

ONE HUNDRED TWENTY-EIGHTH LEGISLATURE
SECOND REGULAR SESSION
7th Legislative Day
Thursday, January 25, 2018

Interim Executive Director
READ and with accompanying papers **ORDERED
PLACED ON FILE.**

Representative SANDERSON of Chelsea assumed the Chair.

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

Prayer by Reverend Mark K. Tanner, Skowhegan Federated Church.

National Anthem by Evelyn LaCroix, Skowhegan.

Pledge of Allegiance.

Doctor of the day, Cynthia A. Self, M.D., Bangor.

The Journal of Tuesday, January 23, 2018 was read and approved.

The Following Communication: (H.C. 395)

**STATE OF MAINE
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002**

January 25, 2018

Honorable Sara Gideon

Speaker of the House

2 State House Station

Augusta, Maine 04333

Dear Speaker Gideon:

Pursuant to Joint Rule 310, the following Joint Standing Committees have voted unanimously to report the following bills out "Ought Not to Pass:"

Criminal Justice and Public Safety

L.D. 861

An Act To Provide Wage Parity for Certain State Law Enforcement Personnel

L.D. 1146

Resolve, To Provide Wage Parity for Law Enforcement Officers in the Department of Corrections with Other Law Enforcement Officers

L.D. 1183

An Act To Expand Use of Electronic Monitoring in Domestic Violence, Sexual Assault and Stalking Cases

Education and Cultural Affairs

L.D. 1749

An Act To Shorten the Residency Requirements for In-state Tuition

Inland Fisheries and Wildlife

L.D. 1451

An Act To Promote Biosecurity and Better Regulate the Importation, Possession and Use of Aquatic Species

Sincerely,

S/Robert B. Hunt

Clerk of House

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

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

COMMUNICATIONS

The Following Communication: (H.C. 397)

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002**

January 24, 2018

Honorable Robert B. Hunt

Clerk of the House

2 State House Station

Augusta, Maine 04333

Dear Clerk Hunt:

Pursuant to my authority under House Rule 201.1 (J) I have appointed Representative Richard G. Mason of Lisbon to the House Committee on Bills in the Second Reading, effective immediately.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

S/Sara Gideon

Speaker of the House

READ and **ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 396)

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002**

January 25, 2018

Honorable Robert B. Hunt

Clerk of the House

2 State House Station

Augusta, Maine 04333

Dear Clerk Hunt:

Please be advised that pursuant to his authority, Governor Paul R. LePage has nominated the following:

On January 23, 2018

Ronald A. McAlpine of Crawford, Julie A. Jordan of Baileyville, and Renee E. Gray of Addison for appointment to the Washington County Development Authority.

Pursuant to Title 5, MRSA §13083-C, these appointments are contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Labor, Commerce, Research and Economic Development.

The Following Communication: (H.C. 394)

**MAINE PORT AUTHORITY
16 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

January 22, 2018

Honorable Sara Gideon

Speaker of the House

2 State House Station

Augusta, Maine 04333

Honorable Michael D. Thibodeau

President of the Senate

3 State House Station

Augusta, Maine 04333

Dear Speaker Gideon and President Thibodeau:

Pursuant to 5 M.R.S.A., Section 12023, the Maine Port Authority is pleased to submit the following report to the Legislature, due by February 1, 2018.

Please contact me if you have any questions or need additional information.

Sincerely,

S/Matthew Burns

Lewis M. Pinkham of Milbridge for reappointment to the Washington County Development Authority. Pursuant to Title 5, MRSA §13083-C, this reappointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Labor, Commerce, Research and Economic Development.

Sincerely,
S/Sara Gideon
Speaker of the House

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

The Following Communication: (S.C. 775)

**MAINE SENATE
128TH LEGISLATURE
OFFICE OF THE SECRETARY**

January 23, 2018
Honorable Sara Gideon
Speaker of the House
2 State House Station
Augusta, Maine 04333
Dear Speaker Gideon:

In accordance with 3 MRSA §158 and Joint Rule 506 of the 128th Maine Legislature, please be advised that the Senate today confirmed the following nominations:

Upon the recommendation of the Committee on Agriculture, Conservation and Forestry,

- Jack L. Waterman, M.D. of Waldoboro for appointment to the Board of Pesticides Control;
- Donald A. Kleiner of Union for reappointment to the Land For Maine's Future Board;

