

MAINE STATE LEGISLATURE

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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
SECOND REGULAR SESSION
35th Legislative Day
Wednesday, April 5, 2006

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

Prayer by Right Reverend Douglas Wright, American Orthodox Community of Whitefield.

National Anthem by Melissa Birch, Coopers Mills.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act To Make Revisions to the Laws Governing Pesticide Control"

(H.P. 1330) (L.D. 1890)

Report "A" (6) **OUGHT TO PASS AS AMENDED** of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-860)** in the House on March 27, 2006.

Came from the Senate with Report "C" (2) **OUGHT TO PASS AS AMENDED** of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-862)** in **NON-CONCURRENCE**.

On motion of Representative PIOTTI of Unity, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

Non-Concurrent Matter

Bill "An Act To Implement Recommendations of the Study Commission Regarding Liveable Wages Concerning the State Earned Income Tax Credit"

(H.P. 1428) (L.D. 2027)

Majority (7) **OUGHT NOT TO PASS** Report of the Committee on **TAXATION READ and ACCEPTED** in the House on March 27, 2006.

Came from the Senate with the Minority (5) **OUGHT TO PASS AS AMENDED** Report of the Committee on **TAXATION READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-865)** in **NON-CONCURRENCE**.

On motion of Representative RICHARDSON of Brunswick, the House voted to **RECEDE AND CONCUR**.

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.

Representative DUPLESSIE of Westbrook moved that the Bill be **TABLED** pending the motion of Representative RICHARDSON of Brunswick to **RECEDE AND CONCUR**. (Roll Call Ordered)

COMMUNICATIONS

The Following Communication: (H.C. 424)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

March 30, 2006

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

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 1791 An Act To Increase the Number of Members on the Board of Pesticides Control

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

Sincerely,

S/Sen. John M. Nutting

Senate Chair

S/Rep. John F. Piotti

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 425)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY**

March 30, 2006

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

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 1879 An Act To Enhance Firefighter Safety

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

Sincerely,

S/Sen. Bill Diamond

Senate Chair

S/Rep. Patricia A. Blanchette

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 426)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

March 30, 2006

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

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 1980 Resolve, To Provide Influenza Immunization Agents to All Health Care Facilities in the State
We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,
S/Sen. Arthur F. Mayo, III
Senate Chair
S/Rep. Hannah Pingree
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 427)
STATE OF MAINE

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON INSURANCE AND FINANCIAL SERVICES**

March 30, 2006
Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Insurance and Financial Services has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2059 An Act To Allow an Insured To Terminate Life Insurance Coverage under a Policy Owned by Another

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

Sincerely,
S/Sen. Nancy B. Sullivan
Senate Chair
S/Rep. Anne C. Perry
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 428)
STATE OF MAINE

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON JUDICIARY**

March 30, 2006
Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Judiciary has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 986 An Act To Amend the Maine Revised Uniform Limited Partnership Act

L.D. 1297 An Act To Provide Just Compensation for Established Businesses During Eminent Domain Proceedings

L.D. 1646 An Act Regarding Buildings on Leased Lots

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Barry J. Hobbins

Senate Chair
S/Rep. Deborah Simpson
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 429)
STATE OF MAINE

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

March 30, 2006
Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

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

L.D. 2024 An Act To Implement Recommendations of the Study Commission Regarding Liveable Wages Concerning the State Contracting Process

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

Sincerely,
S/Sen. Elizabeth M. Schneider
Senate Chair
S/Rep. Christopher R. Barstow
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 430)
STATE OF MAINE

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON TAXATION**

March 30, 2006
Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2053 An Act To Simplify and Relieve Personal Property Taxes for Small Businesses

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

Sincerely,
S/Sen. Joseph C. Perry
Senate Chair
S/Rep. Richard G. Woodbury
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 432)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

April 4, 2006

Honorable Beth Edmonds, President of the Senate

Honorable John Richardson, Speaker of the House

122nd Maine Legislature

State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 2022 An Act To Implement Recommendations of the Study Commission Regarding Liveable Wages Concerning Subsidized Child Care

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

Sincerely,

S/Sen. Arthur F. Mayo, III

Senate Chair

S/Rep. Hannah Pingree

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 433)

STATE OF MAINE

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

April 4, 2006

Honorable Beth Edmonds, President of the Senate

Honorable John Richardson, Speaker of the House

122nd Maine Legislature

State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 1882 An Act To Expand the Auditing Powers of the Department of Audit and To Clarify the Confidentiality of Audit Working Papers and Information

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

Sincerely,

S/Sen. Elizabeth M. Schneider

Senate Chair

S/Rep. Christopher R. Barstow

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 434)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON TAXATION**

April 4, 2006

Honorable Beth Edmonds, President of the Senate

Honorable John Richardson, Speaker of the House

122nd Maine Legislature

State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1660 An Act To Reduce Income Taxes and Encourage Economic Growth in Maine

L.D. 1917 An Act To Establish Requirements and Standards for Health Savings Accounts for Small Businesses

L.D. 2079 An Act To Encourage the Preservation of Historic Structures

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Joseph C. Perry

Senate Chair

S/Rep. Richard G. Woodbury

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 435)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON TRANSPORTATION**

April 4, 2006

Honorable Beth Edmonds, President of the Senate

Honorable John Richardson, Speaker of the House

122nd Maine Legislature

State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 510 An Act Concerning Dismantling of Railroad Track

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

Sincerely,

S/Sen. Dennis S. Damon

Senate Chair

S/Rep. Boyd P. Marley

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 601)

MAINE SENATE

**122ND LEGISLATURE
OFFICE OF THE SECRETARY**

April 3, 2006

Honorable John Richardson

Speaker of the House

2 State House Station

Augusta, ME 04333-0002

Dear Speaker Richardson:

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

Upon the recommendation of the Committee on Business, Research and Economic Development, the nominations of:

Theodora J. Kalikow of Farmington for reappointment to the Finance Authority of Maine;
 Edward A. Cormier of Minot for reappointment to the Maine Rural Development Authority;
 Alain M. Ouellette of Fort Kent for reappointment to the Maine Rural Development Authority.

Upon the recommendation of the Committee on Education and Cultural Affairs, the nominations of:

Romy V. Spitz of Portland for reappointment to the School Board of the Governor Baxter School for the Deaf;

David R. Gaul of Damariscotta for reappointment to the School Board of the Governor Baxter School for the Deaf

Upon the recommendation of the Committee on State and Local Government, the nominations of:

James S. Henderson of Harpswell for reappointment as the State Archivist;

Bent Schlosser of Vassalboro for reappointment to the State Civil Service Appeals Board;

Nelson E. Durgin of Bangor for reappointment to the State Civil Service Appeals Board;

John R. Hanson of Bangor for reappointment to the State Civil Service Appeals Board;

Julie M. Armstrong of Cape Elizabeth for appointment to the State Civil Service Appeals Board

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Resolve, To Provide Assistance to Heating Fuel Customers Who Enter into Prepaid Contracts That Are Not Honored

(H.P. 1492) (L.D. 2099)

Sponsored by Representative MARRACHÉ of Waterville.

Cosponsored by Senator GAGNON of Kennebec and Representatives: CANAVAN of Waterville, FINCH of Fairfield, FLETCHER of Winslow, MOODY of Manchester, SAVIELLO of Wilton, THOMPSON of China, Senators: COWGER of Kennebec, MITCHELL of Kennebec.

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

Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** suggested and ordered printed.

REFERRED to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

Sent for concurrence.

SPECIAL SENTIMENT CALENDAR

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

In Memory of:

the Honorable William M. Earle, of Damariscotta, former Member of the Maine House of Representatives during the 121st Legislature. Mr. Earle was born in Lisbon Falls and was a graduate of the University of Maine. He had a long career in education, teaching and coaching in several schools, including Hallowell, Old Town, Gardiner and Higgins Classical Institute in Charleston. In 1986 he earned a PhD in counseling and continued as a counselor and administrator. He served as chemical health coordinator for Union 51 in Richmond and Monmouth schools. Mr. Earle also served as an adult education

director in Monmouth, Gardiner, at Mount View in Thorndike and at Oak Hill in Wales. His professional activities included membership on several boards, including appointment to the Governor's Substance Abuse Service Commission, where he served for 8 years. He was a member of the Maine Teacher's Association and the Maine Guidance Association, as well as several fraternal organizations. Before he retired, he moved to Damariscotta, where he became active in several groups and was elected to serve in the Maine State Legislature. He also served on the Damariscotta Board of Selectmen. He will be greatly missed and lovingly remembered by his family and his friends;

(HLS 1805)

Presented by Speaker RICHARDSON of Brunswick.

