

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
Wednesday
February 6, 2008

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

Prayer by Leslie Manning of Durham Friends Meeting.

MS. MANNING: Good morning, friends. Be still and know that I am God. Creator and Sustainer of Life, give us the wisdom of Deborah, the faithfulness of Ruth, the courage of Esther, and the compassion of Mary. Let us do Your work in the world. Let us exalt the humble, cherish the needy, sustain the righteous, and establish justice on this earth. Let us recognize that of You in each other. Let us remember that we were given two ears and only one mouth and open and loving hearts as well as keen and curious minds. Encourage us as we speak truth to power. We are grateful for the opportunity to serve You and to bring light out of the darkness and hold it in our hearts. Amen.

Reading of the Journal of Tuesday, February 5, 2008.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.P. 846

**STATE OF MAINE
123RD MAINE LEGISLATURE**

February 5, 2008

Sen. John L. Martin
Senate Chair, Joint Standing Committee on Natural Resources
Rep. Theodore S. Koffman
House Chair, Joint Standing Committee on Natural Resources
123rd Legislature
Augusta, ME 04333

Dear Senator Martin and Representative Koffman:

Please be advised that Governor John E. Baldacci has nominated Charles Beck of Presque Isle for reappointment and Thomas Urquhart of Falmouth for appointment to the Maine Outdoor Heritage Fund Board.

Pursuant to Title 12 M.R.S.A. § 10308 (1), these nominations will require review by the Joint Standing Committee on Natural Resources 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 **NATURAL RESOURCES**.

Sent down for concurrence.

The Following Communication: H.C. 438

**STATE OF MAINE
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

February 5, 2008

Honorable Joy J. O'Brien
Secretary of the Senate
123rd Maine Legislature
Augusta, Maine 04333

Dear Secretary O'Brien:

The House voted today to adhere to its previous action whereby Bill "An Act To Improve Employment Opportunities for Persons with Disabilities in Maine" (S.P. 349) (L.D. 1032) was Passed to be Engrossed as Amended by Committee Amendment "B" (S-395).

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and **ORDERED PLACED ON FILE**.

SENATE PAPERS

**Pursuant to Joint Order
Joint Standing Committee on Health and Human Services**

Senator BRANNIGAN for the **Joint Standing Committee on Health and Human Services**, pursuant to Joint Order, S.P. 829 asked leave to report that the accompanying Bill "An Act Regarding Clinical Review of Certain Requests for Involuntary Mental Health Treatment" (EMERGENCY)

S.P. 844 L.D. 2193

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

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

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

Sent down for concurrence.

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

ORDERS

Joint Order

Expression of Legislative Sentiment recognizing:

Samuel Kevin Maroon, of China, of Boy Scout Troop #479, who has earned the high rank and distinction of Eagle Scout, the highest award in Boy Scouting. This award is given in recognition of excellence in skills development, leadership, personal growth and community service. We extend our congratulations and best wishes to Samuel on his accomplishment;

SLS 508

Sponsored by Senator MITCHELL of Kennebec.

Cosponsored by Representative: COTTA of China.

READ.

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

Senator **MITCHELL:** Thank you, Madame President and colleagues in the Senate. There is something extraordinary about China and it's not just the lake. I think you all know that only 2% of Boy Scouts attain the high rank of Eagle and I believe that China, Maine has a higher percentage of that 2% than any other town in the state of Maine or in the country. I'm so pleased to have with us this morning a young man from China, Maine who has attained that high rank. His name, as you heard earlier, is Samuel Maroon and he is here with his parents and I know you will join me in congratulating him on his extraordinary achievement.

PASSED.

Sent down for concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber Samuel Kevin Maroon of China and his family. Would he please rise and accept the greetings of the Maine Senate.

