

MAINE STATE LEGISLATURE

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

In Senate Chamber
Wednesday
February 29, 2012

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

Prayer by Rev. Timothy Wilcox of Fairfield United Methodist Church & Fairfield Center United Methodist Church.

REVEREND WILCOX: Thank you Mr. President. Ladies and gentlemen of the Senate, Senate staff, distinguished guests, and fellow citizens, today, indeed, is a rare day, for it is the Leap Day, the 29th of February. First of all, for those with a birthday or anniversary, who rarely get to celebrate on this day, congratulations and we celebrate with you. It's also an occasion that reminds me of a scripture from my tradition. Long before the Birds popularized it in the 1960's, the writer of Ecclesiastes noted that to everything there is a season and a time for every activity under heaven. It included wisdom that ranged from a time to be born and a time to die, a time to plant and a time to uproot, a time to tear down and a time to build, a time to weep and a time to laugh, a time to mourn and a time to dance. Now it is the appointed time, a time such as this, for us and those of us who have been called or elected or appointed to serve, for the people whom we serve, to about our work. I invite you, in the tradition that you are most comfortable with, to be in the spirit of prayer.

Holy and Wondrous God, we thank You for this world You have made and how much of it we are able to enjoy here in Maine. From fields and forests to mountains and rugged coastlines, from lakes and countryside to our livable cities. From Fort Kent and Calais to Kittery and Fryeburg. We so much enjoy Your handiwork. We confess we have at times taken this land and its treasures for granted, missing how fragile life really can be. We confess we have not always appreciated our common humanity, seeking instead to often to put people in boxes and categories, hearing without always listening, seeing without always understanding, speaking without always thinking, judging without always walking in someone else's shoes, about always doing unto others as we would have done to us. Yet You are gracious beyond what we can understand and so we pray for Your forgiveness and guidance, grateful that even when we stumble You welcome us with open arms. At a time such as this, we particularly uphold today the memory of Elsie Emery, Senator Diamond's mother and Senator McCormick's mother-in-law. We uphold them and their families and their friends in our prayers. We also pause for a few moments to offer these thoughts and prayers for those in need today. At a time such as this, we know we have times here in this Body and in this building for conversation, for deliberation and debate, for legislation and serving. In the midst of it all we acknowledge we are under pressure from many directions to act in a great many ways. We have a tradition in Maine, that we've continued to experience recently and over the years, of striving to act according to the common good. In this time of political, economic, and social

change here in Maine and across our country, give us the courage, we pray, to do our work in ways that cross lines of party and ideology, across regional lines in our state, across lines of vocation, class, race, and gender that so often are used to divide us. Help us see the common humanity in our colleagues and staff, on both sides of the aisle and in the members of the Administration and the people who work so hard on the people's behalf. For those business people, students, workers, tradespeople, parents, caregivers, and people who give their energies to a great many community organizations, may we, with Your help, strive with as much passion for what will work for all concerned as we do for those values we hold so dear. May we be a voice for the voiceless, those without the money or power influence to be a large voice, but who are just as significant in our communities. May we understand that the image of Your grace is present in each face and may we hold ourselves to a high standard, even as we expect mutual accountability in our common work. You know we have difficult decisions to make about budgets, policies, and a variety of bills. We pray for Your presence and peace as we continue to work with our legislative process. Give us patience and insight for the road ahead. At a time such as this, as we contemplate Winter's late arrival and perhaps more snow tomorrow, we realize it won't be long until our thoughts begin to turn to Spring. May we be renewed by Your strength and spirit, refreshed and enlivened for the work that awaits us on behalf of those whom we serve. It is in Your gracious name we pray these things and so many others in Your name. Amen.

Pledge of Allegiance led by Senator Jonathan T.E. Courtney of York County.

Reading of the Journal of Tuesday, February 28, 2012.

