

# MAINE STATE LEGISLATURE

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

**Volume 1**

**First Regular & Special Session**  
**December 6, 1996 to May 19, 1997**

**Pages 1 - 980**

**STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
FIRST SPECIAL SESSION  
JOURNAL OF THE SENATE**

In Senate Chamber  
Wednesday  
April 2, 1997

Senate Called to Order by the President, Mark W. Lawrence of York.

Prayer by Reverend Susan Davenport of the Brown Memorial United Methodist Church in Clinton.

**REVEREND SUSAN DAVENPORT:** Eternal God, we do not seek Your presence today, rather we acknowledge that You are present in our midst. Having called us out to be leaders among Your people, we ask that You would guide us in the paths of Your mercy and justice. Fill us with Your spirit of compassion for all Your people, and with Your wisdom, that we might discern Your will and be indifferent to our own. May all that we do and say this day be to the honor and glory of Your Holy name, for it is in Your name that we pray. Amen.

Doctor of the Day, Ira Steinberg, M.D., Lewiston.

Reading of the Journal of Tuesday, April 1, 1997.

Off Record Remarks

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

HOUSE REPORT - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Make the University of Maine System Board of Trustees an Elected Body"  
H.P. 952 L.D. 1315

Report - refer to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

In House, March 26, 1997, Report **READ** and **REJECTED**. Bill and Accompanying Papers **RECOMMENDED** to the Committee on **STATE AND LOCAL GOVERNMENT**.

In Senate, March 27, 1997, Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **EDUCATION AND CULTURAL AFFAIRS** in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED AND ASKED FOR A COMMITTEE OF CONFERENCE**.

Senator **PINGREE** of Knox moved the Senate **ADHERE**.

The Chair ordered a Division. 20 Senators having voted in the affirmative and 2 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox to **ADHERE, PREVAILED**.

Sent down for concurrence.

**House Papers**

Bill "An Act to Encourage Employee Stock Ownership"  
H.P. 1197 L.D. 1697

Bill "An Act to Provide for the 1997 and 1998 Allocations of the State Ceiling on Private Activity Bonds" (Emergency)  
H.P. 1210 L.D. 1710

Come from the House, referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

Which were referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Establish Family Development Accounts"  
H.P. 1216 L.D. 1716

Comes from the House, referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **REFERENCE**.

Bill "An Act to Repeal the Requirement of Concealed Weapon Permits"  
H.P. 1207 L.D. 1707

Bill "An Act Addressing Sexual Exploitation of an Abuse Victim by a Law Enforcement Officer"  
H.P. 1211 L.D. 1711

Bill "An Act to Implement the Recommendations of the Department of Human Services Study Group on Prosecution of Crimes against the Elderly"  
H.P. 1214 L.D. 1714

Come from the House, referred to the Committee on **CRIMINAL JUSTICE** and **ORDERED PRINTED**.

Which were referred to the Committee on **CRIMINAL JUSTICE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Provide Early Childhood Education Opportunities"  
H.P. 1195 L.D. 1695

Bill "An Act to Expand the Law Pertaining to Nepotism"  
H.P. 1199 L.D. 1699

Bill "An Act Establishing a Higher Education Trust as an Instrumentality of the State"  
H.P. 1217 L.D. 1717

Bill "An Act to Create a Prepaid Tuition Plan"  
H.P. 1218 L.D. 1718

Come from the House, referred to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and **ORDERED PRINTED**.

Which were referred to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and **ORDERED PRINTED**, in concurrence.

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Bill "An Act to Simplify the Process for Applying for State Services for People with Disabilities" H.P. 1200 L.D. 1700

Bill "An Act to Promote Economic Independence for Low-income Families" H.P. 1201 L.D. 1701

Bill "An Act to Prohibit Smoking in Restaurants" H.P. 1203 L.D. 1703

Bill "An Act to Conform the State Revolving Loan Fund for Drinking Water with the 1996 Amendments to the Federal Safe Drinking Water Act" (Emergency) H.P. 1215 L.D. 1715

Come from the House, referred to the Committee on **HEALTH AND HUMAN SERVICES** and **ORDERED PRINTED**.

Which were referred to the Committee on **HEALTH AND HUMAN SERVICES** and **ORDERED PRINTED**, in concurrence.

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Bill "An Act to Review Registration of Certified Nursing Assistants" H.P. 1206 L.D. 1706

Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee on **HEALTH AND HUMAN SERVICES**.

