

MAINE STATE LEGISLATURE

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

Volume II

First Regular Session (Continued)
May 21, 2003 to June 14, 2003

First Special Session
August 21, 2003 to August 22, 2003

First Confirmation Session
October 30, 2003

Second Regular Session
January 7, 2004 to January 30, 2004

Second Special Session
February 3, 2004 to March 18, 2004

Pages 715 - 1415

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

In Senate Chamber
Thursday
March 4, 2004

Senate called to order by Joy J. O'Brien, Secretary of the Senate.

The Senator from Kennebec, Senator **TREAT**, was appointed to serve as President Pro Tem for the session.

The Secretary requested the Sergeant-At-Arms escort the Senator from Kennebec, Senator **TREAT**, to the Rostrum where she assumed the duties as President Pro Tem.

Senate called to order by President Pro Tem **SHARON A. TREAT** of Kennebec County.

Prayer by Chaplain Lin Peyton of the Episcopal Dioceses of Maine.

CHAPLAIN PEYTON: Oh God, known to us by a myriad of names and through a myriad of ways, we invoke many of those names this morning as we call upon You, in both gratitude and humility, to bless the work that we do here together. Gather with and within us as we turn our hearts and minds to the tasks, the issues, arguments, events, and resources before us, ever mindful of our responsibilities and decisions that are critical to the lives and well-being of our citizens whose trust we carry as a tremendous privilege. As we sit in this chamber of power, wrestling with hard choices, complex problems, and limited resources, may we become more aware of our own prejudices and our own possessiveness that can often blind us from just decisions. At the same time, may we be aware of the incredible talent and dedication of those with whom we work. May we find the courage to truly listen to each other, to our own initiatives and hearts, to our people, to our environment, and most especially, to those without a voice as we carefully hold the stories that we hear of struggle and hope, fear, violence, desperation, and also discover courage and beauty. May we strengthen our resolve to provide for needs, to bring about healing, and to create justice. Today my we honor all our farmers and those who work so hard in the agricultural industry, living so close to our earth and bringing food to our tables, food we often take for granted. May the huge problems, not only of the agricultural world but of all aspects of our life, that affect us not defeat us but rather push us and lead us to deeper levels within us, collectively and individually, where we often discover those hidden pockets of wisdom, creativity, and strength. Gift us, oh God, with the grace of laughter and of humor that can loosen us and untangle those tough knots of distress and dare us to dream, to dream as did Dora Pinkham, Katherine Allen, and all those early women who sat here in the seats that we now sit, to dream colorfully and big for our people, our environment, our world, for the talents and the energies, the hopes and the care within this chamber and in this

state are enormous. Draw us all ever closer together in our understanding of the oneness of the human family and of all life in this state, in our country, and around the world. Most of all, oh God, may we afresh here, hold, dream, and bear Your love within this broken world, Your sacred home. Amen.

Reading of the Journal of Wednesday, March 3, 2004.

Off Record Remarks

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

ORDERS

Joint Order

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

S.P. 753

ORDERED, the House concurring, that when the House stands Adjourned it does so until Tuesday, March 9, 2004, at 9:00 in the morning and the Senate Adjourns until Tuesday, March 9, 2004, at 10:00 in the morning.

READ and PASSED.

Sent down for concurrence.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Clarify Certain Provisions Contained in the Recodified Hunting, Fishing and Trapping Laws"

S.P. 629 L.D. 1697
(C "A" S-388)

In Senate, February 19, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-388).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-388) AS AMENDED BY HOUSE AMENDMENT "A" (H-729)** thereto, in **NON-CONCURRENCE.**

On motion by Senator **BRYANT** of Oxford, the Senate **RECEDED** and **CONCURRED.**

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

COMMUNICATIONS

The Following Communication: S.C. 479

**MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333
COMMITTEE TO STUDY THE REVENUE SOURCES
OF THE OFFICE OF CONSUMER CREDIT REGULATION**

March 2, 2004

The Honorable Beverly C. Daggett, President
Maine State Senate

The Honorable Patrick Colwell, Speaker
Maine House of Representatives

State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

Pursuant to Public Law 2003, chapter 462, the Committee to Study the Revenue Sources of the Office of Consumer Credit Regulation is pleased to submit its final report, including recommended legislation. Copies of the report have been placed on file with the Law and Legislative Reference Library.

