

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Monday
March 27, 2006

Senate called to order by President Beth Edmonds of Cumberland County.

Prayer by Pastor Elizabeth Bailey Roberts, Bartlett Memorial United Methodist Church of North Jay.

PASTOR ROBERTS: Let us pray. Dear God, on this glorious spring day there is much work to be done and seemingly little time in which to do it. We ask Your guidance for the work of the Senate today. Many words will be spoken, words spoken with passion, words spoken with haste, words spoken with thoughtful premeditation. May the words spoken here this day be not the self-serving monologue but the other serving dialogue so that we may be connected, one to the other, working together towards our common goal. May Your spirit be present in all communications today, both written and spoken. Help us to remember the ultimate goal of this days many tasks, which is to serve all of Maine's people to the best of our God given abilities. May God's blessings be upon each one of you this day. Amen.

Pledge of Allegiance led by Senator Elizabeth M. Schneider of Penobscot County.

Reading of the Journal of Thursday, March 23, 2006.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 553

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON BUSINESS, RESEARCH AND ECONOMIC
DEVELOPMENT**

March 23, 2006

The Honorable Beth Edmonds
President of the Senate of Maine
122nd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 122nd Maine Legislature, the Joint Standing Committee on Business, Research and Economic Development has had under consideration the nomination of David Mahoney of Hebron, for appointment to the Maine Educational Loan Authority.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	3	Bromley of Cumberland, Dow of Lincoln, Hobbins of York
	Representatives	9	Austin of Gray, Beaudette of Biddeford, Berube of Lisbon, Farrington of Gorham, Jacobsen of Waterboro, O'Brien of Lewiston, Rector of Thomaston, Robinson of Raymond, Smith of Monmouth
NAYS		0	
ABSENT		1	Rep. Crosby of Topsham

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of David Mahoney of Hebron, for appointment to the Maine Educational Loan Authority be confirmed.

Signed,

S/Lynn Bromley
Senate Chair

S/Nancy E. Smith
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **BRENNAN** of Cumberland, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 554

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON BUSINESS, RESEARCH AND ECONOMIC
DEVELOPMENT**

March 23, 2006

The Honorable Beth Edmonds
President of the Senate of Maine
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ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON BUSINESS, RESEARCH AND ECONOMIC
DEVELOPMENT**

March 23, 2006

The Honorable Beth Edmonds
President of the Senate of Maine
122nd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 122nd Maine Legislature, the Joint Standing Committee on Business, Research and Economic Development has had under consideration the nomination of Elizabeth M. Doane of South Portland, for appointment to the Maine Educational Loan Authority.

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 122nd Maine Legislature, the Joint Standing Committee on Business, Research and Economic Development has had under consideration the nomination of Bruce N. Schatz of Manchester, for reappointment to the Maine Educational Loan Authority.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

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YEAS	Senators	3	Bromley of Cumberland, Dow of Lincoln, Hobbins of York
	Representatives	9	Austin of Gray, Beaudette of Biddeford, Berube of Lisbon, Farrington of Gorham, Jacobsen of Waterboro, O'Brien of Lewiston, Rector of Thomaston, Robinson of Raymond, Smith of Monmouth
NAYS		0	
ABSENT		1	Rep. Crosby of Topsham

YEAS	Senators	3	Bromley of Cumberland, Dow of Lincoln, Hobbins of York
	Representatives	9	Austin of Gray, Beaudette of Biddeford, Berube of Lisbon, Farrington of Gorham, Jacobsen of Waterboro, O'Brien of Lewiston, Rector of Thomaston, Robinson of Raymond, Smith of Monmouth
NAYS		0	
ABSENT		1	Rep. Crosby of Topsham

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Elizabeth M. Doane of South Portland, for appointment to the Maine Educational Loan Authority be confirmed.

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Bruce N. Schatz of Manchester, for reappointment to the Maine Educational Loan Authority be confirmed.

Signed,

Signed,

S/Lynn Bromley
Senate Chair

S/Lynn Bromley
Senate Chair

S/Nancy E. Smith
House Chair

S/Nancy E. Smith
House Chair

READ and ORDERED PLACED ON FILE.

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On motion by Senator **BRENNAN** of Cumberland, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

On motion by Senator **BRENNAN** of Cumberland, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 555

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**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 23, 2006

The Honorable Beth Edmonds
President of the Senate of Maine
122nd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 122nd Maine Legislature, the Joint Standing Committee on Education and Cultural Affairs has had under consideration the nomination of Honorable Mark W. Lawrence of South Berwick, for reappointment to the Maine Public Broadcasting System Board of Trustees.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	3	Mitchell of Kennebec, Schneider of Penobscot, Turner of Cumberland
	Representatives	8	Cain of Orono, Davis of Falmouth, Finch of Fairfield, Goldman of Cape Elizabeth, Lansley of Sabattus, Makas of Lewiston, Norton of Bangor, Stedman of Hartland
NAYS		0	
ABSENT		2	Rep. Edgecomb of Caribou, Rep. Merrill of Appleton

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Honorable Mark W. Lawrence of South Berwick, for reappointment to the Board of Trustees, Maine Public Broadcasting System be confirmed.

Signed,

S/Elizabeth H. Mitchell
Senate Chair

S/Jacqueline Norton
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **BRENNAN** of Cumberland, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 557

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 23, 2006

The Honorable Beth Edmonds
President of the Senate of Maine
122nd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 122nd Maine Legislature, the Joint Standing Committee on Education and Cultural Affairs has had under consideration the nomination of Sarah M. Whitfield of Wiscasset, for appointment to the School Board of the Governor Baxter School for the Deaf.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	2	Mitchell of Kennebec, Schneider of Penobscot
	Representatives	8	Cain of Orono, Davis of Falmouth, Finch of Fairfield, Goldman of Cape Elizabeth, Lansley of Sabattus, Makas of Lewiston, Norton of Bangor, Stedman of Hartland
NAYS		0	
ABSENT		3	Rep. Edgecomb of Caribou, Rep. Merrill of Appleton, Sen. Turner of Cumberland

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Sarah M. Whitfield of Wiscasset, for appointment to the School Board of the Governor Baxter School for the Deaf be confirmed.

Signed,

S/Elizabeth H. Mitchell
Senate Chair

S/Jacqueline Norton
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **BRENNAN** of Cumberland, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 558

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 23, 2006

The Honorable Beth Edmonds
President of the Senate of Maine
122nd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 122nd Maine Legislature, the Joint Standing Committee on Education and Cultural Affairs has had under consideration the nomination of Donald W. Miller of West Bath, for appointment to the School Board of the Governor Baxter School for the Deaf.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	2	Mitchell of Kennebec, Schneider of Penobscot
	Representatives	8	Cain of Orono, Davis of Falmouth, Finch of Fairfield, Goldman of Cape Elizabeth, Lansley of Sabattus, Makas of Lewiston, Norton of Bangor, Stedman of Hartland
NAYS		0	
ABSENT		3	Rep. Edgecomb of Caribou, Rep. Merrill of Appleton, Sen. Turner of Cumberland

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Donald W. Miller of West Bath, for reappointment to the School Board of the Governor Baxter School for the Deaf be confirmed.

Signed,

S/Elizabeth H. Mitchell
Senate Chair

S/Jacqueline Norton
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **BRENNAN** of Cumberland, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 559

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

March 20, 2006

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

Dear Madam President and Mr. Speaker

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on Agriculture, Conservation and Forestry from the review and evaluation of the Wild Blueberry Commission of Maine and the Wild Blueberry Advisory Committee under the State Government Evaluation Act. In its review, the Committee found that the Commission is operating within its statutory authority.

Sincerely,

S/Senator John M. Nutting
Senate Chair

S/Representative John F. Piotti
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 560

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

March 20, 2006

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

Dear Madam President and Mr. Speaker

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on Agriculture, Conservation and Forestry from the review and evaluation of the Board of Pesticides Control under the State Government Evaluation Act. In its review, the Committee found that the Board is operating within its statutory authority.

Sincerely,

S/Senator John M. Nutting
Senate Chair

S/Representative John F. Piotti
House Chair

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

The Following Communication: S.C. 561

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

March 20, 2006

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

Dear Madam President and Mr. Speaker

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on Agriculture, Conservation and Forestry from the review and evaluation of the Department of Conservation under the State

Government Evaluation Act. In its review, the Committee found that the Department is operating within its statutory authority.

Sincerely,

S/Senator John M. Nutting
Senate Chair

S/Representative John F. Piotti
House Chair

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

ORDERS

Joint Orders

Expressions of Legislative Sentiment recognizing:

Nathan Laxague, of Scarborough, a junior at Cheverus High School, for the recent publication of his book Preposterous Poetry to Tickle Your Funny Bone. Nathan plans on using a percentage of the proceeds from the sale of his book to expand the group he is starting, called Kids Against Toxins, which is dedicated to advocating for a cleaner environment. We commend Nathan on his efforts to make citizens in this State aware of the effects of toxins in the environment and extend our congratulations to him on the publication of his book;

SLS 1011

Sponsored by Senator BARTLETT of Cumberland.
Cosponsored by Senator: BROMLEY of Cumberland,
Representatives: CURLEY of Scarborough, CLOUGH of Scarborough.

