

MAINE STATE LEGISLATURE

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

Daily Edition

Second Regular Session
January 2, 2008 to March 31, 2008

Pages 1320 - 1759

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

In Senate Chamber
Tuesday
January 22, 2008

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

Prayer by Reverend Sally Colegrove of Windham Hill United Church of Christ, UCC.

REVEREND COLEGROVE: Let us be in the spirit of prayer. Oh Holy One, You who we know by many names, draw near to us and listen to the concerns of our hearts. Watch over us as we seek to be leaders of people with many needs. People rich in diversity. People blessed with talents and abilities. Challenge us to do our best in every setting, reaching for compromise and seeking excellence.

God of all our generations and traditions, we remember the work of Reverend Doctor Martin Luther King, Jr. whom we honored yesterday. Dr. King set us an example of nonviolence and inclusion, a desire for respect and dignity for every person. His courage in the political arena still stands as a beacon of hope for all those who work for justice. May we follow in his way.

Merciful spirit, it is very cold outside. There are many who do not have adequate shelter or heat. There are many who are frightened of the cost of fuel. This has already been a winter of illnesses and many snowy days. We pray that You might keep Your hand on all those at risk, on all those who travel, on all those whose work takes them out of doors, and on all those who need special care.

Now turn us towards our tasks, giving us strength and hope, vision and imagination, now and throughout our day. Amen.

Pledge of Allegiance led by Senator Karl W. Turner of Cumberland County.

Reading of the Journal of Thursday, January 17, 2008.

COMMUNICATIONS

The Following Communication: S.C. 602

**STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
BUREAU OF FINANCIAL INSTITUTIONS**

January 15, 2008

The Honorable Beth Edmonds
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Edmonds:

In accordance with Title 9-B MRSA §217, as amended, enclosed please find a copy of the "Annual Report from the Superintendent of the Bureau of Financial Institutions to the Legislature." In addition to the annual statistical information, the Report also includes informational segments which often address issues of current importance to the Legislature, the Executive Branch, and the Maine financial institution community.

If you or your staff have any questions regarding the information contained in this Report, the Bureau would be pleased to respond. This Report will also be available in electronic format on the Bureau of Financial Institution's web site at www.maine.gov/financialinstitutions.

Very truly yours,

S/Lloyd P. Fountain III
Superintendent

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

ORDERS

Joint Order

On motion by Senator **BRANNIGAN** of Cumberland, the following Joint Order:

S.P. 829

ORDERED, the House concurring, that the Joint Standing Committee on Health and Human Services shall report out, to the Senate, a bill regarding the process and procedures for treating a patient who has been involuntarily committed to a psychiatric hospital, absent the informed consent of the patient to the treatment.

READ and **PASSED.**

Sent down for concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Implement the Recommendations of the Criminal Law Advisory Commission"

H.P. 882 L.D. 1240

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-651)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-651)**.

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

READ ONCE.

Committee Amendment "B" (H-651) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **LABOR** on Resolve, To Expedite a Workers' Compensation Case

H.P. 117 L.D. 125

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-642)**.

Signed:

Senators:

SULLIVAN of York
DOW of Lincoln

Representatives:

TUTTLE of Sanford
CLARK of Millinocket
HASKELL of Portland
JACKSON of Allagash
BURNS of Berwick

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

Signed:

Senator:

STRIMLING of Cumberland

Representatives:

THOMAS of Ripley
HAMPER of Oxford
DUPREY of Hampden
SYKES of Harrison

Comes from the House with the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **STRIMLING** of Cumberland moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

On motion by Senator **SULLIVAN** of York, **TABLED** until Later in Today's Session, pending the motion by Senator **STRIMLING** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

SECOND READERS

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

House As Amended

Bill "An Act To Strengthen 'Permissible Inference' in the Law Concerning Dissemination of Sexually Explicit Material" (EMERGENCY)

