

MAINE STATE LEGISLATURE

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Senate Legislative Record

One Hundred and Twenty-Fourth Legislature

State of Maine

Daily Edition

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

In Senate Chamber
Tuesday
January 19, 2010

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

Prayer by Reverend Timothy Wilcox, Fairfield and Fairfield Center
United Methodist Churches.

REVEREND WILCOX: Good morning, ladies and gentlemen of
the Senate, staff, visitors, and my fellow citizens of Maine. I bring
you greetings from the people of Fairfield and the surrounding
Waterville area and I invite you now to be in the spirit of prayer
according to your own tradition.

Holy God, we thank You for this day and all the gifts that are
a part of it. Even the beauty of this new fallen snow reminds of us
of this amazing world and all its inhabitants You have made. We
acknowledge that we have not always been good stewards of this
world. Sometimes we have taken for granted Your goodness and
the privileges we have. Even in these often challenging times we
do not always hear the cry for justice or the plea of the powerless
or voiceless. That still small voice that would call us to our full
potential as Your people. Too often we have acted on our own
selfish desire or from a sectarian, partisan, or parochial
motivation. On this day, after our observance of Martin Luther
King's birthday, help us remember his admonition to see all
people, without regard to physical characteristic or human
invention, as equal in Your sight. Oh God, we are in times of both
struggle and opportunity to serve. Open our hearts to those in
need. We are grateful for the response of so many from the state
to our sisters and brothers in Haiti and we continue to offer them
our prayers. We also offer prayers for those in want of food,
water, medical care, jobs, shelter, and safety in our backyards
and wherever they may be around the world, so often just out of
the view of the news. Particularly this morning we remember
those in this Body in need of a prayer today. We lift up Senator
Nass's wife, Representative Joan Nass. We lift up the mother of
Senator Raye and others that we would lift up now in our hearts in
their times of need and joy. Give us now the wisdom to make
together the difficult choices that are before us. Guide us as we
balance requests for fiscal relief on one hand and our need to
invest in those functions that make our society work and to our
most vulnerable citizens. May we all be an example of Your great
love in action. Help us remember the old familiar encouragement:
in essentials, unity; in nonessentials, liberty; in all things, charity.
Let us rise above the temptation to serve merely our self, our
religion, our region, our party, or narrow interests. Help us
instead to see the common bonds we share together and
discover with Your help the will to work to these and Your greater
ends. Propel us into the day by Your strength, Your guidance,
and Your presence. These things we pray. Amen.

Pledge of Allegiance led by Senator Stanley J. Gerzofsky of
Cumberland County.

Reading of the Journal of Thursday, January 14, 2010.

Doctor of the day, Dr. Alisa M. Roberts, DO of Bangor.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.P. 671

**STATE OF MAINE
124TH MAINE LEGISLATURE**

January 14, 2010

Sen. Nancy B. Sullivan
Senate Chair, Joint Standing Committee on Legal and Veterans
Affairs
Rep. Pamela Jabar Trinward
House Chair, Joint Standing Committee on Legal and Veterans
Affairs
124th Legislature
Augusta, ME 04333

Dear Senator Sullivan and Representative Trinward:

Please be advised that Governor John E. Baldacci has nominated
Orland McPherson of Eliot, Walter Simcock of Waterville and
Michael Peters of Dixfield for reappointment to the Liquor and
Lottery Commission.

Pursuant to Title 5 M.R.S.A. §283-A (1), these nominations will
require review by the Joint Standing Committee on Legal and
Veterans Affairs and confirmation by the Senate.

Sincerely,

S/Elizabeth H. Mitchell
President of the Senate

S/Hannah M. Pingree
Speaker of the House

READ and REFERRED to the Committee on **LEGAL AND
VETERANS AFFAIRS.**

Sent down for concurrence.

The Following Communication: S.C. 559

**STATE OF MAINE
124TH MAINE LEGISLATURE**

January 6, 2010

Honorable John E. Baldacci
Governor of Maine
1 State House Station
Augusta, ME 04333

Dear Governor Baldacci:

We are pleased to invite you to deliver the State of the State address at a Joint Session of the 124th Maine Legislature on Thursday, January 21st at 7:00 p.m.

We look forward to seeing you then.

