

MAINE STATE LEGISLATURE

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One Hundred and Twenty-Fifth Legislature
State of Maine

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

In Senate Chamber
Thursday
February 2, 2012

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

Prayer by Rev. Isaac Paynter of Brownville Junction United Methodist Church in Brownville Junction.

REVEREND PAYNTER: Let us pray. We stand this morning, O God, as part of the great tradition of this great country of the United States of America, our beloved country that You blessed us with to be stewards. We are reminded of those who have worked through their faith and discipline with faith in You and have passed on that faith to us so that we can continue to be a beacon of light to the world. Our task, that we continue again today, is to live our faith completely in all that we do. We are here as men and women elected to be leaders in serving Your people. We are all aware of the problems and responsibilities that we carry; to bring justice and truth in all that we do. We come from different walks of life, but united in the same spirit, purpose, and quest to be a beacon of light in our home state that we love, the state of Maine. We are once again reminded of our history and courage of those that we follow. This month of February we stand as an incredible witness to us, as a country, as we celebrate Black History Month, in memory of the witness of some of the great men and women who have served to bring equality and justice to all. We remember the journey of those who were once slaves and now today we stand proud as a black President serves us. This is a miracle that shows the world of our resolve to bring justice not only to other parts of the world, but also in our midst. We do not know what the future holds because You only know that. We do not know whether tomorrow we will be alive. Again, that is only known by You. We do not know if there will ever be peace on earth, but only You know. All that we know, O God, is that You have given us the privilege and the mandate to go out there and be Your hands and feet, to fight for justice for the poor, the poor in spirit, the oppressed, those who are blind, and those of us that are spiritually blind. No one of us will be able to know of Your true freedom until each and every one of Your children is free and liberated for the burdens of life we have created upon the earth. Once again, we pray to You, O God, our Creator, in the great words that You have given hope to us for all these years and continue to be part of who we are. You are our Father who art in heaven. Your name will be hallowed on this and every corner of this earth, as it is in heaven where You are. You have given us bread for all these years as You have promised to feed us in heaven, where we hope to be with You when our time is done on this earth. You have forgiven for us our sins before we could understand what it means to forgive others who may have sinned against us. We ask You to lead us from doing what is wrong, what is sinful, and finally to deliver us from all evil in this world. We ask all this in the name of Your son, Jesus. Amen.

Pledge of Allegiance led by Senator Troy D. Jackson of Aroostook County.

Reading of the Journal of Tuesday, January 31, 2012.

Doctor of the day, Lisa Letourneau, MD, MPH of Scarborough.

The Chair noted the absence of the Senator from Sagadahoc, Senator **GOODALL** and further excused the same Senator from today's Roll Call votes.

Off Record Remarks

Senator **HILL** of York was granted unanimous consent to address the Senate on the Record.

Senator **HILL**: Thank you Mr. President. I just wanted to share with you a word about Brianna, who is my guest here today. I was impressed with this young woman when I had first met her through the newspaper. She had a birthday recently and rather than have her friends bring gifts she asked that they all bring food for donations to the food pantry. It was quite successful. They turned out to have about six bags of food that they could bring to the pantry. I just hope she has started a new trend in South Berwick. I'm very impressed that she did this and she had the courage to carry it through. Brianna, thank you.

Out of order and under suspension of the Rules, on motion by Senator **COURTNEY** of York, the following Joint Order:
S.P. 623

Ordered, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, February 7, 2012, at 10:00 in the morning.

READ and PASSED.

Ordered sent down forthwith for concurrence.

The President requested the Sergeant-At-Arms escort the Senator from York, Senator **COURTNEY** to the rostrum where he assumed the duties as President Pro Tem.

The President took a seat on the floor.

The Senate called to order by President Pro Tem **JONATHAN T.E. COURTNEY** of York.

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Regarding the Collection of Fees for Prepaid Wireless Service"

H.P. 1326 L.D. 1799

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

Comes from the House, **REFERRED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** and ordered printed.

REFERRED to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** and ordered printed, in concurrence.

Bill "An Act To Conform Maine Apprenticeship Program Standards with Federal Apprenticeship Regulations"
H.P. 1327 L.D. 1800

Presented by Representative TUTTLE of Sanford.
Cosponsored by Representatives: GILBERT of Jay, NEWENDYKE of Litchfield.
Submitted by the Department of Labor pursuant to Joint Rule 204.

