

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

In Senate Chamber
Tuesday
February 28, 2012

Senate called to order by President Kevin L. Raye of Washington County.

Prayer by Pastor Barbara Drisko of the Surry United Methodist Church.

PASTOR DRISKO: Good morning. It's so very good to see you all present. What's the rest of that? With bright and shiny faces and all that stuff. Please accept my sincere appreciation for your hours of tedious study and preparation for the services that you render to the state of Maine. Your time is spent to make wise decisions for the benefit of all Maine people; residents, businesses, and industries. The decisions that you make may require endless hours of preparation and countless hours of listening to all sides of a question presented by your colleagues and your constituents. Your decisions are not designed to accommodate the will and the desire of all of us all the time, but to meet the requirements that assure our state of sound practices and good health and those that satisfy opportune business encounters and generate good, sound standards of living for all of us in the state of Maine. Indeed, yours is a masterful task. On behalf of the people of Maine, I have the privilege of speaking for every one of them right this minute. Thank you.

Would you join me in prayer, please. Join me with prayer to our God, or if you wish to name your own guiding power. Most loving, energizing power, amazing God, we gather here this morning at this moment to thank You for Your guiding influence that helps us to discern right from wrong in all decisions. Grant us sincerity, that we may persistently seek the things that endure. May we seek truth steadily that grows richer in the love and concern of the lives of all the people within our state. May we always be cognoscente of other's needs, yet mindful of governing laws that provide for growth and development that respond to wise decisions for investment offering and strengthening support for the lives of the people of Maine. We ask for Your guiding direction for each of our Senators in their decision making responsibilities and leadership for all of us of Maine. This we pray in the spirit of love and concern for all the people in this great state of Maine. Amen.

Pledge of Allegiance led by Senator Richard W. Rosen of Hancock County.

Reading of the Journal of Thursday, February 23, 2012.

Doctor of the day, Janet Fowle, MD, FACEP of Edgecomb.

Off Record Remarks

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Allow Forfeiture of Maine Public Employees Retirement System Benefits for Persons Convicted of Certain Crimes"

H.P. 1351 L.D. 1831

Presented by Representative FOSSEL of Alna. Cosponsored by Senator KATZ of Kennebec and Representatives: BENNETT of Kennebunk, BURNS of Whiting, COTTA of China, CURTIS of Madison, ESPLING of New Gloucester, GILLWAY of Searsport, GUERIN of Glenburn, HARVELL of Farmington, KESCHL of Belgrade, MALABY of Hancock, O'CONNOR of Berwick, OLSEN of Phippsburg, PARRY of Arundel, PICCHIOTTI of Fairfield, RIOUX of Winterport, SANDERSON of Chelsea, SARTY of Denmark, SIROCKI of Scarborough.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

On motion by Senator **ROSEN** of Hancock, **REFERRED** to the Committee on **JUDICIARY**, in **NON-CONCURRENCE**.

Sent down for concurrence.

COMMUNICATIONS

The Following Communication: S.C. 722

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON LABOR, COMMERCE, RESEARCH AND
ECONOMIC DEVELOPMENT**

February 21, 2012

Honorable Kevin L. Raye, President of the Senate
Honorable Robert W. Nutting, Speaker of the House
125th Legislature
State House
Augusta, Maine 04333

Dear President Raye and Speaker Nutting:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Labor, Commerce, Research and Economic Development has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1571 An Act To Amend the Laws Governing Workers' Compensation
- L.D. 1600 An Act To Provide That Persons Hiring Assistants To Provide Home Care for Relatives Are Not Employers for Purposes of Unemployment Compensation Laws (EMERGENCY)

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

Sincerely,

S/Sen. Christopher W. Rector
Senate Chair

S/Rep. Kerri L. Prescott
House Chair

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

The Following Communication: S.C. 723

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

February 17, 2012

Honorable Kevin L. Raye, President of the Senate
Honorable Robert W. Nutting, Speaker of the House
125th Legislature
State House
Augusta, Maine 04333

Dear President Raye and Speaker Nutting:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Transportation has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 198 An Act To Update Motor Vehicle Safety Inspection Laws