Cosponsored by Senator DOW of Lincoln, Representative McKANE of Newcastle, Representative ADAMS of Portland, Senator ANDREWS of York, Representative ANNIS of Dover-Foxcroft, Representative ASH of Belfast, Representative AUSTIN of Gray, Representative BABBIDGE of Kennebec, Representative BARSTOW of Gorham, Senator BARTLETT of Cumberland, Representative BEAUDETTE of Biddeford, Representative BERUBE of Lisbon, Representative BIERMAN of Sorrento, Representative BISHOP of Boothbay, Representative BLANCHARD of Old Town, Representative BLANCHETTE of Bangor, Representative BLISS of South Portland, Representative BOWEN of Rockport, Representative BOWLES of Sanford, Representative BRANNIGAN of Portland, Representative BRAUTIGAM of Falmouth, Senator BRENNAN of Cumberland, Senator BROMLEY of Cumberland, Representative BROWN of South Berwick, Representative BROWNE of Vassalboro, Senator BRYANT of Oxford, Representative BRYANT of Windham, Representative BRYANT-DESCHENES of Turner, Representative BURNS of Berwick, Representative CAIN of Orono, Representative CAMPBELL of Newfield, Representative CANAVAN of Waterville, Representative CARR of Lincoln, Representative CEBRA of Naples, Representative CHURCHILL of Washburn, Representative CLARK of Millinocket, Representative CLOUGH of Scarborough, Senator CLUKEY of Aroostook, Representative COLLINS of Wells, Senator COURTNEY of York, Senator COWGER of Kennebec, Representative CRAVEN of Lewiston, Representative CRESSEY of Cornish, Representative CROSBY of Topsham, Representative CROTHWAITE of Ellsworth, Representative CUMMINGS of Portland, Representative CURLEY of Scarborough, Representative CURTIS of Madison, Representative DAIGLE of Arundel, Senator DAMON of Hancock, Representative DAVIS of Falmouth, Representative DAVIS of Augusta, Senator DAVIS of Piscataquis, Senator DIAMOND of Cumberland, Representative DRISCOLL of Westbrook, Representative DUCHESNE of Hudson, Representative DUDLEY of Portland, Representative DUGAY of Cherryfield, Representative DUNN of Bangor, Representative DUPLESSIE of Westbrook, Representative DUPREY of Hampden, Representative EBERLE of South Portland, Representative EDER of Portland, Representative EDGEComb of Caribou, President EDMONDS of Cumberland, Representative EMERY of Cutler, Representative FAIRCLOTH of Bangor, Representative FARRINGTON of Gorham, Representative FINCH of Fairfield, Representative FISCHER of Presque Isle, Representative FISHER of Brewer, Representative FITTS of Pittsfield, Representative FLETCHER of Winslow, Representative FLOOD of Winthrop, Senator GAGNON of Kennebec, Representative GERZOFsky of Brunswick, Representative GLYNN of South Portland, Representative GOLDMAN of Cape Elizabeth, Representative GREELEY of Levant, Representative

GROSE of Woolwich, Representative HALL of Holden, Representative HAMPER of Oxford, Representative HANLEY of Paris, Representative HANLEY of Gardiner, Representative HARLOW of Portland, Senator HASTINGS of Oxford, Senator HOBBS of York, Representative HOGAN of Old Orchard Beach, Representative HOTHAM of Dixfield, Representative HUTTON of Bowdoinham, Representative JACKSON of Allagash, Representative JACOBSEN of Waterboro, Representative JENNINGS of Leeds, Representative JODREY of Bethel, Representative JOY of Crystal, Representative KAELEN of Winterport, Representative KOFFMAN of Bar Harbor, Representative LANSLEY of Sabattus, Representative LERMAN of Augusta, Representative LEWIN of Eliot, Representative LINDELL of Frankfort, Representative LUNDEEN of Mars Hill, Representative MAKAS of Lewiston, Representative MAREAN of Hollis, Representative MARLEY of Portland, Representative MARRACHÉ of Waterville, Senator MARTIN of Aroostook, Senator MAYO of Sagadahoc, Representative MAZUREK of Rockland, Representative McCORMICK of West Gardiner, Representative McFADDEN of Dennysville, Representative McKENNEY of Cumberland, Representative McLEOD of Lee, Representative MERRILL of Appleton, Representative MILLER of Somerville, Representative MILLETT of Waterford, Representative MILLS of Farmington, Senator MILLS of Somerset, Senator MITCHELL of Kennebec, Representative MOODY of Manchester, Representative MOORE of the Passamaquoddy Tribe, Representative MOORE of Standish, Representative MOULTON of York, Representative MUSE of Fryeburg, Representative NASS of Acton, Senator NASS of York, Representative NORTON of Bangor, Senator NUTTING of Androscoggin, Representative NUTTING of Oakland, Representative O'BRIEN of Lewiston, Representative OTT of York, Representative PARADIS of Frenchville, Representative PATRICK of Rumford, Representative SIMPSON of Auburn, Representative PERCY of Phippsburg, Representative PERRY of Calais, Senator PERRY of Penobscot, Representative PILON of Saco, Representative PINEAU of Jay, Representative PINGREE of North Haven, Representative PINKHAM of Lexington Township, Representative PIOTTI of Unity, Senator PLOWMAN of Penobscot, Representative PLUMMER of Windham, Senator RAYE of Washington, Representative RECTOR of Thomaston, Representative RICHARDSON of Carmel, Representative RICHARDSON of Greenville, Representative RICHARDSON of Skowhegan, Representative RICHARDSON of Warren, Representative RINES of Wiscasset, Representative ROBINSON of Raymond, Representative ROSEN of Bucksport, Senator ROSEN of Hancock, Senator ROTUNDO of Androscoggin, Representative SAMPSON of Auburn, Senator SAVAGE of Knox, Representative SAVIELLO of Wilton, Representative SCHATZ of Blue Hill, Senator SCHNEIDER of Penobscot, Representative SEAVEY of Kennebunkport, Representative SHERMAN of Hodgdon, Representative SHIELDS of Auburn, Representative SMITH of Monmouth, Representative SMITH of Van Buren, Senator SNOWE-MELLO of Androscoggin, Representative SOCKALEXIS of the Penobscot Nation, Representative STEDMAN of Hartland, Senator STRIMLING of Cumberland, Senator SULLIVAN of York, Representative SYKES of Harrison, Representative TARDY of Newport, Representative THOMAS of Ripley, Representative THOMPSON of China, Representative TRAHAN of Waldoboro, Senator TURNER of Cumberland, Representative TUTTLE of Sanford, Representative TWOMEY of Biddeford, Representative VALENTINO of Saco, Representative VAUGHAN of Durham, Representative WALCOTT of Lewiston, Representative WATSON of Bath, Representative WEBSTER of Freeport, Senator WESTON of Waldo, Representative

WHEELER of Kittery, Representative WOODBURY of Yarmouth, Senator WOODCOCK of Franklin.

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

READ.

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. It is my privilege to say a few words on behalf of Bill Earle and his family who have join us here in the gallery today. Those of you who know Bill, know Bill as a very kind man. A man that was thoughtful and treated everybody with respect. You can see by his resume that he devoted himself to helping heal. He was devoted to helping those least fortunate among us. But the other thing that strikes me, and it came out very clearly in his service this winter, is that he was a very determined man. Underneath that quiet presence, he made a lot of things happen. He earned his P.H.D., became Director of several major organizations and he contributed greatly to the Maine House. It says here that he will be greatly missed and lovingly remembered. I think that perfectly describes how I feel and many of us in this house feel about Bill. Thank you.

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. It is easy as we work our way through a legislative session and have a number of disagreements on policy, to occasionally allow those disagreements to spill over in personality as well. It is always unfortunate when that occurs. It's usually not meant to happen and people generally have regrets when it does happen. Most of us have a great deal of respect and affection for our colleagues and enjoy the work that we do with each of you. Bill Earle was a man that was always respected by his colleagues on both sides of the aisle. Those Republicans who served with him during his committee assignments and worked with him on other issues had great respect for Bill. He was a good man. He was an honest man who tried to do the best he could everyday for his constituents and the people of Damariscotta. He will be missed.

The **SPEAKER**: The Chair recognizes the Representative from Newcastle, Representative McKane.

Representative **MCKANE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I got to know Bill Earle during the election year 2004. He was my opponent. I said several times during debates that it is very tough to have an opponent who you like, who you enjoy and who is a friend. We managed to get through it and we remained friends after the election and it was always a pleasure to bump into Bill on the street. We would chat and share war stories. The town of Damariscotta will miss him. We all miss him already. He was a true public servant and it was a privilege to have known him. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Phippsburg, Representative Percy.

Representative **PERCY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I couldn't yell because I am losing my voice. But I won't lose my voice in speaking about Bill Earle. The connection with Bill Earle is not only being one of the most generous, open hearted good listeners I've ever met coming in as a freshman, but the connection also is that Bill Earle was one of the few outright outrageous, wonderful, enthusiastic singers from the House of Representatives. The song from the show *The King and I*, *Getting to Know You*, is the song that so perfectly describes Bill Earle and the way you come in as a freshman legislator and

worked with those of us who had no background in the world of abuse systems, things that were happening with the elderly. He helped educate us and he also gave us a lot of joy every time he walked down the hall. He will be sorely missed. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Rines.

Representative RINES: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I met Bill when we were both running in the 121st and as a member of the Lincoln County Delegation. I could not be prouder having known him. During the campaign he would often call the house or send an e-mail wanting to know what my thoughts were and I did the same to him. During the entire campaign we conversed back and forth. We met on many occasions and I think it sums up Bill to just simply say he was a gentleman. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative CAMPBELL: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I had the honor of serving with Representative Earle in the 121st and all I can say is that everything that the good Representative from Sanford, Representative Bowles said is what I would have said. Thank you.

The SPEAKER: The Chair recognizes the Representative from Somerville, Representative Miller.

Representative MILLER: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Bill took me in early as a mentor when I was a candidate. He was such a gracious individual. He helped me understand the joys and the burdens of public service. I continue to aspire to emulate his quiet and mature approach to political life. I think we all could do that. I will miss him greatly.

At this point, the Members of the House stood and joined in a moment of silence in honor of the Honorable William M. Earle, of Damariscotta.

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

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-939)** on Bill "An Act To Implement Recommendations of the Study Commission Regarding Liveable Wages Concerning the Definition of a Liveable Wage"

(H.P. 1424) (L.D. 2023)

Signed:

Senators:

STRIMLING of Cumberland
BARTLETT of Cumberland

Representatives:

SMITH of Van Buren
DRISCOLL of Westbrook
JACKSON of Allagash
HUTTON of Bowdoinham
TUTTLE of Sanford
CLARK of Millinocket

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-940)** on same Bill.

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

HALL of Holden
DUPREY of Hampden
CRESSEY of Cornish
HAMPER of Oxford

READ.

On motion of Representative SMITH of Van Buren, the Bill and all accompanying papers were **COMMITTED** to the Committee on **LABOR** and sent for concurrence.

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-941)** on Bill "An Act Regarding the Maine Insurance Guaranty Association"

(H.P. 1463) (L.D. 2068)

Signed:

Senators:

STRIMLING of Cumberland
BARTLETT of Cumberland

Representatives:

SMITH of Van Buren
DRISCOLL of Westbrook
JACKSON of Allagash
HUTTON of Bowdoinham
TUTTLE of Sanford
CLARK of Millinocket

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

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

HALL of Holden
DUPREY of Hampden
CRESSEY of Cornish
HAMPER of Oxford

READ.