Comes from the House, **REFERRED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

REFERRED to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed, in concurrence.

Joint Order

The following Joint Order:

H.P. 1328

ORDERED, the Senate concurring, that the Joint Standing Committee on Health and Human Services shall report out, to the House, 4 bills pursuant to Resolve 2011, chapter 81:

1. "An Act To Amend the Laws Governing Confidentiality of Health Care Information";
2. "An Act To Require Photographic Identification for Prescriptions for Certain Controlled Substances";
3. "An Act To Provide Immunity for Prescribing and Dispensing Intranasal Naloxone Kits"; and

4. "An Act To Amend the Laws Governing Prosecution of Individuals Possessing a Controlled Substance under Certain Circumstances."

Comes from the House, **READ** and **PASSED**.

READ and **PASSED**, in concurrence.

COMMUNICATIONS

The Following Communication: S.C. 685

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

January 26, 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 Health and Human Services has voted unanimously to report the following bills out "Ought Not to Pass":

- | | |
|-----------|---|
| L.D. 936 | An Act To Conform Maine Menu Labeling Laws to Federal Standards |
| L.D. 1115 | An Act To Clarify the Responsibilities of the Maine Developmental Services Oversight and Advisory Board |
| L.D. 1364 | An Act To Improve the Quality and Reduce the Cost of Health Care |

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

Sincerely,

S/Sen. Earle L. McCormick
Senate Chair

S/Rep. Meredith N. Strang Burgess
House Chair

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

The Following Communication: S.C. 686

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

January 26, 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 Marine Resources has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1674 Resolve, Directing the Department of Marine Resources To Examine the Role of 3rd-party Laboratories in Conducting Testing for the Department

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

Sincerely,

S/Sen. Lois A. Snowe-Mello
Senate Chair

S/Rep. Windol C. Weaver
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 687

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

January 30, 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 State and Local Government has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 769 An Act To Review the Functions of the State Planning Office

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

Sincerely,

S/Sen. Douglas A. Thomas
Senate Chair

S/Rep. H. David Cotta
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: H.C. 294

**STATE OF MAINE
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002**

January 31, 2012

The Honorable Joseph G. Carleton, Jr.
Secretary of the Senate
3 State House Station
Augusta, Maine 04333

Dear Secretary Carleton:

Please be advised that pursuant to House Rule 201.1 (I)(a), the Speaker rescinded the appointment of Representative David Slagger of the Houlton Band of Maliseet Indians to the Joint Standing Committee on Labor, Commerce, Research and Economic Development and appointed him to the Joint Standing Committee on Inland Fisheries and Wildlife effective immediately.

Sincerely,

S/Heather J.R. Priest
Clerk of the House

READ and ORDERED PLACED ON FILE.

Senate at Ease.

Senate called to order by President Pro Tem
JONATHAN T.E. COURTNEY of York.

ORDERS

Joint Resolution

Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of:

The Honorable James C. MacLeod, of Bar Harbor, our colleague and friend, who served in the Maine House of Representatives during the 105th, 106th and 107th legislative sessions. After graduating from Bar Harbor High School, Mr. MacLeod enlisted in the United States Army, serving in the Rhineland-Central Europe-Ardenne area during World War II. Mr. MacLeod and his wife, Jane, owned and operated MacLeod's Variety Store and Cabins and the original Bluenose Inn. He worked as vice president of marketing and public relations at Bar Harbor Bank and Trust, and served on its board of directors for 37 years. Mr. MacLeod also served on countless boards and committees around his community and was an original founder and trustee of College of the Atlantic. He was an active member of the Republican Party, serving as the Republican County Committee Chairman, the Republican Town Committee Chairman and a delegate to several state Republican conventions. He was a member of the Bar Harbor Congregational Church. We acknowledge his dedicated and longtime service to his community and to the State. He will be greatly missed by his family, friends and colleagues;

SLS 554

Sponsored by Senator LANGLEY of Hancock.
Cosponsored by Senator: President RAYE of Washington,
Representative: FLEMINGS of Bar Harbor.

