MAINE STATE LEGISLATURE

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ONE HUNDRED AND TWENTY-THIRD LEGISLATURE SECOND REGULAR SESSION

23rd Legislative Day Monday, March 10, 2008

The House met according to adjournment and was called to order by the Speaker.

Prayer by Pastor Douglas Allan Dunlap, First Congregational Church, United Church of Christ, Wilton,

National Anthem by Kelly Caufield, Ellis, Portland,

Pledge of Allegiance.

The Journal of Thursday, March 6, 2008 was read and approved.

SENATE PAPERS Non-Concurrent Matter

Bill "An Act To Amend the Conflict of Interest Laws for Notaries Public"

(H.P. 1441) (L.D. 2057)

Majority (11) OUGHT TO PASS AS AMENDED Report of the Committee on STATE AND LOCAL GOVERNMENT READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-707) in the House on March 5, 2008.

Came from the Senate with the Reports READ and the Bill and accompanying papers INDEFINITELY POSTPONED in NON-CONCURRENCE.

On motion of Representative BARSTOW of Gorham, the House voted to RECEDE.

On further motion of the same Representative, TABLED pending FURTHER ACTION and later today assigned.

COMMUNICATIONS

The Following Communication: (S.C. 658)

MAINE SENATE 123RD MAINE LEGISLATURE OFFICE OF THE SECRETARY

March 6, 2008 Honorable Millicent M. MacFarland Clerk of the House 2 State House Station Augusta, ME 04333

Dear Clerk MacFarland:

Please be advised the Senate today adhered to its previous action whereby it Failed to Pass Joint Order (H.P. 1386) to Recall Bill "An Act To Encourage Newly Retired Veterans To Reside in Maine" from the Legislative Files to the House (H.P. 407) (L.D. 529).

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

PETITIONS, BILLS AND RESOLVES REQUIRING **REFERENCE**

Pursuant to Statute

Executive Department, State Planning Office

Representative SMITH for the Executive Department, State Planning Office pursuant to the Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 220: Methodology for Identification of Regional Service Centers, a Major Substantive Rule of the Executive Department, State Planning Office (EMERGENCY)

(H.P. 1612) (L.D. 2250)

REFERRED to the Committee on BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT and printed pursuant to Joint Rule 218.

Report was READ and ACCEPTED and the Resolve REFERRED to the Committee on BUSINESS. RESEARCH AND **ECONOMIC DEVELOPMENT** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

Pursuant to Statute Revisor of Statutes

Representative SIMPSON for the Revisor of Statutes pursuant to the Maine Revised Statutes, Title 1, section 94 asks leave to report that the accompanying Bill "An Act To Correct Errors and Inconsistencies in the Laws of Maine" (EMERGENCY)

(H.P. 1615) (L.D. 2252)

Be REFERRED to the Committee on JUDICIARY and printed pursuant to Joint Rule 218.

Report was READ and ACCEPTED and the Bill REFERRED to the Committee on JUDICIARY and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

Pursuant to Statute Department of Audit

Representative PIOTTI for the **Department of Audit** pursuant to the Maine Revised Statutes, Title 36, section 1604 asks leave to report that the accompanying Bill "An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2008-09 and To Require Notation of Tax Enhancement Programs Approved by the County Commissioners" (EMERGENCY)

(H.P. 1613) (L.D. 2251)

Be REFERRED to the Committee on TAXATION and printed pursuant to Joint Rule 218.

Report was READ and ACCEPTED and the Bill REFERRED to the Committee on TAXATION and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

ORDERS

On motion of Speaker CUMMINGS of Portland, the following Joint Resolution: (H.P. 1614) (Cosponsored by President EDMONDS of Cumberland and Representatives: ADAMS of Portland, AUSTIN of Gray, BARSTOW of Gorham, BLISS of South Portland, BRAUTIGAM of Falmouth, BRYANT of Windham, CEBRA of Naples, DILL of Cape Elizabeth, DRISCOLL of Westbrook, EBERLE of South Portland, FARRINGTON of Gorham, GERZOFSKY of Brunswick, GROSE of Woolwich, HARLOW of Portland, HASKELL of Portland. HINCK of Portland, KAENRATH of South Portland, MARLEY of Portland, McDONOUGH of Scarborough, MOORE of Standish, PENDLETON of Scarborough, PEOPLES of Westbrook, PERCY of Phippsburg, PLUMMER of Windham, PRIEST of Brunswick, RAND of Portland, ROBINSON of Raymond, SAVAGE of