Representative SMITH of Van Buren moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

Committee of Conference

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act To Amend the Laws Relating to Motorized Scooters, Motor-driven Cycles and Mopeds" (EMERGENCY)

(H.P. 1027) (L.D. 1464)

has had the same under consideration, and asks leave to report:

That the Senate **RECEDE** from **Passage to Engrossed as Amended by Committee Amendment "B" (H-730)** and **Senate Amendment "A" (S-441)** and **CONCUR** to **Passage to be Engrossed as Amended by Committee Amendment "B" (H-730)** and **House Amendment "A" (H-747)**.

That the House **READ** and **ACCEPT** the Report.

Signed:

Senators:

DAMON of Hancock
SAVAGE of Knox

Representatives:

SAMPSON of Auburn
HOGAN of Old Orchard Beach
THOMAS of Ripley

Came from the Senate with the Committee of Conference Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-730) AND HOUSE AMENDMENT "A" (H-747) in CONCURRENCE.**

READ and **ACCEPTED** in concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 1265) (L.D. 1825) Bill "An Act To Facilitate Inspections of Heating Appliances and Chimneys" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-943)**

(H.P. 1310) (L.D. 1870) Bill "An Act To Clarify Laws Governing Eminent Domain" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-945)**

(H.P. 1453) (L.D. 2057) Bill "An Act To Implement the Recommendations of the ATV Trail Advisory Council" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-947)**

(H.P. 1460) (L.D. 2065) Bill "An Act To Implement Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Regarding Pesticide Registration" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-944)**

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

CONSENT CALENDAR

Second Day

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

(S.P. 271) (L.D. 816) Bill "An Act To Prohibit Changing the Flow of Water on Another's Land" (C. "A" S-542)

(S.P. 658) (L.D. 1741) Bill "An Act To Encourage Reporting of Potential Fraud in State Government" (C. "A" S-543)

(S.P. 694) (L.D. 1777) Resolve, To Direct the Department of Environmental Protection To Consolidate the Management of Solid Waste (C. "A" S-545)

(S.P. 815) (L.D. 2084) Bill "An Act To Clarify the Taxable Status of Parts Provided under a Service Contract" (C. "A" S-551)

(H.P. 1287) (L.D. 1847) Bill "An Act To Clarify the Unemployment Laws Relating to Subcontractors" (C. "B" H-937)

(H.P. 1351) (L.D. 1910) Bill "An Act To Create Employment Opportunities for People with Disabilities" (C. "A" H-938)

(H.P. 1454) (L.D. 2058) Bill "An Act To Allow Heavy Equipment To Be Moved during Nighttime" (C. "A" H-942)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were **PASSED TO BE ENGROSSED AS AMENDED** in concurrence and the House Papers were **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

BILLS IN THE SECOND READING
House as Amended

Bill "An Act To Implement Recommendations of the Study Commission Regarding Liveable Wages Concerning the Circuit Breaker Program"

(H.P. 1426) (L.D. 2025)
(C. "A" H-910)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the House Paper was **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

Bill "An Act To Offer Financial Institutions an Option for Payment of the Maine Franchise Tax"

(S.P. 678) (L.D. 1761)
(C. "A" S-453)

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.

Representative DUDLEY of Portland assumed the Chair. The House was called to order by the Speaker Pro Tem.

ENACTORS

Emergency Measure

An Act To Minimize the Risk to Maine's Marine Waters and Organisms Posed by the Application of Pesticides

(H.P. 1168) (L.D. 1657)
(C. "A" H-885)

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. 131 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH.**

Emergency Measure

An Act To Protect the Privacy of Cellular Telephone Customers

(H.P. 1436) (L.D. 2038)
(C. "A" H-892)

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

On motion of Representative BLISS of South Portland, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 355: Coastal Sand Dune Rules, a Major Substantive Rule of the Department of Environmental Protection, Extending the Deadline for the Repeal of the Current Coastal Sand Dune Rules and Convening the Beaches Advisory Group

(H.P. 1385) (L.D. 1977)
(C. "A" H-855)

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

Representative TARDY of Newport **REQUESTED** a roll call on **FINAL PASSAGE**.

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

Representative GLYNN of South Portland **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

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

ROLL CALL NO. 442

YEA - Adams, Annis, Ash, Austin, Babbidge, Berube, Bierman, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Cain, Campbell, Canavan, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Cummings, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Lansley, Lerman, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Paradis, 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, Simpson, Smith W, Sykes, Tardy, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Webster, Wheeler, Woodbury.

NAY - NONE.

ABSENT - Barstow, Beaudette, Clark, Craven, Crosby, Dugay, Dunn, Farrington, Greeley, Hotham, Koffman, Lewin, Moore G, Ott, Smith N, Stedman, Thomas, Watson, Mr. Speaker.

Yes, 132; No, 0; Absent, 19; Excused, 0.

132 having voted in the affirmative and 0 voted in the negative, with 19 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH**.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 335: Significant Wildlife Habitat, a Major Substantive Rule of the Department of Environmental Protection

(H.P. 1388) (L.D. 1981)
(C. "A" H-883)

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

Representative DAIGLE of Arundel **REQUESTED** a roll call on **FINAL PASSAGE**.

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

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

ROLL CALL NO. 443

YEA - Adams, Annis, Ash, Austin, Babbidge, 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, Cressey, Crosthwaite, Cummings, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Finch, Fischer, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Lerman, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Paradis, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Simpson, Smith W, Sykes, Tardy, Thompson, Trahan, Tuttle, Twomey, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury.

NAY - Valentino.

ABSENT - Barstow, Beaudette, Craven, Crosby, Dugay, Dunn, Farrington, Fisher, Greeley, Hotham, Kaelin, Koffman, Lansley, Lewin, Moore G, Ott, Patrick, Rines, Smith N, Stedman, Thomas, Mr. Speaker.

Yes, 128; No, 1; Absent, 22; Excused, 0.

128 having voted in the affirmative and 1 voted in the negative, with 22 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH**.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 520: Rules Regarding Publication of Public Comments on Statewide Referenda, a Major Substantive Rule of the Department of the Secretary of State, Bureau of Corporations, Elections and Commissions

(H.P. 1462) (L.D. 2067)
(C. "A" H-905)

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. 119 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH**.

Acts

An Act To Allow Certain End-of-life-care Decision-makers To Consent to Organ and Tissue Donation

(H.P. 1282) (L.D. 1842)
(C. "A" H-890)

An Act To Amend Certain Laws Administered by the Department of Environmental Protection

(H.P. 1328) (L.D. 1888)
(H. "B" H-920 to C. "A" H-801)

An Act To Amend the Law Regarding Smoking in Private Clubs

(H.P. 1342) (L.D. 1901)
(C. "A" H-830; S. "A" S-537)

An Act Regarding Testimony Presented to Joint Select and Joint Standing Committees of the Legislature by Persons Paid To Testify

(H.P. 1395) (L.D. 1993)
(C. "A" H-904)

An Act To Address Eating Disorders in Maine

(H.P. 1487) (L.D. 2094)
(H. "A" H-900)

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

Resolves

Resolve, Directing a Review of Cleanup and Minimization Standards for Mold

(H.P. 1381) (L.D. 1971)
(C. "A" H-887)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate.

An Act To Amend the Crime of Aggravated Criminal Mischief

(S.P. 706) (L.D. 1789)
(C. "A" S-504)

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

On motion of Representative BLANCHETTE of Bangor, was **SET ASIDE**.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative Blanchette.

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. I asked that this be set aside because it is my intent to, at the end of my remarks, ask for a roll call on this. This bill started out as "An Act to Amend Environmental Terrorism" and the amendment has changed the name of it and it is an "Act to Amend the Crime of Aggravated Criminal Mischief." As I said before, and I'm not going to reiterate everything that I said the other day because time is short and we have a lot on our plate, this bill is just a duplication, in fact, of all of the laws that are on the books, in the State of Maine, that pertain to the criminal act of aggravated criminal mischief. It is an unnecessary law and I know that there is no one in this house that actually wants to put a law on the books that is already there. So, when the roll call is asked for, I would ask you to follow my light and defeat this unnecessary law to the criminal justice statutes in the State of Maine. Thank you Mr. Speaker.

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 PRO TEM: The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative **TRAHAN**: Mr. Speaker, Ladies and Gentlemen of the House. I ask you to continue to support this legislation and follow the actions that we took once before on this bill. Since we debated this bill, I anticipated an attempt to lobby this bill and defeat it. I did a little bit more research and I just wanted the folks in this chamber to know why this is the right

thing to do. For those folks that have computer in front of them, I ask you to go to *World Conflict Quarterly*. It is a national internet quarterly magazine that talks about the threats of terrorism on our country. They have a section that deals with the State of Maine. There is a report that's done by a lady, a professor emeritus. Her name is Carroll Payne. It was done in August, 2002. She did an environmental terrorism assessment for the State of Maine. I'd like to read from it just a few lines so that folks can know where it's coming from. ELF, the organization that this legislation is really targeted at, in the report it says, "ELF is the most active domestic terrorist organization in the US today." It goes on to describe several incidents in the State of Maine where ELF attacked. First, a crop at the University of Maine, the Old Town landfill, a West Gardiner rod and gun club and it goes on and on. Also, I'd like to read from this report, just briefly about the threat analysis to the State of Maine. "The primary threat of environmental terrorism will most likely occur in remote logging and construction sites throughout the state. Most will not be reported. They will be identified as monkey wrenching. The secondary threat of environmental terrorism will most likely occur at one of the University of Maine campuses throughout the state and be targeted at agriculture, animal research centers, arson or malicious destruction of property." This line, ladies and gentlemen, really concerned me when I read it. "Additionally, in the private sector, Jackson Labs would be a potential candidate for environmental terrorism." I see this bill as the beginning of the State of Maine recognizing that environmental terrorism is a threat to the State of Maine and to our country. This bill is just the beginning and I believe at some point in the future we'll have to have some folks in our Attorney General's Office actively and aggressively investigate these cases. I think that this is an important moment for state government because we recognize that this is an issue and a concern that we have to address. I ask you to support this legislation as we did once before. Thank you.

