

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

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

**Volume II**

**First Special Session**

May 26, 2005 – June 17, 2005

**Second Special Session**

July 29, 2005

**Second Regular Session**

January 4, 2006 - April 6, 2006

Pages 737-1487

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
FIRST SPECIAL SESSION  
32nd Legislative Day  
Thursday, June 9, 2005

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

Prayer by Honorable Stanley A. Moody, Manchester.

National Anthem by O.R.B.I.T.S., Maranacook Community School, Readfield.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

---

**SENATE PAPERS**

Bill "An Act To Establish the Maine-New Hampshire Cooperative Trails"

(S.P. 635) (L.D. 1688)

Committee on **INLAND FISHERIES AND WILDLIFE** suggested and ordered printed.

Came from the Senate, under suspension of the rules and **WITHOUT REFERENCE** to a Committee, the Bill **READ TWICE** and **PASSED TO BE ENGROSSED**.

Under suspension of the rules and **WITHOUT REFERENCE** to a Committee, the Bill was **READ TWICE**.

The **SPEAKER**: The Chair recognizes the Representative from Fryeburg, Representative Muse.

Representative **MUSE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would just like to tell you a little bit about this bill. This came out of a long series of conversations with snowmobile users in my area concerning problems along the border. It was originally my bill, but has since been transformed and taken over by the governor's office. However, I am a co-sponsor. It works out the details of how to get through those passages where you can't get there from here along the New Hampshire/Maine border and has done that very nicely with cooperation from the Commissioner for the State of Maine and the Commissioner for the State of New Hampshire in the departments of Inland Fisheries and Wildlife and the other involved parties. It avoids the use of the word reciprocity and solves the problem for all concerned. Thank you very much.

Subsequently, the bill was **PASSED TO BE ENGROSSED** in concurrence.

---

**Non-Concurrent Matter**

An Act To Establish Harbor Master Standards and Training Requirements (EMERGENCY) (MANDATE)

(S.P. 584) (L.D. 1603)

(S. "A" S-234 to C. "A" S-207)

**FAILED** of **PASSAGE TO BE ENACTED** in the House on June 6, 2005.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-207) AS AMENDED BY SENATE AMENDMENTS "A" (S-234) AND "B" (S-346)** thereto in **NON-CONCURRENCE**.

The House voted to **ADHERE**.

---

**Non-Concurrent Matter**

Bill "An Act Establishing Minimum Energy Efficiency Standards for Certain Products Sold or Installed in the State"

(H.P. 999) (L.D. 1435)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-307) AS AMENDED BY HOUSE AMENDMENT "D" (H-549)** thereto in the House on June 6, 2005.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "B" (S-310)** in **NON-CONCURRENCE**.

The House voted to **ADHERE**.

---

**Non-Concurrent Matter**

Bill "An Act To Reduce the Minimum Participation Requirements of Insurance Carriers"

(S.P. 89) (L.D. 269)

Majority (7) **OUGHT NOT TO PASS** Report of the Committee on **INSURANCE AND FINANCIAL SERVICES READ** and **ACCEPTED** in the House on June 6, 2005.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Minority (6) **OUGHT TO PASS AS AMENDED** Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-73)** in **NON-CONCURRENCE**.

The House voted to **ADHERE**.

On motion of Representative **TARDY** of Newport, the House **RECONSIDERED** its action whereby it voted to **ADHERE**.

The same Representative moved that the House **RECEDE AND CONCUR**.

Representative **PERRY** of Calais **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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

On motion of Representative **CUMMINGS** of Portland, **TABLED** pending the motion of Representative **TARDY** of Newport to **RECEDE AND CONCUR** and later today assigned. (Roll Call Ordered)

---

**COMMUNICATIONS**

The Following Communication: (S.C. 377)

**MAINE SENATE**

**122ND LEGISLATURE**

**OFFICE OF THE SECRETARY**

June 8, 2005

Honorable Millicent M. MacFarland

Clerk of the House

State House Station 2

Augusta, ME 04333

Dear Clerk MacFarland:

Please be advised the Senate today adhered to its previous action whereby Bill "An Act To Eliminate Term Limits in the Legislature" (S.P. 180) (L.D. 572), was passed to be Engrossed as amended by Committee Amendment "A" (S-278).

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

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

**CONSENT CALENDAR**

**First Day**

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

(H.P. 167) (L.D. 216) Bill "An Act To Make Revisions to the Laws Governing Agriculture" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-671)**

(H.P. 613) (L.D. 862) Bill "An Act To Improve the Collection of Restitution and Supervision Fees" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-669)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence. **ORDERED SENT FORTHWITH.**

**BILLS IN THE SECOND READING**

**Senate as Amended in Non-Concurrence**

Bill "An Act To Amend the Maine Wind Energy Act"

(S.P. 477) (L.D. 1379)

(H. "A" H-667 and S. "A" S-322 to C. "B" S-284)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Paper was **PASSED TO BE ENGROSSED as Amended in NON-CONCURRENCE** and sent for concurrence.

**House as Amended**

Bill "An Act Regarding Advertising by Drug Manufacturers"

(H.P. 1141) (L.D. 1618)

(C. "A" H-661)

Was reported by the Committee on **Bills in the Second Reading** and **READ** the second time.

On motion of Representative CUMMINGS of Portland, was **SET ASIDE.**

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENGROSSED as Amended** and later today assigned.

**ENACTORS**

**Acts**

An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws

(H.P. 226) (L.D. 301)

(C. "A" H-632)

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

On motion of Representative PELLETIER-SIMPSON of Auburn, was **SET ASIDE.**

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

An Act To Prevent the Manufacturing of Methamphetamine in Maine

(S.P. 575) (L.D. 1601)

(C. "A" S-334)

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

On motion of Representative DUPLESSIE of Westbrook, was **SET ASIDE.**

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

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

**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Joint Study Order To Study Sea Urchin Fishery Management (S.P. 633)

- In Senate, **READ** and **PASSED.**

**TABLED** - June 6, 2005 (Till Later Today) by Representative PERCY of Phippsburg.

**PENDING - PASSAGE.**

Representative EMERY of Cutler **PRESENTED** House **Amendment "A" (H-662)**, which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Cutler, Representative Emery.

Representative **EMERY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This amendment is a simple one. It adds a Senator and one member of the House of Representatives to this task force to study sea urchin fisheries management.

The amendment specifies that the legislative members include a member from each chamber who is a member of the political party that holds the highest number of seats in the chamber and a member from each chamber who is a member of the political party that holds the second highest number of seats. It basically allows for a bipartisan representation on this study task force. That is really all that that amendment does. I hope you will support it. Thank you.

On motion of Representative DUPLESSIE of Westbrook, **TABLED** pending adoption of **House Amendment "A" (H-662)** and later today assigned.

An Act To Amend Certain Fish and Wildlife Laws

(S.P. 344) (L.D. 1004)

(C. "A" S-317)

- In House, **PASSED TO BE ENACTED** on June 6, 2005.

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-317) AND SENATE AMENDMENT "A" (S-330) in NON-CONCURRENCE.**

**TABLED** - June 7, 2005 (Till Later Today) by Representative WATSON of Bath.

**PENDING** - Motion of same Representative to **RECEDE.**

Subsequently, the House voted to **RECEDE.**

Representative WATSON of Bath **PRESENTED** House **Amendment "A" (H-668)** which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Bath, Representative Watson.

Representative **WATSON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This amendment is a technical amendment to the Inland Fisheries and Wildlife Department's omnibus bill. We are clearing up language with regard to a new feature that is being offered by Inland Fisheries and Wildlife called the Super Pac license which is a combination license that we are offering for the first time next season and we

are also making a slight adjustment to compensate for the fact that we enacted a bill regarding crossbows this year.

Subsequently, House Amendment "A" (H-668) was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by Committee Amendment "A" (S-317), House Amendment "A" (H-668) and Senate Amendment "A" (S-330).

