

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

In Senate Chamber
Thursday
January 26, 2006

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

Prayer by Reverend Paul Cates of Vassalboro Friends Meeting.

REVEREND CATES: Let us pray. Dear God, we ask Your blessing upon this session of the Maine State Senate. We stand before You this morning, people of various political persuasions, with the realization that creative, considerate partisanship can be a blessing to Maine and its people. As we, the legislators here and through the broad spectrum of Maine people, try to clarify issues at hand by expressing different view points, help us to realize that all the important issues facing Mainers are truly bipartisan issues. Help us, we pray, to remember that dedicated Democrats, Republicans, and Independents will work for responsible taxation and spending, for the encouragement of business growth, and for a fair reward for hard work by Maine's job holders. I speak these words this morning with absolute confidence that all members of this body, regardless of political affiliation, are motivated to achieve the very best for the people of Maine. Maine and its people deserve no less. We pray that You will inspire all Maine citizens to support our legislators in their very positive efforts on our behalf. On behalf of Maine and its people, Amen.

Reading of the Journal of Wednesday, January 25, 2006.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by Senator **BRENNAN** of Cumberland, the following Joint Order:
S.P. 763

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, January 31, 2006, at 10:00 in the morning.

READ and PASSED.

Ordered sent down forthwith for concurrence.

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Ensure Adequate Funding for Cleanup of Hazardous Waste, Biomedical Waste and Waste Oil"
H.P. 1383 L.D. 1975

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

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

**Pursuant to Statute
Maine Health Data Organization**

The **Maine Health Data Organization**, 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 120: Release of Data to the Public, a Major Substantive Rule of the Maine Health Data Organization (EMERGENCY)

H.P. 1384 L.D. 1976

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 **MAYO** of Sagadahoc, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218, in concurrence.

**Pursuant to Statute
Department of Environmental Protection**

The **Department of Environmental Protection**, 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 355: Coastal Sand Dune Rules, a Major Substantive Rule of the Department of Environmental Protection (EMERGENCY)

H.P. 1385 L.D. 1977

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 Resolve **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 **COWGER** of Kennebec, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218, in concurrence.

COMMUNICATIONS

The Following Communication: S.C. 478

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

January 23, 2006

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 bill out "Ought Not to Pass":

L.D. 1801 An Act To Amend the Maine Insurance Guaranty Association Act

We have also notified the sponsor 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**.

The Following Communication: S.C. 479

**MAINE STATE LEGISLATURE
COMMITTEE ON NATURAL RESOURCES
AUGUSTA, MAINE 04333**

January 23, 2006

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 Natural Resources has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1327 An Act To Prohibit the Use of Mercury Fillings

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

Sincerely,

S/Sen. Scott W. Cowger
Senate Chair

S/Rep. Theodore Koffman
House Chair

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

ORDERS

Joint Order

On motion by Senator **SCHNEIDER** of Penobscot, the following Joint Order:

S.P. 764

ORDERED, the House concurring, that the Joint Standing Committee on Education and Cultural Affairs shall review the existing law and rules governing the criteria used by the State Board of Education in reviewing and approving secondary school construction projects, including, but not limited to, the Maine Revised Statutes, Title 20-A, section 15905, subsection 2 and the State Board of Education's Chapter 61: Rules for Major Capital School Construction Projects; and be it further

ORDERED, that based on its review the Joint Standing Committee on Education and Cultural Affairs may report out a bill to the Senate to amend the law governing the criteria necessary to approve secondary school construction projects, including, but not limited to, altering the threshold number of pupils necessary to consider and approve such projects.

READ.

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

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Address Benefits for Employees and Officers of Credit Unions"

H.P. 1231 L.D. 1723

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TRANSPORTATION** on Bill "An Act To Update the Charter of the Lewiston and Auburn Railroad Company"

H.P. 1289 L.D. 1849

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act To Amend the Operator's License and Nondriver Identification Card Requirements for Nonimmigrants"

H.P. 376 L.D. 501

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-736)**.

Signed:

Senators:

- DAMON of Hancock
- DIAMOND of Cumberland
- SAVAGE of Knox

Representatives:

- MARLEY of Portland
- FISHER of Brewer
- HOGAN of Old Orchard Beach
- MAZUREK of Rockland
- BROWNE of Vassalboro
- McKENNEY of Cumberland

COLLINS of Wells
SAMPSON of Auburn
PARADIS of Frenchville

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-737)**.

Signed:

Representative:

THOMAS of Ripley

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-736)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-736)**.

Reports **READ**.

On motion by Senator **DAMON** of Hancock, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-736)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-736) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

SECOND READERS

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

House As Amended

Resolve, To Fund a Study Regarding Health Care for Maine's Firefighters

H.P. 15 L.D. 10
(C "A" H-723)

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

Senate As Amended

Bill "An Act To Authorize the Commissioner of Inland Fisheries and Wildlife To Allow the Operation of Snowmobiles Registered outside the State at Special Events Occurring in the State" (EMERGENCY)

S.P. 649 L.D. 1695
(C "A" S-435)

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.

ORDERS OF THE DAY

Unfinished Business

The following matters 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 (1/10/06) Assigned matter:

JOINT RESOLUTION - memorializing Sergeant First Class Shawn Dostie of Lewiston
SLS 895

Tabled - January 10, 2006, by Senator **ROTUNDO** of Androscoggin

Pending - **ADOPTION**

(In Senate, January 10, 2006, **READ**.)

READ.