Sincerely,

S/Senator Lynn Bromley
Senate Chair

Representative Guy J. Duprey, Jr.
House Chair

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

SENATE PAPERS

Bill "An Act To Amend the Licensing Laws for Hearing Aid Dealers and Fitters"

S.P. 747 L.D. 1908

Sponsored by Senator DAVIS of Piscataquis. (GOVERNOR'S BILL)

Cosponsored by Representative PELLON of Machias and Senator: BRENNAN of Cumberland, Representatives: AUSTIN of Gray, BROWN of South Berwick, DUNLAP of Old Town, DUPREY of Medway, PERRY of Bangor, ROGERS of Brewer.

On motion by Senator **BROMLEY** of Cumberland, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

Sent down for concurrence.

Bill "An Act To Promote Decision Making Within the Workers' Compensation Board" (EMERGENCY)

S.P. 750 L.D. 1909

Sponsored by Senator EDMONDS of Cumberland.
(GOVERNOR'S BILL)

Cosponsored by Representative TREADWELL of Carmel and Senators: BLAIS of Kennebec, DAVIS of Piscataquis, Representatives: BRUNO of Raymond, DUPREY of Medway, FISCHER of Presque Isle, RICHARDSON of Brunswick, SAVIELLO of Wilton, WATSON of Bath.

On motion by Senator **EDMONDS** of Cumberland, **REFERRED** to the Committee on **LABOR** and ordered printed.

Sent down for concurrence.

Bill "An Act To Establish Reciprocity in Laws Governing the Transportation of Lobsters by Nonresidents"

S.P. 749 L.D. 1905

Sponsored by Senator LEMONT of York.

Cosponsored by Representatives: ANDREWS of York, WHEELER of Kittery.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

On motion by Senator **DAMON** of Hancock, **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed.

Sent down for concurrence.

ORDERS

Joint Resolution

Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of:

Zenaide Grant Wentworth, of Knox, the daughter of Percy and Amy Grant, who was born in Frankfort, Maine on September 17, 1909. She was the holder of her community's Boston Post cane and the recipient of the 1982 Outstanding Citizen award presented by the Brooks Booster Club. She and her husband, the late Lloyd L. Wentworth, raised 5 children plus a few of her own siblings, while they owned and operated a dairy and Hereford farm in Knox. The couple later purchased the general store in Brooks and ran it for 22 years. Education was extremely important to Mrs. Wentworth, and she insisted that all her children complete their high school years, and was very pleased when several of her children received degrees from Maine's higher education institutions. One of her proudest moments was when she received her own high school diploma at age 56. Mrs.

Wentworth was a longtime member of the Grange and was recognized by the National Grange of Patrons of Husbandry for 50 years of continuous membership. She attended the Brooks Congregational Church and was the church's treasurer for many years. She participated in numerous organizations and assisted many individuals and families in various ways. Mrs. Wentworth resided on her farm for 70 years and will be long remembered for her "feisty" personality and her steadfast support for her family, friends and neighbors. She will be greatly missed by all who knew her;

SLS 553

Sponsored by Senator WESTON of Waldo.
Cosponsored by Representatives: PIOTTI of Unity, KAELIN of Winterport.

READ.

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

Senator **WESTON:** Madame President, men and women of the Senate, today we want to honor the memory of a great woman, wife, mother, grandmother, and great grandmother. Mrs. Wentworth's family is guests of the Senate today. Please join me in welcoming them.

THE PRESIDENT PRO TEM: Would Dr. Phil McCarthy, who many of us know because he works in the Office of Policy and Legal Analysis; his wife, Leisha Wentworth; and their daughter, and the namesake of Zenaide, please stand and get recognized by the Senate.

ADOPTED.

Sent down for concurrence.

Off Record Remarks

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **MARINE RESOURCES** on Resolve, Regarding Legislative Review of Chapter 25.20: Protected Resources, a Major Substantive Rule of the Department of Marine Resources (EMERGENCY)

H.P. 1359 L.D. 1834

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

The Committee on **TAXATION** on Bill "An Act To Promote Responsible Pet Ownership"

H.P. 1285 L.D. 1763

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-727).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-727).**

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

READ ONCE.

Committee Amendment "A" (H-727) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate

Ought to Pass As Amended

Senator DAMON for the Committee on **TRANSPORTATION** on Bill "An Act To Increase the Bond Limit of the Maine Turnpike Authority"

S.P. 214 L.D. 605

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-411).**

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

READ ONCE.