On motion of Representative KAELIN of Winterport, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

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

Representative **KAELIN**: Mr. Speaker, may I pose a question through the Chair?

The **SPEAKER**: The Representative may pose his question.

Representative **KAELIN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Does what we just passed allow crossbows to be used in the archery season?

The **SPEAKER**: The Representative from Winterport, Representative Kaelin has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bath, Representative Watson.

Representative **WATSON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The simple answer to that question is no. The crossbows are authorized for use during the firearms season on deer only. There has been some confusion about that and since the statute will not take effect until January of 2006 if there is any problem with it we are going to straighten it out next session, but we have been trying to make it very clear that crossbows are not to be used during archery season or the expanded archery season. They are to be used during the firearms season only. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative **TRAHAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to support the Chair of our committee, Representative Watson in his previous statements. There was some concern raised that the language in the bill wasn't clear enough and we know that on the committee and are going to be clarifying the language later so I ask that you support this amendment. I won't go into why it is so confusing right now because of parliamentary procedure issues and it will be straightened out later. I would like you to please support his motion.

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

Representative **KAELIN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just rise to thank the Representative from Bath for answering my question. I appreciate it. Thank you.

Subsequently, the Bill was **PASSED TO BE ENGROSSED** as Amended by Committee Amendment "A" (S-317), House Amendment "A" (H-668) and Senate Amendment "A" (S-330) in **NON-CONCURRENCE** and sent for concurrence.

---

**SENATE PAPERS**  
**Non-Concurrent Matter**

Bill "An Act To Repeal Certificate of Need as It Applies to Hospitals, Ambulatory Surgical Units and Physician Offices"

(H.P. 1043) (L.D. 1487)

Minority (6) **OUGHT TO PASS AS AMENDED** Report of the Committee on **HEALTH AND HUMAN SERVICES READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS**

**AMENDED BY COMMITTEE AMENDMENT "A" (H-652)** in the House on June 8, 2005.

Came from the Senate with the Majority (7) **OUGHT NOT TO PASS** Report of the Committee on **HEALTH AND HUMAN SERVICES READ** and **ACCEPTED** in **NON-CONCURRENCE**.

On motion of Representative SHIELDS of Auburn, the House **RECEDE**.

The same Representative **PRESENTED** House Amendment "A" (H-670) to Committee Amendment "A" (H-652), which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative **SHIELDS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This amendment was omitted from the original amended bill that we approved two days ago and the Revisor and myself both did not notice that it was included and I testified that this was in the bill. This is section three of the bill which is an instruction to the Department of Health and Human Services to explore other methods of reimbursing hospitals besides the current cost based reimbursement used at the present time.

In our hearings this year the department has already indicated on several occasions that they are really exploring alternative methods including the one called DRGs or diagnostic related groups and that is a fee for service rather than cost reimbursement method.

I will tell you a story. In the 1970s I was an active member of a hospital's staff and went to the administrator about a very costly piece of equipment that we had and everybody was reimbursing hospitals based on costs. He said no problem. At that time 50% of the people were on Blue Cross/Blue Shield and 40% were on Medicaid or Medicare and the other 10% were something else. They all reimbursed on costs. He said that it wouldn't cost the hospital anything because all of the third party providers are going to reimburse us for this. That is one of the problems and I think that the federal government caught on to this and tried to pass a Certificate of Need law to stop the construction of things because they are reimbursing based on cost, which is bricks and mortar.

The problem in the 1980s was that the federal government caught on and said they had to go back to diagnostic related groups or capitation or something and now 45 other states have caught onto this also and they don't reimburse on cost anymore. I hope that you will accept this amendment.

Subsequently, House Amendment "A" (H-670) to Committee Amendment "A" (H-652) was **ADOPTED**.

Committee Amendment "A" (H-652) as Amended by House Amendment "A" (H-670) thereto was **ADOPTED**.

Representative **TRAHAN** of Waldoboro **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED** as Amended.

The **SPEAKER**: The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative **TRAHAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I voted against this bill previously when it was in this chamber and I think that it creates some disturbing complications in our CON process and for that reason I ask for a roll call.

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

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

Representative **PINGREE**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I appreciate the good Representative from Waldoboro rising and I would urge people to

vote against the pending motion. Just to remind you we have had a lot of bills about Certificate of Need and CIF and all of these other words. This is the bill that would exempt ambulatory surgical centers and physician's offices from Certificate of Need. Small community hospitals are very concerned that this creates an uneven and unfair playing field and I urge you to defeat the pending motion. The other body resoundingly defeated this bill last night and I urge your red vote on this. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative SHIELDS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I remind you that physician's offices are under the CON in Maine and we are the only state that requires that. That makes you think about it. Number two; ambulatory surgical units are free standing units by and large. They cannot keep people over night as hospitals do and they get funded by fees for service no matter what the cost is while hospitals get reimbursed for their costs. This bill will allow communities to decide what medical facilities are in their community and not the bureaucrats in Augusta who will otherwise make those decisions. Hospitals don't like competition. There are many surgical procedures that require an overnight stay. Hospitals do that. Ambulatory surgical units cannot do that. I urge you to support this bill.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Marraché.

Representative MARRACHÉ: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I too stand to remind you, yet again, that ambulatory units and physician's offices pay taxes and they don't stay where they can't make money because they do have to operate as a business. They don't get subsidies and they don't get a lot of extra help from the state. They are on their own. You are helping hospitals get rid of anybody who can actually provide a cheaper, lower rate for services that patients sometimes have to pay out-of-pocket because not everybody has insurance and those who don't pay the full price. If hospitals are the only place where they can get their procedure, they are paying a lot more than they would if they could go to an ambulatory unit where it is a lot less. Please do not vote for this. Thank you.

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

**ROLL CALL NO. 290**

YEA - Annis, Austin, Berube, Bierman, Bowles, Browne W, Campbell, Cebra, Churchill, Clough, Cressey, Crosthwaite, Curley, Daigle, Davis G, Davis K, Eder, Edgecomb, Emery, Finch, Fletcher, Flood, Glynn, Hamper, Hanley B, Hanley S, Jacobsen, Jodrey, Joy, Lewin, Lindell, Lundeen, Marraché, McCormick, McFadden, McKenney, McLeod, Moore G, Muse, Nutting, Pilon, Plummer, Richardson D, Richardson M, Richardson W, Rines, Rosen, Sampson, Saviello, Shields, Smith W, Stedman, Sykes, Tardy, Thomas, Twomey, Vaughan.

NAY - Adams, Ash, Babbidge, Barstow, Bishop, Blanchard, Blanchette, Bliss, Bowen, Brannigan, Brautigam, Brown R, Bryant, Burns, Cain, Canavan, Carr, Clark, Collins, Craven, Crosby, Cummings, Curtis, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Duprey, Eberle, Faircloth, Farrington, Fischer, Fisher, Fitts, Gerzofsky, Goldman, Grose, Harlow, Hogan, Hutton, Jackson, Jennings, Kaelin, Koffman, Lerman, Makas, Marley, Mazurek, McKane, Merrill, Miller, Millett, Mills, Moody, Moulton, Nass, Norton, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pineau, Pingree, Pinkham, Piotti, Rector,

Richardson E, Robinson, Schatz, Seavey, Sherman, Smith N, Thompson, Trahan, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

ABSENT - Beaudette, Bryant-Deschenes, Dugay, Greeley, Hall, Hotham, Lansley, Marean.

Yes, 57; No, 86; Absent, 8; Excused, 0.

