

# MAINE STATE LEGISLATURE

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**Legislative Record**  
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**One Hundred and Twenty-First Legislature**  
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department in order to overlook their proposal and pretty much have to accept their proposal without being able to really dig it apart, tear it apart and put it into operation.

This proposal would give you that whole first year to study the budget of the departments that are under your jurisdiction and then vote on that budget in either January or February of the second year and also it will prevent any new Chief Executive from coming into office and having to develop a budget within the first two months of his term.

Yes, we have had budgets gone through and they have been successful, but on those three or four budgets that we have had that were passed, we have to remember that each time we went back to those departments to develop supplemental budgets as stop gap measures. Each time departments found dollars and moved them in to cover the short falls that were discovered and required the supplemental budgets. By being able to take a whole year to take a look at department's budgets, you would not be running into those particular shortfalls.

I think the good Representative from Portland, Representative Brannigan, is right in that this probably should not come to you in a bill in one term. It was my hope that this bill would have been carried by the committee, studied and have a chance to really put some teeth into the bill so that it would be a workable document.

It is unfortunate that it is on your desk on right now, but the provisions for developing that type of a budget still exists. Ladies and gentlemen, I wonder how many of you can honestly say that you understand every aspect of the departments budgets that are under your jurisdiction as a committee of oversight. I ask you to defeat the pending motion and move on to accept the Minority Report. Thank you.

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

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. We all know that the single most important thing we do every session, the bill that reflects our priorities more than any other bill, is the budget bill. It represents what we are going to do with the \$5 billion of state revenues. We also know that last year we elected a Governor. That Governor spoke to the people of Maine about what his priorities were. The Chief Executive came into office and presented a budget pretty close to his inauguration. Under this proposal it would be another year before the priorities that the Chief Executive offered to the Maine people in his election, it would be more than a year before those ideas that the Maine people said that they approved of by electing the Chief Executive, it would be more than a year before we could even begin the discussion on them and then months after that before these ideas were implemented.

The people of Maine expressed their priorities in a statewide election for one individual to lead the state, the Chief Executive. The Maine people shouldn't have to wait a year or a year and half before those priorities that they voiced could take affect.

Further, I would add that under this proposal the Chief Executive would have the opportunity to offer one budget. It is one budget under which he would have authority to manage state departments. That doesn't make me feel terribly comfortable that after a statewide election the Chief Executive only gets one shot at enacting the priorities of the people of Maine said that they wanted by electing him. I urge you to join me in supporting the Majority Ought Not to Pass Report.

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

Representative **BRYANT-DESCHENES**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to address the remarks made by the good Representative from Portland, Representative Brannigan. Being a freshman I would certainly

defer to his knowledge of the system, but when I arrived here this appeared on my desk very shortly thereafter. I didn't have much time to study that. This is the proposal that we are talking about today. I really find it hard to say that I would agree we need to do a lot more study on this, but this was here and we had no time to look at it at all hardly.

The SPEAKER PRO TEM: 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. 234

YEA - Adams, Ash, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Cowger, Craven, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jennings, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGowan, McKee, McLaughlin, Mills J, Norbert, Norton, O'Brien L, O'Neil, Paradis, Pellon, Percy, Perry A, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Walcott, Watson, Wheeler, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cresse, Crosthwaite, Curley, Daigle, Duprey B, Fletcher, Glynn, Goodwin, Heidrich, Honey, Hotham, Jackson, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, Maietta, McCormick, McKenney, McNeil, Millett, Mills S, Moody, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Saviello, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Vaughan, Woodbury, Young.

ABSENT - Barstow, Berube, Cummings, Davis, Greeley, Marraché, McGlocklin, Patrick, Perry J, Usher.

Yes, 71; No, 70; Absent, 10; Excused, 0.

71 having voted in the affirmative and 70 voted in the negative, with 10 being absent, and accordingly the Majority **Ought Not to Pass Report was ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

#### UNFINISHED BUSINESS

The following matter, 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 Simplify Calculation of Legal Interest (EMERGENCY)

(H.P. 835) (L.D. 1132)

(S. "A" S-261)

TABLED - June 11, 2003 (Till Later Today) by Representative DUPLESSIE of Westbrook.

PENDING - **PASSAGE TO BE ENACTED.**

On motion of Representative MILLS of Cornville, 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**.

The same Representative **PRESENTED House Amendment "B" (H-571)** which was **READ** by the Clerk and **ADOPTED**.

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 **Senate Amendment "A" (S-261)** was **ADOPTED**.

