

MAINE STATE LEGISLATURE

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One Hundred and Twenty-Third Legislature
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Daily Edition

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Madame President before this evening's session began. I remarked that it wasn't our finest hour. I stand by that statement, privately and publicly. I'm reminded of the movie starring Paul Newman where he was a prisoner in a southern state prison work detail. He kept escaping and coming back. The warden pounded the devil out of him one day and leaned into his face and said, 'What we have here is a failure to communicate.' When you think about that, what we have is a failure to communicate and keep talking with each other. To cast about the blame on why we are where we are at this moment, I think we can all look in the mirror and see the reason why. It isn't one side or the other. I think we all have a shared blame.

Now to the issue at hand, Madame President, if I'm able to read this budget document correctly, there is sufficient positive balance remaining in FY 09 to restore OPEGA to its rightful place and I would encourage you to consider voting against the pending motion to Indefinitely Postpone because we can restore this and keep the budget in balance. I would ask you to consider that as we finish up our discussion on this matter. Thank you, Madame President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Indefinitely Postpone Senate Amendment "B" (S-534). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#356)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, HOBBS, MARRACHE, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BENOIT, COURTNEY, DOW, GOOLEY, HASTINGS, MARTIN, MCCORMICK, MILLS, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-534), **FAILED**.

On motion by Senator **MILLS** of Somerset, Senate Amendment "B" (S-534) **ADOPTED**.

On motion by Senator **MARTIN** of Aroostook, the Senate **RECONSIDERED** whereby it **ADOPTED** Senate Amendment "B" (S-534).

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

Senator **MARTIN** of Aroostook moved to **TABLE** until Later in Today's Session, pending the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-534).

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#357)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, HOBBS, MARRACHE, MARTIN, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BENOIT, COURTNEY, DOW, GOOLEY, HASTINGS, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **MARTIN** of Aroostook to **TABLE** until Later in Today's Session, pending the motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-534), **PREVAILED**. (Roll Call Ordered)

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

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

Bill "An Act Making Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2008 and June 30, 2009"

H.P. 1651 L.D. 2289

Tabled - March 31, 2008, by Senator **MARTIN** of Aroostook

Pending - motion by Senator **ROTUNDO** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-534) (Roll Call Ordered)

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

(In House, March 31, 2008, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.)

(In Senate, March 31, 2008, under suspension of the Rules, **READ TWICE**, without reference to a Committee. On motion by Senator **MILLS** of Somerset, Senate Amendment "B" (S-534) **READ** and **ADOPTED**. On motion by Senator **MARTIN** of Aroostook, **RECONSIDERED**.)

The Chair ordered a Division.

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

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President. As I understand it, having reconsidered the earlier motion to Indefinitely Postpone the OPEGA amendment, we are back on the amendment and the pending motion is Indefinite Postponement.

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

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. I'll try to be brief. I was very apprehensive as far as OPEGA being funded in the next few days. I just had a brief meeting with the leader in the other Body and several other members of my party from the other Body. I now, and just now, am comfortable that I believe there is a firm commitment to restore these positions to OPEGA and to proceed in the next few days to do so. I will be supporting the pending motion. I'm still a little uncomfortable, but not as uncomfortable as I was. This is a very big issue with me and I'm pleased to just learn that there are several members of the other Body in my party that feel strongly that OPEGA should be restored and have the positions restored so they can do their work in the future. Thank you.

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

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

THE PRESIDENT: The Senator may pose her question.

Senator **PLOWMAN:** Thank you, Madame President. Would someone please explain to me in what form and what the staffing will look like as compared with the amendment that we have talked about tonight as opposed to the amendment which was introduced by a member of the other Body who serves as Chair of the Appropriations Committee? I understand there are two different ideas about what staffing OPEGA would look like. Before this goes too far I'd like to have it on the record as to what this will actually look like as this deal progresses. Thank you.

THE PRESIDENT: The Senator from Penobscot, Senator Plowman poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Madame President. It is my understanding that what is going to be presented in a separate L.D. as soon as tomorrow will be the form of OPEGA funding that was contained in Senate Amendment "Q" that was offered by the Senator from Cumberland, Senator Diamond. Thank you.

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

Senator **RAYE:** Thank you, Madame President. I wish to pose a question through the Chair.

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

Senator **RAYE:** Thank you, Madame President. I am wondering if there is anyone in this Body who can tell us what the legislation that has been promised over the next few days will do with respect to the language before us in Part LLLL that I read into the record a few moments ago that sets up a process and requires the OPEGA director to report to two committees and requires the Government Oversight Committee to report out jointly with the State and Local Government Committee in the next legislature recommendations for changes to the legislature's government oversight function because to many of us this language is as deeply troubling as was the budget cut.