57 having voted in the affirmative and 86 voted in the negative, with 8 being absent, and accordingly the Bill **FAILED PASSAGE TO BE ENGROSSED as Amended.**

Subsequently, the House voted to **CONCUR.**

---

**REPORTS OF COMMITTEE  
Divided Report**

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Reduce Maine's Income Tax Burden" (EMERGENCY)

(S.P. 376) (L.D. 1059)

Signed:

Senators:

PERRY of Penobscot  
STRIMLING of Cumberland

Representatives:

HANLEY of Paris  
CLARK of Millinocket  
McCORMICK of West Gardiner  
WOODBURY of Yarmouth  
CLOUGH of Scarborough  
PINEAU of Jay  
BIERMAN of Sorrento  
HUTTON of Bowdoinham  
SEAVEY of Kennebunkport  
WATSON of Bath

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-351)** on same Bill.

Signed:

Senator:

COURTNEY of York

Came from the Senate with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.  
**READ.**

On motion of Representative WOODBURY of Yarmouth, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

---

**ENACTORS  
Emergency Measure**

An Act Pertaining to Disclosure of Prescription Drug Prices

(S.P. 536) (L.D. 1541)

(H. "A" H-639 to C. "A" S-292)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and 18 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Emergency Measure**

An Act To Prohibit the Disposal of Dangerous and Unsafe Material in Solid Waste Facilities

(H.P. 1151) (L.D. 1633)  
(C. "A" H-551; H. "A" H-622)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of the same and 6 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Under suspension of the rules, members were allowed to remove their jackets.

**Emergency Measure**

An Act To Clarify Entities Eligible for Funding by the Maine Health and Higher Educational Facilities Authority

(S.P. 628) (L.D. 1683)  
(C. "A" S-339)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Emergency Measure**

Resolve, To Establish the Task Force To Study and Design a Child Protection Mediation System

(S.P. 384) (L.D. 1067)  
(C. "A" S-337)

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

On motion of Representative CUMMINGS of Portland, the Resolve was placed on the Special Study Table pursuant to Joint Rule 353 pending **FINAL PASSAGE**.

**Acts**

An Act To Ensure Sufficient Staffing To Properly Enforce the Laws and Rules of the Manufactured Housing Board

(S.P. 87) (L.D. 267)  
(C. "A" S-114)

An Act To Clarify the Definition of "Domiciled" for Maine Income Tax Purposes

(H.P. 248) (L.D. 325)  
(H. "A" H-658 to C. "A" H-588)

An Act To Allow Case Management Officers To Conduct Hearings in Divorce Court

(H.P. 425) (L.D. 592)

An Act To Make Certain Changes in the Laws Concerning the Family Division of District Court

(H.P. 683) (L.D. 973)  
(H. "A" H-665 to C. "A" H-646)

An Act To Encourage the Preservation of Affordable Housing

(H.P. 808) (L.D. 1165)  
(C. "A" H-634)

An Act To Protect Children from Individuals Who Have Engaged in Sexual Abuse of Children in the Past

(H.P. 850) (L.D. 1232)  
(C. "A" H-655)

An Act To Amend the Child and Family Services and Protection Act

(H.P. 918) (L.D. 1320)  
(H. "A" H-656 to C. "A" H-611)

An Act To Amend the Laws Governing the Powers and Duties of the Washington County Development Authority

(S.P. 466) (L.D. 1339)  
(C. "A" S-296; H. "A" H-623)

An Act To Prepare Maine for Public Health Emergencies

(S.P. 494) (L.D. 1405)  
(C. "A" S-336)

An Act To Amend the Real Estate Brokerage Laws

(H.P. 1072) (L.D. 1525)  
(H. "A" H-638 to C. "A" H-583)

An Act To Amend the Laws Governing Political Caucuses, Conventions and Committees

(H.P. 1192) (L.D. 1686)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act To Ensure Adequate Health Care for Children

(H.P. 357) (L.D. 482)  
(C. "A" H-641)

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

On motion of Representative DUPLESSIE of Westbrook, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

**ROLL CALL NO. 291**

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

NAY - NONE.

ABSENT - Beaudette, Bryant-Deschenes, Campbell, Dugay, Hotham, Jacobsen, Lansley, Marean, Moore G, Patrick.

Yes, 141; No, 0; Absent, 10; Excused, 0.

141 having voted in the affirmative and 0 voted in the negative, with 10 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

---

An Act To Care for Families

(S.P. 361) (L.D. 1044)  
(C. "A" S-280)

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

On motion of Representative TARDY of Newport, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

On motion of Representative SMITH of Van Buren, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned. (Roll Call Ordered)

---

An Act Regarding Distribution of Information from the Central Voter Registration System

(S.P. 446) (L.D. 1266)  
(C. "A" S-340)

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

On motion of Representative TARDY of Newport, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

On motion of Representative PATRICK of Rumford, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned. (Roll Call Ordered)

---

An Act To Clarify That Certain Maine Landowner Liability Protection Laws Apply to Certain Railroad Properties, Railroad Rights-of-way and Utility Corridors

(S.P. 593) (L.D. 1611)  
(H. "A" H-633 to C. "A" S-314)

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

On motion of Representative TARDY of Newport, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

**ROLL CALL NO. 292**

YEA - Adams, Annis, Ash, Austin, Babbidge, Barstow, Berube, Bierman, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Carr, Cebra, Churchill, Clark,

Clough, Collins, Craven, Cressey, Crosby, Crosthwaite, Cummings, Curley, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Koffman, Lerman, Lewin, Lindell, Lundeen, Makas, Marley, Marraché, Mazurek, McCormick, McFadden, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson M, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Shields, Smith N, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Curtis, McKane, Richardson D, Richardson E, Sherman.

ABSENT - Beaudette, Bryant-Deschenes, Dugay, Hotham, Lansley, Marean, Moore G, Smith W.

Yes, 138; No, 5; Absent, 8; Excused, 0.

138 having voted in the affirmative and 5 voted in the negative, with 8 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

---

An Act To Protect Maine Citizens from Identity Theft

(H.P. 1180) (L.D. 1671)  
(C. "A" H-654)

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

On motion of Representative DUPLESSIE of Westbrook, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

**ROLL CALL NO. 293**

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



Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - NONE.

ABSENT - Beaudette, Hotham, Lansley, Marean.

Yes, 147; No, 0; Absent, 4; Excused, 0.

147 having voted in the affirmative and 0 voted in the negative, with 4 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

#### UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

SENATE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (S-176)** - Minority (4) **Ought Not to Pass** - Committee on LABOR on Bill "An Act To Provide an Annual Cost-of-living Adjustment for Persons Receiving Workers' Compensation Benefits for Total Incapacity"

(S.P. 501) (L.D. 1476)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-176)**.

TABLED - May 23, 2005 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

Representative TUTTLE of Sanford **WITHDREW** his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

Subsequently, on motion of Representative SMITH of Van Buren, the Minority **Ought Not to Pass** Report was **ACCEPTED** in **NON-CONCURRENCE** and sent for concurrence.

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

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

Bill "An Act To Reduce the Minimum Participation Requirements of Insurance Carriers"

(S.P. 89) (L.D. 269)

Which was **TABLED** by Representative CUMMINGS of Portland pending the motion of Representative TARDY of Newport to **RECEDE AND CONCUR**. (Roll Call Ordered)

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Recede and Concur. All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 294

YEA - Annis, Austin, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgcomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Jodrey, Joy, Kaelin, Lewin, Lindell, Marean, McCormick, McFadden, McKenney, McLeod, Millett, Moore G, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

NAY - Adams, Ash, Babbidge, Barstow, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, McKane, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Richardson D, Richardson E, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

ABSENT - Beaudette, Berube, Campbell, Fisher, Hotham, Jacobsen, Lansley.

Yes, 65; No, 79; Absent, 7; Excused, 0.

65 having voted in the affirmative and 79 voted in the negative, with 7 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

Subsequently, the House voted to **ADHERE**.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

Joint Study Order To Study Sea Urchin Fishery Management  
(S.P. 633)

Which was **TABLED** by Representative DUPLESSIE of Westbrook pending **ADOPTION** of **House Amendment "A" (H-662)**.

