

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

In Senate Chamber
Friday
January 30, 2004

Senate called to order by President Beverly C. Daggett of Kennebec County.

Prayer by Senator Betheda G. Edmonds of Cumberland County.

SENATOR EDMONDS: Good morning. We give thanks this day for this fragile planet Earth and its time and tides, its sunsets and seasons. We give thanks this day for the joy of human life, its wonders and surprises, its hopes and achievements. We give thanks this day for our human community, our common pasts and our future hopes, our oneness transcending all separation, our capacity to work for peace and justice in the midst of hostility and oppression. We give thanks this day for high hopes and noble causes, for faith without fanaticism, for understanding of views not shared. We give thanks this day for all who have labored and suffered for a fairer world, who have lived so that others may live in dignity and in freedom. We give thanks today and I give thanks for all of you. Amen.

Reading of the Journal of Thursday, January 29, 2004.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, Authorizing Germaine Bell To Sue the State

S.P. 567 L.D. 1613
(C "A" S-360)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-360)** (7 members)

Minority - **Ought Not to Pass** (6 members)

In Senate, January 28, 2004, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-360)**.

Comes from the House, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Senator **GAGNON** of Kennebec moved the Senate **INSIST** and **ASK FOR A COMMITTEE OF CONFERENCE**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **INSIST** and **ASK FOR A COMMITTEE OF CONFERENCE**.

House Paper

Bill "An Act To Amend Water Quality Laws To Aid in Wild Atlantic Salmon Restoration"
H.P. 1358 L.D. 1833

Comes from the House, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed.

On motion by Senator **MARTIN** of Aroostook, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed, in concurrence.

COMMUNICATIONS

The Following Communication: S.C. 437

**121st LEGISLATURE
COMMITTEE ON
EDUCATION AND CULTURAL AFFAIRS**

January 27, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Education and Cultural Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 230 An Act Concerning Restructuring of School Districts

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Neria R. Douglass
Senate Chair

S/Rep. Glenn Cummings
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 438

**121ST LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

January 27, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Health and Human Services has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 713 An Act to Support Health Care Safety Net Programs

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Michael Brennan
Senate Chair

S/Rep. Thomas J. Kane
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication:

S.C. 439

**121ST LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS' AFFAIRS**

January 27, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Legal and Veterans Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1027 Resolve, Directing the Commission on Governmental Ethics and Election Practices To Adopt Rules Regarding Certain Election Practices

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Kenneth T. Gagnon
Senate Chair

S/Rep. Joseph E. Clark
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **TAXATION** on Bill "An Act To Promote the Production and Use of Fuels Derived from Agricultural and Forest Products"

H.P. 1089 L.D. 1492

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-641).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-641).**

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

READ ONCE.

COMMITTEE AMENDMENT "A" (H-641) READ and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Increase the Sale of Lottery Tickets To Benefit Conservation and Wildlife"

H.P. 441 L.D. 578

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-635).**

Signed:

Senators:

GAGNON of Kennebec

MAYO of Sagadahoc

Representatives:

CLARK of Millinocket

PATRICK of Rumford

CANAVAN of Waterville

JENNINGS of Leeds

LANDRY of Sanford

MOORE of Standish

BROWN of South Berwick

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass.**

Signed:

Senator:

LEMONT of York

Representatives:

BLANCHETTE of Bangor

GLYNN of South Portland

HOTHAM of Dixfield

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-635).**

Reports **READ.**

Senator **GAGNON** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Allow Beverage Sales from Mobile Service Bars on Golf Courses"

H.P. 486 L.D. 656

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-636)**.

Signed:

Senators:

GAGNON of Kennebec
LEMONT of York
MAYO of Sagadahoc

Representatives:

CLARK of Millinocket
HOTHAM of Dixfield
BROWN of South Berwick
MOORE of Standish
BLANCHETTE of Bangor

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Representatives:

GLYNN of South Portland
PATRICK of Rumford
CANAVAN of Waterville
JENNINGS of Leeds
LANDRY of Sanford

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-636)**.

Reports **READ**.

Senator **GAGNON** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Divided Report

The Majority of the Committee on **TAXATION** on RESOLUTION, Proposing an Amendment to the Constitution of Maine Related to the Taxation of Personal Property

H.P. 167 L.D. 208

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-640)**.

Signed:

Senators:

STANLEY of Penobscot
NASS of York

Representatives:

LEMOINE of Old Orchard Beach
SUSLOVIC of Portland

TARDY of Newport
McCORMICK of West Gardiner
SIMPSON of Auburn
PERRY of Bangor
CLOUGH of Scarborough
COURTNEY of Sanford
LERMAN of Augusta

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Senator:

STRIMLING of Cumberland

Representative:

McGOWAN of Pittsfield

Comes from the House with the Reports **READ** and the RESOLUTION and accompanying papers **COMMITTED** to the Committee on **TAXATION**.

Reports **READ**.

On motion by Senator **STANLEY** of Penobscot, the RESOLUTION and accompanying papers **COMMITTED** to the Committee on **TAXATION**, in concurrence.

Senate

Ought to Pass As Amended

Senator BRENNAN for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Refine the Criteria for Issuing a Certificate of Need"

S.P. 82 L.D. 159

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-363)**.

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

READ ONCE.

Committee Amendment "A" (S-363) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator DAMON for the Committee on **MARINE RESOURCES** on Bill "An Act To Provide Reciprocal Authority to New Hampshire Marine Patrol Officers To Investigate Potential Terrorist Activities in Maine Waters"

S.P. 621 L.D. 1689

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-364)**.

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

READ ONCE.

Committee Amendment "A" (S-364) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, To Commission a Portrait of the Honorable George J. Mitchell To Hang in the State House
S.P. 658 L.D. 1725

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-365)**.

Signed:

Senators:

ROTUNDO of Androscoggin
LAFOUNTAIN of York
GILMAN of Cumberland

Representatives:

McLAUGHLIN of Cape Elizabeth
PEAVEY-HASKELL of Greenbush
CROSTHWAITE of Ellsworth
SUSLOVIC of Portland
STONE of Berwick
BARSTOW of Gorham
KETTERER of Madison
BUNKER of Kossuth Township

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Representatives:

SUKEFORTH of Union
BOWEN of Rockport

Reports **READ**.

On motion by Senator **ROTUNDO** of Androscoggin, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.
READ ONCE.

Committee Amendment "A" (S-365) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

SECOND READERS

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

House

Resolve, To Clarify State Ownership of Land in the Town of Naples
H.P. 1222 L.D. 1644

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

Off Record Remarks

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

Senator **WOODCOCK** of Franklin was granted unanimous consent to address the Senate off the Record.

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:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary for the Proper Operations of State Government for the Fiscal Years Ending June 30, 2004 and June 30, 2005" (EMERGENCY)
H.P. 1351 L.D. 1828

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-642)**.

Signed:

Senators:

CATHCART of Penobscot
ROTUNDO of Androscoggin

Representatives:

BRANNIGAN of Portland
MAILHOT of Lewiston
COWGER of Hallowell
DUDLEY of Portland
PINGREE of North Haven
FAIRCLOTH of Bangor

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-643)**.

Signed:

Senator:

TURNER of Cumberland

Representatives:

ROSEN of Bucksport
MILLS of Cornville
O'BRIEN of Augusta
MILLETT of Waterford

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-642)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE**

ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-642) AS AMENDED BY HOUSE AMENDMENTS "I" (H-658) AND "L" (H-661) thereto.

Reports **READ**.

On motion by Senator **CATHCART** of Penobscot, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-642)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-642) **READ**.

House Amendment "I" (H-658) to Committee Amendment "A" (H-642) **READ**.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

Senator **BENNETT** of Oxford was granted unanimous consent to address the Senate off the Record.

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

Senator **TURNER:** I, perhaps like others in the chamber, may be confused, but it appears to me that we would accept Committee Amendment "A" (H-642) and when we do that we would begin to attach the House Amendments to it. I don't believe we've accepted Committee Amendment "A" (H-642) as of this moment. Can you please clarify?

THE PRESIDENT: House Amendment "A" (H-642) is open at this time for the purpose of considering the amendments that were offered down in the House. That amendment is open. After those amendments have been considered, then we will consider the adoption of Committee Amendment "A" (H-642) as amended by whatever if it is amended here. I believe that is the point at which you are going to want to be talking about it, if that is when you wish to speak. The amendment is open now. The amendment is not under consideration for passage until after we've considered those amendments. Does help to make it clearer?

House Amendment "I" (H-658) to Committee Amendment "A" (H-642) **ADOPTED**, in concurrence.

House Amendment "L" (H-661) to Committee Amendment "A" (H-642) **READ** and **ADOPTED**, in concurrence.

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

Senator **CATHCART:** Thank you, Madame President, men and women of the Senate. I rise to ask you to support the motion we have before us, the Majority Report from the Appropriations and Financial Affairs Committee on the fiscal year 2004 supplemental budget. Before discussing any details of the proposal, I want to state how proud I am of all the members of the Appropriations Committee and how much affection and respect I have for my colleagues on the committee.

Last year we were presented with four budgets. Last year we voted out three unanimous reports on these budgets and I believe the fourth one was a 12 – 1 report. Last year we unanimously agreed to a plan that closed a budget gap of over \$1 billion for the biennium.

I was hopeful, as were we all, that this year we could work as closely and cooperatively again. Unfortunately, it quickly became apparent that we had differences that could not be bridged. Those

irreconcilable differences centered on healthcare and Dirigo Health. I am saddened and disappointed that our committee could not reach consensus, but I am still proud that throughout these difficult discussions we have remained respectful and courteous towards one another.

The majority of us see this year's cost overruns in Mainecare as a short term problem that needs to be managed. The United State's economy continues to struggle, perhaps to grow a little, especially in the area of job creation. Last month, Maine's unemployment rate reached 5%. That has driven increased care for Mainecare services and created an \$100 million plus shortfall, a shortfall that is closed by the budget before you. In my own district, Lincoln Pulp and Paper is floundering. I'm very worried about the employees there and whether they will have jobs for the future. I want to make sure that help is available in every way that those people and those hard working mill workers need help.

This budget makes some painful cuts. There is no question. However, the committee has worked tirelessly to address these cuts ever since the first details of the Governor's proposal were made available to us back in November. The greatest part of the healthcare cuts have been addressed and I know others will want to elaborate on that.

This budget also makes cuts across the rest of state government. We have struggled to make sure these cuts are fair and equitable as we possibly can. To the extent possible, we have eliminated or reduced the cuts originally proposed by the administration. For example, we have restored \$1.2 million in cuts to higher education and up to \$3.8 million more will flow to higher education and scholarships at the end of this fiscal year if we do have unappropriated surplus. We've partially or completely restored the cuts to the Baxter School for the Deaf, the Blind and Visually Impaired Rehabilitation Services, and the Department of Marine Resources' efforts to clean up our clam flats.

Unfortunately, the debate over the budget never centered on these concrete realities. Instead it centered over the implementation of Dirigo Health, a program that was established last year and which won't be implemented until the next fiscal year. The members of the other party insisted, from the beginning, that Dirigo Health seed money be used to close the gap. That we can't do. Dirigo Health is a national model for expanding access to healthcare. Dirigo Health is a public-private partnership. Dirigo Health is already bringing down healthcare costs and health insurance rates. Dirigo Health will offer new, affordable health insurance plans to small businesses and individuals. Dirigo Health is our best hope of making certain that every Maine person receives the healthcare they deserve. Taking money from that to fill this hole would abandon that hope. Let's show the people of Maine that we can take the long view and make hard decisions to shape a better future for our citizens. I urge you all to support adoption of the Majority Ought to Pass Report. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Davis.

Senator **DAVIS:** Thank you, Madame President. I rise to speak against Committee Amendment "A" (H-642). I do so for a lot of reasons, Madame President, but before I do and go into my main reason, I just want to pause and compliment the good Senator from Penobscot, Senator Cathcart, and the good Senator from Androscoggin, Senator Rotundo, and my good friend the Senator from Cumberland, Senator Turner, for all the hard work that has been put into place in their deliberations. None of this is easy. I listened in the other day and for quite a few days. The good Senator from Penobscot, Senator Cathcart, showed respect and civility, and I was proud to listen to them. I believe that in their hearts they want what is best for Maine. Even though in their minds what was best wasn't found, they did so in a manner that Maine can be proud of. Again, I thank you for your dedication and your efforts.

There is much in this Majority Report that I object to. I could list quite a few of them. My biggest objection is the tax that is going to be assessed to our hospitals. This tax, some call it tax and match, others call it the sick tax or the hospital sick tax, has been tried before. In the early 1990's it was one of the things that was used to balance the budget and it wound up being called a budget balancing gimmick. I did a little research on this. To just show you how it's going to effect one hospital, Mayo Memorial Hospital in Dover-Foxcroft, which I believe is probably one of the finest institutions in the state, is going to have to come up with \$165,000 by the end of June and then sometime in July is going have to come up with another \$165,000 to be sent to the State of Maine. For this small hospital, that is a lot of money. This money will be sent to the state with the hope that a match will occur and some of the money will come back if the federal government does, in fact, match it. However, they do have to make up for the loss. There are two ways they can do it. The first way is that they can down size their staff. Well folks in that area are used to staff being down sized with the closing of Great Northern, the closing of Dexter Shoe, and the closing of other industries. They are quite accustomed to it. Most of us would rather not see that happen again. The other way they can do it is to increase fees. They tell me the fees would have to be increased probably around 4% in order to make up for this loss. Of course, if the fees are increased, the folks that have health insurance will have to pay the fees. They, in turn, will pass it on to through the

premium and make those who work and pay for health insurance premiums pay it. I believe this idea is foolish and we had ought not to be doing it. It's one that has been proven not to work. In fact, in the 1990's, the federal government caught onto this and refused to pay. Since then the federal government has been ever vigilant in scrutinizing these programs and catching states that try to match down the federal money. In all likelihood, ladies and gentlemen, the match won't happen and all we will have done is pass another tax on to Maine's people. This tax was repealed by this legislature. In fact, much has been made of that repeal. My good friend, everyone's good friend, Congressman Mike Michaud, when he ran for Congress two years ago, made much of the fact that, as a leader in the Maine Senate, he helped get the repeal of this tax through. In a press release he said that he had helped save Maine people millions and millions of dollars. Make no mistake about it, this is a tax increase. A mid-1990's tax cut which was bragged about is now going to be a huge tax increase. Do we really want to tax our people more? Is that what we want to do? Anyone here think they're not taxed enough? Do we want to make the other dwindling amount of citizens that have private health insurance pay more for their insurance?