Committee Amendment "A" (S-411) **READ** and **ADOPTED.**

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator SAVAGE for the Committee on **TRANSPORTATION** on Bill "An Act To Simplify the Maine Turnpike Authority's Enforcement Procedures for Toll Violations"

S.P. 637 L.D. 1705

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-412).**

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

READ ONCE.

Committee Amendment "A" (S-412) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act to Define a Scope of Practice for Acupuncture"

S.P. 97 L.D. 263

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-414)**.

Signed:

Senators:

BROMLEY of Cumberland
HALL of Lincoln

Representatives:

SULLIVAN of Biddeford
ROGERS of Brewer
JACOBSEN of Waterboro
PELLON of Machias
BERUBE of Lisbon
SMITH of Monmouth
AUSTIN of Gray
DUPREY of Medway
RECTOR of Thomaston
O'BRIEN of Lewiston

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

Signed:

Senator:

SHOREY of Washington

Reports **READ**.

Senator **BROMLEY** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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.

Divided Report

Six members of the Committee on **LABOR** on Bill "An Act To Clarify the Prevailing Wage Law"

S.P. 655 L.D. 1722

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (S-413)**.

Signed:

Senators:

EDMONDS of Cumberland
STANLEY of Penobscot

Representatives:

HUTTON of Bowdoinham
PATRICK of Rumford
JACKSON of Fort Kent
WATSON of Bath

Six members of the same Committee on the same subject reported in Report "B" that the same **Ought Not To Pass**.

Signed:

Senator:

BLAIS of Kennebec

Representatives:

SMITH of Van Buren
TREADWELL of Carmel
CRESSEY of Baldwin
HEIDRICH of Oxford
NUTTING of Oakland

Reports **READ**.

Senator **EDMONDS** of Cumberland moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED**.

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

SECOND READERS

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

House

Bill "An Act To Provide for the 2004 and 2005 Allocations of the State Ceiling on Private Activity Bonds" (EMERGENCY)

H.P. 1364 L.D. 1838

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

Bill "An Act To Make Emergency Changes to Recent Law"
(EMERGENCY)

H.P. 1404 L.D. 1897

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

READ A SECOND TIME.

On motion by Senator **PENDLETON** of Cumberland, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED**, in concurrence.

House As Amended

Bill "An Act to Ensure that Emergency Medical Help is Available to All School Children and Personnel"

H.P. 136 L.D. 177
(C "A" H-723)

Bill "An Act To Provide Funding for the Maine-Canada Trade Ombudsman"

H.P. 464 L.D. 634
(C "A" H-722)

Bill "An Act To Provide Equity in Veterans' Property Tax Exemptions"

H.P. 1268 L.D. 1746
(C "A" H-725)

Bill "An Act Regarding Child Support Collection Practices"

H.P. 1293 L.D. 1771
(C "A" H-721)

Bill "An Act To Expand Maine's Homestead Exemption for the Blind"

H.P. 1316 L.D. 1794
(C "A" H-724)

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

Senate As Amended

Bill "An Act To Require All Health Insurers To Cover the Costs of Hearing Aids"

S.P. 359 L.D. 1087
(C "B" S-394)

Bill "An Act To Facilitate the Recovery of Stolen Property"

S.P. 647 L.D. 1715
(C "A" S-407)

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

Sent down for concurrence.

ENACTORS

Acts

An Act To Amend Certain Laws Relating to Environmental Protection

S.P. 606 L.D. 1655
(C "A" S-390)

An Act To Revise the Frequency of Home Health Licensing Surveys

H.P. 1294 L.D. 1772

PASSED TO BE ENACTED and having been signed by the President Pro Tem were presented by the Secretary to the Governor for his approval.

An Act To Increase the Adult Education State Subsidy

H.P. 153 L.D. 194
(C "A" H-702)

On motion by Senator **CATHCART** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

An Act To Support the Regional Library System

H.P. 222 L.D. 279
(C "A" H-703)

On motion by Senator **CATHCART** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

Resolves

Resolve, Authorizing the State Tax Assessor To Convey the Interest of the State in a Certain Parcel of Real Estate Located in the City of Auburn

H.P. 1329 L.D. 1807
(C "A" H-700)

FINALLY PASSED and having been signed by the President Pro Tem was presented by the Secretary to the Governor for his approval.