H.P. 4 L.D. 3
(C "B" H-646)

Bill "An Act To Take into Account the Crime Committed That Facilitated a Sexual Assault"

H.P. 131 L.D. 149
(C "B" H-647)

Bill "An Act To Clarify and Expand Maine Criminal Laws Related to Sexual Assault"

H.P. 191 L.D. 220
(C "B" H-648)

Bill "An Act To Provide Uniform Treatment of Prior Convictions in the Maine Criminal Code"

H.P. 883 L.D. 1241
(C "B" H-649)

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

Senate As Amended

Bill "An Act Regarding Campaign Finance Disclosure by Political Action Committees"

S.P. 482 L.D. 1394
(C "A" S-402)

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

Sent down for concurrence.

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

ENACTORS

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

Acts

An Act To Provide a Reward for Information Regarding the Murder of a Law Enforcement Officer

H.P. 66 L.D. 68
(C "B" H-638)

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

An Act To Amend the Laws Governing the Plea of Not Criminally Responsible by Reason of Insanity in Juvenile Cases

H.P. 69 L.D. 71
(C "B" H-639)

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

An Act To Support the Maine Patent Program

H.P. 632 L.D. 833
(C "B" H-637)

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

Senate at Ease.

Senate called to order by the President.

Senator **WESTON** of Waldo 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.

On motion by Senator **MITCHELL** of Kennebec,
RECESSED until 11:15 in the morning.

After Recess

Senate called to order by the President.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **TRANSPORTATION** on Bill "An Act To Assist Maine's Forest Products Industry" (EMERGENCY)
H.P. 1532 L.D. 2155

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-660)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-660)**.

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

READ ONCE.

Committee Amendment "A" (H-660) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, 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

Pursuant to Statute

Department of Professional and Financial Regulation

The **Department of Professional and Financial Regulation**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 850: Health Plan Accountability, a Major Substantive Rule of the Department of Professional and Financial Regulation (EMERGENCY)

H.P. 1536 L.D. 2162

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed pursuant to Joint Rule 218.

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

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

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

PAPERS FROM THE HOUSE

**Pursuant to Statute
Department of Corrections**

The **Department of Corrections**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 15: Batterer Intervention Program Certification, a Major Substantive Rule of the Department of Corrections (EMERGENCY)

H.P. 1543 L.D. 2168

Be **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **DIAMOND** of Cumberland, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218, in concurrence.

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

PAPERS FROM THE HOUSE

**Pursuant to Statute
Maine Health Data Organization**

The **Maine Health Data Organization**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying 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. 1537 L.D. 2163

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218, in concurrence.

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

PAPERS FROM THE HOUSE

**Pursuant to Statute
Department of Health and Human Services**

The **Department of Health and Human Services**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying 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. 1541 L.D. 2166

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **BRANNIGAN** of Cumberland, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218, in concurrence.

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

PAPERS FROM THE HOUSE

**Pursuant to Statute
Maine Health Data Organization**

The **Maine Health Data Organization**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 120: Release of Data to the Public, a Major Substantive Rule of the Maine Health Data Organization (EMERGENCY)

H.P. 1542 L.D. 2167

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218, in concurrence.

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

PAPERS FROM THE HOUSE

**Pursuant to Statute
Department of Environmental Protection**

The **Department of Environmental Protection**, pursuant to the Maine Revised Statutes, Title 5, section 8072, subsection 2 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 157: CO2 Budget Trading Program Waiver and Suspension, a Major Substantive Rule of the Department of Environmental Protection (EMERGENCY)

H.P. 1538 L.D. 2164

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **MARTIN** of Aroostook, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218, in concurrence.

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

PAPERS FROM THE HOUSE

**Pursuant to Statute
Department of Transportation**

The **Department of Transportation**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 103: Sensible Transportation Policy Act, a Major Substantive Rule of the Department of Transportation (EMERGENCY)

H.P. 1539 L.D. 2165

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed pursuant to Joint Rule 218.