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. This bill essentially is creating a new crime. It is creating a new crime at the felony level. Now, no matter what the damage, if the state would be able to prove that somebody had tampered with some property, damaged or destroyed, whether the tampering is enough, with the intent of causing substantial harm to health, safety, business, calling, career, financial condition, reputation, personal relationship, this covers everything. You could have someone tamper with one of those signs that you put on a stake alongside the road, and if somebody wants to say their career is they want to be a legislator, now, whatever tampering that has been done, somebody takes that and throws it over in the woods or on the lawn, now, we have a felony level crime. This bill is unnecessary. It's too broad. It is not needed in this state and it will be abused. I urge you to vote against this legislation.

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

Representative **MILLS**: Mr. Speaker, Ladies and Gentlemen of the House. Just to echo the remarks of the good gentleman from Van Buren. There are about an average of 2,000 criminal mischief cases per year which are misdemeanor criminal mischief cases which would now become felonies under this law for two reasons. One, the reason that the gentleman from Van Buren just described, the great breadth of that new provision of the law of this bill. That would encompass just about every act of criminal mischief. Secondly, the fact that it makes a felony to recklessly, recklessly, cause damage in a certain amount. Nine-tenths of the motor vehicle crashes that we see could come

under this law even though the person didn't otherwise commit a crime. If there were reckless acts involved and there were \$2,000 worth of damage, this would now become a felony aggravated criminal mischief. I'm really concerned about the impact on our justice system, on the courts and on the prison and the jails as well. I ask you to vote against this bill. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Augusta, Representative Davis.

Representative DAVIS: Madam Speaker, Ladies and Gentlemen of the House. I just want to be a little more articulate than I was last time about this. Since then, there was an article in our local newspaper about an incident that happened in Ellsworth. I would like to just read you some excerpts of it. "An attack by masked protesters who targeted state agricultural officials with cow manure pies and did a weekend meeting with farmers about controversial livestock identification and tracking plan. Two attackers threw aluminum pie tins containing a mixture of manure and wood shavings at one of the doctors, state veterinarians and Shelley Doak, Director of Animal Industry for Maine Department of Agriculture." Let's see, "The pie wielding protestors dressed in black and wearing caricature masks entered the auditorium toward the close of the meeting. They threw the manure at Doak and Dr. Hoenig, with enough force that the spray also struck several of the attendees and splattered against walls. Meeting organizers say they were appalled by the attack and worried that it might undo the good conversation they had achieved." I think this is just an inclination of the type of incidences that are going to grow if we allow it. I think that this particular bill addresses that issue and hopefully will deter these kind of actions in the future.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Windham, Representative Plummer.

Representative PLUMMER: Mr. Speaker, Men and Women of the House. I will not repeat the remarks that I made last week when this came before us. I rise to urge you to show the same wise bipartisan support that you did for this bill when we voted on it last week. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Gerzofsky.

Representative GERZOFSKY: Mr. Speaker, Ladies and Gentlemen of the House. I would like to ask a question through the chair.

The SPEAKER PRO TEM: The Representative may pose his question.

Representative GERZOFSKY: I would like to know what law, that this bill is going to address, that isn't already covered in this book I hold in my hand, the book on Maine Criminal Statutes. If anybody could please answer me that, I'd appreciate it.

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

Representative TRAHAN: Mr. Speaker, Ladies and Gentlemen of the House. I'd just like to clarify a few things that I had said earlier in our previous debate that maybe some folks had forgotten. Just because a crime could be captured under a new law doesn't mean the District Attorney's are going to bring those charges. Those decisions are made by very competent people that are well trained. I envision this law being used for the most heinous acts. An example might be, and this has occurred in the State of Maine, where the bridge abutments have been damaged, been sawn off on wooden bridges in order to make a bridge collapse when logging trucks go over them. To me that is a definite intent to do harm to another. This might be used in a case like that. To think, and to throw these things out there, that this is going to encompass thousands of different crimes is just really ridiculous. It is just really a scare tactic that's being used to

scuttle the debate. I think that people in this room know that our District Attorneys are responsible and they'll use this when a crime is heinous. That's what it's intended to do. As far as other statutes that are on the books, what this statute does, like many that are in our hate crimes legislation and in our other laws dealing with equal rights and others, is targeted at a group, in this case those folks that are in a logging field like myself or at the University of Maine doing experiments with genetic engineering, those targeted groups that are being singled for discrimination, and attacks on those folks, because they're doing something that groups like ELF see as offensive to them. Crimes against a single group. Discrimination, really. That's what it is. They're targeting people because they're in a field, as I am in logging. That's how this law is targeted, to protect those individuals and those industries that are under attack by environmental terrorists. That's why this bill is important. As we know, we've adopted legislation in the past that has tried to bring protections on those groups. I think this is just one more attempt. Thank you.

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

Representative MILLS: Mr. Speaker, Ladies and Gentlemen of the House. As a former career prosecutor for nineteen years, I can tell you that when the Legislature acts, it is assumed that they act and that they mean what they say. There isn't a prosecutor in this state that would not apply this law. There isn't a case where the victim, or the witnesses, wouldn't insist that this law be applied to the letter of the law. The letter of the law, in this case if this bill becomes law, is extremely broad in scope. It can not be ignored. This isn't about environmental terrorism. This isn't about genetic, whatever that was at the University of Maine. This isn't about discrimination. This isn't about any particular interest group, or any group whatsoever. It is about everybody. It is about all of the misdemeanor criminal mischief cases we have on the books now, that are prosecuted now, under current law, becoming, in one fell swoop, felonies with a possible incarceration of up to five years and several thousand dollars fines and two years probation. This, inevitable, will lead to broad enforcement. You cannot say to the DAs "We passed this bill, but we didn't really mean it." Either we mean it or we don't. We pass it or we don't. And we pass it, as it's drafted, in final form here for enactment. I oppose this bill because of its broad, broad sweep and the inevitable cost to the Judicial Department, the Corrections Department, the county jails and the property tax payers. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Allagash, Representative Jackson.

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House. I too didn't do a very good job on this the other day when we debated it. I happen to believe what Representative Mills and Representative Smith has told the body today. I asked these questions to people in the halls, I gave an example, and then I tried to give an example here, and I pretty much botched it. My thinking is the same on this bill. Eight years ago, and I don't really like to speak about it a lot because I'm not one to talk about myself either regard. Eight years ago, if this law would have been enacted then, I would have been considered an environmental terrorist. The thing that bothers me about this law is the word tampers. That is a broad area that people can make arguments for. In my case we blocked a private woods road, stopped commerce for a week, for reasons we felt were important. Regardless, I really, really feel that under this law, now, the word "tampers" is going to include what we did as environmental terrorism. There is no doubt that what we did was illegal. We could have been prosecuted for it, but I don't think we were in the same class as terrorists. I'm quite confident that this

law would do that. What further bothers me is, in the case of the logging industry, the people that would be having this law used against them, have the high priced lawyers. They have the Pierce Atwoods. They would be the ones that would be arguing this and the people like myself don't have that ability, to have that type of representation. Like Representative Mills said, the DA is going to have nothing but what's in statute. They don't have legislative intent. It bothers me that I'd have been an environmental terrorist. I certainly have not been an angel my whole life, but I don't think I was ever that bad. I think most of the people in here, that have met me in the last four years, probably could testify to that also.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative **TWOMEY**: Mr. Speaker, Ladies and Gentlemen of the House. I guess it's the day for confessions. I too, the reason I'm here is because I was concerned about our incinerator in our town. I had gone to a council meeting one night. There was a question asked from the council about the air license at our incinerator. Because that had been my issue, I knew the answer. So, like a little school girl, I sat in the seat and I raised my hand. One of the councilors asked the Mayor if I could speak. She said "No." I stood up and said "That's against my rights." That's all I said. I have it on tape if you don't believe it. She said "Call the police" and the police came in and they hauled me out of the City Hall Chambers. I was hand cuffed, brought down and ruffed up a little bit. My hands were swollen because of the hand cuffs were so tight. Under this, I would be really in trouble. So, those are the things that can happen. Unintended consequences. I'm far from being a bad person. When you stand up for something and you're fighting for something, these things can happen. I really urge you to defeat this.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative **CARR**: Mr. Speaker, Ladies and Gentlemen of the House. I sat through this debate the last time we heard it. I thought that we all had heard enough to make our decision up, but I do have a few things I want to say regarding this. A few years ago we had some folks who came to our town, the Town of Lincoln, when the mill was running under the previous management. During three or four days, they took time to damage property, harass people, threaten people, terrorize people and then finally left. There wasn't anybody in town that knew any of these people. They were from someplace other than where we live. I think it was the 120th Legislature, myself and the previous Representative Clark, sponsored a bill to try to address these issues. I believe looking back on it, probably that bill was a little strict and probably it was best that that bill was turned down. We learned a lot from that bill to the bill that's before you today. We learned that there are some things that we didn't want that to address. We learned that we did not people to be charged with crimes that were minor. So, we addressed that. If you have taken a minute just to look over the committee amendment you'll find that this does not add another crime. It adds another part to the crime that is already there. One of the previous speakers mentioned that there's 2,000 cases of criminal mischief in the state every year. That may be true. I haven't checked to verify that, but it sounds about right. If you look at the new part that's added, which is section F, to the crime of criminal mischief, you'll find that the elements of proving that crime are significantly more than what the crime of regular criminal mischief is. I spent a little time in the court room listening to DAs talk, and criminal defense attorneys, and what I found is, they would rather go with a crime that is much easier to prove than a crime that is

much more difficult to prove. In order to prove the crime that you've been listening to, they'd make it sound like it's a pretty easy thing to prove. If you actually look, a person would have to intentionally damage, destroy or tamper with the property of another, having no reasonable grounds to believe that the person has the right to do so, for the purpose of causing substantial harm to the health, the safety, the business, the calling, the career, the financial condition, the reputation or personal relationships of the person with a property interest of any other person. There's a lot of elements to that crime. All of those elements would have to be proven. For those to say that this is a very easy thing to prove, that everybody would be swept with a broad brush and everybody would be prosecuted under this, I would say those people haven't spent a lot of time in the court room. Thank you Mr. Speaker.

