

MAINE STATE LEGISLATURE

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

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beginning January 8, 2014

beginning at Page 1544

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

In Senate Chamber
Tuesday
January 21, 2014

Senate called to order by President Justin L. Alfond of
Cumberland County.

Prayer by Senator Troy D. Jackson of Aroostook County.

SENATOR JACKSON: Lord, thank You for all You do for me. Thank You for the provisions in my life. You have given me so much that in some ways I feel spoiled by You. I feel comforted and well cared for by You. I cannot imagine my life in any other way. You have blessed me beyond what I could have imagined in spite of me not deserving all these blessings. I thank You for that. Sometimes I feel like I take my privilege for granted and I know that I need to do more for those that don't have what I have in my life. I know that there are those that don't have a roof over their heads. I know that there are those seeking out jobs and live in fear of losing everything. There are poor and disabled. There are lonely people and desperate people that are in need of my compassion, yet sometimes I forget about them. Lord, I come before You today to ask You for a reminder that I cannot just dismiss the poor and downtrodden of the world. You asked us to care for our fellow man. You asked that we care for widows and orphans. You tell us throughout Your word about compassion and that there are those in such great need of our help that we should not ignore them. Yet I feel blind at times. I get so wrapped up in my own life that those people come so easy to dismiss, almost invisible. Lord, please open my eyes. Please let me see those around me that are in need of my compassion. Compel me to listen to them, to hear their needs. Give me the heart to be interested in their troubles and provide for a means to help them. I want to be compassionate. I want to be like You, that had so much compassion for the world. I want to have that kind of a heart for the world that I would do all that I can to be a voice for the oppressed, a giver to the poor, and encouragement for the disabled. Lord, let me be the voice of reason to those around me, calling on them to show their compassion. Let me be the example of You to them. Let me be the light that they see so that You can come through. When we see someone in need lay that person on my heart. Open the hearts of those around me to create a better world by providing for those that cannot care for themselves. Lord, I desire to be so more compassionate. I want to be aware of those in need. I want to have the means to help. Let me give to those that are not as privileged as I. Give me the confidence in my actions so that I can give back. Let me be open to my imagination so that the creativity I may need can flow easily and not be suppressed by doubt. Let me be what others need, Lord. This is all that I ask. Use me as a vessel to be compassionate to the world in need. Amen.

Pledge of Allegiance led by Senator Emily Ann Cain of Penobscot County.

Reading of the Journal of Thursday, January 16, 2014.

Doctor of the day, Kenneth Christian, MD of Holden.

PAPERS FROM THE HOUSE

House Papers

Resolve, Directing the Director of the Bureau of Parks and Lands To Convey the Chesuncook Community Church Building in Chesuncook Township to the Greenville Union Evangelical Church

H.P. 1240 L.D. 1732

Committee on **STATE AND LOCAL GOVERNMENT** suggested and ordered printed.

Comes from the House, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**.

On motion by Senator **LACHOWICZ** of Kennebec, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed, in concurrence.

Bill "An Act To Increase the Period of Time for the Calculation of a Prior Conviction for Operating under the Influence"

H.P. 1237 L.D. 1729

Comes from the House, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

On motion by Senator **GERZOFSKY** of Cumberland, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed, in concurrence.

Bill "An Act To Ensure Transparency and Accountability in Decisions by the Department of Environmental Protection"

H.P. 1239 L.D. 1731

Committee on **ENVIRONMENT AND NATURAL RESOURCES** suggested and ordered printed.

Comes from the House, with the Bill and accompanying papers **INDEFINITELY POSTPONED**.

On motion by Senator **BOYLE** of Cumberland, Bill and accompanying papers **INDEFINITELY POSTPONED**, in concurrence.

Bill "An Act To Improve Degree and Career Attainment for Former Foster Children"

H.P. 1206 L.D. 1683

Comes from the House, REFERRED to the Committee on HEALTH AND HUMAN SERVICES and ordered printed.

On motion by Senator CRAVEN of Androscoggin, REFERRED to the Committee on HEALTH AND HUMAN SERVICES and ordered printed, in concurrence.

Bill "An Act To Create a Cold Case Homicide Unit in the Department of the Attorney General"

H.P. 1242 L.D. 1734

Comes from the House, REFERRED to the Committee on JUDICIARY and ordered printed.