READ.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Hancock, Senator Langley.

Senator **LANGLEY:** Thank you Mr. President. Men and women of the Senate, I rise today to offer a few words to the family of Jim MacLeod. I did not know him well, nor did he really know me all that well. I only met him once in person after a phone call encouraging me and giving me a pep talk in the last campaign. He told me he wanted me to bring him a sign for his lawn in Bar Harbor. I just don't get many requests like that from Bar Harbor. We spoke a few times more on the phone and he truly loved politics. He left a lasting impression on me. For him to take the time to call and share his experiences in the Legislature was invaluable. Something to think about when we finish our tour of duty. Make that call to someone who is starting out. Share your experiences, encourage them. It truly makes a difference. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Hancock, Senator Rosen.

Senator **ROSEN:** Thank you Mr. President. I'm very happy to stand and join my colleagues from Hancock County in recognizing Jim MacLeod. I've known Jim a long time. His list of accomplishments here that are listed in the sentiment, I think, express to those folks in the Chamber the breadth and background and commitment to the community that Jim always held. He was dedicated to achieving things, to making sure that solid accomplishments took place. He had a quiet resolve, but was always on course and always steady and put community first. He loved his family very much. I wish to offer my condolences and best wishes to the family. Thank you, Mr. President.

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

Senator **RAYE:** Thank you Mr. President. I, too, rise to pay tribute to the memory of the Honorable Jim MacLeod. It is hard for me to imagine Bar Harbor, Maine without Jim MacLeod's presence. He was a genial, outgoing person who seemed to be involved in every facet of the life of that community. I've known him for many years. He was a true gentleman. He was devoted to his family. He was devoted to his community and to the state and his nation. He was a legislator, a businessman, a banker, a husband, and a father. He was predeceased by his wonderful wife, Jane. He was a veteran and served this nation with honor. He would, I am sure, want it noted here today that he was also a very devoted Republican. I rise, along with the Senators from Hancock, to join in paying tribute to the memory of a very good man.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Hobbins.

Senator **HOBBS:** Thank you Mr. President. Men and women of the Senate, I, too, rise in tribute to Jim MacLeod. This is truly a bi-partisan tribute to Jim MacLeod. I want to share with you the first time I met Jim. It was in 1973, when I was serving my first term in the Legislature. I was 21 years old. Of course, I treated my elders with great respect and he was the first legislator, I think, who I kind of looked up to. I looked up to everyone at that point. He basically said to me, "Call me Jim." Back then, of course, he put party labels aside. The Legislature at that time was a Republican Legislature, but he treated me with terrific respect over the years. I remember one time when I was running for another office, a higher office. He ran into me in Augusta and he said, "I really wish you luck in the election, but not too much luck." He put it all in perspective. Over the years, I can tell you, he was a fine person and he was a real pillar of his community and served the Legislature well. I served with him for two terms, in the 106th and the 107th Legislatures. I just want the record to show that we remember those who have been good to us and I will remember him.

ADOPTED.

Sent down for concurrence.

THE PRESIDENT PRO TEM: The Chair would recognize in the rear of the chamber Kathryn MacLeod of Falmouth, the daughter of Jim MacLeod. Would Ms. MacLeod please rise and accept the greetings of the Maine Senate.

Off Record Remarks

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Update the Laws Concerning the Maine School of Science and Mathematics"

H.P. 1197 L.D. 1592

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.

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Allow the Adjutant General To Address a Joint Session of the Legislature" (EMERGENCY)

H.P. 1229 L.D. 1639

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.

Ought to Pass As Amended

The Committee on **TAXATION** on Bill "An Act Relating to Fiscal Notes on Proposed Legislation"

H.P. 1127 L.D. 1535

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.

Senate

Refer to the Committee on Judiciary Pursuant to Resolve

Senator HASTINGS for the Committee on **JUDICIARY** on Bill "An Act To Implement Recommendations of the Commission To Study Priorities and Timing of Judicial Proceedings in State Courts"

S.P. 622 L.D. 1802

Reported that the same be **REFERRED** to the Committee on **JUDICIARY**, pursuant to Resolve, chapter 104, section 9.

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

Bill and accompanying papers **REFERRED** to the Committee on **JUDICIARY**.