I know that a much better idea is going to be offered here in a few moments. I urge you all to consider carefully before you vote for yet another tax on Maine's citizens. Thank you very much, Madame President.

On motion by Senator **CATHCART** of Penobscot, Senate Amendment "F" (S-371) to Committee Amendment "A" (H-642) **READ**.

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

Senator **CATHCART:** Thank you, Madame President, men and women of the Senate. This amendment, Senate Amendment "F" (S-371), just corrects a drafting oversight that, regrettably, was made and we needed to put this amendment on to reflect what the majority report of the committee actually should have been. I do apologize for any confusion. I believe you have the memo on your desk from the Office of Fiscal and Program Review, Director Grant Penoyer. I have to commend our staff in the Fiscal Office and nobody is assigning any blame here for this. Because of lack of sleep, stress, and confusion over what we were supposed to be doing, somehow one amendment that should have gone down to the Revisor's Office never got sent down. It was found last night and we were made aware of it. Obviously, we wanted to correct it to reflect what was actually decided by the majority of the committee. This makes a few changes. Includes five deappropriations that total \$284,644 and also removes language regarding the liquor funds. I urge you to accept this amendment. If anyone would like any further explanation, I would be happy to give it. I believe you all have copies. Thank you, Madame President.

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

Senator **TURNER:** Thank you very much, Madame President, ladies and gentlemen of the Senate. I don't want to put you all to sleep by talking about the process, so I will try to keep this fairly short. The amendment offered by my committee chair, the Senator from Penobscot, Senator Cathcart, is symptomatic of the process we have gone through here in dealing with supplemental budget fiscal year 2004. We had a document rushed and put together, riddled with problems and errors. Even as we heard the document, corrections were being made to it, not once but twice. Even as our committees of jurisdiction worked diligently to try to grasp the materials before them and to report back to Appropriations on a very accelerated schedule, the ground on which they were to operate was literally changing underneath their feet.

We have not done service to ourselves in how we have handled this budget that is currently before us today. Regrettably, and I think it is most regrettable, this institution has almost always been able to operate with the idea that a strong bi-partisan budget best reflects the requirements and the needs of the state and its people. That process had no opportunity to play out in January 2004. I've always believed in the checks and balances associated with our form of government. We are very lucky to be able to live and operate under such a design. It requires, in order to work effectively, that the legislature operate as a co-equal branch of government. When it allows itself to be rushed and forces itself to skim over excruciating details from 50,000 feet and accept a lick and a promise as the mechanism to deal with the deep troubles that face our state, we lose, the institution loses, and more importantly, the people of Maine lose. So I'm not pleased to be before you today and speaking these words. In fact, I'm very disappointed. In closing, I would say that I have very high regard for all the members that I work with on Appropriations. We have demonstrated an ability to dig into the issues and work them through. When one is given two days to do that, it's difficult to impossible to do what we should be doing, which is working together, flushing out the issues, and listening carefully to what all of us say. We are sometimes jokingly referred to as the cerebral body of this legislature. Since I'm a member of it I like to think those people who make

that observation are indeed correct, but our use of our intellect, our power of thought, and our power to negotiate hard and fairly has never been given an opportunity to be exercised in the supplemental 2004 budget that is before you today. I regret that. Thank you very much, Madame President.

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

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. I would urge you to support the amendment that has just been proposed to you. This amendment contains items that we all agreed to in the Appropriations Committee. There was an omission of five Democratic appropriations from the majority report when the report was sent down from OFPR to the Revisor's Office this week. The amendment before you simply corrects those omissions.

While an argument has been made that we rushed through this budget, we were, in fact, obliged to move forward to close the budget. We had to do our job. We had to govern. We had to come up with a budget. Every day that we waited meant that there would be deeper cuts in our 2004 budget. I hope that you will accept the amendment that is before you right now. Thank you.

On motion by Senator **CATHCART** of Penobscot, Senate Amendment "F" (S-371) to Committee Amendment "A" (H-642) **ADOPTED.**

On motion by Senator **TURNER** of Cumberland, Senate Amendment "C" (S-368) to Committee Amendment "A" (H-642) **READ.**

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. The amendment that I am putting forward at this time is the Republican budget that was voted on by the five members of the Appropriations Committee earlier this week. The good Senator from Penobscot, Senator Cathcart, has delineated the major elements in the Democratic budget, the majority budget. Some of those things also reside in the amendment that is now before you. In our budget we do a more complete restoration of cuts to higher education, primarily those dealing with fiscal year 2004, to institutions that are down to 5 months before the end of their year. We restore all of those in our offering to you.

I think what is really the centerpiece of our differences, and the good Senator from Penobscot, Senator Cathcart, touched upon this, is how we treat Dirigo Health. As I look around this chamber and I look on this side of the aisle, it is very obvious to everyone that a very strong bi-partisan number of this chamber voted for Dirigo Health last spring. The funding mechanism for that was to take money from the Fiscal Relief Act of 2003, the so-called federal money that came as a result of an amendment made to a tax reduction act by our own Senator Collins. That money earmarked \$20 billion for 50 states in an effort to keep problems with Medicaid, the program to help with healthcare insurance for the poor and disabled, and to try to keep it funded properly through the economic downturn. Our share of that money was \$107 million, \$53 million of that was set aside to help in the launch of Dirigo.

We would not be standing here today having this discussion with respect to the FY 2004 supplemental budget if it were not for the fact that Medicaid is, in fact, out of control in Maine. It is seriously out of control. When we left here last June, our expectation was that we had a budget that was in balance. Literally, the first day of the fiscal year beginning July 1, 2003, we realized we had problems. Subsequent discussions between members of the administration and the Appropriations Committee indicated that the Governor's Office did not know about these problems. Specifically, his Health Care Policy Office did not know about these problems. The Commissioner of Finance Administration did not know of these problems and the Acting Commissioners of DHS and BDS did not know about these problems. I don't know where it was known that there were problems with respect to the numbers that were provided to us, but there are people working in state government who did know and were not forthcoming. Be that as it may, we immediately began the current fiscal year that we are in with significant problems with respect to Medicaid.

Our budget seeks to deal with those problems by taking a portion of the start-up money for Dirigo Health. That sum is \$18 million. We would leave \$35 million in Dirigo Health. I believe, fervently, that this is going to make it possible for Dirigo to survive and actually do the proof of concept that we have to validate when it begins to launch on July 1, 2004. The real thing we are doing, coincident with the establishment of Dirigo, is creating a significant expansion of Medicaid eligibility.

I can't tell you that I'm the smartest guy ever to come out of Washington County, but I'm not the dumbest. How one could, with a straight face, agree that we have a major problem with Medicaid, as it is currently configured and available to the people of Maine, and step forward and say 'you know, we should expand that, let's make more people eligible.' To me it is nothing but lunacy. We

ask how can we launch Dirigo, balance the budget, and stem the flow of red ink? Curtailing the expansion of eligibility is the only rational mechanism we could arrive at. So that is a centerpiece of the Republican budget, or the so-called minority budget, before you.

In earlier remarks this afternoon, the Republican Senate Leader, the Senator from Piscataquis, Senator Davis, talked about a hospital tax. There are some who would like to deride the hospitals. I happen not to be one. Nor should anybody in this chamber join in that. We went through a series of very difficult machinations in order to balance the biennial budget that we approved last spring. Central to that was the cooperation of our hospitals, where they sought to help maximize Medicaid dollars flowing into our state coffers by working in a collaborative way with the Maine State Employees' Association, Anthem, and ten of the hospitals that are part of the Maine Hospital Association. In addition to that, they stepped up as part of our balancing efforts and accepted cuts in reimbursement. Now we find ourselves faced with a situation where, in fact, we're taxing them. You can't step back from the challenges that we have with respect to healthcare and not recognize that we need a strong and robust provider network in order to deliver the access that is so critical and necessary to Dirigo. By curtailing an expansion in eligibilities that is scheduled to go into place on July 1, 2004, we increase our chances of success. I would tell you, and I suspect there are others in this chamber of a different political persuasion than I, that if we had no Medicaid shortfall as we began this fiscal year, the challenges facing Dirigo are significant. The odds of success are iffy at best. The reality is that we have been faced with a significant shortfall with Medicaid. If you have appreciation for how that and Dirigo would work, you would agree with me that by curtailing Medicaid expansion and allowing Dirigo to go forward in a more modest fashion, that this is the best chance for success.

There are a couple of things in the majority budget that I find particularly surprising. I'm sure others will want to speak on this later. We have reached into healthcare retiree money, in the majority budget, in order to balance it. Something that the minority report does not do. Another thing that I find very interesting, given all the falderal around having a healthy Maine and a Constitutional Amendment in L.D. 1612, is that we actually dip into the reserve funds of Healthy Maine in order to make the majority budget work. Something that the minority report does not do. I would ask all the members of this body to think through clearly the information that has been presented to you thus far this afternoon. I would urge that you accept the amendment that is before you today which would put in place a Minority Report for the supplemental 2004. Thank you very much.

Senator **CATHCART** of Penobscot moved to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-368) to Committee Amendment "A" (H-642).

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

Senator **TREAT:** Thank you, Madame President, men and women of the Senate. I urge you to support the indefinite postponement motion so that we can go on to adopt the Majority Report. The amendment before you reflects the Republican budget. It is a budget that does not balance. It is a budget that is fiscally irresponsible. Make no mistake about it, it is a budget which will eliminate the effectiveness of the Dirigo Health Plan. Yes, it is very true that 2/3 of this legislature, which means that it must include Republicans, voted for the Dirigo Health Plan. You should be aware of the fact that if you vote for this amendment you will be voting for that plan not to work. It will not work because we've already postponed expansion of that program from four years to five. There are only a certain number of people that can be part of it in order to make it work. You need to have businesses buying into it. You need to have health insurers participating. If we take out large chunks of the initial start-up money for the program, neither is going to happen. It's going to look like a program that is not worth buying into, that is not dependable, and it simply won't add up.

This budget is also fiscally irresponsible in that it takes money out of our working capital reserve. It doesn't even balance, it's at least \$500,000 out of balance because of the critical hospital care portion of it. It also jeopardizes at least \$59 million of federal funds which would have been available except that this budget amendment would cap HIV waiver program, which puts in jeopardy federal monies.

We need to address the basic premise of this amendment, which is, to quote the good Senator from Cumberland, Senator Turner, that we have a Medicaid crisis. Well let's be clear here. We are in the midst of a recovery, we hear, but in fact, if it is a recovery, it is a jobless recovery. In fact, it is an economic situation where we see many people losing their manufacturing jobs and losing their health insurance. Of course Medicaid costs are going up. Of course they are, in fact healthcare costs around the country and in this state, unrelated to Medicaid, are going up. In fact, between 1996 and 2001, the cost of Mainecare spending rose by 38%. The cost of other health insurance spending rose 58%. You could look at those numbers and say that the Medicaid program is a very well run program, an efficient program. It is not a program in crisis. You may have gotten the

impression, listening to the spin in the newspapers and on the television, that Mainecare, the Medicaid program here in Maine, is sort of an out-of-control program with overly generous benefits. Yet the reality is quite different. Maine is in the mid-range of eligibility levels for other New England states. For example, we cover children only up to 200% of poverty. In contrast, four other states in New England cover children up to 300% of poverty. We cover parents up to 150% of poverty. Two other New England states cover so-called non-categorical individuals up to 150% of poverty. Massachusetts covers up to 135%. We ask more of our Medicaid recipients. We ask them to pay co-pays, 50% of the services that we provide to Medicaid recipients have co-pays. The average percent of services subjected to co-pays in the rest of New England is 5%.

The Dirigo Health Program is a program that 2/3 of us voted for and for good reasons. It is the way that we are going to get control over these out-of-control healthcare costs. It is something that every day constituents come me in the grocery store line, at the gym, as I'm walking down the sidewalk between stores, at the coffee shop and the diner, and at the post office and saying 'please, we need this program, we need to get it up and running.' Most of the people coming to me are owners of small businesses or their employees who say that we need a program for them. That is something that we have committed to do. We have committed to fund it in a way that is sustainable over time, that is using funds that are appropriate for that purpose, and we are not doing it in a way that uses funds inappropriately for the purposes for which they are being used. For example, in this amendment, which takes one-time money and puts it into ongoing expenses. The proposal here, before you, to take money out of the working capital reserve would actually raise questions on Wall Street, threatening a wonderful bond rating that we have right now. It is one of the best anywhere in the country and insures low interests rates, low interest rates and fiscal stability here in the State of Maine.

