

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

In Senate Chamber
Thursday
February 12, 2004

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

Prayer by Reverend Michael Ambler, Grace Episcopal Church in Bath.

REVEREND AMBLER: Good morning. It's an honor to be here today. Let us pray.

Lord God, we thank You for bringing us in safety to this new day. Bless this lovely State of Maine and all its citizens as they go about the lives we have given them to lead. Bless especially the Maine State Senate, its staff, and its members. Grant to the Senate staff joy in their work and care and faithfulness as they do the tasks that allow this body to function. Grant to the Senators civility in debate, enthusiasm in advocacy, and wisdom in their decisions. Help them to remember always their duty to serve the poor as well as the rich, the weak as well as the strong, the silent and helpless as well as the articulate and powerful. Finally, when day is done, send all of them, the staff and the Senators, safely home, secure in the knowledge that today they have done good work and that Maine is a better place because of their labors. Amen.

National Anthem performed by the Y-Arts Youth Chorus from the Boothbay Area YMCA in Boothbay Harbor.

Off Record Remarks

Doctor of the day, Mark Bolduc, M.D. of Waterville.

Reading of the Journal of Wednesday, February 11, 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. 693

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Wednesday, February 18, 2004, at 10:00 in the morning.

READ and **PASSED**.

Ordered sent down forthwith for concurrence.

Off Record Remarks

PAPERS FROM THE HOUSE

House Papers

**Pursuant to Resolve
Family Law Advisory Commission**

The **Family Law Advisory Commission**, pursuant to Resolve 2003, chapter 25, section 2 asked leave to report that the accompanying Bill "An Act To Implement the Recommendations of the Family Law Advisory Commission with Regard to the Uniform Parentage Act"

H.P. 1377 L.D. 1851

Be **REFERRED** to the Committee on **JUDICIARY** 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 **JUDICIARY** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **PENDLETON** of Cumberland, **REFERRED** to the Committee on **JUDICIARY** and ordered printed pursuant to Joint Rule 218, in concurrence.

**Pursuant to Statute
Maine State Housing Authority**

The **Maine State Housing Authority**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Chapter 31: Affordable Housing Development District - Recovery of Public Revenue, a Major Substantive Rule of the Maine State Housing Authority

H.P. 1376 L.D. 1850

Be **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** 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 **TAXATION** and ordered printed pursuant to Joint Rule 218.

Report **READ**.

On motion by Senator **TREAT** of Kennebec, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF REPORT**, in concurrence.

**Pursuant to Statute
Department of Environmental Protection**

The **Department of Environmental Protection**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Chapter 355: Sand Dune Rules, a Major Substantive Rule of the Department of Environmental Protection (EMERGENCY)

H.P. 1375 L.D. 1849

Be **REFERRED** to the Committee on **NATURAL RESOURCES** 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 **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **MARTIN** of Aroostook, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218, in concurrence.

SENATE PAPERS

Bill "An Act To Amend the Laws Relating to Property Insurance"

S.P. 692 L.D. 1853

Sponsored by Senator TREAT of Kennebec. (GOVERNOR'S BILL)

Cosponsored by Representative PERRY of Calais and Senators: DAMON of Hancock, HALL of Lincoln, LAFOUNTAIN of York, MAYO of Sagadahoc, Representatives: CANAVAN of Waterville, Speaker COLWELL of Gardiner, O'NEIL of Saco, PINGREE of North Haven.

Bill "An Act To Delay the Implementation of Restrictions on Information on Electronically Printed Receipts" (EMERGENCY)

S.P. 694 L.D. 1854

Sponsored by Senator DAVIS of Piscataquis.

Cosponsored by Representative O'BRIEN of Augusta.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

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

Sent down for concurrence.

REPORTS OF COMMITTEES

House

Pursuant to Joint Rule 309

From the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, To Establish the Intergovernmental Advisory Commission

H.P. 884 L.D. 1210

Received by the Clerk of the House on January 26, 2004, pursuant to Joint Rule 309.

Comes from the House with the Resolve **REFERRED** to the Joint Select Committee on **REGIONALIZATION AND COMMUNITY COOPERATION**.

On motion by Senator **DAMON** of Hancock, **REFERRED** to the Joint Select Committee on **REGIONALIZATION AND COMMUNITY COOPERATION**, in concurrence.

Ought to Pass

The Committee on **TRANSPORTATION** on Bill "An Act To Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Calendar Year Ending December 31, 2005"

H.P. 1349 L.D. 1825

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 **UTILITIES AND ENERGY** on Bill "An Act To Create Consistency between State and Federal Telephone Consumer Protection Laws"

H.P. 1273 L.D. 1751

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 Authorize Certain School Children To Carry Asthma Inhalers on Their Persons"

H.P. 1290 L.D. 1768

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-674)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-674)**.

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

READ ONCE.

