a perception, it was established because we didn't want it to look like DEP was doing the approval on the site and also the siting of the site. That was why, in essence, this agency was established. It was established when we had more money, when we could afford the perception. Today we can't afford the money and we can't afford the perception. And it was agreed upon that this agency in its duplication of effort because it's working right along with DEP in the siting now to make sure when that is presented to the DEP that it will be either approved or very closely to being approved. We can't afford it.

I've looked at some of the amendments of the bill though and I would agree with those that say that there are some concerns there but I think that it's more important also to point out that we do have to start looking at functions of government and the duplication and look at cutting back on them. We can't afford them and we're still going to have the service. DEP is still going to be there. We should put all our eggs in that basket and try to get the best bang for our buck out of DEP and not have low-level radioactive waste running around and this siting commission running around when in essence they're ultimately going to be going to the DEP for approval.

That's what's frustrating. When you're cutting local aid and you're cutting local municipal revenue sharing and those people are saying why is it always the ones on the end? Why don't you do something about the people in Augusta, in the bureaucracy in Augusta? That's what our whole intent ought to be. It's very easy to cut the revenue sharing and very easy to cut aid to education but what are we doing about the bureaucracy in Augusta?

That's where I would have more of an issue with the Appropriations Committee. They did a very good job but that's where I would have more of an issue with what was done. But there's still more time to do that. There's still more time to do that. The way this economy's going and a state budget that's reliant upon income and sales we're still going to be looking at more deficits and we're still going to have to be searching for those agencies and bureaucracies that need to be cut back. We're not here for the people in Augusta. We're here for the people in our districts and the services that are being provided in our districts.

The great issue I thought that identified the university system, the Augusta bureaucracy and any other agency was when they wanted to cut the speech and hearing aids places throughout the state and they wanted to give those parents an 800 number to call Augusta. That's the mentality of the people that are in operations and leadership throughout this bureaucracy we have. That's what they considered to be budget cutting. That's what I take great issue at. It is very hard to cut people here in Augusta. You work with them all the time. They're around all the time and you don't want to hurt anybody. None of us wants to hurt anybody but the bottom line is that when you watch the mentally ill roaming the streets of Bangor, climbing on Interstate 95 signs to jump off, when you go to the county jail and you see them in the jail and you see them in the homeless shelters and you see long lines at the Salvation Army to get food, a hot meal, your people and my people are hurting. We can't afford the luxuries that have been talked about and tried to amend in this budget. That's what our job is and I would hope that we would stick to that come January when we have to address the next budget deficit because I have no more intent of going to aid to education or general revenue sharing. I have no more intent of doing that until we do a better job in this legislature, in this government and in the university system of cutting the bureaucracies. I'm sick and tired of watching

students transfer out of the university system because they can't get classes. I'm sick and tired of watching them pack their bags and go to another state. This state was established to take care of the people not the people in Augusta but the people in our districts. Thank you Mr. President.

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Off Record Remarks

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

Senator **SUMMERS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I have to echo alot of the sentiments of the Senator from Penobscot, Senator Baldacci, but I can tell you what really won my support of this was Senator Dutremble's explanation of the site selection process a few moments ago. The Senator from York, Senator Dutremble, was exactly right. We have to prioritize here and if we're talking about cutting aid to schools or municipalities or duplicating services we'd better cut in Augusta and not at home.

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

Senator **LUDWIG:** Thank you Mr. President. Ladies and Gentlemen of the Senate. As someone who was on the Energy and Natural Resources Committee when this whole solid waste management agency was conceived and put into practice I still think it can serve a purpose in today's world. We have a lot of communities out there that have gone to great expense to start their landfilling processes and things of this sort and if we take away the people who are supposed to be their advisors I think this would be very detrimental and harmful and leave people with the basement to a building but no way to put up the roof.

I did call the fellow who is in charge of the Southern Aroostook Solid Waste Management Association to see what his views were on the idea of doing away with the agency and he said as much as I've had my problems with them in the past, I still think they have shown us the way and that we're going to need them a little bit longer. and he said I'm really scared at the thought of handing them over to the DEP because that would be total disaster.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. We really are not considering doing policy of this magnitude without the input of the Energy and Natural Resources Committee are we? I am not. I am not. This is a major change. It's a major change to consider going back to the days when there were commercial landfills and no control on out-of-state waste. It's a policy decision. It shouldn't be in the budget bill. It shouldn't be an amendment to the budget bill. I hope we oppose it. Thank you.

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

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I'd like to pose a question through the Chair to any member of the Appropriations Committee who might choose to answer. Did the Appropriations Committee consider the substance of this amendment which is before the

body? And did it consider whether or not to eliminate this agency as part of the cuts that were put together for this package?

**THE PRESIDENT:** The Senator from Cumberland, Senator Conley, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the senior Senator from Cumberland, Senator Brannigan.

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would address young Conley. A huge variety of suggestions were made in the Appropriations Committee. Did we debate this at any length? We did not. I think what we thought was that this is an issue that really should be taken up by the committee of jurisdiction and it was just too major a policy change for us to make in the budget and for the amount of money and for the harm or good that could be done we felt that we would let that go.

**THE PRESIDENT:** The Chair recognizes the junior Senator from Cumberland, Senator Conley, in deference to the most senior Senator Cumberland, Senator Gill.

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. You could just call me junior if you'd like. Men and women of the Senate, I rise to support the Senator from Kennebec, Senator McCormick, which I have not done much of this afternoon though I would like to. It comes back to really how I feel about the budget process, the budget document and the Appropriations Committee and what they did. Not just in the last few weeks but in the last seventeen months. There's a lot of things I'd like to see changed in this budget, lots. I'd like to get rid of BIDE. I'd like to get rid of the Maine Turnpike Authority. I'd like to get rid of some of the people I see walking around these halls I thought we laid off two years ago. But you can't seem to get rid of them. I understand how things work around here and that the bureaucracy is hard to get at. But if there's anything I've learned up here it is you try to defer to the judgement of those who are in the fact finding position and that is what the members of this committee have been charged with. Like in a judicial system, you do not overturn the fact finder unless you have a good reason to do it. Or, at least, that's my judgement as to how we should approach this. And that is why the speech the good Senator from Cumberland, the senior Senator, Senator Brannigan gave makes so much sense to me and is why I think it's important to support the Appropriations Committee and why it's important not to get into some pig piling now to get rid of an agency which maybe I'm not that happy with.

I would say to the good Senator from York, who I've had my differences with but whom I respect, he did an excellent job on all his amendments today although they've not gone far, as I hope this one doesn't. I'd like him to take another look at my video gaming bill. Let's bring it back. 32 million bucks right there. We won't have to worry about a penny, not a penny, to take away from municipalities. It's not the time, not the time. We'll have a chance to look at that and a lot of other things in January. We've got to get on with the business here so we're not the laughing stock of this state and the rest of the country, which is what we were a few months ago.

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Off Record Remarks

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I think that the good Senator from Cumberland is absolutely correct. So is the good Senator from Kennebec absolutely correct when you say that committees should be discussing this. But understand that committees weren't called in. This should have come up in committee. Committees weren't called in. The process that you have right now that you seem to be defending is the process that produced 97 amendments. I don't represent the members of the Appropriations Committee and what you're asking me to do, and other people, is to not put in an amendment and allow the state's mistakes to continue costing cities money when we have the opportunity to stop it right now. Simple as that.

