

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-First Legislature
State of Maine

Volume II

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February 3, 2004 to March 18, 2004

Pages 715 - 1415

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

In Senate Chamber
Thursday
February 19, 2004

Senate called to order by President Pro Tem Kenneth T. Gagnon of Kennebec County.

Prayer by Reverend Gerald Gabriele, Retired, of Camden.

REVEREND GABRIELE: Thank you, Mr. President. Shall we pray.

Father, Your word 'exhorts us that first of all, supplications, prayers, intercessions, and giving of thanks be made for all men, for kings and for all that are in authority, and that we may lead a quiet and peaceable life in all godliness and honesty. For this is good and acceptable in the sight of God, our Savior, who will have all men to be saved and come to a knowledge of the truth.'

So Father, we pause this morning to pray for these legislators of our government. We pray that You will give them the courage needed to govern in righteousness and justice. We pray You will give them strength over those forces that would impair good government, like greed, power, and ego. We pray that You will raise them to the heights of cooperation for the good of the State of Maine on the vital issues that face our state. We pray that You will enable them to do the job that we voted them in to do. May their work today be acceptable in the sight of God. Amen.

Doctor of the day, Fred Heidrich, D.C. of Saco.

Reading of the Journal of Wednesday, February 18, 2004.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by Senator **TREAT** of Kennebec, the following Joint Order:
S.P. 706

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, February 24, 2004, at 10:00 in the morning.

READ and **PASSED**.

Ordered sent down forthwith for concurrence.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Revise the Reimbursement by the County Jail Prisoner Support and Community Corrections Fund and To Provide Additional Support to County Jails"

S.P. 390 L.D. 1186
(S "A" S-380)

In Senate, February 11, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-380)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-380) AS AMENDED BY HOUSE AMENDMENT "A" (H-697)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **STRIMLING** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

House Papers

Pursuant to Resolve
Commission to Improve Community Safety
and Sex Offender Accountability

The **Commission to Improve Community Safety and Sex Offender Accountability**, pursuant to Resolve 2003, chapter 75, section 8 and chapter 101, section 3 asked leave to report that the accompanying Bill "An Act To Implement the Recommendations of the Commission To Improve Community Safety and Sex Offender Accountability"

H.P. 1380 L.D. 1855

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

Pursuant to Statute
Department of Professional and Financial Regulation

The **Department of Professional and Financial Regulation**, 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 850: Health Plan Accountability, a Major Substantive Rule of the Bureau of Insurance (EMERGENCY)

H.P. 1384 L.D. 1859

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

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

On motion by Senator **LAFOUNTAIN** of York, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed pursuant to Joint Rule 218, in concurrence.

SENATE PAPERS

Bill "An Act To Require School Administrative Units To Report Their Costs for Legal, Consulting and Other Professional Services to the Department of Education"

S.P. 707 L.D. 1861

Sponsored by Senator **BRENNAN** of Cumberland.
Cosponsored by Representative **KANE** of Saco and Senators: President **DAGGETT** of Kennebec, **DOUGLASS** of Androscoggin, **EDMONDS** of Cumberland, **MARTIN** of Aroostook, **MAYO** of Sagadahoc, **TURNER** of Cumberland, Representatives: **MURPHY** of Kennebunk, **PINGREE** of North Haven.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

On motion by Senator **DOUGLASS** of Androscoggin, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

Sent down for concurrence.

Off Record Remarks

REPORTS OF COMMITTEES

House

Change of Committee

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Restore Funding for Certain Nursing Facilities and Residential Care Facilities" (EMERGENCY)

H.P. 1313 L.D. 1791

Reported that the same be **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

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

On motion by Senator **MARTIN** of Aroostook, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in concurrence.

Ought to Pass

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Clarify the Educational Requirements for Counselor Licensure"

H.P. 1279 L.D. 1757

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.

Ought to Pass As Amended

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Rename the Former Vocational-technical Secondary Education Schools, Now Called Applied Technology Centers, Applied Career Technology Centers"

H.P. 1227 L.D. 1649

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 **JUDICIARY** on Bill "An Act To Clarify the Standards for Granting a Name Change"

H.P. 1319 L.D. 1797

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-682).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-682).**

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

READ ONCE.

Committee Amendment "A" (H-682) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Simplify the Finance Authority of Maine Act"

H.P. 1288 L.D. 1766

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

Signed:

Senators:

BROMLEY of Cumberland
HALL of Lincoln
SHOREY of Washington

Representatives:

SULLIVAN of Biddeford
ROGERS of Brewer
SMITH of Monmouth
JACOBSEN of Waterboro
PELLON of Machias
AUSTIN of Gray
DUPREY of Medway
RECTOR of Thomaston
O'BRIEN of Lewiston

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

Signed:

Representative:
BERUBE of Lisbon

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

Reports **READ.**

On motion by Senator **HALL** of Lincoln, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

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

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 Waive Fees for Background Checks for Certain Emergency Medical Services Personnel"
H.P. 1310 L.D. 1788

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

Signed:

Senators:

STRIMLING of Cumberland
CARPENTER of York

Representatives:

BLANCHETTE of Bangor
MAIETTA of South Portland
SYKES of Harrison
GROSE of Woolwich
GREELEY of Levant
GERZOFKY of Brunswick
MILLS of Farmington
CHURCHILL of Washburn
LESSARD of Topsham

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-689).**

Signed:

Representative:

SNOWE-MELLO of Poland

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

Reports **READ.**

On motion by Senator **STRIMLING** of Cumberland, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Amend the Law Relating to Insurance Contracts"

H.P. 1315 L.D. 1793

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

Signed:

Senators:

LAFOUNTAIN of York
DOUGLASS of Androscoggin
MAYO of Sagadahoc

Representatives:

VAUGHAN of Durham
PERRY of Calais
BREAULT of Buxton
CANAVAN of Waterville
WOODBURY of Yarmouth
GLYNN of South Portland
SNOWE-MELLO of Poland
YOUNG of Limestone

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-694)**.

