

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
Thursday
January 31, 2008

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

Prayer by Reverend George L. Hodgkins, Jr. of Centenary United Methodist Church in Skowhegan.

REVEREND HODGKINS: Let us pray. Oh God of care and justice, we call upon You as we begin this session for wisdom and guidance. Direct us with Your spirit as we deliberate on decisions that will impact us all. Help us to wisely consider everything that is before us and to make decisions that will truly benefit the people of our wonderful state. Enable us to look beyond party politics and to do what is best for our citizens. You do desire us to act justly, to love mercy, and to walk humbly before You. May we do so today and always. We ask all this in Your name. Amen.

Reading of the Journal of Tuesday, January 29, 2008.

Doctor of the day, Jo Linder, MD of Falmouth.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by Senator **MARTIN** of Aroostook, the following Joint Order:
S.P. 840

Ordered, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, February 5, 2008 at 10:00 in the morning.

READ and PASSED.

Ordered sent down forthwith for concurrence.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

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

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

In Senate, January 22, 2008, **FAILED PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-395).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-395), in NON-CONCURRENCE.**

On motion by Senator **STRIMLING** of Cumberland, the Senate **INSISTED and ASKED FOR A COMMITTEE OF CONFERENCE.**

Sent down for concurrence.

COMMUNICATIONS

The Following Communication: S.C. 613

**STATE OF MAINE
123RD MAINE LEGISLATURE**

January 17, 2008

Chief Justice Leigh I. Saufley
Maine Supreme Judicial Court
P. O. Box 368
Portland, ME 04112

Dear Chief Justice Saufley:

We are pleased to invite you to address a Joint Session of the 123rd Maine Legislature on Tuesday, February 5, 2008 at 11:00 a.m. concerning the State of the Judiciary and any other matters that you may care to bring to our attention.

We look forward to seeing you then.

Sincerely,

S/Beth Edmonds
President of the Senate

S/Glenn Cummings
Speaker of the House

READ and ORDERED PLACED ON FILE.

Off Record Remarks

The Following Communication: S.C. 614

**THE UNIVERSITY OF MAINE
MARGARET CHASE SMITH POLICY CENTER
ORONO, MAINE 04469**

January 25, 2008

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

RE: Maine State Government Summer Internship Program

Dear Secretary O'Brien:

In accordance with 1967 Public Law, Chapter 493, Section 294, Item 8, I am enclosing copies of the 2007 Maine State Government Summer Internship Report for distribution to the Members of the State Senate.

The Maine State Government Summer Internship Program is a full-time, 12-week, paid work experience in a state agency. The Program combines work experience with an educational program designed to provide talented Maine college students the opportunity to participate in and contribute to Maine State Government. We are now accepting all applications through our website at <http://www.umaine.edu/mcsc/MeSGIP.htm>.

Thank you for your assistance in making this report available to the Members of the Senate.

Yours Truly,

S/Charles E. Morris
Research Associate
Director, Maine State Government Summer Internship Program

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

SENATE PAPERS

Bill "An Act To Promote Residential and Commercial Energy Conservation"

S.P. 841 L.D. 2179

Sponsored by Senator BARTLETT of Cumberland.
Cosponsored by Representative HINCK of Portland and
Senators: BROMLEY of Cumberland, DOW of Lincoln, TURNER of Cumberland, Representatives: BERRY of Bowdoinham, BLISS of South Portland, PINGREE of North Haven, RECTOR of Thomaston, SMITH of Monmouth.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Committee on **UTILITIES AND ENERGY** suggested and ordered printed.

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending **REFERENCE**.

REPORTS OF COMMITTEES

House

Change of Committee

The Committee on **INLAND FISHERIES AND WILDLIFE** on Resolve, To Study the Feasibility of a Public Dock on Mooselookmeguntic Lake

H.P. 1473 L.D. 2087

Reported that the same be **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**.

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

REFERRED to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**, in concurrence.

Ought to Pass

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Create Consistency in the Authority of the Public Utilities Commission To Provide Tariff Exemptions"

H.P. 1444 L.D. 2060

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Amend the Charter of the Norway Water District" (EMERGENCY)
H.P. 1460 L.D. 2076

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Establish a Single-payor Health Care System"

H.P. 790 L.D. 1072

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-644)**.

