

MAINE STATE LEGISLATURE

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One Hundred and Twenty-Fifth Legislature
State of Maine

Daily Edition

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STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Thursday
February 16, 2012

Senate called to order by President Kevin L. Raye of Washington County.

Prayer by Rev. Gregory Vinson of Elim Community Church in Bath.

REVEREND VINSON: Good morning and thank you so much for having me here this morning. Thank you to my Senator. I was reflecting as I was waiting this morning. This is my eighth session that I've been honored to come and offer a benediction, a blessing, and a prayer. This morning I would like to, before I pray, read an ancient Celtic church blessing to you.

God's peace be to you. Jesus' peace be to you. Spirit's peace be to you and to your children. To you and to your children, each day and night of your portion in the world, the compassion of the King of Life be yours, the compassion of a loving Christ be yours, the compassion of the Holy Spirit be yours onto the crown of life eternal. My own blessings be with you. The blessing of God be with you. The blessings of the spirit be with you and with your children and your children's children.

Let us pray. Father, I'm grateful this morning for this Senate, for the hours, and the efforts that they make on behalf of the citizens of this great state. I'm mindful of all the hours as they work together to effect the budget, the policies, to meet the needs of every citizen. I'm mindful of the hours that they are away from their family and their loved ones. I pray Your blessing upon them today. I pray that You will give them the strength and the ability and the wisdom to lead this state through this year and the years ahead. I pray that You would move within their hearts and encourage them. I pray that they would know that they are prayed for and appreciated. I ask that Your hand be upon all that is said and done this day. I pray that when all has been done we can give You thanks for all that You are doing within the state of Maine, within our communities and our towns, and that each life that is here will leave an indelible fingerprint upon the lives of those they represent across this state. May Your hand be with them. May You bless them. May You keep them, I pray. In Jesus' name. Amen and Amen.

Pledge of Allegiance led by Senator Lois A. Snowe-Mello of Androscoggin County.

Reading of the Journal of Wednesday, February 15, 2012.

Doctor of the day, Daniel Stanhiser, MD of Scarborough.

Senator **COURTNEY** of York reported the Senator from Lincoln, Senator **JOHNSON** had, before the Governor, taken and subscribed to the oaths of office required by the Constitution. Thereupon, Senator **JOHNSON** of Lincoln was escorted to his seat in the Senate Chamber by the Sergeant-At-Arms.

Off Record Remarks

The President requested the Sergeant-At-Arms escort the Senator from Knox, Senator **RECTOR** to the rostrum where he assumed the duties as President Pro Tem.

The President took a seat on the floor.

The Senate called to order by President Pro Tem **CHRISTOPHER W. RECTOR** of Knox County.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORT - from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Create Transparency and Accountability in Economic Development Subsidies"

H.P. 1065 L.D. 1451

Report - **REFER** to the Committee on **TAXATION**

In House, January 24, 2012, **REFERRED** to the Committee on **TAXATION**.

In Senate, February 14, 2012, **REFERRED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT**, in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED**.

On motion by Senator **COURTNEY** of York, the Senate **INSISTED**.

Sent down for concurrence.

House Paper

Bill "An Act To Allow the Maine Wild Mushroom Harvesting Certification Program To Be Self-funded"
H.P. 1343 L.D. 1823

YEAS	Senators	2	Farnham of Penobscot, Patrick of Oxford
	Representatives	9	Beaulieu of Auburn, Carey of Lewiston, Crockett of Bethel, Damon of Bangor, Johnson of Eddington, Longstaff of Waterville, Russell of Portland, Valentino of Saco, Willette of Presque Isle
NAYS		0	
ABSENT		2	Rep. Chipman of Portland, Sen. Plowman of Penobscot

Presented by Representative SIROCKI of Scarborough.
Cosponsored by Representatives: O'CONNOR of Berwick,
PARKER of Veazie.
Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 205.

Comes from the House, **REFERRED** to the Committee on
HEALTH AND HUMAN SERVICES and ordered printed.

REFERRED to the Committee on **HEALTH AND HUMAN
SERVICES** and ordered printed, in concurrence.

Joint Order

The following Joint Order:

H.P. 1345

ORDERED, the Senate concurring, that the Joint Standing
Committee on Labor, Commerce, Research and Economic
Development shall submit, to the House, a Bill, "An Act To
Review and Restructure the Workers' Compensation System."

Comes from the House, **READ** and **PASSED**.

READ and **PASSED**, in concurrence.

Eleven members of the Committee having voted in the affirmative
and none in the negative, it was the vote of the Committee that
the nomination of Barbara J. Dresser of Saco, for appointment to
the Gambling Control Board be confirmed.

Signed,

S/Nicholas S. Farnham
Senate Chair

S/Michael G. Beaulieu
House Chair

READ and **ORDERED PLACED ON FILE**.

The President Pro Tem laid before the Senate the following:
"Shall the recommendation of the Committee on **VETERANS
AND LEGAL AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with
Joint Rule 506 of the 125th Legislature, the vote was taken by the
Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

COMMUNICATIONS

The Following Communication: S.C. 702

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON VETERANS AND LEGAL AFFAIRS**

February 15, 2012

The Honorable Kevin L. Raye
President of the Senate of Maine
125th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule
505 of the 125th Maine Legislature, the Joint Standing Committee
on Veterans & Legal Affairs has had under consideration the
nomination of Barbara J. Dresser of Saco, for appointment to the
Gambling Control Board.

After public hearing and discussion on this nomination, the
Committee proceeded to vote on the motion to recommend to the
Senate that this nomination be confirmed. The Committee Clerk
called the roll with the following result:

ROLL CALL (#351)

YEAS:	Senators: None
NAYS:	Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, FARNHAM, GERZOFISKY, GOODALL, HASTINGS, HILL, HOBBSINS, JACKSON, JOHNSON, KATZ, LANGLEY, MASON, MCCORMICK, PATRICK, PLOWMAN, RAYE, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT PRO TEM - CHRISTOPHER W. RECTOR
ABSENT:	Senators: DILL, MARTIN

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Barbara J. Dresser** of Saco for appointment to the Gambling Control Board was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

The Following Communication: S.C. 700

**DEPARTMENT OF DEFENSE,
VETERANS AND EMERGENCY MANAGEMENT
OFFICE OF THE COMMISSIONER
AND THE ADJUTANT GENERAL
33 STATE HOUSE STATION
CAMP KEYES, AUGUSTA, MAINE 04333-0033**

February 13, 2012

Honorable Kevin L. Raye
President of the Senate
3 State House Station
Augusta, Maine 04333-0003

Dear President Raye:

As the Commissioner of the Maine Department of Defense, Veterans and Emergency Management and the Adjutant General of the Maine National Guard, I accept your invitation to address the Joint Session of the 125th Maine Legislature on Thursday, February 16, 2012 at 11:00 a.m.

Sincerely,

S/Major General (Retired) John W. Libby
Commissioner and The Adjutant General

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 701

**STATE OF MAINE
MAINE LEGISLATURE
BLUE RIBBON COMMISSION ON AFFORDABLE HOUSING**

February 14, 2012

The Honorable Kevin L. Raye, President
Maine State Senate

The Honorable Robert W. Nutting, Speaker
Maine House of Representatives
State House
Augusta, Maine 04333

Dear President Raye and Speaker Nutting:

Pursuant to Resolve 2011, chapter 108, the Blue Ribbon Commission on Affordable Housing is pleased to submit its final report. Copies of the full report have been distributed to committees or individuals as directed by law and copies have been placed on file with the Law and Legislative Reference Library. Others may access the full report on-line through the website of the Office of Policy and Legal Analysis at www.maine.gov/legis/opla.

Sincerely,

S/Sen. Thomas Martin, Jr.
Senate Chair

S/Rep. Andre E. Cushing, III
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 703

**MAINE STATE LEGISLATURE
OFFICE OF PROGRAM EVALUATION AND
GOVERNMENT ACCOUNTABILITY**

February 15, 2012

The Honorable Kevin L. Raye, President of the Senate
And Members of the 125th Maine Senate
3 State House Station
Augusta, Maine 04333

The Honorable Robert W. Nutting, Speaker of the House
And Members of the 125th Maine House of Representatives
2 State House Station
Augusta, Maine 04333

Dear President Raye, Speaker Nutting and Members of the 125th Legislature:

In accordance with 3 MRSA §995.4, I respectfully submit OPEGA's Annual Report on Activities and Performance for 2011. OPEGA's service to the Legislature as a non-partisan resource is meant to provide support in overseeing and improving the performance of State government. I hope that you and Maine's citizens continue to view our efforts and results as a worthwhile use of taxpayer dollars, as we continue working to increase our value to you.

Sincerely,

S/Beth L. Ashcroft
Director

READ and with accompanying papers ORDERED PLACED ON FILE.

Off Record Remarks

ORDERS

Joint Resolution

On motion by Senator **KATZ** of Kennebec (Cosponsored by Representative KESCHL of Belgrade and Representatives: CHASE of Wells, CLARK of Easton, FREDETTE of Newport, WINSOR of Norway) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214.), the following Joint Resolution:

S.P. 631

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO ENACT THE SOCIAL SECURITY FAIRNESS ACT OF 2011

WE, your Memorialists, the Members of the One Hundred and Twenty-fifth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the President of the United States and the members of the United States Congress as follows:

WHEREAS, under current federal law, an individual who receives a Social Security benefit and a public retirement benefit derived from employment not covered under Social Security is subject to a reduction in the individual's Social Security benefit; and

WHEREAS, these laws, known as the Government Pension Offset and the Windfall Elimination Provision, greatly affect public employees and the Government Pension Offset requires a reduction in the spousal benefit received under Social Security equal to 2/3 of the surviving spouse's benefit under another government pension plan even though the spousal benefit was fully earned; and

WHEREAS, the Windfall Elimination Provision reduces the Social Security benefit of a person who is also receiving a pension from a public employer that does not participate in Social Security; and

WHEREAS, the Government Pension Offset and the Windfall Elimination Provision are particularly burdensome on the finances of low-income and moderate-income public service workers such as school teachers, clerical workers and school cafeteria employees; and

WHEREAS, the Government Pension Offset and the Windfall Elimination Provision both unfairly reduce benefits for those public employees and their spouses whose careers cross the line between the private and public sectors; and

WHEREAS, since many lower-paying public service jobs are held by women, both the Government Pension Offset and the Windfall Elimination Provision have a disproportionately adverse effect on women; and

WHEREAS, in some cases, additional support in the form of income, housing, heating and prescription drug assistance and other safety net assistance from state and local governments is needed to make up for the reductions imposed at the federal level; and

WHEREAS, other participants in Social Security do not have their benefits reduced in this manner; and

WHEREAS, to participate or not to participate in Social Security in public sector employment is a decision of employers, even though both the Government Pension Offset and the Windfall Elimination Provision directly punish employees and their spouses; and

WHEREAS, although the Government Pension Offset was enacted in 1977 and the Windfall Elimination Provision was enacted in 1983, many of the benefits in dispute had been paid into Social Security prior to the enactment of those laws; and

WHEREAS, H.R. 1332, the Social Security Fairness Act of 2011, a bipartisan bill introduced in the United States House of Representatives, would repeal these 2 unfair federal pension offsets, which penalize so many people in Maine and the rest of the Nation; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the President of the United States and the United States Congress work together to enact the Social Security Fairness Act of 2011, permitting retention of a combined public pension and Social Security benefit with no applied reductions; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Barack H. Obama, President of the United States; the President of the United States Senate; the Speaker of the United States House of Representatives; and each Member of the Maine Congressional Delegation.

