

As one may have gathered from the headlines and political stories in the local news outlets, the atmosphere is cantankerous at the State House and has been for several weeks now. A little before midnight on Thursday, March 20, the Democrats in both the Senate and the House enacted by a majority vote a combined supplemental and biennial budget. Democrats refer to this budget as a “continuing services budget” meaning it is almost an entirely flat funding of all departments and services from the current 24/25 biennial budget into the 26/27 biennial budget.

The Supplemental Budget

There has been an ongoing budget saga that led to this result since late February when Republicans in both the House and Senate would not join the Democrats in passing the proposed FY 25 Supplemental budget as had been unanimously supported by the bipartisan group of members of the Appropriations Committee (AFA) present on the evening of February 5th, including the Republican House lead, Rep. Jack Ducharme (R-Madison), and Republican Senate Lead, Sen. Susan Bernard (R-Aroostook).

However, the next day, one of the absent House Republicans, Ken Fredette (R-Newport), decided he wanted to vote in opposition to the unanimous report. This might be considered the triggering moment that has led to countless hours of debate and overtime hours for State House Chamber staff, which led to the Democrats pushing through a majority budget.

The Legislature had voted in new Joint Rules early in January. One of these new rules is that an absent committee member, while remaining able to vote on a bill within 2 business days if one is absent when the committee votes, may NOT cause a new report to be created. One can only join whatever report or reports were created before the work session is adjourned on any particular bill.

Fredette was unable to officially create a new “ought not to pass” report on the Supplemental budget vote in AFA, and thus it appeared on the House and Senate Calendars, not as a Divided Report, but rather on the Consent Calendar, where all unanimous bills appear in order to potentially move more quickly through the process.

This issue then had to be discussed for hours in both the AFA Committee and on the floor of the House, and this, plus Fredette’s opposition to the Supplemental Budget, led to its failure to garner the necessary two-thirds support in both chambers to allow it to take effect immediately. In fact, the votes on February 11th were all completely partisan.

The timing of this supplemental budget going into effect is critical for two important reasons. Maine needs to comprehensively treat outbreaks of spruce budworm that are

already appearing in our northern and western forests. This treatment should take place relatively soon and leaving any of our susceptible forests untreated risks an infestation that could be devastating to our forest products industry, as it has been in the past.

The other major issue, and the one that really caused the Republicans to ask for more compromises from the Democrats, is the roughly \$118 million revenue shortfall in the MaineCare program in FY 25.

In order to get the original unanimous committee vote in support, Republicans proposed, and Democrats accepted several amendments requiring internal reviews of the MaineCare programs with reports back to both the AFA and Health and Human Services (HHS) committees within the next 6 months.

After the strictly partisan votes for engrossment in both the House and Senate, Senate Republicans offered amendments to it. Surprisingly, an amendment from Sen. Marianne Moore (R-Washington), proposing to fund the statutorily required cost of living increases for direct care workers actually received enough support from Democrats to pass. This was supported unanimously in the HHS committee, but neither Democrats nor Republicans pushed for its inclusion in the unanimous report out of the AFA committee.

This caused a standstill in proceedings as Democratic leadership tried to ascertain if the Republicans in both chambers would support the budget if this \$3.8 million was added. It became clear behind closed doors that it would not. Democrats eventually stripped the emergency clause from the bill, thus allowing it to pass with a simple majority, but causing it to not go into effect until 90 days after the First Regular Session adjourns *sine die*, or "without day." This would normally mean the Legislature has completed its work and would not return until the next Regular Session.

However, when it came time for final enactment in the Senate, the Democrats tabled the bill, hoping to negotiate a 2/3 vote. If they had enacted the bill with a simple majority, adjourned *sine die* on February 11th, and the Governor had signed the budget, it would have gone into effect 90 days later on Monday, May 12th.

This would have made the funding for the spruce budworm spraying much less problematic, although still not ideal. It also might not have completely avoided capped payments to MaineCare providers (hospitals, nursing homes, developmental disabilities, mental health, and substance abuse services, etc.). However, the need to cap payments would have been greatly reduced in terms of both amounts and length of time. Payments would have been fully restored on May 12th and services provided during the capped period would have been paid retroactively.

Governor Mills made clear, in public and private, that she wanted the parties to come to a compromise that would garner the two-thirds support necessary to enact the supplemental budget and allow it to take effect immediately. She also made clear privately that she would not call the Legislature back in if they adjourned upon passage of a majority Supplemental Budget. Governor Mills was opposed to calling the Legislature back in twice before statutory adjournment in June.

