

MAINE STATE LEGISLATURE

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House Legislative Record
of the
One Hundred and Eighteenth Legislature
of the
State of Maine

Volume II

First Special Session

May 16, 1997 - June 20, 1997

Second Regular Session

January 7, 1998 - March 18, 1998

ONE HUNDRED AND EIGHTEENTH LEGISLATURE
SECOND REGULAR SESSION
8th Legislative Day
Wednesday, January 28, 1998

The Speaker resumed the Chair.

The House met according to adjournment and was called to order by the Speaker.

Prayer by Reverend David E. Avery, First Congregational Church, Eliot.

Pledge of Allegiance.

Doctor of the day, Craig Curtis, M.D., Bangor.

The Journal of Monday, January 26, 1998 was read and approved.

The following items were taken up out of order by unanimous consent:

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Joint Order H.P. 148

Representative KERR from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Meet Maine National Guard Payrolls Related to the Ice Storms of 1998" (EMERGENCY)

(H.P. 1549) (L.D. 2178)

Reporting **Ought to Pass** pursuant to Joint Order H.P. 148.

Report was **READ**.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Madam Speaker, Men and Women of the House. Just to give you a little summary of LD 2178, this is a bill that deals with the ice storm. As we all know, the ice storm has created some havoc throughout the state and it actually depleted the National Guard's budget. What this bill would do is allow the payment to the tune of \$785,000 which will be taken from the Rainy Day Fund, which will provide 100 percent of the incremental payroll costs. When the federal government reimburses the state for 75 percent of the cost or approximately \$588,750, that amount will be re-deposited to the Rainy Day Fund. The net cost to the Rainy Day Fund will be about \$196,000. Although not technically an authorized use within the statutory definition of the Rainy Day Fund, the Appropriations Committee found this issue to be such a compelling issue that we had to take the money from the Rainy Day Fund. I would urge your support of this piece of legislation. Thank you.

Report was **ACCEPTED**.

The Bill **READ ONCE**.

Under suspension of the rules the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED** and sent up for concurrence. **ORDERED SENT FORTHWITH**.

Ought to Pass Pursuant to Joint Order H.P. 148

Representative KERR from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act Concerning Disaster Assistance in 1998" (EMERGENCY)

(H.P. 1550) (L.D. 2179)

Reporting **Ought to Pass** pursuant to Joint Order H.P. 148.

Report was **READ**

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Madam Speaker, Men and Women of the House. LD 2179 is also a bill that came before the Appropriations Committee and, frankly, I apologize for this bill taking so long to come out of the committee. I must explain why. We had two other proposals to fund this Disaster Assistance Loan Program that came before the Appropriations Committee. They both totaled \$2 million. One was in a direct appropriation from the General Fund and the other was \$2 million that would be transferred from the Rainy Day Fund. We could not reach a unanimous committee Report on this and that is why this proposal is before you. Maine businesses face a crisis. Many needed emergency funds to recover from the ice storm, but can't get bank loans. Federal disaster aid is weeks and sometimes months away. Delay in getting funds is creating even a further disaster to these small businesses. That is why although many of us felt that taking the money from the Economic Program Recovery Fund and from a bond that was passed some years ago was not what we wanted to do, but to reach a consensus and unanimous report and also keeping our main objective to help these small businesses and not create a further crisis, this bill amends the Economic Recovery Program to allow disaster assistance loans of up to \$10,000 should FAME need additional money in the Economic Recovery Program. They have access to the Rainy Day Fund and then the Rainy Day Fund would receive all loan repayments. The reason why I say they have access to the Rainy Day Fund is because FAME has indicated that other large firm may need access to this fund. That is why we wanted to make sure that if, in fact, that does happen that they will be able to access the Rainy Day Fund. Thank you very much and, again, I appreciate your support.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Madam Speaker, Men and Women of the House. I just wish to rise to support the comments made by Representative Kerr. It was a complete consensus by the committee members that this proposal should be funded at the \$2 million level to help these businesses get beyond the disaster that took Maine in this past month. The differences on the mechanisms for that funding was resolved in the committee process and we can now move forward without any impediments to this program. Thank you.

The report was **ACCEPTED**.

The Bill **READ ONCE**.

Under suspension of the rules the Bill was given its **SECOND READING** without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED** and sent up for concurrence. **ORDERED SENT FORTHWITH**.

SENATE PAPERS

Bill "An Act to Provide for the Licensing of Farmstead Cheese"

(S.P. 802) (L.D. 2172)

Came from the Senate, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed.

REFERRED to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** in concurrence.