READ.

On motion by Senator **KATZ** of Kennebec, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, this resolution is offered because of information that I learned during the first term in the Appropriations Committee, which probably many of you already knew. That is that there is a great injustice suffered by many people in Maine who devote themselves to public service, but also work for part of their career in the private sector. This affects teachers, State employees, police, firefighters, and other public employees. What happens is these people who work in both sectors on retirement, and who are expecting to receive both their full public pension benefits and their full Social Security benefits, learn that because of a federal law that they suffer a reduction to their Social Security benefits. It's called the Social Security offset. Therefore, they receive less in Social Security than they otherwise would have received. This

resolve is directed to Congress to attempt to have Congress change this unfair practice, which has gone on for years. As I understand it, Mr. President, this is not the first time that a resolve like this has been offered. It has never gained traction in Congress because we are only one of 14 states, as I understand it, that has a pension system which triggers this kind of an offset on Social Security. If you multiply 14 times two Senators, that's 28 Senators in Washington that might have an interest in this and perhaps 82 who don't. It would also come with something of a cost to implement this at the federal level. The fact remains that this Social Security offset treats our public employees unfairly and it makes sense to weigh in and once again ask Congress to take a look at this and fix it. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, I rise because, although this has been put in before, I think it's a good effort that we should stand behind and also perhaps contact our two Senators who have a great deal of power in that they can hold votes. When they hold votes they can get some things put through that they might not otherwise be able to. We know this because we finally got the truck weight limit resolved after a couple of decades. I would submit that I think that perhaps it makes sense to also contact our Congressional delegation to ask to make this a priority when they are negotiating because they are able to do that in the Senate. I just wanted to rise and alert all of us in the Senate to the power of the Senate at the federal level and ask, perhaps, that we really make this a top priority rather than just sending this memorializing Congress. Thank you very much.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, I also rise in favor of this. I wish it had been open for all members of both parties and both Chambers because it is important. I would remind everybody that all four of our federal Congressional people have signed on, both Senators and both of our Congress people are very much on. It is one of 14. I've been aware of this for a long time, but I became acutely aware of it last June. Coming from what would have been from my time trying to put myself through college and all, it would have given me a whopping \$600 and something. I get less than \$200. I have to correct that. We got that big increase this year. It's just over \$200. If anything were to happen to my husband, I would not get his survivor benefits. I've paid that money in. Yes, we do expect it back. This has been something that has been on the front burner for a long, long time. When all this started happening, it was when we baby boomers were just beginning to have babies ourselves. Retirement was a long ways off and something we couldn't see. It needs to be done. One of 14 states. We're one of the 14 states. It is not just small states. Texas and New York are other two. Two large states. When you have people who worked in New Hampshire as a teacher and they retire here to Maine, they still get their full Social Security because they did their work and they are drawing from New Hampshire's pension plan rather than Maine's. That's really hard. When you are sitting down and having a good barbeque or something and you look across that table and you know they put in the same years that I

did and they are getting something because they lived just over the border. I will gladly vote in favor of this. I would imagine everybody would gladly vote in favor of this. I would just continue to remind all of our federal Congressional people, when we see them personally, to don't forget us. This is important and that's about all I have to say. It's important, guys, it really, really is. Thank you so much, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Aroostook, Senator Jackson.

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I, too, have known about this for a long time, dealt with it as a member of the Labor Committee. I would say that I would thank the sponsors for introducing this and I 100% support it, especially in light of the harmful cuts that we made for retirees in the last session.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, just one little quick addition to put a face on this. This is truly a bi-partisan effort here. The Appropriations Committee in the previous Legislature had a full run down on this whole process to try to find a way to fix it that was practical. Of course it's very, very expensive to fix this. To put a face on this, as such, that I might explain any teacher, for example, who taught for years and years and years also had to have Summer jobs. Most every one of them qualified for Social Security because they paid all this money in. When it comes time to collect the money they paid in and have their due share, two-thirds of that benefit is cut. It's 14 states and the reason it's 14 states is because they ran out of money to fix it. The Senator floor leader in the United States Senate, Senator Mitchell, was the one that was working on this. They just ran out of money. Maine happened to be one of the 14 left. As a result of that, we ended up with our people, who have worked hard and paid into the pension, but now two-thirds of that is cut. It's a significant amount. Thank you to the sponsor. It looks like it was Appropriations members that might have saw this and been advising us again. Please know that everybody on all sides certainly appreciate that and want to be part of it. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Lincoln, Senator Johnson.

Senator **JOHNSON:** Thank you Mr. President. Ladies and gentlemen, I'm new to this. Please forgive me if I break protocol. This is something which I've been aware of for a long time because my parents were subject to this same issue. I'm more aware of it because I've been hearing about it, surprisingly, from a lot of people in the district as I visited doors from not only teachers, but retired State workers. I do consider it an injustice and I will gladly support this.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Katz to Adopt. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#352)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, FARNHAM, GERZOFKY, GOODALL, HASTINGS, HILL, HOBBS, JACKSON, JOHNSON, KATZ, LANGLEY, MASON, MCCORMICK, PATRICK, PLOWMAN, RAYE, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT PRO TEM - CHRISTOPHER W. RECTOR

NAYS: Senators: None

ABSENT: Senators: DILL, MARTIN

33 Senators having voted in the affirmative and no Senator having voted in the negative, with 2 Senators being absent, on motion by Senator **KATZ** of Kennebec, **ADOPTED**.

Sent down for concurrence.

REPORTS OF COMMITTEES

House

Pursuant to Joint Order

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Provide Immunity for Prescribing and Dispensing Intranasal Naloxone Kits"

H.P. 1344 L.D. 1824

Reported that the same be **REFERRED** to the Committee on **JUDICIARY**, pursuant to Joint Order, H.P. 1328.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **JUDICIARY**.

Report **READ** and **ACCEPTED**, in concurrence.

Bill and accompanying papers **REFERRED** to the Committee on **JUDICIARY**, in concurrence.

Ought to Pass

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, Regarding Legislative Review of Portions of Chapter 41: Special Restrictions on Pesticide Use, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control (EMERGENCY)

H.P. 1281 L.D. 1734

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Modify the Alternative Organizational Structure Budget Approval Process"

H.P. 1248 L.D. 1696

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Clarify the Minimum Wage Law as It Relates to People with Disabilities"

H.P. 1279 L.D. 1729

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

The Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Enhance a Community's Ability To Establish or Update Its Veterans Honor Roll"

H.P. 1233 L.D. 1643

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-697)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-697)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-697) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Off Record Remarks

Senate

Ought to Pass Pursuant to Joint Rule

Senator McCORMICK for the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Extend the Reporting Deadline of the Working Group on an All-payor Claims Database System

S.P. 628 L.D. 1818

Reported that the same **Ought to Pass**, pursuant to Joint Rule 353.

Report **READ** and **ACCEPTED**.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass

Senator SHERMAN for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Remove the Repeal Date for Outcome-based Forestry" (EMERGENCY)

S.P. 597 L.D. 1740

Reported that the same **Ought to Pass**.

Report **READ** and **ACCEPTED**.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

SECOND READERS

The Committee on **Bills in the Second Reading** reported the following:

House

Bill "An Act To Amend Deferred Disposition under the Maine Juvenile Code"

H.P. 1206 L.D. 1599

READ A SECOND TIME and **PASSED TO BE ENGROSSED**, in concurrence.

Senate As Amended

Bill "An Act To Promote School Attendance and Increase School Achievement"

S.P. 473 L.D. 1503
(C "B" S-378)

Bill "An Act To Amend the Laws Governing Discontinued Town Ways"

S.P. 522 L.D. 1596
(C "A" S-377)

READ A SECOND TIME and **PASSED TO BE ENGROSSED AS AMENDED**.

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Measure

An Act To Preserve the Integrity of the Maine Certified Public Accountant Examination

H.P. 1216 L.D. 1607

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act To Simplify Toll Discounts and Amend Certain Powers and Procedures of the Maine Turnpike Authority

S.P. 533 L.D. 1623
(C "A" S-373)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

Senate at Ease.

Senate called to order by President Pro Tem
CHRISTOPHER W. RECTOR of Knox County.

RECESSED until the sound of the bell.

After Recess

Senate called to order by President Pro Tem
CHRISTOPHER W. RECTOR of Knox County.

The President Pro Tem requested the Sergeant-At-Arms escort the Senator from Washington, Senator **RAYE** to the rostrum where he resumed his duties as President.

The Sergeant-At-Arms escorted the Senator from Knox, Senator **RECTOR** to his seat on the floor.

Senate called to order by the President.

