

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

In Senate Chamber
Tuesday
February 8, 2005

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

Prayer by Pastor Isaiah Hill of the Sebec Baptist Church in Sebec.

PASTOR HILL: Our Father and our God, I want to thank You for the privilege of sharing these moments together. You know our hearts this morning because Your word tells us that You look in our hearts. We ask Your blessing upon each one here this morning. Very especially, meet the needs of our hearts. I pray, God, that You bless these folks that are together this morning. Speak to our hearts through the prayer. We ask, Lord, that You touch our hearts with the love of God. Thank You for Your love to us. I pray, God, that You give wisdom and direction to these that are here who take the business of the state. We ask, Lord, that You strengthen our faith and help us, Lord, to honor You with the things we do and say today. We ask, Lord, that You strengthen those that have tough decisions to make and pray, Lord, that You will bless the lives of those that have this responsibility. We thank You, Father, for this nation. We ask, Lord, that You bless this nation. We thank You, dear God, that we can come to You in prayer this morning and ask Your blessing upon those before us. We commit this session to You and ask Your blessing upon it. We thank You for all that You have done for us. In Jesus' name we pray. Amen.

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

Doctor of the day, Dr. Linda Keniston-Dubocq of Oakland.

Reading of the Journal of Thursday, February 3, 2005.

The Chair noted the absence of the Senator from Hancock, Senator **DAMON**, and further excused the same Senator from today's Roll Call votes.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Exempt Insurers of Commercial Vehicle Fleets from the Requirement of Notification to the Secretary of State When Insurance Is Cancelled"

S.P. 154 L.D. 528

In Senate, February 1, 2005, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed.

Comes from the House, **REFERRED** to the Committee on **TRANSPORTATION** in **NON-CONCURRENCE**.

On motion by Senator **SULLIVAN** of York, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION**.

House Paper

Bill "An Act To Establish Individual Medical Savings Accounts"
H.P. 382 L.D. 507

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

Senator **STRIMLING** of Cumberland moved to **REFER** to the Committee on **TAXATION**, in concurrence.

Same Senator requested and received leave of the Senate to withdraw his motion to **REFER** to the Committee on **TAXATION**, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **REFERENCE**.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 55

**STATE OF MAINE LEGISLATURE
COMMITTEE ON UTILITIES AND ENERGY
AUGUSTA, MAINE 04333**

February 1, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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. 125 An Act To Allow Timothy Gousse To Purchase Water from the Gardiner Water District

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.**

The Following Communication: S.C. 56

**MAINE STATE LEGISLATURE
COMMITTEE ON INSURANCE
AND FINANCIAL SERVICES
AUGUSTA, MAINE 04333**

February 1, 2005
Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

- L.D. 6 An Act To Prohibit a Credit Card Processing Company from Charging a Termination Fee
- L.D. 41 An Act To Prohibit Credit Card Companies from Charging Late Fees on Certain Accounts
- L.D. 65 An Act To Protect Consumers from Unfair Cancellation of Property Insurance Coverage

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

Sincerely,

S/Sen. Nancy B. Sullivan
Senate Chair

S/Rep. Anne C. Perry
House Chair

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

SENATE PAPERS

Bill "An Act To Provide Access to Maine's Resources to Veterans of the Iraq War" (EMERGENCY)

S.P. 204 L.D. 649

Sponsored by Senator BRYANT of Oxford.
Cosponsored by Representative BRYANT of Windham and Representatives: ADAMS of Portland, CAIN of Orono, HUTTON of Bowdoinham, LUNDEEN of Mars Hill, PATRICK of Rumford, PINGREE of North Haven, TWOMEY of Biddeford, WHEELER of Kittery.

Bill "An Act To Require the Department of Agriculture, Food and Rural Resources Accurately Identify Harmful and Nonharmful Bacteria When Testing Food Products"

S.P. 209 L.D. 654

Sponsored by Senator NUTTING of Androscoggin.
Cosponsored by Representative PIOTTI of Unity and Representatives: BRYANT-DESCHENES of Turner, CARR of Lincoln, PERCY of Phippsburg, SMITH of Monmouth.

