

MAINE STATE LEGISLATURE

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Senate Legislative Record

One Hundred and Twenty-Third Legislature

State of Maine

Daily Edition

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Pages 1320 - 1759

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

In Senate Chamber
Tuesday
January 29, 2008

Senate called to order by President Pro Tem Elizabeth H. Mitchell of Kennebec County.

Prayer by Reverend Michelle Grube of Peoples United Methodist Church in Union.

REVEREND GRUBE: Let us pray. To You, oh Devine One from whose hands comes the work of creation so artfully designed, we pray that this work that these Senators are about to do may be done in companionship with You. May the work that these servants will soon begin sing praise to You as song birds do. May the work that these Senators will soon begin add to the light of Your presence because it is done with great love. May the work that these lawmakers will soon begin speak like a prophet of old of Your dream of beauty and unity. May the work that these gathered here today will soon begin to be a shimmering mirror of Your handiwork, in the excellence of its execution, in the joy of its doing for its own sake, in the poverty of ownership of it, in their openness to failure or success, in their invitation to others to share in it, and in its bearing of fruit for the world. May these Senators be aware that through this work they draw near to You. We come to You, beloved, with hands ready and open hearts. Amen.

Pledge of Allegiance led by Senator Elizabeth M. Schneider of Penobscot County.

Reading of the Journal of Thursday, January 24, 2008.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.P. 839

**STATE OF MAINE
123RD MAINE LEGISLATURE**

January 25, 2008

Sen. Nancy B. Sullivan
Senate Chair, Joint Standing Committee on Insurance and Financial Services
Rep. John R. Brautigam
House Chair, Joint Standing Committee on Insurance and Financial Services
123rd Legislature
Augusta, ME 04333

Dear Senator Sullivan and Representative Brautigam:

Please be advised that Governor John E. Baldacci has nominated Mila Kofman of Potomac, Maryland for appointment as the Superintendent of Insurance.

Pursuant to Title 24-A M.R.S.A. §201 (2), this nomination will require review by the Joint Standing Committee on Insurance and Financial Services and confirmation by the Senate.

Sincerely,

S/Beth Edmonds
President of the Senate

S/Glenn Cummings
Speaker of the House

READ and with accompanying papers **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES**.

Sent down for concurrence.

The Following Communication: S.C. 606

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON BUSINESS, RESEARCH AND ECONOMIC
DEVELOPMENT**

January 17, 2008

Honorable Beth Edmonds, President of the Senate
Honorable Glenn Cummings, Speaker of the House
123rd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Cummings:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Business, Research and Economic Development has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1963 An Act Regarding the Training of Applicants for a Limited Radiographer License by Licensed Practitioners

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Lynn Bromley
Senate Chair

S/Rep. Nancy E. Smith
House Chair

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

The Following Communication: S.C. 607

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE**

January 24, 2008

Honorable Beth Edmonds, President of the Senate
Honorable Glenn Cummings, Speaker of the House
123rd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Cummings:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Inland Fisheries and Wildlife has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 2031 An Act To Amend the Laws Governing the Whitewater Rafting Allocation System
- L.D. 2045 An Act To Enact Guidelines for the Operation of Motorboats by Minors
- L.D. 2065 An Act To Clarify the Filing Requirements for Noncommercial Whitewater Rafting Organizations
- L.D. 2090 An Act To Impose a Horsepower Restriction for Boat Motors on Long Lake and Brandy Pond

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Bruce Bryant
Senate Chair

S/Rep. Troy D. Jackson
House Chair

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

The Following Communication: S.C. 608

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON JUDICIARY**

January 23, 2008

Honorable Beth Edmonds, President of the Senate
Honorable Glenn Cummings, Speaker of the House
123rd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Cummings:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Judiciary has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 1524 An Act To Increase Judicial Salaries (EMERGENCY)

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Barry J. Hobbins
Senate Chair

S/Rep. Deborah Simpson
House Chair

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

The Following Communication: S.C. 609

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON NATURAL RESOURCES**

January 23, 2008

Honorable Beth Edmonds, President of the Senate
Honorable Glenn Cummings, Speaker of the House
123rd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Cummings:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Natural Resources has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1950 An Act To Repeal the Premium Imposed on
Motor Vehicle Oil Changes

We have also notified the sponsor and cosponsors of the
Committee's action.

