

# MAINE STATE LEGISLATURE

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**Senate Legislative Record**  
**One Hundred and Eighteenth Legislature**  
**State of Maine**

**Volume 2**

**First Special Session (Continued)**  
**May 20, 1997 to June 20, 1997**

**First Confirmation Session**  
**October 6, 1997**

**Second Regular Session**  
**January 7, 1998 to March 24, 1998**

**Pages 981 - 1977**

STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
SECOND REGULAR SESSION  
JOURNAL OF THE SENATE

In Senate Chamber  
Tuesday  
February 17, 1998

Senate called to order by President Mark W. Lawrence of York County.

Prayer by Rabbi Carolyn Braun of Temple Beth El in Portland.

**RABBI CAROLYN BRAUN:** God of all creation, You, who are the color of water and the essence of diversity. Who sees each one of us for who we are and what we might be, let Your presence dwell with these women and men of the Senate, as they strive to represent the people of Maine. Grant them the wisdom to see the many sides of an issue, and to realize that there is not one truth, but many truths. Help them to find the right path, or a right path, though that path may be hidden from sight. Give them the courage and the strength to speak out against injustice, to do what is fair, and to honor the dignity of all people, for each one of us was created in the image of God.

And finally, in the words of the Prophet Micah, "You have been told what is good and what God requires of you, to act justly, to love kindness, and to walk humbly with your God." Rabbi Elazar interpreted these words: "To act justly," means to act in accordance with the principles of justice. "To love kindness," means to let your actions be guided by principles of loving kindness. And "To walk humbly with your God," means to assist needy people by giving humbly, in private.

As you work through this day, may you be granted the wisdom, insight, and courage to live out these principles. Yisah Adonai panav elecha, v'yasem l'cha shalom. May the face of the Holy One be lifted towards you and may you be granted peace.

Pledge of Allegiance led by Senator Stephen E. Hall of Piscataquis County.

Doctor of the Day, John Makin, M.D., Waterville.

Reading of the Journal of Thursday, February 12, 1998.

Off Record Remarks

PAPERS FROM THE HOUSE

House Paper

Bill "An Act to Encourage High School Students to Pursue Higher Education at Postsecondary Educational Institutions in this State" H.P. 1583 L.D. 2213

Comes from the House, REFERRED to the Committees on APPROPRIATIONS AND FINANCIAL AFFAIRS and EDUCATION AND CULTURAL AFFAIRS and ordered printed.

REFERRED to the Committees on APPROPRIATIONS AND FINANCIAL AFFAIRS and EDUCATION AND CULTURAL AFFAIRS and ordered printed, in concurrence.

The Chair noted the absence of the Senator from Kennebec, Senator DAGGETT, and further excused the same Senator from today's Roll Call votes.

COMMUNICATIONS

The Following Communication: S.C. 520

STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON JUDICIARY

February 11, 1998

The Honorable Mark W. Lawrence  
President of the Senate of Maine  
118th Maine 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 118th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Frederick B. Hurley, Jr. of Wayne, for reappointment as a Member of the Maine Indian Tribal-State 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	Longley of Waldo, LaFountain of York, Benoit of Franklin
	Representatives:	10	Thompson of Naples, Watson of Farmingdale, Etnier of Harpswell, Jabar of Waterville, Mailhot of Lewiston, Powers of Rockport, Plowman of Hampden, Madore of Augusta, Nass of Acton, Waterhouse of Bridgton
NAYS:		0	
ABSENT:		0	

LEGISLATIVE RECORD - SENATE, FEBRUARY 17, 1998

Thirteen members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Frederick B. Hurley, Jr. of Wayne, for reappointment as a Member of the Maine Indian Tribal-State Commission be confirmed.