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

REPORTS OF COMMITTEES

House

Ought to Pass Pursuant to Public Law

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Implement the Recommendations of the Streamline and Prioritize Core Government Services Task Force for the Fiscal Years Ending June 30, 2012 and June 30, 2013 and To Make Certain Other Allocations and Appropriations and Changes to the Law Necessary to the Operation of State Government" (EMERGENCY)

H.P. 1339 L.D. 1816

Reported that the same **Ought to Pass**, pursuant to Public Law 2011, chapter 380, Part KKK, section 6.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY AS AMENDED BY HOUSE AMENDMENT "D" (H-707)**.

Report **READ**.

Senator **SCHNEIDER** of Penobscot moved the Bill and accompanying papers be **COMMITTED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in **NON-CONCURRENCE**.

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

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

Senator **SCHNEIDER:** Thank you Mr. President. I find it a little bit unusual in this case to be standing, urging Senate members to go along with this motion given, in the past when changes are presented, we have been, as Democrats, often called out for doing things behind closed doors and in the dark of night. I find it extraordinarily ironic that I am even having to make this motion because I had hoped that this wouldn't have come this far and that the committee work would be done appropriately, rather than behind closed doors with a lot of deal making happening in the dark of night. I really did not anticipate this. I believed in a process that I believe has been corrupted. I believe the people of the state of Maine are not being served well by this process and so I'm standing, urging all of you to go along with me to send this bill back to the appropriate committee for a deliberation. We had a unanimous deal on this bill and now there has been a lot of shenanigans going on, politicking, serving special interests, such as the hospitals, in order to get us to this point. I think that's not a good thing for the state of Maine and I will ask you to remember, in the past, the positions that you have all taken, that in light of transparency and for the process, that we take the time that we need, to send this back to the committee of jurisdiction to have a full vetting of this very significant change that we're about to move forward with. I had a discussion with Lisa McPherson earlier today. I've been told that the piece on the hospitals was handed to leadership three weeks ago, yet we are only finding out about this right now. I urge you to send this back to the committee so that this can have a full vetting. This is not the way we should be doing business in the state of Maine and I don't think it serves any of us well. Once again, we'll be doing things behind closed doors, without public input, in the dark of night. Thank you very much, Mr. President.

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

Senator **ROSEN:** Thank you Mr. President. I hope that the members of the Chamber will vote in opposition to committing this bill. We are poised, I hope, to accept the committee report, to move on to then accept attaching a House Amendment which, at this point in the process, I can't speak to, and none of us can speak to. The motion on the floor to commit the committee amendment back to the Appropriations Committee, I would just like to point out to the full membership of the Senate that we have worked this bill for two full months. While the membership was home enjoying the holidays, we were in the second week of December, with the Health and Human Services Committee, holding a very large public hearing on the DHHS supplemental budget bill and then continued to work through the month of December in work sessions. When the rest of our colleagues returned in January, we entered our second month of working this bill. We worked every weekday, many nights, four weekends in a row, and we achieved a unanimous vote, 13 members of the Appropriations Committee, to present to you, for your consideration and the other Body's consideration, a consensus document. It's our job now, as a full Chamber, to do just that, to consider the document and then, ultimately, to act and to vote on it. There is no reason, no reason, to send this bill back to the Appropriations Committee. I urge you to reject this motion to commit and I'm asking, Mr. President, has a roll call been ordered? Thank you, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. Of course it's not the unanimous committee report that I object to and I appreciate, and I want to say thank you to the members who did work so hard. It is exactly for that reason that I supported the unanimous committee report, and all of that work, and that I stand to ask for this bill to be sent back to the committee. It is because of that committee report that I think that we should honor the work of the Appropriations Committee, but I know, and you know and everybody else knows who's under the Dome, that there has been a lot of behind the scene action going on that the public has not been privy to. That's what I object to. You all know it. I just believe that the people of the state of Maine should know it too. That's why I'm standing up. In the past, you called us out for that very thing. Now I'm asking you to stand up for what you supposedly believed in the past, which is not to pass things in the dark of night, rushing things through. There is no reason to rush this through. None whatsoever. If we can give things to hospitals and things like that, we should have a full vetting of this issue. I believe what was done on the other side of the building was not appropriate. That's why I'm standing up and I know that I'll be able to look myself in the mirror tomorrow and say I did the right thing because I'm standing up for the people of the state of Maine and letting them know that they should have more insight to what's going on behind the scenes here. Thank you.

Off Record Remarks

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Commit the Bill and accompanying papers to the Committee on Appropriations and Financial Affairs. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#353)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFKY, GOODALL, HOBBS, JACKSON, JOHNSON, PATRICK, SCHNEIDER, SULLIVAN

NAYS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, HILL, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

14 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion by Senator **SCHNEIDER** of Penobscot to **COMMIT** the Bill and accompanying papers to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in **NON-CONCURRENCE**, **FAILED**.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#354)

YEAS: Senators: COLLINS, COURTNEY, CRAVEN, DIAMOND, FARNHAM, GERZOFKY, GOODALL, HASTINGS, HILL, HOBBS, JACKSON, JOHNSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, DILL, PATRICK, SCHNEIDER

29 Senators having voted in the affirmative and 6 Senators having voted in the negative, Report **ACCEPTED**, in concurrence.

READ ONCE.

House Amendment "D" (H-707) **READ.**

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

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

Senator **ROSEN:** Thank you Mr. President. Men and women of the Senate, before we take a vote on this House Amendment I would like to just outline to the members present that it is, again, a negotiated consensus document and point out what it actually does. First of all, it reduces the original amount of funds that were scheduled to be transferred from the Dirigo Health Agency to the General Fund. It makes a minor technical correction to a date that was originally entered into the budget as September 1st and corrects it to the committee agreement of October 1st. It allows the reduction in the assessment of the paid claims that fund the Dirigo Health Agency to go forward as scheduled and are reduced from a rate 1.87% this year to the scheduled reduction of 1.64% starting July 1, 2012, and it requires that a plan be submitted by June 30, 2013 to transition categorically eligible individuals who are enrolled in the adult waiver and provide options by December 31, 2013. As a result of those actions, it increases the amount of the one day transfer. It eliminates the original proposals to hospitals in the committee amendment and replaces that proposal with a temporary assessment of .39 of net operating revenue as identified by hospital audit financial statements. In addition, I would like to point out, in terms of Appropriations and Financial Affairs Committee members review of the contents and support of the contents of this amendment, you see on your desk a document that was distributed. This was a ballot that was circulated to all 13 members of the committee today, verifying, asking again whether or not there is committee support for the amendment that we are poised to vote on. You see, on the ballot that was presented, all 13 members of the committee indicating their support. I would ask the members here to support it as well.

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

Senator **BARTLETT:** Thank you Mr. President. I request permission to pose actually two questions through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **BARTLETT:** Thank you Mr. President. I'm still trying to get my head around this amendment, although I think that in balance it is a very good one. I just had a couple of questions. The first is that there is a new tax that is imposed on hospital revenue. It says it is a temporary assessment, so I'm curious how long that tax runs for, when that temporary assessment will expire. The second question I had is, given that this assessment doesn't begin until July 1st, will it do anything to help us get through this fiscal year? Thank you, Mr. President.

THE PRESIDENT: The Senator from Cumberland, Senator Bartlett poses two questions through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Hancock, Senator Rosen.

Senator **ROSEN:** Thank you Mr. President. In response to the questions, the temporary assessment applies to fiscal year 2013. This is a similar mechanism that was utilized in 2009, most recently. The entire package, the amendment as attached to the committee amendment, in total generates significant savings in 2013 that are used to fund the one day transfer to balance the remainder of 2012.

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

Senator **DIAMOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I just wanted to say a couple of words, if I might, Mr. President, regarding the amendment. I think the contents of the amendment, I think, seems like it is reasonable and does some things that people want to do. However, what bothers me about the amendment is the process by which it got here. That process, to me, is in violation of what we try to do in this Legislature. The Appropriations Committee, as you heard, spent hours and hours and weeks and days and months and all of that sitting in those little smelly rooms downstairs, caucusing and working on every line item and trying to make sure everything gets examined and thoroughly vetted. If you noticed, most Appropriations members have gray hair. There is a reason for that. It's because the work is very, very difficult and tedious and it's a process that you almost have to live through to even believe. You heard the good Senator, who is the Chair, Senator Rosen, talk about all the time they spent. It really is negotiating every line, every little item. Sometimes you spend days at that. Then they came to a unanimous decision. My concern, Mr. President, is when it came upstairs with that result, the product of that hard work, and all that was done and all the giving and taking, I think it got somehow captivated by other people. That's what bothers me. I really respect and honor the work of the committee, each and every one of them. I don't like it when something like this happens after this work has been done and it comes upstairs and somebody else grabs a hold of it and does something different to it. It almost ignores all of the hard work that's been done, because when you take one piece out and change it with another piece it effects so many other things. Mr. President, I just wanted to express my concern about what I consider a violation of the great work done by the Appropriations Committee and how I think that this ends up with maybe a product that more people obviously agree with, but I don't think the way we did it was a proper way. Thank you, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, I'd like to pose a question through the Chair.

THE PRESIDENT: The Senator may pose her question.

Senator **SCHNEIDER:** Thank you Mr. President. Given the ballot that was brought forward, and since it is a ballot I probably know the answer to this question already, but I'll pose it to get confirmation of what I assume. Is it so that this was never discussed, these changes by the committee and opened in public forum?

THE PRESIDENT: The Senator from Penobscot, Senator Schneider poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Dill.

Senator **DILL:** Thank you Mr. President. Men and women of the Senate, I would just like to point out something about this amendment that perhaps is obvious, but I think it's worth noting on the record. That is that much of this amendment is about ideology. It's not about policy. The objection to the unanimous committee report was based on a so-called tax on the Dirigo Health Fund. That word tax was used intentionally because there are many people in this building who just hate the Dirigo Health Fund and they are on an ideological war to kill it. The suggestion, or the proposal, that was unanimously agreed on by the Appropriations Committee to not reduce the Dirigo assessment was something that was highly objectionable to, what I consider to be, a radical element in the House. The price that we are paying is now a tax on the hospital. Let's not kid ourselves. This is a tax that hospitals welcome because they know it's a tax that will be turned into two times the amount because of money coming from the federal government. I just want the record to be clear that tonight we are voting to approve a tax that will increase federal money into the state of Maine. That may be a good idea, but let's call a spade a spade and just agree that this is, in fact, where we're swapping one tax for another. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is Adoption of House Amendment "D" (H-707), in concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#355)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, FARNHAM, GERZOFSKY, GOODALL, HASTINGS, HILL, HOBBS, JACKSON, JOHNSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: DIAMOND, DILL, SCHNEIDER, SULLIVAN

31 Senators having voted in the affirmative and 4 Senators having voted in the negative, House Amendment "D" (H-707) **ADOPTED**, in concurrence.

