

# MAINE STATE LEGISLATURE

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

**Volume 2**

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

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

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

**Pages 981 - 1977**

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

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
2 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0002

In Senate Chamber  
Monday  
March 9, 1998

February 25, 1998

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

The Honorable Mark W. Lawrence, President  
Maine State Senate  
The Honorable Elizabeth H. Mitchell, Speaker  
Maine House of Representatives  
State House  
Augusta, Maine 04333

Prayer by Pastor Bruce Wilson of the Good News Chapel in Lewiston.

Dear President Lawrence and Speaker Mitchell:

**PASTOR BRUCE WILSON:** I'd like to thank Senator Cleveland for inviting me this morning. I appreciate the opportunity to be with you as we take some time to prepare our hearts and our minds for the busy day and the important work that you have ahead of you today. So please join me as we pray.

Pursuant to Resolves 1997, chapter 82, the Commission to Study the Certificate of Need Laws is pleased to submit its final report including recommended legislation. Copies of the report have been transmitted to the Legislative Council, the Joint Standing Committee on Health and Human Services and to the Law and Legislative Reference Library.

Heavenly Father, thank you for this opportunity to come and encourage these men and women as they prepare for their important work. We do humble ourselves before You. You are a creator and You are a loving God and you've promised, in Your word, to give us wisdom when we ask You. And Lord, I'm asking for wisdom for those assembled here so we don't have to trust our own. Because our own wisdom, Lord, will fail. Our own understanding, Lord, often falls short of the plans and the design that You have laid out for us. So Lord, give us your wisdom so that our hearts will be prepared to meet the challenges ahead of us today. And Lord, we give You honor, and we give You praise. Because Lord, it says to revere You, to give reverence to You, is the beginning of wisdom. So we revere You today. We give You that place of honor and respect that You deserve as we come together. In your precious name, Lord God, we pray. Amen.

Sincerely,

S/Rep. Michael W. Quint, Chair  
Commission to Study the Certificate of Need Laws

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

Pledge of Allegiance led by Senator John J. Cleveland of Androscoggin County.

The Following Communication: S.C. 590

**THE SENATE OF MAINE  
OFFICE OF THE PRESIDENT  
3 STATE HOUSE STATION  
AUGUSTA, MAINE 04333**

Doctor of the Day, Craig Curtis, M.D., Bangor.

March 6, 1998

Joy J. O'Brien  
Secretary of the Senate  
3 State House Station  
Augusta, ME 04333

Reading of the Journal of Friday, March 6, 1998.

Dear Secretary O'Brien,

**Off Record Remarks**

I have appointed to the Committee of Conference on the disagreeing action between the two bodies of the Legislature on the Bill, "An Act to Implement the Recommendations of the Interagency Committee on Outdoor Trash Burning" (H.P. 1408) (L.D. 1972) the following:

JOINT ORDER - Recognizing James Rose Carter.  
HLS 1190

Senator Treat of Kennebec  
Senator Nutting of Androscoggin  
Senator Butland of Cumberland.

On motion by Senator **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending **PASSAGE**, in concurrence.

Sincerely,

**COMMUNICATIONS**

The Following Communication: S.C. 588

S/Mark W. Lawrence  
President of the Senate

**READ and ORDERED PLACED ON FILE.**

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**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

From the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Support the Long-term Care Steering Committee" H.P. 1500 L.D. 2122

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-837).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-837) AS AMENDED BY HOUSE AMENDMENT "A" (H-849)** thereto.

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

**READ ONCE.**

Committee Amendment "A" (H-837) **READ.**

House Amendment "A" (H-849) to Committee Amendment "A" (H-837) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-837) as Amended by House Amendment "A" (H-849) thereto, **ADOPTED**, in concurrence.

**TOMORROW ASSIGNED FOR SECOND READING.**

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From the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, to Approve a Maine Technical College System Lease with the South Portland Housing Authority H.P. 1507 L.D. 2129

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-836).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-836).**

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

**READ ONCE.**

Committee Amendment "A" (H-836) **READ** and **ADOPTED**, in concurrence.

**TOMORROW ASSIGNED FOR SECOND READING.**

From the Committee on **JUDICIARY** on Bill "An Act to Inform Crime Victims about the Disposition of Charges" H.P. 1369 L.D. 1919

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-840).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-840).**

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

**READ ONCE.**

Committee Amendment "A" (H-840) **READ** and **ADOPTED**, in concurrence.