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I can understand why the good Senator from York, Senator Dutremble, is offering this amendment. After all, communities he represents are still in the running for a special waste landfill that would be publicly owned and he is representing his constituents and doing it well as he always does. But I can promise you, all of you, that you're communities, the people in your districts throughout the state of Maine would not find this amendment something they would want to put on their Christmas tree if you were opening up the idea and the proposals for commercial waste landfills in the state of Maine that could accept ash, sludge not only from states in New England, not only from all over the United States and Canada and Mexico and South America but from all over the world. Our U.S. Constitution would not allow you, you, you to tell that commercial landfill owner who their customers could be. Please keep that in mind. I urge you to vote with the pending motion which is indefinite postponement.

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

Senator **WEBSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The good Senator from Kennebec, Senator Kany, talks about what the people of Maine would want under their Christmas tree in a few days when Santa Claus comes by. I want to tell you that the people of Maine are not going to want what this legislature might do to them when it comes to cutting education and local revenue sharing. Not only are they not going to want that but they're going to be very upset if they think we took a dollar out of education, a penny, a cent, any money at all out of education or general revenue sharing if we have not eliminated every wasteful spending of tax payers money. This is a million dollars of tax payers money that's not as important as educating kids. And those are the decisions that we're elected to make here. We come here, we decide, we set priorities. If you think this is important then you vote for this and you turn around and you vote to cut education and I would suggest that that is more important than this.

Ladies and gentlemen we have to make tough decisions. People are asking us, are demanding that we make tough decisions and we decide what's important, what's not important. I would suggest to

the members of this body that this agency is no where's near as important as educating kids. I would suggest that there are other areas in state government where we spend money that are not as important as educating kids. That's why I'm not voting for this budget. I'll tell you right now, I'm not going to vote to cut education until we take programs that we can't afford. We can't afford this agency in today's economy. It's that simple and if you believe it's important it's okay. But don't expect me to vote to cut education and local revenue sharing while this kind of agency is on our law books.

People of Maine want us to set priorities and this priority is not mine. Not when it means having to cut something out more important to the people I represent. Maine people work very hard and they're over taxed and they're over regulated and they need relief. And what they need is legislators to set priorities and make tough decisions. This is a tough decision. This is not easy to do. I'll tell you right now it's not an easy thing to do because you can't explain it well. I can assure you that when I represent Norridgewock, Maine I don't want people in Norridgewock, Maine thinking I'm for out-of-state landfills coming in here dumping toxic ash on my land. I can tell you that. Of course I'm not for that. But I believe the DEP can do this. I believe that there's no way under any circumstances that there would be a commercial landfill located in this state at this point. I'm convinced this legislature can easily, if it does as has been suggested, remedy that in the next two weeks when we get back here.

The simple fact is I'm going to set priorities. That's what I'm elected to do and this is not a high priority at all to me when it means cutting education.

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

**Senator TITCOMB:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would suggest to you that perhaps the good Senator from Franklin is correct that there will not be a special waste landfill with out-of-state waste established in the state. I would suggest that probably the most logical thing would be there would be an extension of the Norridgewock site which in itself is a very, very serious issue.

This looks like a very neat little bag of money. A million dollars that we can throw in other places. But I would suggest to you that in that bag of money is something we call special waste and we call it that for a very special reason. And that is that it has to be dealt with very, very carefully. Now, I am extremely concerned about education costs. I am extremely concerned about health and safety and the environment. I think there are some things we need to talk about. Special waste is not going anywhere except to places like Norridgewock. It's not going away. You can count on that. It is going to have to be dealt with. We don't have a choice about that. Keep that part in mind.

We have left you municipalities with recycling programs. Some of them are just beginning, some are half way through. We're going to leave them midway with no assistance, no guidance, no support in an endeavor that is intended to save them tax money on the local level by helping them to minimize and deal with solid waste.

And the Third point is that the \$300,000 that is going to be sent over to DEP to deal with all of these responsibilities is going to be a little drop

in a big empty bucket. And if anyone thinks that these things are going to be dealt with with that kind of money I think we have many big surprises ahead. I want to see us cut. I'd like to make darn sure that those things that we cut are scrutinized very, very carefully by those people who have the resources to know exactly where to cut and how to shape the change and make sure that we just don't throw that proverbial baby out with the bath water. I would tell you that the Maine Municipal Association wants this issue to go to the Energy and Natural Resources. They're very concerned about how this proposal is written and I concur with that. I will give you my commitment that our committee will deal with it. We can deal with it in a regular session. I do not think that now is the time and I certainly do not think that the open legislative process outside the committee process, outside the public hearing process is the right place for this to take place. \$300,000 to do all that we are assigned to do is almost an impossibility and I think we are setting ourselves up to failure. And failure when you're dealing with waste of this magnitude is very dangerous.

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

**Senator PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would respectfully submit that we need to move on. That we've got more amendments coming on our desk all the time and we need to move on.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator KANY of Kennebec to **INDEFINITELY POSTPONE** Senate Amendment "P" (S-494) as Amended by Senate Amendment "A" (S-495) thereto.

The Chair ordered a Division.

Will all those in favor of the motion by Senator KANY of Kennebec to **INDEFINITELY POSTPONE** Senate Amendment "P" (S-494) as amended by Senate Amendment "A" (S-495), thereto, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

15 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator KANY of Kennebec to **INDEFINITELY POSTPONE** Senate Amendment "P" (S-494) as Amended by Senate Amendment "A" (S-495) thereto, **PREVAILED**.

On motion by Senator COLLINS of Aroostook, Senate Amendment "J" (S-488) **READ**.

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

**Senator COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is truly a technical amendment that changes the wording from two vacant auditors II positions to two vacant auditors I positions which is the correct fashion in which the bill should read. I has no net fiscal impact and is technical in every detail. Thank you Mr. President.

On further motion by same senator, Senate Amendment "J" (S-488) **ADOPTED**.

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Senate at Ease

Senate called to order by the President.

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On motion by Senator BRANNIGAN of Cumberland, Senate Amendment "Y" (S-505) **READ** and **ADOPTED**.



On motion by Senator **BERUBE** of Androscoggin, Senate Amendment "W" (S-503) **READ**.  
 Senator **BRANNIGAN** of Cumberland moved to **INDEFINITELY POSTPONE** Senate Amendment "W" (S-503).

Off Record Remarks

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The bill restores direct services to the budget. It restores the only residential rehabilitation program for low income women which is being deleted in the budget. It puts it back in. And it also increases the amount of funds for rehabilitation for low income pregnant women. It also provides three probation and parole officers and that again is direct services.

I don't know if you're aware but the caseload here in Maine for probation and parole officers runs anywhere from 150 to 180 per person whereas nationally the figures are 75 per officer. It also replaces the medicaid co-payment for substance abusers that had been deleted. So you see I really am supportive of direct services when it comes to substance abuse.

And it restores \$250,000 for general revenue sharing. Now the good news also, this is very good news, but the other part of the bill is news as well, so that it doesn't impact negatively the present budget document, it deappropriates the \$700,000 that had been put in at the request of DHS for the child protective services that at the time, initially, was felt by many legislators that that should go to human services and they should discuss that issue in January. So I offer the amendment in good faith. It's a good amendment and it doesn't impact the budget. Thank you.