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 Improve the Administration of the Legislative Ethics Laws

S.P. 350 L.D. 1150

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

An Act To Increase the Amount Tagging Agents Receive for Tagging Game

H.P. 467 L.D. 637
(C "B" H-683)

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

ORDERS OF THE DAY

Unfinished Business

The following matter 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 (1/5/12) Assigned matter:

JOINT RESOLUTION - memorializing Robert H. Foster of Portland

SLS 531

Tabled - January 5, 2012, by Senator **COURTNEY** of York

Pending - **ADOPTION**

(In Senate, January 5, 2012, **READ**.)

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

Senator **RAYE**: Thank you Mr. President. It is with mixed emotions that I rise to pay tribute to Robert H. "Bob" Foster, who passed away on the 8th day of December. Emotions of sadness and a sense of loss at his passing. Emotions of great pride and deep gratitude for the life that he lived among us. A native of Dennysville, Bob Foster was one of the most well-known, admired, and well liked citizens of Washington County. More than 50 years ago, back in 1959, he started his own small business, Foster Fuels, in Machias with one truck and one employee, himself. Over the years he built that tiny, one man operation into one of the most successful businesses in Maine, R.H. Foster Energy, which now has more than 20 convenience stores and gas stations across the state. Bob guided the company as its President and, since his retirement, as Chairman of the Board right up until his death. In his spare time he founded the Maine Wild Blueberry Company. Bob was more than just one of the most astute businessmen in Maine. He was also a person who cared deeply about his neighbors, his community, and his state. He served as a trustee of the University of Maine System. He was a charter member of the Friends of the Jackson Lab. He was the past President of the Machias Rotary Club, a corporator of the Downeast Community Hospital, a member of the Anah Temple Shine, director of the Katahdin Area Council, and devoted to his church, both in Machias and in South Portland. His good works earned him many awards and notable recognition, including Eastern Maine Development Corporation's Vernon P. McFadden Memorial Award, the Rotary's Paul Harris Fellowship, the Boy Scouts of America's Silver Beaver Award, and an Outstanding Service Award by the University of Maine in Machias, just to name a few. Bob also loved his homes in Marshfield and his beautiful, beautiful home at Cathance Lake. I know that the precious and happy memories of him at those special places will be held in the hearts of his family for the rest of their lives, for they were blessed to have a wonderful husband, father, and grandfather. We, Mr. President, were blessed to have a son of Maine who lived his life in such a productive and giving way. We are all better for having had Robert H. Foster live in our midst and today we pause in this Chamber to honor his memory. It should also be noted that Bob faced his very significant health challenges over the years with a courage and dignity that inspired others. He truly was a remarkable man. I'm very pleased that

Bob's devoted wife, Carolyn, is here today along with his beloved children; Robert W. Foster, Daniel Foster, Scott Stacey, Brett Stacey, Beth-Marie Stacey, and their families, along with his close and dear friends, Don and Marilyn Crandlemeier. Bob's daughter, Dorothy Vachon, and her family are unable to be here today, but they are very much here in spirit. May God bless them all and may they all take comfort with the knowledge that their loved one was loved and respected by so many people across this great state. I thank you, Mr. President, and I ask that the memorial sentiment be read.

At the request of Washington, Senator **Raye**, Sentiment **READ**.

ADOPTED.

Sent down for concurrence.

THE PRESIDENT PRO TEM: The Chair is pleased to recognize in the rear of the chamber Mrs. Carolyn Foster, accompanied by Robert W. Foster; Daniel Foster and wife, Robin, and grandchildren, Emma and Sherry; Scott Stacey and wife, Joan, and grandchildren, Grace and Charlie; Brett Stacey; Beth-Marie Stacey, and dear friends Don and Marilyn Crandlemeier. Would they please rise and accept the greetings of the Maine Senate.

Senator **SNOWE-MELLO** of Androscoggin was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **KATZ** of Kennebec 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 **BRANNIGAN** of Cumberland was granted unanimous consent to address the Senate off the Record.

Senator **RAYE** of Washington 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.

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

On motion by Senator **COLLINS** of York, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, February 7, 2012, at 10:00 in the morning, in memory of and lasting tribute to the Honorable James C. MacLeod of Bar Harbor.