**TOMORROW ASSIGNED FOR SECOND READING.**

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From the Committee on **NATURAL RESOURCES** on Bill "An Act to Clarify the Definition of Functionally Water-dependent Use as it Pertains to the Shoreland Zone" H.P. 1368 L.D. 1918

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-838).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-838).**

Report **READ.**

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

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From the Committee on **TAXATION** on Bill "An Act to Require a Tax Identification Number for Sales Tax Exemptions on Hay and Animal Bedding" H.P. 1416 L.D. 1980

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-839).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-839).**

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

**READ ONCE.**

Committee Amendment "A" (H-839) **READ** and **ADOPTED**, in concurrence.

**TOMORROW ASSIGNED FOR SECOND READING.**

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**Senate**

**Ought to Pass As Amended**

Senator LAFOUNTAIN for the Committee on **BANKING AND INSURANCE** on Bill "An Act to Implement the Recommendations of the Blue Ribbon Commission to Study the Effects of Government Regulation and Health Insurance Costs on Small Businesses in Maine" S.P. 811 L.D. 2190

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-489)**.

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

**READ ONCE.**

Committee Amendment "A" (S-489) **READ** and **ADOPTED**.

**TOMORROW ASSIGNED FOR SECOND READING.**

Senator NUTTING for the Committee on **NATURAL RESOURCES** on Bill "An Act to Reduce Groundwater Contamination from Leaking Oil Storage Tanks" (EMERGENCY) S.P. 778 L.D. 2105

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-488)**.

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

**READ ONCE.**

Committee Amendment "A" (S-488) **READ** and **ADOPTED**.

**TOMORROW ASSIGNED FOR SECOND READING.**

**Off Record Remarks**

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

Senator **LIBBY:** Thank you Mr. President and men and women of the Senate. It's truly an honor today to speak to you for a brief moment about the Bonnie Eagle High School Field Hockey State Championship Team of 1997. I'd like to go a step further than just speaking about the team. I think, particularly, in the age where coaches come and go and move from one school to another, one team to another, we've got a coach at Bonnie Eagle High School who, truly it can be said, is one of the best coaches in any sport in all of high school sports. As an example of that I brought a list with me of all of the championships that coach Littlefield has won. Faith Littlefield had taken the Bonnie Eagle field hockey team to the Western Maine Championship in 1976, 1977, 1978, 1981, 1983, 1984, 1985, 1988, and 1997. And Faith Littlefield won the State Championship with her girls in 1976, 1977, 1978, 1983, 1984, 1985, and 1997. I can honestly say to you this morning, ladies and gentlemen of the Senate, that having been a graduate of Bonnie Eagle High School back in the 1970's, that I remember Faith Littlefield winning those field

hockey State Championships, year after year, after year. When my 20<sup>th</sup> Anniversary from leaving that high school comes up next year, it's nice to know that there's one constant. This great field hockey coach continues to lead by example. I'd like to recognize, if I could, in the rear of the Chamber, the members of the team. Please stand up when I mention your name. Danielle Cloutier, Brook Blais, Melissa Olds, Darcy Pinkham, Kristin Martin, Baily Tighe, Janel Sullivan, Kim Purington, Beth McCallum, Angela Butler, Mandy Lewis, Jan Ferris, Erin Semons, Hannah Larrabee, Tracy Roy, Laura Pfeiffenberger, Kaitlin Metivler, Elaine McCarthy, Lauren Bowley, Katie Young, Mycona Kallechey, Angela King, Dawn Sinko, Sarah McCallum, and the coaching staff as well. Thank you again for coming, I really appreciate it.

**SECOND READERS**

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

**House**

Bill "An Act to Repeal Certain Archaic and Unenforced Laws" H.P. 1468 L.D. 2059

**READ A SECOND TIME.**

On motion by Senator **RAND** of Cumberland, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED** in **NON-CONCURRENCE**.

**House As Amended**

Bill "An Act to Implement the Recommendations of the Commission to Study Poverty Among Working Parents with Regard to Raising the Minimum Wage" H.P. 418 L.D. 568 (C "A" H-829)

Resolve, Instructing the Workers' Compensation Board to Study and Make Recommendations Regarding the Occupational Disease Law H.P. 610 L.D. 835 (C "A" H-814)

Bill "An Act to Ensure Adequate Nutrition and Support for Low-income Legal Immigrants" (EMERGENCY) H.P. 882 L.D. 1199 (C "A" H-833)

Bill "An Act to Amend Criminal OUI Penalties Concerning Suspension of a Motor Vehicle Driver's License" H.P. 1321 L.D. 1870 (C "A" H-831)

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

Bill "An Act to Amend the Prevailing Wage Laws" H.P. 1037 L.D. 1454 (S "A" S-475 to C "B" H-804)

**READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED in NON-CONCURRENCE.**

Sent down for concurrence.