READ.

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending **PASSAGE.**

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **JUDICIARY** on Bill "An Act Relating to Mergers and Consolidations of Corporations without Capital Stock" (EMERGENCY)

H.P. 1431 L.D. 2034

Reported that the same **Ought to Pass.**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED.**

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TRANSPORTATION** on Resolve, To Name the New Bridge in Augusta Spanning the Kennebec River 'Cushnoc Crossing'

H.P. 1445 L.D. 2051

Reported that the same **Ought to Pass.**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED.**

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Authorize Certain County Jail Employees To Perform Ministerial Functions Related to Preparing Personal Recognizance or Unsecured Appearance Bond" (EMERGENCY)

H.P. 1429 L.D. 2031

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-863).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-863).**

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

READ ONCE.

Committee Amendment "A" (H-863) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act To Provide for Victims of Trafficking"

H.P. 893 L.D. 1296

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-864).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-864).**

Report **READ.**

On motion by Senator **HOBBS** of York, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF REPORT**, in concurrence.

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Protect Children from the Onset of Autism"

H.P. 1366 L.D. 1947

Reported that the same **Ought Not to Pass.**

Signed:

Senators:

MAYO of Sagadahoc
MARTIN of Aroostook
ROSEN of Hancock

Representatives:

PINGREE of North Haven
GROSE of Woolwich
MILLER of Somerville
WEBSTER of Freeport
SHIELDS of Auburn
CAMPBELL of Newfield
LEWIN of Eliot
GLYNN of South Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-872).**

Signed:

Representatives:

WALCOTT of Lewiston
BURNS of Berwick

(Representative **SOCKALEXIS** of the Penobscot Nation - of the House - supports the Majority **Ought Not To Pass** Report.)

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**

Reports **READ.**

On motion by Senator **MAYO** of Sagadahoc, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Extend Term Limits"
H.P. 371 L.D. 496

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-729)**.

Signed:

Senators:

- GAGNON of Kennebec
- MITCHELL of Kennebec
- PLOWMAN of Penobscot

Representatives:

- PATRICK of Rumford
- PINKHAM of Lexington Township
- MOORE of Standish
- FISHER of Brewer
- TUTTLE of Sanford

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Representatives:

- HOTHAM of Dixfield
- VALENTINO of Saco
- OTT of York

Comes from the House with the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **GAGNON** of Kennebec, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in **NON-CONCURRENCE**.

READ ONCE.

Committee Amendment "A" (H-729) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate

Ought to Pass As Amended

Senator DIAMOND for the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Strengthen Maine's Timber Theft Laws"

S.P. 676 L.D. 1759

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-517)**.

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

READ ONCE.

Committee Amendment "A" (S-517) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator DIAMOND for the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Establish a Computer Crimes Unit within the Maine State Police Crime Laboratory" (EMERGENCY)

S.P. 779 L.D. 2028

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-519)**.

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

READ ONCE.

Committee Amendment "A" (S-519) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Allow Dual Liquor Licenses for On-premises Consumption and Off-premises Retail Sales"
S.P. 604 L.D. 1627

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

- GAGNON of Kennebec
- PLOWMAN of Penobscot

Representatives:

- FISHER of Brewer
- PINKHAM of Lexington Township
- VALENTINO of Saco
- PATRICK of Rumford
- TUTTLE of Sanford
- MOORE of Standish
- NASS of Acton
- BROWN of South Berwick

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-518)**.

Signed:

Senator:
MITCHELL of Kennebec

Representative:
OTT of York

Reports **READ**.

On motion by Senator **GAGNON** of Kennebec, the Majority
OUGHT NOT TO PASS Report **ACCEPTED**.

Sent down for concurrence.

SECOND READERS

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

House

Resolve, Regarding Legislative Review of Portions of Chapter 130: Implementing the State Purchasing Code of Conduct, a Major Substantive Rule of the Department of Administrative and Financial Services (EMERGENCY)

H.P. 1401 L.D. 1999

Bill "An Act To Implement the Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Relating to Review of the Department of Conservation" (EMERGENCY)

H.P. 1474 L.D. 2083

Resolve, Concerning the Collection of the Statewide E-9-1-1 Surcharge from Prepaid Wireless Telephone Service

H.P. 1476 L.D. 2088

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

House As Amended

Bill "An Act To Amend Procedures Used in Criminal Proceedings in Which the Victim Is Mentally Disabled"

H.P. 1187 L.D. 1679
(C "A" H-845)

Resolve, Directing the Cumberland County Commissioners To Establish a Task Force To Establish New County Commissioner Districts

H.P. 1236 L.D. 1728
(C "A" H-840)

Bill "An Act Concerning Certain Provisions Regarding Protection of Natural Resources Related to Activities in Coastal Areas"

H.P. 1300 L.D. 1860
(C "A" H-842)

Bill "An Act Regarding Sexual Assault Forensic Examinations"
H.P. 1313 L.D. 1873
(C "A" H-846)

Bill "An Act To Clarify the Liquor Laws"
H.P. 1323 L.D. 1883
(C "B" H-856)

Bill "An Act To Implement Recommendations of the Criminal Law Advisory Commission"

H.P. 1403 L.D. 2001
(C "A" H-858; H "A" H-868)

Bill "An Act To Extend the Corrections Alternatives Advisory Committee" (EMERGENCY)

H.P. 1416 L.D. 2016
(C "A" H-859)

Bill "An Act To Amend the Charter of the Kennebunk Light and Power District" (EMERGENCY)

H.P. 1420 L.D. 2019
(C "A" H-835)

Bill "An Act Relating to Elver Fishing" (EMERGENCY)
H.P. 1421 L.D. 2020
(C "A" H-847)

Resolve, Directing the Department of Transportation To Amend Its Rules Regarding Noise Abatement and Abatement Costs

H.P. 1438 L.D. 2040
(C "A" H-857)

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

Senate As Amended

Bill "An Act Protecting Youth from Losing Health Insurance Coverage"

S.P. 777 L.D. 2014
(C "A" S-512)

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
(C "A" S-513)

Bill "An Act To Provide for the 2006 and 2007 Allocations of the State Ceiling on Private Activity Bonds" (EMERGENCY)

S.P. 791 L.D. 2047
(C "A" S-510)

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

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by the President.

Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

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

Off Record Remarks

On motion by Senator **BRENNAN** of Cumberland, **RECESSED** until 11:00 in the morning.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

JOINT ORDER - Expression of Legislative Sentiment recognizing Nathan Laxague, of Scarborough, a junior at Cheverus High School, for the recent publication of his book Preposterous Poetry to Tickle Your Funny Bone.

SLS 1011

Tabled - March 27, 2006, by Senator **BARTLETT** of Cumberland

Pending - **PASSAGE**

(In Senate, March 27, 2006, **READ**.)

READ.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you, Madame President. It's always a pleasure to recognize constituents, particularly young people who are out there doing great things. Every day we talk about a lot of big issues facing our state and people around the state are concerned about the effects of toxins on our environment and

how it effects the direction in which we are heading. It's wonderful to see someone, a junior in high school, stepping forward to really go out of his way to do something to promote this cause and to write a book of poetry, which is just a fantastic fun read and I would recommend it to anybody, and to use those proceeds not for his own college account, not to go out and buy a car, or do those kinds of things, but to put it towards helping make the environment a better place to be. I commend him for that and it's a real honor to have the opportunity to recognize him today.

PASSED.

Sent down for concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber Nathan Laxague of Scarborough. Would he please rise and receive the greetings of the Maine Senate.