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. I too have spent enough time in court to know how the courts would be interpreting this law. Now we've created a felony level crime which requires no significant damage and no significant monetary loss. It's enough that somebody has tampered with something for the purpose of causing substantial harm to the business. Stop and think how this could be applied. If somebody is protesting construction waste coming in to further poison our environment in Maine, and goes through a gate that has been locked by a company, simply to protest, now we've made them felons. If somebody wants to protest the action of a mill, where they've barred their gate, and wants to picket and they're going to interfere with that business, again, we're making felons out of people exercising their right of free speech. That's what this is aiming at. It wants to suppress protest. It's not aiming at monetary loss. It wants to suppress people, who are protesting, that may affect somebody's business. That's what we have to worry about. We need to keep that freedom here. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative **CARR**: Mr. Speaker, Ladies and Gentlemen of the House. The previous speaker mentioned that this would make it illegal to protest. There's a vast difference between people who are protesting, and I have been one myself, and those people who are looking to harm somebody else. That's what this crime addresses. It has nothing to do with protesting.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Van Buren, Representative Smith. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. Imagine, back in the '50s, when Rosa Parks sat in that bus and intentionally tampered with the bus companies' right to put her in the back of it, for the purpose of affecting their business. She couldn't do that in Maine under this law. Imagine the consequences of this law. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Washburn, Representative Churchill.

Representative **CHURCHILL**: Mr. Speaker, Ladies and Gentlemen of the House. Having sat on the Criminal Justice Committee four years now, this is probably one of the worst bills that we've looked at. It deals with mostly speculation. Along with this bill, LD 1717 should go the same route. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waldoboro, Representative Trahan. Having spoken twice now requests unanimous consent to address the

House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative TRAHAN: Mr. Speaker, Ladies and Gentlemen of the House. I'd like to address the previous speaker's comparison to Rosa Parks. Ladies and Gentlemen, if this bill leads to people like Rosa Parks being arrested, being charged with a felon and going to jail for five years, I'll be the first one to stand with her in armed defense of her right to free speech. If this bill does that, I'll be the first one to rise in opposition, and bring my friends to that opposition. That's just plain nonsense, Ladies and Gentlemen.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Gerzofsky.

Representative GERZOFSKY: Mr. Speaker, Ladies and Gentlemen of the House. I also sit on Criminal Justice Committee and I have for the last six years. I've seen this bill come in front of us before. I whole heartedly agree with the Representative from Van Buren, Representative Smith on his assessment of the bill and what it will do. In 2001 when we debated this bill, it was brought to us by a business with a very, very narrow goal. The goal was not to be held accountable for their business practices. When this bill came in front of us this year, it was the environmental terrorism bill, which is now a crime of aggravated criminal mischief. We want to now elevate criminal mischief to a felony. That's what the bill is about. That's what we are going to vote on. Do we want to do that? That's the question. Do we want to elevate aggravated criminal mischief into a nice class C crime? I maintain that our books, our judges and our DAs can prosecute any crime that anybody here today has mentioned. They can elevate it to a very serious crime, and if it's from out of state people, it can really be elevated to bankrupt that outfit. If we want to vote good law, this is not the bill to vote for. This bill doesn't cover anything that we don't already have covered and we can elevate much higher. This is a bill that's been stripped down just so that we can pass something. Just so that certain people can feel good about passing something that has nothing to do with the environment or terrorism, only criminal mischief. Thank you very much Ladies and Gentlemen.

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

Representative TARDY: Mr. Speaker, Men and Women of the House. I rise in support of enactment. I just want to offer a few comments. I believe in the rights of our prosecutors to exercise discretion. I believe in their abilities. As a defense attorney, I've worked 13 years with prosecutors. I think they do a good job in this state. I don't think there are many cases of abuses of discretion. From my prospective, I believe that there will be a considerable burden to prove the intent behind the criminal act, as the good Representative from Lincoln alluded to when he was reading the elements of this addition to the crime of aggravated criminal mischief. As a criminal defense attorney, I like my chances going forward and holding the State to its considerable burden to prove beyond a reasonable doubt this particular element. What this bill does, what it really does is it gives our prosecutors, our law enforcement community an additional tool to fight crime. It shouldn't chicken little. The sky is not falling. This is a good bill. I urge you to support its enactment.

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

Representative PATRICK: Mr. Speaker, Men and Women of the House, colleagues and friends. I rise this morning, it's still morning, to say that I voted on the prevailing side last time around and that I'm pleased with the quality of debate on both

sides. I'm firmly in belief that the compelling arguments are with the good Representative from Van Buren and the good Representative from Farmington, who I don't always agree with, but spoke eloquently on this bill. I therefore will be now voting Ought Not to Pass. I urge others to follow my light and also vote Ought Not to Pass.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Harrison, Representative Sykes.

Representative SYKES: Mr. Speaker, Ladies and Gentlemen of the House. In my opinion, this bill has absolutely nothing to do with the right of freedom of speech. That's not where I'm at. I also believe that there are adequate laws on the books to handle the situations that have been described. My concern with this particular piece of legislation is the broad net if that is the case. I go back to my own personal experience on a number of occasions where high school students and make them 18 because those seniors are, not happy with the English grade, throws a rock through the window at the teacher. That possibility of making that a felony, which the English teacher may demand, and let that particular senior be saddled with a felony for the rest of their lives, I don't want to go there. That's why I will vote no.

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

Representative BRAUTIGAM: Mr. Speaker, Ladies and Gentlemen of the House. I'd like to concur with the previous speaker's comments. I don't think there has been adequate attention in this debate to the possible over breadth of this law and its uncertain application. Just to illustrate my concern, how often have you heard, from time to time in this chamber, of incidents where one member has purloined the notepad of another member to write a message to the good Representative from North Haven, or whomever, suggesting certain things that might relate to a personal relationship nature. That person has already triggered two, at least, of the provisions of the bill before us. Tampering with the property of another that is, taking that person's notepad. Certainly that has occurred. Interference with the personal relationships or reputation of another person. Certainly that has occurred. Then you are left with the question of whether there was an intention to cause substantial harm, or was it merely a prank. I don't mean to make light of this, but I think there's a real question there about the person's intention or purpose. A teenager or prankster might very well have a purpose in mind that's really more benign, but might not be seen so by members of the community, or prosecutors and so forth. I very concerned about the over breadth of this and its possible application to some of the pranks we've seen right here in this Chamber. Thank you very much.

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

ROLL CALL NO. 444

YEA - Annis, Austin, Berube, Bishop, Bowen, Bowles, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Clark, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Fischer, Fisher, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Jacobsen, Joy, Kaelin, Lansley, Lewin, Lindell, Marraché, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Moulton, Muse, Nass, Nutting, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Tardy, Trahan, Vaughan, Woodbury.

NAY - Adams, Ash, Babbidge, Barstow, Beaudette, Bierman, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Brown R, Bryant, Burns, Cain, Canavan, Churchill, Crosby, Cummings,

Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Gerzofsky, Grose, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Jodrey, Lerman, Lundeen, Makas, Marean, Marley, Mazurek, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Schatz, Simpson, Smith N, Smith W, Sykes, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler.

ABSENT - Craven, Dugay, Emery, Goldman, Hotham, Koffman, Moore G, Ott, Stedman, Thomas, Mr. Speaker.

Yes, 67; No, 73; Absent, 11; Excused, 0.

67 having voted in the affirmative and 73 voted in the negative, with 11 being absent, and accordingly the Bill **FAILS FINAL ENACTMENT**, sent for concurrence.

An Act To Prevent Price Gouging

(H.P. 1333) (L.D. 1892)

(H. "A" H-894 to C. "A" H-875)

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

On motion of Representative CUMMINGS of Portland, 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 PRO TEM**: The Chair recognizes the Representative from Frankfort, Representative Lindell.

Representative **LINDELL**: Mr. Speaker, Men and Women of the House. I was going to be satisfied to sit still and let this thing go under the hammer, but since the good Representative from Portland has asked for a roll call, I feel impelled to speak on this issue. This bill is very inappropriately titled "An Act to Prevent Price Gouging." In fact, it does nothing of the sort. This bill does nothing to prevent the price gouging that occurs every day and every month with respect to health insurance premiums in this state. This bill does nothing to prevent the price gouging that occurs every year with respect to property taxes in this state. This bill does nothing to prevent price gouging that occurs every month when people pay their electrical bills in this state. This bill does nothing to prevent the price gouging that occurs every year when people register their vehicles and pay the excessive vehicle excise taxes every year. What this bill does is it gives the Chief Executive a new power. A new power, which, if exercised, would do inexorable harm, potentially, to the people of this state. What this bill does as it stands before us today, is give the Chief Executive the power to declare an emergency when there's a disruption in a particular market, in a particular good. It's presented as a protection of victims of a catastrophe or a natural disaster. Any Chief Executive who sees a disruption could simply cap the prices of a needed good or commodity. While this may seem to be a protection of victims of a disaster or catastrophe, in fact what it does, if exercised is interferes in the normal and healthy operation of a free market, which actually benefits everybody in society. Let's take, for example, an impending storm. Maine is not exempt from hurricanes. Let's suppose we have a hurricane blowing in to the Gulf of Maine. All of a sudden, a commodity that has a regular demand profile, plywood, would become in high demand. Plywood is an essential necessity during hurricanes because, on the one hand, it can be used to sure-up buildings and block off windows to prevent breakage. After the storm it can be used to make easy and quick repairs. Let's suppose a price cap were put on plywood. What would happen is the demand would not be mitigated at all. Everybody

would run out and plywood would sell out instantly. In a normal healthy market, the price of plywood would go up. It might go up a lot. Let's say it triples. That will result in several things. First of all, it will result in higher profits for people who sell plywood. That is true. At the same time it sends an essential signal to the market. It says to consumers of plywood "Conserve. Use what you have to use. Don't use any extra." If you're a contractor building a house, maybe you shouldn't buy plywood this week so that people who need that plywood to shutter their windows on the coast can get it. It also sends a signal to suppliers of plywood to rush plywood to the State of Maine from other areas where it is not as expensive. Obviously there's a profit motive there, but that price signal causes those supplies to come rushing into our market. Once those supplies arrive, once the storm is over with and a normal market returns, then plywood prices will go down again, in a normal market. Should those powers that are being given to the Chief Executive in this bill be exercised, people would go without plywood. There would be no market mechanism to ration plywood in the emergency and there would be no market mechanism to bring new supplies of plywood in after the emergency. I'm sure there would be no Chief Executive that would actually exercise these powers. Nevertheless, this is a feel-good measure that does nothing to help Mainers who are struggling with the high prices and high taxes that we struggle with everyday, yet gives the Chief Executive a power which, if used, could do great harm to the people. I will be voting against enactment. Thank you Mr. Speaker.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Berwick, Representative Burns.