Signed:

Senators:

SULLIVAN of York
BOWMAN of York

Representatives:

BRAUTIGAM of Falmouth
CANAVAN of Waterville
CROCKETT of Augusta
TREAT of Hallowell
CONOVER of Oakland
PRIEST of Brunswick

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

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

VAUGHAN of Durham
RICHARDSON of Warren
McKANE of Newcastle

Comes from the House 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" (H-644) AS AMENDED BY HOUSE AMENDMENT "A" (H-662)** thereto.

Reports **READ**.

Senator **SULLIVAN** of York moved to **TABLE** Unassigned, pending **ACCEPTANCE OF EITHER REPORT**.

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

Senator **MARTIN** of Aroostook moved to **TABLE** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

On motion by Senator **WESTON** of Waldo, 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 (#259)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, HOBBS, MARRACHE, MARTIN, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT PRO TEM - ELIZABETH H. MITCHELL

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

ABSENT: Senator: EDMONDS

17 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **MARTIN** of Aroostook to **TABLE** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT, FAILED**.

On motion by Senator **MARTIN** of Aroostook, **TABLED** until 11:00 in the morning, pending **ACCEPTANCE OF EITHER REPORT**.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Dedicate 20 Percent of the Sales Tax on Motor Vehicles to the Highway Fund"

H.P. 604 L.D. 788

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-659)**.

Signed:

Senators:

PERRY of Penobscot
NASS of York

Representatives:

KNIGHT of Livermore Falls
CLARK of Millinocket
WOODBURY of Yarmouth
CHASE of Wells
LANSLEY of Sabattus

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

Signed:

Senator:

STRIMLING of Cumberland

Representatives:

PIOTTI of Unity
RAND of Portland
WATSON of Bath
PILON of Saco

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

Reports **READ**.

Senator **PERRY** of Penobscot moved to **TABLE** until Later in
Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

On motion by Senator **WESTON** of Waldo, 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 (#260)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN,
BROMLEY, BRYANT, DAMON, DIAMOND,
HOBBINS, MARRACHE, MARTIN, NUTTING,
PERRY, ROTUNDO, STRIMLING, SULLIVAN, THE
PRESIDENT PRO TEM - ELIZABETH H.
MITCHELL

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

ABSENT: Senator: EDMONDS

16 Senators having voted in the affirmative and 18 Senators
having voted in the negative, with 1 Senator being absent, the
motion by Senator **PERRY** of Penobscot to **TABLE** until Later in
Today's Session, pending **ACCEPTANCE OF EITHER REPORT**,
FAILED.

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

Senator **WESTON** of Waldo moved the Senate **RECONSIDER**
whereby it **ACCEPTED** the Minority **OUGHT NOT TO PASS**
Report, in concurrence.

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

Senator **MARTIN:** Thank you, Madame President. May I pose a
question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **MARTIN:** Thank you, Madame President. What have
we started here today? To what purpose is it going to take us? It
appears to me that this is not a wise beginning. I pose that
question.

THE PRESIDENT PRO TEM: The Senator from Aroostook,
Senator Martin poses a question through the Chair to anyone who
may wish to answer. The Chair recognizes the Senator from
Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President. We are here
to do the State's business. We do not, those of us in the minority,
have any say in what is in the calendar and what is before us on
any given day. Today we have two bills before us and we are
asking to vote on them. We are doing the State's business.

On motion by Senator **BARTLETT** of Cumberland, 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 (#261)

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

NAYS: Senators: BARTLETT, BOWMAN, BRANNIGAN,
BROMLEY, BRYANT, DAMON, DIAMOND,
HOBBINS, MARRACHE, MARTIN, NUTTING,
PERRY, ROTUNDO, SCHNEIDER, STRIMLING,
SULLIVAN, THE PRESIDENT PRO TEM -
ELIZABETH H. MITCHELL

ABSENT: Senator: EDMONDS

17 Senators having voted in the affirmative and 17 Senators
having voted in the negative, with 1 Senator being absent, the
motion by Senator **WESTON** of Waldo to **RECONSIDER** whereby
the Senate **ACCEPTED** the Minority **OUGHT NOT TO PASS**
Report, in concurrence, **FAILED**.