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

NOMINATION - of David Mahoney of Hebron, for appointment to the Maine Educational Loan Authority

Tabled - March 27, 2006, by Senator **BRENNAN** of Cumberland

Pending - **CONSIDERATION**

(In Senate, March 27, 2006, Communication (S.C. 553) from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT, READ and ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122nd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#325)

YEAS: Senators: None

NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MITCHELL, NASS, NUTTING, PERRY, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senators: MILLS, PLOWMAN

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **David Mahoney** of Hebron, for appointment to the Maine Educational Loan Authority was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

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

NOMINATION - of Elizabeth M. Doane of South Portland, for appointment to the Maine Educational Loan Authority

Tabled - March 27, 2006, by Senator **BRENNAN** of Cumberland

Pending - **CONSIDERATION**

(In Senate, March 27, 2006, Communication (S.C. 554) from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT, READ and ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122nd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#326)

YEAS: Senators: None

NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MITCHELL, NASS, NUTTING, PERRY, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senators: MILLS, PLOWMAN

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Elizabeth M. Doane** of South Portland, for appointment to the Maine Educational Loan Authority was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

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

NOMINATION - of Bruce N. Schatz of Manchester, for reappointment to the Maine Educational Loan Authority

Tabled - March 27, 2006, by Senator **BRENNAN** of Cumberland

Pending - **CONSIDERATION**

(In Senate, March 27, 2006, Communication (S.C. 555) from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT, READ and ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122nd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#327)

YEAS: Senators: None

NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senators: PLOWMAN

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Bruce N. Schatz** of Manchester, for reappointment to the Maine Educational Loan Authority was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

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

NOMINATION - of the Honorable Mark W. Lawrence of South Berwick, for reappointment to the Maine Public Broadcasting System Board of Trustees

Tabled - March 27, 2006, by Senator **BRENNAN** of Cumberland

Pending - **CONSIDERATION**

(In Senate, March 27, 2006, Communication (S.C. 556) from the Committee on **EDUCATION AND CULTURAL AFFAIRS, READ and ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122nd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#328)

YEAS: Senators: None

NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senators: PLOWMAN

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of the Honorable **Mark W. Lawrence** of South Berwick, for reappointment to the Maine Public Broadcasting System Board of Trustees was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

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

NOMINATION - of Sarah M. Whitfield of Wiscasset, for appointment to the School Board of the Governor Baxter School for the Deaf

Tabled - March 27, 2006, by Senator **BRENNAN** of Cumberland

Pending - **CONSIDERATION**

(In Senate, March 27, 2006, Communication (S.C. 557) from the Committee on **EDUCATION AND CULTURAL AFFAIRS, READ and ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122nd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#329)

YEAS: Senators: None

NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senators: PLOWMAN

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Sarah M. Whitfield** of Wiscasset, for appointment to the School Board of the Governor Baxter School for the Deaf was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

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

NOMINATION - of Donald W. Miller of West Bath, for appointment to the School Board of the Governor Baxter School for the Deaf

Tabled - March 27, 2006, by Senator **BRENNAN** of Cumberland

Pending - **CONSIDERATION**

(In Senate, March 27, 2006, Communication (S.C. 558) from the Committee on **EDUCATION AND CULTURAL AFFAIRS, READ and ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122nd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#330)

YEAS: Senators: None

NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senators: PLOWMAN

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Donald W. Miller** of West Bath, for appointment to the School Board of the Governor Baxter School for the Deaf was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

ENACTORS

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

Emergency Measure

An Act To Improve the Water Quality and Safety of Phillips Lake
S.P. 691 L.D. 1774
(C "A" S-484)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act To Improve Water Monitoring at Clam Flats
H.P. 1268 L.D. 1828
(C "A" H-784)

Comes From the House, Bill and accompanying papers **INDEFINITELY POSTPONED**.

On motion by Senator **DAMON** of Hancock, Bill and accompanying papers **INDEFINITELY POSTPONED**, in concurrence.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 113: Regulations Governing the Licensing and Functioning of Assisted Housing Programs - Private Non-Medical Institutions Level III, a Major Substantive Rule of the Department of Health and Human Services

H.P. 1405 L.D. 2003

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 113: Regulations Governing the Licensing and Functioning of Assisted Housing Programs - Private Non-Medical Institutions Level IV, a Major Substantive Rule of the Department of Health and Human Services

H.P. 1406 L.D. 2004

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 113: Regulations Governing the Licensing and Functioning of Assisted Housing Programs - Private Non-Medical Institutions Level II, a Major Substantive Rule of the Department of Health and Human Services

H.P. 1407 L.D. 2005

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 113: Regulations Governing the Licensing and Functioning of Assisted Housing Programs: Level IV Residential Care Facilities, a Major Substantive Rule of the Department of Health and Human Services

H.P. 1408 L.D. 2006

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 113: Regulations Governing the Licensing and Functioning of Assisted Housing Programs: Assisted Living Programs, a Major Substantive Rule of the Department of Health and Human Services

H.P. 1409 L.D. 2007

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 113: Regulations Governing the Licensing and Functioning of Assisted Housing Programs - Private Non-Medical Institutions Level I, a Major Substantive Rule of the Department of Health and Human Services

H.P. 1410 L.D. 2008

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 113: Regulations Governing the Licensing and Functioning of Assisted Housing Programs: Level I Residential Care Facilities, a Major Substantive Rule of the Department of Health and Human Services

H.P. 1411 L.D. 2009

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 113: Regulations Governing the Licensing and Functioning of Assisted Housing Programs: Level II Residential Care Facilities, a Major Substantive Rule of the Department of Health and Human Services

H.P. 1412 L.D. 2010

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 113: Regulations Governing the Licensing and Functioning of Assisted Housing Programs: Level III Residential Care Facilities, a Major Substantive Rule of the Department of Health and Human Services

H.P. 1413 L.D. 2011

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Acts

An Act To Amend the Laws Governing Permanency Guardians
H.P. 1292 L.D. 1852
(C "A" H-817)

An Act To Amend the Laws Governing Real Estate Appraiser
Licensing To Comply with Federal Law
H.P. 1360 L.D. 1919
(C "A" H-810)

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

An Act To Amend the Law Relating to the Crime of Visual Sexual Aggression against a Child

H.P. 1225 L.D. 1718
(H "A" H-826 to C "A" H-766)

On motion by Senator **ROTUNDO** of Androscoggin, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

An Act To Make Technical Changes to the Gambling Laws
S.P. 665 L.D. 1748
(C "A" S-488)

On motion by Senator **ROTUNDO** of Androscoggin, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

Resolves

Resolve, Regarding Effective Administration of the MaineCare Program

S.P. 142 L.D. 444
(C "A" S-486)

Resolve, Regarding Hospital Free Care Guidelines

H.P. 597 L.D. 846
(C "A" H-816)

Resolve, Directing the Department of Health and Human Services To Review How It Handles Services Provided to Persons with Developmental Disabilities and Mental Retardation

H.P. 1096 L.D. 1555
(C "A" H-815)

Resolve, Directing the Commissioner of Health and Human Services To Develop Strategies To Keep Senior Citizens Safe from Falls

H.P. 1214 L.D. 1707
(C "A" H-814)

Resolve, Regarding Substance Abuse Treatment Services
H.P. 1315 L.D. 1875
(C "A" H-818)

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

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (3/07/06) Assigned matter:

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Permit Charter Schools in Maine"

S.P. 606 L.D. 1640

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-471)** (5 members)

Tabled - March 7, 2006, by Senator **MITCHELL** of Kennebec

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

(In Senate, March 7, 2006, Reports **READ**.)

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. If you have history with this Body or the other chamber, you know that charter school legislation has been before us in the past. I think this is the third time I've seen charter school legislation come before us and I'm in my third term, as some of you know, as a State Senator. Over the years 40 states have enacted charter school legislation. That covers 3,600 schools and more than a million students. This current amended bill that is before you focuses very specifically on those 1,600 to 1,700 children who drop out of our schools each year in spite of the fact that we have up to 80 specialized programs aimed at trying to keep them enrolled in our schools. This current legislation is a limited-purpose bill. It really tries to do two things: it has a ten-year run rate, meaning that the bill will terminate at the end of ten years; it allows up to 20 charter schools, 15 of which can be chartered by local school board and up to 5 that can be chartered by a part of the university system that also confers degrees in education. When we look at the success our schools have, we have significant successes and we also have failures. This is an attempt to deal with those 1,700 students who leave us each year without a degree. These charter schools, under this proposal, would be focused on children who are at least a minimum of one grade or more behind their peers. They would also exhibit very high absenteeism and could have some other special need. This is very narrowly focused. There are, as there have been for the last few years, federal monies available for charter schools. Maine would be able to access up to \$10 million

for their charter schools under this bill and in addition the Department of Education would be allowed to draw down \$500,000 to administer the program. Should you pass this legislation, students in charter schools would be subject to the same requirements as regular students. They would be subject to No Child Left Behind and the Maine Learning Results. Additionally, their teachers would all be certified under Maine law. Lastly, I would let you know that there is support for this pilot proposal, both from the State Board of Education and from the Department of Education's Advisory Council on Truancy and Drop-outs. I think at long last we have a bill that this Body and the other chamber should support. I ask for your support of this bill. Thank you very much, Madame President.

On motion by Senator **DAVIS** of Piscataquis, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. This bill has been before us but I want to talk about the last time that it came to the Education Committee. It was apparent that there were questions about the best way to help our students and if charter schools could be one of those beneficial things. The State Board of Education took this topic, this big question, and studied it for an entire summer. When the two Chairs, who were members of the State Board of Education, came before the Committee on Education the first words they spoke were, 'We have been converted.' They had gone into this thinking that this could be detrimental and not helpful but had ended their search by believing it was beneficial. They, the State Board of Education, are the ones who recommended 20 pilot programs. This bill was written following their recommendations and has actually been narrowed even more than what they were recommending.

