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

In Senate Chamber Thursday June 16, 2005

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

On motion by Senator CLUKEY of Aroostook, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

Reading of the Journal of Wednesday, June 15, 2005.

Off Record Remarks

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution:

H.P. 1198

JOINT RESOLUTION HONORING THE CLOSING OF THE AUGUSTA MENTAL HEALTH INSTITUTE AFTER 164 YEARS AND HONORING THOSE WHO DIED WHILE IN CUSTODY

WHEREAS, the Augusta Mental Health Institute, known as AMHI, began operation in 1840 and closed permanently in 2004, and during that 164-year period approximately 11,500 people died while in the custody of the hospital; and

WHEREAS, many of the 11,500 were buried in unmarked graves in times when burial records and death records were not kept at facilities such as AMHI, and their grave sites are unknown, since a cemetery has never been identified on the sprawling campus along the Kennebec River; and

WHEREAS, the Cemetery Project of Amistad conducted 4 years of research to find the burial sites and after failing to find them undertook painstaking research of hospital records to develop a list of all the people who died; and

WHEREAS, the Cemetery Project of Amistad is holding a formal memorial for the patients who died at the hospital; and

WHEREAS, the statewide Quality Improvement Council, in conjunction with the Cemetery Project of Amistad, is sponsoring a symbolic formal closing of the Augusta Mental Health Institute on June 16, 2005 with a variety of speakers and presentations; and

WHEREAS, beginning at 8:00 a.m., the names of the 11,500 who died at the hospital will be read aloud one by one in a ceremony designed to honor the dead and bring dignity to these forgotten ones from an era when many people spent years and even decades in institutions; and

WHEREAS, the solemn occasion of the reading of the names honors these dead and gives respect to their lives by creating a record to remember, and the formal closing of the hospital in the afternoon of June 16th will serve to remind us of people who should never have been forgotten; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-second Legislature, now assembled in the First Special Session, on behalf of the people we represent, take this opportunity to express appreciation to all those involved in the research and reading of the names of the 11,500 people who died while at the Augusta Mental Health Institute; and be it further

RESOLVED: That we take a moment to pause and reflect upon and to honor the memory of the people who died while in the care of the Augusta Mental Health Institute, and that we reaffirm the dignity of all people; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Quality Improvement Council and to the Cemetery Project of Amistad.

Comes from the House, READ and ADOPTED.

READ and **ADOPTED**, in concurrence.

ENACTORS

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

Acts

An Act To Limit the Liability of Ambulance Services in Maine H.P. 287 L.D. 385 (H "A" H-693)

An Act To Include Regional Transportation Systems under the Maine Tort Claims Act

H.P. 629 L.D. 910 (C "A" H-691)

An Act Regarding Distribution of Information from the Central Voter Registration System

S.P. 446 L.D. 1266 (H "A" H-677;S "B" S-352 to C "A" S-340)

An Act To Ensure Continuity of Care Related to Implementation of he Federal Medicare Drug Benefit		ROLL CALL (#269)				
	H.P. 924 L.D. 1325 (C "A" H-686)	YEAS:	MAYO, MITO PLOWMAN,	N, GAG CHELL, , RAYE,	NT, COURTNEY, DAMON, NON, HASTINGS, MARTIN, NUTTING, PERRY, ROSEN, SAVAGE, WE-MELLO, WESTON,	
Senate a					PRESIDENT - BETH G.	
Senate called to orde	er by the President.	NAYS:		DIAMON	LETT, BRENNAN, CLUKEY, ND, HOBBINS, MILLS, NASS, LING, SULLIVAN	
	SED TO BE ENACTED and having been signed by the dent were presented by the Secretary to the Governor for his		Senators:		EWS, BROMLEY, TURNER	
		21 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 3 Senators being absent, was PASSED TO BE ENACTED .				
An Act To Care for Families	S.P. 361 L.D. 1044 (S "A" S-335;S "C" S-347 to C "A" S-280)		e Bill was PAS		oved the Senate RECONSIDER D BE ENACTED, in	
On motion by Senator SNOWE-M supported by a Division of one-fiftly voting, a Roll Call was ordered. On motion by Senator ROTUNDO SPECIAL APPROPRIATIONS TA	of Androscoggin, placed on the ABLE, pending ENACTMENT,	Today's Se	ssion, pending ER whereby the	the mot	or, TABLED until Later in tion by same Senator to /as PASSED TO BE ENACTED ,	
in concurrence. (Roll Call Ordered	d)			Resc	blve	
An Act To Amend the Maine Wind	To Amend the Maine Wind Energy Act S.P. 477 L.D. 1379 (S "A" S-365)		Resolve, Regarding Legislative Review of Chapter 101: Establishment of the Capital Investment Fund, a Major Substantive Rule of the Governor's Office of Health Policy and Finance			
On motion by Senator ROTUNDO of Androscoggin, TABLED until Later in Today's Session, pending ENACTMENT , in					H.P. 36 L.D. 33 (C "A" H-636; H "A" H-685)	
concurrence.					een signed by the President was Governor for his approval.	
An Act To Authorize, Subject to St Commercial Track and Slot Machi			r and under su the following:	spensio	on of the Rules, the Senate	
On motion by Senator BRENNAN of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll		The Followi	COMMUNICATIONS The Following Communication: S.C. 381			
Call was ordered. The Doorkeepers secured the Charles	ambor	THE FUILUM	_			
he Doorkeepers secured the Chamber.		MAINE STATE LEGISLATURE COMMITTEE ON HEALTH AND HUMAN SERVICES AUGUSTA MAINE 04333				

