

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

In Senate Chamber
Thursday
January 21, 2010

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

Prayer by Pastor Elizabeth Bailey-Mitchell, Peoples United
Methodist Church of Greenville Junction.

PASTOR BAILEY-MITCHELL: Let us be in the spirit of prayer. Oh God, we come before You tonight mindful that we are human and therefore inclined to do what pleases us rather than that which serves You and Your creation. We pray that You will be present to counsel the leadership gathered here, that they may be mindful of the needs of all people here in the state of Maine. May Your loving kindness and tender wisdom infuse this leadership tonight, that they may move forward in work that is just, work that is kind, work that is merciful, work that is generous. For what does the prophet Micah remind us, 'But to do justice, to love kindness, and to walk humbly with our God.' May our work this evening be pleasing in Your sight. Through Jesus Christ our Lord, who lives and reigns with You and the Holy Spirit. One God, now and forever. Amen.

Reading of the Journal of Tuesday, January 19, 2010.

Doctor of the day, Dr. Judith Chamberlain, MD of Brunswick.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by
Senator **BARTLETT** of Cumberland, the following Joint Order:
S.P. 672

Ordered, the House concurring, that when the House and Senate
adjourn, they do so until Tuesday, January 26, 2010 at 10:00 in
the morning.

READ and PASSED.

Ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, on motion by
Senator **BARTLETT** of Cumberland, the following Senate Order:
S.O. 20

Ordered, that a message be sent to the House of Representatives
proposing a Convention of the two branches of the Legislature be
held at 7:00 this evening, in the Hall of the House for the purpose
of extending to Governor John E. Baldacci, an invitation to attend
and make such communication as pleases him.

READ and PASSED.

The Chair appointed the Senator from Cumberland, Senator
BARTLETT to deliver the message to the House of
Representatives. The Sergeant-At-Arms escorted the Senator to
the House of Representatives.

Subsequently, the Senator from Cumberland, Senator
BARTLETT reported that he had delivered the message with
which he was charged.

Senate at Ease.

Senate called to order by the President.

At this point a message was received from the House of
Representatives, borne by Representative PIOTTI of Unity
informing the Senate that the House concurred with the
proposition for a Convention of the two branches of the
Legislature to be held in the Hall of the House at 7:00 in the
evening for the purpose of extending to the Honorable John E.
Baldacci, Governor of the State of Maine, an invitation to attend
the Convention and make such communications as pleases him.

COMMUNICATIONS

The Following Communication: S.C. 570

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

January 19, 2010

The Honorable Elizabeth H. Mitchell
President of the Senate of Maine
124th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 124th Maine Legislature, the Joint Standing Committee on Education and Cultural Affairs has had under consideration the nomination of Victoria M. Larson of Windham, for reappointment to the Maine Maritime Academy Board of Trustees.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

| | | | |
|--------|-----------------|---|---|
| YEAS | Senators | 1 | Alfond of Cumberland |
| | Representatives | 7 | Sutherland of Chapman, Finch of Fairfield, Johnson of Greenville, Lovejoy of Portland, Rankin of Hiram, Richardson of Carmel, Wagner of Lewiston |
| NAYS | | 0 | |
| ABSENT | | 5 | Rep. Casavant of Biddeford, Rep. McFadden of Dennysville, Rep. Nelson of Falmouth, Sen. Schneider of Penobscot, Sen. Weston of Waldo |

Eight members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Victoria M. Larson of Windham, for reappointment to the Maine Maritime Academy Board of Trustees be confirmed.

Signed,

S/Justin L. Alfond
Senate Chair

S/Patricia B. Sutherland
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 124th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#251)

YEAS: Senators: None

NAYS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, COURTNEY, CRAVEN, DAMON, DAVIS, DIAMOND, GERZOFKY, GOODALL, GOOLEY, HASTINGS, HOBBS, JACKSON, MARRACHE, MCCORMICK, NASS, NUTTING, PERRY, PLOWMAN, RAYE, RECTOR, ROSEN, SCHNEIDER, SHERMAN, SIMPSON, SULLIVAN, TRAHAN, THE PRESIDENT - ELIZABETH H. MITCHELL