Joint Resolution

On motion by Senator **ROTUNDO** of Androscoggin (Cosponsored by Representative FISCHER of Presque Isle and Senators: BARTLETT of Cumberland, BENOIT of Sagadahoc, BOWMAN of York, BRANNIGAN of Cumberland, BROMLEY of Cumberland, BRYANT of Oxford, COURTNEY of York, DAMON of Hancock, DIAMOND of Cumberland, DOW of Lincoln, President EDMONDS of Cumberland, GOOLEY of Franklin, HASTINGS of Oxford, HOBBS of York, MARRACHÉ of Kennebec, MARTIN of Aroostook, McCORMICK of Kennebec, MITCHELL of Kennebec, NUTTING of Androscoggin, PERRY of Penobscot, PLOWMAN of Penobscot, RAYE of Washington, SCHNEIDER of Penobscot, SHERMAN of Aroostook, STRIMLING of Cumberland, SULLIVAN of York, Representatives: ADAMS of Portland, BABIDGE of Kennebunk, BARSTOW of Gorham, BEAUDOIN of Biddeford, BERRY of Bowdoinham, BLANCHARD of Old Town, BLISS of South Portland, BRAUTIGAM of Falmouth, BRIGGS of Mexico, BRYANT of Windham, BURNS of Berwick, CAIN of Orono, CAMPBELL of Newfield, CANAVAN of Waterville, CAREY of Lewiston, CARTER of Bethel, CASAVANT of Biddeford, CLARK of Millinocket, CLEARY of Houlton, CONNOR of Kennebunk, CONOVER of Oakland, CRAVEN of Lewiston, CROCKETT of Augusta, Speaker CUMMINGS of Portland, DILL of Cape Elizabeth, DRISCOLL of Westbrook, DUCHESNE of Hudson, DUNN of Bangor, EATON of Sullivan, EBERLE of South Portland, FAIRCLOTH of Bangor, FARRINGTON of Gorham, FINCH of Fairfield, GERZOFKY of Brunswick, HANLEY of Gardiner, HARLOW of Portland, HASKELL of Portland, HAYES of Buckfield, HILL of York, HINCK of Portland, HOGAN of Old Orchard Beach, JACKSON of Allagash, JONES of Mount Vernon, KOFFMAN of Bar Harbor, LUNDEEN of Mars Hill, MacDONALD of Boothbay, MAKAS of Lewiston, MARLEY of Portland, MAZUREK of Rockland, MILLER of Somerville, MILLS of Farmington, MIRAMANT of Camden, NORTON of Bangor, PATRICK of Rumford, PENDLETON of Scarborough, PEOPLES of Westbrook, PERCY of Phippsburg, PERRY of Calais, PIEH of Bremen, PILON of Saco, PINGREE of North Haven, PIOTTI of Unity, PRATT of Eddington, PRIEST of Brunswick, RAND of Portland, RINES of Wiscasset, SAMSON of Auburn, SCHATZ of Blue Hill, SILSBY of Augusta, SIMPSON of Auburn, SIROIS of Turner, SUTHERLAND of Chapman, THERIAULT of Madawaska, TREAT of Hallowell, TRINWARD of Waterville, TUTTLE of Sanford, VALENTINO of Saco, WAGNER of Lewiston, WATSON of Bath, WEBSTER of Freeport, WEDDELL of Frankfort, WHEELER of Kittery) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214.), the following Joint Resolution:

S.P. 845

JOINT RESOLUTION MEMORIALIZING THE MEMBERS OF THE UNITED STATES CONGRESS TO ACT IN THE BEST INTERESTS OF MAINE CITIZENS CONCERNING MEDICAID CHANGES

WE, your Memorialists, the Members of the One Hundred and Twenty-third Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the United States Congress as follows:

WHEREAS, the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services has released a set of changes to Medicaid service reimbursements

that would eliminate or reduce federal reimbursements for certain targeted case management, rehabilitation, hospital outpatient, administrative and transportation services and prohibit the opportunity for private services to earn federal matching funds; and

