

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Second Legislature

State of Maine

Daily Edition

First Regular Session
December 4, 2004 to March 30, 2005

Pages 1 - 410

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

In Senate Chamber
Tuesday
January 25, 2005

Senate called to order by President Beth Edmonds of
Cumberland County.

Prayer by Reverend Howard Cole of the Augusta Baptist Church
of Augusta.

REVEREND COLE: Let us pray. All mighty God, heavenly
Father, how we thank Thee for the privilege of living in the United
States of America, the land of the free and the home of the brave.
We thank Thee for the great State of Maine and blessing of being
able to reside here. We thank Thee, Lord, for the beauty of this
land; from its mountains to the seashore, from its timberlands to
the farmlands, for the picturesque villages, towns and cities. We
thank Thee, heavenly Father, for the Governor of our state. We
pray that Thou will grant to him, as he delivers his State of the
State address this day, clarity of thought and word, solutions for
the present, and a vision of what can be done for the future. We
thank Thee for our President of this Senate, President Edmonds,
and we pray that Thou will bless her as she seeks to preside over
the proceedings in the hallowed halls. We thank Thee for each
Senator gathered here and we pray that we might always have
Senators in the State of Maine that might be men and women of
great moral character, strong convictions, full of compassion, and
have the courage to what is right and best for the State of Maine.
We pray that this state might always be a land of great beauty,
opportunity, safety, and prosperity for one and all. We ask this
day forgiveness for our past, faith for the present, hope for the
future, and love for all throughout all. Bless now the proceedings
this day. We pray in Jesus' name. Amen and Amen.

Pledge of Allegiance led by Senator Dean F. Clukey of Aroostook
County.

Doctor of the day, Dr. Christopher Naun of Windham and Dr.
Richard Kappelmann of Auburn.

Reading of the Journal of Thursday, January 20, 2005.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by
Senator **BRENNAN** of Cumberland, the following Senate Order:
S.O. 13

ORDERED, that a message be sent to the House of
Representatives proposing a Convention of the two branches of
the Legislature be held at 6:30 this evening, in the Hall of the
House for the purpose of extending to Governor John E. Baldacci,
an invitation to attend and make such communication as pleases
him.

READ and PASSED.

The Chair appointed the Senator from Cumberland, Senator
BRENNAN to deliver the message to the House of
Representatives. The Sergeant-At-Arms escorted the Senator to
the House of Representatives.

Senate at Ease.

Senate called to order by the President.

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

COMMUNICATIONS

The Following Communication: S.C. 43

**OFFICE OF THE PRESIDENT
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0003**

January 21, 2005

Honorable Joy O'Brien
Secretary of the Senate
3 State House Station
Augusta, Maine 04333

Dear Secretary O'Brien:

Pursuant to my authority under Public Laws 2003, Chapter 707, I
am pleased to appoint Sen. Dean Clukey of Aroostook to the
Commission to Improve the Sentencing, Supervision,
Management & Incarceration of Prisoners representing a Senator
of the political party with the 2nd largest number of seats in the
Senate. He will be replacing Senator Carolyn Gilman.

Please let me know if you have any questions regarding this
appointment.

Sincerely,

S/Beth Edmonds
President of the Senate

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 44

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002**

January 21, 2005

Honorable Joy J. O'Brien
Secretary of the Senate
3 State House Station
Augusta, ME 04333

Dear Secretary O'Brien:

Pursuant to my authority under Joint Rule 371, I hereby appoint the following Representatives to serve as members of the Government Oversight Committee, the committee having oversight responsibility for the Office of Program Evaluation and Government Accountability:

Representative Edward R. Dugay of Cherryfield, Chair
Representative Lillian LaFontaine O'Brien of Lewiston
Representative Marilyn E. Canavan of Waterville
Representative A. David Trahan of Waldoboro
Representative Robert H. Crosthwaite of Ellsworth
Representative Ronald F. Collins of Wells

Please feel free to contact me if you have any questions regarding these appointments.
Sincerely,

S/John Richardson
Speaker of the House

READ and ORDERED PLACED ON FILE.