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

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise to support this amendment as offered by the good Senator from Androscoggin, Senator Berube. This will be the only area in which I would differ with the Appropriations Committee. And the reason I would differ with them here is because the Human Resources Committee had its own fact finding in reference to this issue within the last month. We were directed by the Legislative Council to have three days of hearings to determine exactly what was going on in this state in reference to child abuse. And as part of those hearings we heard from various police departments, direct service providers, department of human services employees. We even took, as you would say, our show on the road. The good Senator from Penobscot, Senator Bost, chaired a meeting in Bangor and myself and Representative Manning from the other body co-chaired a meeting down in Portland. If there's one message we got from everybody involved in that issue it is that more money did not need to be put into child protective services. That expenditures of those monies were, in fact, a waste and the majority of this committee made a recommendation directly to the Appropriations Committee and urged them strongly not to expend millions of dollars in new monies in that area. As a matter of fact, we urged them not to spend a penny in that area but to keep those monies

in direct services because that is what would keep the cases from being opened to begin with.

Now the Commissioner, needless to say, disagreed strongly with us. We pressed our case before the Appropriations Committee. Apparently it was rejected. I know the first amount was reduced significantly down to \$700,000. We believe this is an unwise expenditure of new monies. For those reasons I would urge this body to go along with the good Senator from Androscoggin.

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

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. We certainly would have liked to give money to these various, certainly to revenue sharing, we did every time we could. We would have liked to have given more to probation and parole or taken less from them. certainly it is a fine attempt at what the Senator from Androscoggin, Senator Berube, is doing in giving more money in these areas, reducing the cuts in these areas. We would have liked to do the same. We certainly did in many areas of social service reduce the cuts that were given to us regarding the issue of child protection we did, as best we could, follow the recommendations of the Human Services Committee. We reduced this amount dramatically. We did everything we could to make sure that the money that we did spend, a small amount compared to what had been recommended originally, that it be spent in the area of local involvement. We didn't get all the cooperation we wanted from the department. My co-chair, Representative Chonko, is very active in this and intends to be much more active in the future. This is an important part of the coalition for getting this budget passed the way we did and I would ask you to support the indefinite postponement.

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

Senator **FOSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is indeed the very issue that makes you listen to the radio, the television and the people who have been in the field working with child abuse. And we did. And we did listen to the committee and we listened to the Commissioner and we cut it down to this small amount. If you feel you don't want to spend that money on child protective services I understand but I sleep better at night knowing that we have done something. But I would yield to your better judgement on this.

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

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I hope that you will vote against the pending motion to indefinitely postpone and support the good Senator from Androscoggin, Senator Berube, and the good Senator from Cumberland, Senator Conley, and vote in favor of this amendment.

Ladies and gentlemen of the Senate, if we go ahead with this cut today, if we indefinitely postpone this amendment, we are going to be stopping, we have already done away with by this budget, the only women's program in the state of Maine for substance abuse treatment. And you're going to take money from those women who are struggling with the issues of substance abuse, pregnant women, and it seems to me what we're doing is really standing the policy on its head where individuals are talking



about the issues of child abuse and neglect and those are legitimate concerns and I agree with the comments about that concern with the good Senator from Hancock, Senator Foster, and the good Senator from Cumberland, Senator Brannigan, but we have an opportunity to do something very up front about this problem of child abuse and neglect and that is to try to help those women who are substance abusers, many of them with children, that these issues of child abuse and neglect often are secondary issues or issues that present themselves in addition to the substance abuse. And we have an opportunity to do something about that in treatment with the dollars that we're going to spend and maybe stop the problem from happening.

With all due respect to the effort to get caseworkers out there it seems to me to be kind of crazy to, on the one hand, be shutting down the only women's program that will address those issues and, on the other hand, on the back end, we're going to pump more money for caseworkers that we could have averted these issues by keeping a good program going. It doesn't make a whole lot of sense to me and, with all due respect, with all of the issues that the Appropriations Committee had to deal with I think this is an issue where some of the hype has gotten a little bit misplaced. Again, I would urge you, strongly urge you, not to close the Crossroads program for women down. Not to take money for treatment for pregnant women and children away. And would urge you to strongly support the good Senator from Androscoggin, Senator Berube's amendment.

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

**Senator GILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It sounds today like all of the telephone calls that I have been getting and I'm sure all of you have been getting. We know that cuts have to be made but don't cut my program. And it's really difficult to deal with all of the urgent needs that we, as a state, have to deal with. I don't like to vote against this but I'm going to have to vote against it because I have to go along with coming up with a budget and I have to respect what the Appropriations Committee has done.

Every vote here today has been difficult as it has been for every member of this body. And we all want to find that magic pocket that we can reach in one more time so we can fund this or we can fund that. And you know what, the magic pockets have holes in them because we've stretched them and stretched them and stretched them so much that they've got really big rips in them so nothing is there any longer.

I think with the economy the way it is the caseworkers are needed. I think we need those caseworkers. They are the front line people who are going to hopefully, and there's no guarantee but hopefully, are going to stem the tide of any abuse that occurs within our population. I wish we could do a lot more. We can't. I would urge you to go along with the Senate Chair of the Appropriations Committee and the Appropriations Committee and have this indefinitely postponed.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

**Senator GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise in opposition to the pending motion for indefinite postponement. I believe this is truly an enlightened

amendment. I spoke to you earlier, at some length today, about my disappointment regarding the overall tenet of discussion on fiscal policy in our state. I felt, and I have felt for much of the past several months, people were being myopic in nature. Looking at the immediate problems. It's understandable, we all do that.

Certainly given the attention the child protection, given the raw publicity to the tragic cases of child protection, I'm involved as an attorney in some of those cases so I fully appreciate the grief and the tragedy which occurs. I have, as part of my professional service, served taking court appointments and done volunteer lawyers project work for people in the child protection system as a guardian for abused children, or representing the parents accused of child neglect or abuse. I have done over 200 cases in the last 16 years.

This is one of those case that I think we recognize where there clearly are good competing arguments. The Senator from Cumberland, Senator Gill, has given you a good argument on why we should invest in immediate direct care services for child protection. But I believe that this is an opportunity. It's one of those rare opportunities in this discussion on fiscal policy where we can really make a significant policy statement. We can invest in preventative care. Prevention rather than after the fact. It's a tough question. I can't fault any member here for voting along with my friend here from Cumberland, Senator Gill, but in my view, the money will be better spent, it would yield more long term results if we invest in preventative strategies to deal with substance abuse.

On the civil side of our court dockets and on the criminal side, substance abuse is by far and away the most significant factor which brings people into the civil or criminal justice system. And we're not talking about cocaine or marijuana or other chemicals, we're talking about alcohol. Let's be straight forward about that. 70% or more, 70% or more, of people who are involved in the criminal justice are people who are involved because of excessive alcohol consumption. And the same can be said for parents who are involved in the child protection system.