Sincerely,

S/Elizabeth H. Mitchell
President of the Senate

S/Hannah M. Pingree
Speaker of the House

READ and ORDERED PLACED ON FILE.

Off Record Remarks

The Following Communication: S.C. 560

**STATE OF MAINE
ONE HUNDRED AND TWENTY FOURTH LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

January 13, 2010

Honorable Elizabeth H. Mitchell, President of the Senate
Honorable Hannah M. Pingree, Speaker of the House
124th Legislature
State House
Augusta, Maine 04333

Dear President Mitchell and Speaker Pingree:

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

L.D. 470 An Act To Sustain Nursing Education in Lincoln County

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

Sincerely,

S/Sen. Justin L. Alford
Senate Chair

S/Rep. Patricia B. Sutherland
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 561

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON LABOR**

January 13, 2010

Honorable Elizabeth H. Mitchell, President of the Senate
Honorable Hannah M. Pingree, Speaker of the House
124th Legislature
State House
Augusta, Maine 04333

Dear President Mitchell and Speaker Pingree:

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

L.D. 125 Resolve, To Establish the Blue Ribbon Commission To Study the Functions and Operations of the Maine Public Employees Retirement System

L.D. 934 An Act To Clarify Public Sector Employee Fair Choice in Collective Bargaining

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

Sincerely,

S/Sen. Troy D. Jackson
Senate Chair

S/Rep. John L. Tuttle, Jr.
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 562

**STATE OF MAINE
ONE HUNDRED AND TWENTY FOURTH LEGISLATURE
COMMITTEE ON TRANSPORTATION**

January 13, 2010

Honorable Elizabeth H. Mitchell, President of the Senate
Honorable Hannah M. Pingree, Speaker of the House
124th Legislature
State House
Augusta, Maine 04333

Dear President Mitchell and Speaker Pingree:

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

L.D. 1605 Resolve, Authorizing the Transfer of State Land to the Natural Resource Education Center of Greenville

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

Sincerely,

S/Sen. Dennis S. Damon
Senate Chair

S/Rep. Edward J. Mazurek
House Chair

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

The Following Communication: S.C. 563

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

January 12, 2010

Honorable Elizabeth H. Mitchell, President of the Senate
Honorable Hannah M. Pingree, Speaker of the House
124th Legislature
State House
Augusta, Maine 04333

Dear President Mitchell and Speaker Pingree:

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 bills out "Ought Not to Pass":

L.D. 1350 An Act To Establish the Maine Transmission Mitigation Trust Fund (EMERGENCY)

L.D. 1430 An Act To Ensure Electric Capacity To Serve Maine Consumers

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

Sincerely,

S/Sen. Barry J. Hobbins
Senate Chair

S/Rep. Jon Hinck
House Chair

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

The Following Communication: S.C. 564

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

January 14, 2010

Honorable Elizabeth Mitchell
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Mitchell:

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 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 website at www.maine.gov/financialinstitutions.

Very truly yours,

S/Lloyd P. LaFountain III
Superintendent

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

The Following Communication: S.C. 565

**STATE OF MAINE
OFFICE OF THE SECRETARY OF STATE**

January 12, 2010

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

Dear Secretary O'Brien:

Please find enclosed a certified copy of the proclamation referring the People's Veto of "An Act To Implement Tax Relief and Tax Reform" to the electors on June 8, 2010. A copy of the determination of this petition is also enclosed.

Sincerely,

S/Matthew Dunlap
Secretary of State

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

SENATE PAPERS

Bill "An Act To Amend the Laws Governing County Jail Budgeting for York County"

S.P. 668 L.D. 1745

Presented by Senator NASS of York.
Cosponsored by Representative BEAUDETTE of Biddeford and Senators: BOWMAN of York, COURTNEY of York, HOBBS of York, SULLIVAN of York, Representatives: CHASE of Wells, CONNOR of Kennebunk, LEWIN of Eliot, WEAVER of York.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

On motion by Senator **GERZOFSKY** of Cumberland, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

Sent down for concurrence.

Bill "An Act To Allow the Town of Wells and the Town of Ogunquit To Amend the Terms of Their Cost-sharing Agreement for Their Community School District and To Provide Each Town the Ability To Withdraw from the Wells-Ogunquit Community School District"
S.P. 670 L.D. 1747

Presented by Senator BOWMAN of York.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

On motion by Senator **ALFOND** of Cumberland, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

Sent down for concurrence.