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

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

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

PAPERS FROM THE HOUSE

Joint Order

An Expression of Legislative Sentiment recognizing:

The Honorable Edward C. Kelleher, of Scarborough, who is retiring from the position of Public Information Officer after 21 years of service with the Judicial Branch of the State Government. Mr. Kelleher represented the City of Bangor for eight terms in the Maine House of Representatives from 1969 to 1984. During that time he served on various committees, including eight years with the Public Utilities Committee and six years with the Appropriations Committee. We congratulate Mr. Kelleher on his retirement and we thank him for his many years of dedicated service to the people of the State of Maine;

HLS 937

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

READ.

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

Senator **HOBBINS:** Thank you, Madame President, men and women of the Senate. I would be remiss if I do not rise today to send my best wishes to Ed Kelleher who is, as you know, retiring from his position as the Public Information Officer for the third branch of government. He has held that position for 21 years, as

the governmental relations link between the Judicial Branch of government and the Legislature.

He represented the City of Bangor as a city councilor and at a very young age, in his 20's, was elected to the House of Representatives. He served there from 1969 to 1984. I was very fortunate in 1972, having been somewhat surprised, to be elected at the age of 21. I arrived in Augusta and didn't really know where anything was. I can tell you that I was very fortunate to have Ed Kelleher take me under his wing and show me around a little bit.

A couple of the interesting stories that many of you probably don't know about a gentleman from Lewiston who served for 36 or 37 years in the Maine House of Representatives, Louie Jalbert. Ed Kelleher was Louie Jalbert's seatmate. What happened was that one the first days of the session he said, 'I've got to have a page, I have to have a page.' Eddie turned around and called me over and said, 'Representative Jalbert wants to see you.' So I ended up going to see Representative Jalbert and he handed me a bunch of documents and said, 'Bring this to the Appropriations room.' I said, 'Okay, I will.' Unfortunately for the next two months Representative Jalbert still thought I was a page. I didn't have the heart to tell him. Ed had a good laugh at that particular situation.

The other fond story is that my first bill in the Legislature was a bill to increase the minimum wage. The person who I replaced in the Legislature, who had been there for 18 years, asked me to put this bill in. The first day of the session I'm looking around and I said, 'I don't know how to draft a bill.' At the time I was a senior in college. I said, 'Gee, what do I do? How do I get a bill passed?' He said, 'Follow me.' We went to the Documents Room and he said, 'Do you have a bill about the minimum wage?' They said, 'Yes.' He took one of the ten bills they probably had on the minimum wage and said, 'Come with me.' He brought me into the Legislative Research Office and said, 'He wants a minimum wage bill, what do you want for a minimum wage?' I told him what it was. He said, 'You're all set.' I said, 'That's all it takes to sponsor a bill?' Believe it or not, because of Ed Kelleher and his bi-partisan effort, as a Freshman I was the sponsor of a bill to increase the minimum wage. It was a bi-partisan bill.

I'm also very fortunate to have gone to the old country of Ireland where Ed is considered as a Goodwill Ambassador for the State of Maine and is well regarded in all the different circles that we traveled to in Ireland. I believe I've been to Ireland with Ed nine times and I look forward to many more times. There is one position that I think that he would like to have. It probably doesn't relate to this Body. I think he really would like to be Ambassador to Ireland. It's my understanding that he has begun the process of a comeback politically, and that might take place in the very near future, which could lead to that position as Ambassador to Ireland. I wish him well, and knowing his past track record, I don't under estimate him at all. It's with great heart that I congratulate Ed on his retirement and I want to thank him personally for his friendship and for his dedicated service to the State of Maine.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Sherman.