Why would we vote for it? I have no idea. We need to know, when we vote for something, that the numbers add up and it is not just a shell game. We need to know that claims aren't being made that simply aren't true. You need to know, when you vote for this, that you are, in fact, voting to dismantle the Dirigo Health Plan before it even goes into effect, because it's just not going to work if you take out large chunks of the first year funding. It just isn't going to work. You cast your vote according to what you think is the right thing to do, but for me, I'm voting to indefinitely postpone this amendment and I ask for a roll call.

Same Senator requested a Roll Call.

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

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. I am more than just a little curious today how we might define the expression fiscally irresponsible. We have presented an alternative budget that, in fact, protects higher education; that holds harmless my hospital in Farmington and other hospitals around the state; that restores money to the teachers' healthcare retirement system and the retirement system of other state employees for their healthcare; that restores money for the Fund for a Healthy Maine, which is being raided again; and I might add that I am a supporter of Dirigo Health and voted for it initially, this, in fact, gives Dirigo Health the opportunity to be solvent. I am more than just a little curious today about the definition of fiscally irresponsible.

In the midst of these serious discussions, we all know how serious these discussions are and we all realize the impact that they may have upon the citizens of our state, I am reminded of a line from perhaps the most accomplished actor of our generation, Jack Nicholson, when he played the Joker in Batman. He looked the viewing public squarely in the eye and said 'have you ever danced with the devil in the pale moonlight?' Thank you, Madame President.

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

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. I would like to correct a statement that I heard made today by the good Senator from Cumberland, Senator Turner, as well as the good Senator from Franklin, Senator Woodcock. This has to do with the majority budget raiding and dipping into the Fund for a Healthy Maine. In fact, what we have done is transfer the surplus of a little more than \$300,000 to the Drugs for the Elderly Program and pharmacy lines that exist within the fund. No money has been raided from that fund and this is not a violation of the promise that many of us made last year to not take money from the Fund for a Healthy Maine. Thank you.

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

Senator **TURNER**: Thank you, Madame President, ladies and gentlemen of the Senate. I was reflecting on the comments of the good Senator from Kennebec, Senator Treat, when she talked about the minority budget using one-time monies. I will be the first to acknowledge that we are, in fact, using one-time monies. I would also hasten to point out that the majority budget is using one-time monies. The \$28,885,017 of fiscal federal relief fund reserve account that is being used in the majority budget. It is also being used in the minority budget. When you talk about gimmicks and fiscally irresponsible, you need to be careful where we hang ourselves. Thank you very much.

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

Senator **BRENNAN**: Thank you, Madame President, men and women of the Senate. At least for the foreseeable future, and hopefully that will only be the next hour or two, we are in an environment of hyperbola, political posturing, and sound-bites. I don't want to add to the hyperbola, the sound-bites, or the political posturing, but I do want to make a couple of comments.

One, last May the Joint Select Committee on Healthcare Reform met for days, weeks, hours, and months to craft Dirigo Health. We looked at a number of different issues in terms of financing, eligibility, staffing, and how we could, in the most cost effective way, bring universal healthcare to the citizens in the State of Maine. We think we've done that. However, the good Senator from Cumberland, Senator Turner, believes that in the last week, for some reason we can just take \$18 million out of Dirigo Health and still make it work. In his opinion, it will still work. I think what the good Senator will remember is that two weeks ago Bob McAfee, who is the President of the Board of Dirigo Health, testified before the Appropriations and Financial Affairs Committee that the entire \$53 million that had been set aside for Dirigo Health was necessary in order for Dirigo Health to get up and be running. Not \$35 million, not \$40 million, but the entire \$53 million. He testified that very clearly and very succinctly before the Appropriations Committee. So while other people might be able to do other math and come up with different numbers about what Dirigo needs to get started, the Chair of the Board says we still need the \$53 million. The good Senator from Kennebec, Senator Treat, already alluded to this point.

There has been an inference that somehow Maine has done something uniquely different with our Medicaid program to get us to the situation we are in today. Let me say that this is not true. Let me say again that this is not true. Let me say for the third time that this is not true. In fact, Keiser Foundation just did a report, did a fairly detailed analysis that showed that over 30 different states in the country have Medicaid budget problems. It is not something unique to Maine. We are not engaged in some budget gimmicks that we just thought up in the State of Maine. The majority of other states in the country are struggling with Medicaid problems for a number of different reasons which, given the time limitations we have, I will not go into at this particular point. To somehow have the impression set forward by any of my colleagues that somehow here in Maine we have been generous with our benefits, we're fiscally irresponsible, or engaged in gimmicks around Medicaid is simply not true and cannot be supported.

Lastly, and the reason that I support the motion to indefinitely postpone and the reason I support the majority budget, the Health and Human Services Committee spent hours, days, and weeks going through the budget as proposed by the Chief Executive. It is not a perfect budget by any means. There are painful cuts. I feel confident, given the review that we have done, that we have crafted the best alternative, we have put forward to the people of Maine the best budget that is possible at this time. Given that, I urge you to support the pending motion and to support the majority budget. Thank you.

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

Senator **CATHCART**: Thank you, Madame President, men and women of the Senate. I just wanted to clarify one point made by the good Senator from Franklin, Senator Woodcock, regarding the \$10 million from the retiree's insurance fund. That is in Part B of the budget if anyone would care to read that. Part B shifts \$10 million in hospital settlements from fiscal year 2003 to fiscal year 2004. This takes advantage of the Medicaid match rate that is in effect only until June 30, 2004. In addition, to saving the state money, this initiative will provide hospitals with \$30 million, the hospital settlement they were expecting in 2004. We believe that this is good for our hospitals. They need that cash and it will really help them with this fiscal year. We are temporarily utilizing \$10 million from the State Retiree Health Fund, which will certainly still remain solvent. Part B indicates the funds must be repaid no later than July 1, 2005, but I do want to say to you that those funds will be repaid in the supplemental budget by early July of this year. We have agreed that we will do that and we still have that budget to come. There is no taking away and not repaying anything that is being used. Thank you, Madame President.

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

Senator **TURNER**: Thank you, Madame President, ladies and gentlemen of the Senate. My colleague, the Senator from Cumberland, Senator Brennan's recollection is indeed correct. Dirigo needs all \$53 million. In fact, that very word came from the committee. We need the money, we need the \$53 million. We have members of Appropriations from the other body in our audience this afternoon. His answer was that we need the \$53 million. The part that the good Senator from Cumberland, Senator Brennan, perhaps may not recall is the additional question that was asked. Can you give us the details and help us understand why you need all \$53 million and why you couldn't use \$33 million? (Due to technical difficulties, some of Senator Turner's remarks were regrettably not recorded.)

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

Senator **WOODCOCK**: Thank you, Madame President, men and women of the Senate. (Due to technical difficulties, some of Senator Woodcock's remarks were regrettably not recorded.) I have the highest respect for the good Senator from Penobscot, Senator Cathcart, when she talks about Part B of the budget and that this money will be repaid. My concern with this statement is, and I quote, 'or after.' The money currently owed the hospitals will be approaching \$70 million. I am certain that the Central Maine Medical Center, and in fact Franklin Memorial, ----- the paltry sum of \$6 million will certainly ---- of this repayment on or after July 1, 2005.

On motion by Senator **TREAT** of Kennebec, supported by a Division of at least 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 (#220)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT – BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **CATHCART** of Penobscot to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-368) to Committee Amendment "A" (H-642), **PREVAILED**.

On motion by Senator **SAWYER** of Penobscot, Senate Amendment "I" (S-374) to Committee Amendment "A" (H-642) **READ**.

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

Senator **SAWYER**: Thank you, Madame President, ladies and gentlemen of the Senate. I must add a little bit of background. I come from a family of educators. My mother taught Home Economics to junior high school age boys. I can't imagine a more thrilling classroom to spend my time teaching. I was graduated with a degree in education. My oldest daughter has been teaching, unfortunately, in Texas and Florida for the last ten years. My youngest daughter is, hopefully, finishing up on a Ph.D. program at Michigan State. For my part, I've had the great pleasure of serving on the boards of Maine Maritime Academy, Husson College, and Unity College. My concern is that the majority budget, and if anyone would like to follow along on page 18, includes \$986,520 in cuts to a famed scholarship program for higher education. Page 33 of the document includes a \$313,000 cut to Maine Maritime Academy. Page 39 includes \$1,250,000 cuts to the community college system in the state. Page 41 includes \$6,150,000 cuts to the University of Maine System. The amendment before you restores 90% of those cuts.

In my opinion, this legislature has a tendency to give lip service to our high high school graduation rate in this state. This legislature gives lip service to the outward migration of our

children to other states. This legislature gives lip service to the support of higher education through R and D expenditures and post-secondary education generally. Every analysis that I have ever seen has said high educational attainment provides substantial earning increases via associate and baccalaureate degree obtainment. Higher education is the road out of Maine's poverty. Higher education is the road up from 39th in the nation from what our citizens get paid. Higher education is the magnet that I believe will attract our children back to the State of Maine. I beg you to restore the \$8 million cuts that the majority budget undertakes and I ask for your support of this amendment. Thank you.

Senator **CATHCART** of Penobscot moved to **INDEFINITELY POSTPONE** Senate Amendment "I" (S-374) to Committee Amendment "A" (H-642).

Same Senator requested a Roll Call.

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

Senator **CATHCART:** Thank you, Madame President, men and women of the Senate. This is a very attractive amendment to someone like me who has long been an advocate for education and particularly because I represent the research land grant flagship institution in our state university system, the University of Maine. I don't think I have to tell you that I am also a committed member of the Maine Compact for Higher Education, which is working to make higher education a top priority for our state, the way we all know we have done with K-12 education. We have a long way to go. I will say that the majority report, I believe, adequately makes restorations that are fiscally responsible and that we were able to do. I'm fairly pleased with those restorations.

Regarding the scholarship fund, the FAME student grant program, it is, indeed, deappropriated in the majority report in Part Q out of unappropriated surplus with the cooperation of the Finance Authority of Maine who have agreed that they could absorb \$200,000 a year. In these cuts, we are restoring fully the money for the scholarships. This was the first priority of the majority members of the Appropriations Committee, as far as the use of our unappropriated surplus. I want to quote, and I've quoted to a group several times in the last couple of weeks, David Weis, the Chief Analysis for Standard & Poor's, spoke in December at the National Conference of State Legislature's Fiscal Chairs seminar. He was asked about this and he said, 'if states are going to cut funding for higher education, they must maintain money for financial aide for the students, you just cannot cut both.' We felt so strongly that this had to be restored. I feel confident that this will be fully restored through our majority report.

Regarding the higher education systems, our majority report, through half in the Part A and half in Part Q, restores \$1.7 million of the FY 2004 reduction to the University of Maine System. This is not as much as I would like to see, it is as much as we felt we could do. I believe that they can live with that. In addition to that, we restored \$2 million to the Maine Economic Improvement Fund, which is the University System's Research and Development fund. They use that money to leverage the federal grants. I think we all know they've done a brilliant job of bringing in much more federal money in the last several years. Interestingly, for those of you who don't remember it, the first money that they ever got, in my first term here, for the Maine Economic Improvement Fund came from lapsed balances. So I firmly believe that this \$2 million is going to come through. With the track record that the University of Maine and University of Southern Maine have, they leverage at least four to five times that, so I expect that this \$2 million will become \$10 million, which will greatly help to offset the reductions to the two large campuses, Portland and Orono, who take the preponderance of those cuts when we have to cut the university system. So I feel fairly confident with that and that this will move us further towards our goal of 30% and \$1,000, 30% of our population with a baccalaureate or higher degree and \$1,000 per citizen invested in research and development.

Finally, for the community college system, our budget, between the Part A and the Part Q, restores \$700,000. That is in fiscal year 2005, where they took a larger cut. Of course, if we are able to do better for them in the next budget, we would all prefer to do so. I just have to say that I think that we've done a good job for higher education to show how important it is to the majority. I urge you to vote to indefinitely postpone Senate Amendment "I" (S-374). Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY:** Thank you, Madame President. May I pose a question through the chair?

THE PRESIDENT: The Senator may pose his question.

Senator **SHOREY**: Thank you. The good Senator from Penobscot, Senator Cathcart, did I hear you say you are anticipating a surplus and if that surplus comes through the first \$2 million will be going to the universities?

THE PRESIDENT: The Senator from Washington, Senator Shorey poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Penobscot, Senator Cathcart.

Senator **CATHCART**: Thank you, Madame President, men and women of the Senate. I'm happy to answer the question. Section Q is on page 52 in the majority report. That is a transfer from unappropriated surplus at the close of the fiscal year. Many of us remember something that we were calling 'the cascade' several years ago. Many times unappropriated surplus and lapsed balances at the end of the fiscal year have been used to fund specific items. That is what we have done. Last year the unappropriated surplus, after we put the budget stabilization fund in effect and the statutory requirements that certain percentages go to the BSF, to the working capital reserve, and to the unfounded liability and retirement system, we still had over \$30 million in unappropriated surplus. Fortunately, we have a revenue forecasting committee that is rather conservative in their forecast. We have every reason to think that there will be unappropriated surplus to meet this small number of needs after the statutory requirements that we put in place last year have been met. Thank you, Madame President.

On motion by Senator **CATHCART** of Penobscot, supported by a Division of at least 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 (#221)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT – BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **CATHCART** of Penobscot to **INDEFINITELY POSTPONE** Senate Amendment "I" (S-374) to Committee Amendment "A" (H-642), **PREVAILED**.