SENATE PAPERS

Bill "An Act To Ensure the State's Continued Commitment to Former Students Who Were Physically or Sexually Abused at the Governor Baxter School for the Deaf or the Maine School for the Deaf" (EMERGENCY)

S.P. 128 L.D. 404

Sponsored by President EDMONDS of Cumberland.
Cosponsored by Representative BLISS of South Portland and Senators: BRENNAN of Cumberland, HOBBS of York, Representatives: BOWLES of Sanford, PELLETIER-SIMPSON of Auburn, Speaker RICHARDSON of Brunswick.

Bill "An Act To Provide Funding for Hospices in Maine" (EMERGENCY)

S.P. 134 L.D. 410

Sponsored by Senator DIAMOND of Cumberland.
Cosponsored by Senators BRENNAN of Cumberland, BROMLEY of Cumberland, HOBBS of York, MAYO of Sagadahoc, MITCHELL of Kennebec, STRIMLING of Cumberland, TURNER of Cumberland, Representatives: CURLEY of Scarborough, GERZOFKY of Brunswick.

On motion by Senator ROTUNDO of Androscoggin, REFERRED to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.

Sent down for concurrence.

Bill "An Act To Protect Consumers by Requiring Retail Businesses To Post Complaint Contacts" (EMERGENCY)

S.P. 113 L.D. 366

Sponsored by Senator SULLIVAN of York.
Cosponsored by Representative O'BRIEN of Lewiston and Senators: BARTLETT of Cumberland, DIAMOND of Cumberland, Representatives: PERRY of Calais, SMITH of Monmouth.

Bill "An Act To Require the Disclosure of the State's Implied Warranty Laws"

S.P. 116 L.D. 369

Sponsored by Senator COWGER of Kennebec.
Cosponsored by Representative DUDLEY of Portland and Senators: BROMLEY of Cumberland, DIAMOND of Cumberland, Representatives: BEAUDETTE of Biddeford, O'BRIEN of Lewiston, PINGREE of North Haven, SCHATZ of Blue Hill, SMITH of Monmouth, THOMPSON of China.

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 Align Maine Special Education Complaint Management Provisions with the Federal Individuals with Disabilities Education Act"

S.P. 124 L.D. 400

Sponsored by Senator TURNER of Cumberland.
Cosponsored by Senator: DIAMOND of Cumberland, Representatives: MERRILL of Appleton, MILLETT of Waterford. Submitted by the Department of Education pursuant to Joint Rule 204.

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Resolve, To Establish a Long-term Care Education Pilot Program for Registered Nurses

S.P. 129 L.D. 405

Sponsored by Senator MARTIN of Aroostook.
Cosponsored by Representative PERRY of Calais and Senators: MILLS of Somerset, PERRY of Penobscot, Representatives: COLLINS of Wells, FINCH of Fairfield, FISCHER of Presque Isle, NORTON of Bangor, PELLETIER-SIMPSON of Auburn.

On motion by Senator MITCHELL of Kennebec, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

Sent down for concurrence.

Bill "An Act To Monitor and Maintain Maximum Levels of Assistance in the General Assistance Program"

S.P. 114 L.D. 367

Sponsored by Senator BRENNAN of Cumberland.
Cosponsored by Representative PINGREE of North Haven and Senators: BARTLETT of Cumberland, COWGER of Kennebec, PERRY of Penobscot, SCHNEIDER of Penobscot, STRIMLING of Cumberland, Representative: O'BRIEN of Lewiston.

Resolve, Directing the Department of Health and Human Services To Develop a Proposal To Create the Office of Minority Health

S.P. 125 L.D. 401

Sponsored by Senator STRIMLING of Cumberland.
Cosponsored by Representative TWOMEY of Biddeford and Senators: HOBBS of York, MARTIN of Aroostook, MAYO of Sagadahoc, RAYE of Washington, SULLIVAN of York, Representatives: CANAVAN of Waterville, CRAVEN of Lewiston, PINGREE of North Haven.

Bill "An Act To Require Able-bodied Welfare Recipients To Seek Employment and Work or Volunteer"

S.P. 126 L.D. 402

Sponsored by Senator SNOWE-MELLO of Androscoggin. (BY REQUEST)

Cosponsored by Representative CEBRA of Naples and Representatives: ROBINSON of Raymond, VAUGHAN of Durham.