Senate at Ease.

Senate called to order by the President.

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

On motion by Senator **CRAVEN** of Androscoggin, Senate Amendment "B" (S-380) **READ.**

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

Senator **CRAVEN:** Thank you Mr. President. I'm offering this amendment because I think that it was a real mistake and very bad policy to have made this cut. Part of the reason for that is that it is bad policy. It's restrictive and it doesn't allow any kind of flexibility for the providers to take this cut any other way than cutting their employees. They are cutting their employees across the board and these are people who work at very difficult jobs and earn approximately \$8.25 an hour. I think that it was really, really too bad that the cut was made in this way. Sometimes we have to take cuts, but this is going to decimate a lot of group homes that serve people with intellectual disabilities. We do have the funds in the third party liability fund that would cover this. I would ask that you, please, support the amendment. Again, just think that this is a 5% cut across the board to employees that earn about \$8.25 an hour. If you think this is a savings, I will say that a lot of them are going to qualify for MaineCare after this cut is made. Please follow my light. Thank you.

Senator **ROSEN** of Hancock moved to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-380).

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

Senator **ROSEN:** Thank you Mr. President. First of all, I'd like to assure members of this Body that the rate reduction that finally ended up, again, as the consensus agreement that's in the report is a significant change from the original proposal. A sub-committee of members, both Republican and Democratic members, of the Appropriations Committee worked as a sub-committee with the provider community. They put in a great deal of effort to alter the original proposal, with the provider community's participation and with their support. I certainly wouldn't indicate it was enthusiastic support, but they certainly saw it as an improvement over the original proposal. They did, in fact, provide that support. In addition, the amount of money that's booked here, \$4 million, generated from a third party liability effort, I would remind members that we already have in this proposal savings generated to rein in participation from third parties. The last time we had an initiative that was as large as this one a few years ago required additional personnel. I think at the time it was 18 additional positions to actually generate the savings and make it a reality. It's an issue that we're looking at. We looked at it in this piece. As we go on to the remaining piece of this particular proposal I'm sure we'll take another look at it. Right now we have examined it. We don't see this level of savings available and we're ready to go to work, if this is approved, and move on with the last portion of the DHHS supplemental budget fix and will be considering this option and others. It needs more work. We spent a considerable amount of time on it. We don't see this level of savings available from what we have done so far. I encourage you to support the motion to Indefinitely Postpone.

On motion by Senator **ALFOND** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **CRAVEN:** Thank you Mr. President. I have the very, very highest regard for my friend, Senator Rosen. I know he worked very hard and that he's very caring. This administration has promised that they would not cut or put at risk the most vulnerable of populations. People who have intellectual disabilities are indeed the most vulnerable of populations. This is going to hurt them and this is going to hurt the people that care for them as well. Thank you, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, I'm not going to support the Indefinite Postponement because I feel, unfortunately, that this was not vetted thoroughly at all. It is exactly the reason why I asked for this bill to go back to the Appropriations and Financial Affairs Committee and that I rise again to say, again, that I believe that the wheeling and dealing that's gone beyond these doors and that it has not been an open process is completely unfair. There were some major changes made to this piece of legislation and, as much as the good Senator from Hancock, Senator Rosen, has said, this really wasn't vetted thoroughly. I know I didn't have input on that. I don't think that this is a proper process. There are good things that could have been achieved by having this go back to the committee. This is one of those issues that I think should have been looked at much more thoroughly. I didn't agree, frankly, initially when we had a deal a couple of weeks ago. I was going to support this budget as a very bitter pill because I believed thoroughly that we should not be dealing with a budgetary issue that's solely looks at one department when we are in financial straights. I've never seen it happen before and I don't know why we did it now. I really believe that we're making some mistakes here and we're going to hurt people. I don't think that's good for Maine. That's why I didn't support the other motion, because it's just unfortunate the way that we're doing this. I feel like this whole thing, at least for me, has become very unraveled and corrupted. For that I feel sorry. I don't think we should vote in favor of the pending motion. Thank you very much.

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

Senator **SULLIVAN:** Thank you Mr. President. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose her question.

Senator **SULLIVAN:** Thank you Mr. President. As I understand it, this deals with the part of the budget that's going to be the non-profits that run group homes for our mentally delayed, intellectually disabled, I believe that is the correct term now for this group of our population. I'm curious, it's a 5% cut and the cut

is to be made in the people who give the care. Will that take place before July 1st where this is the 2012 budget, or is it one that could be put off until the 13th? Are we going to be telling people, working in the nursing homes or working in the non-profit homes now, that they are without a job at \$8.50, which will certainly just compound the problems we have. I guess the easiest question, because that was a poorly worded question, is; will this be effective by June 30th? When will the people be notified and have the non-profits been notified to be able to plan for this? We worried about the hospitals and CEOs who make lots of money. I'm asking about the non-profits that run this for the people that need it the most and their workers are working for \$8.25 or \$8.50 an hour doing some of the hardest work for people who cannot work for themselves. Except for the grace of God, any of us could be them. Those would be my questions. Thank you, Mr. President.

THE PRESIDENT: The Senator from York, Senator Sullivan poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Hancock, Senator Rosen.

Senator **ROSEN:** Thank you Mr. President. In response to the question. The initiative that's in the budget, as it relates to the developmental services waiver, is in FY 13 savings initiative. It's all in FY 13. While I'm on my feet, in response to the allegation that the two items that make up the content of this amendment, third party liability collections and the rate reduction to providers in the developmental services waiver, thoroughly vetted, thoroughly vetted over two months. Public hearing with 350 people testifying, the providers in the room, every day for two months. Every day communication with the providers on an ongoing basis. As I said earlier, a sub-committee of our committee members and members of the administration that worked with providers to craft the final amended version that you see before us. Let's be very clear. Total transparency on this initiative. Completely open. I challenge anyone to check with any of the members of this provider community to check on the veracity of my statement. Thank you.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, this maybe was discussed at length within the committee based on the entire package. However, I would submit that it was not in any way, shape, or form solidified at all until very recently. This deal, the amendment that was struck that had to do with the hospitals, was only recently brought forward and added tonight. It was not part of the unanimous committee report that came out of the Appropriations and Financial Affairs Committee. That amendment, if it had been, would have been part of the full.

THE PRESIDENT: The Senator will defer. For what purpose does the Senator from Kennebec, Senator Katz.

Senator **KATZ:** Thank you Mr. President. Point of Order, Mr. President. I assert that these comments are not germane to the issue before the Body at this time. It is the amendment offered by the Senator from Androscoggin, Senator Craven.

THE PRESIDENT: The Chair would answer in the affirmative. We are under consideration of Senate Amendment "B" (S-380). The Senator will confine her remarks to Senate Amendment "B" (S-380).

THE CHAIR RULED THE REMARKS WERE NOT GERMAINE TO THE AMENDMENT UNDER CONSIDERATION AT THIS TIME.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Rosen to Indefinitely Postpone Senate Amendment "B" (S-380). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#356)

YEAS: Senators: COLLINS, COURTNEY, DIAMOND, FARNHAM, HASTINGS, HILL, HOBBS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DILL, GERZOFKY, GOODALL, JACKSON, JOHNSON, PATRICK, SCHNEIDER, SULLIVAN

23 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **ROSEN** of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-380), **PREVAILED**.

On motion by Senator **DILL** of Cumberland, Senate Amendment "C" (S-381) **READ**.

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

Senator **DILL:** Thank you Mr. President. If I may please speak to my motion briefly. This amendment restores funding for MaineCare eligibility for parents earning up to 200 of the official poverty line and offsets those costs by essentially emergency room management. I would submit that without the passage of this amendment 14,400 individuals will be taken off a health insurance program that's known as MaineCare. I would submit that this not a good idea. Taking people off a health insurance with hopes that we are going to reduce costs has been proven to be wrong by the Keizer Foundation and numerous other very reputable non-partisan, scientific oriented institutions. We take people who are poor, parents of children who are poor, and remove their health insurance protection, they will get sicker. When they do get sick they will resort to emergency room treatment, which we all know is significantly more expensive. When emergency rooms treat more people without insurance that cost then becomes part of charity care and bad debt because the hospitals cannot collect what they are owed. Then the hospitals

would increase the premiums of those of us who have private insurance or the money is raised through higher assessments on property taxes and the rest of us end up paying significantly more than what we would pay if these people stayed on MaineCare. What's important also to note is that this amendment is paid for by the management of not only emergency room care, which I think managed care should, at least by now, be generally accepted to be a very smart way to reduce the cost of health care, and reform of emergency room and hospital payments. I urge your full consideration of this amendment and ask for your support. Thank you.

Senator **ROSEN** of Hancock moved to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-381).

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

Senator **ROSEN:** Thank you Mr. President. I appreciate the Senator's offering, putting forth the idea of managing emergency department costs. It's a very timely issue. It is certainly one that the department is already working in on a pilot project which we developed last session. I believe it has been underway in Maine Health. I think there was a discussion related to the managing of emergency room care that both the members of the Health and Human Services Committee and the Appropriations Committee intend to continue to take a look at. Unfortunately, it is, as with so many of these items that we deal with in the MaineCare program, complicated. There are a variety of impacts. It takes a lot of careful consideration to put together a proposal. The amendment doesn't flush out a proposal. It simply has a \$6 million savings with no backup material or understanding of how that is accrued and whether it is realistic, and who will be affected. Although the idea is valid as a broader issue, it is one we're looking at. It is one we intend to pursue. I don't think it's ready for prime time in the form that's been offered tonight and would encourage you to support Indefinite Postponement.