Subsequently, Representative EMERY of Cutler **WITHDREW** **House Amendment "A" (H-662)**.

On motion of Representative PERCY of Phippsburg, the Joint Order and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

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

#### REPORTS OF COMMITTEE

##### Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass** on Bill "An Act Regarding Constitutional Officers"

(S.P. 232) (L.D. 695)

Signed:

Senator:

ANDREWS of York

Representatives:

MUSE of Fryeburg

SCHATZ of Blue Hill

McFADDEN of Dennysville

MOULTON of York

BISHOP of Boothbay

CROSTHWAITE of Ellsworth

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

Signed:

Senators:

SCHNEIDER of Penobscot

ROTUNDO of Androscoggin

Representatives:

SAMPSON of Auburn  
 HARLOW of Portland  
 BARSTOW of Gorham  
 BLANCHARD of Old Town

Came from the Senate with the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

**READ.**

Representative **BARSTOW** of Gorham moved that the House **ACCEPT** the **Minority Ought Not to Pass** Report.

Representative **CROSTHWAITE** of Ellsworth **REQUESTED** a roll call on the motion to **ACCEPT** the **Minority Ought Not to Pass** Report.

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

The **SPEAKER**: The Chair recognizes the Representative from Brewer, Representative Boothbay.

Representative **BISHOP**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is a relatively simple bill. The idea behind it was to make it clearer to the people of the State of Maine who was doing what to whom and for what reason. What brought this about was a letter that was from, I believe, the Secretary of State in a newspaper backing a particular candidate. Unfortunately, when a letter has application of the Secretary of State behind the name it carries more significance than it would if it were that of a private citizen. It implies that the government of the State of Maine and that the offices of the Secretary of State are, in fact, backing that candidate. This is not really a fair and honest representation of what should be taking place. This bill, this simple bill, was merely to address and correct what I consider to be an oversight and something that we, as a body of the government, would wish not to happen. When we back something as individuals we wish to be recognized as individuals. When we back something as an organization we wish it to be understood that the organization is backing it and, very frankly, by passing this bill all that we would be doing is making it clear to the people whether or not it is an individual writing this letter or whether it is an organization backing and writing this letter.

Unfortunately, it comes down on party lines. I don't know why. I really don't. I would think that everyone would be behind an honest effort to let everyone know what is going on, to be clear and to be true. I urge you to pass this bill. Thank you very much.

The **SPEAKER**: The Chair recognizes the Representative from Blue Hill, Representative Schatz.

Representative **SCHATZ**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to the **Minority Ought Not to Pass** Report. As I sit here and look at my copy of Hoof Beats magazine I am reminded of a phrase that we use very often, which is level playing field. Several weeks ago I supported a bill that also came out of our committee that would sustain electing constitutional officers here within this body. I feel that that gives some edge to the majority and nobody knows from session to session how that majority might flow. I feel that this is a fair way to assure that the politics do not enter into those roles and that is the level playing field that I would like to see. Also, looking at my Hoof Beats Magazine I would urge you to vote nay. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Farmington, Representative Mills.

Representative **MILLS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. It seems to me that this bill is a solution looking for a problem. We are talking about a

very broad bill and I wonder whether or not it would withstand constitutional scrutiny. When we elect people to different offices, whether it is for State Representative, State Senator, Dog Catcher, Municipal Officer or a Constitutional office they are entitled to use those titles. They earned those titles. If I as Janet Mills write a letter saying that I support candidate X in my neighboring community, I am entitled to use the term Representative Janet Mills. People know darn well that it doesn't mean that all 8,000 or so people living in my district are behind that other candidate. They just know that I happened to get elected as Representative and I happen to have views and I am entitled to express them and I am entitled to use the title that I earned and was elected to use.

I dare say that when people say that this is along party lines I do recall Attorney General James Erwin and Attorney General Dick Cohen and Attorney General John Lund, several of whom ran for higher office and freely used the titles that they earned and were elected to be able to use. I doubt very much that we would be looking at this bill if they were still in office and they were running for Governor or other things that they ran for and they are entitled to use their first amendment rights of free speech to express their political views and to use the titles that they earned. This isn't a party lines issue. This is a free speech issue and I ask you to vote with the **Minority Ought Not to Pass** motion. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Boothbay, Representative Bishop.

Representative **BISHOP**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. You are right. It is not a party issue. That was my mistake. The good Representative from Blue Hill is certainly on the other side of the aisle so I recognize that it is not a party issue. I wish to say a bit further that in the case of the Secretary of State, whose job it is to oversee the department which is in charge of elections and responsible for the fair and honest application of the laws that govern elections in the State of Maine, to sign a letter endorsing a candidate implies that he is backing that particular candidate. Yes, we all recognize free speech, but there is a difference between an individual speaking out as an individual and an individual who is responsible for the application of a fair and honest election to be speaking out for a contestant in one of their elections.

Quite frankly, and especially in this particular case, it could very easily taint the outcome of that election. I think once more we have to understand that freedom of speech does not extend to the point of yelling fire in a theatre the same way that freedom of speech does not extend to the point where that government official responsible for honest and fair elections is, in fact, endorsing a contestant in those same elections. Thank you very much Mr. Speaker and Ladies and Gentlemen of the House.

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

Representative **MOULTON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the **Minority Ought Not to Pass** Report and would just like to state briefly that there is a difference when an elected member of this House endorses another candidate. Most of us are partisan in the sense that we belong to a political party, on the other hand, once elected to their office the three positions named in this bill the person who assumes that office acts on behalf of the people of the State of Maine, particularly in the case of the Secretary of State who's office is largely responsible for tabulating and recording the votes by which we obtain office. Certainly, the Attorney General is someone whom we want to

speak for the people of the State of Maine and when one of those individuals then uses their title in a partisan manner it was something that the majority of our committee felt warranted redress in the form of this legislation. Therefore Mr. Speaker and Ladies and Gentlemen of the House I encourage and urge you strongly to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Cummings.

Representative CUMMINGS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I believe that the issue is an important one for us to discuss and I think that we can find counsel from both parties over the last 185 years. Our good counterparts on the other side controlled this state in almost all of its chambers and almost the entire second floor for virtually 165 years. Many people would say that that was a good thing and that they made their decisions wisely most of the time and that they decided it was a good idea not to touch this particular constitutional decision. Whatever the merits of that my guess is that they chose not to do it because they felt that the constitutional officers reflected their ideals and it was appropriate for those constitutional officers with whom you would have to work closely to reflect the ideals of the Republican Party. We feel similarly.

In this case it is not a matter of what is ethical or not ethical, but what is an appropriate way for us to use the mechanism of the Constitution to create a system in which you work with your majority party. Most states don't do this, but Maine has traditionally done this and when the Republicans had control they felt strongly that this was the way that they ought to do it and we did not hear these same complaints. I would assume that it was because they felt that it was an appropriate way to go forward.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Collins.

Representative COLLINS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The staff that works for these constitutional officers always claim that they are bipartisan staff and they take no position politically when they are working with us, the Maine Legislature. I don't know why the constitutional officers can't adhere to the same. Ordinary folks back home are not quite as learned as you and I are here, being members of the Maine Legislature. When folks back home get a letter from the Secretary of State it is pretty meaningful. It will sway them and convince them to probably vote for the candidate that that particular constitutional officer had endorsed through his letter. It may not be illegal, but I question the ethics of doing that.

I agree with the Representative from Farmington that there is enough blame spread all around, but maybe it is time to change it. The time is right now to change this and prevent this from happening in the future. I urge you to vote against the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Watson.

Representative WATSON: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I seem to recall the Chief Executive of the United States flying into Bangor and endorsing the Republican candidate for Governor and yet I don't recall anyone saying that meant that the entire United States Government was behind a particular candidate running for governor in the State of Maine. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Manchester, Representative Moody.

Representative MOODY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would just like to say in response to the good Representative from Wells,

Representative Collins that 5700 absolutely brilliant people returned me to office in the last election. Thank you.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Mills.