On motion by Senator **NUTTING** of Androscoggin, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed.

Sent down for concurrence.

Bill "An Act To Authorize a General Fund Bond Issue To Clean Up Chemicals in Public Schools"

S.P. 219 L.D. 683

Sponsored by Senator BRENNAN of Cumberland.
Cosponsored by Representative MARLEY of Portland and Senators: MARTIN of Aroostook, MITCHELL of Kennebec, SCHNEIDER of Penobscot, SULLIVAN of York, Representatives: KOFFMAN of Bar Harbor, PINGREE of North Haven.

On motion by Senator **ROTUNDO** of Androscoggin, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.

Sent down for concurrence.

Bill "An Act To Provide Incentives to Businesses That Locate to Existing Buildings"

S.P. 202 L.D. 647

Sponsored by Senator MITCHELL of Kennebec.
Cosponsored by Senators: COWGER of Kennebec, HASTINGS of Oxford, MAYO of Sagadahoc, STRIMLING of Cumberland, Representatives: DAVIS of Augusta, KOFFMAN of Bar Harbor, LERMAN of Augusta.

Bill "An Act To Clarify Warranty Practices between Manufacturers, Distributors and Dealers of Power Equipment, Machinery and Appliances"

S.P. 208 L.D. 653

Sponsored by Senator SAVAGE of Knox.
Cosponsored by Representative SMITH of Monmouth and Senators: NUTTING of Androscoggin, SNOWE-MELLO of Androscoggin, TURNER of Cumberland, WESTON of Waldo, Representative: RICHARDSON of Warren.

Bill "An Act To Provide for the Efficient Administration of Scholarship Resources" (EMERGENCY)

S.P. 216 L.D. 680

Sponsored by Senator GAGNON of Kennebec.
Cosponsored by Representative THOMPSON of China and Senator: DOW of Lincoln, Representatives: AUSTIN of Gray, BEAUDETTE of Biddeford, CUMMINGS of Portland, LERMAN of Augusta, NASS of Acton, SMITH of Monmouth.
Submitted by the Finance Authority of Maine pursuant to Joint Rule 204.

Bill "An Act To Expand the Availability of Pine Tree Development Zone Benefits"

S.P. 220 L.D. 684

Sponsored by Senator WOODCOCK of Franklin.

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

Sent down for concurrence.

Bill "An Act To Allow a Vehicle To Be Confiscated When the Driver Has Multiple Violations of the Operating under the Influence Laws"

S.P. 201 L.D. 646

Sponsored by Senator DIAMOND of Cumberland.
Cosponsored by Representative SYKES of Harrison and Senators: CLUKEY of Aroostook, DAMON of Hancock, NUTTING of Androscoggin, Representatives: BLANCHETTE of Bangor, CHURCHILL of Washburn, DAVIS of Augusta, GERZOFISKY of Brunswick, PARADIS of Frenchville.

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

Sent down for concurrence.

Bill "An Act To Require That Students Meet Learning Results Requirements before Entering Grade 9"

S.P. 211 L.D. 675

Sponsored by Senator NUTTING of Androscoggin.
Cosponsored by Representative FINCH of Fairfield and Representatives: LANSLEY of Sabattus, SAVIELLO of Wilton.

Resolve, Regarding the No Child Left Behind Act of 2001

S.P. 212 L.D. 676

Sponsored by Senator BRENNAN of Cumberland.
Cosponsored by Representative NORTON of Bangor and Senators: BARTLETT of Cumberland, MITCHELL of Kennebec, SCHNEIDER of Penobscot, Representatives: CUMMINGS of Portland, FAIRCLOTH of Bangor, MERRILL of Appleton, PERRY of Calais, PINGREE of North Haven.

Bill "An Act To Encourage Effective Education of Special Needs Students in Maine's Private Schools"

S.P. 215 L.D. 679

Sponsored by Senator SNOWE-MELLO of Androscoggin.
Cosponsored by Representative DAVIS of Falmouth and Senators: ANDREWS of York, DOW of Lincoln, STRIMLING of Cumberland, Representatives: CEBRA of Naples, ROBINSON of Raymond, STEDMAN of Hartland.

