

MAINE STATE LEGISLATURE

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State of Maine

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

In Senate Chamber
Tuesday
February 14, 2006

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

Prayer by Pastor Bruce K. Barnard of Augusta Church of the
Nazarine.

PASTOR BARNARD: Over 2,000 years ago a man walked the
earth. Born a Jew in Tarsus, Saul, the tax collector and
persecutor of both Jews and Christians, was a most hated man.
In his travels he sought to support the empire with money, goods,
and the death of those who opposed him. Things changed for
him on a road one day and from that point forward Paul, as he
would be known, traveled the world with passion and persistence,
proclaiming a new way of life. In his writings to an early group of
men in the Greek city of Corinth, a group of leaders gathering
often to discuss issues of religion, government, rules, and law,
Paul wanted them to know there was life beyond the issues they
debated. He encouraged them to respect one another, share with
one another, and even love one another.

On this day, St. Valentine's Day, we use Paul's words,
translated in modern day language, as our invocation. Love
never gives up. Love cares more for others than for self. Love
doesn't want what it doesn't have. Love doesn't strut, doesn't
have a swelled head, doesn't force itself on others, isn't always
'me first', doesn't fly off the handle, doesn't keep score of the sins
of others, doesn't revel when others grovel, but takes pleasure in
the flowering of truth, puts up with anything, looks for the best in
everything, trusts God always, never looks back but keeps going
to the end. May it be so in this great chamber today. Amen.

Pledge of Allegiance led by Senator Kevin L. Raye of Washington
County.

Reading of the Journal of Thursday, February 9, 2006.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Amend the Laws Relating to Motorized Scooters,
Motor-driven Cycles and Mopeds" (EMERGENCY)
H.P. 1027 L.D. 1464
(C "B" H-730; S "A" S-441)

In House, January 10, 2006, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "B" (H-730).**

In Senate, February 1, 2006, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "B" (H-730) AND
SENATE AMENDMENT "A" (S-441), in NON-CONCURRENCE.**

Comes from the House, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "B" (H-730) AND
HOUSE AMENDMENT "A" (H-747), in NON-CONCURRENCE.**

On motion by Senator **DAMON** of Hancock, **TABLED**
Unassigned, pending **FURTHER CONSIDERATION.**

SENATE PAPERS

Bill "An Act Protecting Youth from Losing Health Insurance
Coverage"

S.P. 777 L.D. 2014

Sponsored by Senator **MAYO** of Sagadahoc.
Cosponsored by Representative **PERRY** of Calais and
Representatives: **BRAUTIGAM** of Falmouth, **MARRACHÉ** of
Waterville.
Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 205.

On motion by Senator **SULLIVAN** of York, **REFERRED** to the
Committee on **INSURANCE AND FINANCIAL SERVICES** and
ordered printed.

Sent down for concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY**
on Resolve, Creating a Forensic Board To Manage the Release
of Certain Sex Offenders

H.P. 1229 L.D. 1721

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate

Ought to Pass

Senator MAYO for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend Certain Requirements in the ASPIRE-TANF Program"

S.P. 663 L.D. 1746

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator MAYO for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Set a Maximum on Penalties Imposed for Licensing Violations by Eating Establishments, Eating and Lodging Places, Lodging Places, Recreational Camps or Camping Areas"

S.P. 670 L.D. 1753

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 BRYANT for the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Revise Certain Fish and Wildlife Laws"

S.P. 740 L.D. 1939

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-446)**.

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

READ ONCE.

Committee Amendment "A" (S-446) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator SULLIVAN for the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Amend the Maine Consumer Credit Code as It Relates to Finance Charges for Loans on Open-end Credit"

S.P. 700 L.D. 1783

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-451)**.

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

READ ONCE.

Committee Amendment "A" (S-451) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator SCHNEIDER for the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Create the County Government Capital Improvements Revolving Loan Fund"

S.P. 297 L.D. 889

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-449)**.

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

READ ONCE.

Committee Amendment "A" (S-449) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator DAMON for the Committee on **TRANSPORTATION** on Bill "An Act To Clarify the Assessment of Costs To Maintain a Private Way or Bridge"

S.P. 650 L.D. 1696

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-450)**.

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

READ ONCE.

Committee Amendment "A" (S-450) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **MARINE RESOURCES** on Bill "An Act Regarding the Appointment of Harbor Masters" S.P. 651 L.D. 1697

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-447)**.

Signed:

Senators:

DAMON of Hancock
SULLIVAN of York
ANDREWS of York

Representatives:

PERCY of Phippsburg
FLETCHER of Winslow
EMERY of Cutler
ADAMS of Portland
SEAVEY of Kennebunkport

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-448)**.