As one who might drink six glasses of wine a year, it is remarkably depressing to see people consume alcohol at excessive amounts. It devastates their lives. They lose employment and what they call a home environment is like nothing which you or I know about. And if we don't take meaningful steps to arrest the problems of substance abuse we will have more and more children coming into this world in those families exposed to the same kind of problems. In my view, we will be better served by developing an array of community based services so those child caseworkers. And I grant you, there are too few child protection services. They have tremendous loads but they will be better served as case managers to refer clients to appropriate community based resources.

And the same can certainly be said about our criminal justice system. In Maine it's all or nothing. You're either on probation and, given the case loads we've heard about, probation is simply nothing more than a slap on the wrist or you're in jail. There are no intermediate sanctions. This, in fact, is an opportunity, God bless Senator Berube, it's an opportunity to actually invest in

intermediate sanctions and begin the long process of changing our policy on corrections. Yes, put people behind bars who, in fact, can't function in the community. That just makes sense. People demand that. But they also demand that we invest our dollars wisely and when we can deal with the disease which is afflicting these people and we can deal with it in a community base setting that saves thousands of dollars every year. And, also, it brings results, not in every case but it does bring results. Our friend from Kennebec, Senator Bustin, has told us often about the appropriate investment of dollars in substance abuse strategies. And this is an opportunity.

I'm sure in tomorrow's papers there'll be the usual saporific discussion about partisan bickering and so on. We will not have advanced the store of knowledge any more. But this is an opportunity. You have a chance here today to make a distinction. I know it's a relevant small amount of money but this truly is an enlightened amendment and I really urge you, with every ounce of my being I urge you, to vote in opposition to the motion to postpone and challenge me. I'll come back here in two years and I'll demonstrate to you the appropriateness of this investment. This will work. Thank you Mr. President.

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

**Senator BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Of course I can't resist speaking on any substance abuse issue and this, in fact, is a good amendment except that it doesn't include one thing. And for the first time in my life in the Senate I'm going to be parochial. And that parochialness is because I want \$40,000 of this money for Turning Point which is a night treatment program in Augusta.

It's a nonresidential program. The Kennebec Valley Regional Health Agency has had to suspend that program because they have been taking the hit for 40,000 for two, three years now and they can't afford it anymore. It's never been any state dollars. They've taken it out of their own funds and have not funded it. So, I would gladly support you amendment Senator Berube if, in fact, I could get \$40,000 of it. Not even an if, that is not even an if. But that is only to show you that there are many, many programs and this particular one in Turning Point is a very, very well received one. It's one of the few programs that I know of that really, really looks at alcohol and substance abuse as a family disease and not just as treating a person and then hoping that they go out there and get well all of a sudden like some miracle. There's no miracle in this. It is a family disease. It does need the dollars.

There is one other thing that I need to say about this money though, this 700,000 and I did testify down in Appropriations Committee when it was asked by the Department of Human Services for their 2 point whatever million dollars for child protective. And believe you me I think child protective needs the money. I'm not convinced that we have the right system for how we deliver the services on child protective. In fact, Audit and Program Review two years ago sent down a demonstration grant to the Appropriations Committee, found the 4E money. That's why I don't go around looking for money anymore, every time you find it it goes into some other program that isn't yours that you found it for. And that 4E money was given to another program. A very

good program, the elderly, \$550,000 of it and \$172,000 didn't leave me with enough to do a demonstration grant. If you truly want to do something for women, for children, for child protective, for abuse because abuse does stem from alcohol and drug abuse, then you would fund either the amendment that Senator Berube from Androscoggin is presenting or you would use that money to do that demonstration grant. That's where you're going to get your dollars paying for themselves is through that kind of a delivery system and not what it's being taunted as in the budget bill.

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

**Senator MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I want to mention one more issue which I think is very important in this discussion tonight and that is if you ladies and gentlemen of the Senate and especially the members of the Appropriations Committee in this body, talk to the caseworkers for the department and ask them what do they need, they need a service system out there that can help them once they identify these issues. One of the biggest, and I've talked with caseworkers, they need places to refer their clients to. Not just being able to identify the problem but what do you do after you identify the problem? You have an opportunity to keep one women's program, specifically women's program, alive here so that the caseworkers will then be able to get those women to that program to start to deal with these issues. That's what's a stake here and that's the issue. The comments I've heard directly from caseworkers. They need a service system that's going to be there and viable. That's very important in this discussion ladies and gentlemen. When we have a problem we react and sometimes we do it without thinking. We don't look at the total picture. I think that's what we're doing if we vote to indefinitely postpone this amendment. As the good Senator from Androscoggin, Senator Gauvreau, said take the big picture look. It's so important ladies and gentlemen. You're going to be getting more caseworkers but where do they refer these people to? In all of the cases that we've heard that are terrible and heinous and awful, look at those cases ladies and gentlemen of the Senate, and in every instance it was substance abuse that was the issue. Substance abuse was the issue. These people that we're concerned about need a place to get help and we have an opportunity in defeating the motion to put this amendment in and have a full system or keep some semblance of a full system alive in Maine. You can't just have the left arm and sever the right.

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

**Senator PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am certainly not an authority on alcoholism or anything like that. It's not been a subject that has come to my attention that much. I don't purport to be. But I do feel that I've got to tell you that I believe that the people that are dealing with alcoholism now on the state level have a much better grip on it than it was in the past. As a matter of fact, they tell me it was an absolute mess before. And I thought it was too but I was a distant observer and I always thought it was a mess and everybody always said no it's not, it's okay. Well these people have gotten in and said there was no accounting for results. Nobody was held

accountable for it and it's all over the wall. And I think it's going to get better.

Having said that, I understand that there is an insatiable desire for programs in alcoholism. Everybody wants to have a particular program and, frankly, I have mine. I would like to have more money on alcoholism back home on the reservation where there is a great need for alcohol services and their waging a heroic fight on their own almost and they need more money, no question about it. I'm just telling you that you can name program after program after program that needs more money.

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

Senator **FOSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I've read through the amendment and I really don't see anything in the amendment that has any money for any protective services for children. I notice that the money that we appropriated for them is going to one part is going to probation and parole. Now I have been an advocate all these years of money for alcohol programs and women's programs but until you convince people in these programs not to abuse their children you do need some workers out there investigating these cases of child abuse. And I would ask that someone, if Senator Bustin is thinking about amending the bill for \$40,000 for some alcohol rehabilitation that someone, would look at taking care of some of these children that the Appropriations Committee thought were in harms way. And I would feel more comfortable and I think you need to do it. I think it's a very serious problem. We were locked up in room 228 but the phones were ringing do something about child abuse. These children, I mean a woman or a man can be in treatment but they are not cured. They're still battling these kids around and someone's got to investigate. Someone has got to look after those children. And I feel very uncomfortable and that's why I said in the beginning you know if this is your will, so be it. But the burden is very great on me not to speak on behalf of something that we spoke about a long time in committee was some form of child protective services. We looked at Senator Bustin's idea. It was Representative Chonko's idea to have a unit in the Bangor area. But I don't see any of that in this amendment and I'm very nervous. Thank you very much.

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

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. May I pose a question through the Chair to the Chairman of the Human Resources Committee? I believe that this \$700,000 is what is left of the supplemental request by the Department of Human Services. This is not money, he needs to clarify that or I would ask that he clarify. Secondly, if the Senator from Cumberland could inform this body as to how many vacant, current vacant child protective positions there are within the Department of Human Services?