June 14, 2005

The Honorable Beth Edmonds President of the Senate of Maine The Honorable John Richardson Speaker of the House 122nd Maine Legislature State House Augusta, Maine 04333-0003

Dear Madame President and Speaker Richardson:

In accordance with 24-A MRSA, § 6952, the Joint Standing Committee on Health and Human Services has had under consideration the following appointments by the Governor to Maine Quality Forum Advisory Council:Cathy Gavin of Yarmouth, Robert B. Keller, MD of Northport, Paul W. Tisher, MD of Orono.

After discussion on these appointments, the Committee proceeded to vote on the motion to approve, with the following result:

YEAS Senators 2 Mayo of Sagadahoc, Rosen

of Hancock

Representatives 7 Burns of South Berwick,

Campbell of Newfield, Grose of Woolwich, Miller of Somerville, Pingree of North Haven, Walcott of Lewiston,

Webster of Freeport

NAYS Senators 0

Representatives 1 Shields of Auburn

ABSENT 3 Rep. Glynn of South

Portland, Rep. Lewin of Eliot,

Sen. Martin of Aroostook

Nine members of the Committee having voted in the affirmative and one in the negative, it was the vote of the Committee that the appointments to the Maine Quality Forum Advisory Council be approved.

Signed,

S/Sen.Arthur F. Mayo III Senate Chair

S/Rep.Hannah Pingree House Chair

READ and ORDERED PLACED ON FILE.

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

COMMUNICATIONS

The Following Communication: S.C. 382

MAINE STATE LEGISLATURE COMMITTEE ON HEALTH AND HUMAN SERVICES AUGUSTA, MAINE 04333

June 14, 2005

The Honorable Beth Edmonds President of the Senate of Maine The Honorable John Richardson Speaker of the House 122nd Maine Legislature State House Augusta, Maine 04333-0003

Dear Madame President and Speaker Richardson:

In accordance with 2 MRSA, c. 5, § 104, the Joint Standing Committee on Health and Human Services has had under consideration the appointment by the Governor of Josh Cutler, MD of Portland, to the Advisory Council on Health Systems Development:

After discussion on these appointments, the Committee proceeded to vote on the motion to approve, with the following result:

YEAS Senators 2 Mayo of Sagadahoc, Rosen

of Hancock

Representatives 7 Burns of South Berwick,

Campbell of Newfield, Grose of Woolwich, Miller of Somerville, Pingree of North Haven, Walcott of Lewiston,

Webster of Freeport

NAYS Senators 0

Representatives 1 Shields of Auburn

ABSENT 3 Rep. Glynn of South

Portland, Rep. Lewin of Eliot, Sen. Martin of Aroostook

Nine members of the Committee having voted in the affirmative and one in the negative, it was the vote of the Committee that the appointment of Josh Cutler, MD to the Advisory Council on Health Systems Development be approved.

Signed,

S/Sen.Arthur F. Mayo III Senate Chair

S/Rep.Hannah Pingree House Chair

READ and **ORDERED PLACED ON FILE**.