**Senate**

Bill "An Act to Continue Work-based Learning for Maine's Youth" S.P. 774 L.D. 2101

Bill "An Act to Provide Funds for Applied Research and Development Relevant to the Maine Economy" S.P. 816 L.D. 2200

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

Sent down for concurrence.

**Senate As Amended**

Bill "An Act to Update the Guide Dog Access Law" S.P. 775 L.D. 2102 (C "A" S-487)

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

Sent down for concurrence.

**ENACTORS**

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

**Emergency Measure**

An Act to Conform the Maine Tax Laws for 1997 with the United States Internal Revenue Code S.P. 683 L.D. 1908 (C "A" S-469)

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.

**Emergency Measure**

An Act to Clarify and Enhance Certain Municipal Powers Regarding Solid Waste Disposal H.P. 1439 L.D. 2003 (C "A" H-822)

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.

**Acts**

An Act to Clarify the Law Regarding the Discipline of Exceptional Students H.P. 1006 L.D. 1398 (C "A" H-809)

An Act to Revise the Hazardous Occupations Provisions of the Child Labor Laws H.P. 1413 L.D. 1977 (C "A" H-813)

An Act to Expand the Potato Licensing Laws to Include Rotation Crops H.P. 1442 L.D. 2006 (C "A" H-817)

An Act to Clarify Certain Laws Pertaining to the Department of Environmental Protection, Bureau of Land and Water Quality H.P. 1493 L.D. 2092 (C "A" H-812)

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

An Act to Protect Internal Waters of the State H.P. 55 L.D. 80 (C "A" H-805)

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

An Act to Improve Employment Tax Increment Financing H.P. 1374 L.D. 1923 (C "A" H-818)

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

**Resolve**

Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory S.P. 699 L.D. 1933 (C "A" S-467)

**FINALLY PASSED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

Off Record Remarks

**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

Bill "An Act to Repeal Certain Archaic and Unenforced Laws"  
H.P. 1468 L.D. 2059

Tabled - March 9, 1998, by Senator **RAND** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED in NON-CONCURRENCE**

(In House, March 4, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-832).**)

(In Senate, March 9, 1998, **READ A SECOND TIME.**)

**PASSED TO BE ENGROSSED in NON-CONCURRENCE.**

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/4/98) Assigned matter:

Bill "An Act to Increase the Cap on the Total Acreage of Aquaculture Leases That May Be Held by One Person"  
H.P. 1434 L.D. 1998  
(C "A" H-802)

Tabled - March 4, 1998, by Senator **PINGREE** of Knox.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence**

(In House, February 25, 1998, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-802).**)

(In Senate, March 4, 1998, **READ A SECOND TIME.**)

On motion by Senator **CASSIDY** of Washington, Senate Amendment "A" (S-484) **READ.**

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

Senator **CASSIDY:** Thank you Mr. President and men and women of the Senate. What this amendment does is increase the lease amount from 150 to 250 acres for aquaculture purposes. Let me say that I'm so pleased with the progress we've made in aquaculture in the last few years, in the state of Maine. We've created thousands of jobs. Unfortunately, I wish all the companies were from Maine, but I think we do have a pretty good representation of that. Also, we have many companies from Canada, as well. Nevertheless, we've created a lot of jobs and it's certainly going to be the future, I think, for the fisheries. As we see stocks depleting in a lot of areas, I think aquaculture is going to be the answer. When we did some of our studies in the Research and Development Committee, at Orono, we saw some of the research going on there for haddock and

other species. It's exciting to see what's going to happen in that area.

The concern I have and why I offer this amendment is the situation up in my district, in Washington County, where Penobscot Bay is really a small area, relatively speaking, and we have competing fisheries like we have throughout the State with the draggers, with the lobster people, and the aquaculture people. Our concern is, if we take away too much of the bottom, it's going to hurt some of those conventional fisheries. The other problem that we have there is that currently, I think, there are 600 and some odd acres that is under lease and only 400 and something of that is being used. What this amendment does is increase the amount that companies could lease there, but also it puts a cap on that bay of 1,000 acres. That's quite an increase, over 40% of what is currently in law. The concern we have is just not to overuse that particular area. Although we have some of the largest tides in the world up in my area, the concern is that no one really knows for sure what affect this is going to have on the ecology, when we get all done with this thing. I've read numbers where 30% of the feed that's going into these pens does not get eaten by the salmon. It kind of goes to the bottom and drifts around. I'm sure other fish love that. There are chemicals in that prepared feed that they give the salmon. The other thing, obviously, is the waste from a concentrated thousands and thousands of salmon in a few acres. No one knows where that's going or what's going to happen. Although, we have the tides to flush the water out. That area is also very enclosed.