Off Record Remarks

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Amend the Boothbay Region Water District Charter" (EMERGENCY)

H.P. 1354 L.D. 1834

Presented by Representative MacDONALD of Boothbay. Cosponsored by Senator JOHNSON of Lincoln. 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 Encourage Enrollment in High School Electrical Education Programs"

H.P. 1353 L.D. 1833

Presented by Representative CUSHING of Hampden. Cosponsored by Senator RECTOR of Knox and Senators: GERZOFSKY of Cumberland, MASON of Androscoggin, PLOWMAN of Penobscot, THIBODEAU of Waldo, Representatives: Speaker NUTTING of Oakland, PRESCOTT of Topsham, RICHARDSON of Carmel. Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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. 1355

ORDERED, the Senate concurring, that the Joint Standing Committee on Health and Human Services shall report out, to the House, a bill regarding prevention of obesity and overweight services under the Fund for a Healthy Maine.

Comes from the House, READ and PASSED.

READ and PASSED, in concurrence.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 724

**STATE OF MAINE
125TH LEGISLATURE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE**

February 27, 2012

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

Dear Secretary Carleton:

Pursuant to my authority under Title 5, §20065, I am pleased to appoint Representative David C. Burns of Whiting to the Substance Abuse Services Commission.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Robert W. Nutting
Speaker of the House

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 725

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

February 28, 2012

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

Dear Secretary Carleton:

Pursuant to my authority under Senate Rule 201.3, I am pleased to appoint Senator Johnson, to the Joint Standing Committee on Marine Resources, effective March 1, 2012. With this appointment the Senator from Lincoln, Senator Johnson, will be replacing the Senator from York, Senator Sullivan.

If you have any questions regarding this appointment please do not hesitate to contact my office.

Sincerely,

S/Kevin L. Raye
President of the Senate

READ and ORDERED PLACED ON FILE.

SENATE PAPERS

Bill "An Act To Restore Equity in Revenue Sharing"
S.P. 635 L.D. 1835

Presented by Senator ALFOND of Cumberland. Cosponsored by Representative KNIGHT of Livermore Falls and Senators: COURTNEY of York, HOBBS of York, Representatives: BERRY of Bowdoinham, LOVEJOY of Portland, PILON of Saco. Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

On motion by Senator **COURTNEY** of York, **REFERRED** to the Committee on **TAXATION** and ordered printed.

Sent down for concurrence.

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

Senate at Ease.

Senate called to order by the President.

REPORTS OF COMMITTEES

House

Ought to Pass Pursuant to Resolve

The Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Increase the Amount of Time an Employer May Employ an Employee without Being Charged for Unemployment Benefits"

H.P. 1352 L.D. 1832

Reported that the same **Ought to Pass**, pursuant to Resolve 2011, chapter 85, section 1.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Regarding Legislative Review of Portions of Chapter 270: Uniform Reporting System for Quality Data Sets, a Major Substantive Rule of the Maine Health Data Organization (EMERGENCY)

H.P. 1285 L.D. 1743

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.

The Committee on **TRANSPORTATION** on Bill "An Act Regarding the Oversight and Safety of Certain Commercial Vessels Operating in Maine Waters"

H.P. 1321 L.D. 1795

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 **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, To Exempt Maple Sugarhouses from the 1,000-foot Setback Requirement of the Maine Land Use Regulation Commission

H.P. 1241 L.D. 1689

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-716)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-716)**.

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

READ ONCE.

Committee Amendment "A" (H-716) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, Regarding Legislative Review of Portions of Chapter 115: Certification, Authorization and Approval of Education Personnel, Parts I and II, a Major Substantive Rule of the Department of Education and the State Board of Education (EMERGENCY)

H.P. 1306 L.D. 1775

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-713)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-713)**.

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

READ ONCE.

Committee Amendment "A" (H-713) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Clarify the Laws Governing Pharmacy Interns"

H.P. 1217 L.D. 1608

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-715)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-715)**.

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

READ ONCE.

Committee Amendment "A" (H-715) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Dedicate a Percentage of the Sales and Use Tax on Motor Vehicles and Motor Vehicle Parts to the Highway Fund"

H.P. 45 L.D. 52

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-694)**.