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

Sent down for concurrence.

Bill "An Act To Require Fair and Timely MaineCare Payments to Hospitals"

S.P. 214 L.D. 678

Sponsored by Senator MILLS of Somerset.
Cosponsored by Representative CROSTHWAITE of Ellsworth and Senators: ROSEN of Hancock, WESTON of Waldo, Representatives: FISHER of Brewer, MCKANE of Newcastle, PERRY of Calais, TRAHAN of Waldoboro.

On motion by Senator **MAYO** of Sagadahoc, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

Sent down for concurrence.

Bill "An Act Regarding Education of Certain Personal Watercraft Operators"

S.P. 206 L.D. 651

Sponsored by Senator BRYANT of Oxford.
Cosponsored by Representative WHEELER of Kittery and
Representatives: BRYANT of Windham, PATRICK of Rumford.

Bill "An Act To Provide Free Deer Hunting Licenses to Persons
100 Years of Age or Older"

S.P. 207 L.D. 652

Sponsored by Senator DIAMOND of Cumberland.
Cosponsored by Representative BRYANT of Windham and
Senators: PERRY of Penobscot, TURNER of Cumberland,
WOODCOCK of Franklin, Representatives: JACKSON of Fort
Kent, LUNDEEN of Mars Hill, MOODY of Manchester,
RICHARDSON of Greenville, WHEELER of Kittery.

On motion by Senator BRYANT of Oxford, **REFERRED** to the
Committee on **INLAND FISHERIES AND WILDLIFE** and ordered
printed.

Sent down for concurrence.

Bill "An Act To Amend the Maine Consumer Credit Code - Credit
Services Organizations"

S.P. 222 L.D. 686

Sponsored by Senator BROMLEY of Cumberland.
Cosponsored by Representative GLYNN of South Portland and
Senators: MAYO of Sagadahoc, MITCHELL of Kennebec,
Representatives: FISCHER of Presque Isle, MILLETT of
Waterford, MOODY of Manchester.
Submitted by the Department of Professional and Financial
Regulation pursuant to Joint Rule 204.

Committee on **INSURANCE AND FINANCIAL SERVICES**
suggested and ordered printed.

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

Sent down for concurrence.

Bill "An Act To Prohibit Discrimination in Housing"

S.P. 199 L.D. 644

Sponsored by Senator STRIMLING of Cumberland.
Cosponsored by Representative PELLETIER-SIMPSON of
Auburn and Representatives: BRYANT of Windham, MARLEY of
Portland.

Bill "An Act To Promote the Commonsense Consumption of
Food"

S.P. 200 L.D. 645

Sponsored by Senator TURNER of Cumberland.
Cosponsored by Representative McKENNEY of Cumberland and
Senators: DAVIS of Piscataquis, DIAMOND of Cumberland,
MARTIN of Aroostook, SAVAGE of Knox.

Bill "An Act To Remove the Jurisdiction of Probate Court in Child
Protection Petitions"

S.P. 210 L.D. 674

Sponsored by Senator BRENNAN of Cumberland.
Cosponsored by Representative PELLETIER-SIMPSON of
Auburn and Senators: BARTLETT of Cumberland, BROMLEY of
Cumberland, President EDMONDS of Cumberland, MAYO of
Sagadahoc, STRIMLING of Cumberland, Representatives:
MARLEY of Portland, MERRILL of Appleton, MILLS of
Farmington.

Bill "An Act Regarding the Use of Arbitration in Certain Consumer
Cases"

S.P. 217 L.D. 681

Sponsored by Senator BROMLEY of Cumberland.
Cosponsored by Representative O'BRIEN of Lewiston and
Representatives: BEAUDETTE of Biddeford, BERUBE of Lisbon,
CROSBY of Topsham, RECTOR of Thomaston.

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

Sent down for concurrence.

Resolve, Regarding Access to Geographic Information System
Data

S.P. 213 L.D. 677

Sponsored by Senator BROMLEY of Cumberland.
Cosponsored by Representative CROSBY of Topsham and
Senators: BARTLETT of Cumberland, DIAMOND of Cumberland,
SULLIVAN of York, Representative: RECTOR of Thomaston.