Upon the recommendation of the Committee on Appropriations and Financial Affairs, Brian H. Noyes of South Freeport for reappointment to the Maine Public Employees Retirement System Board of Trustees;

Upon the recommendation of the Committee on Criminal Justice and Public Safety, Suzanne J. M. Krauss of Brunswick for appointment as the Maine Emergency Management Agency Director;

Upon the recommendation of the Committee on Labor, Commerce, Research and Economic Development,

- Rita M. Armstrong of Freeport for reappointment to the Midcoast Regional Redevelopment Authority;
- Lenora H. Burke of Brunswick for appointment to the Midcoast Regional Redevelopment Authority;
- Herman A. Nichols of Bath for appointment to the Midcoast Regional Redevelopment Authority;
- Carl W. Flora of Presque Isle for reappointment to the Midcoast Regional Redevelopment Authority.

Best Regards,
S/Heather J.R. Priest
Secretary of the Senate

READ and **ORDERED PLACED ON FILE.**

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act To Ensure Equity in the Funding of Maine's Transportation Infrastructure by Imposing an Annual Fee on Hybrid and Electric Vehicles"

(H.P. 1252) (L.D. 1806)

Sponsored by Representative PARRY of Arundel.
Submitted by the Department of Transportation pursuant to Joint Rule 203.

Committee on **TRANSPORTATION** suggested and ordered printed.

REFERRED to the Committee on **TRANSPORTATION** and ordered printed.

Sent for concurrence.

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

ORDERS

On motion of Representative WADSWORTH of Hiram, the following Joint Resolution: (H.P. 1251) (Cosponsored by Representatives: HIGGINS of Dover-Foxcroft, STANLEY of Medway)

JOINT RESOLUTION MAKING APPLICATION TO THE CONGRESS OF THE UNITED STATES CALLING A CONSTITUTIONAL CONVENTION UNDER ARTICLE V OF THE UNITED STATES CONSTITUTION LIMITED TO PROPOSING AN AMENDMENT TO THE UNITED STATES CONSTITUTION TO REQUIRE A BALANCED FEDERAL BUDGET

WHEREAS, under the United States Constitution, Article V, the Congress of the United States, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to the United States Constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments that, in either case, shall be valid to all intents and purposes, as part of the United States Constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; and

WHEREAS, with each passing year, this nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

WHEREAS, the annual federal budget is a continual demonstration of an unwillingness or inability of both the legislative and executive branches of the Federal Government to curtail spending to conform to available revenues; and

WHEREAS, unified budgets do not reflect actual spending because of the exclusion of special outlays that are neither included in the budget nor subject to the legal public debt limit; and

WHEREAS, knowledgeable planning, fiscal prudence and plain good sense require that the budget reflect all federal spending and be in balance; and

WHEREAS, believing that fiscal irresponsibility at the federal level, with the inflation that results from this policy, is the greatest threat that faces our nation, we firmly believe that constitutional restraint is necessary to bring about the fiscal discipline needed to restore financial responsibility; and

WHEREAS, we believe action on amendments to the United States Constitution concerning federal expenditures to be vital; now, therefore, be it

RESOLVED: That the Legislature of Maine respectfully applies to the Congress of the United States, under the provisions of Article V of the United States Constitution, for the calling of a convention of the states limited to proposing an amendment to the United States Constitution requiring that, in the absence of a national emergency, the total of all federal outlays made by the Congress of the United States for any fiscal year may not exceed the total of all estimated federal

revenues for that fiscal year, together with any related and appropriate fiscal restraints; and be it further

RESOLVED: That this application is to be considered as covering the same subject matter as the presently outstanding balanced budget applications from other states, including but not limited to previously adopted applications from Alabama, Alaska, Arkansas, Colorado, Delaware, Florida, Georgia, Indiana, Iowa, Kansas, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nebraska, Ohio, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah and West Virginia; and this application must be aggregated with same for the purpose of attaining the two-thirds of states necessary to require the calling of a convention for proposing amendments, but may not be aggregated with any applications on any other subject; and be it further

RESOLVED: That this application constitutes a continuing application in accordance with Article V of the United States Constitution until the legislatures of at least two-thirds of the several states have made applications on the same subject. It supersedes all previous applications by this Legislature on the same subject; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Secretary of the Senate and presiding officers of both houses of the legislatures of each of the several states in the nation, the Speaker and Clerk of the United States House of Representatives, the President and Secretary of the United States Senate and each member of the Maine Congressional Delegation.

READ.

