

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

In Senate Chamber
Thursday
January 15, 2004

Senate called to order by President Beverly C. Daggett of Kennebec County.

Prayer by Reverend Stephen White, St. Andrews Episcopal Church in Newcastle.

REVEREND WHITE: Let us pray. Oh gracious and eternal God, You make all things new and yet abide forever the same. At the beginning of a new year, when the slate is still clean and the future looks full of opportunities not yet exploited, draw near to us and to this body of deliberation. Rekindle our energies and expand our vision of what is possible. Give us the long view of our work and of our world. Help us to see that it is better to fail in a cause that is ultimately right than to succeed in a cause that will ultimately be proven false. Guide us in our work, oh Lord. Establish us in integrity, and at the end of the day, may we have the grace to be humble and forgiving. May Thy will be done here, above party and personality, beyond time and circumstance, for the good of this fair state and the well-being of all of its citizens. Make us more sensitive to our colleagues in this chamber and more compassionate and committed to our constituents, who have asked us to represent them here. Bless all those employed in this place and may they find support in the gratitude of their fellow citizens, in their companionship with one another, in the effort of a job well done, and in the love of Thee, oh God, our creator and sustainer. Amen.

Doctor of the day, Alan Ross, M.D. of Augusta.

Reading of the Journal of Wednesday, January 14, 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. 674

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, January 20, 2004, at 4:00 in the afternoon.

READ and PASSED.

Ordered sent down forthwith for concurrence.

COMMUNICATIONS

The Following Communication:

S.C. 427

STATE OF MAINE

121ST MAINE LEGISLATURE

December 29, 2003

Honorable John E. Baldacci

Governor of Maine

1 State House Station

Augusta, ME 04333

Dear Governor Baldacci:

We are pleased to invite you to deliver the State of the State address at a Joint Session of the 121st Maine Legislature on Tuesday, January 20, 2004 at 7:00 p.m.

We look forward to seeing you then.

Sincerely,

S/Beverly C. Daggett
President of the Senate

S/Patrick Colwell
Speaker of the House

READ and ORDERED PLACED ON FILE.

The Following Communication:

S.C. 428

**STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001**

January 14, 2004

The Honorable Beverly C. Daggett
President of the Senate
Augusta, Maine 04333

The Honorable Patrick Colwell
Speaker of the House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

I am pleased to accept your invitation to deliver the State of the State address at a Joint Session of the 121st Maine Legislature on Tuesday, January 20, 2004 at 7:00 pm.

I look forward to seeing you Tuesday evening.

Sincerely,

S/John E. Baldacci

Governor

READ and **ORDERED PLACED ON FILE.**

REPORTS OF COMMITTEES

House

Change of Committee

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Promote Responsible Pet Ownership"

H.P. 1285 L.D. 1763

Reported that the same be **REFERRED** to the Committee on **TAXATION.**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **TAXATION.**

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

On motion by Senator **BRYANT** of Oxford, **REFERRED** to the Committee on **TAXATION**, in concurrence.

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Reduce Contamination of Breast Milk and the Environment from the Release of Brominated Chemicals in Consumer Products"

H.P. 1312 L.D. 1790

Reported that the same be **REFERRED** to the Committee on **NATURAL RESOURCES.**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **NATURAL RESOURCES**.

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

On motion by Senator **BROMLEY** of Cumberland, **REFERRED** to the Committee on **NATURAL RESOURCES**, in concurrence.

Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Assist Maine's Infertile Citizens"

H.P. 172 L.D. 213

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

Signed:

Senator:

LaFOUNTAIN of York

Representatives:

O'NEIL of Saco
CANAVAN of Waterville
PERRY of Calais
GLYNN of South Portland
YOUNG of Limestone
SNOWE-MELLO of Poland
VAUGHAN of Durham
WOODBURY of Yarmouth

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-629)**.

Signed:

Senators:

DOUGLASS of Androscoggin
MAYO of Sagadahoc

Representatives:

PERRY of Bangor
BREAULT of Buxton

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

Reports **READ**.

Senator **LAFOUNTAIN** of York moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator LaFountain.

Senator **LAFOUNTAIN:** Thank you, Madame President, men and women of the Senate. This is one of what I believe are four mandates that this chamber will see in the next two to three weeks. This one deals with infertility.

Though emotionally compelling, the reality is that Maine people simply cannot afford to have this legislature mandate higher insurance costs. The Maine Chamber of Commerce, the NFIB, and many small Maine businesses confirmed to the committee what many of us already knew, businesses in Maine are already struggling to pay for insurance for their employees and they can ill afford to have new costs added to that which they have already paid.

As you will note, this legislature adopted two mandates last session, one being mental health parity and the other being prosthetic devices. Coupled with the mandates that were passed over the years, there is certainly a cumulative effect as a result of mandates passed to Maine businesses. This mandate covers group only, so therefore many Maine citizens will not receive this. Those who are receiving insurance through self-insured plans are exempt from this. Likewise, those who are self employed and have individual policies will also not be covered. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Edmonds.

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. While I agree that it does not make sense to keep adding costs to our businesses, I do want to speak on behalf of constituents in my community for whom this is an incredibly important bill. All of us can understand the heartbreak of someone who has been rendered infertile, for whatever reason, wants to have a young person of their own, and has to face the fact that, in most cases, this is a very expensive operation. Often times there is only a 20% chance of success, so people have to try a number of times. Children are precious in our eyes and it think it's important to allow people the opportunity to have children if they choose to. I urge your opposition to the standing motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Mayo.