Representative MILLS: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative MILLS: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I also have to add that I do recall officials from the other party such as Senate President Richard Bennett, Senate President Jeff Butland and other distinguished members of the Republican Party having campaigned vigorously for candidates who elected them to their posts and never was it intended or implied that the entire staff of that office was behind it, but merely the opportunity to use that title was present and available and appropriate. I remember many people having received titles of this sort and being elected by members of their party such as the constitutional officers are elected as well. I don't think that I have ever seen a letter signed by a constitutional officer that implied in any way that they were speaking for their entire office, nor does anyone with a modicum of common sense construe it that way. I wonder whether or not the Minority Leader and the Assistant Minority Leader, the Majority Leader and Assistant Majority Leader, would also be affected by this law? If it is good enough for the constitutional officers why don't we say that nobody elected by a partisan vote should be allowed to use their title to sway someone else in their vote for any other candidate. It makes no sense to me Ladies and Gentlemen. Finally, I would pose a question through the Chair as to whether or not the wording of this bill, which says the Treasurer of State, Secretary of State and Attorney General may not use or allow to be used the title of Attorney General etc. for a political purpose not necessary for the administration of the department of, fill in the blanks prohibits that individual from using their own title to run for reelection among their own party members?

The SPEAKER: The Representative from Farmington, Representative Mills has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gorham, Representative Barstow.

Representative BARSTOW: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In answer to the good Representative from Farmington's question and as Chair of the committee considering this that would be my interpretation and further I would like to speak to the bill that is before us.

One thing that is not put into this bill and that has been alluded to here today is that this could have far reaching effects beyond the constitutional officers and to us as elected officials with regard to the titles that we use and possible prohibitions in the future. Further, I think that if we did enact this bill and did not support the Ought Not to Pass Report we would have to take a serious look in order to be in concurrence with the passage of this and how we nominate the partisan officers. We have Democratic nominees, Republican Nominees at the beginning of each session from our individual caucuses and we do have Independent, Unenrolled nominees that come forward and I think that if we were to go forward and were to prohibit this use of the title then, beyond the far reaching ramifications of us as legislators or other elected officials within the state, we would have to further look at the nomination process and see if we could truly find a way to nominate some of these candidates without a partisan leaning to one side or the other. I truly feel that it is not possible Mr. Speaker and that is why I will be supporting the Ought Not to Pass Report.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative **GLYNN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Listening to the debate it is kind of interesting. Having served in local government for a number of years before I came to the Legislature I find the type of conduct that we are talking about as completely inappropriate and it should be prohibited and why we should move onto the Majority Report.

I think that about my own town and imagine that the town manager was endorsing town council candidates at election time. Can you imagine if the superintendent of schools were sending out endorsement letters for school board candidates? You would never see that and there is a reason for that. It is inappropriate and it is wrong. It is an abuse of your office and they should know better and if they don't know better than we should pass a law which prohibits that type of activity. I find it particularly offensive when we get to the issue of election officials. I never saw a city clerk or town clerk or a warden at an election poll-endorsing candidates because they are counting ballots. Well, the Secretary of State's office is responsible for elections and responsible for those recounts and if they are in the middle of the candidates' election what is going to happen in a recount situation where they have become involved? How is the public going to have confidence in that vote? I think that those are the basic issue of this bill and I think that they have a great amount of merit and I support them. I urge you to vote against this minority report.

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

Representative **BRAUTIGAM**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I think the examples of an endorsement from a city official are far narrower than what the actual language of the statute proposes. The Secretary of State for example, may not allow or allow to be used the title of Secretary of State. In my reading of this bill this would prohibit campaign literature with, for example, a photograph of yourself and a former Secretary of State identifying that person as the former Secretary of State in your campaign literature. If you were to issue a piece of campaign literature like that this bill would require the Secretary of State to somehow do something about it because that Secretary of State cannot allow that to happen pursuant to the language of this bill so this is far broader reaching than just signing a letter to the editor. It prohibits a lot of stuff that is routinely done and, to no offense as far as I can see. Thank you very much Mr. Speaker.

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

Representative **MOULTON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As our good Representative from South Portland has already indicated there are many examples from both local, state and federal levels where laws prohibit partisan activity by people within those governments and there is good reason for doing so in order that they may fairly administer the laws that are set before them. We are asking for the same thing in this case through the three constitutional officers. This blurring of the lines in argument is, I believe, unfounded and would therefore encourage the membership to vote against the pending motion. Thank you.

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

Representative **BARSTOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In deference to the Representative from Cape Neddick and his comments I

would like to make clear that the laws that are governing those state and federal employees are non-partisan employees and they do not hold partisan office. Thank you Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Minority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 295**

**YEA** - Adams, Ash, Babbidge, Barstow, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Faircloth, Farrington, Finch, Fischer, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundean, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

**NAY** - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Eder, Edgecomb, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Jacobsen, Jodrey, Joy, Kaelin, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Schatz, Seavey, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

**ABSENT** - Beaudette, Emery, Fisher, Hotham, Lansley, Moore G, Patrick, Pelletier-Simpson, Sherman.

Yes, 72; No, 70; Absent, 9; Excused, 0.

72 having voted in the affirmative and 70 voted in the negative, with 9 being absent, and accordingly the Minority **Ought Not to Pass Report** was **ACCEPTED** in concurrence.

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

**COMMUNICATIONS**

The Following Communication: (S.C. 379)

**MAINE SENATE**

**122ND LEGISLATURE**

**OFFICE OF THE SECRETARY**

June 9, 2005

Honorable Millicent M. MacFarland

Clerk of the House

State House Station 2

Augusta, ME 04333

Dear Clerk MacFarland:

Please be advised the Senate today adhered to its previous action whereby it Indefinitely Postponed Bill "An Act To Require That the Department of Health and Human Services Include a Bureau of Elder Services" (H.P. 262) (L.D. 349) and all accompanying papers.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

**READ and ORDERED PLACED ON FILE.**

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

The House recessed until 2:00 p.m.

(After Recess)

The House was called to order by the Speaker.

**COMMUNICATIONS**

The Following Communication: (H.C. 284)

**STATE OF MAINE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE  
COMMITTEE ON NATURAL RESOURCES**

May 17, 2005

Honorable Beth Edmonds, President of the Senate  
Honorable John Richardson, Speaker of the House  
122nd Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:  
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Natural Resources has voted unanimously to report the following bill out "Ought Not to Pass":  
L.D. 99 An Act To Include Specific Bodies of Water within Class C Standards

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

Sincerely,  
S/Sen. Scott W. Cowger  
Senate Chair  
S/Rep. Theodore Koffman  
House Chair

**READ and ORDERED PLACED ON FILE.**

**SENATE PAPERS  
Non-Concurrent Matter**

Bill "An Act To Amend Laws Governing the Setting of the Sea Urchin Harvesting Season"

(H.P. 354) (L.D. 479)

Majority (11) **OUGHT TO PASS AS AMENDED** Report of the Committee on **MARINE RESOURCES READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-406)** in the House on May 23, 2005.

Came from the Senate with the Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

The House voted to **ADHERE**.

On motion of Representative PERCY of Phippsburg, the House **RECONSIDERED** its action whereby it voted to **ADHERE**.

On further motion of the same Representative, **TABLED** pending the motion of Representative RICHARDSON of Brunswick to **ADHERE** and later today assigned.

**CONSENT CALENDAR**

**First Day**

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

(H.P. 1186) (L.D. 1677) Bill "An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2006 and June 30, 2007" (EMERGENCY) Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-673)**

On motion of Representative DUPLESSIE of Westbrook, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (H-673)** was **READ** by the Clerk.

On further motion of the same Representative, **TABLED** pending **ADOPTION** of **Committee Amendment "A" (H-673)** and later today assigned.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws

(H.P. 226) (L.D. 301)  
(C. "A" H-632)

Which was **TABLED** by Representative PELLETIER-SIMPSON of Auburn pending **PASSAGE TO BE ENACTED**.