On motion by Senator MAYO of Sagadahoc, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

Sent down for concurrence.

Bill "An Act Limiting Recovery of Disability Benefits Subject to Offsets"

S.P. 132 L.D. 408

Sponsored by Senator PERRY of Penobscot.
Cosponsored by Senator: SULLIVAN of York, Representatives: CANAVAN of Waterville, NUTTING of Oakland, WOODBURY of Yarmouth.

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Bill "An Act To Clarify the Superintendent of Insurance's Authority To Assess Civil Penalties"

S.P. 133 L.D. 409

Sponsored by Senator MILLS of Somerset.
Cosponsored by Senators: PERRY of Penobscot, SULLIVAN of York, Representatives: CANAVAN of Waterville, VAUGHAN of Durham, WOODBURY of Yarmouth.
Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Bill "An Act To Require a Credit Card To Contain the Photo and Signature of the Cardholder"

S.P. 138 L.D. 414

Sponsored by Senator ANDREWS of York.
Cosponsored by Representative LEWIN of Eliot and Senators: MAYO of Sagadahoc, SNOWE-MELLO of Androscoggin, Representatives: CARR of Lincoln, DUPREY of Hampden, MOULTON of York.

On motion by Senator SULLIVAN of York, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed.

Sent down for concurrence.

Bill "An Act To Amend the Maine Clean Election Act"

S.P. 115 L.D. 368

Sponsored by Senator MAYO of Sagadahoc.
Cosponsored by Senator STRIMLING of Cumberland, Speaker RICHARDSON of Brunswick and Senator: MITCHELL of Kennebec.

Bill "An Act To Create a Protected Zone around the Voting Place"

S.P. 121 L.D. 374

Sponsored by Senator GAGNON of Kennebec.
Cosponsored by Representative BARSTOW of Gorham and Senators: BROMLEY of Cumberland, DIAMOND of Cumberland, Representatives: BROWN of South Berwick, HOTHAM of Dixfield, MILLS of Farmington, PATRICK of Rumford, SMITH of Monmouth, TRAHAN of Waldoboro.
Submitted by the Secretary of State pursuant to Joint Rule 204.

Bill "An Act To Clarify the Definition of 'Lobbyist'"

S.P. 136 L.D. 412

Sponsored by Senator PLOWMAN of Penobscot.
Cosponsored by Senator: DAVIS of Piscataquis, Representatives: BIERMAN of Sorrento, BROWN of South Berwick, MOORE of Standish, MOULTON of York, TARDY of Newport.

On motion by Senator **GAGNON** of Kennebec, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.

Sent down for concurrence.

Bill "An Act To Achieve Compliance with the Interstate Lobster Fishery Management Plan" (EMERGENCY)

S.P. 120 L.D. 373

Sponsored by Senator **DAMON** of Hancock.
Cosponsored by Representatives: **KAELIN** of Winterport, **PERCY** of Phippsburg.
Submitted by the Department of Marine Resources pursuant to Joint Rule 204.

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

Sent down for concurrence.

Bill "An Act To Repeal the Minimum Penalty for Environmental Violations"

S.P. 127 L.D. 403

Sponsored by Senator **SNOWE-MELLO** of Androscoggin.
Cosponsored by Representative **JOY** of Crystal and Senators: **DAVIS** of Piscataquis, **PLOWMAN** of Penobscot,
Representatives: **BERUBE** of Lisbon, **DUPREY** of Hampden, **FLETCHER** of Winslow, **SAVIELLO** of Wilton, **VAUGHAN** of Durham.

Bill "An Act To Amend the Dates Associated with the State's Recycling and Waste Reduction Goals"

S.P. 130 L.D. 406

Sponsored by Senator **COWGER** of Kennebec.
Submitted by the Executive Department, State Planning Office pursuant to Joint Rule 204.

On motion by Senator **COWGER** of Kennebec, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed.

Sent down for concurrence.