Falmouth, STRANG BURGESS of Cumberland, SYKES of Harrison, VAUGHAN of Durham, WEBSTER of Freeport, WOODBURY of Yarmouth, Senators: BARTLETT of Cumberland, BRANNIGAN of Cumberland, BROMLEY of Cumberland, DIAMOND of Cumberland, HASTINGS of Oxford, SNOWE-MELLO of Androscoggin, STRIMLING of Cumberland, TURNER of Cumberland)

JOINT RESOLUTION RECOGNIZING CUMBERLAND COUNTY BUILDING COMMUNITY DAY AT THE STATE HOUSE

WHEREAS, county government is the largest territorial division for local government within the United States; and

WHEREAS, Cumberland County in Maine was established in 1760 for the purpose of providing essential public services and was described in 1886 by *A Gazetteer of the State of Maine* as "situated in the south-western part of the state, and on the northeast of York County, Oxford County bounds it on the west; Oxford, Androscoggin, Sagadahoc on the north; and on the east lies the sea"; and

WHEREAS, today Cumberland County is one of the most populated counties in Maine, and it retains extraordinary geographic diversity in twenty-eight cities and towns from Casco Bay to the mountains of western Maine; and

WHEREAS, the people of Cumberland County are among the most ethnically and culturally diverse in the State and together form a vibrant and talented community; and

WHEREAS, Cumberland County's traditional industries, such as fishing, agriculture, farming and manufacturing, have been joined by others, such as manufacturers of semiconductors and biotechnical, financial and medical services; and

WHEREAS, Cumberland County benefits from an outstanding array of educational resources, including Andover College, Bowdoin College, Maine College of Art, St. Joseph's College, Southern Maine Community College, the University of New England and the University of Southern Maine; and

WHEREAS, Cumberland County's citizens value the contributions of community and regional organizations such as the Cumberland County Soil & Water Conservation District, Portland Public Library, Southern Maine Emergency Medical Services, University of Maine Cooperative Extension in Cumberland County, Threshold To Maine Resource Conservation and Development Area and Greater Portland Council of Governments: and

WHEREAS, Cumberland County's citizens appreciate the outstanding leadership of the county's twenty-eight cities and towns, along with that of our state legislative delegation and the many state agencies with which county officials interact on a daily basis; and

WHEREAS, Cumberland County's elected and appointed officials have dedicated themselves to seeking new forms of partnerships with governmental and nongovernmental organizations for the purpose of increasing the cost-effectiveness, quality and efficiency of county services for its citizens; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-third Legislature now assembled in the Second Regular Session, take this occasion to declare that March 11, 2008 is "Cumberland County Building Community Day" at the Maine State House, in order to recognize the efforts of Cumberland County government and the municipalities and various community partners of the county to forge new alliances for the purpose of improving government at all levels for our citizens.

READ.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Barstow.

Representative **BARSTOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am pleased to rise today as a resident of Cumberland County and a legislator from this county, to recognize the work that Cumberland County government has done on behalf of its citizens and, further, the work that they have done as a leader of the 16 counties in this state. They have worked at the grassroots level; they have worked, as we say, from the bottom up, and have collaboratively looked to deliver services in an efficient and effective way; further, they have looked to deliver services that may not have been offered several years ago at this level.

I am pleased to have the representatives of Cumberland County government here, as is the Legislature, and thank them for the work that they continue to do, and hope to continue to work with them in partnership in delivering the services that Mainers need and deserve in this county. Thank you, Mr. Speaker.

