

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

In Senate Chamber
Thursday
February 28, 2008

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

Prayer by Reverend Dr. Thomas Blackstone of Green Street
United Methodist Church in Augusta.

REVEREND BLACKSTONE: Let us pray. Oh mighty and
gracious God, we gather this day in this house of granite and pray
for hearts that are compassionate. We sit in relative safety and
recall the sons and daughters of our state who are in harms way
on far off battlefields as well as in their own homes. We vote our
convictions freely and speak our minds painfully aware that is not
always so in other places. We have arisen from warm beds and
eaten nourishing food and read our papers, hoping that we will
never forget our neighbors within sight of these windows and
across the state who this morning are cold, hungry, or illiterate.
May this Chamber be a source of hope to our fellow citizens who
have chosen these 35 individuals to exercise practical wisdom,
artful compromise, and moral discernment as they craft the
covenants by which we live our lives. May their labor this day be
worthy of the ideals which have lead them to this place and to this
office. Amen.

Reading of the Journal of Tuesday, February 26, 2008.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by
Senator **MITCHELL** of Kennebec, the following Joint Order:
S.P. 865

Ordered, the House concurring, that when the House and Senate
adjourn, they do so until Tuesday, March 4, 2008, at 10:00 in the
morning.

READ and PASSED.

Ordered sent down forthwith for concurrence.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **CRIMINAL
JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Provide a
Felony Penalty for Assault on a Firefighter"
H.P. 201 L.D. 239

Report "**A**" - **Ought to Pass as Amended by Committee
Amendment "B" (H-657)** (6 members)

Report "**B**" - **Ought Not to Pass** (3 members)

Report "**C**" - **Ought to Pass as Amended by Committee
Amendment "C" (H-658)** (2 members)

In House, February 14, 2008, Report "**C**", **OUGHT TO PASS AS
AMENDED BY COMMITTEE AMENDMENT "C" (H-658) READ
and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "C" (H-658)**.

In Senate, February 25, 2008, Report "**B**", **OUGHT NOT TO
PASS, READ and ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED**.

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

**Pursuant to Public Law
Joint Standing Committee on Natural Resources**

The **Joint Standing Committee on Natural Resources**,
pursuant to Public Law, chapter 290, section 17 asked leave to
report that the accompanying Bill "An Act To Expand the Natural
Resources Protection Act Compensation Program"
H.P. 1589 L.D. 2223

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

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

On motion by Senator **MARTIN** of Aroostook, **REFERRED** to the
Committee on **NATURAL RESOURCES** and ordered printed
pursuant to Joint Rule 218, in concurrence.

**Pursuant to Resolve
Joint Standing Committee on Insurance and Financial
Services**

The **Joint Standing Committee on Insurance and Financial
Services**, pursuant to Resolve, chapter 112 asked leave to report
that the accompanying Bill "An Act To Require Legislators and
Their Dependents To Be Enrolled in Dirigo Health"
H.P. 1590 L.D. 2224

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

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

REFERRED to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed pursuant to Joint Rule 218, in concurrence.

COMMUNICATIONS

The Following Communication: S.C. 646

**123RD LEGISLATURE
OFFICE OF THE PRESIDENT
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0003**

February 21, 2008

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

Dear Secretary O'Brien:

Pursuant to my authority under Public Law 2007, Chapter 39, Part F, §13083-T, I am pleased to appoint Tony Levesque of Fort Fairfield to the Riverfront Community Development Review Panel. He will be serving as a member with expertise in economic and community development.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Beth Edmonds
President of the Senate

READ and **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 639

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

February 20, 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 Agriculture, Conservation and Forestry has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2195 Resolve, Regarding Legislative Review of Portions of Chapter 29: Standards for Water Quality Protection, Section 5, Restrictions on Pesticide Application To Control Brown-tail Moths near Marine Waters, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control (EMERGENCY)

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

Sincerely,

S/Sen. John M. Nutting
Senate Chair

S/Rep. Wendy Pieh
House Chair

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

The Following Communication: S.C. 640

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

February 20, 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 bills out "Ought Not to Pass":