Signed:

Representatives:

O'NEIL of Saco
PERRY of Bangor

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

Reports **READ**.

On motion by Senator **LAFOUNTAIN** of York, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Abrogate the Hearsay Rule in Cases Involving Custody or Protection of Children"

H.P. 1245 L.D. 1669

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

Signed:

Senators:

PENDLETON of Cumberland
CATHCART of Penobscot
WOODCOCK of Franklin

Representatives:

NORBERT of Portland
BULL of Freeport
SIMPSON of Auburn
GERZOFKY of Brunswick
BENNETT of Caribou
MILLS of Farmington
CARR of Lincoln
DUPREY of Hampden
BRYANT-DESCHENES of Turner

(Representative **LORING** of the Penobscot Nation - of the House - supports the Majority **Ought Not to Pass** Report.)

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-688)**.

Signed:

Representative:

SHERMAN of Hodgdon

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

Reports **READ**.

On motion by Senator **PENDLETON** of Cumberland, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Adopt a Streamlined Sales and Use Tax Agreement That Allows for Local Option Taxes"

H.P. 552 L.D. 746

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-672)**.

Signed:

Senators:

STANLEY of Penobscot
STRIMLING of Cumberland

Representatives:

LEMOINE of Old Orchard Beach
McGOWAN of Pittsfield
SUSLOVIC of Portland
SIMPSON of Auburn
PERRY of Bangor
LERMAN of Augusta

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

Signed:

Senator:

NASS of York

Representatives:

CLOUGH of Scarborough
TARDY of Newport
McCORMICK of West Gardiner
COURTNEY of Sanford

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-672)**.

Reports **READ**.

Senator **STANLEY** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in 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 TO PASS AS AMENDED** Report, in concurrence.

Senate

Ought to Pass As Amended

Senator **MARTIN** for the Committee on **NATURAL RESOURCES** on Bill "An Act To Amend Certain Laws Administered by the Department of Environmental Protection"

S.P. 606 L.D. 1655

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-390)**.

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

READ ONCE.

Committee Amendment "A" (S-390) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

SECOND READERS

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

House As Amended

Bill "An Act To Provide for the Passage of Anadromous Fish Species into the Little River"

H.P. 132 L.D. 173
(C "A" H-677)

Bill "An Act Regarding Habitual Truants"

H.P. 800 L.D. 1082
(H "A" H-678 to C "A" H-634)

Bill "An Act To Clarify the Law Pertaining to the Discharge of a Firearm near a Dwelling"

H.P. 1236 L.D. 1660
(C "A" H-679)

Bill "An Act To Expand the State Fire Marshal's Responsibilities and To Clarify That the Commissioner of Public Safety Will Follow the Maine Administrative Procedure Act when Adopting Certain Rules"

H.P. 1253 L.D. 1731
(C "A" H-681)

Bill "An Act To Amend the Laws Regarding Humane Agents and Dog Licenses"

H.P. 1264 L.D. 1742
(C "A" H-680)

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

Senate As Amended

Bill "An Act To Clarify Certain Provisions Contained in the Recodified Hunting, Fishing and Trapping Laws"

S.P. 629 L.D. 1697
(C "A" S-388)

Bill "An Act To Join the Interstate Insurance Product Regulation Compact"

S.P. 630 L.D. 1698
(C "A" S-389)

Bill "An Act To Amend the Maine Turnpike Authority's Budget for Calendar Year 2004"

S.P. 636 L.D. 1704
(C "A" S-387)

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

Sent down for concurrence.

ENACTORS

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

Act

An Act To Amend the Laws Relating to Nonprofit Corporations
H.P. 1283 L.D. 1761

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

Senate at Ease.

Senate called to order by President Pro Tem
KENNETH T. GAGNON of Kennebec County.

Off Record Remarks

Senate at Ease.

Senate called to order by President Pro Tem
KENNETH T. GAGNON of Kennebec County.

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

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Extend the Dairy Stabilization Subsidy Through May 31, 2004" (EMERGENCY)
H.P. 1378 L.D. 1852

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.

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

Ordered sent forthwith to the Engrossing Division.

Senate at Ease.

Senate called to order by President Pro Tem
KENNETH T. GAGNON of Kennebec County.

Off Record Remarks

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 Extend the Dairy Stabilization Subsidy Through May 31, 2004
H.P. 1378 L.D. 1852

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 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 Pro Tem, was presented by the Secretary to the Governor for his approval.

Senator **MAYO** of Sagadahoc 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 **TREAT** of Kennebec was granted unanimous consent to address the Senate off the Record.

On motion by Senator **TREAT** of Kennebec, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, February 24, 2004, at 10:00 in the morning.