

MAINE STATE LEGISLATURE

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House of Representatives
One Hundred and Twenty-Second Legislature
State of Maine

Volume II

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May 26, 2005 – June 17, 2005

Second Special Session

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January 4, 2006 - April 6, 2006

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ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
SECOND REGULAR SESSION
8th Legislative Day
Tuesday, January 24, 2006

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

Prayer by Pastor Mark D. Wilson, Phippsburg Congregational Church.

National Anthem by Anne Marsh, Bath.

Pledge of Allegiance.

Doctor of the day, Laurel Coleman, M.D., Manchester.

The Journal of Thursday, January 19, 2006 was read and approved.

COMMUNICATIONS

The Following Communication: (H.C. 349)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

January 13, 2006

Honorable Beth Edmonds, President of the Senate

Honorable John Richardson, Speaker of the House

122nd Maine Legislature

State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on State and Local Government has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1003 An Act To Establish the Androscoggin County Budget Advisory Committee and the Somerset County Budget Advisory Committee

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Elizabeth M. Schneider

Senate Chair

S/Rep. Christopher R. Barstow

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 350)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

January 17, 2006

The Honorable Beth Edmonds

President of the Senate

The Honorable John Richardson

Speaker of the House of Representatives

122nd Legislature

State House

Augusta, ME 04333

Dear Madam President and Mr. Speaker:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on State and Local Government from the review and evaluation of the State Claims Commission under the State Government Evaluation Act. In its review, the Committee found that the Commission is operating within its statutory authority.

Sincerely,

S/Senator Elizabeth M. Schneider

Chair

S/Representative Christopher R. Barstow

Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: (H.C. 351)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

January 17, 2006

The Honorable Beth Edmonds

President of the Senate

The Honorable John Richardson

Speaker of the House of Representatives

122nd Legislature

State House

Augusta, ME 04333

Dear Madam President and Mr. Speaker:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on State and Local Government from the review and evaluation of the State Civil Service Appeals Board under the State Government Evaluation Act. In its review, the Committee found that the Board is operating within its statutory authority.

Sincerely,

S/Senator Elizabeth M. Schneider

Chair

S/Representative Christopher R. Barstow

Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: (S.C. 477)

MAINE SENATE

**122ND LEGISLATURE
OFFICE OF THE SECRETARY**

January 19, 2006

Honorable John Richardson

Speaker of the House

2 State House Station

Augusta, ME 04333-0002

Dear Speaker Richardson:

In accordance with Joint Rule 506 of the 122nd Maine Legislature, please be advised that the Senate today confirmed the following nomination:

Upon the recommendation of the Committee on Natural Resources, the nomination of David P. Littell of Portland for appointment as the Commissioner of the Department of Environmental Protection.

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

NATURAL RESOURCES

Resolve, Directing the Department of Environmental Protection To Establish Standards for the Cleanup of Mold

(H.P. 1381) (L.D. 1971)

Sponsored by Representative CRAVEN of Lewiston.

Cosponsored by Representatives: BEAUDETTE of Biddeford, BURNS of Berwick, CANAVAN of Waterville, JACOBSEN of Waterboro, O'BRIEN of Lewiston, SAMPSON of Auburn, SMITH of Monmouth.

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

TRANSPORTATION

Bill "An Act To Make Additional Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of State Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2005 and June 30, 2006" (EMERGENCY)

(H.P. 1382) (L.D. 1974)

Sponsored by Representative MARLEY of Portland. (GOVERNOR'S BILL)

Cosponsored by Representative: MCKENNEY of Cumberland, Senators: DAMON of Hancock, SAVAGE of Knox.

UTILITIES AND ENERGY

Bill "An Act To Amend the Charter of the Lisbon Water Department" (EMERGENCY)

(H.P. 1380) (L.D. 1970)

Sponsored by Representative BERUBE of Lisbon.

Cosponsored by Senator NUTTING of Androscoggin and Representative: VAUGHAN of Durham.