L.D. 2078 Resolve, To Determine Methods of Securing a Trained Laboratory Workforce for Maine

L.D. 2120 An Act To Require That Sellers of Scrap Metal Provide Identification

We have also notified the sponsors and cosponsors of each bill listed 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. 641

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

February 22, 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 Labor has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 2055 An Act To Improve the Elections Process under the Maine Labor Relations Board Laws

L.D. 2127 An Act To Increase the Per Diem for Members of the Workers' Compensation Board

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

Sincerely,

S/Sen. Ethan Strimling
Senate Chair

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

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

The Following Communication: S.C. 642

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

February 20, 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 bills out "Ought Not to Pass":

L.D. 1983 An Act To Protect Public Safety, Provide for the Prudent Use of Landfill Capacity and Save Taxpayers Money

L.D. 2018 An Act To Require the Accurate Designation of Floodplain Areas

We have also notified the sponsors and cosponsors of each bill listed 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. 643

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

February 20, 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 State and Local Government has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2020 An Act To Amend the Laws Governing the Granting of Disability Variances from the Zoning Laws

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

Sincerely,

S/Sen. Elizabeth M. Schneider
Senate Chair

S/Rep. Christopher R. Barstow
House Chair

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

The Following Communication: S.C. 644

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

February 20, 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. 961 An Act To Authorize an Alternative Calculation of the Property Growth Factor for Industrial Municipalities

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. 645

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

February 20, 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. 1935 An Act To Promote Competition in Maine's Electric Industry

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. 647

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

February 12, 2008

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

Dear Madam President and Mr. Speaker

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on State and Local Government from the review and evaluation of the Office of the State Treasurer under the State Government Evaluation Act. In its review, the Committee found that the Office is operating within its statutory authority.

Sincerely,

S/Senator Elizabeth Schneider
Chair

S/Representative Christopher Barstow
Chair

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

The Following Communication: S.C. 648

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

February 13, 2008

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

Dear Madam President and Mr. Speaker
Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on State and Local Government from the review and evaluation of the State Planning Office under the State Government Evaluation Act. In its review, the Committee found that the Office is operating within its statutory authority.

Sincerely,

S/Senator Elizabeth Schneider
Chair

S/Representative Christopher Barstow
Chair

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

The Following Communication: S.C. 649

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

February 14, 2008

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

Dear Madam President and Mr. Speaker

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on State and Local Government from the review and evaluation of the Maine Municipal Bond Bank under the State Government Evaluation Act. In its review, the Committee found that the Bank is operating within its statutory authority.

Sincerely,

S/Senator Elizabeth Schneider
Chair

S/Representative Christopher Barstow
Chair

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

SENATE PAPERS

Bill "An Act To Validate Certain Proceedings Authorizing the Issuance of Bonds and Notes by the City of Brewer High School District" (EMERGENCY)

S.P. 864 L.D. 2234

Sponsored by Senator ROSEN of Hancock.
Cosponsored by Representative FISHER of Brewer.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

Sent down for concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Strengthen the Crime of Visual Sexual Aggression against a Child"

H.P. 1465 L.D. 2079

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-690).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-690).**

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

READ ONCE.

Committee Amendment "A" (H-690) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Amend the Law Governing Antlerless Deer Permits"
H.P. 1522 L.D. 2142

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-687).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-687).**

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

READ ONCE.

Committee Amendment "A" (H-687) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act To Implement the Recommendations of the Human Trafficking Task Force"
H.P. 360 L.D. 461

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-686).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-686).**

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

READ ONCE.

Committee Amendment "B" (H-686) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act To Assist Distressed Businesses Organized as Limited Liability Companies" (EMERGENCY)

H.P. 1374 L.D. 1940

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-685).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-685).**

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

READ ONCE.

Committee Amendment "A" (H-685) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **NATURAL RESOURCES** on Bill "An Act To Address Uncertified Practice of Underground Oil Storage Tank Installation and Inspection"

H.P. 1382 L.D. 1946

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-692).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-692).**

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

READ ONCE.