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

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. In reference to the first part of your question, in fact, the \$700,000 which is dealt with in this amendment is new money. It's brand new money for new positions and it is what remains of the Commissioner from the Department of Human Services original recommendation to spend

multitudes of millions of dollars in the area of child protective services. They're front line workers.

In reference to your second part of the question it is my understanding that there are numerous vacancies. Open child protective lines that have not, in fact, been filled. I do not have an exact number. That was the testimony of the department when they appeared before us. Somewhere near 24 or 25, something like that. Those positions have not been filled.

The issue that is here and it is the only reason why I take any issue with the Appropriations Committee is that we've dealt with this policy issue in our own public hearing and it was the majority's feeling on the committee that we ought not to be spending new money on child protective lines and that we ought to concentrate on keeping services that are in the community available. So our reading of what the committee did and we would ask it to think this through is that you took, in doing these cuts, monies away, which are being taken from everybody, from direct services. This amendment tries to put back some of those direct services. One of those being the Crossroads program which the good Senator from Kennebec referred to in his remarks earlier. Other programs are listed in here. Cuts that were also made that people who are in support of this amendment would feel are direct services outside of the Department of Human Services and what they are to do. Again, the only reason I rise is because my committee dealt with it, a majority felt strongly that we ought not to be spending new monies on child protective lines because they haven't filled lines which they have and we do not feel it's the most effective way to deal with child abuse. And that's based on testimony given to us by the public as well as people from the department and from law enforcement.

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

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Yes, I would like to answer the good Senator from Hancock, Senator Foster, about how this is going to help child protective to protect children from abuse. I think it has a very good way of doing that.

First let me say that I was not asked by the sponsors of the amendment for my input as to where that money should go and I would hope that if this were passed the way it is that I would have a chance to amend it in some form so that that money could be used for those direct services in maybe a more expansive way. I don't know. I'd have to talk to the sponsors.

But, in fact, even if you left it the way it is, the way that you get to protect children by it it because what it does is help pregnant women, and I hope that it says women with children, because what could happen in that RFP for Crossroads or whatever is that you could set up a service where those children who were in dangered either because of the alcoholism of the mother or the father or somebody in the family would be protected in a child care situation from that abuse during the time of that treatment and hopefully with the aftercare follow-up. It is a treatment for the family and not just for that person and that family would include the children.

The Chair ordered a Division.

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

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator BRANNIGAN of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "W" (S-503).

A vote of Yes will be in favor of the motion by Senator BRANNIGAN of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "W" (S-503).

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators BRANNIGAN, BRAWN, CAHILL, CARPENTER, COLLINS, ESTY, FOSTER, GILL, GOULD, HOLLOWAY, LUDWIG, MILLS, PEARSON, RICH, SUMMERS, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

**NAYS:** Senators BALDACCI, BERUBE, BOST, BUSTIN, CLARK, CLEVELAND, CONLEY, DUTREMBLE, ESTES, GAUVREAU, KANY, MATTHEWS, MCCORMICK, THERIAULT, TITCOMB

**ABSENT:** Senators EMERSON, TWITCHELL, VOSE

17 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator BRANNIGAN of Cumberland, to **INDEFINITELY POSTPONE** Senate Amendment "W" (S-503), **PREVAILED**.

On motion by Senator MCCORMICK of Kennebec, Senate Amendment "S" (S-498) **READ**.

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

Senator MCCORMICK: Thank you Mr. President. Ladies and Gentlemen of the Senate. I thought while we were on the subject of alcohol we should deal with another alcohol issue. This is the issue of mandatory sentences for OUI. The current budget removes mandatory sentences for OUI and this amendment would replace that. It costs \$50,000.

I have to tell you that Mr. David Keen who is a constituent of mine and who lost a son to alcohol vis-a-vis a car accident when he was just home from college, snuffed out in the prime of his life his young son, was here yesterday pleading with me after this amendment narrowly was defeated in the other body, pleading with me to introduce it in the Senate. And I said to him I don't know if it will pass. I was talking politically to him. I said I don't know if it will pass. It might be a waste of our time. And he start to cry. He started to cry and I said of course I will introduce this and of course it's the right thing to do. It's worked in the Scandinavian countries. It's worked here and I think it's a policy we need to keep. So I urge the passage of Senate Amendment "S".

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

Senator BRANNIGAN: Thank you Mr. President. Ladies and Gentlemen of the Senate. I move the indefinite postponement of Senate Amendment "S". I do that very reluctantly and I agree with the Senator from Kennebec, Senator McCormick. I think that this was packaged with other mandatory sentences which I don't agree with and it was put in for savings in indigent defense. People who are on their way to jail or have a chance of going to jail if found

guilty, we're required to provide them with defense and so the courts recommended that these mandatory sentences, this one being one of them, night hunting being another which certainly don't equate in anybody's book, were there. I would suggest that we leave what we've done in the budget. The Judiciary Committee will, I believe, address mandatory sentences in a big way. I believe they will because I imagine others will be coming back to us in January and the whole issue of first offense drunk driving will be addressed at that time. Thank you.

Senator BRANNIGAN of Cumberland moved to **INDEFINITELY POSTPONE** Senate Amendment "S" (S-498).

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator GAUVREAU: Thank you Mr. President. Ladies and Gentlemen of the Senate. I recently had occasion to review the incidence of mandatory sentencing in American criminal jurisprudence over the past half century and it does tend to rise and fall with changing political temperaments. There has been, notwithstanding the statements by our colleague from Kennebec, Senator McCormick, there has been at best mixed results regarding the efficacy of mandatory sentencing.

I must say, in all candor, if you take a look at the proposed savings as a consequence of eliminating court appointed council or mandatory sentencing on all first offense OUI's you'll see only a small amount of money targeted. Only \$50,000. What that should tell you is that court's pretty much routinely appoint council anyway because under the constitutional mandate of *Argersinger v. Hamlin* and it's progeny whenever a court in arraigning a criminal suspect entertains a belief that the person might be subject to imprisonment. That is to say that the court might consider the gravity of the offense and the attendant circumstances severe enough that the court might consider imposing a jail sentence, then the court is required under the Sixth Amendment of the United States Constitution to appoint a council for that individual. So that we're talking about a relatively small class of cases here. The world will not rise or fall if you decide today to concur with the amendment offered by our friend from Kennebec, Senator McCormick.

On the other hand, and certainly who amongst us could be insensitive to the angst, to the anguish, to the pain which people all too often experience because their loved ones are maimed or injured or even killed at the hands of an irresponsible person who consumed alcohol and then drove a car. We can say the usual things that won't bring the person back. The reality is that they're in a very small percentage of cases, as in most anything in life, a mandatory sentence, an arbitrary rule doesn't make any sense at all. Only in a handful of cases to be sure. But I have seen those cases. I can recall a woman in her mid sixties who went to a country fair. She never drank at all. She drank two or three beers. She came home because her husband who had been drinking and she drove the car instead. She was over the legal limit when the law enforcement officer stopped her. She had a nervous breakdown at the very thought that at 67 she would have to go to jail. It was a complete shock to her way of life. It was simply grossly inappropriate and the person was not at any risk whatsoever to do that type of behavior again. That case will occur very rarely but if you believe in a system of

justice which does in fact tailor an appropriate penalty to the circumstances then you might be well advised to let the men and women whom the Governor appoints and we confirm to sit as judges and justices in our courts to make that decision. They're not wild eyed radicals setting aside on our streets drunken drivers. That does not happen in the real world. The real world as inhabited by Senator Conley and me.