Bill "An Act To Enhance Property Tax Relief through the State-municipal Revenue-sharing Program"

S.P. 119 L.D. 372

Sponsored by Senator **ROTUNDO** of Androscoggin.
Cosponsored by Senator: **PERRY** of Penobscot,
Representatives: **DUDLEY** of Portland, **DUNN** of Bangor, **FISHER** of Brewer, **LERMAN** of Augusta, **MARLEY** of Portland.

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

On motion by Senator **SCHNEIDER** of Penobscot, **REFERRED** to the Committee on **TAXATION**.

Sent down for concurrence.

Bill "An Act To Provide the Veterans' Property Tax Exemption to All Veterans"

S.P. 112 L.D. 365

Sponsored by Senator **SAVAGE** of Knox.
Cosponsored by Senators: **DAVIS** of Piscataquis, **ROTUNDO** of Androscoggin, **SULLIVAN** of York, Representative **COLLINS** of Wells and Senators: **ANDREWS** of York, **CLUKEY** of Aroostook, **SNOWE-MELLO** of Androscoggin, **TURNER** of Cumberland, **WESTON** of Waldo, Representatives: **MARLEY** of Portland, **McKENNEY** of Cumberland.

Bill "An Act To Amend the Sales and Use Tax Law Regarding the Food Service and Lodging Industries"

S.P. 117 L.D. 370

Sponsored by Senator **COWGER** of Kennebec.
Cosponsored by Representative **MOODY** of Manchester and Senator: **MAYO** of Sagadahoc, Representatives: **BISHOP** of Boothbay, **BROWNE** of Vassalboro, **FISHER** of Brewer, **JODREY** of Bethel, **KOFFMAN** of Bar Harbor, **RECTOR** of Thomaston, **SCHATZ** of Blue Hill.

On motion by Senator **PERRY** of Penobscot, **REFERRED** to the Committee on **TAXATION** and ordered printed.

Sent down for concurrence.

Bill "An Act To Distribute Revenue in the Law Enforcement Agency Reimbursement Fund to Municipalities and Counties"

S.P. 118 L.D. 371

Sponsored by Senator **SAVAGE** of Knox.
Cosponsored by Representative **MARLEY** of Portland and Representatives: **BOWEN** of Rockport, **COLLINS** of Wells, **JODREY** of Bethel, **McKENNEY** of Cumberland.

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

Sent down for concurrence.

Bill "An Act To Authorize a General Fund Bond Issue in the Amount of \$1,000,000 To Support Construction of a 'Curtis Class' Vessel for the Maine State Ferry Service"

S.P. 135 L.D. 411

Sponsored by Senator DAMON of Hancock. Cosponsored by Representative PINGREE of North Haven and Senators: MAYO of Sagadahoc, SAVAGE of Knox, TURNER of Cumberland, WESTON of Waldo, Representatives: ASH of Belfast, DUDLEY of Portland, KOFFMAN of Bar Harbor, MAZUREK of Rockland.

Committee on **TRANSPORTATION** suggested and ordered printed.

On motion by Senator **DAMON** of Hancock, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

Sent down for concurrence.

Bill "An Act To Place the Emergency Services Communication Bureau within the Department of Public Safety"

S.P. 131 L.D. 407

Sponsored by Senator HOBBS of York. Cosponsored by Representative PARADIS of Frenchville and Senators: DAVIS of Piscataquis, SNOWE-MELLO of Androscoggin, Representatives: BLANCHETTE of Bangor, GERZOSKY of Brunswick. Submitted by the Department of Public Safety pursuant to Joint Rule 204.

Bill "An Act To Amend the Procedure by Which the York Sewer District May Be Dissolved"

S.P. 137 L.D. 413

Sponsored by Senator ANDREWS of York.

On motion by Senator **BARTLETT** of Cumberland, **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed.

Sent down for concurrence.

**Pursuant to Statutes
Maine Turnpike Authority**

Senator DAMON for the **Maine Turnpike Authority**, pursuant to the Maine Revised Statutes, Title 23, section 1961, subsection 6 asked leave to report that the accompanying Bill "An Act To Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Calendar Year Ending December 31, 2006"

S.P. 123 L.D. 375

Be **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **DAMON** of Hancock, **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed pursuant to Joint Rule 218.

Sent down for concurrence.