Committee Amendment "A" (H-692) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Clarify the Qualifications of Installers under the Solar Energy Rebate Program" (EMERGENCY)

H.P. 1445 L.D. 2061

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-691)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-691)**.

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

READ ONCE.

Committee Amendment "A" (H-691) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate

Ought to Pass As Amended

Senator BRANNIGAN for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Improve the Quality of Health Care in Maine"

S.P. 660 L.D. 1843

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-435)**.

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

READ ONCE.

Committee Amendment "A" (S-435) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator DAMON for the Committee on **MARINE RESOURCES** on Bill "An Act To Give Municipalities Control of Mussels Located in Intertidal Zones"

S.P. 800 L.D. 2006

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-434)**.

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

READ ONCE.

Committee Amendment "A" (S-434) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Change the Statute of Limitations for Gross Sexual Assault by a Juvenile"
S.P. 535 L.D. 1512

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-433)**.

Signed:

Senators:

DIAMOND of Cumberland
McCORMICK of Kennebec
SHERMAN of Aroostook

Representatives:

GREELEY of Levant
HILL of York
PLUMMER of Windham
TIBBETTS of Columbia
KAENRATH of South Portland
HASKELL of Portland
SYKES of Harrison

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

Signed:

Representatives:

GERZOFKY of Brunswick
BLANCHETTE of Bangor

Reports **READ**.

Senator **DIAMOND** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Amend the Informed Growth Act"

S.P. 756 L.D. 1962

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

SCHNEIDER of Penobscot
BRANNIGAN of Cumberland

Representatives:

BARSTOW of Gorham
BOLAND of Sanford
BEAUDETTE of Biddeford
SIROIS of Turner
SCHATZ of Blue Hill

Resolve, To Authorize the State To Convey an Unused Parcel of Land in Frenchville to an Abutting Neighbor
H.P. 1375 L.D. 1941
(H "A" H-681 to C "A" H-672)

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

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-436)**.

Signed:

Senator:

BENOIT of Sagadahoc

Representatives:

WEAVER of York
CURTIS of Madison
JOY of Crystal
HAYES of Buckfield
COTTA of China

Senate

Bill "An Act To Minimize the Potential for Slope Failure in Gravel Pits"

S.P. 859 L.D. 2227

READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

Reports **READ**.

Senator **SCHNEIDER** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

Bill "An Act To Amend the Charter of the Kennebunk Light and Power District"

S.P. 422 L.D. 1221
(C "A" S-412)

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED.

Sent down for concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

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:

House

Bill "An Act To Improve the Codification of Retirement Plans Administered by the Maine Public Employees Retirement System"

H.P. 1525 L.D. 2146

Bill "An Act To Clarify Retirement Programs for Participating Local Districts" (EMERGENCY)

H.P. 1530 L.D. 2150

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

ENACTORS

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

Act

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)

On motion by Senator **STRIMLING** of Cumberland, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

House As Amended

Senate at Ease.

Senate called to order by the President.

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

COMMUNICATIONS

The Following Communication: S.C. 650

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

February 26, 2008

Honorable Beth G. Edmonds, President of the Senate
Honorable Glenn A. Cummings, Speaker of the House
123rd Maine Legislature
Augusta, ME 04333

Dear President Edmonds and Speaker Cummings:

Pursuant to the Government Evaluation Act, Maine Revised Statutes, Title 3, chapter 35, we submit the findings and recommendations of the Joint Standing Committee on Utilities and Energy with respect to the Public Utilities Commission. The committee found that the Public Utilities Commission is acting within its statutory authority.

Sincerely,

S/Philip L. Bartlett, II
Senate Chair

S/Lawrence Bliss
House Chair

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

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

SENATE PAPERS

Resolve, To Name a Road in Dexter after Harold Alford
S.P. 866 L.D. 2239

Sponsored by Senator PLOWMAN of Penobscot.
Cosponsored by Representative THOMAS of Ripley and Senators: DAMON of Hancock, SAVAGE of Knox, SMITH of Piscataquis, Representatives: MARLEY of Portland, TARDY of Newport.
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.