Signed:

Representatives:

ASH of Belfast
KAELIN of Winterport

Reports **READ**.

On motion by Senator **DAMON** of Hancock, **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 Offer Financial Institutions an Option for Payment of the Maine Franchise Tax"

S.P. 678 L.D. 1761

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-453)**.

Signed:

Senators:

PERRY of Penobscot
COURTNEY of York

Representatives:

HANLEY of Paris
CLARK of Millinocket
McCORMICK of West Gardiner
WOODBURY of Yarmouth
CLOUGH of Scarborough
BIERMAN of Sorrento
SEAVEY of Kennebunkport

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

Signed:

Senator:

STRIMLING of Cumberland

Representatives:

HUTTON of Bowdoinham
WATSON of Bath

Reports **READ**.

On motion by Senator **STRIMLING** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-453) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Exempt Snow Grooming Equipment and Machinery from the Personal Property Tax"

S.P. 716 L.D. 1799

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-452)**.

Signed:

Senators:

PERRY of Penobscot
COURTNEY of York

Representatives:

WOODBURY of Yarmouth
HANLEY of Paris
CLARK of Millinocket
McCORMICK of West Gardiner
CLOUGH of Scarborough
WATSON of Bath
BIERMAN of Sorrento

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

Signed:

Senator:

STRIMLING of Cumberland

Representatives:

HUTTON of Bowdoinham

SEAVEY of Kennebunkport

Reports **READ**.

On motion by Senator **STRIMLING** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-452) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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 Require That Automobile Extended Service Warranties Purchased by Maine Citizens Provide for Arbitration in the State"

H.P. 1212 L.D. 1705

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

House As Amended

Bill "An Act To Authorize the Use of Tribal Sustenance Hunting Permits on State Lands"

H.P. 352 L.D. 477
(C "A" H-743)

Bill "An Act To Amend the Charter of the Boothbay Harbor Sewer District" (EMERGENCY)

H.P. 1244 L.D. 1736
(C "A" H-745)

Bill "An Act To Change the Charter of the Saint Francis Water District"

H.P. 1273 L.D. 1833
(C "A" H-746)

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

ENACTORS

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

Act

An Act To Restore the Funding to the Fund for the Efficient Delivery of Local and Regional Services

H.P. 1219 L.D. 1712
(C "A" H-741)

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

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

SENATE REPORTS - from the Committee on **MARINE RESOURCES** on Bill "An Act Regarding the Appointment of Harbor Masters"

S.P. 651 L.D. 1697

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-447)** (8 members)

Minority - **Ought To Pass as Amended by Committee Amendment "B" (S-448)** (2 members)

Tabled - February 14, 2006, by Senator **DAMON** of Hancock

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, February 14, 2006, Reports **READ**.)

On motion by Senator **DAMON** of Hancock, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-447)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-447) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (1/31/06) Assigned matter:

Resolve, To Name the New Bridge over the Penobscot River
S.P. 766 L.D. 1986

Tabled - January 31, 2006, by Senator **DAMON** of Hancock

Pending - **REFERENCE**

(Committee on **TRANSPORTATION** suggested and ordered printed.)

On motion by Senator **DAMON** of Hancock, **REFERRED** to the Committee on **TRANSPORTATION**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (2/07/06) Assigned matter:

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, Directing the Department of Education To Establish a Secondary Vocational Education Facility in Washington County

S.P. 459 L.D. 1332

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-443)** (2 members)

Tabled - February 7, 2006, by Senator **MITCHELL** of Kennebec

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, February 7, 2006, Reports **READ**.)

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE:** Thank you, Madame President, men and women of the Senate. I rise to speak on the pending motion. Given the committee vote, I recognize that L.D. 1332 will not be enacted, but prior to action by this body I would like to establish certain facts for the record.

By way of background, this bill arises from a longstanding injustice whereby western Washington County, the area from Lubec to Cherryfield, is the only region in the state of Maine without a career and technical education facility for its high school students. In response to this situation, there has been an ongoing effort in Washington County for a number of years to insure that such a facility is built. Formerly Maine law required that a percentage of school construction funds be set aside for the construction of career and technical education facilities, formerly known as vocational education facilities. Once these centers were built throughout the state, the law was changed and the requirement was dropped. The problem is that one region, and only one region, of Maine was left behind because its facility was not built before the law was changed. That region is the area from Lubec to Cherryfield. Finally, after these many years of efforts to rectify this situation, I brought this bill forward last year

in an effort to correct that injustice legislatively. However, after the recent work session on L.D. 1332, the majority of the Education Committee voted an Ought Not to Pass report. It is my understanding that this vote was the result of a determination by the committee that this bill is now unnecessary because Machias has an application pending for school construction funds that can fund both the new high school in Machias and the career and technical education facility in Jonesboro.