On motion of Representative HERBIG of Belfast, the Joint Resolution was **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT.**

Sent for concurrence.

On motion of Representative DUCHESNE of Hudson, the following Joint Order: (H.P. 1249)

ORDERED, the Senate concurring, that the Joint Standing Committee on Inland Fisheries and Wildlife is authorized to report out, to the House, legislation regarding the repeal of the Maine Revised Statutes, Title 12, section 11401, subsection 1, paragraph E, which allows nonresidents who own at least 25 acres of land in Maine to hunt deer on the Saturday preceding the first day of open season on deer.

READ and PASSED.

Sent for concurrence.

On motion of Representative DUCHESNE of Hudson, the following Joint Order: (H.P. 1250)

ORDERED, the Senate concurring, that the Joint Standing Committee on Inland Fisheries and Wildlife is authorized to report out, to the House, legislation regarding the termination of the authority of the Commissioner of Inland Fisheries and Wildlife, pursuant to the Maine Revised Statutes, Title 12, section 11161, subsection 2, to issue a permit to a person allowing that person to use a noise suppression device with a firearm when hunting.

READ and PASSED.

Sent for concurrence.

On motion of Representative LONGSTAFF of Waterville, the following House Order: (H.O. 54)

ORDERED, that Representative Henry John Bear of the Houlton Band of Maliseet Indians be excused January 16 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Roger Jason Fuller of Lewiston be excused January 23 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Lloyd C. Herrick of Paris be excused January 23 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Norman E. Higgins of Dover-Foxcroft be excused January 16 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Walter A. Kumiega III of Deer Isle be excused January 18 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Christina Riley of Jay be excused January 11 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Abden S. Simmons of Waldoboro be excused January 16 for personal reasons.

READ and PASSED.

SPECIAL SENTIMENT CALENDAR

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

In Memory of:

Miles Edward Francis, of Indian Island, an elder of the Penobscot Nation. Mr. Francis, who was part of a family legacy of service over several generations, spent his life working in his community, including serving on the Tribal Council for 26 years. He owned his own construction business, operated Penobscot Super Bingo and participated in the development of Foxwoods Casino. He was also President of Penobscot Indian Nation Enterprises, which created a number of government contracting organizations that trained and employed tribal members. Mr. Francis's efforts brought hope to those struggling to find employment, and he was a role model who encouraged members of the community to strive for success. Mr. Francis will be long remembered and sadly missed by his wife of 32 years, Zoraida, and by his family, his friends, his community and all those whose lives he touched;

(HLS 863)

Presented by Representative TALBOT ROSS of Portland.

Cosponsored by Senator DILL of Penobscot, Representative DUNPHY of Old Town.

On **OBJECTION** of Representative TALBOT ROSS of Portland, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER PRO TEM:** The Chair recognizes the Representative from Portland, Representative Talbot Ross.

Representative **TALBOT ROSS:** Thank you, Madam Speaker. Ladies and Gentlemen of the House, it is my distinct honor to present this memorial on behalf of the State Legislature, and while I did not have the pleasure of personally knowing Mr. Francis, I have had the honor of working with the Penobscot Nation for over two decades.

I know of his family and the family legacy, including having a son, Chief Kirk Francis, who is the longest serving Chief of the Penobscot Nation. His service, his public service, there are -- is well known in the community, within the Nation, and

here in the state, and it is our distinct honor to memorialize him today.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Collings.

Representative **COLLINGS**: Thank you, Madam Speaker Pro Tem. I, as well, wanted to rise and give my best wishes to the family of Miles Francis: Miles Jr.; Kirk Francis, the Chief, sitting Chief of the Penobscot; his wife, and all his other family and community members.

For the last 20 years or so I've worked with the Penobscot. It was always a pleasure to work with Miles, and years ago he - when he -- he had cancer, and he fought it and he beat it, and it just was amazing that, to see him, what he was going through and the pain he was in, but I still would go to the island sometimes and see him, and he met me and some businesspeople and gave us a tour of the bingo hall there, when they used to have their great bingo hall at the Sockalexis Center; and he was just so kind and, you know, and so poised, and for what he was going through to be so kind to other people, it was just amazing how strong and determined he was; and just that he would still be there to the very end working for the betterment of the Penobscot and all tribal members in Maine, is a great tribute to him and to his whole family.