**Pursuant to Statutes
Maine Turnpike Authority**

Senator DAMON for the **Maine Turnpike Authority**, pursuant to the Maine Revised Statutes, Title 23, section 1961, subsection 6 asked leave to report that the accompanying Bill "An Act To Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Calendar Year Ending December 31, 2011"

S.P. 669 L.D. 1746

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

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

On motion by Senator **DAMON** of Hancock, **REFERRED** to the Committee on **TRANSPORTATION** 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:

Danny Lafayette, of Hermon, who is the recipient of a 2010 Governor's Conference on Tourism award for excellence in tourism. Mr. Lafayette was selected by his peers for his outstanding contribution to the tourism industry in the State through Lafayette Hotels. We extend our appreciation to Mr. Lafayette for his dedication to the State and congratulate him on his receiving this award;

SLS 319

Sponsored by Senator PERRY of Penobscot.
Cosponsored by Representative: RICHARDSON of Carmel.

READ.

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

Senator **PLOWMAN**: Thank you, Madame President. Men and women of the Senate, I want to thank the good Senator from Penobscot, Senator Perry, for acknowledging my constituent, Danny Lafayette, who actually lives in Hampden but does run a huge endeavor out of his office in Hermon. He's the kind of guy you would all like to claim as your constituent. He employs over 1,000 people in the state of Maine. I'll tell you how many of you could claim him. He owns a hotel in Auburn. He owns one in Augusta. He owns several in Bangor and a couple in Bar Harbor, Belfast, Boothbay Harbor, Ogunquit, Old Orchard Beach, Orono, Portland, South Portland, Waterville, and Wells. This is a man who knows Maine. He's an incredible citizen and an incredible employer. In the spirit of giving back to the state of Maine, Lafayette Hotels, with Danny at the head of it, has pledged \$2 million to the cancer care center in Brewer. That's not \$2 million from Danny's pocket, that's \$2 million that his corporation decided that they would all raise. A lot of it is from Danny's pocket. One of the women that works for him raised \$1,000 in a yard sale. They sell teddy bears and bottles of water at other events and they are raising \$2 million the hard way, but that is the kind of people that Danny and Carla Lafayette are. They received the Governor's Tourism award, which recognizes their efforts in bringing Maine to the forefront of where people think to go. If you have ever stayed at a Lafayette property you know that it speaks so well of the state of Maine. When they come they know that they are being hosted, they are being cared for, and Danny's values show all the way through, all the way through from top to bottom, in his organization. I want to thank the Senator for bringing this forward. I kind of wish I had been on it with him, but I do want to thank him for bringing it forward because it's not often that a man as humble as Danny Lafayette is recognized in this Body. He has been recognized nationally for many other things, but I think it makes him very proud to have been recognized by the Governor of the State of Maine. I'm pleased to speak on behalf today in the Maine State Senate. Thank you.

PASSED.

Sent down for concurrence.

SECOND READERS

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

Senate As Amended

Resolve, To Transfer the Ownership of the Bath Armory to the City of Bath

S.P. 621 L.D. 1656
(C "A" S-351)

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.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Authorize a General Fund Bond Issue To Purchase and Upgrade Trackage of the Montreal, Maine and Atlantic Railway"

H.P. 1242 L.D. 1748

Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and ordered printed.

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

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 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 MaineCare Benefits Manual, Chapter III, Section 97, Private Non-Medical Institution Services, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY)

H.P. 1243 L.D. 1749

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 **MARRACHÉ** of Kennebec, **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:

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Authorize Maine Media College To Confer the Degree of Master of Fine Arts" (EMERGENCY)
H.P. 1055 L.D. 1506

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.

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

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

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

REPORTS OF COMMITTEES

Senate

Ought to Pass

Senator **DAMON** for the Committee on **TRANSPORTATION** on Resolve, To Name Route 16/27 in the Town of Stratton the Caleb Dalton Stevens Memorial Highway

S.P. 580 L.D. 1502

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

On motion by Senator **BARTLETT** of Cumberland, **ADJOURNED** to Thursday, January 21, 2010, at 6:00 in the evening.