ABSENT: Senators: MILLS, SMITH, WESTON

No Senator having voted in the affirmative and 32 Senators having voted in the negative, with 3 Senators being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Victoria M. Larson** of Windham for reappointment to the Maine Maritime Academy Board of Trustees was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

The Following Communication: S.C. 571

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

January 19, 2010

The Honorable Elizabeth H. Mitchell
President of the Senate of Maine
124th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 124th Maine Legislature, the Joint Standing Committee on Education and Cultural Affairs has had under consideration the nomination of John F. Shipway of Bath, for appointment to the Maine Maritime Academy Board of Trustees.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS Senators 2 Alfond of Cumberland,
Weston of Waldo
Representatives 8 Sutherland of Chapman,
Finch of Fairfield, Johnson of
Greenville, Lovejoy of
Portland, McFadden of
Dennysville, Rankin of Hiram,
Richardson of Carmel,
Wagner of Lewiston

NAYS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN,
BRANNIGAN, BRYANT, COURTNEY,
CRAVEN, DAMON, DAVIS, DIAMOND,
GERZOFISKY, GOODALL, GOOLEY,
HASTINGS, HOBBS, JACKSON,
MARRACHE, MCCORMICK, NASS,
NUTTING, PERRY, PLOWMAN, RAYE,
RECTOR, ROSEN, SCHNEIDER,
SHERMAN, SIMPSON, SULLIVAN,
TRAHAN, THE PRESIDENT - ELIZABETH
H. MITCHELL

NAYS 0

ABSENT: Senators: MILLS, WESTON

ABSENT 3 Rep. Casavant of Biddeford,
Rep. Nelson of Falmouth,
Sen. Schneider of Penobscot

EXCUSED: Senator: SMITH

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of John F. Shipway of Bath, for appointment to the Maine Maritime Academy Board of Trustees be confirmed.

No Senator having voted in the affirmative and 32 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **John F. Shipway** of Bath for appointment to the Maine Maritime Academy Board of Trustees was **CONFIRMED**.

Signed,

The Secretary has so informed the Speaker of the House of Representatives.

S/Justin L. Alfond
Senate Chair

S/Patricia B. Sutherland
House Chair

The Following Communication: S.C. 572

READ and ORDERED PLACED ON FILE.

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

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

January 19, 2010

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 124th Legislature, the vote was taken by the Yeas and Nays.

The Honorable Elizabeth H. Mitchell
President of the Senate of Maine
124th Maine Legislature
State House
Augusta, Maine 04333-0003

The Chair noted the absence of the Senator from Piscataquis, Senator **SMITH** and further excused the same Senator from voting on this matter.

Dear Madame President:

The Doorkeepers secured the Chamber.

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 124th Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Robert L. Piccone of Portland, for reappointment to the Maine Labor Relations Board.

The Secretary opened the vote.

ROLL CALL (#252)

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators: None

YEAS Senators 2 Damon of Hancock, Gooley of Franklin
Representatives 8 Mazurek of Rockland, Browne of Vassalboro, Carey of Lewiston, Harlow of Portland, Hogan of Old Orchard Beach, Peoples of Westbrook, Rosen of Bucksport, Theriault of Madawaska

NAYS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, COURTNEY, CRAVEN, DAMON, DAVIS, DIAMOND, GERZOFISKY, GOODALL, GOOLEY, HASTINGS, HOBBSINS, JACKSON, MARRACHE, MCCORMICK, NASS, NUTTING, PERRY, PLOWMAN, RAYE, RECTOR, ROSEN, SCHNEIDER, SHERMAN, SIMPSON, SULLIVAN, TRAHAN, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS 0

ABSENT: Senators: MILLS, WESTON

ABSENT 3 Rep. Cebra of Naples, Sen. Perry of Penobscot, Rep. Thomas of Ripley

EXCUSED: Senator: SMITH

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Martin I. Eisenstein of Auburn, for reappointment to the Northern New England Passenger Rail Authority be confirmed.

No Senator having voted in the affirmative and 32 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Martin I. Eisenstein** of Auburn for reappointment to the Northern New England Passenger Rail Authority was **CONFIRMED**.