Representative **BURNS**: Mr. Speaker, Men and Women of the House. There is an essential signal to the market as a result of this bill. It comes from consumers. It is a message to the marketplace that gouging is not acceptable. This is a bill that gives power to consumers, to the people of the State of Maine. It doesn't come from nowhere, it comes from our experience with gouging in the marketplace during times of crisis. That's what this bill is about. I urge you to vote in support of the consumers of the State of Maine. Vote for this bill. Thank you.

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

Representative **MILLS**: Mr. Speaker, Ladies and Gentlemen of the House. Just to clarify. I sponsored this bill. It was worked very, very hard in the Judiciary Committee. It is a unanimous report. It is very narrowly limited to certain abnormal market conditions. The Chief Executive's declaration is carefully tailored. The grounds upon which he, or she, may declare an abnormal market condition are very carefully tailored to the situations that we could envision. We worked very hard with wholesalers, retailers, consumers, oil dealers, lumber dealers, hardware stores and people who sell generators. This encompasses, for instance, if in the case of a severe disaster there is a water shortage that if I had 10 gallons of water and I was a retailer, I couldn't simply jack up the price to \$1,000 per gallon just because it was such an item of necessity and the abnormal market conditions existed. I couldn't sell water only to rich people. I could sell it to thirsty people. I could still make a profit, but I couldn't gouge prices. This is a unanimous committee report with the unanimous support of all the wholesales, retailers, consumer groups and committee members. I ask you to vote for enactment.

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

ROLL CALL NO. 445

YEA - Adams, Annis, Babbidge, Barstow, Beaudette, Berube, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Canavan, Carr, Churchill, Clark, Collins, Cressey, Crosby, Cummings, Curley, Curtis, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Greeley, Grose, Hall, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jennings, Jodrey, Joy, Kaelin, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, McFadden, Merrill, Miller, Millett, Mills, Moody, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson E, Rines, Rosen, Sampson, Saviello, Schatz, Shields, Simpson, Smith N, Smith W, Tardy, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Austin, Bierman, Bishop, Cebra, Clough, Crosthwaite, Daigle, Hamper, Jacobsen, Lansley, Lewin, Lindell, Marean, McCormick, McKane, McKenney, McLeod, Richardson M, Richardson W, Robinson, Seavey, Sykes.

ABSENT - Ash, Cain, Campbell, Craven, Dugay, Emery, Goldman, Hotham, Jackson, Koffman, Moore G, Ott, Sherman, Stedman, Thomas.

Yes, 114; No, 22; Absent, 15; Excused, 0.

114 having voted in the affirmative and 22 voted in the negative, with 15 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate

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

The Speaker resumed the Chair.
The House was called to order by the Speaker.

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

**CONSENT CALENDAR
First Day**

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

(H.P. 1375) (L.D. 1963) Resolve, Regarding Legislative Review of Portions of Chapter 115: Certification, Authorization and Approval of Educational Personnel, Part I and Part II, a Major Substantive Rule That Has Been Provisionally Adopted by the Department of Education (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass**

(H.P. 1456) (L.D. 2060) Resolve, Regarding Legislative Review of Portions of Chapter 895: Underground Facility Damage Prevention Requirements, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-948)**

(H.P. 1465) (L.D. 2071) Bill "An Act To Increase Wetland Protection" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-949)**

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

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

(S.P. 674) (L.D. 1757) Bill "An Act To Improve the MaineCare Program" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-547)**

(S.P. 701) (L.D. 1784) Bill "An Act To Conform the Certificate of Need Law to Industry Standards" (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-548)**

(S.P. 748) (L.D. 1949) Resolve, To Ensure Proper Accounting for Funds at the Department of Health and Human Services Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-546)**

(S.P. 771) (L.D. 1992) Bill "An Act To Protect the Confidentiality of Prescription Information" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-549)**

(S.P. 786) (L.D. 2042) Bill "An Act To Amend the Harness Racing Laws Regarding Distributions from the Fund to Supplement Harness Racing Purses" (EMERGENCY) Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-553)**

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

**REPORTS OF COMMITTEE
Divided Report**

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Clarify the Taxable Status of Lobster Traps"

(S.P. 656) (L.D. 1739)

Signed:
Senator:
STRIMLING of Cumberland

Representatives:
HANLEY of Paris
CLARK of Millinocket
McCORMICK of West Gardiner
WOODBURY of Yarmouth
BIERMAN of Sorrento
HUTTON of Bowdoinham
WATSON of Bath

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-552)** on same Bill.

Signed:
Senators:
PERRY of Penobscot
COURTNEY of York

Representatives:

CLOUGH of Scarborough
SEAVEY of Kennebunkport

Came from the Senate with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-552)**.

READ.

Representative **WOODBURY** of Yarmouth moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The **SPEAKER**: The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative **CLOUGH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is a bill that we dealt with in the Taxation Committee that was brought in because, in just a few of the communities in the state, they have started to tax lobster traps, something that was never done in the past. In particular a community in the southern part of the state, York, not only started to tax lobster traps, they started to tax carpenter's tools and tools for plumbers, electricians and so forth because they say the law requires that they do so. Only a few communities do this and so the law has not been very effective if that's what it requires. When you go through the exemptions there are a number of exemptions for equipment and tools of the trade. Lobster traps are missing from those exemptions. This amended version, that has passed in the other body, would put out, to referendum, a question asking, and I have the question here if I can find it, "Do you favor amending the Constitution of Maine to provide a property tax exemption for lobster traps?" We learned from testimony in the committee that the average lobster trap costs somewhere between \$50 and \$55 and that anybody with 800 traps would then have a little over \$30,000 invested. The tax might be \$440. If they were depreciated, which they depreciate down to 30% like other personal equipment, the tax could be \$130. The problem is that lobster traps don't easily fit into this tax structure. Lobstermen typically lose an average of 10% of their traps every year and some of them, when it comes to a bad storm, lose almost all their traps. They're constantly replacing them. Because of that, they are always at the higher values. I think it's a good opportunity to use Constitutional Amendment approach to make these items exempt because there are very few municipalities taxing them. I understand the number is somewhere around five, but it may not be that accurate. The state doesn't keep track of how many do, but Maine Revenue Service does and they say that the towns are York, Boothbay, Camden, some unorganized territories and maybe few towns downeast. They're a few that do this. If we could change this constitutionally, it would be hard to believe that there's any major effect on most areas because if you're not taxing it now, they're not losing any revenue. It is time, in my opinion, to get this corrected before it gets more prevalent throughout the coast. I would ask you to vote against the pending motion and go on to move the amended version. Mr. Speaker, when the vote is taken, I would request a roll call.

Representative **CLOUGH** of Scarborough **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **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 Yarmouth, Representative Woodbury.

Representative **WOODBURY**: Thank you Mr. Speaker. Mr. Speaker, Women and Men of the House. There're many

categories of personal property which a municipality can, and often does, tax. Those of us who voted on the Majority Report, I think we're concerned about two things. One is that we are going to be gradually, through very narrow definitions of exemptions, arbitrarily picking this piece of personal property, you know, another piece of personal property and whittling away at something rather than dealing with a broader issue. That was much of the impetus for another bill that we heard in this chamber which provides the uniform exemption if you have \$20,000 of personal property or less, which treats all kinds of these small categories of personal property the same way, rather than saying that lobster traps are somehow special compared with other kinds of personal property. That's issue number one. Issue number two with this is that when we create an exemption like this, we are required to reimburse municipalities for 50% of the lost revenues associated with the new exemption. In practice that is going to mean that we're going to reimburse 50% of the lost revenues from those communities that tax lobster traps now and those that have decided not to tax lobster traps now. It really creates what I think is a complicated reimbursement situation that just adds a level of complication to this bill that I think we shouldn't do. I'm going to urge you to support the Ought Not to Pass motion. Thank you very much.

The **SPEAKER**: The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative **CLOUGH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to correct my good friend, the Representative from Yarmouth, Representative Woodbury on one point. A Constitutional Amendment to repeal the tax on lobster traps would override any state obligation to reimburse for the lost revenue. I'd also like to point out that the other tax exemption that we've past through the House and the other body so far, the \$20,000 exemption on up to \$20,000 of personal property, would apply to lobster traps if you are only fishing 300 or 400 hundred traps. If you were fishing, like most fishermen do, 750 or 800 traps, it would not apply. This is the reason that we, I think, should consider doing this so that we are treating all of those lobstermen fairly.

The **SPEAKER**: The Chair recognizes the Representative from Yarmouth, Representative Woodbury.

Representative **WOODBURY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I do want to just clarify that this bill is not a Constitutional Amendment. This is an exemption for lobster traps which does require reimbursement from the state.

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 feel compelled to stand briefly on this issue. The good Representative from Scarborough, the Republican committee chair, did a great job explaining this issue. Another thing you want to keep in mind is that these people are food producers and we commonly give food producers a tax break, whether it's sales tax or other things. This is a really important bill. It passed by 2/3 on the other side. I would really urge your support. I appreciate the opportunity to speak to you this morning. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Phippsburg, Representative Percy.