On motion by Senator **ALFOND** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **DILL:** Thank you Mr. President. Men and women of the Senate, I would just like to respond briefly to the fine remarks by Senator Rosen. I'd just like to point out that there are other aspects of the budget that I believe, you obviously are the experts, and do know that one of the budget is to change a cap on the expenses associated with the non-categoricals from \$80 million to \$40 million. I don't believe that there are any extensive explanations for programs or systems that we can look at that would explain how that is going to be done. There is sort of a leap of faith that we're going manage the care from \$80 million down to \$40 million. I would just suggest that if it's possible for us to go from \$80 million to \$40 million without really knowing what's going to happen that we can keep another 14,000 people, poor working Maine people, on health insurance and have similar faith that hospitals, with all the extra revenue they are going to get thanks to the House Amendment, can manage this cost as well. Thank you.

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Measure

An Act To Implement the Recommendations of the Streamline and Prioritize Core Government Services Task Force for the Fiscal Years Ending June 30, 2012 and June 30, 2013 and To Make Certain Other Allocations and Appropriations and Changes to the Law Necessary to the Operation of State Government

H.P. 1339 L.D. 1816
(H "D" H-707)

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

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

Senator **ROSEN:** Thank you Mr. President. Men and women of the Senate, I'd just like to take a few moments before we take action on the bill that's before us. First of all, I'd like to point out that, as you've seen in the title of this bill, An Act To Implement the Recommendations of the Streamline and Prioritize Core Government Services Task Force. As you recall, in the biennial budget we had a language section in the budget, KKK, and we had a \$25 million place holder in FY 13. The language in the budget charged a committee be formed, the Prioritized Government Task Force, and set forth recommendations and parameters of how they should approach the job of looking for \$25 million of savings in FY 13. The task force included four members of the Legislature; the Senator from York, Senator Hill, and myself from the Senate Chamber and Representative Martin and Representative Keschl from the other Chamber. It was chaired by Commissioner Sawin Millet and former Commissioner Ryan Lowe. It included members from across the state in terms of prior State legislative service, private sector service, and community leaders. The task force met during the Summer and during the Fall and succeeded, I believe, in the charge particularly well. I want to credit the co-chairs of the committee for leading that effort. It has been an effort that has been largely unrecognized as we have been going forward with the discussion on the DHHS supplemental budget, but it is the bill that is the basis in terms of the document that is before us and it is worth noting the success of the task force. It is not easy to find \$25 million of savings in a year after the budget has been passed that meet the criteria that was set forth in the KKK language. The members succeeded and I'm very proud of their work and was happy to participate in that effort.

We have this vehicle in front of us. We had a public comment period for this report. The Appropriations Committee unanimously accepted and supported the work of the task force. As you know, at the same time we had the DHHS supplemental budget bill. A \$220 million bill to deal with the shortfall in both 2012 and 2013 of the fiscal year. We had, as has been described to you previously by a very able House co-chair, Representative Flood, two challenges before us. One that required very quick action. That was deliberate action to be presented to you in time to make sure that the \$120 million shortfall in DHHS this fiscal

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Rosen to Indefinitely Postpone Senate Amendment "C" (S-381). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#357)

YEAS: Senators: COLLINS, COURTNEY, DIAMOND, FARNHAM, HASTINGS, HILL, HOBBS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DILL, GERZOFKY, GOODALL, JACKSON, JOHNSON, PATRICK, SCHNEIDER, SULLIVAN

23 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **ROSEN** of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-381), **PREVAILED**.

PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "D" (H-707), in concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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:

year was addressed. We all know that if it wasn't, and if it isn't, addressed by your action and, hopefully, your support of this measure, than we risk payment not going forward to thousands and thousands of providers, providing services to hundreds of thousands of Medicaid clients. Payments during the last quarter of this fiscal year potentially not going out to pharmacists, physicians, nursing home operators, and hospitals. Devastating. We had that emergency before us. We decided to break the work into two pieces. We were able to come together unanimously with the consensus document of approximately \$140 million of the total \$220 million bill that was before us. That is bolted onto the task force report and presented to you for your approval.

As you heard earlier, that was two months of work, two months of controversy. I don't want you to mistake for a minute that we didn't have our lively discussions, our battles, our questioning. Blood, sweat, and tears. Dealing with some very, very tough subjects in this proposal down in the committee room. We knew we had to present a product that was acceptable to you, that would balance the books, and pay the bills for this fiscal year. The bill does three things; it pays the bills, it includes significant reform, and it is a proposal, I believe, that is balanced. As you go down through the sections, you do see eligibility restructure. It does include benefit redesign. Payment reform. Savings from administrative function in the department. All of those broad categories are covered.

I want to acknowledge the work and participation of the members of the Health and Human Services Committee through the hearing and work session process. The members of the Appropriations Committee, all the members, and particularly the co-chair, Representative Flood, and the Democratic leads, Representative Rotundo and Senator Hill. Everyone participated equally. All the committee members. Commissioner Millet, Commissioner Mayhew, all the members of the fiscal staff, and the policy staff worked the hours that we did. Major contributions. Members of the Governor's staff. All participated and helped us to achieve this final product. We ask you, do you trust the committee? Do you trust the committee? Not the people, not the personalities, I'm asking if you trust the work of the committee? This is the same group of 13 people that brought you three unanimous budget reports last session. We're doing the same for you tonight for your consideration. I think the bill is rock solid. I think it's good work. I believe it's good work. I'm asking you to step up and to fulfill your role and responsibility as a Legislator. I'm asking for your vote in favor of this consensus bill. Thank you very much.

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

Senator KATZ: Thank you Mr. President. Men and women of the Senate, I rise in support of L.D. 1816 as amended. I'd like to thank Senator Rosen for eloquently setting out the series of events that led us to this moment. In the last few weeks many, many organizations have weighed in on this budget. Many individuals have weighed in on this budget and generated more comment and controversy than the firing of Terry Francona by the Red Sox last Fall. The product that emerged from the Appropriations Committee by a vote of 13 - 0, as improved by the amendment that we just adopted tonight. I will repeat that, as approved by the amendment we adopted tonight, that has managed to generate vigorous debate and comment from groups from every part of the political spectrum. To over simplify, Mr.

President, some feel we have not gone nearly far enough to rein in out of control social programs, so say some. On the other hand others tell us we are heartless and taking away basic health care benefits from a vulnerable population, so say others. We heard it all.

Let me stop for a moment and tell you who we are on the Appropriations Committee. I'm not naming names, but when the Speaker and the President appointed our committee they gave us quite a cross section from the ultra conservative to the ultra liberal. For eight weeks we worked hard, days, nights, and weekends, hearing from literally hundreds of people in public hearings. We had the benefit every step of the way of the counsel and wisdom of Commissioner Mayhew and the resources of her terrific staff. The fiscal office, Sawin Millet and his office, and for most of the time the valuable input of the HHS Committee, including Senators McCormick, Farnham, and Craven. We did not do a superficial review of the MaineCare program, Mr. President. We did our best to dig down deep into the minutia, trying to understand how these complicated programs worked so that the recommendations we made could be evidence-based, not grounded in antidote. I ask you to remember that we do not have the luxury of just getting to a point where one could view the glass as half full or half empty. We needed to get to a glass that was two-thirds full. As Senator Rosen pointed out, given the shortfall in the MaineCare budget and the way our fiscal calendar works, we must act in a bi-partisan way.

Red Sox opening day, Mr. President, is April 10th. If we do not pass a two-thirds budget the stark reality is that by the time the first pitch is made that day MaineCare will, essentially, have shut down, out of money. The department will have stopped paying hospitals in your districts, assisted living facilities in your districts, doctors and social workers, personal assistant aides in your districts. If we rammed through a majority budget tomorrow, even if we were capable of doing that, such a budget would not go into effect until 90 days after adjournment of this session. No money to pay salaries. No money to pay the light bills. No money to pay the oil bills. Real people would suffer. Patients, consumers, and employees. Some providers would simply close. Under those circumstances, none of us, wherever we come from on the political spectrum, can have the luxury of ideological purity right now. It seems to me that our first responsibility on the Appropriations Committee, and our first responsibility as legislators, is to make sure that essential government services continue to be provided, even as we deal with a difficult policy and restructuring decisions that face us. Two-thirds, 24 votes in this Body.

Again, it's no secret that our friends on the opposite side of the aisle see this problem differently, but many of us, including myself, see a system in need of reform. A taxpayer supported system that covered 200,000 people a little more than a decade ago and now has ballooned to 365,000 people, almost one-third of our population. We now have more people on Medicaid in this state than the taxpaying families who support the program. Because the program has grown and grown over the years due to decisions made by our predecessors, we now have one of the highest percentages of population on Medicaid in the country and, from the perspective of many of us, we simply cannot afford it. As a larger and larger portion of our General Fund budget goes to support MaineCare it is crowding out our ability to adequately fund K-12 education in each of our home towns and forces us to make critical cuts in other areas. Higher education programs. We are falling further and further behind in fixing, maintaining,

and improving our aging roads and bridges. It handcuffs us from making the kinds of targeted investments in research and development that everyone agrees we need to do in order to move our state forward. It is forcing us to reduce revenue sharing throughout the towns and cities we all represent, putting even more pressure on local property taxes. Yet, the original proposal that we received contained parts that none of us could accept and we made changes. Just as I have described to you, Mr. President, how many of us felt on this committee, there were those with a different view; people who reflect the opinions of others in this Body and beyond. Their view, which I will leave to others to articulate better than I, who believe that the expansion of MaineCare programs over the last decade is a fact to be celebrated, not criticized. I honor their opinions as well. Yet, we got through to a vote, not a majority vote, not a two-thirds votes, but a unanimous vote on Appropriations. We talked, but more importantly, we listened to each other.

I want to give particular credit within this Body to Senator Rosen, who was able to restrain his anger management problems to work through the process with patience and civility, and Senator Hill, whose intelligence, good humor, and open mind made her an excellent advocate and negotiator for those she represents. Two-thirds, a budget which balances fiscal 2012, not with gimmicks, but with real savings. For those whom structure and permanent changes in eligibility were critical, we did that, reducing the MaineCare population by 32,000 people over time with millions of dollars in structural and permanent General Fund reductions. A redesign of optional services in a structured and thoughtful way. A reduction in prescription drug expenses that will save millions. Real structural reform. Manageable reductions in provider payments which will provide millions in ongoing structural reform. Systematic department administrative savings, as recommended by the Commissioner, that, again, will result in millions of dollars of agency ongoing structural reform. In a section of the budget that begins to take on the horrible pandemic of prescription drug abuse in the state, a provision I'm proud of, that will limit MaineCare payments for narcotics to 45 days with exceptions for in-patient, cancer treatment, HIV, or hospice. Real structural change that will save money and save lives.

