

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twenty-First Legislature  
State of Maine

Volume III

Second Special Session (Continued)  
March 22, 2004 to April 30, 2004

Second Confirmation Session  
August 25, 2004

Interim Appendix

Senate Legislative Sentiments

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SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Strengthen the Enforcement Provisions of the Maine Health Data Organization" S.P. 730 L.D. 1884

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-475)** (6 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - March 31, 2004, by Senator **BRENNAN** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report

(In Senate, March 31, 2004, Reports **READ**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. This bill is, as the title tells us, to strengthen the enforcement provisions of the Maine Health Data Organization. My concerns are that this is excessive. We were told that there have, in the past, not been issues with misuse of information or problems with obtaining the data. Let me just tell you what the detail of the fines are going to be on your businesses in your districts. For example, now pharmacies, hospitals, and others are required to file data. They have to pay in order to file this data. They are now going to be fined \$1,000 a day, or up to \$25,000 total, for health care facilities, third party administrators, and so forth for failure to file the data or failure to pay an assessment. Pharmacies will be required to pay \$100 a day fine, or up to \$2,500, for failure to file data. What we are talking about is not even a plan to withhold data, but perhaps a missed deadline or lots of things. This is an excessive use, especially since there is no historical data to tell us that it has been a problem. We are raising the fines for something that, primarily, has not been a problem. The argument you will hear is that there is going to be more data and the risk will be greater, so the fines must go up. I don't agree. I consider these fines excessive. I have great concerns.

The other question that was not resolved is for all of these organizations that are required to file this information with the Health Data Organization don't know if they can get the same information that they file back for their own use or if they will be in non-compliance if they use that information. I have concerns. I think that we need to look at this further. I would ask that you vote against the pending motion.

Same Senator requested a Roll Call.

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

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. When this bill came before the Health and Human Services Committee earlier in this session I was going to nominate it for the most innocuous bill to be presented this session. While I still think it is in running, it may not be in as strong a position as it was earlier when it came before the Health and Human Services Committee. This is simply a housekeeping,

housecleaning bill. Almost all of the issues that are in this bill are currently in law, in rule, and in regulation. If you look at the bill summary, there was one issue. Admittedly it was a large amount of money, \$250,000. This was to bring us into compliance, or to be very similar, to federal regulations around the Health Insurance Portability and Accountability Act of 1996, or what we call HEPA.

Secondly, this bill is designated as a major substantive rule, which means that any of the enforcement provisions will come back to the legislature for review. I just checked with staff this morning and I will be more than happy to go back and check again, but the Senator from Waldo, Senator Weston, represented that there are these fines in this bill. When I checked with the staff this morning, these chary fines that we have in rule and in legislation. We are not doing anything differently than we currently have in rule.

I think that this bill still qualifies as one of the most innocuous and least difficult bills before the session. I hope that you will vote for the pending motion.

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

Senator **NASS:** Thank you, Madame President, men and women of the Senate. My recollection was that it was the 117<sup>th</sup> Legislature that shut down and eliminated the Health Care Finance Commission, one of our few victories in past years. It was expensive, as we were concerned at that time about the cost of healthcare. It put a huge regulatory burden on those that were under its purview. The only thing that survived from that is this data collection operation, which the members who contributed data had to pay for. In my opinion, we now see, rising out of the ashes of this simple data collection, another version of the Health Care Finance Commission. If you are concerned about the cost of healthcare, I think you ought to be concerned about this bill. I would urge you to vote against the pending motion. Thank you.

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

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

Senator **BLAIS:** Thank you, Madame President. I request permission to pose a question through the Chair.

**THE PRESIDENT:** The Senator may pose his question.

Senator **BLAIS:** Thank you, Madame President, men and women of the Senate. In my recollection, we had some legislation that mandated that Workers' Comp carriers provide injury only reports to this organization before the Labor Committee last session. My question is, are the Workers' Comp carriers included in the fines that are in this legislation?

**THE PRESIDENT:** The Senator from Kennebec, Senator Blais poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Blais.

Senator **BLAIS**: Thank you, Madame President. Having heard no response to that question, I guess it would be important for me to point out that there is a possibility that Workers' Comp carriers, given that they are mandated to provide these first injury reports to this organization, probably do come under the fines contemplated in this legislation. I would point out that one of the issues that was of great concern in the testimony that we heard before the Labor Committee about providing this type of injury only report from employers is that employers are not necessarily in control of this information on injury only reports. Sometimes an employee may be injured and may not tell their employer about that information for a period of time or may never tell an employer about that injury. I would be very concerned that this legislation may create a circumstance where we would have employers that would be subject to significant fines through no fault of their own. As a consequence of that, I would certainly urge you to oppose the motion that is on the floor. Thank you.

**THE PRESIDENT**: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Brennan to Accept the Majority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#320)**

**YEAS:** Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT - BEVERLY C. DAGGETT

**NAYS:** Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **BRENNAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (S-475) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later (3/31/04) Assigned matter:

Bill "An Act To Change the Name of Township 17, Range 5, WELS, in the Unorganized Territory to Cross Lake" (EMERGENCY)

H.P. 1425 L.D. 1925

Tabled - March 31, 2004, by Senator **STANLEY** of Penobscot

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-812)**, in concurrence

(In House, March 30, 2004, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-812)**.)

(In Senate, March 31, 2004, Report **READ** and **ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "A" (H-812) **READ**.)

Committee Amendment "A" (H-812) **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME**.

On motion by Senator **STANLEY** of Penobscot, Senate Amendment "A" (S-492) **READ** and **ADOPTED**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-812) AND SENATE AMENDMENT "A" (S-492)**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

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The Chair laid before the Senate the following Tabled and Later (3/31/04) Assigned matter:

**SENATE REPORTS** - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Encourage Cost Savings by State Employees"

S.P. 618 L.D. 1686

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-409)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-410)** (5 members)

Tabled - March 31, 2004, by Senator **GAGNON** of Kennebec

Pending - motion by Senator **ROTUNDO** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-409)** Report

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