On motion by Senator **RAND** of Cumberland, referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** in **NON-CONCURRENCE**.

Sent down for concurrence.

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Bill "An Act to Require the Department of Inland Fisheries and Wildlife to File Monthly Revenue Reports" H.P. 1204 L.D. 1704

Come from the House, referred to the Committee on **INLAND FISHERIES AND WILDLIFE** and **ORDERED PRINTED**.

Which was referred to the Committee on **INLAND FISHERIES AND WILDLIFE** and **ORDERED PRINTED**, in concurrence.

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Bill "An Act to Create a Citizen Panel on Deregulation" H.P. 1212 L.D. 1712

Bill "An Act Relating to Compensatory and Punitive Damages Under the Maine Human Rights Act" H.P. 1213 L.D. 1713

Come from the House, referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Which were referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, in concurrence.

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Bill "An Act Regarding Errors and Inconsistencies in the Maine Employment Security Law" H.P. 1209 L.D. 1709

Comes from the House, referred to the Committee on **LABOR** and **ORDERED PRINTED**.

Which was referred to the Committee on **LABOR** and **ORDERED PRINTED**, in concurrence.

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Resolve, Establishing the Commission to Study the Issue of Discrimination against Veterans in Workers' Compensation Cases H.P. 1208 L.D. 1708

Committee on **BANKING AND INSURANCE** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee on **LABOR**.

Which was referred to the Committee on **LABOR** and **ORDERED PRINTED**, in concurrence.

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Bill "An Act Regarding Low Emission and Zero Emission Vehicles" H.P. 1196 L.D. 1696

Comes from the House, referred to the Committee on **NATURAL RESOURCES** and **ORDERED PRINTED**.

Which was referred to the Committee on **NATURAL RESOURCES** and **ORDERED PRINTED**, in concurrence.

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Bill "An Act Regarding Just Compensation for Private Waste Companies" H.P. 1205 L.D. 1705

Committee on **STATE AND LOCAL GOVERNMENT** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee on **NATURAL RESOURCES**.

Which was referred to the Committee on **NATURAL RESOURCES** and **ORDERED PRINTED**, in concurrence.

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Bill "An Act Regarding the Tax-exempt Status of Literacy Volunteers" H.P. 1198 L.D. 1698

Bill "An Act to Change the Method of Taxing Borrow Pits"  
H.P. 1202 L.D. 1702

Come from the House, referred to the Committee on  
**TAXATION and ORDERED PRINTED.**

Which were referred to the Committee on **TAXATION** and  
**ORDERED PRINTED**, in concurrence.

**Joint Resolutions**

The following Joint Resolution: H.P. 1219

**JOINT RESOLUTION RECOGNIZING  
THE MONTH OF APRIL AS NATIONAL  
TECHNICAL AND COMMUNITY COLLEGE MONTH IN MAINE**

WHEREAS, Maine's first vocational-technical institute was  
established in 1946 to serve veterans returning from World War  
II; and

WHEREAS, today, the State's 7 technical colleges are  
serving 20,000 people in certificate, diploma and associate  
degree programs and continuing education courses in Auburn,  
Bangor, Fairfield, Presque Isle, South Portland, Calais and  
Wells; and

WHEREAS, the technical colleges are successfully preparing  
the people of this State for skilled careers and lifelong learning,  
placing 85% of graduates in jobs, 98% of which are in this State;  
and

WHEREAS, the State's technical colleges provide an  
important higher education option for citizens of this State,  
offering affordable, flexible programs and a well-rounded  
technical and academic experience; and

WHEREAS, the technical colleges are a vital resource for the  
State's employers, helping businesses and citizens of the State  
adjust to new technologies and global competition; and

WHEREAS, the technical colleges are contributing to the  
State's overall competitiveness and helping to position the State  
for the future; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred  
and Eighteenth Legislature, now assembled in the First Special  
Session, take this occasion to recognize the month of April as  
National Technical and Community College Month in Maine and  
encourage all citizens to recognize the values and opportunities  
available to them at technical colleges in the State; and be it  
further

RESOLVED: That suitable copies of this resolution, duly  
authenticated by the Secretary of State, be transmitted to the  
President of the Maine Technical College System.

Comes from the House **READ and ADOPTED.**

Which was, under Suspension of the Rules, **READ** and  
**ADOPTED**, in concurrence.