On motion by Senator **BENNETT** of Oxford, Senate Amendment "G" (S-372) to Committee Amendment "A" (H-642) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator **BENNETT**: Thank you, Madame President and fellow members of the Senate. I ask you to keep in mind two important points as I make my few minutes of comments on this matter this afternoon. The first is that I hope each member of the Senate will take out Senate Amendment "G" (S-372) and look at the fiscal note to Senate Amendment "G" (S-372). The fiscal note says, and I quote, 'this amendment will have no net effect on general fund appropriations and revenue.' Please keep that in mind.

Secondly, I want you to know that what I am going to say is going to bore you to tears. This is an arcane subject. It's not very interesting. For those of you who haven't had the pleasure of serving on the Appropriations Committee, this may give you a little dose of it.

In order to protect small, financially vulnerable hospitals, Congress created critical access hospitals as part of the rural hospital flexibility program in 1997. The program is designed to help states improve access to health care services in rural areas through the development of limited service hospitals and rural health networks. The federal legislation established eligibility criteria.

I told you this was boring, words like these are boring, I know. Please pay attention, this is important.

They established criteria to protect hospitals that are essential for providing access to acute care services in rural communities. These, what are called critical access hospitals, are allowed only 25 beds. Recent changes, which were enacted just this past November in the Medicare Reform Act in Congress, have removed the limit of 15 for acute care beds. This reform was strongly supported and worked on by our own Senator Olympia Snowe in arguing for this change in Congressional rule. However, despite the change enacted this past November in this Medicare Reform Act, Maine's acute care limit remains at 15. This bill would make Maine law conform to federal regulation, these new regulations. Under the critical access hospital program, hospitals are reimbursed for the actual cost of providing the service as opposed to the other reimbursement rates that prevail in this state. In exchange, these hospitals limit the types of in-patient services they offer. To meet the federal requirements, critical access hospitals have discontinued selected services but maintain limited in-patient services, out-patient care, and other services for which there is local demand while keeping the facility financially viable. This preserves access to vital health services in rural areas and keeps small hospitals solvent. Maine currently has eight critical access hospitals, which by definition are limited service hospitals located in rural areas. Let me list them for you: the Mt. Desert Hospital in Bar Harbor, Blue Hill Memorial Hospital in Blue Hill, St. Andrew's Hospital and Healthcare Center in Boothbay Harbor, Calais Regional Hospital in Calais, the Charles A. Dean Memorial Hospital and Nursing Home in Greenville, the Penobscot Valley Hospital in Lincoln, the Millinocket Regional Hospital in Millinocket, and the Rumford Hospital in Rumford.

Critical access hospitals are regulated under both the Maine state licensing standards and the federal Medicare laws and regulations. Under Maine laws, these hospitals are currently limited, as I said, to 15 acute care beds. Permitting these hospitals to use additional existing beds, not new beds, existing beds, for acute care patients will allow these hospitals to treat local patients who need their help instead of sending them away. Citizens in rural Maine want hospital care close to their families. We all know that. Giving critical access hospitals the flexibility to treat these people is both humane and sensible. That was the thinking of the United State's Congress in changing this rule. There is no reason why we should not allow our own small rural hospitals to take advantage of this federal change.

There are four other Maine towns that have hospitals considering reducing their number of licensed beds to 25 to meet the other federal critical access restrictions. One is in my district, which is why I'm interested in this, candidly. It's Bridgton Hospital. To that hospital, this change means \$300,000 per year. There is Dover-Foxcroft, the Mayo Regional Hospital. In Houlton, the Houlton Regional Hospital. In Machias, the Downeast Community Hospital. These hospitals struggle every day with cash flow limitations caused by delays in Medicare and Medicaid reimbursements. Haven't we all heard about those problems. Some hospitals even tap into their lines of credit while awaiting payments. In other words, they borrow money. While additional hospital conversions to critical access status would reduce the number of licensed acute care beds in rural Maine, it will help to preserve access to essential healthcare services, access that is threatened by the current realities of state and federal budget crunches and the limitations of the public payer system. This amendment, this regulatory opportunity, will mean millions of dollars to our rural hospitals at no cost to our state budget. Why would we not adopt it? Not only does preservation of limited rural hospital services allow our neighbors to receive necessary in-patient and out-patient services provided by their local physicians and near their support system of family and friends, but the hospitals are the only location for people in these towns who can access emergency services necessary to meet the needs of the community 24 hours a day. Why would we not adopt this amendment?

The recent and ongoing state cuts in hospital reimbursements threaten the financial viability of small, full service rural hospitals. To force a small rural hospital to offer a full array of services, or alternatively to close their doors, is very poor public policy. We must join our federal counterparts in supporting legislation that allows the hospital the flexibility and support it needs to offer the services necessary to meet these healthcare needs in our communities. Why would we not? I implore you to allow one small message of hope, one lifeline of support, to our small rural hospitals. Let's let this small message of hope go forth and escape this legislative session this year. It will not cost this budget a cent, but it may make the difference between life or death for one or more of these important small points of access to healthcare in rural Maine. Why would we not adopt this amendment?

Same Senator requested a Roll Call.

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

Senator **MARTIN**: Thank you, Madame President and members of the Senate. I was intrigued when I saw the amendment and even more intrigued when I saw the fiscal note attached to it, or lack thereof. For four years I served on the National Advisory Board on Rural Health. Of course it is not a surprise that the present administration did not reappoint me. I was one of those involved in drafting the national legislation for a rural hospital flexibility program. I'm not sure how the Office of Fiscal and Program Review ever came up with the concept of no increase, but they probably should have said that they didn't have a clue. Let me try to explain to you why. Under the federal law which this is created, they are expanding the number of beds that are allowed. The hospitals who participate in the program get more reimbursement. The reimbursement comes from two sources, from federal funds and state funds, which have to match the federal funds. Those hospitals that are presently receiving and are presently classified as critical access hospitals are receiving more money than any of the other hospitals in Maine. When Congress chose to change the number of beds in the Medicare Reform Act of this year, they basically decided that it was a good idea because, frankly, the program had worked as well as what they anticipated. Of course, keeping in mind that this has just been enacted, hospitals right now are evaluating whether or not they are going to move in that general direction. I note that one of those that is listed there, the board and the local citizens have yet to even discuss the question because there will be limitations of what they can now deliver. There are some communities who refuse to accept that. That is an issue that has to be discussed by the local board and the hospital administration and staff. There is, by the way, a piece of legislation in the committee that can be used to handle that situation. To have this come in the middle of a debate on a budget, where it has had absolutely no discussion, really is not the proper way to handle this. I can tell you this, from my experience, the cost will be somewhere about \$5 million before it is over if we add four to six hospitals. The reason is very simple. It doesn't take a brain surgeon or even a legislator to figure it out. You simply take the number of patients in each of the hospitals that will be there, whatever transfer occurs between the 15 and the 25, and whatever was being lost to Medicare or Medicaid that will now be reimbursed and made almost whole.

I think it's a great idea. I don't have any problem with the concept because I support the concept. I supported it six years ago at the federal level and I supported it when we created it in Maine. If you want to create a hole in the budget, and I know some do today, this is the place to do it. That is not to say that we shouldn't support it. It needs to say that it needs to be studied. When I discovered the fiscal note, I wasn't surprised. It was a former presiding officer, like myself or others, who could get a fiscal note written like this. I started investigating, when I started making some calls, and it didn't take many, and found out that we are probably looking at a overall cost of \$5 million. I think the good Senator from Oxford, Senator Bennett, answered the question himself because he indicated, as I recall, that Bridgton would get \$300,000 more. That isn't falling from the sky. That isn't all Medicare, because that hospital also has Medicaid patients. It also has persons who don't pay at all, unless Bridgton gets all it's money from Medicare patients. That would be the only way that something like this could happen. That is the way the system works. I, by the way, will say that I will have no problem supporting that concept when it comes up before the committee and will also support the funding for it.

Senator **ROTUNDO** of Androscoggin moved to **INDEFINITELY POSTPONE** Senate Amendment "G" (S-372) to Committee Amendment "A" (H-642).

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

Senator **BRENNAN**: Thank you, Madame President, men and women of the Senate. The good Senator from Oxford, Senator Bennett, posed a question, why wouldn't we want to do this? Let me tell you why we should not do this, why we should not adopt this amendment.

Last session, the Health and Human Services Committee had L.D. 1156, 'Resolve to Study the Impact of Critical Access Facilities Designation of Maine Hospitals.' We passed that Ought Not to Pass. We sent a letter to the Department of Human Services that said that the committee remained interested in the designation of hospitals as critical access facilities and in the potential benefits of hospitals, consumers, healthcare providers, and businesses in Maine. We asked the Department of Human Services to conduct a study of the impact of designation critical access facilities and review the potential benefits for Maine. The Health and Human Services Committee requested a report back to the committee and the legislature on January 30, 2004. We have dealt with this issue in the Health and Human Services Committee. We have, in fact, asked the Department of Human Services to conduct an in-depth study. Unfortunately, we are not there today to accept that report, but certainly at the beginning of next week we will.

I would further like to add that, in it's testimony to the committee last year, the Maine Hospital Association said, 'the Maine Hospital Association questioned the need for a study of critical access hospitals. At a time of limited legislative resources, this issue does not appears to be the level of

priority that would warrant a legislative study.' So regardless of that testimony, the committee still chose to go ahead and continue to look at this particular issue. As the good Senator from Aroostook, Senator Martin, already pointed out, the committee is still in possession of L.D. 584, which is a bill that has to do with the certificate of need. It is also a bill that we have amended to look at the issue of swing beds and critical access units.

I would submit that if anybody is interested in this particular issue, including the good Senator from Oxford, Senator Bennett, that the committee would hold the bill and would be more than willing to back and have a discussion to see whether it is appropriate for us to move forward. It is certainly bad process and bad public policy to enact an issue of this magnitude in the budget. Thank you.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. This is a particularly interesting subject. Let me see if I can shine a light on it for you as to why it was included as an amendment to the majority report.

I'll have to give you second hand information because the information that is the basis for us offering this amendment was not heard by my ears first hand. The Healthcare Policy Office indicated to individual hospitals that such a rule change would not be supported by the administration. This has been said multiple times, to multiple hospital administrators. I ask you to hold that point of information and then reflect on a couple of things said by the junior Senator from Aroostook, Senator Martin. One of the sentences, or portions of a sentence, that is always added to a budget bill is 'to make certain provisions of laws necessary, etcetera.' That, in fact, makes a budget bill all powerful. I do believe that in a different legislature, in an earlier time, the good Senator from Aroostook, Senator Martin, was instrumental in having that language added into budget bills and it has stayed there ever since. So this is a very powerful document, and in fact, a place where you might want to insert such an amendment.

It has been suggested, as it often is when fiscal notes do not show you what you would like and to cast aspersions on the lack of depth with respect to a fiscal note, that one of the very simple ways that the general fund would not be impacted is if the rate of reimbursement from the federal government changes. For example, you might get a 2 – 1 match and a change in the law would make it a 3 – 1 match or perhaps a 4 – 1 match or even a 5 – 1 match. That, in fact, is how you could adopt this amendment and never incur an impact on the general fund.

I would now like to add some sentences about faceless bureaucrats who will make decisions for you and the hospitals that are in your districts. The reality is the bureaucrat is not faceless. You all know who she is. You're going to have one opportunity to call the shots for your hospitals, if they were the hospitals named in the dissertation that the Senator from Oxford, Senator Bennett, provided to you. I could be callous about that, because I only live 12 miles from downtown Portland and two high quality, first rate hospitals are within 15 minutes of my house without breaking the speed limit. For many of you, on both sides of the aisle, you and your constituents do not have that luxury. You've got one shot at controlling the destiny of your hospital. It is before you in this amendment. I would urge you to support it. Thank you very much.

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

Senator **TREAT:** Thank you, Madame President, men and women of the Senate. I do support the pending motion of indefinite postponement. This is why. This amendment addresses what is, indeed, an issue of interest and importance in this state. However, it is not paid for. The information that we are getting from the legislature's own fiscal office is that it apparently did not have enough time, with the short period of time we had to prepare the amendments, to actually get an answer back from the Department of Human Services about how much this would actually cost. From my understanding, the Department of Human Services has now had those conversations with our Office of Fiscal and Program Review and that the response at this point is that the cost cannot be determined, not that there isn't any cost. Given that every hospital is facing a \$300,000 increase in funding from some source, such as the hospital that we've heard about already, it is going to add up to some significant dollars because, as the Senator from Aroostook, Senator Martin, pointed out, this is a higher reimbursement rate that does not just apply to patients paid by Medicare, but to other people who use those same hospitals. There is no money in the budget before us to pay for this potentially significant increase in hospital costs. I think there is a commitment to look at how we might do that. Now is not the time and place to be trying to come up with that, on the floor of the Senate in the midst of a budget debate. There is, indeed, legislation pending in the committee. This is certainly not the only time, if we want to talk about hyperbola and say this is the only time, ladies and gentlemen, that you can make a decision on this issue, your time is up if you vote on this. That's not correct. We do have another bill in committee. We have a supplemental budget coming

along for 2005. We have multiple other opportunities. It makes far better sense to address this in a little more thoughtful way, knowing what we're getting into, and knowing what the costs are before we vote for it. I think that's all we're really asking for here. Let's be a little more thoughtful, take a little more time about this. We do have opportunities to implement this, but we do have to figure out how we're going to pay for that. That would be the fiscally responsible thing to do.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator **BENNETT:** Thank you, Madame President and fellow members of the Senate. Two points. The first is this, we're told that we have more time. This whole choreography of this budget presumes that we are going to adjourn this legislative session in a matter of hours or days. When that happens, all bills will be killed. They go away. We adjourn sine die. Some people may be better informed about the tricks that we play to subvert the constitution, to call us back into special session, resuscitate a bunch of legislation, that already may have had public hearings or maybe a work session, and spring it to life like Dr. Frankenstein's beast. I'm not privy to that. That has its own set of outrageous attached to it.