His son does a great job as Chief. His other son, Miles, you know, did a lot of good work for the bingo; and for those who don't know, at one point, the Penobscot's bingo hall was known as one of the best bingo centers in the whole country, and that, no doubt, was due to a lot of the work Miles did. He was known all up and down the eastern seaboard. The Penobscot actually helped start Foxwoods, which for a while was the largest resort casino in the world. So, it's very impressive, the work that he did for his community and for other tribes around the country. The number of people that were employed gainfully, the impact it had, not just for the tribe; but when the bingo was successful it brought millions of dollars into the Greater Bangor community, so I think while we sit here and honor him, all of us should be thankful for what he's done for our tribal friends, as well as for the whole state economy.

There are some tribal leaders here. I'm pleased they're here today to honor him, and I hope all of us can keep his family and all the tribal community in Maine in your thoughts and prayers. Thank you, Madam Speaker Pro Tem.

The SPEAKER PRO TEM: The Chair recognizes the Representative from the Houlton Band of Maliseet Indians, Representative Bear.

Representative **BEAR**: Thank you, Madam Speaker Pro Tem. It is a great honor, it is humbling to be able to rise and speak on this sentiment this morning. I knew Miles personally. He, of course, is the father of the current Chief of the Penobscot Nation, and also who serves as the President of the United Southern and Eastern Tribes, which are some 26 Tribal Governments this side of the great Mississippi River.

I knew him first when I started out with the Houlton Band of Maliseet Indians as an operations officer with our own small business organization, and Miles was the person to call. When I had become president of that organization, he was ready to share his knowledge and information that was vital to ensure we were in compliance with strict program guidelines, and we, as a result, were able to do so. He was always willing to help, not only his own people, but the other Wabanaki Tribes, and was always just a phone call away, and his office door was always open and we were made to feel welcome when we visited him. All I can say is that he is a role model, a mentor to

many of us, and we certainly will miss him. Thank you, Madam Speaker.

Subsequently, this Expression of Legislative Sentiment was **ADOPTED** and sent for concurrence.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

The SPEAKER: The Chair would like to express gratitude and appreciation to the Representative from Chelsea, Representative Sanderson, for serving as Speaker Pro Tem today.

REPORTS OF COMMITTEE

Divided Reports

Majority Report of the Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "B" (H-572)** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Require That Signatures on a Direct Initiative of Legislation Come from Each Congressional District

(H.P. 32) (L.D. 31)

Signed:

Senators:

MASON of Androscoggin
CARPENTER of Aroostook
COLLINS of York

Representatives:

LUCHINI of Ellsworth
CASÁS of Rockport
DILLINGHAM of Oxford
FARRIN of Norridgewock
HANINGTON of Lincoln
HICKMAN of Winthrop
LONGSTAFF of Waterville
MONAGHAN of Cape Elizabeth
WHITE of Washburn

Minority Report of the same Committee reporting **Ought Not to Pass** on same RESOLUTION.

Signed:

Representative:

SCHNECK of Bangor

READ.

On motion of Representative HERBIG of Belfast, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Joint Select Committee on **JOINT RULES** reporting **Ought Not to Pass** on Joint Order, To Amend the Joint Rules To Limit the Number of Bills a Legislator May Submit

(H.P. 1233)

Signed:

Senators:

MASON of Androscoggin
JACKSON of Aroostook
LIBBY of Androscoggin

Representatives:

GOLDEN of Lewiston
BERRY of Bowdoinham
MARTIN of Eagle Lake

Minority Report of the same Committee reporting **Ought to Pass** on same Joint Order.

Signed:

Senator:

DAVIS of Piscataquis

Representative:

MAREAN of Hollis

READ.

On motion of Representative GOLDEN of Lewiston, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

SENATE PAPERS

Non-Concurrent Matter

JOINT RESOLUTION MAKING APPLICATION TO THE CONGRESS OF THE UNITED STATES TO CALL A CONSTITUTIONAL CONVENTION UNDER ARTICLE V OF THE UNITED STATES CONSTITUTION TO PROPOSE AN AMENDMENT TO THE UNITED STATES CONSTITUTION TO RESTORE FREE AND FAIR ELECTIONS

(S.P. 667)

REFERRED to the Committee on **STATE AND LOCAL GOVERNMENT** in the House on January 18, 2018.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Joint Resolution was **REFERRED** to the Committee on **VETERANS AND LEGAL AFFAIRS** in **NON-CONCURRENCE**.

Speaker GIDEON of Freeport moved that the House **INSIST**.

Representative CHAPMAN of Brooksville moved that the House **RECEDE AND CONCUR**.