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

ORDERS

Joint Resolution

On motion by Senator SCHNEIDER of Penobscot (Cosponsored by Senator ROSEN of Hancock, Representative FISHER of Brewer and Senators: BARTLETT of Cumberland, BRENNAN of Cumberland, BROMLEY of Cumberland, BRYANT of Oxford, COWGER of Kennebec, DAMON of Hancock, DAVIS of Piscataguis, DIAMOND of Cumberland, President EDMONDS of Cumberland, HOBBINS of York, MARTIN of Aroostook, MAYO of Sagadahoc, MILLS of Somerset, MITCHELL of Kennebec, PERRY of Penobscot, RAYE of Washington, ROTUNDO of Androscoggin, STRIMLING of Cumberland, SULLIVAN of York, Representatives: ADAMS of Portland, BARSTOW of Gorham, BLISS of South Portland, BRANNIGAN of Portland, BRAUTIGAM of Falmouth, BRYANT of Windham, BURNS of Berwick, CAIN of Orono, CANAVAN of Waterville, CARR of Lincoln, CLARK of Millinocket, CRAVEN of Lewiston, CUMMINGS of Portland, DAVIS of Falmouth, DRISCOLL of Westbrook, DUCHESNE of Hudson, DUDLEY of Portland, DUGAY of Cherryfield, DUNN of Bangor, DUPLESSIE of Westbrook, EDER of Portland, FAIRCLOTH of Bangor, FARRINGTON of Gorham, FISCHER of Presque Isle, FITTS of Pittsfield, GERZOFSKY of Brunswick. GOLDMAN of Cape Elizabeth, GROSE of Woolwich, HARLOW of Portland, HOGAN of Old Orchard Beach, HUTTON of Bowdoinham, JACKSON of Fort Kent, JENNINGS of Leeds, KOFFMAN of Bar Harbor, LERMAN of Augusta, LUNDEEN of Mars Hill, MAKAS of Lewiston, MARLEY of Portland, MARRACHÉ of Waterville, MAZUREK of Rockland, MILLS of Farmington, NORTON of Bangor, O'BRIEN of Lewiston, PATRICK of Rumford, PELLETIER-SIMPSON of Auburn, PERCY of Phippsburg, PERRY of Calais, PINEAU of Jay, PIOTTI of Unity, SAVIELLO of Wilton, SMITH of Van Buren, THOMAS of Ripley, THOMPSON of China, TRAHAN of Waldoboro, TUTTLE of Sanford, TWOMEY of Biddeford, WALCOTT of Lewiston, WATSON of Bath, WEBSTER of Freeport, WHEELER of Kittery), the following Joint Resolution:

S.P. 638

JOINT RESOLUTION RECOGNIZING THE LOCKED OUT WORKERS OF DHL OF BREWER

WHEREAS, DHL, a German-based global shipping company and a rival of FedEx and UPS, recently laid off local employees in Brewer and Presque Isle by failing to negotiate a new contract with Black Bear Courier, the independent contractor for DHL in Brewer; and

WHEREAS, those workers, many of whom had been with DHL for more than 10 to 12 years and helped build the company's success in Maine, recently had joined the Teamsters Union Local 340 out of South Portland and were let go without severance pay or insurance: and

WHEREAS, after a long organizing campaign, where the workers faced obvious threats to their livelihood, the workers voted to join Teamsters Union Local 340, and DHL subsequently severed the

contract with Black Bear Courier and chose a new contractor out of Pennsylvania; and

WHEREAS, the workers, who were attempting to bring basic democratic principles and protections to the workplace, were paid far less than their counterparts in FedEx or UPS, while DHL had annual sales of 56 billion dollars and annual profits of 4.36 billion dollars; and

WHEREAS, though DHL is claiming that it has no control over the independent contractor out of Pennsylvania, Rydbom Express, it is clearly a case of DHL punishing workers who have a legal right to elect representatives to negotiate wages, hours and working conditions with management; and

WHEREAS, although this type of behavior is common in less developed and less democratic countries, it is deplorable that it is happening in the great State of Maine, where we stand for values of fair play, respect and the rewarding of hard work; and

WHEREAS, there were interrogations and discriminatory acts toward 23 employees at DHL that were illegal and contrary to our State's values; and

WHEREAS, the Teamsters Union has filed charges with the Federal Government demanding that the fired workers be rehired immediately with back pay and that DHL and Rydbom begin negotiations in good faith; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-second Legislature now assembled in the First Special Session, on behalf of the people we represent, take this opportunity to express our support for the Maine workers who were let go from their jobs, and we urge DHL and Rydbom to hire back these terminated employees; and be it further

RESOLVED: That We urge DHL to immediately begin negotiating in good faith with the employees' democratically elected representatives to right the terrible wrong that has been done to these workers and to cease all punitive acts towards employees for exercising their legal rights and we believe that this sort of law-breaking activity has no place in the State of Maine; and be it further

RESOLVED: That We look forward to a resolution to this situation so that the workers and the companies involved can get back to work and everyone can profit; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the headquarters of DHL and the headquarters of Rydbom and the Teamsters Union Local 340.