Senator **SHERMAN:** Thank you, Madame President, ladies and gentlemen of the Senate. I wish I had written a speech on this gentleman. I first met him when I was on the Judiciary Committee. He was sitting in the audience. For some reason we struck up a conversation, which I tend to do sometimes. I think he has the history of this institution from when Bangor worked

with Aroostook on a number of things and things were done in a slightly different way, maybe called bi-partisan, which centered around rooms over to the Senator, I guess that is what I was hearing. I will miss him for a number of reasons. I like to read a little bit. He does also. He started feeding me books to get some of the hayseed out of my Aroostook County hair, I think. I think I've read all the founding fathers. We've had great discussions on those. I recommend that whole series of books about Washington, Adams, and Jefferson. The Adams' family, if you will, the old Adams' family not the one on television. I don't want to say living history because it sounds like he's gone. It's obvious he's still here. He had me read the Red Czar. Some of you know it's about Stalin. I recommend that to anyone in this room as a reading of how we misinterpreted how Russia was running and how they made, in a sense, fools of the United States, stuff done out of the KBG. Ed, I could never get the Russian Generals' names correctly. I must say I gave them all nicknames as I went through that 600-page tome. I wish you good luck in whatever you do. Thank you.

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

Senator **PERRY:** Thank you, Madame President, ladies and gentlemen of the Senate. I don't know if Eddie is a legend in Bangor but if he's not he's as close as they come. He's not a resident of Bangor any more but the people of Bangor still love him and wish him well in his retirement.

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

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. I wanted to rise to commend Ed Kelleher for his many years of excellent and devoted service to the Judicial Branch as well as to the people of Maine. It's been a great pleasure to work with him. Always wise and always calm, regardless of the situation. He really has been a joy to be with. I think the thing that I appreciate most about Ed is his big heart. I think there is no one who cares more about the people that he serves than Ed Kelleher. We will miss you in Appropriations. We wish you well and we thank you for your dedication and wonderful service.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I, too, would be remiss if I didn't get up to say a few words. I obviously can go back a long way since he and I served in the Legislature. I was actually there when he came to the Legislature. I must admit, in reference to the comments of the good Senator from Androscoggin, Senator Rotundo, calm and wise today is not the same Ed Kelleher that came to Augusta. Wise, yes. Calm, no. I can assure you that he represented the City of Bangor extremely well. To this day there are still many people in Bangor who think he is their representative. Clearly, I think that Ed has certainly left his mark not only on Bangor but certainly the Judiciary is going to miss him and we wish him the best of luck in his retirement.

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

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. I, too, came to the Legislature right after the good Senator from York, Senator Hobbins, and I, too, didn't know where to go and I, too, asked Ed Kelleher and he wouldn't tell me. He ran a tight ship in his little chair he had there on the aisle. In fact, if any of us spoke too long he would just shout the word 'question' and we knew we had to sit down because if we didn't he would shout 'question' again. I remember the good Senator from Piscataquis, Senator Smith, who was a lobbyist at the time. Maybe I shouldn't have said that, Senator Smith. He, too, being the kind and gentle person that he is, I've seen a couple of occasions when the good and honorable Mr. Kelleher would sit him in his place. I didn't feel quite as bad when I got my own way. I would say to you that we are going to miss Eddie in his capacity that he's been in for the last 21 years. He gave many of us a lot of good advice and some not so good. We wish him well. Thank you.

PASSED, in concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber the Honorable Edward C. Kelleher of Scarborough. Would he please rise and receive the greetings of the Maine Senate.

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

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:

HOUSE REPORTS - from the Committee on **LABOR** on Resolve, To Expedite a Workers' Compensation Case
H.P. 117 L.D. 125

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-642)** (7 members)

Minority - **Ought Not To Pass** (5 members)
Tabled - January 22, 2008, by Senator **SULLIVAN** of York

Pending - motion by Senator **STRIMLING** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence

(In House, January 17, 2008, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, January 22, 2008, Reports **READ**.)