The following Joint Resolution: H.P. 1220

**JOINT RESOLUTION IN SUPPORT OF THE CALIFORNIA  
STRAWBERRY WORKERS' ORGANIZING CAMPAIGN  
OF THE UNITED FARM WORKERS OF AMERICA**

WHEREAS, the farm workers toiling in strawberry fields are  
among the most exploited workers in the nation; and

WHEREAS, over 20,000 men, women and children working  
in California strawberry fields typically spend 10 to 12 hours a  
day picking the fruit from ankle-level plants; and

WHEREAS, the strawberry workers often labor amid  
pesticides and suffer chronic back injuries and other  
occupational injuries and maladies but have few or no medical  
benefits; and

WHEREAS, the strawberry workers have not received a pay  
raise above poverty-level wages for 10 years; and

WHEREAS, many strawberry workers are subject to sexual  
harassment, have deplorable bathroom conditions and lack fresh  
drinking water; and

WHEREAS, the strawberry workers are tired of the terrible  
working conditions and seek safety, security and a voice on the  
job; and

WHEREAS, a few large corporations shoulder most of the  
responsibility for establishing labor relations in the strawberry  
industry and these corporations exercise great control over  
roughly 270 strawberry growers by supplying them with loans  
and plants from nurseries, by packaging and marketing the crop,  
by developing varieties of strawberries and by establishing the  
prices; now, therefore, be it

RESOLVED: That We, the members of the 118th  
Legislature now assembled in the First Special Session, express  
indignation at the abuses committed against the farm workers  
and commend and support the California strawberry workers'  
organizing campaign of the United Farm Workers of America to  
improve conditions for the strawberry workers; and be it further

RESOLVED: That suitable copies of this resolution, duly  
authenticated by the Secretary of State, be transmitted to the  
union headquarters of the United Farm Workers of America.

Comes from the House **READ and ADOPTED.**

Which was **READ and ADOPTED**, in concurrence.

Off Record Remarks

**COMMUNICATIONS**

The Following Communication: S.C. 134

**THE SENATE OF MAINE  
OFFICE OF THE PRESIDENT**

April 1, 1997

Joy J. O'Brien  
Secretary of the Senate  
3 State House Station  
Augusta, Maine 04333  
Dear Madam Secretary:

Pursuant to my authority under Resolve 1991, Chapter 34, as amended by Public Law 1995, Chapter 430, I have appointed Senator Mary Cathcart of Penobscot to the Maine Commission for Global and Geographic Education.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Mark W. Lawrence  
President of the Senate

Which was **READ** and **ORDERED PLACED ON FILE**.

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**SENATE PAPERS**

Bill "An Act to Provide Choice to Maine's Electricity Customers" (Emergency) S.P. 576 L.D. 1732

Presented by Senator CAREY of Kennebec

Which was referred to the Committee on **UTILITIES AND ENERGY** and **ORDERED PRINTED**.

Sent down for concurrence.

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**COMMITTEE REPORTS**

**House**

**Ought to Pass**

The Committee on **INLAND FISHERIES AND WILDLIFE** on Resolve, Regarding Legislative Review of Chapter 21 (21.03), Amendments to License Agent Reporting Requirements, a Major Substantive Rule of the Department of Inland Fisheries and Wildlife (Emergency) H.P. 829 L.D. 1134

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Resolve **READ ONCE**.

The Resolve **TOMORROW ASSIGNED FOR SECOND READING**.

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The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Amend the Date for Recognizing Marginal Discharges of Mortgages" H.P. 328 L.D. 450

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

The Bill **TOMORROW ASSIGNED FOR SECOND READING**.

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The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Amend the Maine Administrative Procedure Act to Clarify the Definition of a Proposed Rule and the State Agencies' Ability to Solicit Input into the Rule Development Process" H.P. 871 L.D. 1188

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

The Bill **TOMORROW ASSIGNED FOR SECOND READING**.

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**Off Record Remarks**

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**Ought to Pass As Amended**

The Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Amend the Dental Licensure Laws to Authorize Special Permits for Instruction in Dentistry and to Identify and Rehabilitate Impaired Dentists" H.P. 616 L.D. 841

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-127)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-127)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-127) **READ** and **ADOPTED**, in concurrence.

The Bill as Amended, **TOMORROW ASSIGNED FOR SECOND READING**.