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

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 519 and Joint Rule 213, the following item:

In Memory of:

Francis J. "Frank" Fixaris, of Falmouth, a sports broadcaster known for his deep baritone voice and encyclopedic knowledge of sports in a career that spanned 5 decades. Frank worked for WCSH Radio and for other various local radio stations during the early years of his career before working for WGME as a sportscaster from 1965 to 1995, where he retired as sports director. He was the co-host of the "Shoe & Fix" morning radio sports show. He was a versatile broadcaster who connected with viewers and listeners through his vast knowledge of local and national sports. He received numerous awards and citations for contributions to sports. He always loved sports, from the time that he was a kid and all through high school and college. He helped the community with the Maine Special Olympics and did volunteer work for the Iris Network. Mr. Fixaris will be missed by his loving family, many friends, colleagues, sports enthusiasts and the community;

(HLS 1598)

Presented by Representative DAVIS of Falmouth.

Cosponsored by Senator TURNER of Cumberland, Representative BRAUTIGAM of Falmouth.

READ and ADOPTED.

On motion of Representative DAVIS of Falmouth, the House **RECONSIDERED ADOPTION** of the Sentiment.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative DAVIS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House, I have known Frank Fixaris for over 40 years and the tributes are pouring in for this very, very fine gentleman. I will just say a couple of sentences that will perhaps sum up what Frank Fixaris stood for. If a third baseman made an error in a baseball game he will not mention the third baseman's name, he would just say third baseman. He is a gentleman's gentleman. I have known his wife Barbara from the time of grade school on and he will be missed in the Portland and Falmouth community. Thank you very much.

Subsequently, the Sentiment was **ADOPTED** and sent for concurrence.

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

CONSENT CALENDAR

First Day

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

(H.P. 1231) (L.D. 1723) Bill "An Act To Address Benefits for Employees and Officers of Credit Unions" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass**

(H.P. 1289) (L.D. 1849) Bill "An Act To Update the Charter of the Lewiston and Auburn Railroad Company" Committee on **TRANSPORTATION** reporting **Ought to Pass**

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

ENACTORS

Emergency Measure

Resolve, Requiring the State To Reimburse Providers for Costs Incurred Due to MaineCare Reimbursement Delays

(H.P. 1149) (L.D. 1631)

(C. "A" H-731)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

Representative PINGREE of North Haven **REQUESTED** a roll call on **FINAL PASSAGE**.

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

The SPEAKER: The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative PINGREE: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I will be very brief, as this was another good unanimous report from the Health and Human Services Committee. I do want to recognize my good colleague from Winterport who brought this issue forward and I want to speak publicly because I think that in a very bipartisan way this Legislature has been very frustrated with the issues that have happened with MaineCare billing, with the change over to a new and complicated computer system and I just wanted to

publicly make sure that everybody knew that we have also gotten a \$4 million appropriation in the Governor's Supplemental Budget to help.

This bill is a Resolve. The Health and Human Services Committee felt that it was very important to make sure that MaineCare providers who do really good and really hard work often completely under reimburse. They knew that the state felt badly about what happened and that we should do whatever we can to try to make some repayment for providers. We were concerned that it could become very broad and cost the state a lot of money. One, we want to make sure that providers are being paid on time. Two, we want to make sure that any interest costs for lines of credit that they had to take out due to the MaineCare billing delays or payment delays were reimbursed.

The \$4 million in the Governor's Budget will go to do that, and I expect this Legislature to be supportive of that and I would appreciate your support on the good Representative from Winterport's bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Kaelin.

Representative **KAELIN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the good Chair's kind words. This is a bill that would reimburse the individual businesses that are providing MaineCare services for the delays and the computer slow down. It would not only reimburse them for interest rates, a lot of them had to go out and borrow money to keep the lights on and so forth, but also for auditing costs and so forth. In some cases they were overpaid and they were underpaid. The initial price tag is \$4 million, but I think that the way this bill finally came out of committee will allow additional appropriations to be made in the out year so that you can tell your providers that we are going to take care of those costs. It is an unfortunate outcome of this new computer system and hopefully it will, in time, become an efficient computer program. We are all looking forward to that day, but I appreciate the committee's unanimous support for this bill. This is the right thing to do and I appreciate your vote this morning. Thank you Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Final Passage. All those in favor will vote yes, those opposed will vote no.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

ROLL CALL NO. 356

YEA - Adams, Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Berube, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Carr, Cebra, Churchill, Clark, Clough, Collins, Craven, Cressey, Crosby, Crosthwaite, Cummings, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Faircloth, Farrington, Finch, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Jennings, Joy, Kaelin, Koffman, Lansley, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moore G, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson M, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Simpson, Smith N, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino,

Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - NONE.