Signed,

S/Susan W. Longley  
Senate Chair

S/Richard H. Thompson  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **JUDICIARY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

**ROLL CALL**

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senator: RUHLIN

EXCUSED: Senator: DAGGETT

No Senators having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and nomination of **Frederick B. Hurley, Jr.** for reappointment as a Member of the Maine Indian Tribal-State Commission was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Following Communication: S.C. 521

**STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON JUDICIARY**

February 11, 1998

The Honorable Mark W. Lawrence  
President of the Senate of Maine  
118th Maine 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 118th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Michael M. Hastings of Hampden, for appointment as a Member of the Maine Indian Tribal-State 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 Longley of Waldo, LaFountain of York, Benoit of Franklin

Representatives: 10 Thompson of Naples, Watson of Farmingdale, Etnier of Harpswell, Jabar of Waterville, Mailhot of Lewiston, Powers of Rockport, Plowman of Hampden, Madore of Augusta, Nass of Acton, Waterhouse of Bridgton

NAYS: 0

ABSENT: 0

Thirteen members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Michael M. Hastings of Hampden, for appointment as a Member of the Maine Indian Tribal-State Commission be confirmed.

Signed,

S/Susan W. Longley  
Senate Chair

S/Richard H. Thompson  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **JUDICIARY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

**ROLL CALL**

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senator: RUHLIN

EXCUSED: Senator: DAGGETT

No Senators having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and nomination of **Michael M. Hastings** for appointment as a Member of the Maine Indian Tribal-State Commission was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Following Communication: S.C. 523

**STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON LABOR**

February 12, 1998

The Honorable Mark W. Lawrence  
President of the Senate of Maine  
118th Maine 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 118th Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Peter M. Leslie of Cape Elizabeth, for reappointment as a Member of the Maine State Retirement System Board of Trustees.

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: 2 Cathcart of Penobscot, Mills of Somerset  
Representatives: 6 Hatch of Skowhegan, Clark of Millinocket, Rines of Wiscasset, Stanley of

Medway, Pendleton of Scarborough, Layton of Cherryfield

NAYS: 0

ABSENT: 5 Sen. Treat of Kennebec, Rep. Samson of Jay, Rep. Bolduc of Auburn, Rep. Joyce of Biddeford, Rep. Treadwell of Carmel

Eight members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Peter M. Leslie of Cape Elizabeth, for reappointment as a Member of the Maine State Retirement System Board of Trustees be confirmed.

Signed,

S/Mary R. Cathcart  
Senate Chair

S/Pamela Henderson Hatch  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LABOR** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 506 of the 118th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

**ROLL CALL**

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, CATHCART, CLEVELAND, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senator: RUHLIN

EXCUSED: Senator: DAGGETT

No Senators having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and nomination of **Peter M. Leslie** for reappointment as a Member of the Maine State Retirement System Board of Trustees was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Following Communication: S.C. 522

**STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON HEALTH AND HUMAN SERVICES**

February 12, 1998

The Honorable Mark W. Lawrence  
President of the Senate  
The Honorable Elizabeth H. Mitchell  
Speaker of the House of Representatives  
118<sup>th</sup> Legislature  
State House  
Augusta, Maine 04333-0003

Dear Mr. President and Madam Speaker:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit this letter with the report of the Joint Standing Committee on Health and Human Services of the review and evaluation under the State Government Evaluation Act of the Office of Substance Abuse, of the Department of Mental Health, Mental Retardation and Substance Abuse Services. In its review, the committee found that the Department is operating within its statutory authority.

Sincerely,

S/Senator Judy A. Paradis

S/Representative J. Elizabeth Mitchell

**READ** and with accompanying papers **ORDERED PLACED ON FILE.**

Off Record Remarks

**SENATE PAPERS**

**Pursuant to Private and Special Law  
Clerks of the Jackman Water District and the Jackman Sewer District**

Senator MILLS for the **Clerks of the Jackman Water District and the Jackman Sewer District** pursuant to Private and Special Law 1997, chapter 30 asked leave to report that the accompanying Bill "An Act to Repeal the Laws Governing the Jackman Water District and the Jackman Sewer District"  
S.P. 824 L.D. 2214

Be **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed pursuant to Joint Rule 218.

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

**REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed pursuant to Joint Rule 218.

Sent down for concurrence.