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

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. Sergeant First Class Shawn Dostie died on December 30th in Iraq. He was 32 years old. He was born in Rumford and graduated from Lewiston High School in the class of 1991 and received his Associate Degree from Troy University. He served in the U.S. Army at Garistadt, Germany; Vicenza, Italy; Fort Benning, Georgia; and served three assignments at Fort Campbell, Kentucky. Sergeant First Class Dostie's awards include the Bronze Star Medal, the Purple Heart Medal, the Army Commendation Medal with two Oak Leaf Clusters, the Army Achievement Medal with one Oak Leaf Cluster, Humanitarian Service Medal, National Defense Service Medal, Army Good Conduct Medal, Multinational Forces Observer Medal, and Global War on Terror Service Medal. In addition, Sergeant Dostie earned the Combat Infantry Man's Badge, Expert Infantry Man's Badge, Drill Sergeant's Badge, Parachutist Badge, U.S. Belguim and British Air Assault Badge, and the Pathfinder Badge.

Sergeant First Class Dostie loved his family, his friends, and his country. He enjoyed spending time with his beloved family; particularly his children, Bayleigh and Cameron. He will be remembered for his energy, his love of family, and his willingness to risk his own life to make ours safe.

The people of Maine, I know, share the pain and grief of his family and it is my hope that when we adjourn today we will do so in honor and lasting tribute of Sergeant First Class Shawn Dostie.

PASSED.

Sent down for concurrence.

THE PRESIDENT: The Chair would be pleased to recognize in the rear of the chamber the parents of Sergeant First Class Shawn Dostie, Robert and Delaine Fugere; his widow, Stephanie Dostie; his children, Bayleigh and Cameron Dostie; and his Aunt and Uncle, Mr. and Mrs. Goyette. Would they please rise and receive the greetings of the Maine Senate.

The Chair laid before the Senate the following Tabled and Later (1/17/06) Assigned matter:

JOINT ORDER - Directing the Joint Standing Committee on Legal and Veterans Affairs to Report a Bill Regarding Tribal Commercial Track and Slot Machines in Washington County
H.P. 1377

Tabled - January 17, 2006, by Senator **BRENNAN** of Cumberland

Pending - **PASSAGE**, in concurrence

(In House, January 12, 2006, **READ** and **PASSED**.)

(In Senate, January 17, 2006, **READ**.)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#307)

YEAS: Senators: COURTNEY, GAGNON, HASTINGS, MARTIN, MAYO, MITCHELL, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, CLUKEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, HOBBS, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senators: BRYANT, MILLS

16 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 2 Senators being absent, **FAILED PASSAGE**, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Specially (1/25/06) Assigned matter:

JOINT ORDER - Expression of Legislative Sentiment recognizing Paul J. Mitchell, of Waterville

SLS 908

Tabled - January 24, 2006, by Senator **GAGNON** of Kennebec

Pending - motion by same Senator to **PASS**

(In Senate, January 24, 2006, on motion by Senator **GAGNON** of Kennebec, **READ.**)

READ.

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

Senator **GAGNON:** Thank you, Madame President. It's a pleasure to be able to speak a little bit this morning about my good friend Paul Mitchell. Paul Mitchell is the person who is so well-known in Waterville that when his younger brother, George Mitchell, comes to town we say, 'Aren't you the brother of Paul Mitchell?' Mr. Mitchell has been an asset to the City of Waterville and much of what Waterville is today has a lot to do with what Paul Mitchell has done for the city.

I want to tell you, on a little bit of a personal note, he owns a piece of property in the middle of the city. He was developing a variety of houses and when my wife and I first were married we wanted to build a new house. Because of the circumstances and the money that we needed to borrow in order to build a house, we went to Mr. Mitchell, and on a handshake, he built this house for us. It was exactly the house we wanted. He hired the contractors who he worked with and then he built the house for us. It was exactly what we wanted; carpeted, paint, everything. When we went to the closing, the closing was actually in an attorney's office near his office, and we were able to get the check from the bank because it was an investment of, obviously, a house that was already built. I was able to get my insurance from him. He provided the proof of insurance and it was all done. I've never been at such a fast closing. It took about three minutes. Now I know why attorneys get so much money because of what they do.

Mr. Mitchell has just been a real pleasure for all of us in Waterville. On a personal basis, he's just been a tremendous help to my family. All because he just really wanted young people, and good young people, to stay in Waterville and to help the City of Waterville as he has done so much. This is a surprise for him today. We have him behind us and I hope that you will all join me in welcoming him to the Senate chamber today. Thank you, Madame President.

PASSED.

Sent down for concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the chamber Paul J. Mitchell of Waterville. Would he please rise and receive the greetings of the Maine Senate.

Off Record Remarks

On motion by Senator **ROTUNDO** of Androscoggin, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

An Act To Clarify the Laws Governing Agricultural Composting Operations

S.P. 381 L.D. 1064
(C. "A" S-256)

Tabled - June 3, 2005, by Senator **ROTUNDO** of Androscoggin.

Pending - **ENACTMENT**, in concurrence

(In Senate, May 31, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-256)**, in concurrence.)

(In House, June 3, 2005, **PASSED TO BE ENACTED.**)

On further motion by same Senator, Bill and accompanying papers **COMMITTED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

Senator **DAMON** 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.

Senator **DAVIS** of Piscataquis 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 **WOODCOCK** of Franklin 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.

Off Record Remarks

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

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

Off Record Remarks

On motion by Senator **ROTUNDO** of Androscoggin, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, January 31, 2006, at 10:00 in the morning, in memory of and lasting tribute to Sergeant First Class Shawn Dostie of Lewiston.