In the past I have not always seen the media supporting charter schools. In fact, I can't remember that they have any of the times that it has been before us. I would like to remind you of what's happened during this absence of a bill before us. The Portland Press Herald reminds us that over 3,625 charter schools are in existence and that one million students have the availability of charter schools in 40 states. They also remind us that if the bill passes, and we think it should, the success is far from assured because, unlike public schools, charter schools will go out of business if they do not succeed. The Kennebec Journal said, 'If state lawmakers do their homework on charter schools they are likely to find that some students are being cheated out of something worthwhile.' The Bangor Daily News said, 'Charter schools are not an assault on public schools but a chance to provide alternatives to students who do not thrive there.' This pilot program for these schools is a thoughtful way for Maine to decide for itself what will work here.

We already lose students. I have talked to many superintendents over the last few months. They know they are losing students, those students who are not thriving. We do have great alternative education programs. They are costly and many times they are the first programs to take a budget cut. What we are asking for is for us to allow our public schools to accept money from the federal government to try something that is

working in 40 other states. I hope you will consider that this morning. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Mitchell.

Senator **MITCHELL:** Thank you, Madame President and colleagues of the Senate. This is a very difficult debate, I believe, for everyone in this chamber. There is not a single person on either side of the aisle, or on either side of the issue, that is not totally dedicated to making sure our kids succeed. The good Senator from Cumberland, Senator Turner, and I have voted together more often than not because we both share that common goal. I know that you all do. What we are talking about here is not the goal but a strategy for getting there. I'm delighted that the Senator from Waldo, Senator Weston, used the editorials to buttress her arguments because, frankly, as I read one of them I went down through it and it sort of buttressed my reasons for being opposed to creating this pilot project for charter schools for exclusively at-risk students. You've heard a little bit of the history. This piece of legislation was introduced last session. It was charter schools for all kids, much as charter schools have been adopted in other states. There was the promise of federal money. There was the promise that they would not harm our existing school funding formula and all of those issues. Because it came in so late in the session, in deference to the good sponsor, the committee asked and got permission to carry this bill over because there was a sincere desire to see if we could come up with a workable solution. The bill came back, it changed forms, and it changed forms to address only at-risk students with a very limited pilot project.

The State of Maine has just, for the first time in decades, fundamentally changed the way it funds our schools. If you don't believe it, and I know you do, go home and talk to your local school boards and try to explain EPS. Local school boards were accustomed to getting funding based on how much they spent last year with a percentage increase. Of course the number of students in your evaluation played in. We said that was not good enough. We wanted to fund our schools based on essential programs. The state was willing to meet them, in fact they were willing to meet them 55% of the way to pay for programs that will get our kids to this essential goal. Maybe that is what we should be talking about for these at-risk students. Maybe that should be a part, a clearer part, of Essential Programs and Services. We've adopted Essential Programs and Services. We're floundering trying to get ourselves to Learning Results, which applies to all students, including the ones that we're debating here today. I put you in the timeframe of where we are.

We are pioneers. We are bringing in every potential source of funding to make sure our kids succeed. We want our kids to be world class and compete in a global economy. At the same time many of your schools are losing students. Declining populations affect many of you. I know in my school, even though I saw a lot of houses going up, I'm surprised to see we've lost 50 students. Not because we're a bad school, but because they have moved away and they got older, like me, and I don't have children in the school any more. Those 50 students mean a decline in revenue for my town. I know this bill says not to worry because we've put a limit on how many students can be taken from a classroom. We said 10%. If you have 20 students in a classroom, you can take 2 out to send to the charter school if your school agrees. Guess what? That's 2 students, with all the

money that follows them, taken right off the top of your school funding formula. You still have to pay the teacher because you have 18 students left. You still have to pay for the buses. You still have to pay for the heat and all the things that operating a school cost.

Your answer might be that we're not talking just about money here; we're talking about students. That is true. If I thought there was no way to serve these students I would be standing up in support of this legislation. My good friend, the Senator from Cumberland, runs an extraordinary alternative school in Portland. He does that without charter schools and he's not part of the Portland school system, but he does it. He's very creative and he makes it work. It does well for Portland's students. I also have a sheet with 81 alternative programs for students that are within the existing school system. Do they work for everybody? No, but I suggest that this won't work for everybody either. We are doing the best we can. We're making these students a part of our community and a part of our public schools and trying to keep their parents engaged. We often debate a program here called Jobs for Maine's Graduates. I'm very fortunate to be on the board of that. If you've never seen that work, talk about getting at-risk students engaged and keeping them in school, they certainly could use some extra funding if we have some to spare. They work within the school system.

I don't know about you, but I'm not particularly confident that federal money will be there for charter schools or for anything else. The track record isn't so great for No Child Left Behind and certainly not for special education. The proponents of this bill say it doesn't cost you any money from the state. It doesn't exactly, but it certainly takes money off the top of your school budget should your students be a part of a charter school. I think that is very important.

This isn't quite the same but I'm going to share it with you because I really believe in the public schools. My husband was one of those people whose schools got shut down back in Little Rock. This was a much more serious issue. There were many people who kept their kids in the public schools instead of putting them in segregation academies because they believed in public schools so badly they were willing to be on the cutting edge of keeping public schools strong. This issue is more than about at-risk kids because we all care about at-risk kids. It's about keeping the leaders of the community and the people involved to make sure all of our kids meet the Learning Results and not siphoning off any kid, whether they are at-risk or the best and the brightest. That is where charter schools ultimately want to go. I hope you will join me in defeating this piece of legislation. If it is so good it will be back another day. I need to also tell you this, if it starts this year, if you pass this bill, they have missed the deadline for applying for federal funding. It was March 10th. I hope you will join me in voting against this report.

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

Senator **ANDREWS:** Thank you, Madame President and fellow members of the Senate. I'd like to put a personal touch on this issue. When I served in the other Body, I spent my six years serving on the Education Committee. I'll have to say that the first four years I was adamantly against charter schools and was quite vocal about it. Unfortunately I've been down the road of life. My husband says I should write a book about my life because it's been so chaotic and so different. I had a granddaughter who

came to live with me at the age of 5 months. I actually became her legal guardian. She was placed in the public school system. From the age of 5 on the school felt that this child needed special ed. This child was put in special ed throughout her grammar school years, her middle school years, and the first year in high school. In the process of this trip through special ed we went to intense counseling, we even went through medication. When the child got into the 7th and 8th grades she became quite depressed and was treated for that. She had actually even thought of suicide. She flunked her freshman year in high school and she flunked so bad that even tutoring in the summer would not allow her to continue. At this point it became a little bit too much for me and I realized that I could no longer handle the situation and she was transferred to the care of her father, which necessitated a transfer to another school system. It took them only one month to put her in an alternative education program, which is what charter schools deal with a great deal. She made the honor roll that first year in the alternative education program. She has made up the year that she has missed. She will graduate with her class. She is not being treated for emotional disturbance. She's on no medication. This child is now talking about going to college. Without this type of program this child was going to drop out of school or perhaps something a little bit more serious. They say it takes money out of the school system. Our goal should be to educate each child the best way that we can. It is very obvious from the life of my granddaughter that she did not respond to a normal school situation. This child is working two days a week. She's on the honor roll. She's talking about going on to college. This is what this type of program can do. That's why I'm asking you to support it. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I have said this same thing to the Senator from Kennebec, Senator Mitchell, in the past and so I will repeat it to the Body. One of the great things about serving on the Education Committee is that is not a partisan committee. Everybody is trying to figure out what is the best thing to do for our children and to maximize their educational opportunities. When we have a difference of opinion, it never comes down on party lines; it comes down on issues of philosophy.

There are a few things that my good chair did say that I want to comment on. There was some question with regard to federal dollars available to charter schools. I think it's been mentioned you earlier that under President Clinton money was appropriated and that money, in fact, has increased under President Bush. While you never know about appropriations on a go-forward basis, I think there is every indication, because of the success of charter schools elsewhere in the country, that this funding will continue to stay in place. The good Senator from Kennebec, Senator Mitchell, also mentioned that there are some 81 alternative programs available in our schools today. That cross cuts very closely with my number of 80. It would seem to me that if we can add one more program that becomes a rifle shot at those close to 1,700 students who drop out each year it would be a good thing for us to try. I'd remind you again that this is limited purpose legislation. It has a term of 10 years that it can run. We may see 20 schools under this. We may see none. I think it is worthy of our consideration and we should try it.