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The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Remove Travel Policy from the Maine Administrative Procedure Act and to Transfer the Authority for Fixed Assets Inventory" H.P. 96 L.D. 120

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-128)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-128)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-128) **READ** and **ADOPTED**, in concurrence.

The Bill as Amended, **TOMORROW ASSIGNED FOR SECOND READING**.

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The Committee on **TRANSPORTATION** on Bill "An Act to Exempt the American Legion from Certificates of Title and Registration Fees" (Emergency) H.P. 85 L.D. 110

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-126)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-126)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-126) **READ** and **ADOPTED**, in concurrence.

The Bill as Amended, **TOMORROW ASSIGNED FOR SECOND READING**.

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**Divided Report**

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Allow Hunting on the Sunday Following Resident Only Day" H.P. 642 L.D. 895

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

KILKELLY of Lincoln  
RUHLIN of Penobscot  
HALL of Piscataquis

Representatives:

PAUL of Sanford  
CHICK of Lebanon  
DUNLAP of Old Town  
TRUE of Fryeburg  
USHER of Westbrook  
GOODWIN of Pembroke  
CROSS of Dover-Foxcroft  
PERKINS of Penobscot

The Minority of the same Committee on the same subject reported that the same **Ought to Pass**.

Signed:

Representatives:

CLARK of Millinocket  
UNDERWOOD of Oxford

Comes from the House, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were **READ**.

On motion by Senator **KILKELLY** of Lincoln, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Create a Cemetery Permanent Care and Improvement Fund" H.P. 372 L.D. 517

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-120)**.

Signed:

Senator:

NUTTING of Androscoggin

Representatives:

AHEARNE of Madawaska  
FISK, JR. of Falmouth  
BAGLEY of Machias  
GERRY of Auburn  
BUMPS of China  
GIERINGER, JR. of Portland  
KASPRZAK of Newport  
SANBORN of Alton  
DUTREMBLE of Biddeford  
LEMKE of Westbrook

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senators:

GOLDTHWAIT of Hancock  
LIBBY of York

Comes from the House, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-120)**.

Which Reports were **READ**.

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-120)** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-120)** Report, in concurrence.

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**Divided Report**

The Majority of the Committee on **TAXATION** on Resolve, to Include an Optional Contribution Check-off Box on State Income Tax Forms to Benefit the Women in Military Service Memorial  
H.P. 195 L.D. 248

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

RUHLIN of Penobscot  
DAGGETT of Kennebec  
MILLS of Somerset

Representatives:

TRIPP of Topsham  
TUTTLE, JR. of Sanford  
GREEN of Monmouth  
ROWE of Portland  
GAGNON of Waterville  
MORGAN of South Portland  
CIANCHETTE of South Portland  
SPEAR of Nobleboro

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-117)**.

Signed:

Representatives:

BUCK of Yarmouth  
LEMONT of Kittery

Comes from the House, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were **READ**.

On motion by Senator **RUHLIN** of Penobscot, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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**Divided Report**

The Majority of the Committee on **TAXATION** on Resolve, to Reimburse a Lumber Company in Connection with Sales Tax Paid by the Company  
H.P. 316 L.D. 438

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

RUHLIN of Penobscot  
DAGGETT of Kennebec  
MILLS of Somerset

Representatives:

TRIPP of Topsham  
GREEN of Monmouth  
ROWE of Portland  
MORGAN of South Portland  
BUCK of Yarmouth  
CIANCHETTE of South Portland  
GAGNON of Waterville  
LEMONT of Kittery

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-118)**.

Signed:

Representatives:

SPEAR of Nobleboro  
TUTTLE, JR. of Sanford

Comes from the House, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were **READ**.

Senator **PINGREE** of Knox moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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**SECOND READERS**

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

**House As Amended**



Bill "An Act to Clarify That a Town's Mooring Ordinance May Grandfather Existing Commercial or Noncommercial Moorings"  
H.P. 63 L.D. 88  
(C "A" H-119)

Bill "An Act to Improve Management in the Elver Fishery"  
H.P. 289 L.D. 353  
(C "A" H-114)

Bill "An Act Regarding Potato Bin Pilers and Refund of Sales Tax"  
H.P. 342 L.D. 464  
(C "A" H-116)

Resolve, Regarding Legislative Review of Chapter 840: Private Purchasing Alliances, a Major Substantive Rule of the Department of Professional and Financial Regulation, Bureau of Insurance (Emergency)  
H.P. 873 L.D. 1190  
(C "A" H-121)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

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**Senate**

Bill "An Act Regarding Funding for the Extended Responsibilities of the Department of Inland Fisheries and Wildlife"  
S.P. 19 L.D. 17

Bill "An Act to Designate 2 Weekends When a Person May Fish without a License"  
S.P. 24 L.D. 22

Bill "An Act Concerning the Charter of the Northern Maine Development Commission, Inc." (Emergency)  
S.P. 158 L.D. 487

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

Sent down for concurrence.