ABSENT - Bierman, Bryant-Deschenes, Emery, Fischer, Jodrey, Ott, Pineau, Richardson E, Smith W.

Yes, 142; No, 0; Absent, 9; Excused, 0.

142 having voted in the affirmative and 0 voted in the negative, with 9 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

Resolves

Resolve, Directing State Agencies To Assist and Facilitate any Governmental Units Wishing To Work Cooperatively

(S.P. 389) (L.D. 1127)

(C. "A" S-434)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative BOWLES of Sanford, was **SET ASIDE.**

The same Representative **REQUESTED** a roll call on **FINAL PASSAGE.**

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

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative **JOY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to hopefully raise a red flag in your mind with regard to this resolve. If you look at the language of it, it says, "To assist and facilitate," and this is directing the bureaus and agencies of the government to work with communities. I have been to many meetings where they have a facilitator who is there to lead the meetings and nine times out of ten that facilitator has his agenda all picked and works toward steering the people there into his pattern of thinking.

Maine is a collection of small communities who have been noted for their independence for years and years, every since we became as state and, in fact, even before. If you go along the corridor of I-95 you get out 25 miles in any direction and you run into rural Maine. What this will do is take away the governance structure of the independent communities. If we go back a bit and look at what has taken place in the past you will find that the institutions that communities had have been taken away from them. The did it with our schools first and many of our communities now have schools which are located out in the middle of nowhere between communities so that there is no chance to really truly be proud of a community institution. Then they took away our small hospitals that were dotted around throughout the state. As you probably realize, thinking back a bit there was a proposal to close 24 of our existing hospitals, all in the idea, supposedly, to promote better healthcare.

If communities wish to get together and work together to share services and to share governments and so forth, they should be able to do it without the state intervention. What happens when the state starts making suggestions, very soon it becomes mandated. Then the communities no longer have any choice. I urge you to vote against this issue and to turn it down.

I realize that the amendment says to establish a pilot project, but Ladies and Gentlemen, if there is need of a pilot project then they can go to Aroostook county because the towns of Mapleton, Castle Hill and a third community in there already do this. In fact, there is a bill before the Legislature to allow them to put their tax dollars into one single fund. It is not necessary to establish another one to move closer toward the state mandating and

doing away with the governance of the small towns. I urge you to vote against this measure and thank you very much Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Barstow.

Representative **BARSTOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the good Representative from Crystal helping me to segue into the reason that this bill has been brought forth and I would point out to the members here the amendment with the filing number of (S-434), which was the unanimously adopted Committee Amendment and which you have noticed in the last couple of calendars why this bill has been on the consent calendar second day and is now before us for enactment. This bill is looking to assist those communities who voluntarily take services and consolidate them. It is not looking for the state to come in and force communities to bring their services together.

In my short time here and being an advocate of community cooperation I have realized that the best way to get results and to find success for fiscal responsibility and efficiency is to provide services and the ability to remove barriers for these communities to decide amongst themselves that they want to go in a direction towards sharing a bank account, which Mapleton, Castle Hill and Chapman are looking to do.

The problem that we are running into is that in statute and with the bill that the good Senator from Aroostook, Senator Martin, brought to us yesterday, it would allow these three communities in statute to bring their bank accounts together. As it is right now they need to report separately to the Auditor of the State and to different agencies of the state for specific filing requirements. What this bill before us will do is that it will allow communities, if they want, to coordinate together on one service to be able to report in a more easy and efficient fashion with those specific areas. So, this is not the negative "M-word" that we often here in here - Mandate - rather this is us as a state looking to poise us in a way that will help communities that do want to voluntarily do this. I would urge the body on both sides of the aisle to support this unanimous report and pass this bill so that we can move Maine forward. Thank you Mr. Speaker.