READ.

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

Senator **SCHNEIDER**: Thank you, Madame President. As you all are aware, there has been an ongoing effort to help the DHL workers achieve their goals in finding fair play when it comes to their work. This joint resolution is about the locked out workers of

DHL in Brewer. I won't read the entire joint resolution, but I would like to read a couple of paragraphs of it.

Whereas, DHL, a German-based global shipping company and a rival of FedEx and UPS, recently laid off local employees in Brewer and Presque Isle by failing to negotiate a new contract with Black Bear Courier, the independent contractor for DHL in Brewer; and whereas, those workers, many of whom had been with DHL for more than 10 to 12 years and helped build the company's success in Maine, recently had joined the Teamsters Union Local 340 out of South Portland and were let go without severance pay or insurance; and whereas, after a long organizing campaign, where the workers faced obvious threats to their livelihood, the workers voted to join Teamsters Union Local 340. and DHL subsequently severed the contract with Black Bear Courier and chose a new contractor out of Pennsylvania: and whereas, the workers, who were attempting to bring basic democratic principles and protections to the workplace, were paid far less than their counterparts in FedEx or UPS, while DHL had annual sales of 56 billion dollars and annual profits of 4.36 billion dollars.

I'd like to skip down to the resolve piece of this. We urge DHL to immediately begin negotiating in good faith with the employees' democratically elected representatives to right the terrible wrong that has been done to these workers and to cease all punitive acts towards employees for exercising their legal rights and we believe that this sort of law-breaking activity has no place in the State of Maine; and be it further resolved that we look forward to a resolution to this situation so that the workers and the companies involved can get back to work and everyone can profit; and be it further resolved that suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the headquarters of DHL and the headquarters of Rydbom and the Teamsters Union Local 340.

I'd just like to let everybody know that they have had success and I'd like to thank my colleague on the other side of the aisle, the Senator from Hancock, Senator Rosen, for his efforts with signing this joint resolution and being a co-sponsor to it. This has been a tremendously successful effort, however it is still not over. I think sending this message, showing our support for workers and working families is incredibly important. I appreciate my colleagues, about 80 of whom signed onto this joint resolution in support of working families and making sure that working families are in receipt of good fair pay for the hard work that they do. Thank you very much to my colleagues and to you, Madame President.

On further motion by same Senator, ADOPTED.

Sent down 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 (6/14/05) Assigned matter:

An Act To Amend the Economic Development Statutes H.P. 1055 L.D. 1503 (C "A" H-683)

Tabled - June 14, 2005, by Senator BROMLEY of Cumberland

Pending - ENACTMENT, in concurrence

(In Senate, June 13, 2005, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-683), in concurrence.)

(In House, June 14, 2005, PASSED TO BE ENACTED.)

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Dow.

Senator DOW: Thank you, Madame President, ladies and gentlemen of the Senate. This is the BRED bill to come before us and I just wanted to put a few remarks on the record and let you listen to a plea of mine, not so much as a Senator but as a businessman. There are many times in the Senate that I have listened to some of the debates going on and wished I could have taken part in some of the Education or the Health and Human Services debates: Transportation and Taxation. Committees I would have loved to have served on, yet I found myself stuck on this committee. Stuck is not in the traditional sense, because I don't consider myself stuck. I consider this department stuck. Stuck in obscurity. As a businessman I have a very difficult time wondering why, because it is the one department that we have that can boost the economic development and outlook and increase jobs and tax revenues for the State of Maine. I've looked at this department, knowing that it is the smallest department that we have. I look at it and wonder why. I look at my own business experience. While the state is not a business and does not need to be running businesses, the state needs to act more like a business. The states needs to pay attention to the things that will increase and produce better businesses in this state. This department, to me, is one of the big answers that we've struggled with from time to time, or continuously. Regardless of whether the subject is a racino in Washington or more revenues for the Department of Human Services, I believe this department, if we would put our effort and monetary support, could solve a great many of the problems that we have in this state. If I ran my business in obscurity like this department is I don't know if I'd have a business. If I withdrew all the advertising I do; filled the store full of furniture; then fired all the salesmen and let most of the delivery crew go. What kind of a business would I have? I'm not asking for more taxes to make a bigger department, I'm asking for some changes in priorities. I hope that someday, when we come in here, you'll look at your own department and find that it's been cut down a little. When you ask where the money has gone, they'll say we gave it to the Department of Economic and Community Development. I believe in doing so, you'll get back more than you lost. If we can do this, I think we can change some of the problems in this state, in Washington County and Aroostook County and all over. I'm talking about not doubling the size of the department, I'm talking about three to five times the size of the department. When I hear