On motion of Representative DUPLESSIE of Westbrook, the Bill was placed on the Special Study Table pursuant to Joint Rule 353 pending **PASSAGE TO BE ENACTED**.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

An Act To Prevent the Manufacturing of Methamphetamine in Maine

(S.P. 575) (L.D. 1601)  
(C. "A" S-334)

Which was **TABLED** by Representative DUPLESSIE of Westbrook pending **PASSAGE TO BE ENACTED**.

Representative PINGREE of North Haven **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

**ROLL CALL NO. 296**

**YEA** - Adams, Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Berube, Bierman, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Cain, Campbell, Canavan, Carr, Cebra, Churchill, Clark, Clough, Collins, Craven, Cressey, Crosthwaite, Cummings, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Finch, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Koffman, Lansley, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden,

McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Smith N, Smith W, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - NONE.

ABSENT - Crosby, Dugay, Fischer, Greeley, Hotham, Moore G, Perry, Richardson W.

Yes, 143; No, 0; Absent, 8; Excused, 0.

143 having voted in the affirmative and 0 voted in the negative, with 8 being absent, and accordingly the Bill was **PASSED TO BE ENACTED** signed by the Speaker and sent to the Senate.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

An Act To Care for Families

(S.P. 361) (L.D. 1044)  
(C. "A" S-280)

Which was **TABLED** by Representative SMITH of Van Buren pending **PASSAGE TO BE ENACTED**. (Roll Call Ordered)

On motion of Representative SMITH of Van Buren, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-280)**.

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-280)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "B" (H-674) to Committee Amendment "A" (S-280)** which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative **SMITH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This amendment substantially reduces the penalties set forth in the original amendment and it takes out the last sentence of subsection seven, which made each day a separate violation. Under this amendment it would provide that there would only be a civil penalty of \$50 for a first violation and, if there was a refusal of leave requested under this Act, the penalty would be \$50 for refusal to that employee. And, if there was a subsequent violation with regard to another employee then it would be \$100 and then for a third employee it would be \$250. This is a substantial roll back of the penalties, which were imposed in the original amendment and I ask you to support the amendment.

Subsequently, **House Amendment "B" (H-674) to Committee Amendment "A" (S-280)** was **ADOPTED**.

The **SPEAKER**: The Chair recognizes the Representative from Sanford, Representative Bowles.

Representative **BOWLES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We certainly appreciate the amendment that was offered up by the good Representative from Van Buren. He characterized it as a

substantial reduction in the penalties and I would characterize it as a reduction, one that is none-the-less appreciated, but still leaves honerous penalties on the business community and we still find this bill to be unacceptable for that reason. Therefore Mr. Speaker, when the vote is taken I would request a roll call.

Representative **BOWLES** of Sanford **REQUESTED** a roll call on the motion to **ADOPT Committee Amendment "A" (S-280) as Amended by House Amendment "B" (H-674)** thereto.

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

On motion of Representative **DUPLESSIE** of Westbrook **TABLED**, pending **ADOPTION of Committee Amendment "A" (S-280) as Amended by House Amendment "B" (H-674)** thereto and later today assigned. (Roll Call Ordered)

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

**ORDERS**

On motion of Representative **PELLETIER-SIMPSON** of Auburn, the following Joint Order: (H.P. 1196)

**ORDERED**, the Senate concurring, that Bill, "An Act Authorizing Municipalities To Establish Walking Trails," S.P. 165, L.D. 539, and all its accompanying papers, be recalled from the legislative files to the House.

**READ.**

Pursuant to Joint Rule 404, this Joint Order required the affirmative vote of two-thirds of those present for **PASSAGE**. 80 voted in the affirmative and 65 in the negative, 80 being fewer than two-thirds of those present, the Joint Order **FAILED PASSAGE**.

The House recessed until 4:00 p.m.

(After Recess)

The House was called to order by the Speaker.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

Bill "An Act Regarding Advertising by Drug Manufacturers"  
(H.P. 1141) (L.D. 1618)  
(C. "A" H-661)

Which was **TABLED** by Representative **CUMMINGS** of Portland pending **PASSAGE TO BE ENGROSSED as Amended**.

On motion of Representative **LERMAN** of Augusta, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-661)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-675) to Committee Amendment "A" (H-661)** which was **READ** by the Clerk,

The **SPEAKER**: The Chair recognizes the Representative from Augusta, Representative Lerman.

Representative **LERMAN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. In response to comments that I have received from a few of my colleagues I proposed this amendment. The original bill that we considered

and, in fact, accepted as the Majority Report had one piece of it that connected advertising in Maine with the requirement that clinical results be disclosed. While the Attorney General's office assured me that there was nothing illegal about that there were some folks who just felt uneasy about that connection.

Obviously, we all got a memo from the ANA, the Association of National Advertisers that raised some questions. In response to that memo this amendment eliminates that connection and it ties the requirement that you disclose the results of clinical trials to those manufacturers who need to comply with a law that was enacted by the Legislature a few years ago. That law has to do with the companies reporting to the state and the amount of money that they spend on their marketing efforts. Essentially, this report that you got from the ANA is moot because that is no longer part of the bill, assuming that we adopt this amendment.

I hope that you will support this amendment. I think that it is a very good improvement to a very important bill that will provide public disclosure, that will give people the information that they need to make good decisions on whether or not to take particular medications and I thank you for your consideration.

Subsequently, House Amendment "A" (H-675) to Committee Amendment "A" (H-661) was **ADOPTED**.

Representative LEWIN of Eliot **PRESENTED** House Amendment "B" (H-676) to Committee Amendment "A" (H-661), which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Elliot, Representative Lewin.

Representative **LEWIN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is a very short little amendment. It is one sentence. The amendment removes the provision requiring payment of fees to the Department of Health and Human Services. I think that it is a very fair and acceptable thing to do. There must come a day when this body recognizes that we cannot always make someone else responsible for paying. Thank you.

Representative **PINGREE** of North Haven moved that House Amendment "B" (H-676) to Committee Amendment "A" (H-661) be **INDEFINITELY POSTPONED**.

Representative **TARDY** of Newport **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** House Amendment "B" (H-676) to Committee Amendment "A" (H-661).

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

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-676) to Committee Amendment "A" (H-661). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 297**

**YEA** - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Campbell, Canavan, Clark, Craven, Cummings, Driscoll, Dudley, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

**NAY** - Annis, Austin, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle,

Davis G, Davis K, Dugay, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Hall, Hamper, Hanley B, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Marean, McCormick, McKane, McKenney, McLeod, Millett, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

**ABSENT** - Berube, Crosby, Duchesne, Greeley, Hotham, Lindell, McFadden, Moore G.

Yes, 76; No, 67; Absent, 8; Excused, 0.

76 having voted in the affirmative and 67 voted in the negative, with 8 being absent, and accordingly **House Amendment "B" (H-676) to Committee Amendment "A" (H-661) was INDEFINITELY POSTPONED**.

The **SPEAKER**: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative **SHIELDS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill is well intentioned, however it is amended to reveal market costs. This is the cost of doing business in the United States. I don't know how much interest the public has in that. The bill also continues to be well intentioned to inform people about the failures and side effects of medications, which may not be widely known

A website that has not been noted up to this point is the website of the U.S. Food and Drug Administration called MedWatch. It has very specific information about medications and their bad effects and side effects.