Committee Amendment "A" (H-674) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Ensure Parity Among Mental Health Professionals Under Medicaid"

H.P. 134 L.D. 175

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-675)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-675)**.

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

READ ONCE.

Committee Amendment "A" (H-675) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act Regarding the Number of Jurors Required To Render a Verdict in a Civil Trial"

H.P. 1230 L.D. 1652

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-673)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-673)**.

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

READ ONCE.

Committee Amendment "A" (H-673) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Improve the Ability of Water Utilities To Maintain a Contingency Allowance"

H.P. 1272 L.D. 1750

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-676)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-676)**.

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

READ ONCE.

Committee Amendment "A" (H-676) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Regarding Habitual Truants"

H.P. 800 L.D. 1082

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-634)**.

Signed:

Senators:

DOUGLASS of Androscoggin
BRENNAN of Cumberland
MITCHELL of Penobscot

Representatives:

CUMMINGS of Portland
ANDREWS of York
DAVIS of Falmouth
LEDWIN of Holden
NORTON of Bangor
THOMAS of Orono
FISCHER of Presque Isle

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

Signed:

Representative:

FINCH of Fairfield

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-634) AS AMENDED BY HOUSE AMENDMENT "A" (H-678)** thereto.

Reports **READ**.

Senator **DOUGLASS** of Androscoggin 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.

Divided Report

The Majority of the Committee on **UTILITIES AND ENERGY** on Bill "An Act Providing for Regulation of the Cable Television Industry by the Public Utilities Commission"

H.P. 181 L.D. 222

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

Signed:

Senators:

HALL of Lincoln
YOUNGBLOOD of Penobscot

Representatives:

FLETCHER of Winslow
LUNDEEN of Mars Hill
MOODY of Manchester
BERRY of Belmont
BLISS of South Portland
RICHARDSON of Skowhegan

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-670)**.

Signed:

Representatives:

RINES of Wiscasset
ADAMS of Portland
GOODWIN of Pembroke
CRESSEY of Baldwin

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

Reports **READ**.

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

Senate

Ought to Pass

Senator **BROMLEY** for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Strengthen the Charitable Solicitations Act"

S.P. 623 L.D. 1691

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 **SAVAGE** for the Committee on **TRANSPORTATION** on Bill "An Act To Exempt Classic Auto Dealers from Dealer Plate Restrictions" (EMERGENCY)

S.P. 609 L.D. 1677

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-382)**.

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

READ ONCE.

Committee Amendment "A" (S-382) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Create the Comprehensive Health Insurance Risk Pool Association" (EMERGENCY)

S.P. 394 L.D. 1190

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

Signed:

Senators:

LAFOUNTAIN of York
DOUGLASS of Androscoggin
MAYO of Sagadahoc

Representatives:

O'NEIL of Saco
CANAVAN of Waterville
PERRY of Bangor
BREAULT of Buxton
PERRY of Calais
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" (S-384)**.

Signed:

Representatives:

GLYNN of South Portland
YOUNG of Limestone
SNOWE-MELLO of Poland
VAUGHAN of Durham

Reports **READ**.

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

SECOND READERS

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

House

Resolve, Directing the Department of Labor and the Department of Behavioral and Developmental Services, Office of Substance Abuse To Study the Prevalence of Drug and Substance Abuse

H.P. 1314 L.D. 1792

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

House As Amended

Bill "An Act To Establish the Administrative Operating Budget for the Maine State Retirement System for the Fiscal Year Ending June 30, 2005" (EMERGENCY)

H.P. 1231 L.D. 1656
(C "A" H-665)

Bill "An Act To Streamline the Time-share Rate Collection Process for Sanitary Districts"

H.P. 1235 L.D. 1659
(C "A" H-669)

Bill "An Act To Authorize the Commissioner of Administrative and Financial Services To Execute Easements"

H.P. 1299 L.D. 1777
(C "A" H-668)

Bill "An Act To Clarify Prequalification Criteria for Public Improvements"

H.P. 1305 L.D. 1783
(C "A" H-666)

Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Property in Fayette, Maine

H.P. 1306 L.D. 1784
(C "A" H-667)

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

Bill "An Act to Allow Beverage Sales from Mobile Service Bars on Golf Courses"

H.P. 486 L.D. 656
(C "A" H-636)

READ A SECOND TIME.

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

Senate As Amended

Bill "An Act To Authorize the Town of Verona To Change Its Name"

S.P. 604 L.D. 1653
(C "A" S-381)

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 Ensure Women's Health Care Coverage for All Maine Women

H.P. 995 L.D. 1353
(C "A" H-648)

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, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act To Provide Reciprocal Authority to New Hampshire Marine Patrol Officers To Investigate Potential Terrorist Activities in Maine Waters

S.P. 621 L.D. 1689
(C "A" S-364)

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, was presented by the Secretary to the Governor for his approval.