Senator **MAYO**: Thank you, Madame President, ladies and gentlemen of the Senate. I have been involved in the Insurance and Financial Services Committee now for nearly ten years and this year was the fourth time that we have debated this particular issue. You will note on item 5-3 that I am indicating support of the Ought to Pass report. I did that for one, and only one, reason: to bring it forward so that this body and the other body would have an opportunity to hear a debate on the issue. I announced after I had voted that when the time came to vote on the floor of this body, that I would not be supporting the issue.

It is a very emotional issue. It has been and will continue to be. If we accept the Ought Not to Pass report, which I hope that we do, I can almost guarantee you that this issue will be back before this body within the next two years because it is emotional and because there are people who feel extremely strong on this issue. I have a number of constituents who have been through the process, who have paid out of their own pockets for corrective action, and who are still paying, today, for these medical bills of \$20 - \$40,000 so that they could attempt to have children. With one exception, they have all been successful. There has not been any reimbursement. I would urge that you support the Majority Ought Not to Pass, but bear in mind that we will see this issue again. It will not go away because of the number of people involved, who feel very strongly on this issue, and want the ability to have their own children rather than adopt. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Strimling.

Senator **STRIMLING**: Thank you, Madame President. I will not be supporting the motion on the floor. For me, as someone who adamantly supports a woman's right to choose, I must also support a woman's right to start her family as she chooses, or a couple's right to support their family. Another issue around this is, for me, it's fundamentally about access. Those who can afford it are able to get these treatments and those who cannot are not. I believe it is our duty to make sure that we provide access to all the citizens of the State of Maine to the treatments that they need. Thank you very much.

Senator **BENNETT** of Oxford requested a Roll Call.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS**: Men and women of the Senate, I rise to ask you to support the Majority Ought to Pass report after we have gone to vote down the current report, Ought Not to Pass, which is on the floor. The reason is that these treatments are for a disease. Just as physical differences affect our abilities, physical differences affect people's right or ability to conceive. Many of the folks who came forward on this bill suggest that they feel they need to be treated equally with others who get treatment for any number of other physical ailments.

What is interesting about hearing the discussion, and having the department do the financial analysis, is that in the states that have passed amendments or bills like this have actually seen costs go down for other procedures. What happens is, and I'm going to give the example from a woman's perspective because I'm familiar with that, a woman has fibroids that may be inhibiting conception. That is covered. If she has some other type of disease of, or problem with, those reproductive glands, many of those procedures are covered. What happens is, because the fertility issues are not covered specifically, women, and probably men, but I didn't get into all the issues of the actually procedures that could be alternatives, will go in for whatever it is that might make it easier to conceive, drive up those costs, and then not achieve the goal that they had in mind.

As you will note in one of the handouts that we received, the actual cost of this measure is 0.01% of premium. Now that is because there are savings. There are savings in other areas when you enact this legislation.

I do realize that we are in a fiscal environment in which it is very difficult to vote for anything new, for any added costs. This is an extremely modest cost. It's about who we are, as a state, what our citizenry gets from the laws that we have, and it's really fundamentally about what we should be paying for. Right now much of what a doctor might recommend be done is not actually going to treat infertility, the disease. They will prescribe, or suggest, treatment that might help. This bill, with an extremely modest cost, would actually achieve the desired results. I want to mention that we worked hard to make sure that it was tailored for women of childbearing age, and that there was a limit and an upper cap of, I believe, \$10,000. That is why the cost is low. What we are actually doing is providing some benefit, not at all, by any means, the full benefit. People who are in the situation are still contributing substantial sums to correct their health. For that reason, I would urge you to vote against the pending motion.

On motion by Senator **BENNETT** of Oxford, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#218)

YEAS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, HALL, KNEELAND,
LAFOUNTAIN, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SHOREY,
STANLEY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

NAYS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS,
GAGNON, MARTIN, ROTUNDO, STRIMLING, TREAT, THE PRESIDENT –
BEVERLY C. DAGGETT

ABSENT: Senators: PENDLETON, SAWYER

EXCUSED: Senator: HATCH

19 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the motion by Senator **LAFOUNTAIN** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Off Record Remarks

SECOND READERS

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

House As Amended

Bill "An Act to Establish a Seamless Strategic Drug Abuse Model for Addressing Criminal Enforcement, Treatment, Education and Public Advocacy within Washington County"

H.P. 38 L.D. 31
(C "A" H-624)

Bill "An Act To Protect Consumer Privacy Rights"

H.P. 509 L.D. 692
(C "B" H-627)

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

All matters thus acted upon were ordered sent down forthwith for 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 (1/14/04) Assigned matter:

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Recognize the Regional Impact of Casino-style Gambling Facilities"

H.P. 916 L.D. 1242

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-630)** (2 members)

Tabled - January 14, 2004, by Senator **GAGNON** of Kennebec

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

(In House, January 13, 2004, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, January 14, 2004, Reports **READ**.)

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

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

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Increase Bill Reductions for Electricity Customers in Maine"

S.P. 187 L.D. 547

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

Signed:

Senators:

HALL of Lincoln
BROMLEY of Cumberland
YOUNGBLOOD of Penobscot

Representatives:

RINES of Wiscasset
FLETCHER of Winslow
LUNDEEN of Mars Hill
MOODY of Manchester
ADAMS of Portland
BERRY of Belmont
BLISS of South Portland
CRESSEY of Baldwin
RICHARDSON of Skowhegan

The Minority of the same Committee on the same subject reported that the same **Ought To Pass.**

Signed:

Representative:

GOODWIN of Pembroke

Reports **READ.**

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

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.

Senator **EDMONDS** of Cumberland 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.

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

Off Record Remarks

On motion by Senator **TREAT** of Kennebec, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, January 20, 2004, at 4:00 in the afternoon.