Enforcing the requirements listed in this bill may be quite another matter. Among the requirements in the bill are the maintenance of a publicly accessible website where the clinical trial information is to be published. Now, I wonder who is going to do this? Number two is the need to assess the extent to which Maine residents have been harmed by the use of a particular drug. How is this going to be done? If you were given that task how would you do it? Number three was undertaking a public education initiative. Now, how could expensive is this on television that you are going to do? The question is, how are all of these things going to be done that are under this bill or will they just be ignored. The answer is that the bill calls for what the Chicago mob used to call protection money in a form of extortion that is \$1,000 from each of the companies that sell drugs to the MaineCare and Drugs for the Elderly program. There are 300 of those companies and therefore there are \$300,000 coming in every year to help fund this program. We are picking the pockets of these 300 drug manufacturers for this money.

Is this going to pay for an Assistant Attorney General position for enforcement? Is this going to allow additional people to be hired to maintain the website? Is this going to allow contracting with ambulance chasers to discover who has had ill effects from this medication? It sounds like the state government will be adding positions and it sounds like liability lawsuits will be started. This is really throwing around the weight of state government through state law to ransom funds from companies to support all of this. If all of these things are done well I think it will cost more than \$300,000. It appears to me that the federal government should take this on with its resources. It is out of Maine's league. I would hope that you vote against this bill and when the vote is take Mr. Speaker, I call for the yeas and nays.

Representative **SHIELDS** of Auburn **REQUESTED** a roll call on the motion to **ADOPT** Committee Amendment "A" (H-661) as Amended by House Amendment "A" (H-675) thereto.

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

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Lerman.

Representative LERMAN: I just want to add additional clarification in response to some of the comments from my good colleague from Auburn. First of all, we have really made an effort to make the disclosure of clinical trials by the manufacturers very simple and really all that we essentially have done in this bill is said for them to do what they are going to do. PhRMA voluntarily came forward and said that they were going to disclose because there was a lot of pressure on them to do that, especially in light of the fact that we have learned over the last few years that they have not been forthcoming. We have seen that with a variety of medications. Quite frankly, there are a lot of nightmares and horror stories that our constituents possibly experienced as a result of lack of full disclosure by the manufacturers. The industry said okay, in light of this pressure we will share with the public the result of all clinical trials. They have not done it. They set deadlines and they indicated what they were going to reveal to the public and they simply haven't done it. If they decide to do what they said that they are going to do they will be in full compliance with what is included in this bill.

All that should be necessary on the part of the manufacturers to be able to comply with this bill is to simply indicate to the Department of Human Services the website where the results of the clinical trials had been disclosed. This bill is all about transparency. This bill is all about having an informed public so that when we make decisions about whether or not to take certain medications we have the complete picture. Would it be necessary if the companies had been forthcoming in the past? It would not. I have talked to some doctors who were very concerned that they are liable for having prescribed certain medications without really being aware of all of the consequences of their patients taking those medications. There is a certain degree of liability both in terms of professional integrity and in terms of professional liability that doctors are exposed to because of the failure of the pharmaceutical companies to be forthcoming.

To think that the pharmaceutical companies are going to be concerned about the \$1,000 is something I don't need to say anything more about. It is not really on the radar screen. It is petty cash at best and in this environment I really understand and hope that you will not consider this a tax. Having, in this day and age when we are fiscally strapped and when we have more and more of an emphasis on user fees that is the way that we seem to go these days. If you want to do or use something you need to pay for it. That money will simply be used to let the public know where to find the information that this law requires the companies to disclose. This is simply about public disclosure and transparency and it is simply about letting individuals know the consequences of the medications that they might be taking and the rest of the arguments are really just an effort to scuttle it and I can assure you, as I am sure many of you know, that PhRMA is making a concerted effort to try and get you to vote against this bill. I hope that you will rise above that, think about the best interests of your constituents and support this bill. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Turner, Representative Bryant-Deschenes.

Representative BRYANT-DESCHENES: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to call your attention to some information that I had distributed to your desktops and I hope that you have taken some time to look through that and read some of this. Part of the reason that I oppose this is that I think telling consumers about

drugs is a good thing and I think that a lot of the information that gets out there does so through advertising and it prompts patients to talk with their doctors about conditions that they have and it helps them to understand that, in some cases, there are remedies and there are medications that they can take to prevent them from getting more serious injuries and more serious diseases because they are not taking care of these conditions.

I would also like for you to read the information that is in here about the first amendment concerns as to this issue. I think that there is a lot of regulation by the FDA and I think that that is where it belongs and that what we are doing through this is that we are going to be creating enough of a bureaucracy that we are going to use up these funds. I think saying that there is \$300,000 more coming in is unreasonable because it is certainly going to be spent. To be a little pessimistic the first term that I was here DHS lost \$19 million that they couldn't find. This year I read in the paper that \$51 million has been paid out and we are not sure where it has gone and if it is in the appropriate hands than I think that we are going to use the honor system to potentially find that. I am not sure that we need to be taking \$300,000 more dollars and dumping it into this as well. Thank you.

The SPEAKER: The Chair recognizes the Representative from Manchester, Representative Moody.

Representative MOODY: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative MOODY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am curious about something. If the law is already in place and it is not being complied with I am wondering why the committee didn't simply impose a fine of some sort on those who fail to comply with the existing law rather than go this way?

The SPEAKER: The Representative from Manchester, Representative Moody has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative PINGREE: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. In an attempt to answer the good Representative's question I am not sure what law he is discussing. There was mention earlier today of disclosure of marketing costs. That was a law passed by the past Legislature a year or two ago and while this law makes reference to that it does nothing in regards to that law.

When we are talking about disclosure of clinical trials there is no federal or state law that mandates the disclosure of clinical trials. This is an issue that the federal government and the FDA have thoroughly discussed and in the FDA's discussion the pharmaceutical industry came forward and said that they would voluntarily disclose the clinical trials and that they understood that the American people would want access to that information, especially providers. As we discussed yesterday there have been a number of reports in the last week or two that the vast majority of drug companies are not complying with the voluntary promise that they made. There have been a few notable examples of drug companies that have made the attempt to disclose their clinical trials, but the vast majority has not. There is no law on the books that we are talking about here although the law makes reference to a federal law regarding advertising. This bill does include a reference to that federal bill that would allow our AG to ensure compliance with that. Around the clinical trials there is no federal law. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Glynn.



Representative **GLYNN**: Mr. Speaker, may I pose a question through the Chair?

The **SPEAKER**: The Representative may pose his question.

Representative **GLYNN**: I rise in opposition to this committee amendment and a lot of what has been said is what I think speaks to an issue that has already been solved at the federal level. All that this bill does is tax an industry and that is what we are doing. We are taxing this industry for the purpose of having a state sponsored website for clinical trial reporting. You may or may not agree with that public policy, but one thing is clear and that is that there already is a website that exists at the federal level to which the Maine Department of Health and Human Services already has a link. This bill is overkill and is not needed. The information is there at the federal level and we have a link to it on our website in Maine and it is being done now at no additional cost.

What we are actually doing with this bill, as amended, is that we are requiring that manufacturers pay a fee to the Department of Health and Human Services in order to do business with MaineCare and the DEL programs. What does selling drugs in MaineCare and or DEL have to do with advertising or reporting of clinical trials and why is the fee linked to those participating only in those programs?

The **SPEAKER**: The Representative from South Portland, Representative Glynn has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Augusta, Representative Leman.

Representative **LERMAN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. In fact, there is no relationship between participation in the MaineCare program and the DEL program in advertising nor is there any suggestion of that in this bill. Just be clear on that. I am not exactly sure where the good Representative got that impression, but it simply does not reflect the substance of this bill and there is nothing that makes that connection.

Let me also make a couple of other quick points. There are websites out there that have to do with clinical trials, but their focus is not on the results of clinical trials, their focus is on people being able to register to be part of clinical trials. There are people out there who have not been able to get relief from what are, in some cases, life threatening diseases and who are eager, if not desperate to find other remedies, treatments and medications that might make the difference for them. The clinical trials websites that are out there give people the opportunity to volunteer to be part of clinical trials in their efforts to become well. That is a very separate issue and a very separate set of information than what we are talking about in this bill. This bill is about revealing the results of clinical trials. Existing websites focus on giving the opportunity to participate in clinical trials. Thank you Mr. Speaker. The **SPEAKER**: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative **SHIELDS**: Mr. Speaker, may I pose a question through the Chair?