Acts

An Act To Amend the Laws Governing the Display of Fireworks and Indoor Pyrotechnics

H.P. 1266 L.D. 1744
(C "A" H-644)

An Act To Amend the Uniform Federal Lien Registration Act

H.P. 1278 L.D. 1756
(S "A" S-375)

An Act To Correct Certain Errors and Inconsistencies in Marine Resources Laws

H.P. 1280 L.D. 1758
(C "A" H-647)

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

Resolve

Resolve, To Commission a Portrait of the Honorable George J. Mitchell To Hang in the State House

S.P. 658 L.D. 1725
(C "A" S-365)

On motion by Senator **CATHCART** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in concurrence.

ORDERS OF THE DAY

Unfinished Business

The following matters 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 (1/30/04) Assigned matter:

Emergency Resolve

Resolve, Concerning Payments to Legislators during Special Session

H.P. 1366 L.D. 1840

Tabled - January 30, 2004, by Senator **TREAT** of Kennebec

Pending - motion by same Senator to **RECONSIDER** whereby the Resolve **FAILED FINAL PASSAGE**

(In House, January 30, 2004, **FAILED FINAL PASSAGE.**)

(In Senate, January 30, 2004, **FAILED FINAL PASSAGE.**)

On motion by Senator **TREAT** of Kennebec, Resolve **INDEFINITELY POSTPONED.**

The Chair laid before the Senate the following Tabled and Later (2/3/04) Assigned matter:

HOUSE REPORTS - from the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Require the Owner or Operator of a Casino To Improve or Replace Utilities and Infrastructure in the Vicinity of the Casino"

H.P. 876 L.D. 1201

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-645)** (2 members)

Tabled - February 3, 2004, by Senator **HALL** of Lincoln

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

(In House, January 30, 2004, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, February 3, 2004, Reports **READ**.)

Senator **BENNETT** of Oxford requested a Division.

On further motion by same Senator, 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 (#241)

YEAS: Senators: BLAIS, BROMLEY, CARPENTER, CATHCART, DAVIS, GAGNON, GILMAN, KNEELAND, MARTIN, MAYO, MITCHELL, SAVAGE, SHOREY, STANLEY, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT – BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BRENNAN, BRYANT, DAMON, DOUGLASS, EDMONDS, HALL, LAFOUNTAIN, LEMONT, NASS, ROTUNDO, STRIMLING

ABSENT: Senators: PENDLETON, SAWYER, WESTON

EXCUSED: Senator: HATCH

19 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 3 Senators being absent and 1 Senator being excused, the motion by Senator **HALL** of Lincoln to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later (2/11/04) Assigned matter:

Bill "An Act To Amend the Apportionment of Legislative House Districts 76 and 77"

H.P. 1374 L.D. 1848

Tabled - February 11, 2004, by Senator **TREAT** of Kennebec

Pending - **PASSAGE TO BE ENGROSSED**, in concurrence

(In Senate, February 10, 2004, **PASSED TO BE ENGROSSED**, in concurrence.)

(In House, February 10, 2004, **PASSED TO BE ENACTED**.)

(In Senate, February 11, 2004, on motion by Senator **TREAT** of Kennebec, **RECONSIDERED PASSAGE TO BE ENGROSSED**, in concurrence.)

On motion by Senator **GAGNON** of Kennebec, Senate Amendment "A" (S-383) **READ**.

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

Senator **GAGNON:** Thank you, Madame President. What the amendment does is makes this an emergency measure so that the correction can be made prior to the vote for the primary in June for these two House districts. Thank you.

On motion by Senator **GAGNON** of Kennebec, Senate Amendment "A" (S-383) **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-383), in NON-CONCURRENCE.

Ordered sent down forthwith for concurrence.

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

HOUSE REPORT – from the **Maine State Housing Authority**, pursuant to the Maine Revised Statutes, Title 5, section 8072, on Resolve, Regarding Legislative Review of Chapter 31: Affordable Housing Development District - Recovery of Public Revenue, a Major Substantive Rule of the Maine State Housing Authority

H.P. 1376 L.D. 1850

Report - **REFER** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**

Tabled – February 12, 2004, by Senator **TREAT** of Kennebec

Pending – **ACCEPTANCE OF REPORT**, in concurrence

(In House, February 11, 2004, Report from the **Maine State Housing Authority**, **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **TAXATION** and ordered printed pursuant to Joint Rule 218.)

(In Senate, February 12, 2004, Report **READ**.)

On motion by Senator **BROMLEY** of Cumberland, Report **REJECTED**.

On further motion by same Senator, **REFERRED** to the Committee on **TAXATION** and ordered printed pursuant to Joint Rule 218, in concurrence.

Senate at Ease.

Senate called to order by the President.

Senator **TREAT** of Kennebec 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.

On motion by Senator **TREAT** of Kennebec, **ADJOURNED**, pursuant to the Joint Order, to Wednesday, February 18, 2004, at 10:00 in the morning.