Signed:

Senators:

COURTNEY of York
HASTINGS of Oxford

Representatives:

KNIGHT of Livermore Falls
BENNETT of Kennebunk
BURNS of Alfred
HARMON of Palermo
WATERHOUSE of Bridgton

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

Signed:

Representatives:

BERRY of Bowdoinham
BICKFORD of Auburn
FLEMINGS of Bar Harbor
PILON of Saco

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-694)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-694) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate

Ought to Pass

Senator MASON for the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Increase the Membership of the Homeland Security Advisory Council"

S.P. 585 L.D. 1720

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator MASON for the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Amend Certain Provisions of Law Governing the Department of Corrections"

S.P. 602 L.D. 1754

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 FARNHAM for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Clarify the Authority of the Department of Health and Human Services To Impose Administrative Sanctions upon Vendors, Providers and Participants in the Women, Infants and Children Special Supplemental Food Program"

S.P. 536 L.D. 1626

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-404)**.

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

READ ONCE.

Committee Amendment "A" (S-404) **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 Amend the Laws Governing the Maine Clean Election Act"

S.P. 528 L.D. 1618

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-405)**.

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

READ ONCE.

Committee Amendment "A" (S-405) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator FARNHAM for the Committee on **VETERANS AND LEGAL AFFAIRS** on Resolve, To Establish a Stakeholder Group for the Development of a Plan for the Inventory and Proper Care of Veterans' Graves

S.P. 540 L.D. 1630

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-403)**.

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

READ ONCE.

Committee Amendment "A" (S-403) **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 Amend the Election Laws" S.P. 563 L.D. 1664

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-402)**.

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

READ ONCE.

Committee Amendment "A" (S-402) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Improve the Maine Clean Election Act"

S.P. 484 L.D. 1523

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

Signed:

Senators:

FARNHAM of Penobscot
PLOWMAN of Penobscot
PATRICK of Oxford

Representatives:

BEAULIEU of Auburn
CAREY of Lewiston
CROCKETT of Bethel
DAMON of Bangor
JOHNSON of Eddington
LONGSTAFF of Waterville
RUSSELL of Portland
VALENTINO of Saco
WILLETTE of Presque Isle

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-401)**.

Signed:

Representative:
CHIPMAN of Portland

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

Reports **READ**.

On motion by Senator **FARNHAM** of Penobscot, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**

Sent down for concurrence.

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

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

Senate

Bill "An Act Concerning Copying Fees for Users of County Registries of Deeds" (EMERGENCY)
S.P. 526 L.D. 1616

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

Sent down for concurrence.

Senate As Amended

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
(C "A" S-396)

Bill "An Act To Correct Errors in Recently Enacted Laws Governing Agency Liquor Stores" (EMERGENCY)
S.P. 562 L.D. 1663
(C "A" S-395)

Bill "An Act To Conform Maine's Prescription Drug Privacy Laws with the United States Constitution"
S.P. 578 L.D. 1679
(C "A" S-397)

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
(C "A" S-393)

Bill "An Act To Amend Certain Provisions of the Fish and Wildlife Laws"

S.P. 592 L.D. 1732
(C "A" S-391)

Bill "An Act To Eliminate the Deposit Requirements for Containers of Limited and Restricted Use Pesticides"

S.P. 606 L.D. 1758
(C "A" S-392)

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:

Emergency Measure

An Act To Remove the Repeal Date for Outcome-based Forestry
S.P. 597 L.D. 1740

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 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, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

Emergency Resolve

Resolve, Regarding Legislative Review of Chapter 122: Grant Application and Award Procedure: Fund for the Efficient Delivery of Educational Services, a Major Substantive Rule of the Department of Education

H.P. 1272 L.D. 1723

On motion by Senator **ALFOND** of Cumberland, **TABLED** until Later in Today's Session, pending **FINAL PASSAGE**.

Senator **LANGLEY** of Hancock was granted unanimous consent to address the Senate off the Record.

On motion by Senator **PLOWMAN** of Penobscot, **ADJOURNED**, until Thursday, March 1, 2012, at 10:00 in the morning, in memory of and lasting tribute to Elsie M. Emery of West Gardiner.

Acts

An Act To Promote POW/MIA Recognition Day

H.P. 1230 L.D. 1640
(C "A" H-705)

An Act To Amend the Laws Governing the Pull Events Commission

H.P. 1294 L.D. 1759
(C "A" H-701)

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.

An Act To Expand the Capacity of York County Community College

H.P. 457 L.D. 627
(C "A" H-699)

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

Resolve

Resolve, To Extend the Reporting Deadline of the Working Group on an All-payor Claims Database System

S.P. 628 L.D. 1818

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

Ordered sent down forthwith.

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