The SPEAKER: The Chair recognizes the Representative from Brooksville, Representative Chapman.

Representative **CHAPMAN**: Thank you, Madam Speaker. Friends and Colleagues of the House, the matter before us is a matter that, unlike almost everything that this Legislature does, this is done under the authority of the United States Constitution, rather than the State Constitution.

From the mid-1980s, for a period of 25 years, Maine Legislature did not introduce any Article V resolutions of the sort that's before us at this moment. I broke that pattern a few years ago, and since then, there have been a number of these Article V resolutions that have come before us.

Under the authority of the United States Constitution, it's up to the State Legislature to be able to make application for an Article V convention. However, the United States Constitution

does not specify for the states how it is that their legislatures should do so. According to the Maine State Legislature's rules, we're able to make application for a constitutional convention under Article V by a two-thirds vote of the members of each body. That's a high bar, and I think that it's probably well-recognized, both in recent history, as well as history going back at least to the... more than a hundred years, that the Maine Legislature has not been able to make such application because of the failure of gaining the necessary votes in either body. At the same time, I think it unwise for us to kill this matter procedurally by it dying between the bodies for lack of Committee reference.

This matter does not have to be referred to a Committee. It can be. This chamber attempted to refer it to one Committee, the other body attempted to refer it to another. One of the advantages of a Committee reference for an Article V convention call is that it therefore would allow for the public to give testimony. A Committee can hold a public hearing, and that is the public's opportunity to express their opinion on the matter.

Now, I understand that the Legislature, this Legislature, sometimes might prefer not to hear from the public, but I think that our job as legislators is to represent the public, and I think one of the ways we represent the public is to allow them an opportunity to be heard. Whether, after hearing them, this Legislature will do what they want or not, of course, is a separate matter.

So, now getting to the specific matter at hand, the Recede and Concur motion, which takes precedence over the Insist motion, would allow us to go along with the other body and have this sent to a Committee. It's worth noting historically that Article V resolutions have been referred to a variety of different Committees in the Legislature; most recently and most often State and Local, but other Committees have had Article V resolutions referred to them. Specifically, the Judiciary Committee has been the recipient Committee for Article V resolutions in Maine's history as well; and, in essence, it doesn't matter to me which Committee should hear this matter, except that if any Committee is able to hear it, that Committee is able to schedule a public hearing and allow the public to testify, which is the intent behind my motion to Recede and Concur.

So, a favorable vote on the Recede and Concur motion would allow for the potential of a public hearing, which would allow citizens to express themselves on the matter. This is not the only Article V resolution that we will be considering in this session, and because it comes under the authority of the United States Constitution, it is not subject to cloture or Legislative Council permission to introduce. So, there may be further Article V resolutions introduced into this Second Regular Session of the 128th Legislature. With that, Madam Speaker, I request a roll call.

The same Representative **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

Fewer than one-fifth of the members present expressed a desire for a roll call which was not ordered.

Representative CHAPMAN of Brooksville **REQUESTED** a division on the motion to **RECEDE AND CONCUR**.

The Chair ordered a division on the motion to **RECEDE AND CONCUR**.

The SPEAKER: The Chair recognizes the Representative from Sinclair, Representative Martin.

Representative **MARTIN**: Thank you, Madam Speaker. Could I pose a question to the Chair?

The SPEAKER: The Member may proceed.

Representative **MARTIN**: I will be not supporting the pending motion, which is the current motion to Recede and Concur, but my question to the Chair would be, if the motion -- if the current pending motion fails, would another motion be in order?

The **SPEAKER**: If this motion should fail, then the Insist motion offered from the rostrum would be on the table.

On motion of Representative **ESPLING** of New Gloucester, **TABLED** pending the motion of Representative **CHAPMAN** of Brooksville to **RECEDE AND CONCUR** and later today assigned. (Division Ordered)

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

The following item was taken up out of order by unanimous consent:

The following Joint Order: (S.P. 675)

ORDERED, the House concurring, that when the Senate and House adjourn, they do so until Tuesday, January 30, 2018 at 10:00 in the morning.

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

READ and **PASSED** in concurrence.

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

On motion of Representative **TALBOT ROSS** of Portland, the House adjourned at 11:04 a.m., until 10:00 a.m., Tuesday, January 30, 2018, pursuant to the Joint Order (S.P. 675) and in honor and lasting tribute to Henry M. Glover, D.O., of Smithfield, and Miles Edward Francis, of Indian Island.