On motion by Senator **STRIMLING** of Cumberland, the Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (1/3/08) Assigned matter:

JOINT ORDER - Expression of Legislative Sentiment Recognizing John Massaua, of China, who is stepping down on December 31, 2007 from his position as the State Director for the Maine Small Business Development Centers
SLS 470

Tabled - January 3, 2008, by Senator **MARTIN** of Aroostook

Pending - **PASSAGE**

(In Senate, January 3, 2008, **READ**.)

READ.

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

Senator **BROMLEY:** Thank you, Madame President, men and women of the Senate. I rise with mixed feelings because I have so enjoyed my relationship as the Chair of the Business, Research and Economic Development Committee with John Massaua and loathe to see him go. However, I'm so pleased to be able to present this sentiment. I was going to talk for a long time until my BRED Committee members got here, but here they are.

If you notice, the sponsorship of this sentiment is every member of leadership on both sides of the aisle and every member of the BRED Committee on both sides of the aisles as well as the honoree Senator, Senator Mitchell.

John has brought an amazing professionalism and ethic to the SBDC and I think what we appreciated about him most was his immense brain; his knowledge; his considerable experience, wide and deep; and his huge heart for the small businesses of Maine and all the people he worked with. He has a unique combination of really sort of quiet in the background advocacy when he's collaborating and then we all know him for his fierce advocacy when it's needed for a small business or those of us that support them. What I have continued to admire and count on from John is his always having his eye on the prize and what's good for Maine's small businesses. He's taught us a lot about collaboration.

In case you don't think so, here today in the Chamber, just to be here to witness this sentiment, are 27 people. There are nine people from the Small Business Administration, lead by the Regional Administrator, Sandy Blitz. There is a board member. USM is represented, one of the funding partners, by the Interim President Joe Wood. Women, Work and Community is here.

The DECD is here. There are ten members of the Maine SBDC family. I'm going to mention them because this would be for John. He would appreciate this most of all. Tom Gallant and his wife, Nina; Kate Arno; Janet Smith; Jim Burbank; Janet Roderick; Gordon Platt; Brad Swanson and of course John's family is here as well. There really aren't words to express the hole that John will be leaving, however, he has offered his informal and formal assistance to those of us who will try fill the void. I'll also hope that people would recognize the Interim State Director Meriby Sweet and give her a hand as well. Thank you, Madame President.

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

Senator **SCHNEIDER:** Thank you, Madame President, men and women of the Senate. I echo the good Chair of the Business, Research and Economic Development Committee's words, Senator Bromley of Cumberland. I did want to say that unfortunately I didn't have as long as a time to work with John Massaua, however I know that the program under his direction has been recognized nationwide. It is a program that he has built into something that works, that is special to Maine. I want to just say thank you to John for creating something that we can all take great pride in. I know that we will continue to support this program because of its success. I wish you the best and we will miss you. Thank you.

PASSED.

Sent down for concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber John Massaua; his wife, Janice, and his daughter, Megan; the SBA Regional Northeast Director, Sandy Blitz; the former District Director, Mary McAlaney; the USM Interim President, Joe Wood; DECD members, Thaxter Trafton; and SBDC Interim State Director, Meriby Sweet. Would they all please rise and honor you, Mr. Massaua.

The Chair laid before the Senate the following Tabled and Later (1/9/08) Assigned matter:

Bill "An Act Relating to Retirement and Death Benefits for Certain Law Enforcement Officers"

S.P. 577 L.D. 1672
(C "B" S-394)

Tabled - January 9, 2008, by Senator **WESTON** of Waldo

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, January 9, 2008, **READ A SECOND TIME.**)

PASSED TO BE ENGROSSED AS AMENDED.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (1/10/08) Assigned matter:

Bill "An Act To Improve Employment Opportunities for Persons with Disabilities in Maine"

S.P. 349 L.D. 1032
(C "B" S-395)

Tabled - January 10, 2008, by Senator **WESTON** of Waldo

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, January 10, 2008, **READ A SECOND TIME.**)

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Dow.