I understand how people who are elected to office get tremendous pressure to impose mandatory sentences in all circumstances and I respect the pressure you're under. But if you ask me does this make sense in every single case, no, it does not. It is not good policy. You can use your own judgement here but it is not good policy to have mandatory sentencing in every case. I submit we ought to defer to the discretion and to defer to the judgement of our judges in deciding when to sentence a person to jail. Thank you very much for your attention and I apologize for the length of my remarks.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **BRANNIGAN** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "S" (S-498).

The Chair ordered a Division.

Will all those in favor of the motion by Senator **BRANNIGAN** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "S" (S-498), please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

24 Senators having voted in the affirmative and 3 in the Senators having voted in the negative, the motion by Senator **BRANNIGAN** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "S" (S-498), **PREVAILED**.

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Off Record Remarks

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On motion by Senator **GAUVREAU** of Androscoggin, Senate Amendment "X" (S-504) **READ**.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. As I told you earlier, yesterday evening I ventured down the hall to the other body and I was the sole remaining Senator in that chamber and I was, in that capacity, asked to offer this amendment because there had been a glitch discovered in the budget document. I believe it's a technical problem. This amendment, if adopted, would restore funds which would be drawn from federal lines for the long term care ombudsman. As I am told, this is a necessary element for us to be able to draw down monies under the federal Older American Act. Under the language before you the position will be placed in the Bureau of Elder and Adult Care. I have conversed with members of the Committee on Appropriations and I believe that this language is not objected to. Thank you very much.

On further motion by same senator, Senate Amendment "X" (S-504) **ADOPTED**.

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Senate at Ease  
Senate called to order by the President.

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On motion by Senator **BALDACCI** of Penobscot, Senate Amendment "T" (S-499) **READ**.

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

Senator **BALDACCI:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is basically what I consider to be very simply good government. Those people that are directly involved in the formulation of an RFP would be excluded from being able to bid on it. I don't and have been unaware of those types of situations in local government where we would allow for such things. Even at the University they hire consultants, whatever they happen to be, to review the photocopying and then come back with a proposal then to go out and submit for RFPs. But to allow for the people doing the formulation of the RFP then to turn around and be able to bid on it is to me like insider trading and is not really fair to all the other ones that are interested in doing that. Thank you Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I've been searching through my pile of notes here to find out about Senate Amendment "T" and the only real objection that's been raised about this particular amendment is that probably it would be more properly before the purchasing agent for Rules and Regulations through the rule making process. This perhaps is a policy issue that could be discussed in January and therefore I'd ask for a division.

Senator **CAHILL** of Sagadahoc requested a Division.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **BALDACCI** of Penobscot to **ADOPT** Senate Amendment "T" (S-499).

A Division has been requested.

Will all those in favor of the motion by Senator **BALDACCI** of Penobscot to **ADOPT** Senate Amendment "T" (S-499), please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

17 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **BALDACCI** of Penobscot to **ADOPT** Senate Amendment "T" (S-499), **PREVAILED**.

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Senate at Ease  
Senate called to order by the President.

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On motion by Senator **CLEVELAND** of Androscoggin, Senate Amendment "V" (S-502) **READ**.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I offer this amendment to assist the Appropriations Committee. As the Attorney General has recently stated in his opinion in regards to deappropriation of funds for the merit increases for employees that given current law that that provision is unconstitutional. That would therefore create a million dollar hole in the budget. My amendment does three things. First, it removes that portion from the budget that would put a moratorium on merit increases and it funds that

million dollars that was deappropriated by providing a mechanism used in our last budget of deappropriating one third of one percent. That's one third of one percent from all departments and agencies except those that are listed. You'd find that in the amendment under section 00-4. Those that are exempted from that one third of one percent include general purpose aid to local education, education in unorganized territories, debt service treasury, teacher retirement, etc. You can see the list there before you. That would continue to have this balanced budget in balance. And would avoid a constitutional challenge to the budget amendment.

The amendment does two other things. It would also require an accounting of all expenditures that have either occurred, are incumbered or are planned to be expended or are budgeted for for any furniture, machinery or equipment accounts and have those accounting presented to the Appropriations Committee by January 15th so that Appropriations may review them and see that they are proper and prudent in a time of such fiscal crisis when we are deappropriating money to municipalities and education and the like that our purchases for furnishings and equipment are in line with our current resources. It would be the authority of the Appropriations Committee to take what action they thought was appropriate at that point and recommend that action to the Legislature.

Certainly, it would also put a moratorium on all out of state travel that are funded by the general fund except for any travel that was required by law or any travel out of state that was required to preserve a legal right that the state currently holds. It would also exempt the Governor, the President and Speaker from this requirement. It would seem to me that in these difficult times when we are asking many to make sacrifices that out of state travel should only be done in necessity of law and under the most extreme circumstances. If we're asking everyone to do their utmost to save money I don't think that that's out of line to require that as well. Incidentally, any and all monies that would be saved either through deappropriation of furnishings or equipment or computers or whatever the Appropriations Committee would deem appropriate plus all savings realized by the moratorium on out of state travel except as I've outlined would go back into the general fund to be used by the Appropriations Committee for the needs that are coming forth.

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

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I move the Indefinite Postponement of Senate Amendment "V". I'm sure the Appropriation Committee members and myself appreciate the assistance of the Senator from Androscoggin, Senator Cleveland. There are multiple assistances in this budget as he's pointed them out. Some of them concern me somewhat. We will be working on the issue of the merit increases and we had a contingency plan if they are indeed to be found to be something that we cannot stop those kind of raises in the next six months that we believe we can stop them in the six months after that and we would take the savings out of 93 back into 92 in order to make the million dollar saving.

The other parts of it I am really concerned about we had some trouble every time we took an across the

board cut. We found that it was something we had to do very carefully with a lot of examination because we might get into things that we did not want to do. I'm very concerned about even this small cut across the board on top of all the other cuts we have taken across the board and therefore I'd be very reluctant on that score.

Furniture we're certainly concerned about and we are planning to write a letter to the departments getting that kind of report. We thought a letter will do as well as a piece in legislation.

Out of state travel certainly sounds okay except it does get almost ridiculous occasionally. It happened at my work that something we should be turning to the state for several agencies because a person could not travel out of state under present restrictions and freezes, people in state had to send other people on our own funds out of state in order to get the information we needed. Just going to New Hampshire is out of state and that gets to be a real problem when certain things are held in Portsmouth or at the University of New Hampshire. It's not as far as traveling a lot of in state places but it's out of state. So this kind of absolute is just not, I think, appropriate. As much as I applaud the effort to just stop certain kinds of behavior I think the absolute flies in the face of good management. So, I would urge you to support the motion to indefinitely postpone.

Senator **BRANNIGAN** of Cumberland moved to **INDEFINITELY POSTPONE** Senate Amendment "V" (S-502).