Representative **PERCY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want everyone to know that the Marine Resources Committee supports this bill 100%. Lobster traps are different from

computers because they get beat around on the bottom of the ocean a lot more. Thank you. I hope you'll follow my light and defeat this motion.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Clough. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative CLOUGH: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. On the issue of the Constitutional Amendment, the amendment to the bill, that has passed in the other body, does change the Constitution. Again, it asks the people "Do you favor amending the Constitution of Maine to provide a property tax exemption for lobster traps?" Again, I state that they would not be subject to reimbursement.

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

ROLL CALL NO. 446

YEA - Ash, Barstow, Blanchard, Bliss, Brannigan, Cain, Canavan, Churchill, Clark, Cummings, Duchesne, Dunn, Duplessie, Finch, Fisher, Flood, Hanley B, Hanley S, Harlow, Hutton, Marley, McCormick, Mills, Norton, Nutting, Patrick, Pineau, Simpson, Smith N, Thompson, Walcott, Watson, Woodbury.

NAY - Adams, Annis, Austin, Babbidge, Beaudette, Berube, Bishop, Blanchette, Bowen, Bowles, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Burns, Campbell, Carr, Cebra, Clough, Collins, Cressey, Crosby, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Dudley, Duprey, Eberle, Eder, Edgecomb, Faircloth, Farrington, Fischer, Fitts, Fletcher, Gerzofsky, Glynn, Greeley, Grose, Hall, Hamper, Hogan, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Marraché, Mazurek, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Moody, Moulton, Muse, Nass, Nutting, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Smith W, Sykes, Tardy, Trahan, Tuttle, Twomey, Valentino, Vaughan, Webster, Wheeler, Mr. Speaker.

ABSENT - Bierman, Craven, Dugay, Emery, Goldman, Hotham, Jackson, Koffman, Moore G, Ott, Stedman, Thomas.

Yes, 33; No, 106; Absent, 12; Excused, 0.

33 having voted in the affirmative and 106 voted in the negative, with 12 being absent, and accordingly the Majority **Ought Not to Pass Report was NOT ACCEPTED.**

On motion of Representative DUDLEY of Portland the House **RECONSIDERED** its action whereby the Majority **Ought Not to Pass Report was NOT ACCEPTED.**

The same Representative moved that the Bill be **TABLED** until later in today's session pending the motion of Representative WOODBURY of Yarmouth to **ACCEPT** the Majority **Ought Not to Pass Report.**

Representative KAELIN of Winterport **REQUESTED** a roll call on the motion to **TABLE** pending the motion of Representative WOODBURY of Yarmouth to **ACCEPT** the Majority **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: A roll call has been ordered. The pending question before the House is to Table pending acceptance of the

Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 447

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Grose, Hanley S, Harlow, Hogan, Hutton, Jennings, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, McCormick, Merrill, Miller, Mills, Norton, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Schatz, Simpson, 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, Edgecomb, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McFadden, McKane, McKenney, McLeod, Millett, Moody, Moulton, Muse, Nass, Nutting, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Sampson, Saviello, Seavey, Sherman, Shields, Sykes, Tardy, Trahan, Vaughan.

ABSENT - Craven, Dugay, Emery, Goldman, Hotham, Jackson, Koffman, Moore G, Ott, Stedman, Thomas.

Yes, 71; No, 69; Absent, 11; Excused, 0.

71 having voted in the affirmative and 69 voted in the negative, with 11 being absent, and accordingly the Bill was **TABLED** pending the motion of Representative WOODBURY of Yarmouth to **ACCEPT** the Majority **Ought Not to Pass Report** and later today assigned.

SENATE PAPERS

Bill "An Act To Amend the Charter of the Anson Water District"

(S.P. 842) (L.D. 2100)

Came from the Senate, **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed.

REFERRED to the Committee on **UTILITIES AND ENERGY** in concurrence.

ENACTORS

Mandate

An Act To Authorize Chebeague Island To Secede from the Town of Cumberland

(H.P. 1243) (L.D. 1735)

(C. "A" H-915)

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

Representative DUDLEY of Portland asked leave of the House to be excused from voting on L.D. 1735 pursuant to House Rule 401.12.

The Chair granted the request.

In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House necessary, a total was taken. 136 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

SENATE PAPERS

Non-Concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Clarify Deadlines for Submitting Direct Initiatives to Municipal Officials for Signature Verification

(S.P. 782) (L.D. 2033)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-513) AS AMENDED BY HOUSE AMENDMENT "A" (H-895) thereto in the House on March 31, 2006.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-513) AS AMENDED BY HOUSE AMENDMENT "A" (H-895) AND SENATE AMENDMENT "A" (S-544)** thereto in **NON-CONCURRENCE**.

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

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

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.

An Act To Increase the Minimum Wage

(H.P. 174) (L.D. 235)

(C. "A" H-725)

TABLED - March 29, 2006 (Till Later Today) by Representative CUMMINGS of Portland.

PENDING - PASSAGE TO BE ENACTED.

On motion of Representative DUPREY of Hampden, 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" (H-725)** was **ADOPTED**.

The same Representative **PRESENTED** House Amendment "E" (H-917) to **Committee Amendment "A" (H-725)** which was **READ** by the Clerk.

Representative SMITH of Van Buren moved that **House Amendment "E" (H-917)** to **Committee Amendment "A" (H-725)** be **INDEFINITELY POSTPONED**.

Representative DAIGLE of Arundel **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** House Amendment "E" (H-917) to **Committee Amendment "A" (H-725)**.

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 "E" (H-917) to **Committee Amendment "A" (H-725)**. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 448

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Cummings, Driscoll, Duchesne,

Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Glynn, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Norton, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Schatz, Simpson, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Mr. Speaker.

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

ABSENT - Craven, Emery, Hotham, Koffman, Moore G, Ott, Stedman, Thomas.

Yes, 72; No, 71; Absent, 8; Excused, 0.

72 having voted in the affirmative and 71 voted in the negative, with 8 being absent, and accordingly **House Amendment "E" (H-917)** to **Committee Amendment "A" (H-725)** was **INDEFINITELY POSTPONED**.

Representative MILLS of Farmington **PRESENTED** House Amendment "D" (H-916) to **Committee Amendment "A" (H-725)**, which was **READ** by the Clerk.

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

Representative **MILLS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I propose this amendment, along the same lines as the previous amendment, simply postponing the increase because we have increased the minimum wage every year since 2002, I believe. It went up 60 cents in January, 2002. It went up another 50 cents in January, 2003. It went up 10 cents in October, 2004. Just last year it was raised again by 15 cents to \$6.50. We are now a great deal more than our closest state of New Hampshire, which is still at \$5.15, I think. I wish to propose this amendment in order to make some modest increase. A reasonable, sensible increase to the minimum wage, but not put us at the very top of the scale nationwide. Thank you.

Representative **SMITH** of Van Buren moved that **House Amendment "D" (H-916)** to **Committee Amendment "A" (H-725)** be **INDEFINITELY POSTPONED**.

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. House Amendment "D" is the identical amendment as House Amendment "E" except for the sponsor. I would ask that the membership vote to Indefinitely Postpone this House Amendment "D" just as was done on House Amendment "E".

Representative **MILLS** of Farmington **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** House Amendment "D" (H-916) to **Committee Amendment "A" (H-725)**.

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 "D" (H-916) to **Committee Amendment "A" (H-725)**. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 449

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

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

ABSENT - Craven, Emery, Hotham, Koffman, Moore G, Ott, Stedman, Thomas.

Yes, 68; No, 75; Absent, 8; Excused, 0.

68 having voted in the affirmative and 75 voted in the negative, with 8 being absent, and accordingly **House Amendment "D" (H-916) to Committee Amendment "A" (H-725) was ADOPTED.**

Committee Amendment "A" (H-725) as Amended by House Amendment "D" (H-916) thereto was ADOPTED.

Representative CUMMINGS of Portland moved that the House **RECONSIDER** its action whereby **Committee Amendment "A" (H-725) as Amended by House Amendment "D" (H-916) was ADOPTED.**

The same Representative **REQUESTED** a roll call on the motion to **RECONSIDER** its action whereby **Committee Amendment "A" (H-725) as Amended by House Amendment "D" (H-916) was ADOPTED.**

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 Reconsider its action whereby Committee Amendment "A" (H-725) as Amended by House Amendment "D" (H-916) was adopted. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 450

YEA - Annis, Austin, Beaudette, Berube, Bierman, Bishop, Bowen, Bowles, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosby, Crosthwaite, Curley, Curtis, Daigle, Davis K, Duchesne, Duprey, Edgecomb, Fischer, Fisher, Fitts, Fletcher, Flood, Greeley, Hall, Hamper, Hutton, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marraché, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Mills, Moody, Moulton, Muse, Nass, Patrick, Perry, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Sampson, Schatz, Seavey, Sherman, Shields, Sykes, Tardy, Trahan, Vaughan.

NAY - Adams, Ash, Babbidge, Barstow, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Brown R, Bryant, Burns, Cain, Canavan, Clark, Cummings, Davis G, Driscoll, Dudley, Dugay, Dunn, Duplessie, Eder, Faircloth, Farrington, Finch,

Gerzofsky, Glynn, Goldman, Grose, Hanley B, Hanley S, Harlow, Hogan, Jackson, Jennings, Lerman, Lundeen, Makas, Marley, Mazurek, Merrill, Miller, Norton, Nutting, O'Brien, Paradis, Percy, Pilon, Pineau, Pingree, Piotti, Rines, Saviello, Simpson, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Mr. Speaker.

ABSENT - Craven, Eberle, Emery, Hotham, Koffman, Marean, Moore G, Ott, Stedman, Thomas, Woodbury.

Yes, 74; No, 66; Absent, 11; Excused, 0.

74 having voted in the affirmative and 66 voted in the negative, with 11 being absent, and accordingly **Committee Amendment "A" (H-725) as Amended by House Amendment "D" (H-916) thereto was ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-725) as Amended by House Amendment "D" (H-916) thereto in NON-CONCURRENCE** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-923)** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Extend the Lobbyist Reporting Requirements to Executive Branch Lobbying Activities" (H.P. 1235) (L.D. 1727)

TABLED - April 3, 2006 (Till Later Today) by Representative PATRICK of Rumford.