Senator **DOW:** Thank you, Madame President, ladies and gentlemen of the Senate. Most of these labor bills that are before you now are the result of some deal we made in the Labor Committee. Being new to the Labor Committee, we did things in a way that is different than what I was used to. As a result, we passed some and we let some fail. The only problem is that now we seem to be in a very tight fiscal area that is more than gray, it's horrible. I'm going to have to vote against most of the bills that have a fiscal note to them and not leave it up to the Appropriations Committee, which will have to discard a lot of fiscal bills, because they are going to be plenty busy as it is towards the end of this year. That's why I plan to vote against this bill. Thank you very much.

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

Senator **STRIMLING:** Thank you, Madame President. I'm not sure what the good Senator is referring to when he talks about deals that were made. I would say that I am disappointed that my colleague is changing his vote, flipping to the other side on this issue. The committee voted unanimously for this: everybody on the committee, obviously, Republicans and Democrats. This Body voted unanimously for this, as did the other Body. I am disappointed to hear that all of a sudden now, in an election year, that perhaps people are changing their votes. I'll tell you why everybody voted for it. Everybody voted for it because there are a lot of people in this state with disabilities who are unable to get the services that they need because there is no coordination between our departments and there is no outreach into those communities to let people know what opportunities exist so they can go back to work, thereby saving the State money. We know there are a lot of people with disabilities out there who are unable to get into jobs because they don't know where those jobs are, so they are on the State dole. We have to pay for them through the backdoor. We, in the Labor Committee and indeed this entire Body, unanimously recognize that this is important. We need to make sure that people with disabilities can receive the information that they need, the coordination that they need, so that it will save taxpayers money. That is why we voted for it, I'm sure. That's why I'm hoping that people will be consistent with their vote from last time and vote for it again today, because it will save the State money. Your vote today against this will cost us more money and keep more people out of jobs, out of developing our economy, in the 21st century. Thank you, Madame President.

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

Senator **PLOWMAN:** Thank you, Madame President. On the record, Madame President, would you please instruct the members of the Senate that it is against the Joint Rules to impugn the motives of another member of the Legislature. I understand that the Senator is running for office and is used to debating.

THE PRESIDENT: Then we should all not impugn anybody. I didn't feel, when I was listening to that debate, that anyone was being impugned.

Senator **PLOWMAN:** When we bring up legislative races, Madame President, and that people might change their mind because it's an election year, then that is impugning a member's motives. Thank you.

On motion by Senator **ROSEN** of Hancock, 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 (#254)

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

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

ABSENT: Senator: MITCHELL

14 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 1 Senator being absent, **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-395), FAILED.**

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (1/15/08) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act To Promote Workplace Safety and Certainty within the Construction Industry by Authorizing the Workers' Compensation Board To Issue Construction Contractor Certificates"

H.P. 903 L.D. 1275

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-641)** (1 member)

Tabled - January 15, 2008, by Senator **STRIMLING** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, January 10, 2008, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, January 15, 2008, Reports **READ**.)

On motion by Senator **STRIMLING** of Cumberland, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (1/17/08) Assigned matter:

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Ensure Appropriate Personal Needs Allowances for Persons Residing in Long-term Care Facilities

H.P. 501 L.D. 652

Majority - **Ought Not to Pass** (5 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-645)** (3 members)

Tabled - January 17, 2008, by Senator **BRANNIGAN** of Cumberland

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

(In House, January 15, 2008, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, January 17, 2008, Reports **READ**.)

On motion by Senator **MARTIN** of Aroostook, 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 Cumberland, Senator Brannigan.