The **SPEAKER**: The Representative may pose his question.

Representative **SHIELDS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The good Representative from Augusta indicated that doctors were having trouble getting information about drugs. I have to question the accuracy of that. If there is anybody who has access to medical information and clinical trials it would be a physician. All that they ever have to do is spend the time doing it. Is there anyone here who has done a comprehensive survey of all the websites available and knows for sure one way or the other that they are completely inadequate as far as supplying this information?

The **SPEAKER**: The Representative from Auburn, Representative Shields has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative **PINGREE**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I just want to make one point clear because I think that it has been a little cloudy in this debate. The manufacturers of the major pharmaceuticals that are currently on the market are not required to disclose the clinical trials after the FDA has approved those drugs and they are not disclosing them although they voluntarily said that they would do it. That is the issue that this bill speaks to. There are countless news stories of how, after approval, clinical trials revealed side effects and were sometimes harmful if not death causing. This was true of Vioxx, Bextra and a number of the different drugs that we have talked about including Zolof, which was recently discovered as having suicidal impacts on children. There are drug after drug that have been in the news stories and I don't think that there is any question that it has or has not been documented. The pharmaceutical industry is not providing access to these clinical trials.

This bill seeks to attempt to ask the drug companies to do that. There were a number of articles on your desk yesterday. One from the New York Times titled, "Despite Vow Drug Makers Still Withhold Data". The New England Journal of Medicine accused three of the largest drug companies of making a mockery of efforts to create transparency in clinical trials and they were stating that the drug companies were not disclosing the clinical trial information. I think that there is a ton of documented evidence out there that these clinical trials are not on websites and not being disclosed to the public and providers or doctors and that there is a real need for this bill. Certainly not for the pharmaceutical industry, but for the people of Maine and the doctors who take care of them.

The **SPEAKER**: The Chair recognizes the Representative from Rumford, Representative Patrick.

Representative **PATRICK**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I will keep this simple. To me it is crystal clear, as clear as the Grecian formula I use in my hair. If you believe the large pharmaceutical companies had been forthright and open minded about clinical trials and that no one has ever gotten sick or died from drugs when hidden clinical trials would have given the needed information that could have helped them or their doctor make a decision then you will vote no. If you believe that large pharmaceutical companies have hidden information and/or you believe in protecting people, including our seniors and children, from the harmful effects of drugs then you will vote yes. Thank you Mr. Speaker.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Acceptance of Committee Amendment "A" (H-671) as Amended by House Amendment "A" (H-675) thereto. All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 298

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Campbell, Canavan, Clark, Craven, Cummings, Driscoll, Dudley, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Schatz, Smith N, Smith W, Thompson, Tuttle,

Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

**NAY** - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosby, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Dugay, Duprey, Edgecomb, Emery, Fischer, Fitts, Fletcher, Flood, Glynn, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Marean, McCormick, McKane, McKenney, McLeod, Millett, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

**ABSENT** - Duchesne, Fisher, Greeley, Lindell, McFadden, Moore G.

Yes, 73; No, 72; Absent, 6; Excused, 0.

73 having voted in the affirmative and 72 voted in the negative, with 6 being absent, and accordingly **Committee Amendment "A" (H-661) as Amended by House Amendment "A" (H-675)** thereto was **ADOPTED**.

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-661) as Amended by House Amendment "A" (H-675)** thereto and sent for concurrence.

---

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

---

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

An Act Regarding Distribution of Information from the Central Voter Registration System

(S.P. 446) (L.D. 1266)  
(C. "A" S-340)

Which was **TABLED** by Representative PATRICK of Rumford pending **PASSAGE TO BE ENACTED**. (Roll Call Ordered)

On motion of Representative PATRICK of Rumford, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-340)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-677) to Committee Amendment "A" (S-340)** which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Rumford, Representative Patrick.

Representative **PATRICK**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This amendment corrects a small flaw that many of you may have gotten calls about from your town clerks. Inadvertently when the Secretary of State was trying to pass this bill he took away a towns right to charge their small stipend when they make out a voting list for someone other than a party and we said that we would bring it back to where it was that they can charge the same nominal fee that they were able to in the present law that is on the books and

I would urge that you would adopt it and move on to pass the bill. Thank you.

Subsequently, House Amendment "A" (H-677) to Committee Amendment "A" (S-340) was **ADOPTED**.

**Committee Amendment "A" (S-340) as Amended by House Amendment "A" (H-677)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-340) as Amended by House Amendment "A" (H-677)** thereto in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

---

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

An Act To Care for Families

(S.P. 361) (L.D. 1044)  
(C. "A" S-280)

Which was **TABLED** by Representative DUPLESSIE of Westbrook pending **ADOPTION** of **Committee Amendment "A" (S-280) as Amended by House Amendment "B" (H-674)**. (Roll Call Ordered)

Subsequently, Representative BOWLES of Sanford **WITHDREW** his request for a roll call.

**Committee Amendment "A" (S-280) as Amended by House Amendment "B" (H-674)** thereto was **ADOPTED**.

Representative BOWLES of Sanford **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended**.

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

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

**ROLL CALL NO. 299**

**YEA** - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Driscoll, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

**NAY** - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Marean, McCormick, McKane, McKenney, McLeod, Millett, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

ABSENT - Cummings, Duchesne, Duprey, Greeley, Lindell, McFadden, Moore G.

Yes, 76; No, 68; Absent, 7; Excused, 0.

76 having voted in the affirmative and 68 voted in the negative, with 7 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-280) as Amended by House Amendment "B" (H-674)** thereto in **NON-CONCURRENCE** and sent for concurrence.

---

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

---

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

Bill "An Act To Amend Laws Governing the Setting of the Sea Urchin Harvesting Season"

(H.P. 354) (L.D. 479)

Which was **TABLED** by Representative PERCY of Phippsburg pending the motion of Representative RICHARDSON of Brunswick to **ADHERE**.

Representative PERCY of Phippsburg moved that the House **RECEDE AND CONCUR**.

The **SPEAKER**: The Chair recognizes the Representative from Newport, Representative Tardy.

Representative **TARDY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I oppose this Recede and Concur motion and I would respectfully suggest that the impact of this motion goes beyond its impact on urchins in LD 479. However, I would like to thank you Mr. Speaker for your patience and assistance in attempting to repair what I view as a broken process and a broken promise that got LD 479 to this point. Republican members of Marine Resources and Republican leadership have invested a lot of time in this process and I can assure you that we will learn from it.

Representative **TARDY** of Newport **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Recede and Concur. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 300**

**YEA** - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Driscoll, Dudley, Dunn, Duplessie, Eberle, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

**NAY** - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Dugay, Eder, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Marean, McCormick, McKane, McKenney, McLeod, Millett, Moulton, Muse, Nass, Nutting, Ott, Paradis, Pinkham,

Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

ABSENT - Cummings, Duchesne, Duprey, Greeley, Hall, Lindell, McFadden, Moore G.

Yes, 73; No, 70; Absent, 8; Excused, 0.

73 having voted in the affirmative and 70 voted in the negative, with 8 being absent, and accordingly the House voted to **RECEDE AND CONCUR**.

---

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

**SENATE PAPERS**  
**Non-Concurrent Matter**

Bill "An Act To Amend the Maine Tort Claims Act"

(H.P. 655) (L.D. 936)

Majority (10) **OUGHT TO PASS AS AMENDED** Report of the Committee on **JUDICIARY READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-657)** in the House on June 8, 2005.

Came from the Senate with the Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **JUDICIARY** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

---

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

---

On motion of Representative HOGAN of Old Orchard Beach, the House adjourned at 6:04 p.m., until 9:00 a.m., Friday, June 10, 2005.