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

Senator **MARTIN:** Thank you, Madame President. The question that has been posed by the Senator from Washington, Senator Raye, is not before us. The question before us is the money that we have committed to restore. No one ever mentioned anything beyond that. What we have is the amendment that has been introduced by the Senator from Somerset, Senator Mills. I have no problem discussing other matters, but that is not something that was ever brought to my attention.

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

Senator **PLOWMAN:** Thank you, Madame President. I appreciate that the motion before us is Indefinite Postponement. I'll speak to that motion. I would urge you to defeat the motion. We've heard often about a bird in the hand. Right now I'd rather have a bird in the hand than to rely on the shenanigans that have gone on back and forth between the two Bodies in the last week. There is still sitting before us a bill that was brought before us last week that had this information in it and had this in it. I'd be very happy to actually defeat this motion and perhaps table and bring back the bill that is currently on the table, which has this provision

in it. You can feel free to pass that bill because it has the amendment by the Senator from Cumberland, Senator Diamond, on it. We would be able to proceed with the same issues that are before us with the first bill, which actually passed in that manner. I think that would be the most honest way of approaching this rather than thinking that a promise of what might happen tomorrow or the next day is what we hold on to. As I've said before, and at least we would have this motion voted up or down, it seems to be that there is a certain fear about running things up the flagpole when you don't have the votes. That's what happened last week. I'm very disappointed that we're back in the position of Indefinite Postponement of this and that we're supposed to agree to hallway talk, which has no bearing on the record, which has no votes in this Body, which does not hold anybody accountable, and which is very hard to impress on the people of the state of Maine that it's not a backroom deal. This year people have been asking us for transparency, credibility, and accountability. Those were all the catch phrases for this year. That's what OPEGA stands for. That's what offering amendments to bills stand for. When things break down, and you can't agree on everything, you offer amendments. You vote them up or down. You proceed, because that is accountable, transparent, and ethical. Those are the catchwords of this year. I would urge you to go forward and turn down this motion, to put this on the bill that is before us, and to make it look just like the one we had last week. Wouldn't that be something, because here we stand, and it's a big hurry I understand with only 3-1/2 hours until the deadline when everybody turns back into a pumpkin. We're really not that far apart. The problem is that what's right is losing out to gamesmanship. What the people expect is at the mercy of back hall deals. Whether it happened on this floor or another floor, this is before the votes count. This is were you say, 'I did it the right way and I voted it up or down.' I can stand here, I'm sure, and talk until I'm blue in the face. In fact, I can talk until I'm blue in the face.

THE PRESIDENT: If you continue, and it becomes obvious that you are taking up time merely to take up time, I will object.

Senator **PLOWMAN:** Thank you, Madame President. I could talk until I'm blue in the face but I won't because it doesn't do any good. It doesn't do any good. Gamesmanship wins and hardened hearts win. What the people expect from us doesn't. I'm actually so disheartened with what happened last week and what is sitting before us on this calendar, which is the budget bill with a totally different number. I'm totally disheartened. We have a lot of session left after tonight. We still have to work together on very many issues. They are just as important as this one. I would urge you to defeat the motion on the floor. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Indefinitely Postpone Senate Amendment "B" (S-534). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#358)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, HOBBS, MARRACHE, MARTIN, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BENOIT, COURTNEY, DOW, GOOLEY, HASTINGS, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

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 "B" (S-534), **PREVAILS**.

On motion by Senator **COURTNEY** of York, Senate Amendment "F" (S-540) **READ**.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. At the end of last session the legislature gave a charge to a small group of people, members of this Body, and created the Prosperity Committee. The charge was to look at a lot of the different reports, specifically look at the Brookings Report, and some of the recommendations to try to put our state back on track to prosperity. Unfortunately, throughout this session the report has lingered and collected dust while the people of Maine have been struggling to pay their oil bills and fill their gas tanks. These recommendations, which were agreed to unanimously, have lingered. This amendment would propose to add to the budget to create the Maine Government Efficiency Commission and have that commission report back to the legislature, creating the \$75 million savings, develop a long-term plan for restructuring government at all levels, and to reduce the state's overall tax burden relative to similar states. It would take this \$75 million and move the money into the tax relief fund for Maine residents. Furthermore, it would take future revenues above the L.D. 1 cap, which we're going to have some day because the economy is not always going to be like this. There is going to come a time when this state, the economy, and the people of the state are going to have a much brighter outlook.