Resolve, to Ensure the Safety of Maine Children with Mental Health Problems

(S.P. 799) (L.D. 2156)

Came from the Senate, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** in concurrence.

Resolve, Compensating the Estate of Barbara Maxfield for Claims against the State

(S.P. 800) (L.D. 2157)

Came from the Senate, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.

REFERRED to the Committee on **LEGAL AND VETERANS AFFAIRS** in concurrence.

**Pursuant to Statutes
Revisor of Statutes**

Report of the **Revisor of Statutes**, pursuant to the Maine Revised Statutes, Title 1, section 94 asks leave to report that the accompanying Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (EMERGENCY)

(S.P. 803) (L.D. 2173)

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

Came from the Senate, Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **JUDICIARY** and ordered printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **JUDICIARY** in concurrence.

Non-Concurrent Matter

Bill "An Act to Protect Victims of Domestic Abuse from Eviction

(H.P. 1491) (L.D. 2090)

REFERRED to the Committee on **LEGAL AND VETERANS AFFAIRS** in the House on January 20, 1998.

Came from the Senate **REFERRED** to the Committee on **JUDICIARY** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

COMMUNICATIONS

The Following Communication: (S.P. 801)

118TH MAINE LEGISLATURE

January 21, 1998

Senator Mary Cathcart
Representative Pamela Hatch
Chairpersons
Joint Standing Committee on Labor
118th Legislature
Augusta, Maine 04333

Dear Senator Cathcart and Representative Hatch:

Please be advised that Governor Angus S. King, Jr. has nominated Peter M. Leslie of Cape Elizabeth for reappointment as a member of the Maine State Retirement System Board of Trustees.

Pursuant to Title 5, M.R.S.A. §17102, this nomination will require review by the Joint Standing Committee on Labor and confirmation by the Senate.

Sincerely,

S/Mark W. Lawrence
President of the Senate
S/Elizabeth H. Mitchell
Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **LABOR**.

READ and **REFERRED** to the Committee on **LABOR** in concurrence.

The Following Communication: (S.C. 485)

**THE SENATE OF MAINE
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

January 26, 1998

The Honorable Elizabeth H. Mitchell
Speaker of the House
118th Maine Legislature
2 State House Station
Augusta, Maine 04333
Dear Speaker Mitchell:

In accordance with Joint Rule 506, please be advised the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Inland Fisheries and Wildlife the nominations of Millard A. Wardwell of Penobscot and F. Dale Speed of Princeton for reappointment to the Inland Fisheries and Wildlife Advisory Council.

Thank you for your attention to this matter.

Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

READ and **ORDERED PLACED ON FILE**.

**PETITIONS, BILLS AND RESOLVES REQUIRING
REFERENCE**

The following Bills were received and upon the recommendation of the Committee on Reference of Bills were **REFERRED** to the following Committees, ordered printed and sent up for Concurrence:

HEALTH AND HUMAN SERVICES

Bill "An Act to Require Alternate Sources of Power for Elderly Housing"

(H.P. 1548) (L.D. 2177)

Presented by Representative GAGNE of Buckfield.
Cosponsored by Senator FERGUSON of Oxford and Representatives: BERRY of Livermore, DESMOND of Mapleton, FARNSWORTH of Portland, FULLER of Manchester, GERRY of Auburn, JONES of Greenville, NASS of Acton, SHIAH of Bowdoinham.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

MARINE RESOURCES

Bill "An Act Concerning Sea Urchin Management"

(H.P. 1547) (L.D. 2176)

Presented by Representative ETNIER of Harpswell.
Submitted by the Department of Marine Resources pursuant to Joint Rule 204.

UTILITIES AND ENERGY

Bill "An Act to Remove the Debt Limit of the Limerick Water District" (EMERGENCY)

(H.P. 1546) (L.D. 2175)

Presented by Representative McALEVEY of Waterboro.

Cosponsored by Senator LIBBY of York.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Pursuant to Resolve

Commission to Study Insurance Fraud

Representative O'NEIL for the **Commission to Study Insurance Fraud** pursuant to Resolve 1997, chapter 77 asks leave to report that the accompanying Bill "An Act to Implement the Recommendations of the Commission to Study Insurance Fraud"

(H.P. 1545) (L.D. 2174)

Be **REFERRED** to the Committee on **BANKING AND INSURANCE** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **BANKING AND INSURANCE** and ordered printed pursuant to Joint Rule 218.

Sent up for concurrence.

By unanimous consent, all reference matters requiring Senate concurrence having been acted upon were **ORDERED SENT FORTHWITH**.