Is this everyone's vision of what a restructured MaineCare program should look like? Absolutely not, but we got there 13 - 0. Two-thirds. This balances 2012. As Senator Rosen points out, it pays the bills. It pays for part of it with one day borrowing, but we have identified exactly where every one of those dollars is coming from. Again, for those who think we should have more, for those who think we should have done less, not to worry. To get back to baseball analogies, opening day on this budget was back in December when we started these deliberations. We're only in about the bottom of the fourth. Debate will continue. For now, Mr. President, it is time to take a deep breath and do what we were sent here to do, balance the budget for 2012, make sure that basic services will continue for our most vulnerable, and while at the same time beginning to make the hard fiscal decisions we must make. I hope you will join Senator Rosen, Senator Hill, and me in support of this bi-partisan budget, a budget which is the product of study, a product of negotiations, and, yes, a product of compromise. Thank you, Mr. President.

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

Senator **HILL:** Thank you Mr. President. Ladies and gentlemen of the Senate, I have to tell you I was tasked with a job that I feel like I completed, but through the entire course I had to do it with a heavy heart. When this bill arrived it had measures that were far, far too harsh for Democrats to even entertain. In fact, many Republicans winced at it as well. That's because it was full of policy, policy that was focused on attaining numbers rather than on people. In fact, I often thought of it as crafted by a bean counter. Nonetheless, I understand that those who crafted the original bill did so lacking critical information and feedback that, fortunately, the Appropriations Committee was able to have through public hearings and work sessions. We were able to listen to providers, to consumers, to departments, to lobbyists, and we were able to assess the impact that many of these measures would have on these people. It wasn't an easy process and it was also at times very hard, but I have to say that what made it more bearable was that throughout the process I had the pleasure of working with two chairs that were so gracious at all times. I also had the pleasure of working with a committee that I was very impressed with and I have to particularly thank, here in the Senate, Senator Katz and Senator Rosen for the way they interacted with me, even under the most difficult times and situations. The committee I'm proud to be part of still, and I'm glad we were able to fashion a bi-partisan budget and do it unanimously. They are open-minded. They are committed. They are very responsible. They realize we have to do and we need to get it done. We were also faced, obviously, with a task of closing a huge hole with not much money to work with. We were very restricted by staying within the budget. Fortunately, we did venture out a bit to make things work. Ultimately, I think some hearts and calm heads prevailed. What I do feel good about is that we were able to keep many people, 18,000 called non-categoricals, not a particularly attractive name, on health care. That's how I see MaineCare; it's health care, not welfare. We kept 21,000 parents covered up through September 30, 2012. Very important to me was that we didn't have to have any cuts to Head Start. We didn't have to go and do any damage to Drugs for the Elderly. We didn't have to touch disabled services. Also there were no cuts to the hospitals, based on the amendment that was put before you. In the end, the result of our work is that providers will get paid, those in need will be cared for for the most part, jobs are saved, and we get to move on to FY 13 for the rest of the DHHS budget as well as the supplemental bill for 2012 - 2013. Thank you.

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

Senator **DILL:** Thank you Mr. President. Men and women of the Senate, I rise just to explain, briefly I hope, why I'm not supporting the budget. I'm not somebody who spent hours and hours in the Appropriations Committee room and I don't know all the minutia that many of you poured over. I'm going to talk about this process from 20,000 or 30,000 feet up, the big picture. I would like to just ask you to consider for a moment why we're here talking about this one budget. Why are we here talking about the DHHS budget? We've never done this in the history of the Senate. The reason why we're here is because we passed a budget last year that, for all of the backslapping and for all the congratulations and for all the reports about tax cuts, was not a good budget. I'm sorry. It wasn't because the Department of Health and Human Services didn't have good information and

miscalculated the costs going forward. Now you may wonder, why is that the case? Well, it could be because the Administration fired all the people who knew everything. We're here under these pretenses of a crisis. It's a manufactured crisis. We don't have to decide the Department of Health and Human Services' budget within itself and try to solve this problem like there is some gun to our head. If we don't do it that some really, really bad thing is going to happen. Let's just go back again to last year's budget. We were so pleased that we passed tax cuts. Yet here we are, without enough money. Are we looking at the tax cuts that we passed? No. Why were we in a crisis last time? We were in a crisis because of our pension system. The pension had lost incredible value because of malfeasance on Wall Street. Who paid that price? It was our public employees. We balanced last year's budget on the back of public employees and now we're balancing this budget on the back of poor people instead of holding the real people who are responsible accountable. I would just like to note that this budget is work that certainly reflects the hard work of a lot of people. I sincerely appreciate all the effort that everyone put into it. I think the bottom line is that we have choices and by voting on this budget we're making choices that will affect poor people, disabled people, veterans, and children. We don't have to. We don't have to. We can do a budget like we always do, which is to take into account the big picture. Bring in the Department of Health and Human Services' budget, bring in all the other agencies' budget, and look at the big picture for the State of Maine and look at what we did last year, in terms of creating tax cuts that we did not pay for, and maybe reevaluate whether or not that was a good idea. I would urge you to just consider that last year we balanced the budget on the back of public employees and right now we're balancing the budget on the back of poor people and children and disabled people and we do have choices. My choice tonight is going to be to not support the budget, not in any disrespect for the work that went into this product by the Appropriations Committee. It's simply to stand up for the people who don't have a voice, who don't have the lobbyists who can come in at the last minute and work out some fancy deal where they are going to get assessed and get twice as much money. I thank the members of the Appropriations Committee. I thank all of you for the civil dialogue and the opportunity to be here, but I just want to point out that there are choices. There is no urgency. If we don't act on this budget we can go back to the drawing board. Let's let cooler heads prevail. Remember that we all have a job to do and our job is not just to pass something because a committee worked really hard at it. I'm going to take my responsibility seriously and vote no simply because I think we can do better. Thank you, Mr. President.

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

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise also to thank my colleagues on the Appropriations Committee for their hard work. Their focus and dedication to the committee's efforts is unmatched. I have the utmost respect for Senator Rosen, Senator Katz, and Senator Hill. Together our three Senators worked for weeks, navigating through one of the toughest budgets in recent history. While I appreciate their work, it is with regret that I can say that I'm not going to support this budget before us. When I was thinking about what to say tonight I decided to dust off my remarks from the 2012 - 2013 biennial budget. Here's just one excerpt of my

remarks. "I cannot stand here and ignore what this budget will do for future Legislatures and budgets. This budget is based on a starving government and, if passed, this budget will shape Maine's future for years." Unfortunately, I believe my remarks from last year are just as relevant during today's conversation about this budget. Much like last year, the DHHS budget before us today is deep in ideology. Beyond that, I'm deeply skeptical about the origins of this budget before us today. You might remember that a mere 90 to 100 days after we passed the biennial budget last year, a budget that included deeply flawed tax cuts, the Governor then announced a shortfall in DHHS. First the shortfall amounted to \$70 million. Then it was \$120 million. Finally it landed at \$221 million. It is worrisome that a shortfall of this magnitude existed when the Administration urged passage of this budget that included \$150 million in tax cuts. Even then, the Administration was picking winners and losers. Back then, as is the case today, it's a case of fend for yourself economics. A system where this government continues to grant favors to those that need it the least and pulls the rug out from under those who could use a little stable footing. This year's DHHS budget goes beyond picking winners and losers and steamrolling ideology, it's causing real harm to Maine people. Thankfully, the Appropriations Committee took the Administration's reckless budget and worked very hard to create a bi-partisan compromise that blunted the axe that the Governor wanted to take to DHHS and working families.

Let me be clear. No one disagrees that changes are needed to put DHHS on a more solid financial footing and make it sustainable for years to come. However, this budget is based on a manufactured crisis. Worse yet, it is based on flawed economics. Our state will be measurably worse off because of it. Here are four reasons that stand out to me. One, the lack of real changes in DHHS. This budget does so little to change the way the State manages our DHHS programs, throwing, whether it's 23,400 people or 32,000, off MaineCare is not change. This budget simply shifts costs from the State onto our local communities. Let's not kid ourselves. The Mainers being tossed off health care will not disappear. We're simply leading them out the front door only for them to return through the back door. Where will they return? They are going to return to our hospitals, our general assistance, homeless shelters, and social service agencies that will all try to pick up the pieces, not to mention the increased health care costs that we passed along and will be shouldered by private insurance holders. There was an opportunity to find solutions and address cost saving measure, such as managed care or targeted case management. Unfortunately, politics and the crisis of timelines and ideology got in the way. Point two, job losses. Well some improvements have been made with this amendment, make no mistake, there are other casualties in this budget besides those who are insured by MaineCare. This budget may still cut hundreds and hundreds of jobs in health care. Health care happens to be the fastest growing sector in Maine. Instead of growing jobs that will help put money into the pockets of Maine people, this budget generates pink slips. Under this Governor's watch, Maine ranks among the bottom five states in job creation in the whole country. The proposition that more Maine people will lose their jobs is simply unconscionable. Three, optimizing and matching federal dollars. What is this budget going to do? Maine is leaving money on the table at a time when budgets are tight and every dollar matters. Why would we choose to walk away from a 2 to 1 return on many investments to Medicaid? It is certainly not a decision based on

economics or fiscal responsibility. Perhaps ideology? We need to maximize opportunities for our federal tax dollars to be reinvested here in the state we all love, otherwise, for every refusal, Maine's tax dollars go to New Hampshire, Massachusetts, and other states who are more than happy to take it in. Fourth, our State's future budgets. Where will this budget leave us? We know that there will be challenges that remain in 2013, and 2014 and 2015 that are going to be even worse because no one wants to talk about the \$400 million tail that is unpaid for with the tax cuts. By making drastic cuts that effect the daily lives of Maine people, by pushing increased costs to local communities and to future legislators, this budget is a full color illustration of what we've known all along. This Governor is more interested in the relentless pursuit of ideology than doing the practical work necessary to improve people's lives.