Signed,

The Secretary has so informed the Speaker of the House of Representatives.

S/Dennis S. Damon
Senate Chair

S/Edward J. Mazurek
House Chair

The Following Communication: S.C. 574

READ and ORDERED PLACED ON FILE.

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

The President laid before the Senate the following: "Shall the recommendation of the Committee on **TRANSPORTATION** be overridden?"

January 19, 2010

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 124th Legislature, the vote was taken by the Yeas and Nays.

The Honorable Elizabeth H. Mitchell
President of the Senate of Maine
124th Maine Legislature
State House
Augusta, Maine 04333-0003

The Chair noted the absence of the Senator from Piscataquis, Senator **SMITH** and further excused the same Senator from voting on this matter.

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 124th Maine Legislature, the Joint Standing Committee on Transportation has had under consideration the nomination of James F. Cloutier of Portland, for appointment to the Maine Turnpike Authority.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#254)

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators: None

YEAS Senators 2 Damon of Hancock, Gooley of Franklin
Representatives 8 Mazurek of Rockland, Browne of Vassalboro, Harlow of Portland, Hogan of Old Orchard Beach, Peoples of Westbrook, Rosen of Bucksport, Theriault of Madawaska, Thomas of Ripley

NAYS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, COURTNEY, CRAVEN, DAMON, DAVIS, DIAMOND, GERZOFKY, GOODALL, GOOLEY, HASTINGS, HOBBS, JACKSON, MARRACHE, MCCORMICK, NASS, NUTTING, PERRY, PLOWMAN, RAYE, RECTOR, ROSEN, SCHNEIDER, SHERMAN, SIMPSON, SULLIVAN, TRAHAN, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS 0

ABSENT: Senators: MILLS, WESTON

ABSENT 3 Rep. Carey of Lewiston, Rep. Cebra of Naples, Sen. Perry of Penobscot

EXCUSED: Senator: SMITH

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of James F. Cloutier of Portland, for appointment to the Maine Turnpike Authority be confirmed.

No Senator having voted in the affirmative and 32 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **James F. Cloutier** of Portland for appointment to the Maine Turnpike Authority was **CONFIRMED**.

Signed,

The Secretary has so informed the Speaker of the House of Representatives.

S/Dennis S. Damon
Senate Chair

S/Edward J. Mazurek
House Chair

The Following Communication: S.C. 566

READ and ORDERED PLACED ON FILE.

**STATE OF MAINE
OFFICE OF THE GOVERNOR**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **TRANSPORTATION** be overridden?"

January 6, 2010

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 124th Legislature, the vote was taken by the Yeas and Nays.

The Honorable Elizabeth H. Mitchell
President of the Senate
Augusta, Maine 04333

The Honorable Hannah M. Pingree
Speaker of the House
Augusta, Maine 04333

The Chair noted the absence of the Senator from Piscataquis, Senator **SMITH** and further excused the same Senator from voting on this matter.

Dear President Mitchell and Speaker Pingree:

I am pleased to accept your invitation to deliver the State of the State Address at a Joint Session of the 124th Maine Legislature on Thursday, January 21, 2010, at 7:00 PM.

I am looking forward to seeing you then!

Sincerely,

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

S/John E. Baldacci
Governor

ROLL CALL (#255)

YEAS: Senators: None

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 567

**STATE OF MAINE
124TH MAINE LEGISLATURE**

January 7, 2010

Chief Justice Leigh I. Saufley
Maine Supreme Judicial Court
P. O. Box 368
Portland, ME 04112

Dear Chief Justice Saufley:

We are pleased to invite you to address a Joint Session of the 124th Maine Legislature on Tuesday, January 26, 2010 at 11:00 a.m. concerning the State of the Judiciary and any other matters that you may care to bring to our attention.

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.