Senator **BRANNIGAN:** Thank you, Madame President, men and women of the Senate. I wanted to explain why I moved the Ought to Pass as Amended report. Only three of us voted that way. You do have to look to see that the three who voted that way are the three oldest members of our committee. As you know, in nursing facilities and in assisted living people have to give up all of their income, Social Security and etcetera and can keep, at the present time, \$40 a month in nursing homes and \$50 or \$70, depending on what category they are in, in residential living. That

hasn't been increased for some time. You may say, 'Well, this isn't the year to increase.' I may very well agree with you as the year goes on. However, it just seems as though that if you live in these circumstances and all you've got is \$40 a month to get hair done, get toothpaste, necessities and etcetera you're living pretty skimpily. We're only asking that it go up from \$40 to \$50. I am going to vote in favor of this increase. Thank you, Madame President.

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

Senator **RAYE:** Thank you, Madame President. I just wanted to rise to associate myself with the comments of the good Senator from Cumberland, Senator Brannigan. I was not present on the day that the committee voted for this, but if I had been I would have joined my elder colleagues in voting in support of it. I'm not going to stand here and advocate for many issues to go to the Appropriations Table. I recognize that we are in dire fiscal times. On this issue, I believe that this is a matter of fundamental human dignity. I believe that even though my eyes are wide open in terms of the fiscal reality of what we the Appropriations Committee will be dealing with, it's worth casting a vote to send it there so it's there for the mix. These are very vulnerable people in our society: at the end of their lives. They don't have much dignity left. I think if we can give them some small measure of comfort, and a few extra dollars a month to use on their personal needs, that we should stand with that. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you, Madame President and ladies and gentlemen of the Senate. I stand here also in favor of the Minority Report and thank the good Senator for voting this way. I sponsored the original bill and was very proud to do so. Two years ago I visited many nursing homes in my district. My heart really went out to many of the elderly citizens, especially those that didn't have family. We have many elderly citizens living in our nursing homes that don't have family. They have no one, absolutely no one. They don't get the extra money or the help to buy basic needs to make their lives a little bit more comfortable. Thank goodness many of the nursing homes and facilities have other elderly that do have families or do have the extra money. They help out. They contribute and they give when they can. I think this is a great message to send to folks back home, that we care about them, we care about the elderly who are in their last stages of life and we want to make their life more comfortable. Yes, we need fiscal responsibility, but I think that I, for one, will be voting for the Ought to Pass report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I do think that there is some assumption that the economy will continue to go downward, but that is something that I don't know and certainly hope that is not the case. I hope that what's going on in Aroostook is not going to occur in the rest of the state where we, obviously, are feeling the pinch of a couple of the mills being shut down in the past week. I do think that we clearly need to understand the legislative process. We've always

used the Appropriations Table as a mechanism to get pieces of legislation that legislators or the legislature feels strongly about funded. It could well be, in the end, that there is no money. It could well be, in the end, that there are places where money can be found. The last time we went through this in 1991 and 1992, obviously, we had a problem. We had a Chief Executive who went along with a sales tax increase. Subsequently, a number of years later, it was repealed. There is hope and I think we cannot and should not give the impression to people that there is no hope for all the legislation that people may want. That, to me, is a mistake. In this piece of legislation, if we want to fund this we can find the money. We can take it from what nursing home owners get. Transfer the allocation if we feel so strongly about it. The process that we are using is sending legislation to the Appropriations Table knowing that it may well die and knowing that there is no money. However, there may be ways in which we can fund it if we want to and feel strongly about it. Other things can happen in the process. I think that this bill is an example where, at least I feel strongly, there is a reason why it ought to go to the table with other pieces of legislation that will follow between now and the time we adjourn. We ought not to be taking the position that there was no money yesterday but we therefore have to let the bill go forward. That is not a process that this legislature has used since I have been here and it is one that we ought not to be using. Obviously, if people feel that they are opposed to a bill then vote your conscience, but on the other side of that coin, if your conscience tells you that it is a worthwhile piece of legislation, and there is no money, vote for it because in the end it's amazing where I've seen money come from in order to get pieces of legislation enacted by this Body and the other Body in my tenure. I asked for a Roll Call for that very purpose, to see where the priorities of people lie.

