

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Second Legislature

State of Maine

Daily Edition

First Special Session
April 4, 2005 to June 17, 2005

Pages 411 - 1350

17 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **MAYO** of Sagadahoc to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Amend the Laws Governing the State Planning Office"

H.P. 864 L.D. 1246

Majority - **Ought Not to Pass** (12 members)

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-438)** (1 member)

Tabled - May 23, 2005, by Senator **SCHNEIDER** of Penobscot

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

(In House, May 20, 2005, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 23, 2005, Reports **READ**.)

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

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

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Provide for the Popular Election of the Constitutional Officers and the State Auditor

H.P. 940 L.D. 1357

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-334)** (7 members)

Minority - **Ought Not To Pass** (6 members)

Tabled - May 23, 2005, by Senator **SCHNEIDER** of Penobscot

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

(In House, May 20, 2005, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 23, 2005, Reports **READ**.)

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

Senator **ANDREWS:** Thank you, Madame President and fellow members of the Senate. I would ask you to reject the minority report and go on to pass the Ought to Pass report for the popular election of state officers and the state auditor. I know you've had a paper come across your desk, there are very few states that do not elect these constitutional officers, of which Maine is one. Maine, Alaska, Hawaii, New Hampshire, New Jersey, and Tennessee do not. We heard a lot of testimony on this bill and it was the feeling of the majority report that these are highly critical positions in state government and should not be elected by partisan vote. They have to maintain a non-partisan appearance and duties, so that is the reason for the majority report.

At the request of same Senator, Reports **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you, Madame President. I urge those of you present to please support the minority Ought Not to Pass report. I don't recall a great deal of outcry about the system as it stands today. However, I do have a long history of attempts to try to change the way we do things here in Maine. I think we have an efficient system. I think we are competent to make this decision. The two bodies are adequately elected and therefore this body has a very efficient, and I believe, productive way of electing our constitutional officers. Again, I'd like to remind those of you that it would require a Constitutional Amendment in order to change this. I, personally, do not believe that it is necessary to make this change. Thank you and I hope you will support the minority Ought Not to Pass report.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Clukey.

Senator **CLUKEY:** Thank you, Madame President, ladies and gentlemen of the Senate. I hope you will reject the minority Ought Not to Pass report and support the majority Ought to Pass report. Some citizens in my district are asking for this change because they believe, as I do, that the positions of Secretary of State, State Treasurer, Attorney General, and State Auditor are far too important for the everyday responsibilities of the State of Maine to be appointed in a partisan way with very little attention to qualifications. Candidates for these critical positions should make their case to the voters every four years in a process where voters could examine their qualifications. Voters in Maine would then be able to make decisions based on the candidates' background, education, communication skills, and other attributes in a statewide election.

I first came to the legislature in 1993 and I've suffered through four joint sessions of the legislature where constitutional officers were selected. The process is almost always very partisan, sometimes extremely divisive. It's not a good way to start off a session. Some of the hard feelings that are created during these debates are often lasts several months into the session, if not for the remainder of our time here. It's looked upon as a partisan issue, but I don't feel that it really is. I think there are people on both sides of the aisle that believe this will happen some day. I'd like to challenge the Senate to have the courage and the vision to make it happen on our watch. This is long overdue and I believe it would be of great benefit to our state. I

hope you get a chance to look at the handout that was passed out to you. Thank you, Madame President.

On motion by Senator **ANDREWS** of York, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you, Madame President. I'd like to remind all of you that we do have a clean election system, and assuming that the majority Ought to Pass report will be accepted, this would cost the state quite a bit more additional funding for these positions to also be funded under the Maine Clean Election Act. I also would remind you that right now it is trying times to get funding for those elections that we currently support by the Clean Election Fund. For somebody who supports clean elections, which I do, I urge you to support the minority Ought to Pass report. Thank you.