The great thing about this amendment, which was unanimously agreed upon by the Prosperity Committee, is it puts us on a path that would reduce the income tax down to 4.5% by taking the \$75 million and all the extra money when the economy rebounds. If we had done this back in the late 1990's, when money was flowing in and we couldn't spend it quick enough, we'd have a very different outlook today. In my opinion, we'd be much more competitive. We could attract good jobs because companies would want to be here. People would, perhaps, be more apt to die here. Over the last few years there have been so many people who have decided to move their residence out-of-state for six months and a day. They take their money because if they keep their money here, and use legal counsel here, Maine Revenue assumes they are a resident here. We lose their

wealth. We lose their money. We lose that economy. It's been very disappointing.

We worked very hard in the Prosperity Committee. There were 16 members and we all came to a unanimous agreement. We agreed and part of the agreement was that we would bring this amendment forward for a straight up or down vote. Commitments were made. Promises, assurances, that we'd vote for it, but they lingered and when you asked it was always the other guy that was waiting for this person or that person to bring it forward. This might be the only crack we get at this. I want to give you all the chance tonight to vote to bring prosperity to the state of Maine. I want you all to have the opportunity to do what the Prosperity Committee did. They voted unanimously to get on a path to reduce the income tax in this state to 4.5%. What a tremendous goal. Endorsed by Republicans, Independents, the tribal representative, and Democrats. I really want to encourage you. This is about changing the future of the state. You have it within your grasp. We all do. I would just encourage you all to support this amendment. Let's make Maine a brighter state. Thank you.

Senator **ROTUNDO** of Androscoggin moved to **INDEFINITELY POSTPONE** Senate Amendment "F" (S-540).

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#359)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, HOBBS, MARRACHE, MARTIN, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BENOIT, COURTNEY, DOW, GOOLEY, HASTINGS, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

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 "F" (S-540), **PREVAILED**.

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

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. Before we pass this I wanted to remind everybody that I was proud of the Senate Thursday when we passed an amendment to the budget that allowed at least an effort for a bipartisan approach to the budget. It was one that six Senators worked long and hard on. When the time came we felt we were just trying to make what we considered to be an option

for this legislature. It ended up being that the other Body almost totally rejected it. We're big boys and girls. We can accept that. In fact, it was a very overwhelming rejection. It keeps one's ego in order. I appreciate and respect those disagreements. I did want to say and remind everybody that it was a sincere effort. Contrary to the one low point in the debate Thursday night when the six Senators were accused of meeting in secret, conjoining, and possibly being unethical, that was soundless and ridiculous. We met in room 426 for lunch most times with committee members coming and going, having their lunch, and the public coming and going while waiting for hearings. To suggest for a minute that anything other than what goes on in this building a hundred times a day happened is totally unacceptable. I would remind you, and encourage you, to continue working for things you believe in, bipartisan efforts or whatever they may be, and do not let those types of false accusations, which cause you to be questioned over the weekend about what's going on in Augusta, sway you. Ignore those because they are meant to intimidate. I would say that what we did, what we are doing, and what we are going to do is the process. I would hope that we will continue to do that process in the utmost manner as opposed to that one low point in what otherwise was three hours of good debate. I'll be voting for the budget. We made our honest effort to bring a bipartisan effort to this Body and this legislature. I appreciate, Madame President, the opportunity to speak.

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

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President, men and women of the Senate. I wanted to say that I didn't intend any blanket condemnation of my colleagues on the other side of the aisle. There were a number of you who did sincerely reach out to see if we could put together a bipartisan budget. I want to go on record as thanking you, very sincerely, for your efforts.

THE PRESIDENT: The pending question before the Senate is Engrossment. 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 (#360)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, HOBBS, MARRACHE, MARTIN, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BENOIT, COURTNEY, DOW, GOOLEY, HASTINGS, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, **PASSED TO BE ENGROSSED**, without reference to a Committee, in 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

Bill "An Act To Protect Access to Health Care"
H.P. 1652 L.D. 2290

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.

Under suspension of the Rules, **READ TWICE**.

On motion by Senator **WESTON** of Waldo, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED**, without reference to a Committee, in concurrence.

Senate at Ease.

Senate called to order by the President.

On motion by Senator **MITCHELL** of Kennebec, **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:

ENACTORS

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

Act

An Act Making Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2008 and June 30, 2009

H.P. 1651 L.D. 2289

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#361)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, HOBBS, MARRACHE, MARTIN, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BENOIT, COURTNEY, DOW, GOOLEY, HASTINGS, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

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.

ORDERS OF THE DAY

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

Bill "An Act To Protect Access to Health Care"
H.P. 1652 L.D. 2290

Tabled - March 31, 2008, by Senator **WESTON** of Waldo

Pending - **PASSAGE TO BE ENGROSSED**, without reference to a Committee, in concurrence

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

(In House, March 31, 2008, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.)

(In Senate, March 31, 2008, under suspension of the Rules, **READ TWICE**.)

On motion by Senator **ROSEN** of Hancock, Senate Amendment "A" (S-541) **READ**.