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

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. First place, when the vote is taken I request the yeas and nays. What we're trying to do is repair some inappropriate language that is in the budget and not leave a financial hole. That is exactly what the good Senator from Androscoggin, Senator Cleveland's amendment does for you. In fact, there is an Attorney General's opinion dated December 18, 1991 that says that this is a substantial impairment of the contract and to put these words in your budget message impairs the contract. In 1974 we decided in the Legislature and I don't know how many of you were here, I certainly was not, that we no longer wanted to negotiate contracts with state employees. So, they set up the Collective Bargaining Law. That Collective Bargaining Law allows state employees to get together with their management, in this case the Executive, and determine what their conditions of employment is going to be. The only thing that the Legislature does in that contract is when it comes back for the funding of that contract. Merit increases are part of that contractual agreement and that's where it should stay. It is not part of what the Legislature does nor should it be. We don't know in negotiating that contract in the next year whether or not merit raises will be in there or not. But if you've made the decision as a Legislature that you're going to have a collective bargaining agreement then you should not interfere with that. The Attorney General has ruled on that. You more than likely will find yourselves in court. There's no point in spending that kind of money especially in this particular budget bill. You have an amendment. I think that the people who have submitted that amendment have taken it very responsible. They haven't merely said get the language out because it's

unconstitutional and it's against the contract but that we're willing to find a way to fund the million dollars. I think that's a very responsible action and one that this body should really take a good look at and I would ask that you vote against the pending amendment and let this language be stripped. Thank you.

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

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

**Senator CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I'd like to pose a question through the Chair to anyone from the Appropriations Committee or anyone else who might choose to respond.

**THE PRESIDENT:** The Senator may state his inquiry.

**Senator CONLEY:** Thank you Mr. President. I would like to ask now that the Attorney General has issued an opinion in reference to these merit raises in what, at least according to his opinion, is the illegality of that particular action, has the Committee considered this or are there plans to take that opinion into consideration and or to do anything about it?

**THE PRESIDENT:** The Senator from Cumberland, Senator Conley, has posed an inquiry through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Cumberland, Senator Brannigan.

**Senator BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. We realize that this opinion and we had one opinion as we worked on this in committee we have another opinion now. Those opinions are opposing. Certainly the Attorney General's opinion probably holds greater weight, I just don't know about that. All I know is we feel we have a fall back position on the million dollars and I have objections to other parts of this bill also so I think hopefully this will work out in some way that we can feel, not good about it but we can feel that we're justified.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

**Senator CLEVELAND:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I do take the opportunity to make it clear once again that currently the Attorney General's opinion is that it's unconstitutional to put a moratorium on merit increases as part of the collective bargaining process that currently exists. As of July 1 the condition will either be merit increases will be in additional collective bargaining agreements and this body will have an opportunity to either ratify by funding for it or not to do it. Or it will not be in the collective bargaining agreement and therefore any savings resulting from that will automatically be occurring to the general fund. So this will be an opportunity on which this body can decide that issue. In the meantime it provides a reasonable solution to an existing problem that clearly exists.

It seems unfortunate that any solution to be budget process is inappropriate unless it's suggested by a member of the Appropriations Committee. It doesn't leave too many options for us, as members, to try to do things in a responsible way when every single responsible avenue, even the one used by the Appropriations Committee themselves, I mean I opened the book and I copied it verbatim out of their bible

because I thought it would be a good source to find a hole that would do it. It seems to me that we're treating employees fairly, providing for a balanced budget. We're doing it as responsibly as we can in difficult times. We're asking individuals as far as purchases of furniture and travel to be extremely frugal given these difficult times when we can't even provide the basics for those in the greatest need in our society.

Is it an inconvenience? You're damned right it's an inconvenience. But it's a heck of an inconvenience for the poor and the children and the elderly in this state when they can't get basic services as well.

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

**Senator BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I just wanted to reiterate and note that the good Senator from Cumberland, Senator Brannigan, has indicated that they intend to do something about it but didn't state exactly what it was that they were going to do to take care of this little problem. Also indicated that there were two differing opinions and did not state what that first opinion was. As an inquiry to the Chair for anyone who cares to answer I would like to know what that other opinion was. Who indicated that merit increases were not an impairment of contract if that's what it is and thereby allowed this particular item into the budget as a way of saving a million dollars. That is a fairly important question to be answered in view of the latest decision from the Attorney General's office indicating that, in fact, it is an impairment. When I get an answer to the question I'd like to read something from the Attorney General's opinion.

**THE PRESIDENT:** The Senator from Kennebec, Senator Bustin, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Cumberland, Senator Brannigan.

**Senator BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The opinion we had at the time we made the decision, and we wished we had had the Attorney General's opinion at that time, the opinion we had was from the counsel of the Governor and because the issue had only come up at the very last hours of our deliberation we did not have the dueling opinions and so it was from the person that we had there at the time. Because we were uncertain we did have a backup plan.

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

**Senator BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. There are a number of different quotes that can be quoted from the Attorney General's letter. It gets to be a little lengthy and I hope that in just doing excerpts I don't do injustice to this. But in one of the paragraphs where it says as a result and I know that you don't have the backup information to do that, we conclude that NN-1 of L.D. 1985 as currently proposed would effect an impairment of contractual obligations. Now I'm going to save you having to listen to why that's true but they have quoted the Energy Reserves Group v. Kansas Power and Light Company for instance in indicating that in fact it is impairment of the contract. For us to then put the language in the budget bill that flies in the face of that opinion, I think that it is not a responsible action to take.



That you should go along with defeating this motion and let this amendment go through. If you need to then amendment how you take care of the one million dollar hole if that's not appropriate then that's the appropriate action to take. I'm willing and I'm sure the sponsors are willing to work on how you fill that million dollar hole. To leave the merit language in there in this budget bill I think is not responsible and certainly does not hold faith with the state employees.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **BRANNIGAN** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "V" (S-502).

A vote of Yes will be in favor of the motion by Senator **BRANNIGAN** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "V" (S-502).

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators **BRANNIGAN, BRAWN, CAHILL, CARPENTER, COLLINS, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, LUDWIG, MILLS, PEARSON, RICH, SUMMERS, WEBSTER**

**NAYS:** Senators **BALDACCI, BERUBE, BOST, BUSTIN, CLARK, CLEVELAND, CONLEY, DUTREMBLE, ESTES, ESTY, KANY, MATTHEWS, MCCORMICK, THERIAULT, TITCOMB, THE PRESIDENT - CHARLES P. PRAY**

**ABSENT:** Senators **EMERSON, TWITCHELL, VOSE**

16 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 3 Senators being absent, the motion of Senator **BRANNIGAN** of Cumberland, to **INDEFINITELY POSTPONE** Senate Amendment "V" (S-502), **FAILED**.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **CLEVELAND** of Androscoggin, to **ADOPT** Senate Amendment "V" (S-502).

The Chair ordered a Division.

Will all those in favor of the motion by Senator **CLEVELAND** of Androscoggin to **ADOPT** Senate Amendment "V" (S-502), please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

16 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion of Senator **CLEVELAND** of Androscoggin to **ADOPT** Senate Amendment "V" (S-502), **FAILED**.

Senator **GAUVREAU** of Androscoggin moved to Table until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**. Subsequently, the same Senator requested and received Leave of the Senate to withdraw his motion to Table until Later in Today's Session.