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**Senate As Amended**

Bill "An Act to Amend the Laws Regarding Hunting from a Paved Way"  
S.P. 45 L.D. 155  
(C "A" S-80)

Bill "An Act to Give an Antlerless Deer Permit to a Person Who Kills 5 or More Coyotes"  
S.P. 63 L.D. 182  
(C "A" S-65)

Bill "An Act to Allow a Patient to Order Contact Lenses through the Mail without a Prior Visit to a Physician"  
S.P. 78 L.D. 217  
(C "A" S-82)

Bill "An Act to Permit the Public Utilities Commission to Exempt Certain Telephone Utilities from Obtaining Approval to Serve"  
S.P. 82 L.D. 262  
(C "A" S-84)

Bill "An Act to Amend the Maine Apiary Laws"  
S.P. 85 L.D. 265  
(C "A" S-78)

Bill "An Act to Amend the Election Laws Pertaining to Absentee Ballots"  
S.P. 127 L.D. 406  
(C "A" S-83)

Resolve, Authorizing the Conveyance of the Interest of the State in Certain Property in Augusta  
S.P. 201 L.D. 629  
(C "A" S-77)

Bill "An Act to Adopt a New Charter for the Winthrop Water District"  
S.P. 238 L.D. 807  
(C "A" S-85)

Bill "An Act to Clarify the Laws on Personal Information of State Employees"  
S.P. 256 L.D. 825  
(C "A" S-74)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**.

Sent down for concurrence.

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**ENACTORS**

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

An Act to Require That a Vacancy in the Office of Sheriff Be Filled by an Appointee from the Same Political Party  
S.P. 33 L.D. 31  
(C "A" S-20)

An Act to Increase the Fee That May Be Assessed against a Prisoner to Help Defray the Costs of Incarceration  
H.P. 31 L.D. 56  
(C "A" H-102)

An Act to Designate Square Dancing as the Official Folk Dance of Maine  
H.P. 111 L.D. 135  
(C "A" H-30)

An Act to Prohibit Certain Activities by Insurance Adjusters  
H.P. 271 L.D. 335  
(C "A" H-107)

An Act to Provide Authority to Close Marine Waters to Fishing in the Event of Contamination  
H.P. 361 L.D. 506  
(C "A" H-85)

An Act to Ensure Fairness to Merchants under an Implied Warranty of Merchantability  
H.P. 405 L.D. 550

An Act to Amend the Maine Consumer Credit Code  
H.P. 554 L.D. 745  
(H "A" H-105 to  
C "A" H-90)

An Act to Authorize the Issuance of a Credit Card to Benefit the Scholarships for Maine Fund  
H.P. 705 L.D. 969  
(C "A" H-93; H "A" H-100)

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

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An Act to Establish the Crime of Elevated Aggravated Assault  
H.P. 208 L.D. 261  
(C "A" H-101)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

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An Act to Establish a Part-time Liquor License  
H.P. 381 L.D. 526  
(C "A" H-94)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

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**Emergency**

An Act to Allow Wholesale Seafood License Holders to Process Parts of Lobster Tails  
H.P. 157 L.D. 199  
(C "A" H-84)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Emergency Resolve**

Resolve, to Establish a Task Force to Study the Feasibility of a Single Claims Processing System for 3rd-party Payors of Health Care Benefits  
H.P. 286 L.D. 350  
(C "A" H-89)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**.

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**Emergency Resolve**

Resolve, Establishing a Task Force to Examine the Desirability of a Model Municipal Building Code  
H.P. 775 L.D. 1052  
(C "A" H-91)

Comes from the House, **FAILED FINAL PASSAGE**.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **FINAL PASSAGE**.