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

Sincerely,

S/Sen. Ronald F. Collins
Senate Chair

S/Rep. Richard M. Cebra
House Chair

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

The Following Communication: S.C. 721

**STATE OF MAINE
125TH LEGISLATURE
OFFICE OF THE SECRETARY OF STATE**

February 15, 2012

To Kevin L. Raye, President of the Senate in the One Hundred and Twenty-fifth Legislature

I, CHARLES E. SUMMERS, JR., Secretary of State, in accordance with the Constitution and laws of the State of Maine, having tabulated the return of the votes cast for Senate District 20 at the Special Election held on the fourteenth day of February in the year two thousand and twelve;

REPORT AS FOLLOWS; that the following named person having received a plurality of the votes cast, appears to have been elected:

SPECIAL ELECTION - February 14, 2012
STATE SENATE DISTRICT 20

Dow, Dana L., Waldoboro	2,902
Johnson, Christopher K., Somerville	3,369

I, CHARLES E. SUMMERS, JR., Secretary of State, hereby certify that the foregoing report is a true tabulation of the votes cast for State Senate at the Special Election, as reported to me on the returns from the municipalities in State Senate District 20.

S/Charles E. Summers, Jr.
Secretary of State

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

Senate at Ease.

Senate called to order by the President.

REPORTS OF COMMITTEES

House

Pursuant to Joint Order

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Require Photographic Identification for Prescriptions for Certain Controlled Substances"

H.P. 1349 L.D. 1829

Reported that the same be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES**, pursuant to Joint Order, H.P. 1328.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES**.

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

Bill and accompanying papers **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES**, in concurrence.

Ought to Pass

The Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Conform Maine Apprenticeship Program Standards with Federal Apprenticeship Regulations"

H.P. 1327 L.D. 1800

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 **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend the Labor Laws Relating to Certain Agricultural Employees"

H.P. 898 L.D. 1207

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

Signed:

Senators:
RECTOR of Knox
JACKSON of Aroostook

Representatives:
DRISCOLL of Westbrook
GILBERT of Jay
HERBIG of Belfast
HUNT of Buxton
TUTTLE of Sanford

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-691)**.

Signed:

Senator:
MARTIN of Kennebec

Representatives:
PRESCOTT of Topsham
DOW of Waldoboro
NEWENDYKE of Litchfield
VOLK of Scarborough
WALLACE of Dexter

(Representative SLAGGER of the Houlton Band of Maliseet Indians - of the House - supports the Majority **Ought Not To Pass** Report.)

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

Reports **READ**.

On motion by Senator **RECTOR** of Knox, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Create an Income Tax Return Checkoff To Fund Cancer Screening, Detection and Prevention"

H.P. 916 L.D. 1225

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

Signed:

Senators:
HASTINGS of Oxford
WOODBURY of Cumberland

Representatives:

KNIGHT of Livermore Falls
BENNETT of Kennebunk
BICKFORD of Auburn
BRYANT of Windham
BURNS of Alfred
HARMON of Palermo
PILON of Saco
WATERHOUSE of Bridgton

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-712).**

Signed:

Representative:

BERRY of Bowdoinham

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

Senate

Ought to Pass

Senator THOMAS for the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act Concerning Copying Fees for Users of County Registries of Deeds" (EMERGENCY)
S.P. 526 L.D. 1616

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

Senator SHERMAN for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Eliminate the Deposit Requirements for Containers of Limited and Restricted Use Pesticides"

S.P. 606 L.D. 1758

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-392).**

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

READ ONCE.

Committee Amendment "A" (S-392) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator McCORMICK for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Lessen the Regulatory Burden on Medical Laboratories by Removing Outdated Requirements from the Maine Medical Laboratory Act"
S.P. 534 L.D. 1624

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-396).**

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

READ ONCE.

Committee Amendment "A" (S-396) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator McCORMICK for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Conform Maine's Prescription Drug Privacy Laws with the United States Constitution"

S.P. 578 L.D. 1679

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-397).**

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

READ ONCE.

Committee Amendment "A" (S-397) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator MARTIN for the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Amend Certain Provisions of the Fish and Wildlife Laws"

S.P. 592 L.D. 1732

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-391).**

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

READ ONCE.