Let me move to my second point. I am nothing but shocked and outraged, quite candidly, by comments I've heard from the other side of the aisle today regarding this fiscal note process. For people who are, or have served, in leadership to seed our own capacity, or independent capacity in this legislature, to write fiscal notes irrespective of propagandist efforts by the administration. Let me read to you from our Joint Rules, Rule 312, fiscal notes: 'any amendment introduced that would effect the fiscal impact of the original bill must also include a fiscal note. The Office of Fiscal and Program Review has the sole responsibility for preparing all fiscal notes.' I have a great deal of respect for the non-partisan and independent Office of Program and Fiscal Review. For eight years in the Senate, I have fought a largely unsuccessful rearguard action to get legislators in our committees, when we have a question about cost, not to turn to the member of the administration who happens to be sitting there and asking them what it is going to cost and getting the biased answer, whether that person is representing a Republican Governor, an Independent Governor, or a Democratic Governor. Rather to have them turn to the person who is assigned to our committees and our work from the Office of Fiscal and Program Review to tell us what this is going to cost. Yes, they take information from the administration to help determine that. That is not the only place they get it. This amendment has a fiscal note of no net effect on the general fund appropriations and revenue. Isn't it enough, friends of the Senate, for Trish Riley to run our entire healthcare system. Must we also seed to her the independent authority of this legislature? For shame. I ask for the yeas and nays.

Same Senator requested a Roll Call.

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

Senator **MARTIN:** Thank you, Madame President. I need to just provide a little light. I didn't rely on Trish Riley. I didn't rely on the Office of Fiscal and Program Review. I just relied on the facts the way that the process and the federal law works. I was part of it. I helped draft it. It got enacted into federal law and I know something about it. For someone to say, it doesn't matter where, that there is no cost to the state obviously had no time to think or to read the federal law itself. I'm not blaming anyone. I'm not sure when they got the request for the information. I'm just saying that I was shocked when I saw the fiscal note attached to the bill today. I'm even more shocked, if we can be shocked today, by the Maine Hospital Association. Frankly, disgusted because they told us in committee last year they didn't want the study because they wanted them to use the money elsewhere. Now, for the sake of throwing something into this budget at the last minute because they aren't happy with tax and match, they'd do anything to get their oar in somewhere, sideways or in between. What better way to say that they support small hospitals when all they have been doing is representing the larger hospitals in this state at the detriment of small hospitals. I sat on the board of one, I know what I'm talking about. Frankly, I think the small hospitals in this state ought to resign from the Maine Hospital Association and form their own association to adequately represent them in this state and before this legislature. I'm thoroughly disgusted by the approach that they have taken. To say that this amendment has no cost is a serious misnomer. I will point out that anyone who thinks that we are going home, sine die, whether we sine die today or Monday, and not do the people's business is doing a disservice, because we must continue and we will. Every Senator here knows the constitutional possibilities of how we can be reconvened ourselves or convened by the Governor, which has happened in the past and I suspect will continue in the future.

On motion by Senator **BENNETT** of Oxford, supported by a Division of at least 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 (#222)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT – BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "G" (S-372) to Committee Amendment "A" (H-642), **PREVAILED**.

On motion by Senator **SAVAGE** of Knox, Senate Amendment "H" (S-373) to Committee Amendment "A" (H-642) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Savage.

Senator **SAVAGE:** Thank you, Madame President, men and women of the Senate. The majority budget proposes to use Mainecare rates as a ceiling to reimburse the hospitals for the services provided to our prisoners. Mainecare payments have been reduced by \$58 million in the 2004 – 2005 budget. Additional cuts are pending in the proposed DHS rules. Inmates are eligible, if they go into the hospital, to apply for Mainecare, be assumed eligible, and receive those benefits. That is the only reason that we should reimburse our providers by using the Mainecare rates for our state inmates. This proposal will severely hurt the hospitals that provide the services to the state inmates. The losses range from \$200,000 to \$500,000, depending on the size of your correctional facility in your area. Thomaston Maine State Prison is in my district, District 12, Knox County. They were in Thomaston with 400, more or less, inmates. When we consolidated the correctional facilities, we now have over 900 inmates. I also have Pen-Bay Medical Center in Knox County in my district. They provide the medical services for these inmates. Hospitals provide the services to all patients who require medical care, regardless of their ability to pay. Should we, the citizens and recipients of healthcare from our local hospitals, have to absorb this cost? I'm saying that we should not do a cost shift. I'm saying that everyone in the State of Maine should absorb the cost for these inmates' medical care. We had this same legislation last session. We debated it fully. I stood up and said the same things on the floor. That finally went to a committee of conference and was defeated. I ask your support for your hospital and realize how much it will cost your local hospital if they continue with this proposal. Thank you.

Senator **CATHCART** of Penobscot moved to **INDEFINITELY POSTPONE** Senate Amendment "H" (S-373) to Committee Amendment "A" (H-642).

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

Senator **CATHCART:** Thank you, Madame President, men and women of the Senate. I ask you to support the motion to indefinitely postpone this amendment because I do believe it would through the budget out of balance. I agree that it is unfortunate if certain hospitals have to bear more of the cost for treating our inmates. It is something I think certainly deserves some further study. I do serve on the Corrections Commission, the long name of which I cannot recall at the moment. I think that would be an appropriate issue to bring before the study commission and perhaps this would only be a temporary measure. I ask that you support the motion to indefinitely postpone. Thank you, Madame President.

On motion by Senator **TREAT** of Kennebec, supported by a Division of at least 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 (#223)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT – BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **CATHCART** of Penobscot to **INDEFINITELY POSTPONE** Senate Amendment "H" (S-373) to Committee Amendment "A" (H-642), **PREVAILED**.

On motion by Senator **WOODCOCK** of Franklin, Senate Amendment "A" (S-366) to Committee Amendment "A" (H-642) **READ**.

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

Senator **WOODCOCK:** Thank you, Madame President. I might observe before beginning my remarks that I, too, am shocked. The cameras have left the chamber and I want to thank the good Senator from Cumberland, Senator Brennan, for eliminating that possibility for my speech today, due to his comments about sound-bites. I appreciate that very much.

We have heard much about the learning results standards in the education community. I suggest we apply some of those standards to today's proceedings. It is critical, in the learning results, that we assess the acquisition of knowledge. We need to clearly understand the knowledge being presented here today in order to assess it. We have heard, clearly stated, that the retiree health insurance fund will, in fact, be reimbursed on July 1, 2005. Yet, in a careful examination of Part B to the budget, we find that, in fact, it has the potential to be reimbursed on or after July 1, 2005.

In previous comments of mine, I made light of that fact. I would make light of that fact again. In my classroom, which is the 25th year of my holding fort in a classroom of public education in this state, wouldn't it be nice if we were able to promise our students that their grade for the year would, in fact, be forthcoming on or after June 18th? I am certain that the principal would quickly have me in his office with several parents in attendance, wondering where the grade was for their children. In my community, the education community, we are held to a high standard. We have high expectations.

I, too, have the highest of expectations that the money being taken from the health insurance retirees fund for teachers and other state retirees who have retired will be repaid on July 1, 2005. We will, in fact, be able to issue a passing grade for that promise. However, the water has been muddied a bit in realizing, as part of our assignment, that the unfunded actuarial liability for this retirement fund for healthcare costs has reached the princely amount of \$935.3 million. I assure the members of my education community who have retired and the other retirees in this state who are beneficiaries in the state retirement system the future is bright. The promises continue. Reimbursement rolls in. Those of us in this room who are nearing the retirement age, and those of us in this room who only see it over a distance horizon, will be reassured that your healthcare costs will be paid for by the state. It distresses me greatly that we continue to plant a seed of concern amongst those who have retired.

I hear it often said 'ah, you are a teacher, you only work nine months a year, you get paid too well, I work for a living.' My response has always been that on a daily basis I am held responsible for the actions and the learning of over 100 teenagers. Care to swap jobs? This is my 25th year in education. I have yet to have a single taker because those parents of teenagers, such as myself, multiply the factor involved to reach over 100, and for them, they understand the nature of my task. I intend to retire someday, upon my wife's approval. I hope the money is available for the healthcare retirement fund for myself and others. I'm sure that it will be. Without belaboring this point any longer, I've heard the criticisms of taking money from the Dirigo fund. Let me just simply say again that I support Dirigo. I supported Dirigo. I understand Dirigo. It isn't threatened by the \$10 million reduction. It isn't threatened by an \$18 million reduction. Someday we will assess as to whether or not that is a fact and not a promise. Thank you, Madame President.

Senator **CATHCART** of Penobscot moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-366) to Committee Amendment "A" (H-642).

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I'm reminded of a discussion I had several years ago with John Mitchell. Not the famous John Mitchell, but just a guy that went to college with me, he is a fraternity brother. He bought a small business and woke up one day and said 'my God, what have I done?' He said 'I've got my retirement plan all figured out, Karl.' I said 'John, what's that?' He said 'I'm going to work until I die. That's my retirement plan.'

Those of you who look at our constitution know that we have an actuarially soundness requirement imposed upon us by citizen referendum, citizen initiative, because earlier legislatures raided employee and state teacher retirement funds. We, with eyes open, reached in to balance the 2004 – 2005 budget and made that actuarially difficult decision to stretch the amortization out as far as we could. My hand was part of that as was the hand of every member of this body who voted for the 2004 – 2005 budget that we passed last spring. So we currently have our retirement system, that our state employees and our teachers depend on, precariously under funded. At least, by virtue of a citizen initiative, we can't make it any worse. So the writers of the majority report did have one additional place to go, that was state retiree health plan funds and co-mingled into that population are our retired teachers. I won't repeat the numbers that the good Senator from Franklin, Senator Woodcock, recounted to you. If I were a member of the State Teachers' Association or a member of the Maine State Employee's Association, I would get my petitions out and go forth this year, either in the June primaries or in the November elections, and secure protections for your healthcare retiree benefits because you are getting no protection from this body. Thank you very much.

On motion by Senator **TREAT** of Kennebec, supported by a Division of at least 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 (#224)

YEAS: Senators: **BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT – BEVERLY C. DAGGETT**

NAYS: Senators: **BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD**

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **CATHCART** of Penobscot to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-366) to Committee Amendment "A" (H-642), **PREVAILED**.

On motion by Senator **YOUNGBLOOD** of Penobscot, Senate Amendment "D" (S-369) to Committee Amendment "A" (H-642) **READ**.

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

Senator **YOUNGBLOOD:** Thank you, Madame President, ladies and gentlemen of the Senate. We've heard this multiple times today as it refers to the Fund for a Healthy Maine. Here we go again. One thing that we have really learned, as part of this budget crunch over the last year or year and a half, is that there is no such thing as protection of dedicated revenues. The Fund for a Healthy Maine was put forth for a very particular reason. Yes, we can justify taking those monies in lots of different ways. We can say this is an acceptable use of these funds because, in fact, this \$410,000 that is being taken is being used in a medical environment to assist in drugs for the elderly. That is a very noble cause. Obviously, it is difficult to say we can't help the elderly. The fact still remains that those funds are coming from the Fund for a Healthy Maine that was put in place for a particular purpose. In many cases being number one is wonderful. In many cases, as we know here in Maine,

being number one is not so nice. It is my understanding that when people representing our healthy communities go to programs around this country, there are banners on the wall that congratulate Maine for being number one in their use of the Tobacco Settlement monies. Maybe being number one isn't where people like to be, given the direction that we had in all kinds of other indices, that we are all very familiar with, from taxation to business friendly. The list goes on and on. There are those I am absolutely convinced that cannot stand Maine being number one. We have to be further down the list. Number one, in this particular endeavor, is where I want to be. We need to do some things that protect the Fund for a Healthy Maine. It is obvious that the Executive Branch and this legislature, on its own, does not have the way with all to say that really has to be hands off, that really has to be used for the things that it was absolutely intended for, to make Maine a more healthy state over the next decade. I don't need to go on, I believe, any further than that. You can say this isn't taking money from the Fund for a Healthy Maine, the documents say that it is. I would urge your endorsement of this amendment. Thank you.

On motion by Senator **CATHCART** of Penobscot, Senate Amendment "D" (S-369) to Committee Amendment "A" (H-642) **INDEFINITELY POSTPONED.**

On motion by Senator **TURNER** of Cumberland, Senate Amendment "B" (S-367) to Committee Amendment "A" (H-642) **READ.**

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. We've had a lot of discussion about Dirigo Health and whether or not it needs \$20 million, \$30 million, \$33 million, \$35 million, or \$53 million to be successfully launched. The amendment before you now preserves the \$53 million of Dirigo. It does take the very responsible action of deferring from July 1, 2004 to February 1, 2006 the expanded Medicaid eligibility. We've regaled each other back and forth with the problems imbedded in our current Medicaid system. I'll try to be brief with you, but the \$108 million problem we have facing us today in 2004 has its' origins in our existing Medicaid system with its existing eligibility capabilities. Think about that. Existing eligibility. On July 1st, we are poised to significantly expand Medicaid eligibility with no capacity to pay for it. In fact, we can't pay for the capacity we're already authorized and using. We already know, and you may check with the Appropriations members on the other side of the aisle if you need clarification, \$125 million Medicaid problem in fiscal year 2005 without expanding eligibility. We know, based on hospital settlements which are done two years in arrears, that \$30 million tied to FY 2002 and \$78 million tied to FY 2003 are owed our hospitals based on our existing Medicaid eligibility. My math is pretty reasonable. That's \$225 million that we don't have today to fix a program that, indeed, is out of control.