ORDERS

On motion of Representative GAMACHE of Lewiston, the following House Order: (H.O. 36)

ORDERED, that Representative Martha A. Bagley of Machias be excused January 20 and January 21 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Duane J. Belanger of Wallagrass be excused January 12 and January 15 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Randall L. Berry of Livermore be excused January 8, January 12 and January 15 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Thomas Bull of Freeport be excused January 8, January 12 and January 15 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Joseph G. Carleton, Jr., of Wells be excused January 21 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Paul Chartrand of Rockland be excused January 12 and January 20 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Lucien A. Dutremble of Biddeford be excused January 20 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Walter R. Gooley of Farmington be excused January 12 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Henry L. Joy of Crystal be excused January 8, January 15 and January 26 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Richard A. Nass of Acton be excused January 12 and January 15 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Julie Ann O'Brien of Augusta be excused January 8 and January 15 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Laura Sanborn of Alton be excused January 8, January 12 and January 15 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Lois A. Snowe-Mello of Poland be excused January 8 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative G. Paul Waterhouse of Bridgton be excused January 8 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Edgar Wheeler of Bridgewater be excused January 20, January 21 for personal reasons.

READ and **PASSED**.

REPORTS OF COMMITTEE

Change of Committee

Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Exempt Nonprofit Ambulance and Fire Emergency Services from the State's Sales Tax" (Emergency)

(S.P. 189) (L.D. 607)

Reporting that it be **REFERRED** to the Committee on **TAXATION**.

Came from the Senate with the Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **TAXATION**.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **TAXATION** in concurrence.

Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Implement the Recommendations of the Judicial Compensation Commission"

(S.P. 322) (L.D. 1062)

Reporting that it be **REFERRED** to the Committee on **JUDICIARY**.

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **JUDICIARY**.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **JUDICIARY** in concurrence.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following item appeared on the Consent Calendar for the First Day:

(H.P. 1389) (L.D. 1942) Resolve, Authorizing the Transfer of Certain State Park Property Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass**.

There being no objections, the above item was ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

CONSENT CALENDAR

Second Day

In accordance with House Rule 519, the following item appeared on the Consent Calendar for the Second Day:

(H.P. 1365) (L.D. 1915) Bill "An Act to Amend the Law Governing the Filing of Municipal Campaign Reports"

On motion of Representative KONTOS of Windham, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

BILLS IN THE SECOND READING

House

Bill "An Act to Open a Discount State Liquor Store in Calais" (H.P. 277) (L.D. 341)

Was reported by the Committee on **Bills in the Second Reading** and read the second time.

On motion of Representative KERR of Old Orchard Beach, was **SET ASIDE**.

The same Representative **PRESENTED House Amendment "D" (H-778)**, which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Madam Speaker, Men and Women of the House. What I just did was just added a fiscal note to this bill. Thank you.

House Amendment "D" (H-778) was **ADOPTED**.

Representative DRISCOLL of Calais **PRESENTED House Amendment "E" (H-779)**, which was **READ** by the Clerk and **ADOPTED**.

Representative STEDMAN of Hartland requested a roll call on **PASSAGE TO BE ENGROSSED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Passage to be Engrossed as amended by House Amendment "D" (H-778) and House Amendment "E" (H-779). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 399

YEA - Ahearne, Bagley, Baker, Belanger DJ, Belanger IG, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bryant, Bull, Bunker, Cameron, Campbell, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Dexter, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jones SL, Kerr, Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, Lindahl, Lovett, Mailhot, Mayo, McElroy, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Ott, Paul, Perry, Pieh, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Spear, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, True, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Winglass, Winn, Winsor, Wright, Madam Speaker.

NAY - Barth, Berry DP, Bodwell, Bragdon, Buck, Bumps, Carleton, Chick, Cianchette, Cross, Fisk, Foster, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Lane, Layton, MacDougall, Mack, Madore, Marvin, McAlevey, McKee, Meres, Murphy, Nass, Nickerson, O'Brien, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Snowe-Mello, Stedman, Taylor, Tobin, Treadwell, Underwood, Vedral, Waterhouse.

ABSENT - Clukey, Donnelly, Jones KW, Kane, Lemont, Poulin, Skoglund, Wheeler EM.

Yes, 98; No, 45; Absent, 8; Excused, 0.

98 having voted in the affirmative and 45 voted in the negative, with 8 being absent, the Bill was **PASSED TO BE ENGROSSED as amended by House Amendment "D" (H-778) and House Amendment "E" (H-779)** and sent up for concurrence.