Subsequently, the Joint Resolution was **ADOPTED** and sent for concurrence.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 519 and Joint Rule 213, the following item:

Recognizing:

Michael McClellan, of Raymond, who was named the 2007 Chamber Executive of the Year by the Maine State Chamber of Commerce. Nominated by members and officers of the Board of Directors of the Greater Bridgton Lakes Region Chamber of Commerce, Mr. McClellan has played a pivotal role in revitalizing this part of our State. Mr. McClellan has selflessly worked to transform the financially challenged chamber into one that is selfsufficient through doubling its membership, creating profitable events and integrating municipal economic development. Realizing the importance of establishing a cohesive network of small businesses to stimulate growth and investment in the Greater Bridgton Lakes Region and in western Maine, Mr. McClellan has infused his sense of professionalism, tenacity and entrepreneurial spirit into the region. Without a doubt, Mr. McClellan has collaboratively increased this area's prosperity, while enhancing tourism and business survivability. In addition to his duties as Executive Director, Mr. McClellan also serves as Vice President of the Maine Association of Chamber of In this capacity, he has revived Commerce Executives. communication among the members of the Maine Association of Chamber of Commerce Executives through his persistent and insightful reminders. The Maine State Chamber of Commerce clearly made a wise decision in honoring Mr. McClellan with this mark of distinction. We acknowledge Mr. McClellan's many contributions in retaining existing commerce and industry while attracting new enterprises to Maine;

(HLS 1071)

Presented by Representative ROBINSON of Raymond.

Cosponsored by Senator DIAMOND of Cumberland, Senator BRYANT of Oxford, Senator HASTINGS of Oxford, Representative MILLETT of Waterford, Representative SYKES of Harrison, Representative MUSE of Fryeburg, Representative CEBRA of Naples, Representative SARTY of Denmark.

On **OBJECTION** of Representative ROBINSON of Raymond, was **REMOVED** from the Special Sentiment Calendar. **READ**.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Robinson.

Representative **ROBINSON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. It is my great honor

and privilege to welcome Mike McClellan, the Executive Director of the Greater Bridgton Lakes Region Chamber of Commerce, to the Chamber today. Along with the rest of the Lakes Region legislative delegation, I want to congratulate Mr. McClellan for being named the 2007 Chamber Executive of the Year by the Maine State Chamber of Commerce.

Mike's unflagging dedication to the region and tenacious work on behalf of our area and local businesses has been remarkable. As resident of Raymond, I have grown to know Mike and his wife Michelle, and want to take a moment of my time to recognize him for his achievement, and to personally congratulate him on behalf of our area and our Lakes Region businesses and communities. Mike, thank you for your time and your efforts on behalf of our businesses; we appreciate it. Thank you, Mr. Speaker.

Subsequently, the Sentiment was PASSED and sent for concurrence.

REPORTS OF COMMITTEE

Refer to the Committee on Business, Research and **Economic Development Pursuant to Resolve**

Representative SMITH for the Joint Standing Committee on Business, Research and Economic Development on Bill "An Act To License Certified Professional Midwives"

(H.P. 1616) (L.D. 2253)

Reporting that it be REFERRED to the Committee on BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT pursuant to Resolve 2007, chapter 115.

Report was READ and ACCEPTED and the Bill REFERRED to the Committee on BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT.

Sent for concurrence.

CONSENT CALENDAR First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 735) (L.D. 1930) Resolve, Authorizing the Department of Inland Fisheries and Wildlife To Convey Certain Lands Committee on AGRICULTURE, CONSERVATION FORESTRY reporting Ought to Pass as Amended by Committee Amendment "A" (S-441)

(S.P. 786) (L.D. 1992) Bill "An Act To Amend the Laws Governing Agricultural Marketing and Bargaining" Committee on AGRICULTURE, CONSERVATION AND FORESTRY reporting Ought to Pass as Amended by Committee Amendment "A" (S-442)

(H.P. 1543) (L.D. 2168) Resolve, Regarding Legislative Review of Portions of Chapter 15: Batterer Intervention Program Certification, a Major Substantive Rule of the Department of Corrections (EMERGENCY) Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY reporting Ought to Pass

(H.P. 1589) (L.D. 2223) Bill "An Act To Expand the Natural Resources Protection Act Compensation Program" Committee on NATURAL RESOURCES reporting Ought to Pass

(L.D. 2013) Bill "An Act To Extend the (H.P. 1397) Application of Certain Rebuttable Presumptions in the Child Protection Laws" Committee on JUDICIARY reporting Ought to Pass as Amended by Committee Amendment "A" (H-720)

(H.P. 1423) (L.D. 2039) Resolve, To Protect Public Health and Promote a Healthy Soft-shell Clam Industry Committee on MARINE RESOURCES reporting Ought to Pass as Amended by Committee Amendment "A" (H-723)