On further motion of the same Representative, **Senate Amendment "A" (S-261)** was **INDEFINITELY POSTPONED**

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

**Representative MILLS**: Mr. Speaker, Men and Women of the House. This has been an extended drafting exercise for the Revisor's Office. I want to thank them for their patience and their indulgence. OPLA has been involved as well and several members of the bar. This is an extraordinarily complex mess that arose from a series of statutory changes that precede this Legislature. The way in which interest was calculated back along used to depend on whether the action was filed in the district court or if it was filed in the superior court and then when the jurisdictional limits of the district court were eliminated and the old \$30,000 cap on actions that could be brought under district court was removed, it left an irresolvable conflict or ambiguity in the existing statutes in regard to how you calculate interest. This may not seem very important to many of you, but in larger cases the interest that is accrued during the two or three year time that a case has been pending can amount to a great deal of money and in any confusion or ambiguity in the law can result in appeals and a lot of needless legal work. We don't want to put lawyers to much trouble or too much work. This bill was amended finally by House Amendment "B." It represents at least a dozen drafts or redrafts of an effort to reconcile some of these points of confusion and ambiguity and if any of you would care to know the details, I am available at my usual hourly rate for consultation. In any case, I appreciate the indulgence of the body. This bill did make it all the way to the Governor's desk and then we saw a flaw in it, brought it back and found another flaw and still another. I hope we have managed to clear them up by now. Thank you Mr. Speaker.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "B" (H-571)** in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

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

Bill "An Act To Improve the Maine Rx Program"  
(S.P. 590) (L.D. 1634)

Which was **TABLED** by Representative RICHARDSON of Brunswick pending **PASSAGE TO BE ENGROSSED**.

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

**Representative KANE**: Mr. Speaker, Men and Women of the House. I would like to say a few words at the outset about the unusual path of this bill. It is a critically important piece of legislation in its own right, which bypassed the normal committee process, public hearing and work session. I, too, regret that because our committee has worked extremely well together in probably a half a dozen partisan votes on 140 bills that we passed up. However our presiding officers were faced with a

unique set of circumstances. The lateness of the Supreme Court decision in May, the time required by the Attorney General's staff to analyze the ruling, the time required by DHS staff to prepare legislation to implement the decision and to change the existing RX statute in conformity with the Supreme Court ruling. Therefore, they exercised their authority according to the rules and assigned it directly to the floor.

The bill came out of the Revisor's Office only two days ago with no time to advertise for public hearing or hold it before adjourning. However, it was essential or is essential for us to act in this session in order to get the prescription drugs out to our vulnerable senior citizens. We did our best by convening a briefing by DHS yesterday and allowed representatives of opponents and proponents to speak briefly to the committee. There was absolutely no intent to subvert the usual legislative process.

I hope the issue does not get in the way of objectively dealing with the merits of the bill itself. This bill is so essentially linked to the original RX legislation currently in statute. It may be helpful to recount a little history so that those who may not have been aware of its remarkable course in its body to be better informed. I would like to tell you a little bit about it.

LD 2959, "An Act to Establish Fair Price for Prescription Drugs" was the original in the Maine RX Program. It was enacted during the Second Session of the 119th Legislature. Many of us were here then and a great many of us were not. Men and women of the House, the bill before us today, LD 1634, is "An Act to Improve the Maine RX Program." It is precisely that. It is improving a bill already in statute and can be best understood in the context of the Maine RX and its history.

I submit that LD 1634 builds on those aspects of the Maine RX Program that were unchallenged by the Supreme Court and attempts to implement the courts findings, consensus and direction. Men and women of the House, LD 1634 is not really a new bill as we consider new bills, but rather the latest legislative step in a process that began three years ago. This bill has had impressive bipartisan support from the outset and has been subjected to one of the longest, most extensive and most publicly supported pieces of legislation in the history of this body beginning on a snowy day in February in the year 2000 when over 200 people, many of them sick and elderly told us their heartbreaking stories of having to choose between food and medicines, medicines for themselves and medicines for their ailing spouses, many of whom did not survive. Actually this bill was most dramatically presented to this body, not so much by traditional legislator generated interest, but rather was thrust on us by the public display of the desperation of low-income elderly who took those long torturous trips to Canada to purchase their drugs for 50 percent off.

Men and women of the House, these seniors embarrassed the Legislature into action. They have not stopped and they will not stop. They have been the ones that have given us the motivation and the courage to be relentless in our perseverance despite the formidable opposition of the pharmaceutical industry right up to today. That industry by all standards, the most profitable in the world, has attempted to thwart our efforts at every turn as we attempt to carry out our responsibility for the most vulnerable people of Maine, our low-income elderly.

This has truly been the story of David and Goliath from the first hearing of the Maine RX bill sponsored by Senator Chellie Pingree in the 118th Legislature. I have had the privilege of being a cosponsor then and a participant in the ensuing battle through the 119th, 120th and now the 121st Legislature. With a strong advocacy of the Maine Council of Senior Citizens whose strong public and editorial support and the pleadings of our