Earlier you got a distribution of an op-ed written by Vincent Conti, the Chair and Chief Executive Officer of the Maine Medical Center. The shadow of his institution stretched across the Senator from Cumberland, Senator Strimling, and Cumberland, Senator Brennan, districts. When I climb a tree in my yard, I think I can see the spire on top of one of his buildings. A first rate medical facility and one of the crown jewels of our hospital network in the state, in New England, and around the country. I doubt that any of you took the time to read this green piece of paper, so I am going to entertain you with some excerpts. 'State government is in a fiscal crisis, and you may well ask 'how did this happen?' A major part of the problem is that Maine appears to have expanded its Medicaid (known here as Mainecare) program beyond what it can afford. Some 60,000 new beneficiaries have been added through expansion of the program, and another major expansion is planned for later this year. Although increasing health care coverage is laudable, all of us in Maine's health care system are committed to providing clinically necessary care to all those in need, the state's not paying for the care of those for which it has taken responsibility is not laudable.' 'We need to act to assure that the current crisis is not a portent of things to come. Unless and until the state faces up to the true cost of the Mainecare program, it will continue to reduce payments year by year. Increasing numbers of Maine citizens covered by the Mainecare program will bring more uncovered costs to Maine hospitals. Maine Medical Center has seen an almost 30% increase in Mainecare patients in the last year with as 60% increase in the shortfall of Mainecare reimbursement. These real costs being incurred by Maine's hospital will in turn be passed on to the insurers and employers, and when they refuse to absorb those increases, there will be a crisis of huge proportions. Hospitals will have to cut services and staff, just to keep the doors open for urgent needs. The people on Mainecare who have entrusted the state with their well being would be the ultimate victims of an unaffordable program.' Mr. Conti closes by saying 'Those of us in health care have a clear view of our mission, to provide appropriate and necessary care to all who need it. Maine's hospitals have always worked with the state government in good faith to preserve their ability to carry out that mission. The state's willingness to put our mission at risk and to raise the

cost of care for everyone else is disturbing. Surely we can work together and to better than this for the people of Maine.' The letter is signed by Vincent S. Conti, President and Chief Executive Officer, Maine Medical Center.

This, and you may applaud if you wish, is the last amendment that I will be putting forward today. I think you need to think very carefully, as I have asked you several times today to do. We have a system we cannot afford. As we've expanded coverage with Mainecare, we have driven people from the private insurance roles. The net effect is that we have spent more money and we cover in total, between state government and private programs, fewer people today than we did eight or nine years ago. I would urge you, please, to accept this amendment and make it part of this budget. Thank you very much.

Senator **CATHCART** of Penobscot moved to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-367) to Committee Amendment "A" (H-642).

On further motion by same Senator, supported by a Division of at least 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 (#225)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT – BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **CATHCART** of Penobscot to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-367) to Committee Amendment "A" (H-642), **PREVAILED**.

Committee Amendment "A" (H-642) as Amended by House Amendments "I" (H-658); "L" (H-661) and Senate Amendment "F" (S-371) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

On motion by Senator **BENNETT** of Oxford, supported by a Division of at least 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 (#226)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT – BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-642) AS**

AMENDED BY HOUSE AMENDMENTS "I" (H-658); "L" (H-661) AND SENATE AMENDMENT "F" (S-371) thereto, in NON-CONCURRENCE.

Sent down for concurrence.

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

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:

ORDERS

Joint Order

On motion by Senator **TREAT** of Kennebec, the following Joint Order:

S.P. 682

ORDERED, the House concurring, that all matters in the possession of the Legislature, including working papers and drafts in the possession of nonpartisan staff offices and gubernatorial nominations, at the time of adjournment of the Second Regular Session of the 121st Legislature be held over to the next special session of the 121st Legislature; and be it further

ORDERED, that any public hearing, work session or other meeting to conduct the business of the Legislature that is scheduled at the time this order is passed is hereby authorized to occur.

READ and PASSED.

Sent down for concurrence.

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

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

PAPERS FROM THE HOUSE

House Paper

Resolve, To Provide for Legislative Review of Certain Agency Rules and Submission of Certain Authorized Reports and Legislation (EMERGENCY)

H.P. 1365 L.D. 1839

Committee on **STATE AND LOCAL GOVERNMENT** suggested and ordered printed.

Comes from the House, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee, in concurrence.

Senator **BENNETT** of Oxford **OBJECTED** to sending the Resolve forthwith to the Engrossing Division.

Same Senator moved the Senate **RECONSIDER** whereby the Resolve was **PASSED TO BE ENGROSSED**, without reference to a Committee.

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

Senator **WOODCOCK** of Franklin moved to **TABLE** until Later in Today's Session, pending the motion by Senator **BENNETT** of Oxford to **RECONSIDER** whereby the Resolve was **PASSED TO BE ENGROSSED**, without reference to a Committee. (Roll Call Ordered)

On motion by Senator **TREAT** of Kennebec, supported by a Division of at least 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 (#227)

YEAS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

NAYS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT – BEVERLY C. DAGGETT

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **WOODCOCK** of Franklin to **TABLE** until Later in Today's Session, pending the motion by Senator **BENNETT** of Oxford to **RECONSIDER** whereby the Resolve was **PASSED TO BE ENGROSSED**, without reference to a Committee, **FAILED**.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator **BENNETT:** Thank you, Madame President. Request permission to pose a question through the chair.

THE PRESIDENT: The Senator may pose his question.

Senator **BENNETT:** To anyone who may know, could I be apprised to what exactly this resolve does? I haven't had a chance to look at it. It is not being sent to a committee. It would be helpful to this Senator to have that information. Thank you.

THE PRESIDENT: The Senator from Oxford, Senator Bennett poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Treat.

Senator **TREAT:** Thank you, Madame President. As I believe the Senator from Oxford, Senator Bennett, is aware, if we were to adjourn sine die we would need to pass a resolve or order of some sort to continue those actions that are pending in committee. Among those actions is the Government Evaluation Act. I'm sure that the good Senator and all the other Senators here would like us to continue in our role of overseeing the behaviors, actions, and policies of those agencies of state government. That is what this resolve would do.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#228)

YEAS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

NAYS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT – BEVERLY C. DAGGETT

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **BENNETT** of Oxford to **RECONSIDER** whereby the Resolve was **PASSED TO BE ENGROSSED**, without reference to a Committee, **FAILED**.

Senator **BENNETT** of Oxford **OBJECTED** to sending the Resolve forthwith to the Engrossing Division.

The Chair **RULED** the **OBJECTION** was **OUT OF ORDER**, the motion to **RECONSIDER** having been made and **FAILED**, there was no other action for the Body to take.

Ordered sent forthwith to the Engrossing Division.

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

PAPERS FROM THE HOUSE

House Paper

Resolve, Concerning Payments to Legislators during Special Session (EMERGENCY)
H.P. 1366 L.D. 1840

Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and ordered printed.

Comes from the House, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Senator **CATHCART** of Penobscot moved the **RULES BE SUSPENDED** for the purpose of **GIVING THIS RESOLVE ITS TWO SEPARATE READINGS AT THIS TIME**, without reference to a Committee.

Senator **BENNETT** of Oxford **OBJECTED** to **SUSPENSION OF THE RULES**.

The Chair divided the question.

Senator **BENNETT** of Oxford **OBJECTED** to **FIRST READING**, without reference to a Committee.

On further motion by same Senator, supported by a Division of at least 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 (#229)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY,

STRIMLING, TREAT, THE PRESIDENT – BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, **READ ONCE**, without reference to a Committee.

Senator **BENNETT** of Oxford **OBJECTED** to **DISPENSING WITH THE READING** of the Resolve.

The Resolve was **READ**.

Senator **BENNETT** of Oxford **OBJECTED** to **SUSPENSION OF THE RULES**.

Pursuant to Senate Rule 510, **ASSIGNED TO SECOND READING AT 6:01 IN THE EVENING**.

Senate at Ease.

Senate called to order by the President.

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

ENACTORS

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

Act

An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary for the Proper Operations of State Government for the Fiscal Years Ending June 30, 2004 and June 30, 2005

H.P. 1351 L.D. 1828
(H "I" H-658; H "L" H-661; S "F"
S-371 to C "A" H-642)

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

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

Senator **MARTIN:** Thank you, Madame President. For the record, I would like to make note of three items on pages 57 and 58 which deals with the words that have been inserted with the mental health services, with Mainecare, child Medicaid, and community Medicaid, and would just like to indicate that the intent of that language is basically to make sure that people and organizations do not get hurt. The original proposal that came forth from the department was that there was going to be a cap and anyone above the cap would simply be cut off. The Appropriations Committee and the Human Services Committee chose not to go in that direction. What this means, in effect, is that if, in fact, there is a cut, which of course there is a cut, it will be allocated based on the needs of each facility or institution in the state.

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

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. I'd like to clarify something that has been presented today in the majority budget. There has

been some misinformation that has been shared today about the so-called 'tax and match' that is in the majority budget. I would like to clarify that.

The so-called 'tax and match' allows the state to levy an assessment of less than 3/4th of 1% of hospital net revenue to bring in \$16.6 million. \$4.3 million of that amount is matched with federal funds so that \$14 million is redistributed back to the hospitals on a formula based on Medicaid payments. Under the majority report, hospitals will not be cut the \$8.7 million originally proposed. Instead they will only suffer a net loss of \$2.6 million. The maximization of federal dollars that is proposed in the majority budget is an allowable activity under the federal law, and we've already utilized this in Maine for other institutional providers and hospitals that have been exempt. The assessment is a way to receive additional general fund revenues to draw down federal dollars available to Maine and to healthcare providers. The hospitals in our state will be paid \$14 million to offset the cost of the assessments.

All of us here are eager to support our community hospitals. We are pleased to have been able to put forward a proposal that cuts the hospital burden from the original \$25 million cut to a \$2.6 million cut. We are also pleased to have been able to move forward \$10 million of the Medicaid payments into fiscal year 2004 so that our hospitals will have approximately \$30 million additional dollars this year in 2004 and will not have to wait for that funding. Thank you.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I find the comments of the good Senator from Androscoggin, Senator Rotundo, interesting, to say the least. Hospitals, uniformly and across the entire state, have said this costs them significant money. The comment 'tax and no match' was attributed to me in an earlier discussion and by one of the daily papers. I'd like to take credit for the moniker, but I actually cannot. It came from someone else.

I think when you ask yourselves what should be the final word on how hospitals are going to be impacted, I suspect that you would be well advised to ask your local hospital and perhaps rely less on the rhetoric you hear in this chamber.

As we go forth from here this evening, we, in fact, will not even know whether or not the math that the good Senator from Androscoggin, Senator Rotundo, has taken us through will even come to pass. The only thing we are certain about is that there is a tax. Furthermore, even if the machinations that are suggested work as described by the good Senator from Androscoggin, Senator Rotundo, our hospitals tell us that flow-back will not occur in fiscal year 2004. So our hospitals, who many are stretched to their very limits and into their lines of credit to keep going to deal with the Medicaid system that may bring us all to our knees before we're done, get no solace from this budget.

As to the \$10 million that has been so nicely brought forward from 2005 into 2004 fiscal years, I would remind you that this is money already owed, already spent by our hospitals. Aren't you being nice. You are saying, 'you know something, I owe you, I was going to pay you back in two years. I will now step forward, acknowledge that I owe you, and pay you back in a year and nine months.' Thank you so much for your generosity.

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

Senator **CATHCART:** Thank you, Madame President, men and women of the Senate. I do urge you to support the enactment of this majority budget. The majority report offered by the Appropriations Committee represents a fair plan to address the state's financial shortfall. It makes very difficult choices, choices made even harder by the \$1.2 billion gap we had to face last year. We are trying to do what we were sent to do by our constituents, to govern in a fiscally responsible way while providing the services to the people that need them.

I do want to point out one item in the majority report that is still under discussion. It is on page 29, from the Judicial Department. It was recommended by the administration to close the courthouses in Madawaska and Livermore Falls. We had strong testimony from the St. John Valley, from Madawaska, that this was going to create a hardship. I do believe that the Chief Executive and the Chief Justice are having discussions about whether that really will, indeed, be a hardship and whether that is a wise move for the future.

Other than that, I certainly stand behind everything here. We have presented a financially responsible solution and have not touched the funds that we had put away last year into the budget stabilization fund and the general fund operating capital reserve. That will keep our credit rating high and that is a very responsible thing to do. Again, I thank you for your support and urge you to vote to enact this budget. Thank you, Madame President.

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

Senator **BLAIS:** Thank you, Madame President, men and women of the Senate. It seems to me that I've heard a lot of numbers being bandied about today. Quite frankly, I've heard a lot of numbers being bandied about ever since I walked into this building. That is certainly something that I expected. The numbers that I've heard bandied about last year in the debates over the Part I Budget convinced me not to vote for that budget. The numbers that I am hearing today have convinced me that I'm not going to vote for this budget.

What I would like to do, having listened to the remarks from the good Senator from Androscoggin, Senator Rotundo, is share with her that I did make the effort as far as my local hospital, the hospital that serves the people from the nine Androscoggin communities that are within my district. I asked the controller last night to please take a look at the language in the majority budget and tell me how much money this 'tax and match' scheme is going to cost Central Maine Medical Center. I have an e-mail sitting right in front of me from Chuck Gill, the Vice-President of that hospital. 'We are estimating the annual impact of the hospital sick tax to be \$1.2 million.' That's \$1.2 million a year. Coincidentally, the settlement payment, which is growing and is also owed to that hospital, is \$10 million. Thank you very much, Madame President.