Resolve, to Fund Scholarships to the Seeds of Peace Camp

H.P. 55 L.D. 47
(C "A" H-704)

On motion by Senator **CATHCART** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in concurrence.

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

SENATE PAPERS

**Pursuant to Public Law and Resolve
Committee to Study the Revenue Sources of the Office of
Consumer Credit Regulation**

Senator BROMLEY for the **Committee to Study the Revenue Sources of the Office of Consumer Credit Regulation**, pursuant to Public Law 2003, chapter 462, section 3 and Resolve 2003, chapter 101, section 3 asked leave to report that the accompanying Bill "An Act To Implement the Recommendations of the Committee To Study the Revenue Sources of the Office of Consumer Credit Regulation"

S.P. 751 L.D. 1910

Be **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **LAFOUNTAIN** of York, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed pursuant to Joint Rule 218.

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

Bill "An Act To Govern and Regulate Life Settlements"
H.P. 1411 L.D. 1907

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

On motion by Senator **LAFOUNTAIN** of York, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed, in 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 Amend the Protection from Harassment Laws"
(EMERGENCY)

H.P. 1410 L.D. 1906

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

On motion by Senator **PENDLETON** of Cumberland, **REFERRED** to the Committee on **JUDICIARY** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution:

H.P. 1412

**JOINT RESOLUTION IN HONOR OF THE
MAINE FARMER AND MAINE AGRICULTURE**

WHEREAS, Maine's 7,200 farms, the bulk of which are small farms, provide full-time and part-time employment to more than 65,000 workers, approximately 10% of the State's workforce; and

WHEREAS, Maine's agricultural enterprises and associated industries provide more than 500 million dollars in the sale of farm products and contribute more than 1.2 billion dollars annually to the State's economy; and

WHEREAS, Maine farmers are the stewards of 1,366,345 acres of land, a vital resource in maintaining the food security of Maine people, and an overwhelming majority of Maine people believe that buying local Maine agricultural products helps the State; and

WHEREAS, Maine is first in New England in the production of food, first in the world in the production of wild blueberries, the world leader in the production of brown eggs, 2nd in the Nation in the production of maple syrup, 8th in the Nation in the production of fall potatoes and the only state anywhere involved in the production of fiddleheads; and

WHEREAS, agriculture shaped Maine's past, maintains much of Maine's scenic open space, provides recreational opportunities, makes a significant contribution to the nature and character of Maine's many rural communities and provides for a strong future; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature now assembled in the Second Special Session, pause in our deliberations to honor Maine farmers and innovators who have contributed so much to the

betterment of our State, to pledge our support and encouragement and to urge the youth of Maine to pursue the growing opportunities for careers in today's technologically advanced agriculture industry; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Commissioner of Agriculture, Food and Rural Resources in token of the esteem in which those in this vital field are held.

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

READ and **ADOPTED**, in concurrence.

Off Record Remarks

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (3/3/04) Assigned matter:

Bill "An Act To Allow Communications Towers on Land of the Maine Turnpike Authority"

S.P. 608 L.D. 1676

Tabled - March 3, 2004, by Senator **GAGNON** of Kennebec

Pending - **PASSAGE TO BE ENGROSSED**

(In Senate, March 3, 2004, **READ A SECOND TIME**.)

PASSED TO BE ENGROSSED.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled Unassigned matter:

SENATE REPORTS - from the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Create a No-contact List and Prohibit Unsolicited E-mail"

S.P. 448 L.D. 1360

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-355)** (3 members)

Tabled - January 7, 2004, by Senator **HALL** of Lincoln

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report

(In Senate, January 7, 2004, Reports **READ**.)

Senator **HALL** of Lincoln requested and received leave of the Senate to withdraw his motion to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

On further motion by same Senator, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

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

Senate at Ease.

Senate called to order by President Pro Tem **SHARON A. TREAT** of Kennebec County.

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

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

Senator **MAYO** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

Senator **YOUNGBLOOD** of Penobscot was granted unanimous consent to address the Senate off the Record.

Senator **BROMLEY** of Cumberland was granted unanimous consent to address the Senate off the Record.

On motion by Senator **GAGNON** of Kennebec, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, March 9, 2004, at 10:00 in the morning, in memory of and lasting tribute to Zenaide Grant Wentworth of Knox.