about the State of North Carolina, that put out economic bonds to the tune of \$3.2 billion. I have to wonder. A state that is five or six times ours in population, yet put out a bond that was 40 times what has been proposed for this state. It gives you a chance to sit back and think. I don't want to change anything that is going happen this year. We're going to sit down here today and do what we need to do. We need to take a look at the priorities that we have in this state and make some changes, I believe. We need to make some changes for the good. Changes that will boost our prosperity. Just think what could happen to the Department of Human Services if people had better paying jobs. They wouldn't even need to be on some of the support systems that we have like the Dirigo support systems. Their wages would increase. It would automatically take care of some of these problems. If we can allow a department to do its job and to take the handcuffs off to promote business in this state the way I feel it ought to be promoted as a businessman, I feel we would be a lot better off. That means a lot of sacrifice though, the way I had to sacrifice in my own business for many years without a savings account, without good health insurance, to my determent. I rode around in used cars for a while until things were built up and developed. It took years. You can't take all the advertising money away from tourism and then expect tourism to come in. When Maine runs a advertising campaign, and they do occasionally, and they put it out there, they advertise the fact they are going to have an advertising campaign. I look at that advertising campaign as good but nowhere near big enough or long enough. This is just an example of the things that we need to do and the priorities we need to change. It is a department that can produce many times what we give it in better jobs and therefore increase tax revenues and benefits. I'm not asking for anything to be done today, I just want to go on the record and say, hopefully, sometime in the near future we'll sit down together and come up with a good economic package for this department. The State of Maine needs some long range plans, two years aren't enough. Banks always go on a five year plan. When they get to the end of that, they are producing another five year plan. Most big businesses do the same. We need to do the same. I'm asking to bend your ear just a little bit today for the future because I consider this the future of the State of Maine and to increase this department, I hope, five times what it is today. Thank you.

On motion by Senator **ROTUNDO** of Androscoggin, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (6/14/05) Assigned matter:

Bill "An Act To Improve the Delivery of Maine's Mental Health Services"

S.P. 57 L.D. 151 (C "A" S-367)

Tabled - June 14, 2005, by Senator MARTIN of Aroostook

Pending - PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-367)

(In Senate, June 14, 2005, the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-367) Report READ and ACCEPTED. READ ONCE. Committee Amendment "A" (S-367) READ and ADOPTED.)

On motion by Senator **MARTIN** of Aroostook, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-367).

On further motion by same Senator, Senate Amendment "B" (S-373) to Committee Amendment "A" (S-367) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator MARTIN: Thank you, Madame President and members of the Senate. Based on the debate and some of the considerations yesterday as to what was the best way to approach the start of this program and after talking with the department, we decided that one of the things that the department needed some time to do some planning in order to implement this. If you look at the amendment, basically there is one person that will start the implementation and the structuring during the first year and in the second year the program will begin. At that point what we will do is have one team and that one team will be located here, in Augusta, to serve the entire state. That will mean that we will be able to lower the cost for the start of this program. We firmly believe that this is the best way in which we can start the process.

On further motion by same Senator, Senate Amendment "B" (S-373) to Committee Amendment "A" (S-367) **ADOPTED**.

Committee Amendment "A" (S-367) as Amended by Senate Amendment "B" (S-373) thereto, **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-367) AS AMENDED BY SENATE AMENDMENT "B" (S-373) thereto.

Ordered Seric	down forthwith for concurrence.
All matters the concurrence.	us acted upon were ordered sent down forthwith for
_	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.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:
An Act To Amend the Maine Wind Energy Act S.P. 477 L.D. 1379 (S "A" S-365)
Tabled - June 16, 2005, by Senator ROTUNDO of Androscoggin
Pending - ENACTMENT, in concurrence
(In Senate, June 14, 2005, PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-365).)
(In House, June 15, 2005, PASSED TO BE ENACTED.)
On motion by Senator ROTUNDO of Androscoggin, placed on the SPECIAL APPROPRIATIONS TABLE , pending ENACTMENT , in concurrence.
All matters thus acted upon were ordered sent down forthwith for concurrence.
Off Record Remarks
Senator BRENNAN of Cumberland was granted unanimous consent to address the Senate off the Record.
On motion by Senator BRENNAN of Cumberland, RECESSED until 7:30 in the evening.
After Recess
Senate called to order by the President.
On motion by Senator DAMON of Hancock, ADJOURNED , to Friday, June 17, 2005, at 10:00 in the morning.