On motion by Senator **MCCORMICK** of Kennebec, Senate Amendment "AA" (S-509) **READ**.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Senate Amendment "AA" restores the Maine Advocacy's services agency which is the only independent legal rights organization in Maine representing the rights of disabilities and it funds that restoration by assessing a fee on the 600 or so agencies that the Maine Advocacy Agency advocates to.

The fee would be \$150 per year and that small sum would insure that this worthy agency could continue representing the 400 plus children and adults and state wards with learning disabilities, emotional disabilities, mental illnesses that it represents annually and it could continue to provide the legal rights information to 600 plus adults in this state that it represents annually.

Without your kind attention to this amendment these services would cease. The Maine Advocacy Agency would also be unable to participate in the committee process to give us independent information. Very important, independent information, unbiased, unpartisan, unbureaucratic on what's going on with people with disabilities and what is good for them, what affects them.

I can't stress enough how important independent information is. We need to preserve advocacy in state government. The restructuring commission has just issued a report that says, yes, we need to preserve advocacy agencies in state government. It is very important to the flow of independent information and I urge you're adoption of Senate Amendment "AA".

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

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I move that this amendment by indefinitely postponed and would speak to my motion. No one doubts the fine work that Maine Advocacy Services has performed since it's creation a number of years ago and I will not do that or attempt to do that on the floor this evening. However, I am very concerned about the manner in which this restoration of monies is taking place in the form of this amendment. My first question, perhaps it's something the Senator from Kennebec can address, is that an amendment which preceded amendment "AA" had indicated that individual agencies would be accessed an \$85 fee. The new amendment brings that figure to \$150. \$150 may not seem like an excessive amount of money however it's extremely unclear in reading the amendment who, in fact, is going to be responsible for paying the fee. Is it going to be an agency itself? Is it going to be individual entities within that agency? In the instance of individuals who are living in supported living situations throughout this state, will they be required to pay a fee such as this? The fact of the matter is that this deappropriation appeared in the budget document before us and to impose a fee on mental retardation agencies alone which survive on 100% state monies, many of them, would essentially be imposing a fee on a state agency and that agency would have to use state funds to pay this \$150 fee. That poses certainly a dilemma for me.

Additionally, it is not the case that, and I don't infer that the good Senator from Kennebec inferred this, but it is not the case that without Maine Advocacy Services the individuals that we are seeking to advocate for and protect do not have advocates in place as we speak. In each one of the departments and in this particular case, the Department of Human Services, there already is in place an advocacy and investigatory arm for persons with disabilities. Additionally, there is the state funded statutorially mandated office of advocacy. The Maine Office of Advocacy which performs these functions as well and you should be aware of that.

In the last session of the Legislature in the



very last few days of the session we or the Appropriations Committee recommended the imposition of a cap on administrative costs at mental health and mental retardation agencies throughout this state. That was designed in such a way that unnecessary expenditures, those which escaped the scrutiny of this Legislature be scrutinized and that those costs be kept in check. Now, if this amendment were to pass those same agencies that we prohibited from paying fees or dues or assessments, etc, on other nonprofits like the Maine Advocacy Services we would now be asking those entities which we prohibited from engaging in this kind of contractual arrangement to pay \$150. I think that's clearly misplaced.

And finally, I really believe that this is an issue that legitimately belongs before the Human Resources Committee. I believe that the restoration of the Maine Advocacy Services or any other entity such as this really belongs, particularly when we're talking about assessing agencies across the state, in the committee of jurisdiction. And for those reasons I would urge the indefinite postponement of this amendment. Thank you.

Senator **BOST** of Penobscot moved to **INDEFINITELY POSTPONE** Senate Amendment "AA" (S-509).

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I'd like to answer the questions posed to me by the good Senator from Penobscot, Senator Bost. You're absolutely right that there was an earlier amendment, Amendment "R", which I did not put forward, in which the assessment was \$85 a year. We're talking about a year. The reason for the difference in this amendment of the assessment of \$150 is that originally we had included public schools, private schools and the 16 local child development service entity sites as included in the institutions that would pay this assessment. That would lower it to \$85. Instead we thought it more prudent, since those are publicly funded institutions to exempt them from the assessment and that leaves the following institutions subject to the \$150 assessment. It would be assessed to 135 nursing homes, 11 private hospitals with psychiatric units, 3 state hospitals and institutions, 140 mental health programs and residential and nonresidential, 224 community mental retardation programs residential and nonresidential. The bill says non state very clearly in answer to the question of whether it's state money to start charging state money. It says \$150 from each non state mental health institution.

Two more points. There's a very important difference between the agencies mentioned. The advocacy agencies that are still in place in this state mentioned by the good Senator from Penobscot and this particular agency. Those agencies can not litigate. They can not bring class action suits. And as we know we have a very famous and important class action suit that was recently brought, the Bates case which resulted in the AMHI consent decree. And the ability to carry an advocacy through to litigation is very important to preserve in this state. And I agree with the good Senator that the committee process is important and that the Human Resources Committee should review this whole issue. But I ask why does the committee process only have to come in regarding restoration? Why not leave things as they are and have the committees discuss whether

this agency should be deleted? Why should the Appropriations Committee be the committee that decides which independent agencies, specially this one Maine Advocacy Services, is deleted and only later we're concerned with the committee of jurisdiction and it's expertise, in this case Human Resources Committee, with restoration? I believe that we should restore this at this point. We should leave the cloth whole and allow the Human Resources Committee, in this wisdom, to decide whether this agency should be deleted. So, I have restored the cloth. I have made it whole. I have proposed a funding source that is usual for this kind of thing. It's very usual to fund advocacy agencies from people who they advocate to. The PUC for instance. The regulatory agency of utilities is funded by electrical utilities. It's a very usual funding source. I urge you to vote against the pending motion which is the motion to indefinitely postpone so we can get on to preserving this important agency. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **BOST** of Penobscot to **INDEFINITELY POSTPONE** Senate Amendment "AA" (S-509).

The Chair ordered a Division.

Will all those in favor of the motion by Senator **BOST** of Penobscot to **INDEFINITELY POSTPONE** Senate Amendment "AA" (S-509), please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

26 Senators having voted in the affirmative and 3 Senators having voted in the negative, the motion by Senator **BOST** of Penobscot to **INDEFINITELY POSTPONE** Senate Amendment "AA" (S-509), **PREVAILED**.

Which was **PASSED TO BE ENGROSSED**, as Amended in **NON-CONCURRENCE**.

Senator **WEBSTER** of Franklin moved that the Senate **RECONSIDER** its action whereby the Bill was **PASSED TO BE ENGROSSED**, as Amended in **NON-CONCURRENCE**.

**THE PRESIDENT:** The Pending question before the Senate is **PASSAGE TO BE ENGROSSED**, as Amended in **NON-CONCURRENCE**.

Will all those in favor of **PASSAGE TO BE ENGROSSED**, as Amended in **NON-CONCURRENCE**, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

22 Senators having voted in the affirmative and 11 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED**, as Amended in **NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

On motion by Senator **CONLEY** of Cumberland, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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

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

Senator **BALDACCI:** Thank you Mr. President. Mr. President and Members of the Senate, in reference to the Legislative Sentiment recognizing Vivian