**ORDERS OF THE DAY
TABLED AND TODAY ASSIGNED**

Joint Order **RELATIVE TO HEALTH INSURANCE COVERAGE FOR PROSTATE CANCER SCREENING**

(S.P. 762)

- In Senate, Senate **INSISTED** on its former action whereby the Joint Order was **PASSED in NON-CONCURRENCE**.

- In House, **READ** and **FAILED PASSAGE** on January 20, 1998.

TABLED - January 26, 1998 by Representative SAXL of Bangor.

PENDING - Motion of same Representative to **RECEDE** and **CONCUR**.

On motion of Representative SAXL of Bangor, **TABLED** pending her motion to **RECEDE** and **CONCUR** and specially assigned for Monday, February 2, 1998.

Bill "An Act Relating to the State Valuation of the Town of Wiscasset" (EMERGENCY)

(S.P. 758) (L.D. 2065)

- In Senate, **REFERRED** to the Committee on **TAXATION**.

(Committee on **TAXATION** suggested)

TABLED - January 26, 1998 by Representative TRIPP of Topsham.

PENDING - **REFERENCE** in concurrence.

On motion of Representative TRIPP of Topsham, the Bill and all accompanying papers were **INDEFINITELY POSTPONED in NON-CONCURRENCE** and sent up for concurrence.

The following items were taken up out of order by unanimous consent:

SENATE PAPERS

The following Joint Order: (S.P. 804)

ORDERED, the House concurring, that when the House and Senate Adjourn they do so until Monday, February 2, 1998, at 10:00 o'clock in the morning.

Came from the Senate, **READ** and **PASSED**.

READ and **PASSED**, in concurrence.

ENACTORS

Emergency Measure

An Act to Meet Maine National Guard Payrolls Related to the Ice Storms of 1998

(H.P. 1549) (L.D. 2178)

Reported by the Committee on **Engrossing Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary a total was taken. 130 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

ENACTORS

Emergency Measure

An Act Concerning Disaster Assistance in 1998

(H.P. 1550) (L.D. 2179)

The **SPEAKER**: The Chair recognizes the Representative from Buxton, Representative Vedral.

Representative **VEDRAL**: Madam Speaker, Men and Women of the House. I rise to try to clarify a point of confusion.

The bill that is before us, LD 2179 has this been amended out of committee?

The SPEAKER: The Representative from Buxton, Representative Vedral has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Madam Speaker, Men and Women of the House. I would say that it has been amended because the document you have in front of you has been changed in terms of the funding mechanism. The mechanism in that document as it appear on your desk was a \$2 million allocation from the Rainy Day Fund. The funding mechanism is going to be \$2 million, but it is going to be administered through the Revolving Loan Fund of FAME and if excess funds are required, once that fund is depleted then there will be resources available through the Rainy Day Fund. That is a little different than what you see before you, Representative. I don't know if that answers your question. Initially the \$2 million, if it were coming from the Rainy Day Fund would have had to have been approved by the Governor. I think that is the focus of your question.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Vedral.

Representative VEDRAL: Madam Speaker, Men and Women of the House. This may again be due to my ignorance on this, but the bill that I have in front of me, LD 2179, indicates that the Chief Executive Officer is authorized to act on behalf of the authority and may approve loans under this section. I wonder if that is in the bill that we are currently voting on.

The SPEAKER: The Representative from Buxton, Representative Vedral has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Thank you Madam Speaker. To the best of my knowledge, the answer to that would be no. It is not in the bill that we are voting on.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Vedral.

Representative VEDRAL: Madam Speaker, would it be possible to get an accurate copy of the bill in order to know what I am voting on. If this is not in the bill that we are considering.

The SPEAKER: The Chair would respond that the Representative has the only copy of the bill. It is accurate. As to whether or not you support the substance is up to you. This is the bill that the unanimous report of the committee reflects.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Winsor.

Representative WINSOR: Madam Speaker, Men and Women of the House. To answer the Representative's question, I believe what he is referring to is line 44 on page 22. The Chief Executive Officer referred in this section is the Chief Executive Officer of FAME. The whole statute involves changes in the authority of the Chief Executive Office of FAME. That is the intent of that bill and that is what I believe it says. Thank you.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Vedral.

Representative VEDRAL: Madam Speaker, Men and Women of the House. That does address my questions.

Reported by the Committee on **Engrossing Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary a total was taken. 131 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

On motion of Representative SAVAGE of Union, the House adjourned at 4:31 p.m., until 10:00 a.m., Monday, February 2, 1998.