Off Record Remarks

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

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

On motion by Senator **MITCHELL** of Kennebec, **RECESSED** until 11:15 in the morning.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Change the Statute of Limitations for Gross Sexual Assault by a Juvenile"
S.P. 535 L.D. 1512

Majority - **Ought to Pass as Amended by Committee Amendment "B" (S-433)** (10 members)

Minority - **Ought Not To Pass** (2 members)

Tabled - February 28, 2008, by Senator **DIAMOND** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report

(In Senate, February 28, 2008, Reports **READ**.)

On motion by Senator **DIAMOND** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-433) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Improve the Compliance and Accountability of the Child Development Services System" S.P. 767 L.D. 1973

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

Signed:

Senators:

BOWMAN of York
MITCHELL of Kennebec

Representatives:

MAKAS of Lewiston
FARRINGTON of Gorham
EDGECOMB of Caribou
McFADDEN of Dennysville
MUSE of Fryeburg
STRANG BURGESS of Cumberland

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

Signed:

Senator:

MILLS of Somerset

Representatives:

NORTON of Bangor
FINCH of Fairfield
HARLOW of Portland
SUTHERLAND of Chapman

Reports **READ**.

On motion by Senator **BOWMAN** of York, the Majority **OUGHT TO PASS** Report **ACCEPTED**.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

PAPERS FROM THE HOUSE
House Paper

Resolve, Authorizing the Department of Conservation, Bureau of Parks and Lands To Convey Certain Lands
H.P. 1598 L.D. 2237

Comes from the House, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed.

On motion by Senator **NUTTING** of Androscoggin, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** 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 Clarify the Laws on Licensing for Charitable and Fraternal Organizations and Games of Chance"
H.P. 1597 L.D. 2236

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

On motion by Senator **MARRACHÉ** of Kennebec, **REFERRED** to the Committee on **LEGAL AND VETERANS 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 Sustain Maine's Core Wastewater Licensing Program and Adjust Related Provisions"
H.P. 1596 L.D. 2235

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

On motion by Senator **MARTIN** of Aroostook, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed, in concurrence.

(In House, February 6, 2008, Report **READ** and **ACCEPTED** and Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-669)**.)

(In Senate, February 7, 2008, Report **READ**.)

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

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

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 Containing the Recommendations of the Criminal Law Advisory Commission"

H.P. 1600 L.D. 2240

Be **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** 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 **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **DIAMOND** of Cumberland, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218, in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Rosen.

Senator **ROSEN:** Thank you, Madame President and members of the Senate. The proposal that is before us is a report out of the State and Local Government Committee. It is a piece of work that is well intentioned, to try to move along a process to improve the condition of the Cultural Buildings on site here, that are part of the State House complex. This is a response to a request for a report that was issued by the committee last year, or a year and a half ago, to come back in January 2008 with recommendations as to how to move forward with improvements on the buildings here, what's considered the Cultural Complex, the museum, library, and some of the other components that are housed there. The hope was that the report that was delivered to the State and Local Government Committee in mid-January would provide a firm recommendation of replacement of the physical plant or renovation of the existing plant. That would be the end of the report and the Legislature could decide how it wants to go forward from there. Instead the report came back and requested an extension and asked for more funds to study both options, to look at continued review of an entirely new facility, or renovation and replacement, an extension of their work, and a request for more money. Unfortunately, we didn't receive a definitive recommendation. The State and Local Government Committee was willing to accommodate that extension and that request, which is in the proposal that is before you.

They do have a component here that is what I object to and I will be asking you to vote against the pending motion. Rather than recommending that funding for the architectural studies come out of the budgets of these existing agencies and departments, or asking for a directional fund appropriation to pay for the architectural studies, the bill that is before us directs them to go forward and receive grant funding to pay for that study. That's not unprecedented and that has been done before. The part that I object to is that it lists in the amendment that the Director is authorized to apply for grant money for funding including from the New Century Community Program. That is the basis for my objection. I do not believe it is appropriate to give the Director authority to submit an application for funds out of the New Century Program to conduct architectural studies for this State complex.