(H.P. 1514) (L.D. 2132) Bill "An Act To Amend the Family Medical Leave Laws To Include Siblings" Committee on LABOR reporting Ought to Pass as Amended by Committee Amendment "A" (H-725)

(H.P. 1533) (L.D. 2158) Resolve, Regarding Legislative Review of Portions of Chapter 34.10(1)(B)(4)(b)(viii): Halibut, Landings Tag, Proposed Fee, a Major Substantive Rule of the Department of Marine Resources (EMERGENCY) Committee on MARINE RESOURCES reporting Ought to Pass as Amended by Committee Amendment "A" (H-724)

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

CONSENT CALENDAR Second Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the Second Day:

(S.P. 684) (L.D. 1881) Bill "An Act To Improve Transparency and Accountability in Government" (C. "A" S-439)
(S.P. 801) (L.D. 2007) Bill "An Act To Make Technical

Corrections to the Employment Security Law" (EMERGENCY) (C. "A" S-437)

(S.P. 811) (L.D. 2128) Bill "An Act To Correct the Uniform

Limited Partnership Act of 2007" (C. "A" S-440) (H.P. 1378) (L.D. 1943) Resolve, Regarding Legislative Review of Portions of Chapter 11: Consumer Directed Personal Assistance Services, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY)

(L.D. 2106) Bill "An Act To Enhance the (H.P. 1492) Newborn Hearing Program"

(H.P. 1537) (L.D. 2163) Resolve, Regarding Legislative Review of Portions of Chapter 270: Uniform Reporting System for Health Care Quality Data Sets, a Major Substantive Rule of the Maine Health Data Organization (EMERGENCY)

(H.P. 1541) (L.D. 2166) Resolve, Regarding Legislative Review of Portions of Chapter 294: Rules Governing the Qualifications for Local Health Officers, a Major Substantive Rule of the Department of Health and Human Services, Maine Center for Disease Control and Prevention (EMERGENCY)

(H.P. 1517) (L.D. 2137) Bill "An Act To Clarify the Licensing Requirements for Aquaculturists and Allow for the Appropriate Handling of Bycatch from Aquaculture Lease Sites" (C. "A" H-

(H.P. 1539) (L.D. 2165) Resolve, Regarding Legislative Review of Portions of Chapter 103: Sensible Transportation Policy Act, a Major Substantive Rule of the Department of Transportation (EMERGENCY) (C. "A" H-712)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were PASSED TO BE ENGROSSED as Amended in concurrence and the House Papers were PASSED TO BE ENGROSSED or PASSED TO BE ENGROSSED as Amended and sent for concurrence.

ENACTORS

Acts

An Act To Clarify the Licensure of Advanced Practice Registered Nurses

(H.P. 1408) (L.D. 2024)

(C. "A" H-694)

An Act To Minimize the Potential for Slope Failure in Gravel Pits

(S.P. 859) (L.D. 2227)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolves

Resolve, To Direct the Department of Inland Fisheries and Wildlife To Allow Maine Residents To Renew Their Watercraft Registrations Online

(H.P. 1474) (L.D. 2088) (C. "A" H-688)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

The following items were taken up out of order by unanimous consent:

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment Thursday, March 6, 2008, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Resolve, Regarding Special Education Evaluations

(H.P. 1387) (L.D. 1949) (C. "A" H-699)

TABLED - March 5, 2008 (Till Later Today) by Representative PINGREE of North Haven.

PENDING - PASSAGE TO BE ENGROSSED.

Representative NORTON of Bangor PRESENTED House Amendment "A" (H-722), which was READ by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Norton.

Representative **NORTON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is simply an emergency to facilitate school districts, helping them plan their budget a little earlier than might otherwise happen. Thank you.

House Amendment "A" (H-722) was ADOPTED.

Subsequently, the Bill was PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-699) and House Amendment "A" (H-722) and sent for concurrence. ORDERED SENT FORTHWITH.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

Bill "An Act To Generate Savings by Changing Public Notice Requirements" (EMERGENCY)

(H.P. 1310) (L.D. 1878)

TABLED - March 5, 2008 (Till Later Today) by Representative BARSTOW of Gorham.

PENDING - ADOPTION OF COMMITTEE AMENDMENT "B" (H-684).

Representative SIMPSON of Auburn REQUESTED a roll call on the motion to ADOPT Committee Amendment "B" (H-684).