Committee Amendment "A" (S-391) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator WHITTEMORE for the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Allow Employees of the Small Enterprise Growth Board To Participate in the State's Group Health Plan" (EMERGENCY)

S.P. 582 L.D. 1682

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-393)**.

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

READ ONCE.

Committee Amendment "A" (S-393) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator FARNHAM for the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Correct Errors in Recently Enacted Laws Governing Agency Liquor Stores" (EMERGENCY)

S.P. 562 L.D. 1663

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-395)**.

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

READ ONCE.

Committee Amendment "A" (S-395) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Amend the Laws Governing the Deference Afforded to Agency Decisions"

S.P. 493 L.D. 1546

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-394)**.

Signed:

Senator:
HASTINGS of Oxford

Representatives:

NASS of Acton
WATERHOUSE of Bridgton
BEAULIEU of Auburn
SARTY of Denmark
MOULTON of York
FOSSEL of Alna
PRIEST of Brunswick

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

Signed:

Senators:

DILL of Cumberland
WOODBURY of Cumberland

Representatives:

MALONEY of Augusta
ROCHELO of Biddeford
MONAGHAN-DERRIG of Cape Elizabeth

Reports **READ**.

Senator **HASTINGS** of Oxford 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 **TRANSPORTATION** on Bill "An Act To Provide Funding to the Department of Transportation for a Feasibility Study of an East-west Highway" (EMERGENCY)
S.P. 570 L.D. 1671

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-398)**.

Signed:

Senators:

COLLINS of York
THOMAS of Somerset

Representatives:

CEBRA of Naples
GILLWAY of Searsport
PARRY of Arundel
RIOUX of Winterport
ROSEN of Bucksport
WILLETTE of Mapleton

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

Signed:

Sent down for concurrence.

Senator:

DIAMOND of Cumberland

Representatives:

HOGAN of Old Orchard Beach
MAZUREK of Rockland
PEOPLES of Westbrook
THERIAULT of Madawaska

Reports **READ**.

Senator **COLLINS** of York 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.

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 Amend the Limited-entry Program for Taking Lobsters in the Monhegan Lobster Conservation Area"
H.P. 1261 L.D. 1709

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

House As Amended

Bill "An Act To Support Maine Farms and Alleviate Hunger"
H.P. 862 L.D. 1164
(C "A" H-710)

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

Senate

Bill "An Act To Amend the Organization of the Quality Assurance Review Committee"

S.P. 535 L.D. 1625

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

Senate As Amended

Bill "An Act To Amend the Application Process for the Progressive Treatment Program"

S.P. 285 L.D. 897
(C "A" S-389)

Bill "An Act To Provide for the 2012 and 2013 Allocations of the State Ceiling on Private Activity Bonds"

S.P. 593 L.D. 1733
(C "A" S-388)

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.

ENACTORS

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

Acts

An Act To Create Fair and Open Competition in Line Extension Construction

H.P. 695 L.D. 935
(C "A" H-695)

An Act To Modify the Alternative Organizational Structure Budget Approval Process

H.P. 1248 L.D. 1696

An Act To Enforce Prompt Payment to Career and Technical Education Regions

H.P. 1304 L.D. 1772

PASSED TO BE ENACTED and having been signed by the President were presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

Resolve

Resolve, To Review Laws and Policies Related to Discontinued and Abandoned Roads

S.P. 522 L.D. 1596
(C "A" S-377)

FINALLY PASSED and having been signed by the President was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

On motion by Senator **PLOWMAN** of Penobscot, the Senate removed from the **SPECIAL STUDY TABLE** the following:

Emergency Resolve

Resolve, To Amend the Resolve Establishing the Task Force on Franco-Americans

H.P. 1209 L.D. 1601
(C "A" H-686)

Tabled - February 15, 2012, by Senator **PLOWMAN** of Penobscot

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, February 9, 2012, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, February 14, 2012, **FINALLY PASSED**.)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

Off Record Remarks

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

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

Senator **CRAVEN** of Androscoggin 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 **ALFOND** of Cumberland 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 **SAVIELLO** 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.

Senator **GOODALL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

Senator **SAVIELLO** of Franklin was granted unanimous consent to address the Senate off the Record.

On motion by Senator **COURTNEY** of York, to Wednesday, February 29, 2012, at 9:00 in the morning.