Sincerely,

S/Sen. John L. Martin
Senate Chair

S/Rep. Theodore S. Koffman
House Chair

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

The Following Communication: S.C. 610

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON TAXATION**

January 23, 2008

Honorable Beth Edmonds, President of the Senate
Honorable Glenn Cummings, Speaker of the House
123rd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Cummings:

Pursuant to Joint Rule 310, we are writing to notify you that
the Joint Standing Committee on Taxation has voted unanimously
to report the following bill out "Ought Not to Pass":

L.D. 276 RESOLUTION, Proposing an Amendment to
the Constitution of Maine To Require the
Legislature To Freeze the Valuation of Maine
Primary Residence Land

We have also notified the sponsor and cosponsors of the
Committee's action.

Sincerely,

S/Sen. Joseph C. Perry
Senate Chair

S/Rep. John F. Piotti
House Chair

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

The Following Communication: S.C. 611

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON UTILITIES AND ENERGY**

January 23, 2008

Honorable Beth Edmonds, President of the Senate
Honorable Glenn Cummings, Speaker of the House
123rd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Cummings:

Pursuant to Joint Rule 310, we are writing to notify you that
the Joint Standing Committee on Utilities and Energy has voted
unanimously to report the following bill out "Ought Not to Pass":

L.D. 2103 Resolve, Directing the Public Utilities
Commission To Study Existing Barriers to
Digital Telephone Service Access in Rural
Areas of the State

We have also notified the sponsor and cosponsors of the
Committee's action.

Sincerely,

S/Sen. Philip L. Bartlett II
Senate Chair

S/Rep. Lawrence Bliss
House Chair

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

SENATE PAPERS

Bill "An Act To Correct the Law Regarding Portability of Pension
Benefits for Law Enforcement Officers and Firefighters"
S.P. 837 L.D. 2177

Sponsored by President EDMONDS of Cumberland.
Cosponsored by Representative TUTTLE of Sanford and
Senators: BARTLETT of Cumberland, PLOWMAN of Penobscot,
STRIMLING of Cumberland, SULLIVAN of York, Representatives:
CROCKETT of Augusta, Speaker CUMMINGS of Portland,
PINGREE of North Haven, TARDY of Newport.
Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 203.

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

Sent down for concurrence.

Bill "An Act To Increase Public Confidence in Government by Expanding Public Disclosure"

S.P. 838 L.D. 2178

Sponsored by President EDMONDS of Cumberland.
Cosponsored by Speaker CUMMINGS of Portland and Senators: BARTLETT of Cumberland, MARRACHÉ of Kennebec, MITCHELL of Kennebec, PLOWMAN of Penobscot, STRIMLING of Cumberland, Representatives: CANAVAN of Waterville, PINGREE of North Haven.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

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

Sent down for concurrence.

Bill "An Act Relating to Studded Tires"

S.P. 836 L.D. 2176

Sponsored by Senator DIAMOND of Cumberland.
Cosponsored by Representative MARLEY of Portland and Senator: SAVAGE of Knox, Representatives: MAZUREK of Rockland, PEOPLES of Westbrook, ROSEN of Bucksport.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

Sent down for concurrence.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator SCHNEIDER for the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Amend the Lucerne-in-Maine Village Corporation Charter"

S.P. 759 L.D. 1965

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-404)**.

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

READ ONCE.

Committee Amendment "A" (S-404) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator BARTLETT for the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Establish the Northern Maine Power Agency"

S.P. 434 L.D. 1248

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-405)**.

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

READ ONCE.