If you remember, years ago, the Passamaquoddy Title Project, which was during the 30's. Well, you may not remember it but you may remember reading about it. Maybe our good Senator Carey remembers it. I don't know if he does or not. That was a project that was going to harvest the tides and that's because it is a closed-in area. It was easy to do that with a series of dikes.

So, that's the concern I have. I certainly support aquaculture. I'm really excited about what's happened in this state. Our area's a little unique and I'd like to protect that resource. We had a bill, here, a couple of weeks ago where we were concerned about protecting an island, to make sure that we were doing the right thing with the ecology. We also wanted to protect the bottom to protect the resource. This is the same situation and we need to protect it. So, I'd ask you to support this motion. Thank you Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you Mr. President and ladies and gentlemen of the Senate. Again, I sympathize with the good Senator from Washington, who is sort of caught between some of the concerns of the traditional fishermen and the, approximately, 960 jobs that aquaculture offers in his area. Not all of those jobs are in Washington County but the bulk of them are. They provide \$19 million in personal income to eastern Hancock and Washington Counties, and \$30 million in output of goods and services. So it is not an insubstantial provision of income and cash flow in an area of the state that really needs it the most. There are currently 35 aquaculture leases in Cobscook Bay, for a total of 562 acres, which equals just 2.6% of the entire Cobscook Bay area. Two of the fin-fish companies there are bumping up against the existing cap of 150 acres. Both of them have over 140 leased acres now. Aquaculture, particularly fin-fish aquaculture, is extremely capital intensive and it is difficult to

sustain a company without an adequate product flow. Expanding those lease-site opportunities will allow less density of fish on an individual site and alleviate some of the problems to which the good Senator referred. We have found that the species variety and abundance, under the cages, is actually increased due to, both waste product and feed that is dumped into those areas. These lease-sites are not exclusive. Other fisheries are permitted on lease sites, certainly on currently unused sites, but also on existing lease-sites as long as it is a type of fishery that will not harm the aquaculture infrastructure. Obviously, you're not going to have somebody dragging through a lease-site. You can dive for scallops or urchin, subject to the same regulations that you are anywhere else in the State. So those lease-sites don't necessarily mean the termination of all other fishing rights.

Very recently, within the last month, a report was released called the Report on Current Practices and Benefits of Fin-fish Aquaculture in Maine. It was produced by a consulting group for the Department of Marine Resources. I wanted to share with you one brief piece of that. It says, "Among the ideas discussed at the meeting was the concept of local Bay Management Boards, similar to the new Lobster Planning groups being organized, that would provide a forum in which local people could work together to resolve conflicts in creative ways." That suggests that we are aware of the problems with traditional fisheries and that there is a good, safe effort being made to look at a bay as an ecosystem and involve both the traditional fishermen and the aquaculture businesses in a joint effort to resolve those problems, should they arise. So, I would urge you to reject the current amendment, since the thousand acre cap is a, somewhat, random number. I have a set date with the draggers to go out on the water and take a look at that situation myself. I'm doing my best to get as informed as I can be about the extent of the problem. But I do hope you will give us the latitude to take a more systematic approach to a solution and reject the pending motion. Thank you.

The Chair ordered a Division. 10 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **CASSIDY** of Washington to **ADOPT** Senate Amendment "A" (S-484), **FAILED**.

**PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (3/6/98) Assigned matter:

SENATE REPORTS - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Assist People with Housing Needs" S.P. 790 L.D. 2117

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought to Pass** (4 members)

Tabled - March 6, 1998, by Senator **MICHAUD** of Penobscot.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, March 6, 1998, Reports **READ**.)

At the request of Senator **TREAT** of Kennebec a Division was had. 17 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **MICHAUD** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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Off Record Remarks

Senator **PINGREE** of Knox was granted unanimous consent to address the Senate off the Record.

\_\_\_\_\_  
Off Record Remarks

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

\_\_\_\_\_  
Off Record Remarks

On motion by Senator **PINGREE** of Knox, **ADJOURNED** until Tuesday, March 10, 1998, at 9:00 in the morning.