On motion by Senator VALENTINO of York, REFERRED to the Committee on JUDICIARY and ordered printed, in concurrence.

Bill "An Act Regarding the Registration of Motor Vehicles of Deployed Members of the National Guard or Reserves of the United States Armed Forces"

H.P. 1241 L.D. 1733

Comes from the House, REFERRED to the Committee on TAXATION and ordered printed.

On motion by Senator HASKELL of Cumberland, REFERRED to the Committee on TAXATION and ordered printed, in concurrence.

**Pursuant to Resolve
Family Law Advisory Commission**

The Family Law Advisory Commission, pursuant to Resolve, chapter 12, section 2 asked leave to report that the accompanying Resolve, Extending the Date by Which the Family Law Advisory Commission Must Report on Its Study of the Uniform Parentage Act and Other Similar Laws and Proposals
H.P. 1243 L.D. 1737

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

Report READ.

On motion by Senator VALENTINO of York, TABLED until Later in Today's Session, pending ACCEPTANCE OF THE REPORT, in concurrence.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 637

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

January 16, 2014

The Honorable Justin L. Alford
President of the Senate of Maine
126th Maine State Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the Maine Legislature, the Joint Standing Committee on Agriculture, Conservation and Forestry has had under consideration the nomination of Elizabeth Fitzgerald of Machiasport, for appointment to the Maine Land Use Planning Commission.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	3	Vitelli of Sagadahoc, Boyle of Cumberland, Sherman of Aroostook
	Representatives	7	Dill of Old Town, Cray of Palmyra, Hickman of Winthrop, Marean of Hollis, Noon of Sanford, Saucier of Presque Isle, Timberlake of Turner
NAYS		0	
ABSENT		3	Rep. Black of Wilton, Rep. Jones of Freedom, Rep. Kent of Woolwich

Ten members of the Committee having voted in the affirmative and zero in the negative, it was the vote of the Committee that the nomination of Elizabeth Fitzgerald of Machiasport, for appointment to the Maine Land Use Planning Commission be confirmed.

Signed,

S/Eloise A. Vitelli
Senate Chair

S/James F. Dill
House Chair

READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Burns.

Senator **BURNS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I just wanted to briefly speak about this nomination. I am so pleased that Ms. Fitzgerald had such strong support in the committee for this position. I'll tell you very candidly, I'm not used to calling her Elizabeth. I've never heard her called Elizabeth. It's Betsy. I've known her family most of my life, growing up with them. She's our County Clerk. She is a Code Enforcement Officer for many places. She does a remarkable job in Washington County and she's going to be a great asset for the Land Use Regulation Planning Commission and I'm very pleased at this appointment. Thank you, Mr. President.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 126th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#386)

YEAS: Senators: None

NAYS: Senators: BOYLE, BURNS, CAIN, CLEVELAND, COLLINS, CRAVEN, CUSHING, DUTREMBLE, FLOOD, GERZOFKY, GRATWICK, HAMPER, HASKELL, HILL, JACKSON, JOHNSON, KATZ, LACHOWICZ, LANGLEY, MASON, MAZUREK, MILLETT, PATRICK, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, TUTTLE, VALENTINO, VITELLI, WHITTEMORE, WOODBURY, YOUNGBLOOD, THE PRESIDENT - JUSTIN L. ALFOND

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Elizabeth Fitzgerald** of Machiasport for appointment to the Maine Land Use Planning Commission was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

The Following Communication: S.C. 635

**STATE OF MAINE
OFFICE OF THE STATE AUDITOR
66 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0066**

January 15, 2014

Honorable Paul R. LePage
Governor of Maine

Honorable Justin L. Alfond
President of the Senate

Honorable Mark W. Eves
Speaker of the House

I am pleased to submit the State Auditor's Fraud Hotline Semiannual Report for the period of July 1, 2013 to December 31, 2013.

A summary of our complaints is attached.

Sincerely,

S/Pola A. Buckley, CPA, CISA
State Auditor

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: H.C. 305

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

January 10, 2014

The 126th Legislature of the State of Maine
State House
Augusta, Maine

Dear Honorable Members of the 126th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I hereby veto LD 386, "An Act To Reduce Tobacco-related Illness and Lower Health Care Costs in MaineCare."