**SECOND READERS**

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

**House**

Bill "An Act Relating to the Maine School Administrative District 49 Arts and Technology Center" (EMERGENCY)  
H.P. 1451 L.D. 2042

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

**House As Amended**

Bill "An Act Concerning Notices Given in Connection with Mortgage Foreclosures"  
H.P. 1376 L.D. 1929  
(C "A" H-787)

Bill "An Act to Encourage the Use of Environmental Fines for Environmental Benefits"  
H.P. 1391 L.D. 1944  
(C "A" H-786)

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

**Senate**

Bill "An Act Regarding Contract Procedures"  
S.P. 770 L.D. 2071

**READ A SECOND TIME** and **PASSED TO BE ENGROSSED.**

Sent down for concurrence.

**Senate As Amended**

Bill "An Act Concerning Elver Fishing"  
S.P. 736 L.D. 2014  
(C "A" S-454)

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

Sent down for concurrence.

**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

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

An Act to Repeal the Residency Requirement for Credit Union Directors  
H.P. 1390 L.D. 1943

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

Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**House Paper**

Bill "An Act to Reduce Income and Property Taxes"  
H.P. 1589 L.D. 2219

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

**REFERRED** to the Committee on **TAXATION** and ordered printed, in concurrence.

**Senate at Ease**

Senate called to order by the President.

The President requested the Sergeant-at-Arms escort the Senator from Knox, Senator **PINGREE** to the rostrum where she assumed the duties as President Pro Tem.

The President took a seat on the floor of the Senate.

The Senate called to order by the President Pro Tem.

**ORDERS OF THE DAY**

**Unfinished Business**

The following matter 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 (2/11/98) Assigned matter:

**HOUSE REPORTS** - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Change the Budgeting Process for York County"  
H.P. 52 L.D. 77

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-784)** (9 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - February 11, 1998 by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, February 10, 1998, Bill and Accompanying Papers **INDEFINITELY POSTPONED.**)

(In Senate, February 11, 1998, Reports **READ.**)

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-784)** Report in **NON-CONCURRENCE.**

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you Madam President and men and women of the Senate. This is a 9 to 3 Committee report out of the State and Local Government Committee. I was hoping this was going to be the only Divided report out of the Committee this year but unfortunately, as you'll find out in the upcoming weeks, that's not the case. This concerns the relationship between the County Commissioners and the Budget Committee in York County. At the time this bill left the Committee, the Committee was under the impression that the York County delegation was unified behind this change. I don't believe that's the case. In order for brevity I'm going to let the Senators from York County do the talking. Thank you.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from York, Senator Lawrence.

Senator **LAWRENCE:** Thank you Madam President and men and women of the Senate. It's always difficult to debate County budget bills and their kind of processes we don't often think about. But several years ago the York County delegation got together and we changed our budget process in York County. If you recall, we were one of the budgets that came before the legislature. It was a County delegation that got together, decided if the budget was fine, recommended it to the legislature and we adopted it based on that recommendation. Several years ago we got together and decided to change that budget process, and established a budget Committee within the County. Some people are dissatisfied with that. Some people would like to see a change. But it is safe to say that the County delegation is not unanimous in wanting to have a change. The communities are not unanimous in wanting to have a change. And I would argue that unless we get that unanimity among our County delegation and among the people in York County of how we want to make this change, it's inappropriate to try and make this change at this time. So I would ask you to defeat the Majority report with all due respect to the Committee on State and Local Government. Thank you.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from York, Senator Libby.

Senator **LIBBY:** Thank you Madam President and women and men of the Senate. This bill that changes the budgeting process for York County came in front of the State and Local