Senate

Ought to Pass

Senator BARTLETT for the Committee on **UTILITIES AND**
ENERGY on Bill "An Act To Create the Starboard Water District"
(EMERGENCY)

S.P. 807 L.D. 2117

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

SECOND READERS

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

Senate As Amended

Bill "An Act To Establish the Northern Maine Power Agency"
S.P. 434 L.D. 1248
(C "A" S-405)

Bill "An Act To Amend the Lucerne-in-Maine Village Corporation Charter"

S.P. 759 L.D. 1965
(C "A" S-404)

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 Implement the Recommendations of the Criminal Law Advisory Commission

H.P. 882 L.D. 1240
(C "B" H-651)

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

An Act To Increase Reimbursement for Jury Duty
S.P. 11 L.D. 1
(C "A" S-401)

On motion by Senator **ROTUNDO** of Androscoggin, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, 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 Consumers' Gift Card Interests"
H.P. 1551 L.D. 2181

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

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

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

PAPERS FROM THE HOUSE

House Paper

Resolve, To Place a Sign on the Maine Turnpike for the Black Mountain of Maine Ski Area
H.P. 1553 L.D. 2183

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

On motion by Senator **DAMON** of Hancock, **REFERRED** to the Committee on **TRANSPORTATION** 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 To Ensure the Integrity of Prepaid Calling Accounts"
H.P. 1550 L.D. 2180

Bill "An Act To Allow Civil Penalties for Damaging Utility Property or for Theft of Utility Services"
H.P. 1552 L.D. 2182

Come from the House, **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed.

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

ENACTORS

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

Emergency Measure

An Act To Clarify Confidentiality in Child Protective Proceedings
S.P. 828 L.D. 2161
(C "A" S-406)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

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

Senator **BRANNIGAN**: Thank you, Madame President. I hope that what I'm going to say is for all of us. I believe it is. I don't know if everybody saw the press releases yesterday from the Commissioner of Education and our Commissioner of Mental Health and the Department of Human Services. The changes in the Medicaid rules that are coming to us are going to be absolutely catastrophic for our safety net, for the mentally ill, for those who are aged, and other services that we give to those in need. We, those of us who work in this kind of human service field where Medicaid is used, thought we had these stalled or delayed. These rules are starting to take effect March 1st and July 1st. There is not even time to begin to get ready even if we had some way to get ready. We thought we had a moratorium to get a delay until we could work on them, understand them, and maybe change some of them. Congress agreed but they attached it to the S-Chip bill. As you know, President Bush vetoed the S-Chip bill and by doing that he did away with all of the

work that we had done and Congress had done to put a moratorium on these rule changes. It is a Medicaid rule, CMS rule. I am asking everyone, and this is not just us, across this country. We were more aware than others because we use Medicaid more than others, which most of us think is a very wise thing, to have the Federal government help out 2-1 in our insurance things and other care for the disabled. Other states now realize what it is going to do to them too. We believe there is a movement underway but we need to get another moratorium either on the Iraq bill or on the stimulus package, which I think is in the works. We need to really let our Congress people know. We need to let D's and R's, especially since the R's are very important in the Senate, how serious this is. If you haven't seen the news release from yesterday, please ask for it. The numbers are staggering. The losses are in the hundreds of millions of dollars. It's not only that, but our system of care for the mentally ill, for example, the homes are in and getting help from are going to be done away with because of the unbundling. I won't go into it all. Just tell them we have to have some time. We have to have a delay. I hope you will. This weekend would be a wonderful time for you to contact all four of our representatives in Washington and ask them to just help delay the Medicaid rules. Thank you.

Senator **MARTIN** of Aroostook 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 just wanted to echo the comments of both the Senator from Cumberland, Senator Brannigan, and the Senator from Aroostook, Senator Martin, and to emphasize that all four members of the Maine Congressional Delegation are onboard to try to slow this train down. It has an extremely serious impact on our State budget. It has an extremely serious impact on other State's budgets across the country. The fiscal impact for the General Fund is \$45 million, further complicating our work that we have ahead of us. As the Senator from Aroostook, Senator Martin, mentioned, the impact on the community is much greater. It takes up to more like \$185 million. I wanted to just point out that one of the most serious impacts is in regards to special education and the Federal mandate with respect to special education. That is that our communities will still be required to provide all of the services, the transportation, etcetera under the Federal mandate but this is a cost shift directly to the property tax payers. I think that we need to be, all of us, vigilant but I do take heart in the knowledge that our Congressional Delegation, on a bi-partisan basis, is united to see what can be done at the Federal level to make sure that we don't take enormous hit.

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

Off Record Remarks

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

Off Record Remarks

Senator **DAMON** of Hancock was granted unanimous consent to address the Senate off the Record.

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

On motion by Senator **MARTIN** of Aroostook, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, February 5, 2008, at 10:00 in the morning.