WHEREAS, the reductions in reimbursements will be catastrophic for our social safety net, for the mentally ill, for those who are aged and for children with special education needs; and

WHEREAS, the State and the Nation are facing challenging economic times and making difficult budgeting decisions due to a struggling economy; and

WHEREAS, the changes serve as an immediate \$45 million cut in funds to the State to provide services at a time when Maine is already facing at least a \$95 million shortfall in the state budget, and Maine property taxpayers will have to shoulder the burden of increased local costs to provide the services that will no longer be paid for by the Federal Government; and

WHEREAS, the Medicaid changes were issued with an extremely short timeline for states and local communities to adjust to the lost revenue and determine how to deliver the federally mandated services through their own budgets; and

WHEREAS, the changes will have a crippling effect of more than \$140 million to the very necessary health care service industry, which employs thousands of people in the State and provides crucial services to Medicaid recipients; and

WHEREAS, the cuts will have a severely negative economic impact on our local communities, our State and our Nation at a time when President George W. Bush is talking about the need for economic stimulus to keep our country out of a recession; and

WHEREAS, the policy decisions that were made to institute these changes seem to be short-sighted and will have a negative impact on the health, safety and economic potential of not only the State of Maine, but of the Nation; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the elected members of the United States House of Representatives and Senate defend the vulnerable citizens, children, seniors, service providers and taxpayers of Maine and the United States by working to withdraw these harmful changes before they go into effect; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States Senate, to the Speaker of the United States House of Representatives and to each Member of the Maine Congressional Delegation.

READ.

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

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. I hope you will join me in supporting this Joint Resolution. It's imperative that we send a strong message

to Congress to urge them to act quickly to revert any harm that could be done to the families of Maine if these Medicaid rules go forward as planned. This is not a partisan issue. The State has been maximizing federal dollars under Governor McKernan, Governor King, and Governor Baldacci. We've actually been doing this at the urging of the federal government and the federal government has been a partner with us and all of the waivers we've requested of them have been approved by them. We need Congress to act quickly because this is about keeping Maine families and communities strong. This is about helping to keep our elderly in their homes and out of institutions. It's about giving a healthy start to pre-school children in Head Start. It's about providing the occupational therapy, physical therapy, and speech therapy that are necessary for children with special needs to be able to access appropriate education. This is about taking care of our neighbors, which is a tradition that we are all very proud of in Maine. I sincerely hope you will join me in supporting this Joint Resolution. Thank you.

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

Senator **RAYE:** Thank you, Madame President. I just wanted to rise to join my colleague from Androscoggin in urging support for the pending motion. As the Senator has stated, this is a bi-partisan issue and a bi-partisan effort. The concerns are real and they are grave. Our own delegation, in fact, is united in a bi-partisan fashion in support of an effort to slow down this train. In fact, I believe that the bill in the United States Senate has been offered by Senator Coleman, a Republican from Minnesota. I just wanted to emphasize to all of my colleagues that this is something where we do stand together no matter which side of the aisle we're on in trying to make sure that all of this is handled in a thoughtful manner.

ADOPTED.

Sent down for concurrence.

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

Off Record Remarks

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Provide Assistance to Family Members, Friends and Neighbors Who Provide Home Health Care for Senior Citizens" H.P. 397 L.D. 519

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-665).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-665).**

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

READ ONCE.

Committee Amendment "A" (H-665) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, Authorizing the President of the Maine Community College System To Sell 2 Parcels of Real Property in South Portland

H.P. 1442 L.D. 2058

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-663).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-663).**

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

READ ONCE.

Committee Amendment "A" (H-663) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TRANSPORTATION** on Resolve, To Change the Name of the South Bridge between Lewiston and Auburn

H.P. 1487 L.D. 2101

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-661).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-661).**

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

READ ONCE.

Committee Amendment "A" (H-661) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate

Ought to Pass As Amended

Senator SAVAGE for the Committee on **TRANSPORTATION** on Bill "An Act Regarding Axle Weight on Tri-axle Farm Trucks" S.P. 754 L.D. 1960

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-409).**

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

READ ONCE.