Madame President, may I direct a question through the Chair for the Chair of the Education Committee?

THE PRESIDENT: The Senator may proceed.

Senator **RAYE:** Thank you, Madame President. Would it be possible, for the benefit of the Senate and for the official legislative record, for the Senator to characterize comments made by members of the Education Committee, the testimony offered by the Education Department, and comments provided on behalf of the State Board of Education during the consideration of this bill?

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

Senator **MITCHELL:** Thank you, Madame President and distinguished colleagues of the Senate and to my good colleague from Washington County. The Education Committee, by the vote that appears on your calendar and which is an Ought Not to Pass, in no way is opposed to the construction of a vocational center in Washington County. We concur with the good Senator from Washington County that this is a long-standing error that needs to be corrected. It is the only county in the state without such a center. The question that arose in our committee was how to proceed in a responsible fashion. As has been pointed out, the center in Machias is number eleven on the list of schools to be funded and it is almost guaranteed that they will get to that number. As a matter of fact, there is a bill pending in this session to increase the debt limit so that we can go beyond that. This is on the first level of protected schools in terms of those that will go forward. The voters in 2005 also approved a \$1 million bond to construct a Sunrise Development Center in the Jonesboro area. The opportunity now, and this is what the Commissioner of Education and the State Board of Education indicated they were supportive of, is working with all the communities in Washington County to pool these resources to make sure that this happens. We concur with the good Senator that this must be done. We applaud his advocacy on behalf of his county and believe that this will be a reality in the very near future. This bill, however, would complicate matters more. Again, I believe it would be unanimous report of our committee in support of this effort to go forward but we chose to vote against this bill with the assurances of the State Board of Education and the Department of Education that this is a top priority, recognizing the needs of the students in that county.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE:** Thank you, Madame President. I appreciate the good words of the Senator from Kennebec, Senator Mitchell. I am grateful for her thoughtful leadership on the Education Committee and understanding the need that exists for this career and technical education facility in western Washington County.

Madame President, may I direct another question through the Chair to the Senator from Cumberland, Senator Turner?

Off Record Remarks

THE PRESIDENT: The Senator may proceed.

Senator **RAYE:** Thank you, Madame President. The Senator from Kennebec, Senator Mitchell, referenced the school construction application submitted by Machias. This application has twin goals of a new high school in Machias and the vocational and technical education facility in nearby Jonesboro. Neighboring school districts have come together, cooperatively, to help pave the way for this important step for Washington County education. In numerous discussions with the Machias and the SAD 37 school committee and Superintendent, the Commissioner of Education has indicated that the Machias application can be the vehicle for construction of both facilities. Given the vote of the Education Committee, I think it's important for the legislative record to reflect the current understanding of this matter. Madame President, my question is as follows; is it the Senator's understanding that the application submitted by Machias can result in the construction of both the Machias High School and the career and technical education center at Jonesboro?

THE PRESIDENT: The Chair will remind members that when they are directing a question through the Chair it can be to any Senator, but I am pleased to recognize the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President. I'd like to rise in response to the question posed by the Senator from Washington, Senator Raye. It is, in fact, my understanding that the application submitted by Machias can result in the construction of both facilities. I have concluded, as a result, that L.D. 1332 is no longer necessary for us to consider. It is further my understanding that there are legal requirements that need to be addressed in order for this to happen. This will involve local decisions and the effected communities to put in place the legal authorization for the Machias school committee, which is the designated vocational center for the region, to construct a career and technical facility on land that has been jointly purchased by the Machias school committee and SAD 37 school committee for that purpose in the town of Jonesboro. It would appear to me that as long as those steps are taken successfully at the local level, our expectation that both facilities should, in fact, come to fruition. Having listened to the testimony of the Senator from Washington, Senator Raye, and others from Washington County as well as the insurances offered from the department and the State Board of Education, I certainly hope and expect that this will be the case. Thank you very much, Madame President.

On motion by Senator **MITCHELL** of Kennebec, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

Senate at Ease.

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

House Paper

Resolve, Authorizing Certain Land Transactions by the Department of Conservation, Bureau of Parks and Lands
H.P. 1415 L.D. 2015

Comes from the House, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed.

On motion by Senator **NUTTING** of Androscoggin, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed, in concurrence.

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

Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

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

Off Record Remarks

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

On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, to Thursday, February 16, 2006, at 10:00 in the morning.