What's the bottom line? Throwing tens of thousands of people off of health care is irresponsible and, let me stress, will not bring prosperity to our state. Perhaps some will boast the historic merits of this budget, but for many this budget will be remembered as the day the State turned its back on the many left without and it will be remembered by future legislators as the short term solution that will result in a long term mess. Thank you, Mr. President.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I won't take a whole lot of your time. Don't quote me, but I think Yogi Berra said it well. Déjà vu all over again. I can remember standing here on the last budget. I'm feeling very sheepish about getting up because I know how hard all the members of the Appropriations worked to make this budget better. I truly do support that, but, for myself, I look around this Chamber and I could be wrong, but I don't see very many people in here that probably don't have health insurance. This budget, for me, for us to be just arbitrarily throwing people off health insurance is not right, in my mind. It's not what I want to do with my time here. We talk about fraud, welfare fraud. I'm on a committee where we talk about unemployment fraud and we talk about Workers' Comp fraud. No one wants to see fraud happen. It seems like this isn't really fraud, it is poor people that are struggling, that have no other option but these MaineCare benefits. It would be so easy to go back and choose the ones who should and shouldn't get it, but I can't make that right in my heart. I come from a community that people help each other. This does not feel like helping people. Despite my sheepishness to get up and oppose the good work of the Appropriations Committee, I just can't make this right in my heart, to make people haven't done nothing wrong other than be poor. By being poor they've turned to the government for help. With this budget we're turning our backs on them. Call me a liberal. Call me whatever you want, but I don't do that to people that I know. I don't do it because I wouldn't want it done to me. Anyone of us could be in that position at any time. Just to have the wrong genetic gene or something that causes you to have cancer, cause you to have whatever, a host of diseases could put people in the position that we're talking about and throwing people off health care. Despite all the other things that probably should be done with this budget, for that simple reason I cannot support it.

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

Senator **BARTLETT:** Thank you Mr. President. This has been a challenging proposal for me to consider and I want to start by thanking the Appropriations Committee for their tireless work. I know there were a lot of long days, late nights, and difficult decisions that were made by members of both parties in the committee room to try to get to a compromise. When I first looked at it, as it was coming out of Appropriations, I really wanted to support it. If we look at it and compare it to the Governor's proposal, it looks pretty good. It's not as awful. The problem is that the longer you take a look at it, and if you look at it and judge it on its own merits, the more you realize it falls far short of Maine values and Maine ideals. As has been mentioned, the budget discussion got off on the wrong foot because there is a suggestion of this great crisis due to rapid increases in enrollment in the program. It didn't take long to figure out that the increase in enrollment was not the driver of these costs. It also became very clear that the numbers were unreliable. I'm deeply concerned that we are here tonight filling a hole that we are not sure is the right size. We've been unable to get independent confirmation of the numbers in the waning days of the committee process. The Department of Health and Human Services was not as helpful as it seems like they ought to be. We need to know whether these numbers are accurate. Imagine if instead of making cuts we were sitting here with a pile of taxpayer money and we were starting to shovel it into this big hole. Would you let us just keep shoveling that, not knowing where the bottom of that hole was? The hole might be much bigger than has been projected or it might be much smaller. We might run out of money on April 1st or we might not. We do not have solid, independent verification of these numbers. Until we have that hard data to work with, how can we confidently make changes that are going to affect real people in very harmful ways?

When I was first running for the Legislature I spent a lot of time doing doors, and have every election cycle. One of the things that people are most concerned about is access to health care. Maine has had a pretty good track record of expanding access to health care to make sure more people can get the treatment that they need. This budget rolls it back. We're talking about 20,000 people that will lose health care under this proposal. That's not something that any of us can be proud of. When we start doing doors in November we're going to find people who've lost their health care or are about to lose their health care because of this proposal. They are not going to be able to get the medical care they need. They are going to have to go to the hospitals and we're all going to bear the cost. You take health care away from people who need it and you drive up people's health insurance premiums at the wrong time. I don't know anyone that I've talked to when I was running for office who thought I should get rid of health care and drive up health insurance premiums. Unfortunately, that's the road that this proposal takes.

I'm also concerned about the process. I've already mentioned the issues around understanding whether this crisis is real or not, how big the hole is, and whether we're really going to run out of money. We also know we are also being asked tonight to trust the committee process, to have faith in the process, and have faith with what the committee came up with, except for some people who were unhappy and threw an amendment on it. I have things I don't like in this budget. How about getting rid of the

termination of benefits for parents who need it? How about not relying on some false assumption that adults who are disabled and need care can really somehow get by? A program that was costing \$80 million, we're now going to try to deliver for \$40 million. Attrition is not going to be that fast. You're talking about serious cuts either to the benefits or we're going to be back here in October with a whole new crisis around that issue with no choice for the next Legislature to make further cuts. I understand that difficult choices need to be made. We've made them every single year that I've been in the Legislature. I've yet to see a budget that accomplished any great government expansions, but what you try to do in your budget document is remain true to your core values, making sure that we're expanding opportunities for Maine people, not taking it away, and making sure that we are protecting the safety net in this time of terrible economic turmoil, not slashing holes in the net. That's what we are doing tonight.

The reality is, despite the rhetoric, MaineCare is not spiraling out of control. The money that has been spent on MaineCare has been relatively flat since 2006, with a little bit of a blip when the federal government gave us some additional resources. This is not a program that is spiraling out of control. It does not justify the deprivation of health care that is going to be the result of this budget. I think we need to solve this problem by, number one, understanding the size of the problem. Let's figure out, with independent verification, how deep this hole is. Why do we cut people off health care if we don't need to? What if the hole is only \$80 million and we end up with a \$40 million surplus at the end of the year? At that point it's too late to help some of these people that we're hurting. I think you get the facts and the data first and then you act. Second, as part of the amendment that we put on we have, rightly, tried to protect the hospitals of this state who provide extraordinary service to our communities and to our people. Unfortunately, we haven't given the same attention to the people who receive the health care on the other end. We need a balanced approach that recognizes the needs of Maine people. I want to support the Appropriations Committee, but I think that this falls short. It's not their fault. They were dealing with inaccurate numbers that kept moving. They were being dealt false justifications. They were being dealt with by an Administration that was fighting them every step of the way instead of coming to the table cooperatively. Good solutions can be found when people come together in the spirit of good faith and really get to the bottom of it. That requires not just all of us, but the Executive Branch as well. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Johnson.

Senator **JOHNSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, please recognize that I had no voice in the process of how this bill came before us and I consider it most unfortunate that, in such serious matters, my district has been unrepresented in this Body until today. Today it does have a voice and I feel compelled to express the sentiments that I know are most prevalent in my district, having just heard them spoken through their votes two days ago. I respect the efforts of the Appropriations Committee in making some difficult progress in mitigating the impact of the original proposed budget. However, this budget reduces rates for some services and caps some others, causing the loss of preventive health maintenance and cost containment. This budget hurts people with intellectual disabilities and their service providers. This budget reduces by

\$40 million the health care Maine provides to non-categoricals, thereby shifting that, and even greater costs, to the people of Maine in more serious health issues and health care provided by the most expensive means of delivery, emergency room care. This budget reduces the number of people able to qualify for health services when so many of those people could never afford health care and others who deserve to have health care do not qualify now and cannot afford it on their own. Lack of affordable preventive care is the problem we need to solve and this supplemental budget is moving in the wrong direction. Talk about reducing the number of people taking advantage of services translates to real people who will be pushed over the edge from staying health and, for some, staying alive, due to no longer being able to maintain moderately healthy living conditions. Lack of effective health cost containment, which was cut in the original budget, is a problem we need to solve which is not addressed in this budget.

Most importantly, this budget proposal is unique in that it focuses myopically on the Department of Health and Human Services. The Constitutional requirement for a balanced budget constrains the entire State budget, not each department. Why was this highly unusual supplemental budget focused on a single department? I can think of no responsible public policy reason for that. I have to believe it is driven more by ideology than wise public policy. Furthermore, it creates an even greater impact on services, affecting the life and mortality rates of vulnerable populations in 2013, by one day borrowing from 2013 to 2012. We are looking at a bloodbath for safety net services in 2013.

A woman that I spoke with at her door in Bristol told me she had afforded the treatment by which she survived cancer only because of qualifying for the kind of health care we are talking about cutting today. Then I spoke with another woman further down the road on the same day who expressed her concern for her friend and neighbor, the same woman I had met before, who had, with the help of State provided health care, survived cancer. She was so worried about the proposed budget that would mean death instead for people like her neighbor. COPD and diabetes is a problem afflicting another person that I visited who was on MaineCare. He lost MaineCare in December because his wife worked extra hours so that they could afford to give some Christmas presents to family. It put them just over the edge of eligibility. That man managed, through reapplication, to re-qualify for MaineCare, but under the attrition proposed in this budget, he would no longer qualify for that. He would no longer afford treatment for his COPD nor his diabetes. Knowing full well how strongly my constituents feel about these services because they spoke their opposition when they voted two days ago, I cannot, in good faith, support this budget or its narrow focus on the Department of Health and Human Services. For the sake of the people of Maine, I stand in opposition to this bill.