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

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. I have to add a footnote to that speech and say that a negative vote on this worthy cause can very well mean that we, in the Senate, believe that as worthy as the proposal is that we have a fiscal responsibility to the State of Maine that is, frankly, just as strong as the responsibility of the Appropriations Committee. It isn't inappropriate for us to show our priorities on the floor of this Chamber before it goes to the Appropriations Committee.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. Where do I begin? Do I want to talk with you about the Michigan primary the Republicans had last week in which Governor Romney told Michiganders, I guess there are known as, that every job that has been lost will be put back under his tenure as President of the United States? Do we heed the advice of my candidate, Senator John McCain, who drives the straight talk bus and tells people things are tough, their cause is worthy but there is no money? You should vote your conscience. The good Senator from Aroostook, Senator Martin, has talked about the process we've gone through from time to time. Those evil naysayers from the Appropriations Committee will do your

work for you if you don't do it here on the floor in the Chamber today. Thank you very much.

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

Senator **SCHNEIDER:** Thank you, Madame President, men and women of the Senate. I wasn't planning on speaking on this issue but after the comments of my good colleague from Cumberland, Senator Turner, I felt it was important that I did stand because this is something that I've grappled with in my own mind. This issue of whether or not we send legislation on to the Appropriations Table. I think what my experience has been is that it's important to allow it to go to the Appropriations Table to let people know that you do care and then to fight for it with the Appropriations Committee. If you don't do that then you are sending a clear message that, indeed, this is not a priority and that it's not worth fighting for at the Appropriations level. There are a multitude of opportunities to fight for something. I think in this case that this is long overdue. There are many things that are priorities. There are many important issues that will be coming forward. I think this is a very important message and one that concerns me greatly. It does not send a message that we, here, believe that there is an unlimited supply of money available or that we are somehow spendthrifts. Certainly that is not the case. We do know that these folks have been waiting a long time for certain increases and so I think it is important to send the message that we do care and that we will fight for them another day. Thank you very much.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Brannigan to Accept the Minority Ought to Pass as Amended Report. 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 (#255)

Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, HARRACH, MARTIN, MCCORMICK, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SNOWE-MELLO, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

Senators: MILLS, SMITH, TURNER, WESTON

Senator: MITCHELL

30 Senators having voted in the affirmative and 4 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**, **PREVAILED**.

READ ONCE.

Committee Amendment "B" (H-645) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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:

Emergency Resolve

Resolve, To Assist Maine's Forest Products Industry
H.P. 1532 L.D. 2155
(C "A" H-660)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** 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 Unassigned matter:

Bill "An Act To Advance the Maine Economy"
S.P. 827 L.D. 2159

Tabled - January 17, 2008, by Senator **SCHNEIDER** of Penobscot

Pending - **REFERENCE**

(Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** suggested and ordered printed.)

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

Sent down for concurrence.

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

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

Senator **PLOWMAN**: Thank you, Madame President. Earlier today, in my rush to defend my seatmate, I showed disrespect for the Chair and I wish to apologize for that. I did not mean to include you in my debate. I will try to refrain. Thank you.

THE PRESIDENT: Senator, your apology is accepted with graciousness. Thank you.

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

Senator **SCHNEIDER**: Thank you, Madame President, men and women of the Senate. I just wanted to take an opportunity to thank the folks on the Transportation Committee for working the bill, L.D. 2155, today to make sure that this was able to move through the process as quickly and as expeditiously as possible, but at the same time provide the opportunity for everybody to have a chance to speak through the public hearing process. I just wanted to thank everybody who was involved in making that happen. It's an important bill and I know that it is appreciated by the forest products industry people. Thank you.

On motion by Senator **MITCHELL** of Kennebec, **ADJOURNED** to Thursday, January 24, 2008, at 10:00 in the morning.