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

Senator **SAWYER:** Thank you, Madame President, ladies and gentlemen of the Senate. I would ask leave to read portions of two recent articles, one is my own hometown paper, that indicated that in a 1995 Governing magazine called 'The End of the Hospital Tax Charade' stated 'an elaborate procedure designed solely to grab additional federal Medicaid dollars' and that lawmakers today should be aware that they are reenacting one of the major government gimmicks of the 1990's. In the Sun Journal the final line is that the state should not participate in the shell game to artificially increase healthcare costs just to scam the federal government out of more money. There was a statement earlier that implied, to me, that we should plan on barrels of money left over from unappropriated surplus in the general fund. I find that to be quite a gamble. There are those who don't think that is a gamble. For those who don't think that this is a gamble, I'd be more than happy to sell my share in the Bangor Historic Track and OTB parlor in Bangor. Thank you.

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

Senator **TREAT:** Thank you, Madame President, men and women of the Senate. I do feel a need to set some facts straight. I realize we all have a different definition of what facts are straight and which ones aren't, so you may not have the same view of the words as I do. I do think there are some facts here that we need to set forth.

First of all, there is no hospital that is going to be facing the level of cuts that the Senator from Kennebec, Senator Blais, pointed out relating to a hospital assessment. In fact, the majority of the hospitals in the State of Maine will either be held complete, even under that provision, or will actually get additional dollars back. There are some hospitals that will get some less. The amount of that cut is around the average, I think the medium is around \$98,000. We know that is a lot of money for those hospitals, but the original proposed cut was over \$25 million across the State of Maine.

This is a very difficult budget and we can say we don't like this, it is a gimmick, this is this, this is that, or that it is just a way to bring in federal dollars to the state. Well, I think we should bring in federal dollars to the state, especially when we're facing potentially devastating cuts to services as well as to these very hospitals. I, personally, sat in several meetings with hospitals. I know that members of the Appropriations Committee, members of the Health and Human Services Committee, members of leadership, as well, have sat down and met with the hospitals and said 'we would like to figure out a way of ensuring that this very difficult cut does not go forward. The hospital assessment is certainly one way of almost making you whole. If you have other ideas, come forward.' The only idea we ever heard was to take \$20 million out of Dirigo Health Care.

I just want to provide a little anecdote. I did pass this out earlier, but I got caught up in the moment and forgot to mention it in my earlier presentation. I have a chart. This morning I did go to my hospital. They had a breakfast and they put on a presentation. I actually expected, having listened to so much rhetoric around this and how angry the hospitals supposedly were, to be kind of met at the door of this breakfast with negative feelings. That didn't happen. In fact, quite a few doctors and administrators came up to me and said, 'you

know, I appreciate the leadership role that the Senate is showing in this matter and you are doing a good job, we think Dirigo is an important thing.' No one actually mentioned tax and match. I can say that nobody mentioned it at that meeting. No one came up to me and mentioned it, like saying 'this is horrible' or anything like that. We proceeded to have a very interesting presentation on hospital finances, what is going on with the Medicaid budget, and what is going on with the potential cuts. One of the things that was presented was, as a result of having passed Dirigo Health, there is projected in this one hospital that is in this area to be a savings of over \$1 million over a period of one year in the amount of charity care and bad debt that this hospital will have to pay. These are people who go to the hospital, who must be treated, and who have zero reimbursement. The reason that this is a savings is because those people are going to be going through the Dirigo Health Program. They obviously thought this was concrete enough to put on a PowerPoint and project on the wall to a whole bunch of legislators as well as members of their own staff.

The Dirigo Program, as you may recall, actually requires payments to be paid at market rates. In fact, this is a real savings. The plan to simply take money out of Dirigo is not necessarily something that in the long term is going to help hospitals. We worked very hard to try to come up with some way of keeping those hospitals as whole as possible. Yes, there is going to be some pain there, but look at the pain for everybody else as well. This is a budget that shares responsibility. It shares the cuts. There is really no entity in here that is not going to be facing some kind of tightened resource. If it wasn't in the earlier budget that we did, if it's not in this one, it's going to be in the next. We all know that. We're working very hard to come up with a balanced budget that covers the basic services that people in this state need and deserve without harming businesses; this does not do that. It's very carefully put together. It takes advantage, and it's true, of resources from the federal government, something that our neighboring State of New Hampshire, who is frequently held out as the fiscal model that the State of Maine should follow, has done. They just got approval for the same exact approach. They, like us and like 30 other states, according to the Senator from Cumberland, Senator Brennan, are facing very similar shortfalls in their Medicaid programs because of the economy, the increase in healthcare costs, etcetera.

So it is a very responsible approach. It is an approach that helps out the hospitals substantially over the initial proposals. It is an approach that maintains our commitment to healthcare for working people, for small businesses, and ensures that other important services of this state government are maintained, including education, economic development, and marine resources; you name it. This is a good budget. It's a very difficult budget to have to have put together because we're not adding money to anything. It is a very difficult budget and it is very hard for all of us to have to vote for such a difficult budget. That does not mean that it is a bad budget. It's a very thoughtful budget and it is one that deserves all of our support.

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

Senator **BLAIS:** Thank you, Madame President, men and women of the Senate. This is a bad budget. This is a wrong budget. I would remind, with your permission Madame President, the Senator from Kennebec, Senator Treat, that the reason we are here today is because of erroneous assumptions that were made in the Part I budget last year, the assumptions about the impact of Medicaid enrollment and expansion.

I have the handout from the Senator from Kennebec, Senator Treat, in my hand here. I made some notes on it earlier today about the impact of these Medicaid expansions. I thought about the reasons, the extensible reasons, for the Medicaid expansions. As I recall, the three pillars of Dirigo, when that was being debated, was cost, access, and quality. I didn't hear one word about affordability. Affordability was the number one concern on my mind. I think it was the number one concern on the minds of the businesses of this state. It wasn't a concern and I didn't hear a thing about affordability until the Chief Executive's State of the State speech.

I'd like to remind this body, and share with this body, my belief that Medicaid expansion is not the solution to our problems. In 1987, 10% of our population was uninsured. Medicaid enrollment expansion was thought to be the solution to this problem. Of course this problem is compounded by the high cost faced by our hospitals through charity care. Back in 1987, Medicaid enrollment was 10%. Here we are in 2004 with Medicaid enrollment at 20%, which is 10% beyond the national average. Since 1987, we have doubled the number of people that are enrolled in Medicaid. In that same period of time, the number of uninsured has increased to 13% of our population. Meanwhile, because of the increasing costs, because of the very same thing that the majority budget does, which is to drive up costs for hospitals, which is going to force Peter Chalke at Central Maine Medical Center to

transfer those costs to the private insurance system and raise the cost of insurance, we're going to make it more difficult for the people of this state to be able to afford private insurance. This is what we've been doing since 1987. Today, 67% of our population is able to afford private insurance. Where have those people gone? They have gone onto the Medicaid rolls. I'm sorry, we do have a better idea. I can't speak for all of my colleagues, but I certainly have a better idea. It's to stop this lunacy today. Now. Thank you, Madame President.

Off Record Remarks

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

Senator **DOUGLASS:** Madame President, women and men of the Senate, I'm concerned about the level of invective that is being used here in this chamber. I'm concerned about who it is we think we represent. I'm concerned about the inaccurate figures that are being given as gospel, as truth.

Prior to voting on this budget last night, I inquired what would be the affect of the changes this supplemental budget would make on my local hospitals, which includes hospitals run by some of the individuals mentioned by the Senator of Kennebec, Senator Blais. The answer I got is that the hospitals may, in the end, have some small loss, but it is about 1/10th the size of the impending loss they face if we do not support a balanced budget, which is what we are here to do.

I've been here for at least 4 hours while every single motion that has been presented has been objected to, when even reading a document has been required rather than dispensing with the reading. I have to wonder what the purpose of that delay is. I certainly hope that it is not because there is one member of our chamber who has been in a serious accident 10 days ago.

I am particularly concerned that this is the time for us to come together, to respect one another, to get out the facts that exist, and to honor the fact that we are here to debate, fully and fairly, what it is we know to be true. I know that this budget will do more for the hospitals and more for the people of Maine than the alternative that is proposed, which is full of gimmicks. This budget proposes to restore funding to those individuals who need our help in the Medicaid budget. I would like to remind members, if you know of any child who is insured through the Cub program, if you know of seniors who are getting the Maine Rx and some of the other drug alternative programs through the Medicaid program, those are the individuals we are here for today. The Chips program, that is known here as Child Healthcare Initiative, is actually a public-private partnership, a bit like what we have passed as Dirigo Health, because it requires payment by individuals and payment by the state. I'm very proud that we have a very high level of enrollment in that program. I think that is the reason we need to pass this budget, because those costs have gone higher, but we cover them with this supplemental budget. I urge you to support it and reconsider where it is you are.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I've been sitting here most of the day, listening rather than talking, which I guess is a little bit unusual for me. I guess if I were to give advice today, I would strongly suggest that members of this body ask to be appointed to a hospital board, a regional health center, to a non-profit ambulance service, or some other type of operation at the local level which provides care to people. I presently serve as President of the health center that operates both in Fort Kent and Eagle Lake. I presently serve as President of an ambulance service that operates in the northwestern portion of Aroostook County. I served as a board member of a hospital. I hear the crying of what the cuts are to hospitals with Medicaid and I want to tell you that this is not where the leakage is. That is not it at all. There is some. The problem is Medicare reimbursement to hospitals. Hospitals are being reimbursed somewhere in the range of 70% for the care that is being provided. On the ambulance service for which I serve as President, our budget is \$250,000. Ninety-two percent of the people we serve with that ambulance service are Medicare recipients and we receive about 62% for what we bill. The problem lies to some degree with us, but the vast problem lies with Washington not paying for Medicare. Ask your hospitals or your health centers where the shortfall is. This is not a joke, to those who think it is. You'll find where the heaviest problem and the burden lies, and it is with this money that we are not receiving. Granted that in some hospitals, I would pick on one for an example because the clientele is different than it is in Fort Kent or Calais, I'll pick on Boothbay Harbor, because there you have a different group of people being reimbursed for services. It's going to be a little different, but look across this state and you'll see where it is at. There is no question

that we have broadened Medicaid, but that has actually helped us, not hurt us, at least where I am. I would hope, in closing, and strongly urge you all to serve on those boards.

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

Senator **GAGNON:** Thank you, Madame President and colleagues in the Senate. I haven't spoken on this issue to this point, but I did want to make a few points on some of the debate I've heard today. Clearly, this appears to be what people outside this room might refer to as a 'partisan issue.' I'm looking at all of these votes coming up 17 – 18 and I think that is appropriate because I think there is, in this time of parties being blurred and directs of where we are going as we face issues within the world, and certainly at the national level and as we're coming into this political cycle, that we reflect back on the last political cycle, for me anyway. The number one issue that was facing the people of the State of Maine, and the people in my district as I went door-to-door, was healthcare. People are just being bombarded by increased healthcare costs. Whether it be prescription drugs; the elderly who had to make the choices between taking their medication and paying their rent or buying food; or the people who are running into the hospital emergency rooms because they have no coverage and it's all they could do and having the hospitals deal with that cost. Throughout the last session and this one we have made some strides, and some pretty impressive strides, to deal with those issues. We passed a very impressive healthcare program. We have, for the first time, been able to move forward the Maine Rx Program, after all of the delays and the court action where our lawyers from Maine went down and defeated the big lawyers from out-of-state and the U.S. Supreme Court. That was a good day for all of us. Now here we are with this budget, with an alternative that not only proposes a status quo, but actually somewhat of a repeal of some of those actions. I think that is terrific, as we move forward out of this session, knocking on doors again, that we do have a distinction. I'm very proud of this budget because we continue to maintain, in this budget, a focus on healthcare in this state. We're going to continue working to bring down the cost of healthcare, to provide affordable healthcare for people in the state, as we move forward Maine will continue to be a leader.

Now, I know that this is somewhat partisan because I was listening to some of the names. We heard Senator Collin's name mentioned, Senator Snowe's name, Congressman Michaud's name, we had a piece that had President Bush's name on it, we've talked with the Governor, and even people who work for the Governor are being mentioned here. We even heard about Dr. Frankenstein, Batman, and the Joker at one point. The reality is that there is still a healthcare crisis going on out there. I turned on the news the other night and I could see there was some sort of revolt going on in Bangor. I think you know what I am talking about. In fact, I want to take this time to congratulate the good Senator from Penobscot, Senator Cathcart, for being appointed to the Eastern Maine Medical Center Board just in the last few days. The person who pulled this budget together, has presented most of the facts today, just within the last few days has been asked to serve on the Board of the Eastern Maine Medical Center, one of the two largest hospitals in the State of Maine. Congratulations.

One of the things that wasn't in this budget is one of the things we've talked about in the past. We didn't have a discussion about BETR this time. Isn't that nice that we didn't have to deal with that? The double dip. We're talking about the pain that everybody's feeling. Some are feeling more pain than others, we have to admit that. There will be other days for that again, I'm sure, sometime in the future. I'm just very pleased to see what the focus is, that there is a distinction between the two partisan sides, that there is a focus and a side that does want to focus on healthcare. I'm proud to be part of that side and not be part of the side that is looking at some type of status quo or reversal of some of the progress that we've made. We can move forward now. We don't have to be angry, upset, or very emotional about this because it is what we believe. We can move forward and we can vote with good conscience on where we think the state ought to be going. I'll be proud of my vote, as I'm sure all of you will be proud of your votes. Thank you, Madame President.