Committee Amendment "A" (S-405) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

SECOND READERS

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

House As Amended

Bill "An Act To Improve the Method of Taxing Natural Gas for Highway Use"

H.P. 409 L.D. 531
(C "A" H-653)

Resolve, To Establish the Maine Tree Growth Tax Law Review Committee

H.P. 421 L.D. 543
(C "A" H-656)

Bill "An Act To Exempt from the Sales Tax Water Used in Agricultural Production"

H.P. 812 L.D. 1094
(C "A" H-654)

Bill "An Act To Set Fees for Services for Tax-exempt Property in Municipalities"

H.P. 996 L.D. 1413
(C "A" H-655)

Resolve, To Demonstrate Cost Savings by Preventing the Onset of Severe Mental Illness in Youth (EMERGENCY)

H.P. 1092 L.D. 1567
(C "B" H-652)

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

Bill "An Act Regarding Occupational Safety and Health Training for Workers on State-funded Construction Projects"

H.P. 458 L.D. 591
(C "A" H-635)

READ A SECOND TIME.

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**.

Senate

Bill "An Act To Extend the Deadline for Applications for Loans Associated with the Remediation of a Waste Oil Site in Plymouth" (EMERGENCY)

S.P. 743 L.D. 1933

Bill "An Act To Promote Tourism in Maine and the Purchase of Products Made in Maine"

S.P. 753 L.D. 1959

READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

Senate As Amended

Bill "An Act To Strengthen the Scientific Research Support Capability of the Maine State Museum"

S.P. 209 L.D. 672
(C "B" S-403)

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:

Emergency Measure

An Act To Amend the Habitual Offender and Felony Operating Under the Influence Laws

S.P. 579 L.D. 1674
(C "B" S-399)

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

Acts

An Act To Strengthen the Crime of Gross Sexual Assault as It Pertains to Persons Who Furnish Drugs to Victims

S.P. 116 L.D. 372
(C "B" S-398)

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

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

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

An Act To Strengthen "Permissible Inference" in the Law Concerning Dissemination of Sexually Explicit Material

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

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

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

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

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

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

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

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

An Act To Make a Conviction for a 6th Operating under the Influence Charge a Class B Crime

S.P. 95 L.D. 280
(C "B" S-397)

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

An Act To Amend the Laws Governing Stalking
S.P. 681 L.D. 1873
(C "B" S-400)

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

Senate at Ease.

Senate called to order by
President Pro Tem **ELIZABETH H. MITCHELL**
of Kennebec County.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2008 and June 30, 2009" (EMERGENCY)
H.P. 1547 L.D. 2173

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

On motion by Senator **MARTIN** of Aroostook, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Regarding Curriculum Requirements and Standards for Awarding a High School Diploma"
H.P. 1548 L.D. 2174

Resolve, To Ensure Support for a Model of Consolidated and Integrated Secondary and Postsecondary Education
H.P. 1549 L.D. 2175

Come from the House, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

On motion by Senator **BOWMAN** of York, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Protect Children from Lead Poisoning" (EMERGENCY)

H.P. 1546 L.D. 2172

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

On motion by Senator **MARRACHÉ** of Kennebec, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed, in concurrence.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator **HOBBINS** for the Committee on **JUDICIARY** on Bill "An Act To Clarify Confidentiality in Child Protective Proceedings" (EMERGENCY)

S.P. 828 L.D. 2161

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-406)**.

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

READ ONCE.

Committee Amendment "A" (S-406) **READ** and **ADOPTED**.

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

Sent down forthwith for concurrence.

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

Senator **MARTIN** of Aroostook was granted unanimous consent to address the Senate off the Record.

Senator **WESTON** of Waldo was granted unanimous consent to address the Senate off the Record.

Senator **RAYE** of Washington was granted unanimous consent to address the Senate on the Record.