This bill goes beyond the provisions of the federal Affordable Care Act, under which Maine already provides tobacco cessation coverage for MaineCare members, and precludes certain cost sharing, such as co-pay, for pregnant women. This bill would eliminate all forms of cost sharing for all MaineCare members. I am supportive of MaineCare members taking steps to stop smoking; however I believe that cost sharing is an essential component of maintaining fiscal responsibility in our welfare programs as well as improving the success rate of welfare programs generally. Without a cost share component, this bill expands welfare unchecked and does nothing to move us in the direction of a sound fiscal house. This bill presents an opportunity to make clear that Maine lawmakers are ready and able to make tough choices on spending and entitlement programs, and I call on the legislature to find the courage to take that step.

For these reasons, I return LD 386 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The accompanying Bill:

An Act To Reduce Tobacco-related Illness and Lower Health Care Costs in MaineCare

H.P. 261 L.D. 386

Comes from the House, 131 members having voted in the affirmative and 10 members having voted in the negative, the veto of the Governor was overridden and it was the vote of the House that the Bill become law notwithstanding the objections of the Governor.

The President laid before the Senate the following: "Shall this Bill become law notwithstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote was taken by the Yeas and Nays.

A vote of yes was in favor of the Bill.

A vote of no was in favor of sustaining the veto of the Governor.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#387)

YEAS: Senators: BOYLE, CAIN, CLEVELAND, COLLINS, CRAVEN, CUSHING, DUTREMBLE, FLOOD, GERZOFKY, GRATWICK, HAMPER, HASKELL, HILL, JACKSON, JOHNSON, KATZ, LACHOWICZ, LANGLEY, MASON, MAZUREK, MILLETT, PATRICK, PLUMMER, SAVIELLO, SHERMAN, TUTTLE, VALENTINO, VITELLI, WOODBURY, YOUNGBLOOD, THE PRESIDENT - JUSTIN L. ALFOND

NAYS: Senators: BURNS, THIBODEAU, THOMAS, WHITEMORE

31 Senators having voted in the affirmative and 4 Senators having voted in the negative, and 31 being more than two-thirds of the members present and voting, it was the vote of the Senate that the veto of the Governor be **OVERRIDDEN** and the Bill become law notwithstanding the objections of the Governor.

REPORTS OF COMMITTEES

House

Change of Committee

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Ensure Efficiency in the Unemployment Insurance System"

H.P. 482 L.D. 690

Reported that the same be **REFERRED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT**.

Report **READ**.

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

Senate

Change of Committee

Senator **HILL** for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Establish the High-efficiency Biomass Pellet Boiler Rebate Program and the Home Heating Conversion Fund"

S.P. 542 L.D. 1468

Reported that the same be **REFERRED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY**.

Report **READ**.

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

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

Senate at Ease.

Senate called to order by the President.

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 Assigned (1/8/14) matter:

Bill "An Act To Authorize a General Fund Bond Issue To Provide Funds To Develop Lobster Processing Capacity in the State"
S.P. 675 L.D. 1709

Tabled - January 8, 2014, by Senator **HILL** of York

Pending - **REFERENCE**

(Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and ordered printed.)

On motion by Senator **HILL** of York, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (1/16/13) matter:

Bill "An Act To Protect the Integrity of Funding for Harness Racing Purses" (EMERGENCY)

H.P. 1203 L.D. 1680

Tabled - January 16, 2014, by Senator **TUTTLE** of York

Pending - **REFERENCE**

(Committee on **VETERANS AND LEGAL AFFAIRS** suggested and ordered printed.)

(In House, January 14, 2014, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**.)

On motion by Senator **TUTTLE** of York, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed, in concurrence.

