

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twenty-Fifth Legislature  
State of Maine

Daily Edition

Second Regular Session  
January 4, 2012 to May 31, 2012

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**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.**

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

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Senate at Ease.

Senate called to order by the President.

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Off Record Remarks

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**RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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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 an 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 10<sup>th</sup>. 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 1<sup>st</sup> 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 125<sup>th</sup> 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.**