Senator **RAYE**: Thank you, Madame President. I rise this morning with a heavy heart. I will speak in a few days more on this, but I wanted to just share for the record and with my colleagues in the Senate that we've suffered a very terrible loss, particularly those of us who serve on the Health and Human Services Committee, with the sudden and tragic passing of Pam Morrill, our clerk, who, while visiting her elderly parents whom she gave a great deal of love, attention and care on Sunday evening, was stricken with a fatal heart attack and passed away. It is a tragedy for her family; for her wonderful daughter, Sarah; for her elderly parents who loved and depended on her so much in their declining years; and for all of us who had the pleasure to know Pam over the years. She served in this building, working in Governor McKernan's office during his administration. She worked with the late Abby Holman, who was her closest friend and whose death was a terrible blow to Pam. They worked together at the Maine Forest Products Council. She has been, for the last year and some odd months, an absolutely phenomenal clerk who has been able to meet the challenge of an extremely busy committee and keep us all on task. I was always amazed at her organization and her positive outlook, no matter how stressful or how busy we were. It's a terrible loss and those of us on the committee and those of us who have been her friends over the years are, I think fair to say, in a state of shock at the moment. I wanted to make sure everybody knew of Pam's passing and that our thoughts and prayers be with her family and that when we adjourn today that we do so in honor and tribute to Pam Morrill.

Senator **NUTTING** of Androscoggin was granted unanimous consent to address the Senate on the Record.

Senator **NUTTING**: Thank you, Madame President. I also wanted to just say a brief word. I've known Pam for years. It was a real shock. The lesson here, to me anyways, is that the last week she hadn't been feeling quite well. She had a lot of heartburn the last week and had been, like I've done and most of us have done, taking a lot of Tums and other stuff for it. There was really a sign there that she didn't recognize. That's just so unfortunate. To me, she had energy enough for two people and always was that way. I knew her when she used to clerk the State and Local Government Committee and the Education Committee and worked with the Forest Products Council. I've known her for years and years. It's just so much of a shock. Those little telltale signs, I think, were there. It's just so sad that

she didn't recognize them and that others didn't recognize them. Thank you.

Senator **TURNER** of Cumberland was granted unanimous consent to address the Senate on the Record.

Senator **TURNER**: Thank you, Madame President. Life oftentimes is too short and Pam Morrill is certainly a case where it is way too short. I'd like to close the session on a more upbeat note. Next month will be my Aunt Laura's 99th birthday. There is a sentiment for her on the calendar that I did not speak on earlier but I do want to share a few things from that sentiment with you because they are great things to live by. She was always, and continues to this day, to have a strong hand in my immediate family and my extended family. Her advice is rather straightforward but I think very salient to all of us. Be anything you want to be in life. Always be kind to those less fortunate. Always try to offer a helping hand to those who are in need. Remember that health, happiness, and family are all that counts. Stand up for what you believe in. Of course she would say those embody Republican values and she came from a mixed family where political discussion was hot and heavy. Her sister and brother-in-law were Democrats and we had great discussions around the dinner table, the lunch table, and the breakfast table. I wish my Aunt Laura the very best on her 99th. I hope I can live half as long as she has in the remaining time that I have. Thank you, Madame President.

Senator **RAYE** of Washington was granted unanimous consent to address the Senate on the Record.

Senator **RAYE**: Thank you, Madame President. At the risk of exposing a fact that I have tried very hard to hide during my years in Augusta, Senator Turner and I are sort of related. I just had to take a moment to rise and join him in paying tribute to Aunt Laura. I had the pleasure as a little boy of living next door to Laura and her husband, Uncle Lester. While they were not blood relatives to me, I didn't know that until I was fairly well grown up because they were literally family. She is a remarkable person. If you met her you would be just blown away by the energy and the dynamism that she still radiates at the age of 99. She stands, I would guess, about 4' 8" and probably 85 or 90 pounds. She is just full of energy and lives life to the fullest. She inspires everybody who knows her. It gives me enormous pleasure to be able to associate myself with Senator Turner's tribute to Laura MacLean Turner. Thank you.

Off Record Remarks

On motion by Senator **DIAMOND** of Cumberland, **ADJOURNED**, until Thursday, January 31, 2008, at 10:00 in the morning, in memory of and lasting tribute to Pamela Morrill of Gardiner.