Lastly, as the good Senator points out, if you lose the child you lose the money that goes with the child. If you are in a declining enrollment district, and you have at-risk children who are leaving and not graduating, you are simply accelerating the loss of money. That money is going to go anyways if the child drops out. I don't think you are at risk from losing money when we focus on the target of this legislation. It's money that would likely be lost to the system locally in any event because the child leaves without graduating. Again, I would urge you to vote for passage of this L.D. Thank you very much, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. It seems to me that the way this bill is crafted it will have the impact of drawing out of the public school system those very children who are often times most disruptive to the progress of education for the remainder. The statute that we are considering this morning deals with children who have a history of high absenteeism, kids who don't show up as it is, kids who are at least one year behind their expected grade levels, or children who have other special needs, which I take to mean in most cases special ed needs. One of the most common complaints that I hear from teachers as I travel around is that sometimes one or two or three children in the classroom can make it impossible to teach effectively the remaining eighteen. Some school districts do have alternative programs as it is for some of these kids. Many do not. If the charter school option provides a place where learning can take place and some of these children can function I'm all in favor of it. I have a mother who was a teacher for 37 years. I have two daughters who are teachers; one of them has been teaching for more than a dozen years. In one of her earliest teaching jobs she had the experience of teaching in a charter school in Roxbury, Massachusetts. She had a classroom of seven or eight kids who were 14 or 15 years old. They were some of the most highly problematic kids that you might ever run in to. She said it was a wonderful experience for a teacher because you had the capacity to deliver effective education to kids who could not possibly survive as students in a normal classroom setting. She thought that it was a very worthwhile movement as it has been implemented in Massachusetts and it was well worth considering. I urge you to vote against the pending motion, which is Ought Not to Pass. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you, Madame President. I stand to address our colleagues regarding this piece of legislation because it is important to know that we all support children. I, personally, support alternative programs but I find that within our current structure we are able to support alternative programs as it stands today. I find it interesting that there is an argument that we must set up a new program and a new structure in order to serve children. I asked the charter school representatives why they didn't come as passionately before school boards, locally, and they never really had an answer to address that issue. I think that this can be done and I know that it is being done currently. We can expand programs currently if it's the desire of the local school boards to do so. I find it odd that we would want to, again,

establish a new program that, after three years of federal funding, will come under the state's prevue and we would then have another program that we must fund. I find this very odd because colleagues of mine are constantly saying we should eliminate programs or not begin new programs. Here we are, some of us desiring to initiate a new program. It will definitely fall on this state's finances to continue to fund such programs. I'm very reluctant to begin new programs when we already have a structure that can satisfy the needs of students today. Can we do a better job? Yes. I think we do well given the resources that we have. It concerns me greatly that we are asking to start a new program, even though it has a limited amount of funds for several years, when we need to fund education more adequately already. I would also ask that the federal government fund things that they have reneged on; No Child Left Behind and special needs funding for children. It is a grave concern to me that we are not funding the university system adequately. Here we are talking about initiating a new program. I would ask that you support the pending motion to defeat this bill. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Mitchell.

Senator **MITCHELL:** Thank you, Madame President and colleagues of the Senate. Very briefly, it is critical that you understand that the members of the Education Committee who signed the Ought Not to Pass report support alternative ways of teaching our children. That's why they can flourish in this state as is. In fact, there are charter schools in this state. They are not the ones that are paid for by the federal government, but there are charter schools that exist in this state. They are chartered with private funds and they offer alternative programs. The second thing, this is not about drop-outs. It's about potential drop-outs. You are talking about a declining number if you take the at-risk children. Perhaps we should amend it to deal with just drop-outs. I'm wondering if there would be the same kind of support. I think it's very important that we consider carefully the timing of which we are operating and that we support our schools and make sure that they deliver alternative education as well as mainstream education. As a mother, a grandmother, and a teacher, I know that all children learn differently. We're kidding ourselves if we think we can isolate children into little boxes about how they learn. I ask you to join me in voting Ought Not to Pass on the charter schools.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. I would just like to make a comment for clarification. There is federal dollars and it is considered start-up dollars and it is considered dollars for construction. After that no new state dollars are required because I think it works even more conveniently with our EPS funding because now we have a dollar figure per child. That dollar figure follows the child to the school. You are going to be paying that same dollar figure for a child no matter which school they are in. Let me give you an example of how it could work. District 34 includes the town of Belfast and several other smaller rural towns within the school district. They have had a very successful, albeit sometimes under funded, alternative ed program that is not even within their high school building. They have not been with the other high school students

for many years. They were in a little warehouse building. Finally MBNA offered them some money and we built a new building about three years ago. They sometimes struggle because it costs more to run this program than it does your typical high school. It is one of the first things that is looked at for some funds. This would not change what happens at what we call the B-Cope Program in District 34 except they would have additional money. I just want to remind you also that 15 out of the 20 schools have to be chartered by public school boards, public school districts, who will have charter schools within their own district. Lastly, I would urge you to think about the students. I was actually going to have on my desk but I do not, a few weeks ago there was a wonderful article in the Sunday Telegram about the high school. It said that this has now become a model for charter schools in other states. Here, if you want to go to the high school or the Camden Community School, you have to come up with the money. They are taking what we are doing and offering it to others. I spoke at a group recently about charter schools. When I left and was getting in my car a grandmother stopped me and said, 'I didn't want to say anything but Camden Community School saved my granddaughter but the only way she could go there was that other people had to help finance it.' That's what we are saying. We have great examples in our state already, as has already been said. You have to find some financing to go there. This bill brings in federal dollars and opens up those great programs to many others.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President. I think it's a little bit of a misnomer to think that this isn't going to cost us money. Clearly if charter schools open there are dollars that follow that student to that charter school and those are dollars that the school no longer has. Those are dollars that the school no longer has for special education, no longer has for alternative education, or whatever else they might need within that school. If a hundred kids went then maybe you could shut down a school building. You could turn off the heat or something. The reality is that it continues to cost the infrastructure for that school while certain kids are left and then we've created this other whole school. My other concern is that, in the long run, in three years when this is all over and done with and the federal money is no longer there, are we going to be asked to make sure that we continue these charter schools? Of course we are going to be asked. We're going to have a bill to pay sometime in the future. Finally, Madame President, I just wish the federal government would step up and take care of their current responsibilities, particularly with special education. If we could just receive the money from the federal government on the requirements that they already mandate on special education we'd be sitting so much better and we could be exploring charter schools and doing a lot more with alternative schools and have the money that we need to make sure our schools function efficiently. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. Twenty-six years in the classroom

taught me that the attention span just before lunch is sometimes problematic, so I ask you to dig in a little bit right now, please.

This particular group of students that we are addressing with this bill has a very high percentage of drop-out rate. You'll lose your money anyways in the school district when they are taken off the register. This group of students that we are addressing need to have many alternatives for education. I do find it somewhat ironic that we spend as much time as we do on alternatives for education and we spend little or no time on gifted and talented programs. Today it's alternatives. Most of us in this Body, perhaps there is a notable exception or two, probably wouldn't have been charter school students. We wouldn't have had the chance to go through the process of inadequate family support, substance abuse, domestic violence, and other causal factors that creates the need to be an alternative student. In 26 years I've taught many students who went to alternative schools. I knew and I still know that it isn't enough. I'm not certain charter schools are enough. I'm not certain home schooling is enough. What we do need to do is not focus as much on the funding as we should on the students because it is ultimately the student we're addressing. I urge you to oppose this motion and support the bill. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Mitchell to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#331)

YEAS: Senators: BARTLETT, BRENNAN, BRYANT, COWGER, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, RAYE, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, BROMLEY, CLUKEY, COURTNEY, DAMON, DAVIS, DOW, HASTINGS, MILLS, NASS, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

ABSENT: Senator: PLOWMAN

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **MITCHELL** of Kennebec to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/09/06) Assigned matter:

Bill "An Act To Increase the Minimum Wage"
H.P. 174 L.D. 235
(C "A" H-725)

Tabled - March 9, 2006, by Senator **STRIMLING** of Cumberland

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-725)**, in concurrence

(In House, February 8, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-725)**.)

(In Senate, March 9, 2006, **READ A SECOND TIME**.)

On motion by Senator **DOW** of Lincoln, Senate Amendment "B" (S-482) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Dow.

Senator **DOW:** Thank you, Madame President, ladies and gentlemen of the Senate. This is just a simple little amendment that asks that you consider allowing employers to employ 16 or 17 year olds at the current minimum wage for 90 days, and 90 days only, uninterrupted. If they hire them for a week and they are on vacation for the next many weeks and come back at the end to finish the last few days of the 90 days it's still 90 days. It still goes into effect and they would go up to the new minimum wage if that bill passes. It's been said that this would somehow discriminate against retired people. For the life of me, I can't see how. I would never insult a retired person that has 40 or 45 years of experience with even a minimum wage. This amendment is just asking that, as I see it, 90 day summer vacation jobs for 16 and 17 year olds. After that amount of time, if they continue to work, they would go up to the minimum wage and they would be worth it because they would have some more experience. I would ask your consideration of this amendment. Thank you.

Senator **STRIMLING** of Cumberland moved to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-482).

On motion by Senator **DAVIS** of Piscataquis, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Strimling.

Senator **STRIMLING:** Thank you, Madame President. Just quickly on this simple amendment, as they all are. Unfortunately, the ramifications of this simple amendment are very deep. It creates a second class of citizens. More fundamental is the Maine Human Rights Act is very clear; we may not discriminate against people on the basis of age. What this amendment does is, basically, it tries to put into statute that we are allowed to do that. You have a letter in front of you from some of the elderly groups who are fundamentally opposed to this because often these jobs are being competed for by our elderly and by our youth. This will create a discriminatory factor in which they will be hiring the young people over the elderly and it will be discriminatory against our young people because they will be

paying them less money. I strongly urge my colleagues to support the motion in front of you to Indefinitely Postpone.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Strimling to Indefinitely Postpone Senate Amendment "B" (S-482). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#332)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, COWGER, DAVIS, DOW, HASTINGS, MILLS, NASS, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

ABSENT: Senator: PLOWMAN

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **STRIMLING** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-482), **PREVAILED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-725), in concurrence.

The Chair laid before the Senate the following Tabled and Later (3/21/06) Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT**, on Bill "An Act To Strengthen the State Purchasing Code of Conduct Laws"

S.P. 686 L.D. 1769

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-499)** (6 members)

Tabled - March 21, 2006, by Senator **SCHNEIDER** of Penobscot

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report

(In Senate, March 21, 2006, Reports **READ**.)

On motion by Senator **ANDREWS** of York, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#333)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, RAYE, ROSEN, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

ABSENT: Senator: PLOWMAN

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-499) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (3/23/06) Assigned matter:

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS**, on Bill "An Act To Amend the Elementary School Closing Process for School Administrative Districts and Community School Districts"

H.P. 1307 L.D. 1867

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-838)** (8 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - March 23, 2006, by Senator **GAGNON** of Kennebec

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, March 22, 2006, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, March 23, 2006, Reports **READ**.)

Senator **MITCHELL** of Kennebec moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

On motion by Senator **DAVIS** of Piscataquis, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President. Since we're going to have a roll call, we might as well talk about it. Ladies and gentlemen of the Senate, as I said to the colleagues in my caucus, this is not a bill to die for but it was brought forward with the expectation that it would actually save school districts and municipalities some money if, when an elementary school was closed, and there was no opposition during the public hearing and the work session that would have ensued at the local level, they would not have to go out to referendum. Some of us were concerned about that and those who were really concerned said we should just leave things as they are. Others of us said, 'What the heck, why don't we try to put some belt and suspenders on this just on the off chance that someone might not have been aware that the elementary school was closing.' The other motion that would come before you if you were to defeat the pending motion would be to put notice out to those people effected by the closing, specifically the parents who have children in the school system. I think if you are interested in saving a little money, you should defeat the pending motion and go with the motion that would follow. With that I will take my leave and sit down.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Mitchell to Accept the Minority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#334)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, RAYE, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, DOW, HASTINGS, MILLS, NASS, ROSEN, SAVAGE, SNOWE-MELLO, TURNER

ABSENT: Senator: PLOWMAN

25 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **MITCHELL** of Kennebec to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later (3/23/06) Assigned matter:

HOUSE REPORTS - from the Committee on **NATURAL RESOURCES** on Bill "An Act To Ensure Adequate Funding for Cleanup of Hazardous Waste, Biomedical Waste and Waste Oil" H.P. 1383 L.D. 1975

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-843)** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-844)** (3 members)

Tabled - March 23, 2006, by Senator **WESTON** of Waldo

Pending - motion by Senator **COWGER** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-843)** Report, in concurrence

(In House, March 22, 2006, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-843)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-843)**.)

(In Senate, March 23, 2006, Reports **READ**.)

On motion by Senator **COWGER** of Kennebec, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-843)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-843) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (3/23/06) Assigned matter:

HOUSE REPORTS -from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Improve Recreational Watercraft Safety"

H.P. 231 L.D. 307

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-850)** (10 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "B" (H-851)** (2 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "C" (H-852)** (1 member)

Tabled - March 23, 2006, by Senator **BRYANT** of Oxford

Pending - motion by same Senator to **ACCEPT** Report "B", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-851)**, in **NON-CONCURRENCE**

(In House, March 22, 2006, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-850)** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-850)**.)

(In Senate, March 23, 2006, Reports **READ**.)

Senator **BRYANT** of Oxford moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bryant.

Senator **BRYANT:** Thank you, Madame President, men and women of the Senate. As the good Senator from Cumberland, Senator Turner, stated, here is another bill that's not worth dying for. I'll just follow that as he laid that in.

Where to start with this bill? I think if you go back to the original bill when it went in, it was to have training on personal watercraft for kids over the age of 14. I think when we got it into committee the sponsor understood that the current law is 16 years of age before you can operate a personal watercraft. We went from there.

This bill is really a solution looking for a problem. As we worked this in the caucus earlier today, I think we have come to the conclusion, from a majority of people, that we should just send this back and they can discuss it next year. The majority report basically demands training from 16 to 18 and the current law is that you can already operate at 16. You would then have to have this certificate that you might be able to get off the internet someplace and have it on your person at the time that the warden stopped you. There are all kinds of different pieces. Part B, which was basically where we tried to do some training, would have allowed the Department of Inland Fisheries and Wildlife to actually put in a training piece and would lower the age to 15 to give the kids some incentive to operate the personal watercraft. As we discussed it through the caucus I think we've come to the conclusion that it's better off to let it go and come back next year with a system that works a little bit better. I would encourage you to vote to Indefinitely Postpone the bill.

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. I would encourage you to oppose the motion before us for Indefinite Postponement. The vast majority of our committee, 10 members, supported the Report A that allows the current use of personal watercraft without a safety course for this upcoming summer and pushes off until 2007 the requirement of a safety course. I personally think it's a good idea of operators of personal watercraft to have a safety course. It also doesn't incur any financial obligation because the course is

already being offered by the United States Coast Guard on-line, as a matter of fact, as the good Senator from Oxford, Senator Bryant, already alluded to. Although this certainly isn't a bill to fall on your sword for, and we all appreciate that, I think it is an important notion that we have some type of watercraft safety operating course for those youngsters in the age of 16 or 17 who are operating those watercraft. Thank you very much, Madame President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Oxford, Senator Bryant to Indefinitely Postpone the Bill and accompanying papers. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#335)

YEAS: Senators: BARTLETT, BRENNAN, BRYANT, DAMON, DIAMOND, MARTIN, MAYO, MITCHELL, ROTUNDO, STRIMLING, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, BROMLEY, CLUKEY, COURTNEY, COWGER, DAVIS, DOW, GAGNON, HASTINGS, HOBBS, MILLS, NASS, NUTTING, PERRY, RAYE, ROSEN, SAVAGE, SCHNEIDER, SNOWE-MELLO, SULLIVAN, TURNER, WESTON, WOODCOCK

ABSENT: Senator: PLOWMAN

11 Senators having voted in the affirmative and 23 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BRYANT** of Oxford to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE, FAILED.**

The pending motion before the Senate is the motion by Senator **BRYANT** of Oxford to **ACCEPT** Report "B", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-851)**, in **NON-CONCURRENCE.**

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Thank you, Madame President. Trying to stay alert without eating any lunch. I apologize to members of the Body. I would encourage you to oppose the motion before us so that we might go on to accept Committee Amendment A. Thank you, Madame President.

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President. May I pose a question to anyone who may choose to answer it?

THE PRESIDENT: The Senator may pose his question.

Senator **MARTIN:** Thank you, Madame President. What is the training and who would be doing the training? What is the course that is being suggested?

THE PRESIDENT: The Senator from Aroostook, Senator Martin poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Thank you very much, Madame President. The course would be a basic operators watercraft course. It's offered, as I mentioned, by the United States Coast Guard. It is available on-line. I still maintain that the course is a valuable part of the training for young operators and I think that, given the nature of the course, everybody in this room might be able to pass it too. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you, Madame President. I'd like to pose a question through the Chair to anyone who may care to answer.

THE PRESIDENT: The Senator may pose his question.

Senator **DIAMOND:** Thank you, Madame President. As I'm led to understand, part of this requirement that would be in the law would be the person driving the PWC would have to carry proof of the training on their person. I'm just curious about someone in a bathing suit riding around the lake, it sounds silly, but how would this person actually carry this proof on their person?

THE PRESIDENT: The Senator from Cumberland, Senator Diamond poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Oxford, Senator Bryant.

Senator **BRYANT:** Thank you, Madame President, ladies and gentlemen of the Senate. I would encourage you to vote for the pending motion. I think it goes a little bit deeper. Somebody can throw training out and a course that catches all the legislator's attention and everybody wants to do training and that's all great. I think if you have to have structured training. Report B requires the Inland, Fisheries and Wildlife Commissioner to do the training and actually have some real training. It allows the kid that is currently 15 years old the opportunity to get the training and then be able to operate the personal watercraft. To do it the other way and say they are going to be able to get some training from the internet and some certificate, I think this makes a big problem for the wardens out there. Also the heart of the problem that rubs me a little bit is that somehow the parent doesn't have the wherewithal or the ability to see or understand if their kid can operate a personal watercraft. You have to understand that a personal watercraft is a piece of equipment that adults have. They are \$7,000, \$8,000, or \$9,000 piece of equipment. The parent has a responsibility for that. Basically, what we are doing

here is telling the parent that, no matter how we do this, they don't have a say in it and that the Legislature knows what is needed for their kids. The other part of that is for them to make sure the kids are not overweight, they are not in front of the TV, not in front of the computer, but every time they try to do something the Legislature is going to tell them they can't do it. I think that is another part of why this is a place that we really shouldn't be going. I'd encourage you to vote for the pending motion.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Oxford, Senator Bryant to Accept Report "B", Ought To Pass As Amended By Committee Amendment "B" (H-851). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#336)

YEAS: Senators: BRYANT, DAMON, GAGNON,
MARTIN, MAYO

NAYS: Senators: ANDREWS, BARTLETT, BRENNAN,
BROMLEY, CLUKEY, COURTNEY, COWGER,
DAVIS, DIAMOND, DOW, HASTINGS, HOBBS,
MILLS, MITCHELL, NASS, NUTTING, PERRY,
RAYE, ROSEN, ROTUNDO, SAVAGE,
SCHNEIDER, SNOWE-MELLO, STRIMLING,
SULLIVAN, TURNER, WESTON, WOODCOCK,
THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: PLOWMAN

5 Senators having voted in the affirmative and 29 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BRYANT** of Oxford to **ACCEPT** Report "**B**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-851)**, in **NON-CONCURRENCE, FAILED**.

On motion by Senator **WOODCOCK** of Franklin, Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-850) ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-850) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (3/23/06) Assigned matter:

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES**, on Bill "An Act To Amend the Maine Health Data Organization Laws Regarding Dental Services"
S.P. 677 L.D. 1760

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-515)** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-516)** (4 members)

Tabled - March 23, 2006, by Senator **MAYO** of Sagadahoc

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-515)** Report

(In Senate, March 23, 2006, Reports **READ**.)

On motion by Senator **MAYO** of Sagadahoc, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-515)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-515) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (3/23/06) Assigned matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act Regarding Contract Indemnification"
S.P. 362 L.D. 1045

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-514)** (3 members)

Tabled - March 23, 2006, by Senator **GAGNON** of Kennebec

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 23, 2006, Reports **READ**.)

On motion by Senator **BROMLEY** of Cumberland, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/23/06) Assigned matter:

Bill "An Act To Clarify the Workplace Smoking Laws"
S.P. 726 L.D. 1926

Tabled - March 23, 2006, by Senator **DAVIS** of Piscataquis

Pending - motion by Senator **MAYO** of Sagadahoc to **INDEFINITELY POSTPONE** the Bill and accompanying papers (Roll Call Ordered)

(In Senate, March 23, 2006, **READ A SECOND TIME.**)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#337)

YEAS: Senators: BARTLETT, BRYANT, CLUKEY, COURTNEY, DAVIS, DIAMOND, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, NASS, NUTTING, PERRY, SCHNEIDER, SULLIVAN, WESTON

NAYS: Senators: ANDREWS, BRENNAN, BROMLEY, COWGER, DAMON, DOW, MILLS, MITCHELL, RAYE, ROSEN, ROTUNDO, SAVAGE, SNOWE-MELLO, STRIMLING, TURNER, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: PLOWMAN

17 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **MAYO** of Sagadahoc to **INDEFINITELY POSTPONE** the Bill and accompanying papers, **FAILED**.

On motion by Senator **MARTIN** of Aroostook, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. Early I had indicated that the bill we were on was not a bill to die for. In this case, this is a bill to die for. I mean that in all seriousness. This is a matter of health. Our calendar has had two bills on it, L.D. 1901 and L.D. 1926. This bill before us is L.D. 1926, as you know. It would eliminate smoking in all private venues. This specifically deals with clubs that have employees. As we have consistently done in the past, we have always aired on the side of the health consideration of the employee and I would ask you to continue to do that and vote in favor of engrossment. Thank you very much.

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

Senator **ANDREWS:** Thank you, Madame President. May I pose a question through the Chair please?

THE PRESIDENT: The Senator may pose her question.

Senator **ANDREWS:** Thank you, Madame President. I know it was stated that this applies to employees. Does this apply to high stakes beano halls?

THE PRESIDENT: The Senator from York, Senator Andrews poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Sagadahoc, Senator Mayo.

Senator **MAYO:** Thank you, Madame President. The good Senator from Cumberland, Senator Turner, may correct me, I believe it does not.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President. I find myself in agreement with the good Senator from Sagadahoc, Senator Mayo.

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

Senator **ROSEN:** Thank you, Madame President. Just a reminder to the members of the Senate, two words; choice and private. The measure before you applies to private membership clubs and it will eliminate their choice as members to decide whether they are smoke free or not. Private and choice eliminated.

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

Senator **RAYE:** Thank you, Madame President. May I pose a question through the Chair for anyone who may answer?

THE PRESIDENT: The Senator may pose his question.

Senator **RAYE:** Thank you, Madame President. Would this apply to private clubs that do not have employees?

THE PRESIDENT: The Senator from Washington, Senator Raye poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President. The answer is no, it would not.

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#338)

YEAS: Senators: BRENNAN, BROMLEY, COWGER, DAMON, DOW, MILLS, MITCHELL, RAYE, ROTUNDO, STRIMLING, TURNER, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, BARTLETT, BRYANT, CLUKEY, COURTNEY, DAVIS, DIAMOND, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, NASS, NUTTING, PERRY, ROSEN, SAVAGE, SCHNEIDER, SNOWE-MELLO, SULLIVAN, WESTON

ABSENT: Senator: PLOWMAN

13 Senators having voted in the affirmative and 21 Senators having voted in the negative, with 1 Senator being absent, **PASSAGE TO BE ENGROSSED, FAILED.**

Senator **MARTIN** of Aroostook moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers.

On motion by Senator **TURNER** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Strimling.

Senator **STRIMLING:** Thank you, Madame President. I didn't speak the first two times but I do want to remind folks that ultimately this is about the health of workers. That is what this is about. This is about making sure that we protect the health of workers in Maine. It is also about fairness. There are some out there who are allowed to have smoking and there are others who are not. That is an unfair business practice. You can talk to businesses. I talked to them in my own district. They say it's even unfair that some can have a deck on which people can smoke and others cannot. Let's create a level playing field so that all businesses can perform at the same level and let's protect our workers. I strongly encourage you to defeat the motion in front of you.

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

Senator **ANDREWS:** Thank you, Madame President, ladies and gentlemen of the Senate. If this was going to apply to all businesses in the state of Maine I would sign on to it. This is not a level playing field. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President. I would remind members of the chamber that the progression to eliminating smoking in public places and private places has been a long road. We did not go there in one leap, we've done it in steps. For those who would support this bill except for the fact that high stakes beans is not included, they should think ahead to the next session when that opportunity may be before them. I would think you would hearken to the words of the good Senator from Cumberland, Senator Strimling. This is all about worker health. That's what it has always been about. That's what it will always be about. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Mayo.

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. I would remind people in this Body that we have already addressed this particular issue, dealing with smoking in clubs that have employees, once recently with a positive vote. I think having one piece of legislation dealing with this subject is adequate. I would further say that if this motion is not passed and we go back to voting on this bill again, we are establishing a situation with an opposing approach to this particular issue. I would urge that we accept this motion.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Aroostook, Senator Martin to Indefinitely Postpone the Bill and accompanying papers. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#339)

YEAS: Senators: ANDREWS, BARTLETT, BRYANT, CLUKEY, COURTNEY, DAVIS, DIAMOND, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, NASS, NUTTING, PERRY, ROSEN, SAVAGE, SCHNEIDER, SNOWE-MELLO, SULLIVAN, WESTON

NAYS: Senators: BRENNAN, BROMLEY, COWGER, DAMON, DOW, MILLS, MITCHELL, RAYE, ROTUNDO, STRIMLING, TURNER, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: PLOWMAN

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **MARTIN** of Aroostook to **INDEFINITELY POSTPONE** the Bill and accompanying papers, **PREVAILED.**

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/23/06) Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT**, on Bill "An Act To Authorize the Deorganization of the Town of Cooper"

S.P. 781 L.D. 2030

Majority - **Ought to Pass** (8 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - March 23, 2006, by Senator **DAVIS** of Piscataquis

Pending - motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report (Roll Call Ordered)

(In Senate, February 28, 2006, Reports **READ**.)