The Following Communication: S.C. 569

**STATE OF MAINE
ONE HUNDRED AND TWENTY FOURTH LEGISLATURE
COMMITTEE ON INSURANCE AND FINANCIAL SERVICES**

January 14, 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 Insurance and Financial Services has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 257 An Act To Establish the Health Technology Clinical Committee

L.D. 1059 Resolve, To Enhance Health Care for Direct Care Workers

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

Sincerely,

S/Sen. Peter B. Bowman
Senate Chair

S/Rep. Sharon Anglin Treat
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 568

**MAINE STATE LEGISLATURE
OFFICE OF PROGRAM EVALUATION AND
GOVERNMENT ACCOUNTABILITY**

January 14, 2010

The Honorable Elizabeth H. Mitchell, President of the Senate and Members of the 124th Maine Senate
3 State House Station
Augusta, Maine 04333

The Honorable Hannah M. Pingree, Speaker of the House and Members of the 124th House of Representatives
2 State House Station
Augusta, Maine 04333

Dear President Mitchell, Speaker Pingree and Members of the 124th Legislature:

In accordance with 3 MRSA §995.4, I respectfully submit OPEGA's Annual Report on Activities and Performance for 2009. This month marks the fifth anniversary of OPEGA's service to the Legislature as a non-partisan resource meant to provide support in overseeing and improving the performance of State government. Throughout those five years, the OPEGA staff and I have remained committed to being meaningful contributors to the practice of good government in the State of Maine.

This report illustrates where we stand on the performance measures related to the short-term objectives established in our Strategic Plan which was approved by the Government Oversight Committee and implemented by the Office in 2009. In addition, it includes other information on inputs, outputs and outcomes over the past five years that are important for assessing whether OPEGA's function has been a cost-beneficial use of State resources. Appendix C also provides some information specific to the individual reports released and recommendations made by OPEGA over the past five years - including the overall status of implementation, key results stemming from actions taken and fiscal impacts associated with identified issues and recommendations.

I am proud of the OPEGA staff and the contributions the Office has made to good government over the past five years. I hope that you and Maine's citizens will view our efforts and results as a

worthwhile use of taxpayer dollars as we continue to increase our value to you in the years to come.

Sincerely,

S/Beth L. Ashcroft
Director

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

The Following Communication: S.C. 575

**STATE OF MAINE
OFFICE OF THE ATTORNEY GENERAL**

January 20, 2010

The Honorable Elizabeth H. Mitchell
Senate President
124th Maine Legislature
3 State House Station
Augusta, Maine 04333

The Honorable Hannah M. Pingree
Speaker of the House
124th Maine Legislature
2 State House Station
Augusta, Maine 04333

Re: Report of the Attorney General's Working Group on Human Trafficking

Dear President Mitchell and Speaker Pingree:

Pursuant to Chapter 684, Part F of the Public Laws of 2007, enclosed please find the Report of the Attorney General's Working Group in Human Trafficking to the Second Regular Session of the 124th Legislature. Twenty copies have been provided for use by the House and ten copies have been provided for use by the Senate.

Thank you for your consideration of these materials; please do not hesitate to call if you should have any questions in this regard.

Very truly yours,

S/Janet T. Mills

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

SECOND READERS

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

House

Bill "An Act To Authorize Maine Media College To Confer the Degree of Master of Fine Arts" (EMERGENCY)
H.P. 1055 L.D. 1506

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

Senate

Resolve, To Name Route 16/27 in the Town of Stratton the Caleb Dalton Stevens Memorial Highway
S.P. 580 L.D. 1502

READ A SECOND TIME and **PASSED TO BE ENGROSSED.**

Sent down for concurrence.

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

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

REPORTS OF COMMITTEES

House

Ought to Pass Pursuant to Public Law

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Adjust the Milk Handling Fee" (EMERGENCY)
H.P. 1247 L.D. 1753

Reported that the same **Ought to Pass**, pursuant to Public Law 2009, chapter 213, Part TTT, section 9.

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.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, in concurrence.

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

Senate at Ease.

Senate called to order by the President.

The President appointed the Senator from Cumberland, Senator **BARTLETT**, to serve as President Pro Tem for the remainder of the session.

At this point, the Senate retired to the Hall of the House, where a Joint Convention was formed.

After Convention

In Senate Chamber

Senate called to order by
President Pro Tem **PHILIP L. BARTLETT II**
of Cumberland County.

On motion by Senator **MARRACHÉ** of Kennebec, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, January 26, 2010, at 10:00 in the morning.