Of course, if the Democrats had adjourned and Governor Mills had not called them back in time to enact a biennial budget, the State would have shut down. But at this point in the process there was a public agreement to consider negotiations over the February school break, with an understanding that they would hopefully pass a two-thirds Supplemental budget when they returned. The Legislature took it up again on February 25th to no avail. It was apparent that not much negotiating and no agreement had come to fruition in their time off.

On March 11th, the Senate Democrats offered an amendment that included the COLA's mentioned above, limits on housing within the General Assistance (GA) program administered by municipalities, requirements for better training for municipal officials in how GA funds can be used, and the creation of the position of a GA overseer to provide this training and support to municipalities.

Hopes were high that morning as the amended supplemental budget bill received almost unanimous support in both chambers on engrossment. It also received over two-thirds support in the House on enactment. However, the Senate R's, other than Senators Moore and Bennett (R-Oxford), all reversed their support on enactment and the bill failed enactment. The Democrats tabled the bill again at that point.

Senate President Mattie Daughtry (D-Cumberland) called the Senate back in on the 13th, but once again, Senate Republicans did not provide enough votes to pass it as an emergency. The Democrats allowed it to die at that point.

Part 1 of the Biennial Budget - "Continuing Services Budget"

The next day, Friday March 14th, the Democrats on the AFA committee let interested parties know that the committee would be meeting later that afternoon to begin discussing and voting on a "continuing services budget." This work session started around 4 pm and ended a little before 9 pm. As one might assume, the Republicans expressed a great deal of frustration regarding the process at every opportunity. Some of them did vote for certain items if they had supported them throughout the prior budget discussions, and at other times explained to the public why they were voting against certain items based on their opposition to the process. The final vote was completely partisan with all Democrats

in support and all Republicans in opposition.

This budget was taken up in both the House and Senate on Thursday March 20th. A little before midnight it was finally enacted in the Senate. Republicans all voted against it in both chambers. Senators Hickman (D-Kennebec) and Brenner (D-Cumberland), voted against it in the Senate. Rep. Crockett (D-Portland) voted against it in the House.

Both chambers adjourned *sine die* on March 21st around 12:30 am. This means the effective date of the budget and any other bills or resolves passed before this date will become effective on June 20th. The Governor called them back in to a Special Session starting Tuesday March 25th and committee work has continued as normal.

To be clear, all items in this new budget were contained in either the previously worked Supplemental and Biennial Budgets. The Biennial budget public hearings and committee specific work session have all been completed. Of course, there were no public discussions within the AFA committee about the specific committees' report backs or why the AFA Committee members would oppose or support any part of it.

The "continuing services" budget contains the vast majority of the elements within the Governor's proposed Supplemental and Biennial budgets and amounts to \$11.3 billion. It is the entire baseline budget to keep the State functioning according to current statute and includes the spruce budworm funding and the MaineCare shortfall funds. It also includes a small 1.95% COLA for some, but not all, direct care workers.

It does not include any of the new programs, taxes, and savings in the Governor's proposed biennial budget. These were an increase in the tax on tobacco products, and new taxes on prescriptions and ambulance services. It also did not include the Governor's proposed caps on GA, nor any other cuts proposed by the Governor.

While Republicans are questioning whether there is enough projected revenue to pay for everything the "continuing services" budget contains, AFA House Chair, Rep. Drew Gattine (D-Westbrook), has stated that there is still \$124 million in revenue unallocated. Unless there is any appetite to tap into the \$968.3 million in the Budget Stabilization Fund, this \$124 million represents the money available for any legislation currently being considered that will have fiscal implications or anything contained in the Governor's proposed budgets that was not accounted for in the new budget. Of course, there were tens of millions in both cuts and increased taxes in the Governor's original proposal that, if passed will generate revenue and savings.

The Commissioner of the Department of Administrative and Financial Services (DAFS),

Kirsten Figueroa, has made mention of a “change package” to be offered before the end of the Legislature’s work. The Consensus Economic Forecasting Committee will meet on Monday, March 31st and the Revenue Forecasting Committee will meet on April 28th and provide their report on May 1st. These reports, and the impact of the decisions made in DC, will all play a significant role in the budget discussions going forward.

Preti will provide another update as we gather more information and clarity. Please don’t hesitate to reach out to us with you questions and concerns.

Preti Flaherty’s Government Affairs Practice Group

Dan Walker

Chair, Government Affairs Group
dwalker@preti.com

Bruce Gerrity

bgerrity@preti.com

Diane Johanson

Legislative Liaison
djohanson@preti.com

Steven Hudson

shudson@preti.com

Andrew Roth-Wells

Legislative Liaison
aroth-wells@preti.com

John Doyle

jdoyle@preti.com

Jared Bornstein

Preti Strategies*
jbornstein@preti.com

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