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**Emergency Resolve**

Resolve, Regarding Legislative Review of Chapter 850, Health Plan Accountability, a Major Substantive Rule of the Department of Professional and Financial Regulation, Bureau of Insurance  
H.P. 874 L.D. 1191

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Emergency Mandate**

An Act to Amend the North Yarmouth-Cumberland Town Line  
H.P. 638 L.D. 863  
(C "A" H-86)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Off Record Remarks**

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Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

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**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 (3/25/97) Assigned matter:

An Act to Extend the Exemptions for Farm Stands to Include Farmers' Markets  
S.P. 275 L.D. 883

Tabled - March 25, 1997, by Senator **KILKELLY**.

Pending - **ENACTMENT**

(In Senate, March 19, 1997, **PASSED TO BE ENGROSSED.**)

(In House, March 25, 1997, **PASSED TO BE ENACTED.**)

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

The Chair laid before the Senate the following Tabled and Later (3/27/97) Assigned matter:

**HOUSE REPORTS** - from the Committee on **NATURAL RESOURCES** on Bill "An Act to Amend the Laws Regulating the Installation and Inspection of Septic Systems"

H.P. 442 L.D. 592

Majority - **Ought to Pass as Amended** (12 members)

Minority - **Ought Not to Pass** (1 member)

Tabled - March 27, 1997, by Senator **TREAT** of Kennebec.

Pending - motion by same Senator to **ACCEPT** the Majority **UGHT TO PASS AS AMENDED** Report, in concurrence

(In House, March 26, 1997, the Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-96).**)

(In Senate, March 27, 1997, Reports **READ.**)

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

Senator **TREAT:** Thank you Mr. President, men and women of the Senate. I hope you will go along with the majority report which was a twelve to one report of the committee. The bill, as amended, simply permits the Department of Human Services to increase the fee that is currently charged for septic system installation inspections from a \$60 cap up to no more than \$100. This fee is used to pay for municipal septic system inspectors. The current cap of \$60 is inadequate to pay for the number of inspections that are actually needed. Right now only one inspection is done because of the cap. DHS testified that the ideal situation would be four inspections. The amount authorized in this bill would at least allow one, if not two, additional inspections. The current amount of money basically just allows for an inspection before the system is installed. There's no check later on to see whether or not the system was installed in accordance with that plan. If it wasn't, it basically leaves the consumer high and dry without much recourse to deal with. I'd just like to briefly read from testimony that was provided to us by DHS. This is from Kenneth Myer, who is the manager of the Wastewater and Plumbing Control Program. He said, "Construction is undertaken by the owner and contractor with a local plumbing inspector providing a minimum of one inspection which is to be done before the system is back-filled. One inspection is not sufficient to assure that the system has been

installed, as designed, and or in compliance with the rules." It goes on to say that, "The office has attempted to require additional inspections through rule making. However, the statutory limit of \$60 for the permit fee makes the multiple inspections financially impossible for the municipalities and, or, the LPI and the proposed rule changes were soundly rejected as a result." Basically, the increase of the fee is a very minimal amount given that most septic systems cost about \$5,000 for a new septic system. The majority of the committee felt this was reasonable, that there were in fact, pretty strong reasons to provide for additional inspections and to take the burden off the towns and doing that by providing that pass through fee to them. I hope you will support the majority report. Thank you.

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

Senator **BUTLAND:** Thank you Mr. President, may it please the Senate. I use that introduction today because it is the introduction of choice of my seatmate, the Senator from Franklin, Senator Benoit. One of his other favorite sayings on the floor of the Senate is, "If it ain't broke, let's move on to something else." To me, this legislation represents something that isn't broke and it's time for us to move on to something else. You know, I was privileged to be assigned to the Natural Resources Committee by the presiding officer and I thought that I would be spending my time talking and debating air quality and dioxin and issues like that but I find that, at least for the first half of the session, we spent most of our time on sludge, septic systems and incinerator ash. Let me just give you a little background on this issue from my perspective. Presently, in the State of Maine, if you live in an area that's not sewered and have to install a septic system through new construction you have to have a licensed site evaluator come in and they dig a hole and they look at the soils in that area and they do an analysis. From that analysis of the soils and the permeability of the soils they determine the size of your septic system and your leach field. That licensed site evaluator is certified by the State of Maine. He or she gives that to the prospective homeowner. They take it to the town where a licensed plumbing inspector looks at it for completeness and files it away. At some point after construction begins and before it is back-filled, generally when the pipes are in place in the leach field and the crushed rock has been put up around it, you call the licensed plumbing inspector back and they look at it. They look at it to make sure that it represents what was on the plan, that the grades are correct and that the pitches are correct. We are not talking about rocket science here. We're not talking about building a spaceship. We're talking about some of the most basic laws of nature, one of them being gravity. Gravity's pretty dependable. Water tends to seek its own level most of the time. What happened with an installation up in Winterport and what generated this piece of legislation is that, a system failed soon after installation and the constituent thought that it should be the towns responsibility to insure that the system did in fact, work. The original piece of legislation that we considered, I want to read it, it's only one sentence long. It said, "Verification of construction: A subsurface wastewater disposal system may not be operated unless the municipality has verified that the system was constructed according to the documentation submitted to the municipal offices before construction under subsection 3." And the whole time that we were considering this bill in the Natural Resources Committee I kept on saying to myself, "This isn't broke. We don't need to be spending time on this."