Bill "An Act To Waive Continuing Education Requirements and To
Provide an Automatic Extension of a License, Certificate or
Registration for Mobilized Military Members"

S.P. 221 L.D. 685

Sponsored by Senator BROMLEY of Cumberland.
Cosponsored by Representative SMITH of Monmouth and
Senators: DAVIS of Piscataquis, GAGNON of Kennebec,
Representatives: AUSTIN of Gray, BERUBE of Lisbon, FISHER
of Brewer, HOTHAM of Dixfield, PATRICK of Rumford, TUTTLE
of Sanford.
Submitted by the Department of Defense, Veterans and
Emergency Management pursuant to Joint Rule 204.

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

Sent down for concurrence.

Bill "An Act To Authorize the Department of Environmental Protection To Issue Emergency Permits for the Application of Herbicides and Pesticides"

S.P. 198 L.D. 643

Sponsored by Senator STRIMLING of Cumberland.

Bill "An Act To Exempt Maine Agricultural Fairs from the Requirements of the Site Location of Development Laws"

S.P. 203 L.D. 648

Sponsored by Senator HASTINGS of Oxford.

Cosponsored by Representative MILLETT of Waterford and Senators: CLUKEY of Aroostook, DAVIS of Piscataquis, GAGNON of Kennebec, NUTTING of Androscoggin, SAVAGE of Knox, Representatives: RICHARDSON of Skowhegan, SAVIELLO of Wilton, TARDY of Newport.

Bill "An Act To Create a 5-year Statute of Limitations for Environmental Violations"

S.P. 218 L.D. 682

Sponsored by Senator SNOWE-MELLO of Androscoggin. Cosponsored by Representative GLYNN of South Portland and Senators: DAVIS of Piscataquis, DOW of Lincoln, SAVAGE of Knox, Representatives: BOWLES of Sanford, CEBRA of Naples, JOY of Crystal, ROBINSON of Raymond, SHIELDS of Auburn.

On motion by Senator COWGER of Kennebec, REFERRED to the Committee on NATURAL RESOURCES and ordered printed.

Sent down for concurrence.

Bill "An Act To Protect Maine's Groundfishing Industry"

S.P. 205 L.D. 650

Sponsored by Senator STRIMLING of Cumberland. Cosponsored by Representative MARLEY of Portland and Senator: DAMON of Hancock.

Committee on TAXATION suggested and ordered printed.

On motion by Senator PERRY of Penobscot, TABLED until Later in Today's Session, pending REFERENCE.

Bill "An Act To Limit Telephone Utility Expenses Related to the Relocation of Call Centers"

S.P. 197 L.D. 642

Sponsored by Senator GAGNON of Kennebec. Cosponsored by Representative FLETCHER of Winslow and Representatives: CANAVAN of Waterville, FINCH of Fairfield, McLEOD of Lee, RICHARDSON of Skowhegan, THOMPSON of China.

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

Sent down for concurrence.

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

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 (2/1/05) Assigned matter:

JOINT ORDER - relative to Amending the Joint Rules to Restrict Changes to Certain Budget Items

H.P. 297

Tabled - February 1, 2005, by Senator MARTIN of Aroostook

Pending - PASSAGE, in NON-CONCURRENCE

(In House, January 27, 2005, READ and REFERRED to the Joint Select Committee on JOINT RULES.)

(In Senate, February 1, 2005, READ.)

On motion by Senator MARTIN of Aroostook, the Joint Order INDEFINITELY POSTPONED, in NON-CONCURRENCE.

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.

Senator DAVIS of Piscataquis was granted unanimous consent to address the Senate off the Record.

Senator **COWGER** of Kennebec was granted unanimous consent to address the Senate off the Record.

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

Off Record Remarks

Senator **PLOWMAN** of Penobscot 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.

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

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

Senator **SNOWE-MELLO** of Androscoggin was granted unanimous consent to address the Senate off the Record.

On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, to Thursday, February 10, 2005, at 10:00 in the morning.