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

Representative **MOULTON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. They say that politics makes strange bedfellows. In fact, on my committee I am afraid that the good Chair from Gorham and I have been linked together on more than one occasion recently and I guess I am going to have to reflect on that. In commenting specifically on the bill before us this morning, it is a bill that has experienced a conversion. Originally it was to assist towns in my neck of the woods trying to work out a specific cooperative grant application and the State and Local Government Committee used the opportunity to, rather than advance something earmarked for specific towns and dealt with that issue separately on a broader focused bill. This bill is instead used to simply permit towns, such as Mapleton and Castle Hill and Mars Hill and others, as the good Representative from Gorham has already informed the body, to be able to jointly apply for whatever program, application or the like that the towns, by themselves, choose to submit to the Executive Branch. Members of the House may recognize that, like the good Representative from Crystal I try very much to be a guardian for the rights of municipalities and to not be trotted upon, in some cases, by the Executive Branch and others with good intentions or otherwise. But in this case, it is to just simply facilitate a process whereby they don't have to put in separate applications to executive agencies, rather the communities on their own may combine forces and apply jointly for whatever state

service they desire to pursue. I would encourage the members of the body to vote in favor of passage of this bill. Thank you very much Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Final Passage. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 357

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Clark, Clough, Craven, Crosby, Crosthwaite, Cummings, Curley, Curtis, Daigle, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hanley B, Hanley S, Harlow, Hogan, Hotham, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McKenney, Merrill, Miller, Mills, Moody, Moore G, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pingree, Piotti, Plummer, Rector, Richardson D, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Simpson, Smith N, Tardy, Thompson, Trahan, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Brown R, Carr, Cebra, Churchill, Collins, Cressey, Davis G, Duprey, Edgcomb, Hall, Hamper, Hutton, Jacobsen, Joy, Kaelin, Lansley, Lewin, Lindell, McCormick, McFadden, McKane, McLeod, Millett, Pinkham, Richardson M, Richardson W, Sherman, Shields, Stedman, Sykes, Thomas, Vaughan.

ABSENT - Bierman, Bryant-Deschenes, Emery, Fischer, Jodrey, Ott, Pineau, Richardson E, Smith W.

Yes, 107; No, 35; Absent, 9; Excused, 0.

107 having voted in the affirmative and 35 voted in the negative, with 9 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

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

SENATE PAPERS

Resolve, To Improve Quality and Access to Mental Health Care Through the Development of a Joint Strategic Plan

(S.P. 760) (L.D. 1973)

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.

Bill "An Act To Preserve Maine's Working Waterfront"

(S.P. 759) (L.D. 1972)

Came from the Senate, **REFERRED** to the Committee on **TAXATION** and ordered printed.

REFERRED to the Committee on **TAXATION** in concurrence.

REPORTS OF COMMITTEE

Change of Committee

Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Ensure the Authority of 'Do Not Resuscitate' Orders in Advance Health-care Directives" (EMERGENCY)

(S.P. 680) (L.D. 1763)

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.

Divided Report

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-736)** on Bill "An Act To Amend the Operator's License and Nondriver Identification Card Requirements for Nonimmigrants"

(H.P. 376) (L.D. 501)

Signed:

Senators:

DAMON of Hancock
DIAMOND of Cumberland
SAVAGE of Knox

Representatives:

MARLEY of Portland
FISHER of Brewer
HOGAN of Old Orchard Beach
MAZUREK of Rockland
BROWNE of Vassalboro
McKENNEY of Cumberland
COLLINS of Wells
SAMPSON of Auburn
PARADIS of Frenchville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-737)** on same Bill.

Signed:

Representative:

THOMAS of Ripley

READ.

On motion of Representative MARLEY of Portland, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-736)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, January 25, 2006.

Pursuant to his authority under House Rule 201.1(I), the Chair made the following change in an appointment to a Committee of the 122nd Maine Legislature:

The temporary appointment of Representative DUDLEY of Portland to the Joint Standing Committee on **TAXATION** was rescinded.

Representative PINEAU of Jay was reappointed to the Joint Standing Committee on **TAXATION**, replacing Representative DUDLEY of Portland.

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

On motion of Representative DAVIS of Falmouth, the House adjourned at 11:05 a.m., until 10:30 a.m., Wednesday, January 25, 2006 in honor and lasting tribute to Francis J. "Frank" Fixaris, of Falmouth.