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

Off Record Remarks

RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

PAPERS FROM THE HOUSE

Joint Order

An Expression of Legislative Sentiment recognizing:

The Honorable John David Kennedy, of North Yarmouth, an at-large judge of the Maine District Court, on the occasion of his retirement after a distinguished career serving the people and the State of Maine. Judge Kennedy, the recipient of the 2013 Judicial Branch Career Performance Award, received his bachelor's degree from the College of the Holy Cross in 1973 and his law degree from Boston University School of Law in 1976. He also completed postgraduate training in negotiation theory and mediation at the Program on Negotiation at Harvard Law School in 1996. Judge Kennedy was an attorney in private practice in Portland and served as Executive Director of Pine Tree Legal Assistance before serving as the Revisor of Statutes, heading the office that is the Legislature's central production office for all legislative instruments and that produces and maintains the Laws of Maine. Judge Kennedy became part of the judicial branch when he served as a Case Management Officer in the Family Division of the Maine District Court and as a Regional Court Administrator. In 2002, he was appointed as a Judge of the Maine District Court and regularly sat on the West Bath District Court. He is also an adjunct faculty member at the University of Maine School of Law. We send our appreciation to Judge Kennedy for his many years of service to the State and his dedication to the law. We congratulate him on his retirement and send him our best wishes;

HLS 703

Comes from the House, **READ** and **PASSED**.

READ.

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

Senator **WOODBURY:** Thank you Mr. President. Men and women of the Senate, I'm here to recognize the retirement of Judge David Kennedy from the Maine District Court. I've known and admired Judge Kennedy for close to 20 years and throughout his service as a judge. Frankly, it's impossible for me to imagine someone with a better temperament and compassionate good judgment to do this work, particularly in a family court. One of my regrets over the past few years is that I never visited the court to watch Judge Kennedy in action. I'm sure he was exceptional. I know he was exceptional. David is also known and loved by many in this building from his time as being Revisor of Statutes. I want thank Judge Kennedy for his many contributions to the state of Maine, congratulate him on his retirement, and wish him the very best in the future. Thank you.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, I have an advantage over my good friend, Senator Woodbury, in that I have seen Judge Kennedy in action on many occasions. He has had quite a career, as you can see by looking at the sentiment. He's a graduate of Holy Cross. He went to the best law school in the United States, Boston University School of Law. Apparently he didn't do very well because he went on to get some further training at Harvard Law School. When you look at his legal history; having been in private practice, served as the Director of Pine Tree Legal Assistance, and, as Senator Woodbury pointed out, in this building as Revisor of Statutes. Then he was part of the early wave of case management officers who were a new level of judicial officer to really deal with families in crisis, those going through divorce and other litigation. He did it with great aplomb. Since 2002 he has been a judge on the Maine District Court. I don't know how he found time, but he also was a faculty member at the Law School. As someone who sees thousands of lawyers in Maine, I really have a great admiration for his rich legal career, and particularly his work in the courtroom, where he hasn't always made the right decisions a few times, in my perspective. Other than that, he has shown real compassion, civility, and a big heart. I congratulate Judge Kennedy on his career, on his retirement from the bench, and I know that he'll continue to contribute to the legal system in Maine in other ways in the future. Thank you, Mr. President.

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

Senator **HASKELL:** Thank you very much Mr. President. I'd like to add my voice to those who have talked about Judge Kennedy. I haven't come in contact with him in his capacity now, but I certainly did during that time that I served in the other Body in his role here in the State House in the Revisor's Office. I came to admire, respect, and actually like the guy. He's the nice kind of person that you'd want to work with any time. I congratulate him on his extraordinary career and I also wonder what the next chapter is going to be like with a background like that, with a

history and with a commitment to public service that Judge Kennedy has shown us. It's going to be fascinating to see where he lands next. I wish all my best to him.

PASSED, in concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the chamber the Honorable John David Kennedy of North Yarmouth. Will he please rise and accept the warm greetings of the Maine State Senate.

Senator **HASKELL** of Cumberland was granted unanimous consent to address the Senate off the Record.

Senator **CUSHING** of Penobscot was granted unanimous consent to address the Senate off the Record.

Senator **KATZ** of Kennebec was granted unanimous consent to address the Senate off the Record.

Senator **JACKSON** of Aroostook was granted unanimous consent to address the Senate on the Record.

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, a couple of notes and comments to be clear. Twenty minutes before session started I was asked to do the prayer. Not knowing the protocol, I want to be clear that it wasn't my great words but Kelly Mahoney actually was the author of the prayer. I was very glad to read it this morning.

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

On motion by Senator **JACKSON** of Aroostook, **ADJOURNED** to Thursday, January 23, 2014, at 10:00 in the morning.