On motion by Senator **BRENNAN** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence. (Roll Call Ordered)

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

SENATE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Limit the Political Activity of the Members of the Commission on Governmental Ethics and Election Practices"

S.P. 247 L.D. 749

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-223)** (11 members)

Minority - **Ought To Pass as Amended by Committee Amendment "B" (S-224)** (2 members)

Tabled - May 23, 2005, by Senator **GAGNON** of Kennebec

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-223)** Report

(In Senate, May 23, 2005, Reports **READ**.)

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you, Madame President, men and women of the Senate. The reports on this bill are very close. We were brought this bill because the Ethics Commission would like some guidance in what political activities the commission members could engage in. The majority report prohibits anything done by the Ethics Commission unless it is at a county or municipal level or an out-of-state election. It doesn't leave any room for someone to work on the presidential campaign or

congressional campaign. The minority report does that. The reason we brought up the minority report is because you have a constitutional right to political free speech and the fact that you join the commission to do this on behalf of the citizens of the State of Maine shouldn't preclude you from that. The reason we felt that these two should be allowed is that they are not under the purview of the commission. The purview of the commission is our clean election. It doesn't have anything to do with what is covered already by the Federal Election Commission and that has its own watchdog kind of thing going on. This allows the members to participate more fully in the process while still doing their job adequately with the commission. I would ask you to please reject the majority report and accept the minority report, remembering that this is a bi-partisan commission and we will be limiting the activities of your fellow members of your caucus as well as mine. Thank you.

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

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. I hope that you will support the pending motion. The majority of the committee did feel as though there were issues from the last campaign cycle that caused some problems. There was a member of the Ethics Commission that had been participating in one of the presidential races that caused quite a bit of difficulty within the commission and also within the parties. That is really what brought the bill forward. It had to do with activity within the presidential campaign. Keep in mind that while the federal election laws are related to these congressional and presidential races, they are also packs that can be created for the election of certain candidates, whether they are congressional candidates or presidential candidates, in which members of the commission may participate in under current law. It was felt by the committee that once you are on the Ethics Commission you should try to keep your politics limited since you will be making rulings that could, potential, be very significant rulings for or against particular candidates and parties. That was the intent of the majority of the committee. I hope you will support that cause. Thank you.

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

Senator **WESTON:** Thank you, Madame President. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose her question.

Senator **WESTON:** Thank you, Madame President. I would like to have anyone who can answer, the original bill that was brought forward, I believe by the commission itself, could someone detail what they actually were asking for in the original bill?

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

Senator **GAGNON:** Thank you, Madame President. The original bill was not brought forward by the commission, I brought it forward on behalf of the commission. The original bill would have

eliminated any involvement in any political activity at all. The majority report has carved out local races and out-of-state races, which they cannot make decisions on. Those are the only two minor carve outs, local races and out-of-state elections.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you, Madame President. Just briefly, the commission did offer a compromise for us to work on in the committee. It did recognize that there were certain roles that the people could play. The first testimony from the Ethics Commission at the hearing took no position on the bill. If it was brought forward on behalf of the commission, they certainly didn't endorse it at the hearing. They did offer an amendment to help us define it. What they were looking for was a definition, not a prohibition. Please keep that in mind.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Gagnon to Accept the Majority Ought to Pass 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 (#163)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBSINS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

ABSENT: Senator: ROTUNDO

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **GAGNON** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-223)** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-223) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine To Provide for the Popular Election of the Constitutional Officers and the State Auditor

H.P. 940 L.D. 1357

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-334)** (7 members)

Minority - **Ought Not To Pass** (6 members)

Tabled - May 23, 2005, by Senator **BRENNAN** of Cumberland

Pending - motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence (Roll Call Ordered)

(In House, May 20, 2005, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 23, 2005, Reports **READ**.)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#164)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, HOBBSINS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, SCHNEIDER, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, GAGNON, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, STRIMLING, TURNER, WESTON, WOODCOCK

ABSENT: Senator: ROTUNDO

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence, **FAILED**.

Senator **GAGNON** of Kennebec moved the Senate **RECONSIDER** whereby it **FAILED** to **ACCEPT** the Minority **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 **RECONSIDER** whereby the Senate **FAILED** to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence