

# 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

**TABLED AND TODAY ASSIGNED**

House Order, amending the House Rules by adding House Rule 108, to Allow Broadcast of the House Proceedings

(H.O. 39)

TABLED - June 7, 2005 by Representative TRAHAN of Waldoboro.

PENDING - **PASSAGE** (2/3 Vote Required).

Subsequently, the House Order was **REFERRED** to the House Committee on **HOUSE RULES**.

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

**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

Zachary Hynes, of Yarmouth, who is the recipient of a Diplomacy Award. The award was given at the 2005 Maine Model United Nations Conference at the University of Southern Maine. The conference was held May 17 to 19 and involved more than 300 students from high schools throughout New England in a simulation of the activities and deliberations of the United Nations. The award is the highest individual honor granted at the conference and is given to a delegate in each United Nations committee who best embodies excellence in research, written composition, knowledge of procedures, conflict resolution, negotiation skills and speech making. Zachary received the award for his exemplary work as the delegate representing Bolivia in the Organization of American States. We extend our congratulations to Zachary on this achievement;

(HLS 871)

Presented by Representative WOODBURY of Yarmouth.

Cosponsored by Representative FARRINGTON of Gorham, Senator TURNER of Cumberland.

On **OBJECTION** of Representative WOODBURY of Yarmouth, was **REMOVED** from the Special Sentiment Calendar. **READ.**

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

Representative **WOODBURY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am pleased to recognize Zach Hines today, an exceptional young man whom I am proud to represent in Yarmouth. As Zach has moved through the Yarmouth school system he has earned the respect and admiration of his peers, his teachers – including the Representative from Gorham, Representative Farrington – and his entire community.

As he finishes his first year in high school we are pleased and proud to see that his outstanding reputation is now spreading beyond Yarmouth. We congratulate Zach on receiving this Diplomacy Award from the Maine Model U.N. conference and we look forward to celebrating his future accomplishments. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Gorham, Representative Farrington.

Representative **FARRINGTON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. As Representative Woodbury alluded to I am, in my other life, a teacher at Yarmouth High School and this year it has been my great privilege and honor to be one of Zach Hines' teachers as well as to serve as his advisor in the Model U.N. program.

You heard in the sentiment that was read aloud the description of the Diplomacy Award that Zach received at the Model UN Conference and I would like to add one further point about that award. On the last day of this conference when the judges convened to decide the awards for each committee, when it came time to grant the award the Diplomacy Award for Zach's committee, it was an immediate, unanimous decision. There was no need to debate. He was clearly in a class by himself. I have attended a number of these conferences and I can honestly say that that is a rare occurrence. It is a very high caliber of students that participate in these and for someone to be so clearly the most skilled member of the committee so that there is no need for deliberation is rare. He was singled out not only for his skill, but also for the thoughtful and courteous manner in which he treated all the other members of the committee. Those of us who know Zach are not at all surprised to hear that. He truly is an outstanding student and he is an exceptional individual.

Thinking a few years down the road there will come a time when Representative Woodbury will reach the end of his tenure here in the House and I am confident that we can recommend to the people of Yarmouth a worthy young successor to take his place here in the House. So, start thinking about that Zach and once again, congratulations on receiving this award.

Subsequently, the sentiment was **PASSED** and sent for concurrence.

**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.

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

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

(C. "A" H-657)

TABLED - June 7, 2005 (Till Later Today) by Representative CARR of Lincoln.

PENDING - **PASSAGE TO BE ENGROSSED.**

On motion of Representative CARR of Lincoln, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-657)** was **ADOPTED.**

The same Representative **PRESENTED House Amendment "A" (H-666)** to **Committee Amendment "A" (H-657)** which was **READ** by the Clerk.

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

Representative **CARR**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Yesterday I am sure that you probably heard more about tort reform than you ever really wanted to know. But, this is a very important issue to many people who drive emergency vehicles in the State of Maine. First of all, I have had some questions on this and one of the things that I want to answer is who does this cover. This doesn't cover only police. It also covers firemen, ambulance drivers, and all the people who respond daily to emergency situations. This amendment would change one word. It would still allow the folks who are in a situation – the Nortons of the world – an opportunity to bring their case forward, but with a standard a little higher than negligence and instead labeled recklessness. I offered to bring forth a Unanimous Report out of the committee by making this change earlier on before it came out of committee, but we weren't able to reach a consensus on that. I suspect that, as far as the committee is concerned, we still

may not be able to do that. But, I would ask your support, not just for me because I am retired now and I really don't respond to emergencies anymore, but there are still a lot of men and women out there driving police vehicles, ambulances and fire trucks and all of those emergency vehicles. Ironically, while this debate was going on yesterday a siren went by and the thing that you want to remember is that that person was responding to an emergency and that person would be covered under this and this recklessness would be a standard higher than negligence. It would be more difficult to prove, but it would give a sense of coverage to those people who, when it is raining, snowing and the roads are icy, still have to respond. Those are the days that most of us stay at home.

I am sure that very soon after I sit down you are going to hear that there is no such terminology or definition in statute in the Civil Code in the State of Maine, but I actually heard this when we were discussing the issue in committee and what I have found out and, to the best of my knowledge, New York state has a similar law for tort claims and they use reckless as a standard. There are also some Maine Supreme Court rulings if you go back that use reckless rather than negligence.

I am going to sum up now and just say that I know that this morning some of the members of the fire departments and communities around the state are beginning to talk about this and I am not sure if calls will be coming in soon or not. It is not anything that I have asked people to do so if you get those calls it is really not me, but I do want to say that I am sure that they would certainly appreciate your support of this amendment. Thank you Mr. Speaker.

On motion of Representative DUPLESSIE of Westbrook, **TABLED** pending the motion of Representative CARR of Lincoln to **ADOPT House Amendment "A" (H-666) to Committee Amendment "A" (H-657)** and later today assigned.

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**CONSENT CALENDAR**

**First Day**

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

(S.P. 608) (L.D. 1642) Bill "An Act To Further the Transition to the New Department of Health and Human Services" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-349)**

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

There being no objection, the Senate Paper was **ACCEPTANCE** of the Unanimous **Committee Report** and later today assigned.

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(S.P. 443) (L.D. 1263) Bill "An Act To Contain Costs, Reduce Paperwork and Streamline the Regulatory Process for Maine's Small Businesses" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-348)**

On motion of Representative SMITH of Monmouth, was **REMOVED** from the First Day Consent Calendar.

The Unanimous Committee Report was **READ**.

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

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(After Recess)

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The House was called to order by the Speaker.

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

**ENACTORS**  
**Emergency Measure**

Resolve, Establishing the Commission To Study Retirement Eligibility and Benefits for Corrections Officers, Certain Other Law Enforcement Officers and Mental Health Workers

(S.P. 246) (L.D. 748)  
(S. "A" S-311 to C. "A" S-68)

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

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

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**Acts**

An Act To Authorize a Tax Rebate Program for Established Residents

(S.P. 41) (L.D. 135)  
(H. "A" H-631 to C. "A" S-302)

An Act To Clarify the Smoking Ban for Off-track Betting Facilities

(H.P. 815) (L.D. 1186)  
(C. "A" H-528)

An Act To Protect Small Forest Landowners

(H.P. 954) (L.D. 1368)  
(C. "A" H-629)

An Act To Further Coordinate the Laws Regarding Certificate of Need, the State Health Plan and the Capital Investment Fund

(S.P. 490) (L.D. 1401)  
(C. "A" S-333)

An Act Regarding Implementation of the Central Voter Registration System

(S.P. 583) (L.D. 1602)  
(C. "A" S-331)

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

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**Resolves**

Resolve, To Study Adoption of the Streamlined Sales and Use Tax Agreement

(H.P. 747) (L.D. 1094)  
(C. "A" H-603)

Resolve, To Increase the Quality of Care and Reduce Administrative Burdens in the Pharmacy Prior Approval Process

(S.P. 493) (L.D. 1404)  
(C. "A" S-332)

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

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The House recessed until 4:00 p.m.