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, this is going to be short. Maybe not sweet, but it's going to be short. I hope I'm going to speak loud enough for my friends on the other side of the aisle to hear me tonight, because the last time I had several notes asking how my health was because they couldn't hear me. Of course I don't want to get as loud as I might have last Summer. Mr. President, I learned as a kid growing up that health care ain't welfare. Rich

ain't a bad four letter word, but neither is poor. It doesn't much matter if you get an illness when you are home collecting your dividends or if you are working two or three jobs trying to support yourself and your children. It doesn't matter to a hospital, when you come in the front door or the emergency room, and I serve on the board of directors of a hospital, how much insurance you have. They are going to take care of you. That's their mission. I wasn't sent here by anybody in Brunswick, Freeport, Harpswell, or Pownal to reduce our rolls on MaineCare. Nobody sent me here to do that. I'm having the hardest time tonight, realizing I might, and I'll say might, have to do that. It's a very sad day here in Maine when the Appropriations Committee, which I have the utmost respect for and I hope I've never done anything to warrant to be put on it because they work so darn hard, to be put in a box that they just could look at Health and Human Services on this budget. This is not a Maine budget. This is a Health and Human Services budget. Where they might have done the best that they possibly do under the restraints that they were put in, I don't believe that this budget is the best budget for Maine, for the people that rely on those Health and Human Services dollars. We all have strong values in this Body and the other. Everybody who comes to work here everyday, no matter what their job, have strong values. I believe they are all similar values. I learned young that the test of a society is how it treats its most vulnerable, not it's most affluent. In my community, the most vulnerable need to hear my voice. They need to know that the people up here hear us. Across the river, when they built AMHI, they built it there so that we would never forget there were people, citizens of the state of Maine, through no fault of their own, needed our help. This budget, I think, breaks the trust that those people had in us. I know when I got elected they certainly trusted that I would come up here and try and help protect their needs. The ones that are least able to be up here knew that they were going to have a voice and it was going to be the voice of this Senate. Before I start going out like this, I'm going to thank Mr. President for allowing me the time. I thank my friends for listening to me. I will now sit down.

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

Senator **ROSEN:** Thank you Mr. President. I appreciate the opportunity to make a couple of comments based on some of the information that's been shared. First of all, regarding taking action in the dark of night. The Senator from Kennebec, Senator Katz, reminded me that two months from now it won't be dark at this time of night. It's dark because it's February. I thank the Senator from Kennebec, Senator Katz.

Regarding some of the comments from both the Senator from Cumberland, Senator Alford, and the Senator from Cumberland, Senator Bartlett, that, having read the budget now, there were things that they think should be handled differently. It has been an open process over the past couple of months. In terms of proposals coming forward that would have shaped some of the ideas and suggestions that you're offering tonight into actual proposals, I think the committee would have certainly entertained any of the ideas that we're hearing. As far as ideology, I don't know if anyone lately, in the last year or so, has looked at the budget proposals submitted by Governor Jerry Brown in California or Andrew Cuomo in the state of New York. Hardly ultra right wing conservatives, but they are Governors that have to present balanced budgets in states that are facing severe

losses of revenue and losses of federal support. If you compare some of the proposals that they are advancing to bring their state's budgets into balance as it relates to their Medicaid programs, I think it's fair to say that many of those proposals, from two Governors in particular that would not be considered ideologically right wing, would be seen as more severe than the proposals put forward in this budget.

I've heard very little mentioned of our federal partners. We seem to be overlooking, again, a reality that Maine, and nearly every other state, is facing right now, and that is the reduced level of support from the federal government in the Medicaid programs. We did see dramatically increased enrollments after the recession of 2008 - 2009. We did see an infusion of significant one-time, temporary money from the federal government to hold that budget together. That stimulus money went away last year. When people speak of the biennial budget that we passed, we ought not to dismiss that the single largest increase of General Fund appropriation in the biennial budget was for Medicaid. We flat funded higher ed. We provided a slight increase for GPA. We increased the General Fund share for the Medicaid program by 32% in the biennial budget, \$300 million General Fund increase to back fill the loss of the federal money. We ought not to dismiss that and present that action as though we didn't attempt to try to hold the program together with the loss of federal money. We are now seeing even more federal money diminishing as the federal match rate, compared to other states, has been reduced. I think it's perfectly clear, as the federal government goes forward with deficit reductions, that Maine and every other state will see a diminishment of the federal matching money. This is a problem we all faced, but I've not heard it acknowledged tonight.

I believe the numbers for fiscal 2012, indicating a \$120 million short fall, are real and have been tested. The chairs of the committee and the rest of the members of the committee made it a point to spend extra time, we were criticized for it, to examine and test the size and the scope and the reasons for the short fall in 2012. That testing revealed that a larger portion of that short fall in 2012 is one-time, but we couldn't escape the reality that it was \$120 million. Since that assumption of the \$120 million short fall that first came forward in early December, the weekly cycle payments that go out every week to pay providers have reinforced that it's that. We are on track. Just so we're perfectly clear. We are on track to exhaust the appropriated funding in the Medicaid program sometime in mid-April. The numbers bear it out.

Finally, that somehow this is unprecedented, that we're dealing with the Health and Human Services Department in a budget, the first supplemental last January in 125th Legislature was an HHS supplemental. It was a supplemental budget to take advantage of the higher federal match rate before it dropped to make settlement payments to the hospitals. It was an HHS supplemental. I don't recall one statement that this was somehow unprecedented, that we'd never seen an HHS budget before. It was 13 months ago. Thank you, ladies and gentlemen.

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

Senator **SCHNEIDER:** Thank you Mr. President. I wasn't expecting to be called upon so soon. I don't know what they do, what the Governors in New York do or California or any other state. What my concern is is what we do here. I just want to let the Senate know that what I think is important is what we do here

for Maine people. Also, with regard to darkness of night, it's a lot lighter in California than it is here, but it's still in the dark of night. My statements about moving forward are just the statements that you all have said to us in the past, about doing things in the darkness of night. I find it a bit ironic that now we're doing this in the darkness of night and that's why I bring it up. I think the people of the state of Maine have brought it upon us to do the business in the light of day and I expected that from your side of the aisle, given all the rhetoric in the past about the darkness of night. I'm not going to say anything more because I think many of my colleagues on this side of the aisle have articulated well the concerns that I have had, working specifically with just the Department of Health and Human Services budget. I don't think that this is really the right way we should have moved forward. I am very concerned about the process and beyond that I hope that we consider that as we move forward. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Johnson.

Senator **JOHNSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I would like to respond as well to the concept that because last Spring we took up a matter in the DHHS budget in which there was an opportunity to take advantage of funds that were only available to DHHS in the federal program that somehow that's the same as today, looking at a budget and finding cuts only in DHHS for a short fall that exists in the State budget. The two are not the same. I would also like to point out that if we are looking to save money in how we operate our departments, anyone schooled in good management practices would look at the inside; at what the objectives are and the understanding of what each department and each work group is tasked with doing, the costs with which they must do that, and the alignment of responsibility for people to well understand how to best achieve the work that needs to be done in that department. Unfortunately, you do not make those kinds of difficult work in finding cost savings in how departments operate merely by cutting a budget. You have to do the hard work inside. Thank you.

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

Senator **COURTNEY:** Thank you Mr. President. Men and women of the Senate, I also want to thank the appropriators. I think the work that they did is absolutely tremendous and the amount of unprecedented transparency by the Chair to get the real numbers. In the past, the numbers sent over from the Department of Health and Human Services were just kind of looked over. They weren't put under the scrutiny that has happened in the last few months. I want to thank the members for doing that tedious work. I also want to compliment the work on the unanimous report. I think they said that you couldn't do it and you absolutely did. You should really be commended. Obviously, like any other bill that goes before any of our committees, once it comes out of committee it's subject to having an amendment. That was brought as a concern earlier in the day by the leadership and the President, to his credit, went forward and asked that a ballot be circulated so that the appropriators could weigh in and to address what we thought was the only concern in this budget. Thank you, Mr. President, for your transparency and your effort to bring consensus. I know it's

getting late and I want to be very brief, but we are sent here to govern. We sometimes have to make difficult decisions. None of these decisions have been easy. There has been a massive increase in enrollment. If you look at the chart, since 2008 they've increased by 50,000 people in MaineCare. We haven't had a way to pay our bills. Many times we've had to kick the can. Some people would say we're kicking the can somewhat now. We still have some very difficult decisions to make. We have some very big challenges. I'm encouraged by the debate tonight because we've heard suggestions on other areas that we can move towards to look for some solutions. I encourage the members to work our appropriators as we go through that process because the next battle is going to be even more difficult. We need to make sure that we protect those most in need, but we also need to make sure that we do it with a government that we can afford and we need to make sure that we create a government that will create opportunities for all people in Maine that doesn't burden the taxpayers. We need to help turn the economy around in this state as soon as possible. We need to live within our means. I would encourage you to join us today and help us fulfill our responsibility to those most in need and support this budget. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is Enactment. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#358)

YEAS: Senators: COLLINS, CRAVEN, FARNHAM, HASTINGS, HILL, HOBBS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, COURTNEY, DIAMOND, DILL, GERZOFKY, GOODALL, JACKSON, JOHNSON, PATRICK, SCHNEIDER, SULLIVAN

This being an Emergency Measure and having received the affirmative vote of 22 Members of the Senate, with 13 Senators having voted in the negative, and 22 being less than two-thirds of the entire elected Membership of the Senate, **ENACTMENT FAILED, in NON-CONCURRENCE.**

Senator **COURTNEY** of York moved the **RECONSIDER** whereby the Bill **FAILED ENACTMENT, in NON-CONCURRENCE.**

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **RECONSIDER** whereby the Bill **FAILED ENACTMENT, in NON-CONCURRENCE.**

Senate at Ease.

Senate called to order by the President.

All matters thus acted upon were ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

Emergency Measure

An Act To Implement the Recommendations of the Streamline and Prioritize Core Government Services Task Force for the Fiscal Years Ending June 30, 2012 and June 30, 2013 and To Make Certain Other Allocations and Appropriations and Changes to the Law Necessary to the Operation of State Government
H.P. 1339 L.D. 1816
(H "D" H-707)

Tabled - February 16, 2012, by Senator **COURTNEY** of York

Pending - motion by same Senator to **RECONSIDER** whereby the Bill **FAILED ENACTMENT**, in **NON-CONCURRENCE**

(In House, February 16, 2012, **PASSED TO BE ENACTED**.)

(In Senate, February 16, 2012, **FAILED ENACTMENT**, in **NON-CONCURRENCE**.)

On motion by Senator **COURTNEY** of York, the Senate **RECONSIDERED** whereby the Bill **FAILED ENACTMENT**, in **NON-CONCURRENCE**.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

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

ORDERS

Joint Order

On motion by Senator **COURTNEY** of York, the following Joint Order:

S.P. 633

Ordered, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, February 21, 2012, at 10:00 in the morning.

READ and PASSED.

Sent down for concurrence.

On motion by Senator **COURTNEY** of York, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, February 21, 2012, at 10:00 in the morning.