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

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

Representative **CANAVAN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The House Amendment before you would expand the definition of lobbying under the disclosure laws to include lobbying executive branch members such as Commissioners and their designees. Under current law, lobbyists must report only the time they spent lobbying legislators on legislative actions, or with the Chief Executive on legislative actions or vetoes. Before I talk about the merits of the amendment, I'd like to clear up some misconceptions about my views on lobbying and lobbyists. The other day, someone asked me straight out, "Why do you hate lobbyists?" At the public hearing a lobbyist cornered me in the hall and said angrily, "This bill is completely unnecessary. Why are you introducing it?" Another lobbyist wanted to know why I didn't have to report the time I spend being lobbied. In a news article about this amendment, a lobbyist was quoted asking the question, "What's the problem? Is something nefarious going on here?" In response to all of those questions and comments I would simply ask that we all keep our heads here. This amendment is simply what it is, an effort to make sense of our lobbyist disclosure laws. I would like to express my thanks to the many lobbyists who have been supportive of me in introducing this legislation. The reason that 37 states now require disclosure of Executive branch lobbying is pretty basic. If we are going to have lobby laws at all, why disclose only part of what goes on. Included in those 37 states, by the way, is Vermont, a citizen's legislature. Only five days ago, the Governor of New Hampshire signed into law a bill requiring disclosure of Executive branch lobbying. I think it's safe to say that the Governor doesn't hate lobbyists and that not much wicked stuff is going on in New Hampshire. The fact is Commissioners and their deputies have a close working relationship with lawmakers. We rely heavily on Executive Department heads to brief us on issues related to their areas of expertise, as well as on pending legislation. A good

lobbyist recognizes this and doesn't overlook the fact that providing information to Executive branch heads on legislative matters, is one more way to get his side of an issue heard. One Commissioner has told me he's lobbied extensively on legislation. The Center for Public Integrity, a national organization comprised of investigative journalists, gives Maine's lobby laws failing grades, in part because it's one of the few states that doesn't require reporting of Executive branch lobbying. I would respectfully submit to you that the time has come to consider possible revisions in our law. I would invite my colleagues on the other side of the aisle, and those in my own caucus who disagree, to work with me on this issue. The effort to pass lobby reform in New Hampshire was indeed a bipartisan effort. It didn't come about as a result of any great scandal, but because, as the Governor said, "The people deserve the highest standard of ethics and integrity in their elected officials." I don't think I could have said it any better. To that I would add, I think we owe Maine people as much. A recent briefing paper published by the NCSL states that many states are broadening the definition of the term lobbying to include such activities as Executive Department lobbying and even grassroots lobbying, and the activity of vendors seeking to secure State contracts. This amendment doesn't go nearly as far as that. Following trends for the sake of being trendy isn't the Maine way. Examining the reasons behind those trends to determine their merit does seem a reasonable course of action. Some will want to use the old cliché, "If it ain't broke, don't fix it." My response to that always has been, "Why do we have to wait until there is a breach in the dam before we fix the weak spots?" At the outset I stated my purpose in introducing this amendment was to strengthen the lobbyist disclosure laws. My purpose is really twofold because I truly believe that shining a light on the political process serves to strengthen the confidence of the people in the political process. Our lobbyist disclosure laws have not kept pace with the heightened activity of recent years, and, in fact, they haven't been amended since 1976. In the previous legislature, lobbyists spend more than \$8 million lobbying legislators. Maine people have a right to know who is spending how much to lobby the Executive Department as well as the Legislature. Lobbying is an honorable profession when practiced with integrity. I truly believe it is, in Maine, that most of lobbyists are good and honest. Because the objectives of lobbyists are to influence public policy and because money is spend toward that end, the more light we shine on the process the better. Thank you.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Curley.

Representative **CURLEY**: The SPEAKER: The Chair recognizes the Representative from Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise to support the amendment before us. I appreciate the good Representative from Waterville's work and comments. If you have a chance to look at the summary of the bill, it amends the definition of lobbyist to include time spent in front of committees. It amends the definition of a lobbyist to include smaller amounts of time that they spend here in our building. The part that's particularly poignant, I think, is it requires lobbyists and associates, who are state agency employees, to clarify that they are lobbying. As a member of Appropriations I was surprised, I think, by the constant traffic of lobbyists in the Executive branch and state departments. It doesn't mean that anything untoward is going on, but there's a great deal of time spent. We should be responding to our constituent's voice, not the voice of lobbyists and special interests. It's important for us to disclose power brokering and

have transparency of influence. I'm voting to support this amendment. Thank you.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Daigle.

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

The SPEAKER: The Representative may pose his question.

Representative **DAIGLE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am truly undecided how to vote on this bill, but perhaps this question will help me. Right now, tax exempt organizations, under Internal Revenue Service Code 5013 C, are limited in their lobbying activities. If we change the definition of what is and is not lobbying here in the State of Maine, will we then increase the amount of lobbying activities that these organizations will be required to report, and may subsequently jeopardize their tax exempt status?

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

Representative **CANAVAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think it's an interesting question, and, I guess my answer would be that such organizations would not be jeopardized.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Richardson.

Representative **RICHARDSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm going to vote for this amendment. I want to remind you of something. The effects of the ethics of the lobbyists would reflect the ethics of ourselves. They can't succeed, unlawfully, if we don't acquiesce. Remember that.

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

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

The SPEAKER: The Representative may pose his question.

Representative **DAVIS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have a question to whomever can answer it. Would this mean if a church is lobbying a particular bill, would they have to register how much money they're spending, the salaries and so on? I was unclear about that.

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

Representative **CANAVAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. My interpretation of the law would be that any entity that spends money for the purpose of influencing legislation, and lobbies more than eight hours per month, there are two parts to the definition of lobbying. If a person within an organization, within a company, spends more than 8 hours lobbying, that person then meets the definition of lobbying. If a person is hired specifically for the purpose of lobbying, that same thing is true now, although, another bill coming up will change it. The window for lobbying is pretty huge in this state. A lobbyist can lobby for a full eight hours per month without having to register and has 15 business days after that before the registration requirement kicks in. In answer to that question, I would say the thing that really matters is whether or not the entity is paid specifically for the purpose of influencing legislation. It wouldn't matter who it is, whether it's a church or an organization. Usually, my observation has been that when members of a congregation come down, they're coming down as citizens and they're not paid to be here.

The **SPEAKER**: The Chair recognizes the Representative from Portland, Representative Dudley.

Representative **DUDLEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am very concerned that we may be embarking upon something that may have tremendous unintended consequences. I absolutely support the intent here. I think more transparency and more disclosure is good. At the same time, I recognize that we are a citizens Legislature and we're paid as such. For many of us who don't have retirement income and have to earn income from work, invariably, our businesses or our non-profit organizations have contact with the Executive branch of state government. When you consider the types of things that might fall under the definition of legislative action, as it's worded in this amendment, that would certainly include the budget. I know I can name several members of this chamber, including myself, whose organizations, businesses or otherwise, certainly have a stake in issues that end up in the budget. By passing this amendment, I have grave concerns that we are disqualifying ourselves from service in the Legislature, or from holding our jobs. I caution all of us to think carefully and to understand this perfectly before we take this step.

The **SPEAKER**: The Chair recognizes the Representative from Saco, Representative Valentino.

Representative **VALENTINO**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm just reading here on the daily debate guide for the Majority Ought Not to Pass. One of the things that strikes me, one of the reasons for not passing this, they are saying, and I am fully in favor of this, is that rulemaking is not lawmaking. I would have to take exception with this, Mr. Speaker and members of the House. Rulemaking is lawmaking. You go before any one of the agencies here, and they have a set of rules, and these are the rules that you have to do. As a freshman legislator, getting advice from one of my mentors, he said "Never just follow your bill through to the Chief Executive's signing it." Most people think that's the last step, when the Chief Executive signs your bill. It's not. The last step is when it goes to the agency and the agency gets a hold of one of your bills and they decide now they're going to make the rules. They're going to write the rules. They're going to write the regulations on that. I think that lobbying on the state agencies is vital to knowing who is doing this. It says, also here, that members of industry and business are often involved in rulemaking, which is true. They offer technical advice and practical experience. They also know how to shape a rule to find the loopholes that may apply to them. I would only give an example. My husband used to own an equipment dealership. We all know that when they would send out for bid specifications, whoever wrote the bid specifications, basically, usually ends up getting the bid. If you're very friendly, and this is at any local level, state level, national level or anything, I'm being very truthful here, you all go up there and you all lobby whoever is the commissioner and say, "Let's get these specifications for the tractor, we want this 25 PTO, we want the hydrostatic drive and we want three cup holders and we want two backup lights." Because you know yours is the only tractor out there, whether it is a John Deere, a Kabota, a New Holland or anything else that has all those specifications. It's the same thing with rulemaking. If you're saying we need a certain PSI or a certain air quality, you know what your factory's doing. You know what everybody else is doing. You're making the rules based on technical information that's being given to you by somebody that knows exactly what their company and their rules or their people abide by, whether it's the doctors, the lawyers, the realtors, the paper people or the

SAM organization. They know all that. They're the ones who are influencing, every single day, the laws that are being made under rulemaking. It's not called the fourth branch of government without a reason. It is the fourth branch of government. The administrative agencies have way too much power. The lobbyists have too much power and we should at least regulate them. If they're getting paid they can certainly fill out a form. It's all on the computer. It's all done on the internet. You don't have to fill these forms out. I think that this bill that's being proposed is wonderful for disclosure in light of what's happening, not only in the nation, but the State of Maine and every municipality in Maine. Thank you.

On motion of Representative **CUMMINGS** of Portland, **TABLED** pending the motion of Representative **PATRICK** of Rumford to **ACCEPT** the **Minority Ought to Pass as Amended** Report and later today assigned.

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

On motion of Representative **MCKANE** of Newcastle, the House adjourned at 1:00 p.m., until 9:00 a.m., Thursday, April 6, 2006 in honor and lasting tribute to the Honorable William M. Earle, of Damariscotta.