All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

ORDERS

Joint Orders

Expressions of Legislative Sentiment recognizing:

Wilfred J. Addison, of Wiscasset, who is retiring as Inland Hospital President and CEO after 12 years. He has been involved in health care administration for 37 years. Through Mr. Addison's efforts, Inland Hospital became the first member of Eastern Maine Healthcare Systems outside the Bangor area. We congratulate him on his retirement and extend our best wishes for a long, happy and fulfilling retirement;

SLS 64

Sponsored by Senator GAGNON of Kennebec. Cosponsored by Senator: DOW of Lincoln, Representatives: CANAVAN of Waterville, MARRACHÉ of Waterville, RINES of Wiscasset.

READ.

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

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. It's an honor for me today to join with all of you in congratulating Mr. Addison on his retirement from Inland Hospital. I joined the Inland board some years ago and first met Mr. Addison. He truly is a leader, not only in healthcare but also in the community of Waterville and in his hometown of Wiscasset.

This was a hospital that was going through some very difficult times with terrible shortfalls in their budgets and also in their capital expenditure budgets. He was able to find a way, working with the other hospitals in the area and with Eastern Maine Healthcare, to bring about a solution. Now we have one of the highest rated hospitals in the State of Maine in terms of quality of care and in terms of satisfaction from its people. It's certainly due, to a large part, to Mr. Addison.

As a friend of mine and as a real leader, both in healthcare and in the community, I hope that we will join in recognizing him. Madame President, with your lead, I would like to present from the Senate to Mr. Addison.

PASSED.

THE PRESIDENT: The Chair recognizes in the rear of the chamber, Wilfred J. Addison of Wiscasset. Would he please rise and accept the greetings of the Maine Senate.

Off Record Remarks

At this point a message was received from the House of Representatives, borne by Representative DUPLESSIS of Westbrook informing the Senate that the House concurred with the proposition for a Convention of the two branches of the Legislature to be held in the Hall of the House at 6:30 in the evening for the purpose of extending to the Honorable John E. Baldacci, Governor of the State of Maine, an invitation to attend and make such communication as pleases him.

ORDERS

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 (1/19/05) Assigned matter:

Bill "An Act To Repeal the Excise Tax on Motor Vehicles"
H.P. 240 L.D. 316

Tabled - January 19, 2005, by Senator **DAMON** of Hancock

Pending - **REFERENCE**

(Committee on **TRANSPORTATION** suggested and ordered printed.)

(In House, January 19, 2005, **REFERRED** to the Committee on **TAXATION**.)

On motion by Senator **DAMON** of Hancock, **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (1/20/05) Assigned matter:

Bill "An Act To Establish the Pine Tree Recreation Zone"
(EMERGENCY)

H.P. 143 L.D. 192

Tabled - January 20, 2005, by Senator **PERRY** of Penobscot

Pending - **REFERENCE**

(Committee on **TAXATION** suggested and ordered printed.)

(In House, January 19, 2005, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**.)

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

The Chair laid before the Senate the following Tabled and Later (1/20/05) Assigned matter:

Bill "An Act To Authorize the Regulation of Firearms on Public Property"

S.P. 106 L.D. 344

Tabled - January 20, 2005, by Senator **GAGNON** of Kennebec

Pending - motion by Senator **DIAMOND** of Cumberland to **REFER** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY**

(In Senate, January 20, 2005, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY**. On motion by Senator **GAGNON** of Kennebec, **RECONSIDERED**.)

On motion by Senator **DIAMOND** of Cumberland, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY**.

Sent down for concurrence.

Off Record Remarks

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

Senator **SNOWE-MELLO** of Androscoggin was granted unanimous consent to address the Senate off the Record.

Senator **SULLIVAN** of York was granted unanimous consent to address the Senate off the Record.

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

Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

Senator **MITCHELL** of Kennebec was granted unanimous consent to address the Senate off the Record.

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

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

On motion by Senator **BRENNAN** of Cumberland,
RECESSED until 6:15 in the evening.

After Recess

Senate called to order by the President.

At this point, the Senate retired to the Hall of the House, where a Joint Convention was formed.

After Convention

In Senate Chamber

Senate called to order by the President

On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, to Thursday, January 27, 2005, at 10:00 in the morning.