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of Committee Amendment "B" (H-684). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 231

YEA - Babbidge, Barstow, Beaudette, Beaudoin, Berry, Blanchard, Bliss, Boland, Brautigam, Briggs, Burns, Campbell, Canavan, Casavant, Chase, Clark, Cleary, Connor, Conover, Cotta, Craven, Cray, Curtis, Duchesne, Eberle, Faircloth, Finley, Fisher, Fitts, Fletcher, Gifford, Giles, Gould, Greeley, Grose, Hayes, Hinck, Hogan, Jackson, Jones, Joy, Knight, Lansley, Marean, Mazurek, McDonough, McKane, Miller, Norton, Peoples, Pieh, Pingree, Piotti, Pratt, Priest, Rines, Samson, Sarty, Savage, Sirois, Smith N, Strang Burgess, Sykes, Tardy, Theriault, Thomas, Treat, Trinward, Valentino, Vaughan, Wagner, Walker, Watson, Weddell, Wheeler, Woodbury, Mr. Speaker.

NAY - Adams, Annis, Austin, Ayotte, Beaulieu, Blanchette, Browne W, Bryant, Cain, Carter, Cebra, Crockett, Crosthwaite, Dunn, Eaton, Edgecomb, Finch, Flood, Hamper, Harlow, Jacobsen, Johnson, Kaenrath, Koffman, MacDonald, McLeod, Mills, Miramant, Muse, Nass, Pilon, Pinkham, Plummer, Prescott, Rand, Rector, Richardson D, Richardson W, Rosen, Saviello, Schatz, Silsby, Simpson, Sutherland, Thibodeau, Tibbetts, Weaver.

ABSENT - Berube, Carey, Dill, Driscoll, Duprey, Emery, Farrington, Fischer, Gerzofsky, Hanley S, Haskell, Hill, Lewin, Lundeen, Makas, Marley, McFadden, Millett, Moore, Patrick, Pendleton, Percy, Perry, Pineau, Robinson, Tuttle, Webster.

Yes, 77; No, 47; Absent, 27; Excused, 0.

77 having voted in the affirmative and 47 voted in the negative, with 27 being absent, and accordingly **Committee Amendment "B" (H-684)** was **ADOPTED**.

The Bill was assigned for **SECOND READING** Wednesday, March 12, 2008.

REPORTS OF COMMITTEE Divided Reports

Majority Report of the Committee on STATE AND LOCAL GOVERNMENT reporting Ought Not to Pass on Bill "An Act To Amend the Informed Growth Act"

(S.P. 756) (L.D. 1962)

Signed:

Senators:

SCHNEIDER of Penobscot BRANNIGAN of Cumberland

Representatives:

BARSTOW of Gorham BOLAND of Sanford BEAUDETTE of Biddeford SIROIS of Turner SCHATZ of Blue Hill

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-436)** on same Bill.

Signed:

Senator:

BENOIT of Sagadahoc

Representatives:

WEAVER of York CURTIS of Madison JOY of Crystal HAYES of Buckfield COTTA of China Came from the Senate with the Reports **READ** and the Bill **SUBSTITUTED** for the Reports and **PASSED TO BE ENGROSSED**.

READ.

Representative BARSTOW of Gorham moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

Majority Report of the Committee on INLAND FISHERIES AND WILDLIFE reporting Ought to Pass as Amended by Committee Amendment "A" (S-443) on Bill "An Act To Amend the Provisions for All-terrain Vehicles"

(S.P. 773) (L.D. 1979)

Signed:

Senators:

BRYANT of Oxford GOOLEY of Franklin

Representatives:

JACKSON of Allagash SAVIELLO of Wilton FINCH of Fairfield EBERLE of South Portland RICHARDSON of Carmel WHEELER of Kittery LUNDEEN of Mars Hill BRIGGS of Mexico

Minority Report of the same Committee reporting **Ought Not** to **Pass** on same Bill.

Signed:

Representatives:

McLEOD of Lee

SARTY of Denmark

Came from the Senate 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" (S-443).

READ.

On motion of Representative JACKSON of Allagash, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-443)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, March 12, 2008.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

On motion of Representative ROSEN of Bucksport, the House adjourned at 11:38 a.m., until 9:00 a.m., Wednesday, March 12, 2008.