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

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. I'll be opposing the motion before us, in a partisan fashion. We've both had the opportunities today, both sides of the aisle, to address the issue at length and I think it goes without saying that it, at times, is a very partisan issue for us all. The part that concerns me the most today is the insinuation that this issue has been prolonged, considering the condition of the good Senator from Somerset, Senator Hatch. Our daughter nearly lost her life in an automobile accident last fall. I've had the chance over the years to minister to many people involved with automobile accidents. I'm offended. This isn't going to be a partisan statement at all. I respect everybody in this chamber and I hope that you understand that I respect everybody in this chamber. I would hope that in future debates, particularly over a budget which considers the spending for an entire population of 1.4 million

people of the State of Maine, that we would refrain, from saying, from insinuating, that our methods are other than appropriate. I would urge us all not to think that our methods are inappropriate. That's what makes a healthy debate. I'll debate anybody here, but I won't accept the accusation that I do it at the cost of another human being. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Weston,

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. The good Senator from Aroostook, Senator Martin, offered some great advice. I do serve on a hospital board. We had a meeting last week. I did not hear 'it's okay that you make these cuts' or I didn't hear 'thank you for doing the tax and match instead of the cuts.' What I heard was 'we are hanging on and it is very hard and we cannot bear either the cut or the tax and match.' My hospital is little Waldo County Hospital that has grown up by its bootstraps, and over the years, has changed its reputation. It tries very hard to stay in the black. It doesn't help them to hear that it could have been worse.

THE PRESIDENT: The pending question before the Senate is Passage to be Enacted. 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 (#230)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT – BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

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

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

ENACTORS

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

Emergency Resolve

Resolve, To Provide for Legislative Review of Certain Agency Rules and Submission of Certain Authorized Reports and Legislation

H.P. 1365 L.D. 1839

On motion by Senator **TREAT** of Kennebec, supported by a Division of at least 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 (#231)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT – BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

This being an Emergency Measure and having received the affirmative vote of 18 Members of the Senate, with 17 Senators having voted in the negative, and 18 being less than two-thirds of the entire elected Membership of the Senate, **FAILED FINAL PASSAGE**, in **NON-CONCURRENCE**

Ordered sent down forthwith for concurrence.

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

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:

SECOND READERS

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

House

Resolve, Concerning Payments to Legislators during Special Session (EMERGENCY)
H.P. 1366 L.D. 1840

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

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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

Senate at Ease.

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Emergency Resolve

Resolve, To Provide for Legislative Review of Certain Agency Rules and Submission of Certain Authorized Reports and Legislation

H.P. 1365 L.D. 1839

In House, January 30, 2004, **FINALLY PASSED**.

In Senate, January 30, 2004, **FAILED FINAL PASSAGE**, in **NON-CONCURRENCE**

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

Senator **TREAT** of Kennebec moved the Senate **RECEDE** and **CONCUR**.

On motion by same Senator, supported by a Division of at least 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 (#232)

YEAS: Senators: BLAIS, BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, GILMAN, HALL, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, NASS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, STANLEY, STRIMLING, TREAT, WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT – BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, SHOREY

ABSENT: Senators: HATCH, MITCHELL, TURNER

30 Senators having voted in the affirmative and 2 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **TREAT** of Kennebec to **RECEDE** and **CONCUR**, **PREVAILED**.

Having received the affirmative vote of more than two-thirds of the entire elected Membership of the Senate, this Resolve was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Off Record Remarks

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

ENACTORS

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

Emergency Resolve

Resolve, Concerning Payments to Legislators during Special Session

H.P. 1366 L.D. 1840

Comes from the House, **FAILED FINAL PASSAGE**

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

Senator **TREAT:** Thank you, Madame President, men and women of the Senate. Just a few comments about why it is important that we pass this bill. The constitution actually prohibits, in Article 4, part 3, section 7, that we raise our pay while we are in session, benefiting ourselves at that time. If we do not vote for this, there is the opportunity that we will be paid extra money on top of our legislative salary, which, as you know, does not end until the end of March. We would be getting additional pay. There are several reasons why this is not really a good idea. First of all, it really violates the spirit of the constitution. Secondly, if everyone is paid an additional \$100 a day, it is going to add up to some real money, such as half a million dollars, which we don't have. We will immediately put the budget, which we have just passed, out of balance. The way I look at it, it is really like the double dip. We had a little discussion earlier about the double dip. This would be a legislative double dip. We're being paid once and would be paid twice. So I encourage you to vote in favor of this resolve and I do request a roll call, Madame President.

Same Senator requested a Roll Call.

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

Senator **NASS:** Thank you, Madame President, men and women of the Senate. It is my intention to vote against this. The York County Community College has been badly treated today, in this body and the other, by this budget. It is my intention to take the net proceeds from this and donate it to that college. Promises have been made to faculty and promises have been made to students, which will not be fulfilled because of what we've done today. That is my response. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY:** Thank you, Madame President, men and women of the Senate. I, too, will be voting against this measure. There are consequences to our actions, by the choice of choosing the majority budget, this was known. There are decisions that were made, decisions that I wouldn't have made. I, too, will be donating my amount that I receive, so it won't be double dipping. I challenge each of you to do the same thing. Find your favorite charity. Find a source that needs the money. Maybe it was in the budget, maybe not. Mine is going to the youth of Washington County because they need the money for new uniforms and some new books at the library. That is what I'll be doing with my money. I encourage my colleagues to do the same so you're not double dipping. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. I had to sit in Appropriations and watch people come, one by one, asking to keep our promises. That was a hard two days for me, knowing that it was possible to do that. So I am not going to support this motion. I'm going to try to restore some promises to my Waldo County Preschool who is going to have to close down some classrooms, to my rural health center, and to a shelter workshop that is losing money unnecessarily through this.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator **BENNETT:** Thank you, Madame President and fellow members of the Senate. I think the very fact that this bill is necessary and is before us right now is the true violation of the spirit of the constitution. The reason that we have that little bit of a hurdle that we have to overcome with this bill is because we shouldn't be adjourning before our work is done and then calling ourselves back into special session. That is the true failure here. I, like others, am going to be contributing the proceeds from these extra payments to entities in my district who are suffering because of the budget that was just passed, specifically Stephen's Memorial Hospital in Norway and the opportunity for students to attend the university and the community college system. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Savage.

Senator **SAVAGE:** Thank you, Madame President, men and women of the Senate. I, too, am going to follow my fellow Senators because two sessions in a row I have tried to support Pen-Bay Hospital by eliminating the process that we enacted here today where they will lose about \$200,000. My small paycheck that I will get won't make a dent in that, but the proceeds of it will go to Pen-Bay. Thank you.

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

Senator **BROMLEY:** Thank you, Madame President. I just hope the headlines in tomorrow's news is that the budget passes and Dirigo Health survives and not that the Senate passes off budget special slush fund for their pet charities, paid for by the taxes of Maine.

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

Senator **SAWYER:** Thank you, Madame President, ladies and gentlemen of the Senate. In the spirit of this evening, I want to announce that my favorite slush fund will be the Eastern Maine Community College, which we bagged today.

On motion by Senator **TREAT** of Kennebec, supported by a Division of at least 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 (#233)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, THE PRESIDENT – BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, NASS, SAVAGE, SAWYER, SHOREY, TREAT, WESTON, WOODCOCK, YOUNGBLOOD

ABSENT: Senators: HATCH, MITCHELL, TURNER

This being an Emergency Measure and having received the affirmative vote of 16 Members of the Senate, with 16 Senators having voted in the negative, and 16 being less than two-thirds of the entire elected Membership of the Senate, **FAILED FINAL PASSAGE.**

Senator **TREAT** of Kennebec moved the Senate **RECONSIDER** whereby the Resolve **FAILED FINAL PASSAGE.**

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **RECONSIDER** whereby the Resolve **FAILED FINAL PASSAGE.**

Senate at Ease.

Senate called to order by the President.

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

ORDERS

Joint Order

On motion by Senator **TREAT** of Kennebec, the following Joint Order:

S.P. 683

ORDERED, the House concurring, that pursuant to the provisions of Article IV, Part Third, Section 16 of the Maine constitution, and in order to conform with Article IV, Part Third, Section 7 of the Maine Constitution which prohibits passing any law which would result in increasing compensation during the existence of the Legislature which enacted it and;

WHEREAS, legislative compensation through April 21, 2004, is already provided for by statute, as compensation for the second regular session, and any compensation during the same period for a special session would in the opinion of the legislature constitute an increase in legislative compensation specifically prohibited by the Maine Constitution;

Now therefore be it ordered that there shall be no increase in compensation for service in any special session of the 121st legislature held prior to April 22, 2004, above the pay for the second regular session which by statute is to adjourn by the third Wednesday in April.

READ.

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

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. I object to this order on the grounds of its lack of constitutionality. I would like to go on record as saying so. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator **BENNETT:** Thank you, Madame President and fellow members of the Senate. Once again we are confronted with an issue that is before us for the simple reason of subverting the constitution and the processes that have held this legislature in good stead for many years. I object to it. I think it is abominable and I ask for the yeas and nays.

Same Senator requested a Roll Call.

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

Senator **TREAT:** Thank you, Madame President, men and women of the Senate. I guess I object to this order being considered not within the constitution. It certainly carries out the spirit of that constitution, the constitution which very clearly states 'no law increasing their' meaning legislators 'compensation shall take effect when the existence of the legislature which enacted it' and we are going to exist beyond this date. We also have authority, by the order, to set salary and to make appropriations. That also is in the constitution, Article 4, part 3, section 16. If we can set payment of salaries by order, it would seem to me that we can set the level of those salaries. That is what this is doing, in effect, by saying that we're not going to give ourselves an extra payment every day that we are here beyond that salary and expense money that we're currently being paid.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY:** I request to pose a question through the chair.

THE PRESIDENT: The Senator may pose his question.

Senator **SHOREY:** The original enactor we had voted on, I believe, stated that we would not accept a pay raise or accept additional pay. I didn't see anywhere where we had actually voted on it ourselves to increase our own. I guess my question is, where did it come from originally that if the Governor, or because of a majority budget, calls us back into session that there is a \$100 a day stipend given to legislators? Where did that come from? I never voted on anything like that.

THE PRESIDENT: The Senator from Washington, Senator Shorey poses a question through the Chair to anyone who may wish to answer.

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

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator **BENNETT:** Thank you, Madame President, men and women of the Senate. This order, quite simply, tries to have it both ways. This legislature is poised to adjourn, complete its work, and then call itself back in, or have the Governor call it back in, for a special session. The same provision of the constitution, Section 16, that is being subverted here, the 90 day requirement, is being referenced as the reason for passing this order. It is a ludicrous argument. Thank you, Madame President.

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

Senator **TREAT:** Thank you, Madame President, men and women of the Senate. You may not, as I do, have this particular provision of the constitution before you, so I will read it. No act or resolution of the legislature takes effect until after 90 days except orders or resolutions pertaining to the facilitating of the performance of either branch of the legislature, or committee or officer thereof, or appropriate money therefore or for the payment of salaries fixed by law.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I suppose that this is going to obviously date me. In my tenure, since I was first elected in 1964, we have done this at least three times, that I can recall. In no instance did the legislature get the \$100 a day because they passed an order so that it would not happen. There is a history, there is a precedent, and there are plenty of AG opinions that document that.

THE PRESIDENT: The Senator from Oxford, Senator Bennett, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **BENNETT:** Thank you, Madame President. Not wishing to question the extraordinary institutional memory of the Senator from Aroostook, Senator Martin. In the Second Regular Session of the 119th Legislature, the legislature did, in fact, get the \$100 a day. I think it was put to similar use as was suggested earlier this evening by some of the members. Thank you.

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

Senator **MARTIN:** Thank you, Madame President. I just wanted to inform members of the Senate that was the session that I was not a member of this legislature.

THE PRESIDENT: The pending question before the Senate is Passage. 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 (#234)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT – BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, NASS, SAVAGE, SAWYER, SHOREY, WESTON, WOODCOCK, YOUNGBLOOD

ABSENT: Senators: HATCH, MITCHELL, TURNER

17 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 3 Senators being absent, on motion by Senator **TREAT** of Kennebec, the Joint Order was **PASSED**.

Sent down for concurrence.

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

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

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

ORDERS

Senate Orders

On motion by Senator **GAGNON** of Kennebec, the following Senate Order:

S.O. 34

ORDERED, that a message be sent to the House of Representatives informing that Body that the Senate is ready to Adjourn Without Day.

READ and PASSED.

The Chair appointed the Senator from Kennebec, Senator **GAGNON** to deliver the message to the House of Representatives. The Sergeant-At-Arms escorted the Senator to the House of Representatives.

Subsequently, the Senator from Kennebec, Senator **GAGNON** reported that he had delivered the message with which he was charged.

On motion by Senator **TREAT** of Kennebec, the following Senate Order:

S.O. 35

ORDERED, that a message be sent to Governor John E. Baldacci informing him that the Senate is ready to Adjourn Without Day.

READ and PASSED.

The Chair appointed the Senator from Kennebec, Senator **TREAT** to deliver the message to the Governor. The Sergeant-At-Arms escorted the Senator to the Governor's Office.

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

Subsequently, the Senator from Kennebec, Senator **TREAT** reported that she had delivered the message with which she was charged.

THIS PAGE LEFT BLANK INTENTIONALLY