Government Committee last year. The Committee as a whole decided to hold this bill over. In essence, the beginning of the bill, when it was originally presented to us, required the County Commissioners to get the final say on the budget for York County. That currently is not the case. I remember, and I know our Senate President also remembers, putting together the current law which governs the York County budget. I was a member of the House of Representatives at the time. There was some concern at that time about the process, because at that time the legislators in York County had the final say. Most of us really didn't have the expertise to say the County budget should be decreased on this particular line item, or that particular line item. So we created a Budget Committee that would have the final say on the County budget. Now concern has been raised about the Budget Committee, several concerns actually from all over. First of all, County Commissioners are elected officials. The original bill that we looked at last year, as I mentioned, would give those County Commissioners the final say, or the final authority to pass the budget. They are elected officials and they probably should be held accountable for that. There are many people in this chamber and in the other that would agree with that whole premise. However, it really appeared clear that there was some division among the York County members. Let me explain to you that a pole has been taken on all of the County bills by the State and Local Government Committee. A pole was taken last year on the original bill. The original bill, as I mentioned, allowed the York County Commissioners to have the final say rendering the Budget Committee pretty much powerless, I think. That pole that was conducted came out. The results of that pole were 14 members of the County legislative delegation voting in favor of that bill as presented, and 11 voting against it. So, even at that time, the majority of the County favored a change in the budget process. Why did they favor a change? Well, they favored a change because back in 1996 there was a grinding down of County government in York because of stalled negotiations between the Budget Committee and the County Commissioners. It actually closed County government for a short period of time. That is not in the best interest of anyone. The question that was raised this year among the State and Local Government Committee is, can we come up with some kind of a compromise between the current bill and what many are looking for? Is there a compromise out there? And the compromise that we came up with is that if the County Commissioners decide that one part of the budget is not in the best interest of the County, they can vote against that and send it back to the Budget Committee. The Budget Committee still will have the final say by a majority vote. I understand it's done this way in Cumberland County, or at least similar to this. The advantage of that is that if all of the County Commissioners, or at least 4 out of the 5, decide that there's something in the budget that we really, really object to. Upon their vote, that issue would rise to the top and become, I think, a focus of public debate, media debate, discussion, about some of the differences that exist between the County Commissioner's opinion and the Budget Committee's opinion. Well, it seemed like a good idea. Since it was softened from the original premise of the bill, the State and Local Government Committee decided that we would pass it on to the full legislature. I guess a concern that I have now, being a member of the Senate, is that if the County has already voted by a majority, majority rules, in favor of a new process. And if this is only a softened down process, and admittedly there has been no new pole on the softened down version, is it appropriate for the full legislature and mostly as a result of the Majority party of the full legislature to override the

State and Local Government Committee and to override wishes of the majority of the County delegation. I'm not certain. Probably it is, but I don't know that it sets the best precedent in the world. If the Majority of the members of these two bodies, the Senate and the House, don't like some provision of a bill that's been passed by the State and Local Government Committee and then also by a majority of the delegation in York County. I think we all should think about that.

I want to add one thing to this though, and it completely goes against the grain of what I've been saying up until now. It's my responsibility to say it, I believe. I have some concerns about this bill based on last week's court decision regarding the Constitutionality of the line item veto. Because I think that this particular bill, although it is not a line item veto, it is designed along the exact same premise. If this bill does get voted down in this body today, I'm not going to feel too badly about it. But only because of that reason and not because of any political process that seems to be overruling the wishes of the majority of the County delegation and the majority of the State and Local Government Committee. I thank you.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from York, Senator MacKinnon.

Senator **MACKINNON:** Thank you Madam President and women and men of the Senate. I rise today speaking in opposition of the Majority report. I do respect the work of the Committee. I understand it was a compromise. But if you look at what happened from the first bill to this bill, the Senate has done that, I'm not sure if the people in the County understand the changes. We had a process where it was agreed to. People are upset. It came back up here. I think the issue should be settled back there and come back here with a unanimous decision of the two groups involved without us being involved up here. I think that if you look at the process itself, it is a process which is agreed upon after turmoil in 1996. We're looking at it a year later. They want to change it again. Let's let that process work. If they have a problem then let's get involved. The 14 to 11 vote that we talked about earlier was a vote on the original bill. Although the compromise may be the right thing to do, I would suggest that it should go back to the people of the County to decide if that's right. In the end it may be the right idea. The Line Item Veto process does raise a tremendous issue, and I thank the good Senator for bringing that up. Because I think that we are looking at that, and that is a clouded issue. Why get into that today? I would urge you to defeat the Majority report and go on to support the Minority. Thank you.

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Off Record Remarks

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The Chair ordered a Division. No Senators having voted in the affirmative and 31 Senators having voted in the negative, the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-784)** Report in **NON-CONCURRENCE, FAILED.**

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED** in **NON-CONCURRENCE.**

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LEGISLATIVE RECORD - SENATE, FEBRUARY 17, 1998

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

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Off Record Remarks

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On motion by Senator **LAWRENCE** of York, **ADJOURNED** until Wednesday, February 18, 1998, at 9:00 in the morning.