Fortunately, the people on the committee, the rest of the folks, agreed with me and they struck that language and the committee amendment is also very simple. Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following, "A non-engineered subsurface wastewater disposal system fee, not to exceed (and they changed the \$60 to) \$100 may be charged." As the good Senator from Kennebec, Senator Treat has said, representatives from the Department of Human Services did come over. They would like to see four inspections. And I just consider that, quite frankly, to be bureaucratic overkill. I'm surprised that we took a simple one sentence bill, struck that and ended up raising the fee, raising the fee by 66 2/3 %. You know, if we added up all the fee increases that we have passed and will pass, more than likely before the end of the session, it's a tremendous bill that we are passing on to the consumers of the State of Maine. I consider it to be unnecessary. We are reacting to one particular case here. I have certainly not heard a hue and cry from the population from the State of Maine in general, that this needs to be changed. And I hope that you will join me today in voting against the pending motion so that we can go on and accept the minority report. Thank you.

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Off Record Remarks

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

**Senator NUTTING:** Thank you Mr. President. I'll be brief, ladies and gentlemen of the Senate. I voted for the majority report. I just want to clarify a couple of the things the good Senator from Cumberland, Senator Butland said. The \$100 cap that was put on this, the Department of Human Services felt that that could possibly allow two inspections not four. Four inspections would have been \$200 or more and the committee felt that would be way too excessive, but the majority of the committee felt that one inspection was not getting the job done. The other thing, there is a member of the Natural Resources Committee, from the other Body, who does this for a living and felt that this was reasonable and voted for it. Thank you.

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

**Senator CAREY:** Thank you Mr. President. Unless I misheard, is it my understanding there's going to be four inspections a year or two inspections a year, and they're going to be \$100 apiece? Maybe somebody can answer that question for me, Mr. President?

**THE PRESIDENT:** Senator from Kennebec, Senator Carey poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Treat.

**Senator TREAT:** Thank you Mr. President, to the good Senator from Kennebec, Senator Carey. Had we raised the fee to \$200 then four might be able to be done for that amount. The committee felt that, at a minimum, a second inspection after the septic system is put into place was necessary and that is why we went along with increasing the fee up to \$100. We were told

however that it may be possible to fit in a third inspection, you know, more kind of a glance over type of thing within that amount of money. So, I think that the department will do the best it can to get the most for its money. And what we came up with was a good compromise that is very different from the original bill as was noted already earlier in the discussion here.

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

**Senator BUTLAND:** Thank you Mr. President, ladies and gentlemen of the Senate. To give the good Senator from Kennebec, Senator Carey a little bit more information, the Department of Human Services had proposed in their testimony that before inspections take place, before any construction takes place, at this time the licensed plumbing inspector would check if the plan is reasonable, representation of the actual site, the bench marks for elevation, horizontal control are present and that the system is staked out to meet the pertinent setback requirements. The second inspection, after all site preparation has been completed, this would allow confirmation of the elevation of the natural soil on the site and that the site had not been left in inappropriate condition. The third inspection, after the fill and components have been placed out, before the system is covered, to check the evaluation of components that proper materials have been used and that the system is properly located. And the fourth and final inspection is after all the site work has been completed to insure that the proper type of fill had been placed, the site loamed and seeded as specified and drainage swales constructed as required. And I just go back to my original comments that we are not talking about very complicated systems. Essentially, right now we have two certified technicians, as it were, involved in this, the site evaluator who designs the system and was certified by the state and the licensed plumbing inspector who was certified by the state. You would think that we were inspecting vehicles or something here of a much more complicated nature. If it is constructed properly, and the most important time is before the fill is put on so that we can see that the leach pipes are of the appropriate size and pitch, the system should function properly. And I submit to you, that it probably isn't an issue that you hear a lot of complaints from your constituents about. Thank you.