Committee Amendment "A" (S-409) **READ** and **ADOPTED.**

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Amend the Laws Regarding School Funding" (EMERGENCY)

S.P. 741 L.D. 1932

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-410).**

Signed:

Senators:

BOWMAN of York
MITCHELL of Kennebec
MILLS of Somerset

Representatives:

NORTON of Bangor
FINCH of Fairfield
MAKAS of Lewiston
FARRINGTON of Gorham
HARLOW of Portland
SUTHERLAND of Chapman
STRANG BURGESS of Cumberland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-411).**

Signed:

Representatives:

EDGECOMB of Caribou
McFADDEN of Dennysville
MUSE of Fryeburg

Reports **READ**.

On motion by Senator **BOWMAN** of York, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

SECOND READERS

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

House

Resolve, To Extend the Deadline To Adopt a Rule by the Department of Health and Human Services Regarding Smoking in the Workplace (EMERGENCY)

H.P. 1398 L.D. 2014

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

Senate As Amended

Bill "An Act Regarding Certain Positions at the Public Utilities Commission"

S.P. 749 L.D. 1955
(C "A" S-407)

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.

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 Allocations for the Expenditures of State Government, Highway Fund and Other Funds, and To Change Certain Provisions of State Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2008 and June 30, 2009" (EMERGENCY)

H.P. 1566 L.D. 2196

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

On motion by Senator **DIAMOND** of Cumberland, **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

Pursuant to Statute
Department of Agriculture, Food and Rural Resources, Board of Pesticides Control

The **Department of Agriculture, Food and Rural Resources, Board of Pesticides Control**, 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 26: Standards for Indoor Pesticide Applications and Notification for All Occupied Buildings Except K-12 Schools, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control (EMERGENCY)

H.P. 1564 L.D. 2194

Be **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** 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 **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **NUTTING** of Androscoggin, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** 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 Agriculture, Food and Rural Resources, Board of Pesticides Control

The **Department of Agriculture, Food and Rural Resources, Board of Pesticides Control**, 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 29: Standards for Water Quality Protection, Section 5, Restrictions on Pesticide Application To Control Browntail Moths near Marine Waters, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control (EMERGENCY)

H.P. 1565 L.D. 2195

Be **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** 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 **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **NUTTING** of Androscoggin, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** 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 Criminal Law Advisory Commission

The **Criminal Law Advisory Commission**, pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2 asked leave to report that the accompanying Bill "An Act To Comprehensively Address Grand Jury Territorial Authority To Indict for Crimes"

H.P. 1567 L.D. 2197

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

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

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

On motion by Senator **HOBBS** of York, **REFERRED** to the Committee on **JUDICIARY** and ordered printed pursuant to Joint Rule 218, in concurrence.

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

Unfinished Business

The following matter in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (2/5/08) Assigned matter:

HOUSE REPORT - from the Committee on **TAXATION** on Bill "An Act To Prevent and Treat Cancer in Maine by Providing a Source of Funding for a Comprehensive Cancer Prevention Program"

H.P. 1484 L.D. 2098

Report - **REFER** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**

Tabled - February 5, 2008, by Senator **ROTUNDO** of Androscoggin

Pending - **ACCEPTANCE OF REPORT**, in concurrence

(In House, January 31, 2008, Report **READ** and **ACCEPTED** and Bill **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES**.)

(In Senate, February 5, 2008, Report **READ**.)

On motion by Senator **ROTUNDO** of Androscoggin, Report **ACCEPTED** and Bill **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

Senator **ROTUNDO** of Androscoggin was granted unanimous consent to address the Senate off the Record.

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

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

Off Record Remarks

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

On motion by Senator **MITCHELL** of Kennebec, **ADJOURNED** to Thursday, February 7, 2008, at 10:00 in the morning.