The reason I object to that is because, if you recall, the New Century initiative, and the different cultural agencies that came together to form that effort, have been extremely successful over the years. In the past many of these separate, small, independent cultural agencies were coming before the Legislature and competing with each other with independent requests for financial support. They came together a few years ago under the New Century umbrella, negotiated an agreement, and would come forward with a unified presentation. That was a very successful way to deal with the Legislature. We even included,

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (2/7/08) Assigned matter:

HOUSE REPORT - from the Committee on **STATE AND LOCAL GOVERNMENT**, pursuant to Resolve 2005, chapter 168, on Resolve, Regarding the Maine State Cultural Building in Augusta (EMERGENCY)

H.P. 1308 L.D. 1876

Report - **Ought to Pass as Amended by Committee Amendment "B" (H-669)**

Tabled - February 7, 2008, by Senator **SCHNEIDER** of Penobscot

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

and put out to the voters, a bond proposal for bond funding which the voters approved. The proceeds of those bond funds would be used to distribute to applicants across the state of Maine for primarily small infrastructure projects; your local library, your local historical society building, and other small organizations in the community that otherwise did not have access to funding to help improve some of the historic and cultural gems that exist in their community. I find it inappropriate to now authorize the Director to be able to submit an application and allow that application to be received and considered to compete against these local applicants for New Century funds. If they want to move forward with an architectural analysis for property that is the responsibility of State Government then take it out of the current budgets or ask for a direct General Fund appropriation. I request that you reject this amendment as presented and vote against the pending motion.

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

Senator **SCHNEIDER:** Thank you, Madame President. First I want to say this was a bi-partisan, unanimous report out of our committee. There is a good reason for that. The reason is that we were in a Catch-22. As many of you know, cultural activities don't exactly get top priority when it comes to funding. We had a fiscal note on this. Unfortunately, we didn't feel that if we kept the fiscal note, coming out of General Fund appropriations, that this would get top priority and would not make it through the Appropriations Committee process. It's a little bit stunning to me that there should be such an objection by the good Senator from Hancock, Senator Rosen, for seeking funds for cultural activities that are very important to this state. We have an obligation to do what we can to serve this state not only for every purpose but also for our cultural activities here at the State campus. That's not happening. We have many needs. We have archive needs. We have museum needs. These are not getting served appropriately because of the tight financial times that we're in. I have a hard time understanding why it's such an objection to say, 'Yes, Director, go ahead and at least try an application,' in a process that happens to be a competitive process which a cultural arts council has to approve. Madame President, I do not see why there is such an objection to this. I would hope that this Body, given the tight financial times, would agree with the unanimous committee report. They heard about this issue in committee, about allowing us to seek funds where we can. It does not take from the General Fund but comes from areas that have a competitive process. I'm really hoping that you will all support this because I think we are all very aware of the tight financial times and know fully that if the committee had left the fiscal note on this it would not have a prayer. Please support the unanimous report, bi-partisan report, of our committee. Thank you very much.

THE PRESIDENT: The pending question before the Senate is Acceptance of the Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#287)

YEAS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DIAMOND, HOBBS, HOBBS, MARRACHE, MARTIN, MITCHELL, NUTTING, PERRY, RAYE, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

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

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-669) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Repeal Certain Confidentiality Provisions in the Child Protective Laws" (EMERGENCY)
S.P. 863 L.D. 2233

In Senate, February 26, 2008, **READ TWICE** and **PASSED TO BE ENGROSSED.**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-703)**, in **NON-CONCURRENCE.**

On motion by Senator **HOBBS** of York, the Senate **RECEDED** and **CONCURRED.**

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

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

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 Repeal Certain Confidentiality Provisions in the Child Protective Laws

S.P. 863 L.D. 2233
(H "A" H-703)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 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, was presented by the Secretary to the Governor for his approval.

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

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

Senator **PLOWMAN** of Penobscot 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 **NUTTING** of Androscoggin was granted unanimous consent to address the Senate off the Record.

Senator **BROMLEY** of Cumberland 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.

Off Record Remarks

On motion by Senator **MITCHELL** of Kennebec, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, March 4, 2008, at 10:00 in the morning.