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

**Senator CAREY:** Thank you Mr. President. I thank the Senator from Cumberland, Senator Butland for his enlightened approach to this. I used to do site evaluations as part of the surveying business and I got out of it because the surveying end of it got much heavier. But this is simply a rip off of the general public. If it hasn't been properly located that should have been decided at the very first instant, not two or three inspections down the road.

**THE PRESIDENT:** The Chair recognizes the Senator from Somerset, Senator Mills.

**Senator MILLS:** Thank you Mr. President, men and women of the Senate. I've been involved in a few of these controversies over the years, involving failed systems and, generally speaking, it seems to me the social problem is the responsibility of the contractor. It may well have been the genesis of the problem

that brought this bill before the legislature. Whether the contractor is solvent, responsible and available to respond to necessary repairs is, quite frequently, the problem. And it is difficult, even, I would suggest, with four inspections to insure that a contractor has done what he's supposed to do on the site at all stages of the construction. I'm not prepared to say that we ought to be licensing contractors or what not, but there's a limit. It does seem to me that there's a limit to what municipal officials can be expected to do and my concern would be that if we increase the fee it may or may not result in more inspections and more detailed inspections. It's not uncommon, I think, for municipal officials to simply say by telephone, "Well, thanks for the invitation to come out and look at it. I know your contractor. I think I'll stay in my office and do something else today." I mean, there's no guarantee, it seems to me, that the municipal officials will actually do the inspections that they're being paid for.

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

Senator **TREAT:** Thank you Mr. President. If I might just respond, men and women of the Senate, to a couple of the comments that have been made. I do believe that this bill is necessary and it is the judgment of 12 of the 13 members of the committee. And I would just note that the member who did not vote for this was not in the room at the time that the committee finalized its decision on the matter and perhaps, the discussion shifted during that time and the committee did come to an agreement on it, those that were there. Although this may not be rocket science, it is, unlike a rocket which goes up in the air for all to see, underground, and that is really the gist of what we're talking about here. The current inspection, which by the way, is mandated by regulation and therefore, if towns do not do it, it would be a rip off and there is recourse to deal with there. But, the current inspection is an inspection that takes place before anything is put into the ground. There is no inspection subsequently to determine whether or not the plan was actually filed. It is in fact, a consumer problem and it is a problem that towns face because if these septic systems don't work, you have environmental consequences that are not positive for the town either, if groundwater or surface water is affected. The issue of quadruple inspections is a real red herring here. We authorize \$40 additional. Right now \$60 dollars pays for one inspection. The \$40 additional is there to go for a second inspection after the septic system is put into place. All concerned felt it was reasonable, including the person on the committee who does install septic systems, felt that this was a reasonable amount, not a rip off, in fact, a very small fraction of the \$5,000 fee that people are already paying for the septic system.

The Chair ordered a Division. 18 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **TREAT** of Kennebec to **ACCEPT** the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-96)** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-96) **READ** and **ADOPTED**, in concurrence.

The Bill, as Amended, **TOMORROW ASSIGNED FOR SECOND READING**.

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Senate at Ease

Senate called to order by the President.

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The Chair laid before the Senate the following Tabled and Later (4/1/97) Assigned matter:

**HOUSE REPORT** - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Reduce MTBE in Maine Drinking Water" H.P. 487 L.D. 658

Report - refer to the Committee on **NATURAL RESOURCES**.

Tabled - April 1, 1997, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE** of the Report

(In House, March 31, 1997, the Report **READ** and **ACCEPTED** and the Bill and Accompanying Papers **REFERRED** to the Committee on **NATURAL RESOURCES**.)

(In Senate, April 1, 1997, Report **READ**.)

Which Report was **ACCEPTED** and the Bill and Accompanying Papers **REFERRED** to the Committee on **NATURAL RESOURCES**, in concurrence.

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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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Senator **PINGREE** of Knox 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 **PINGREE** of Knox, **ADJOURNED**, until Thursday, April 3, 1997, at 9:00 in the morning.