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

Senator **RAYE:** Thank you, Madame President, men and women of the Senate. I rise in opposition to the pending motion and in support of the Majority Ought to Pass report for L.D. 2030. This bill was initiated by the State and Local Government Committee after a careful and thorough review of the issues surrounding deorganization for the little town of Cooper. A century ago the town of Cooper boasted a population in the vicinity of 500. Today there are just 156 residents remaining. With its declining population it has become increasingly difficult to find individuals willing to fill the offices required of a town. I'm told that while those offices were filled this year the First Assessor, the Second Selectman, the Town Clerk, Tax Collector, and Treasurer have all given notice that they are not willing to serve another term. It is my understanding that Cooper's volunteer fire department is now down to just six volunteers, five of them over the age of 60. That says a lot about the vitality of this community. For those of you unfamiliar with Washington County geography, Cooper is a tiny settlement on the shores of Cathance Lake. It is located on Route 191, about half way between Calais and Machias. It's bordered on the west and the south by unorganized territories, on the north by Alexander, and on the east by Meddybemps and Charlotte. There is essentially one community around Cathance Lake. Half of it is in the unorganized territory, half of it is in Cooper.

You may recall that this issue was considered during last year's session. At that time it was amended into a resolve and enacted, directing that the town of Cooper and the Department of Transportation engage in an effort to address the costs of winter maintenance of Route 191 and to work with surrounding communities in an effort to share town offices and bring down costs. The result was disappointing, at best. Because language in the resolve conflicted with existing law, MDOT was not able to abide by the directive. Efforts to work with neighboring municipalities resulted in a sharing agreement that actually increased costs to the little town of Cooper. Given these disappointing results in the required report back to the State and Local Government Committee, that committee revisited this issue, recognizing that the citizens of Cooper have been seeking a vote on deorganization for a number of years and will continue to do so until they are at least allowed to vote on their own determination. The committee wisely decided to report out this bill.

Cooper has now been considering this issue for over a decade, working through a variety of issues, including where their kids will go to school. Finally last year the people voted to endorse a deorganization plan by a vote of 32 to 21. I would note that the language of the bill currently before us contains an error relating to the school that will need to be corrected by amendment if we get that far. If you approve this bill, the decision will ultimately be up to the people of Cooper. I don't know what they will decide. While 60% of the voters approved the deorganization plan recently, it is unclear what the final numbers would be with a potentially larger turnout. They may reach the 2/3 threshold necessary to deorganize or they may reach the termination to remain incorporated. At least they will have decided and put the debate to rest. I hope you will consider the wishes of the people

of Cooper and give the townspeople the opportunity to make this critical decision about the future of their own community.

I want to address a couple of key arguments that have been made in opposition to this bill. One is that Cooper is too large, that it is not a good fit with the unorganized territories. I've passed out to every Senator a document showing that Cooper, with a population of 156, is very much of comparable population and character to other unorganized townships. With the help of the State Planning Office, working with census figures, we were able to come up with the population figures. As you can see, there are a number of communities in the unorganized territory that are much larger than Cooper. In fact, as much as three times larger. I'm very pleased that a bi-partisan majority of eight members of the State and Local Government Committee voted in favor of this bill. All we ask is that people of Cooper have the opportunity to decide for themselves, as did the people of Madrid, as did the people of Greenfield, and as have the people in a number of communities over the years. Some have decided to deorganize, some have decided not to. There is no reason to think that Cooper's deorganization poses any greater threat to the future of municipalities than did any of the other deorganization votes that have occurred in the past. As you can see, of twelve towns that have engaged in the process since 1992, only three have actually proceeded and voted themselves to deorganize. At least they had the opportunity to decide. I hope that you will oppose the pending motion so we can allow the people of Cooper to do the same. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. The story may be about Cooper today but it's more than about Cooper. It's about Maine in general. What it is is an attempt by some in some communities to decrease their property tax and to put themselves in unorganized territories so that the rest of the county can pick up the costs. So it's not necessarily about lack of self-government, because they would love to keep the self-government part, but to decrease the cost of education. As Cooper and others deorganize, that cost then shifts to the unorganized territory. The state then gets the bill. We fund, right now, about \$10 million for education in the unorganized territory. It is then re-imposed on the unorganized territory and spread over the county. If we were concerned about that what we ought to do is form single-member school districts in each county that have unorganized territory so everyone can share on the decreased cost that would occur for education.

It is more than simply Cooper. As other communities find the way to decrease their costs and their taxes there will be more Cooper's. That's the problem that I see because no one wants to pay property tax and you can rest assured that if people can figure out a way around it they will move in that direction. Part of the problem that we have in this state is that we have let ourselves believe in many instances that smaller is better.

I'd encourage some of us to look at what our neighbors to the east and north are doing in the Province of New Brunswick. I'm not sure we have the political will to do what they did and that was to create a commission as to what should be the size of the community and the combination of communities that should be together to decrease the governmental costs to its citizens. I enjoy looking at records that show that cost and number of employees have dropped across this country in state government.

It's dropped in the cost of federal. The overlying increased cost of government in this country has increased in particular by number and by amount at the municipal level. I suggest you need to look around. Ladder trucks, Bangor/Brewer, Lewiston/Auburn, Portland/South Portland, and you go on and on. Then you can look at other things. My particular beef, as you know, is twenty Superintendents in Aroostook County with the number of students as the City of Portland. It is a clear indication of what our problem is and all we are doing with Cooper's of this world is we're combining and making the problem greater.

I'm not opposed to self-government. We have that problem in Aroostook County. We have unorganized territories who are part of the county and yet they want to control their own destiny. Their government, whether they like it or not, are the three County Commissioners of the county. Boy, do they resent that. I've been to two meetings in two of the communities on that list saying, 'If you want to control your destiny, become a town and I'll put in the bill for you.' Guess what? What happens to their costs and their property taxes? The answer is, they are going to go up because now they are sharing the entire cost of a fire department being paid for by the county. That's the problem that I foresee. As much as I feel for the people of Cooper, I'm going to vote against this bill because I fear for the future of Maine and the rural areas of this state.

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

Senator **RAYE:** Thank you, Madame President. I just want to respond. That argument is basically the domino theory. If Cooper is allowed to determine this vote for themselves, and the outcome of that vote is far from a certain thing, there is no plausible reason to think or suggest that Cooper engaging in this process is somehow more dangerous than it was when this body approved that for the town of Madrid, for the town of Centerville, for the town of Greenfield, for the town of Prentiss, or any of the other towns that have considered this process in the past years. I'm sure they will have the same debate in their town as to whether they want to give up self-determination or not. I'll just leave you with that final thought. We're not talking about a massive move towards deorganization. We're talking about a few small struggling communities that lack the vitality to continue.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you, Madame President. I stand in support of the pending motion. It is absolutely critical to note that we are being watched by many communities and there is absolutely a potential for a domino in this particular case. That is why you see the Chairs voting for the Ought Not to Pass motion because it is our responsibility to look at the greater picture. There was a former resident from my community of Orono who spoke very eloquently in favor of the move to allow Cooper the right to vote. I wanted, in many ways, to vote in favor of that and support her and to support those who wish to vote on this. However, it is my responsibility as the Chair of the State and Local Government Committee to look beyond the single community and the repercussions of this and what the greater impact may be. That's why you see me in support of the Ought Not to Pass motion. I hope that you will support the pending motion. This is a greater issue and I believe that if we desensitize

the tax structure with deorganization we would not see communities coming forward to deorganize. That is an issue that we may want to deal with another day. Thank you very much, Madame President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Accept the Minority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#340)

YEAS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, NUTTING, RAYE, ROSEN, SAVAGE, TURNER, WESTON, WOODCOCK

ABSENT: Senator: PLOWMAN

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/23/06) Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act Authorizing the Deorganization of Drew Plantation"

S.P. 679 L.D. 1762

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-511)** (9 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - March 23, 2006, by Senator **SCHNEIDER** of Penobscot

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

(In Senate, March 23, 2006, Reports **READ**.)

On motion by Senator **ANDREWS** of York, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **RAYE:** Thank you, Madame President. Unlike the bill that we just considered, this bill is clearer cut in terms of the concerns that have been raised with respect to the size of the town of Cooper. Drew Plantation is a tiny settlement in northern Penobscot County. There was, at last count, 57 people living in the town of Drew. The testimony given before the State and Local Government Committee showed no opposition offered to this legislation. With only 57 people, it's probably not difficult for you to imagine that it is extraordinarily difficult for this community to function and to be able to come up with people to serve in virtually any of the town offices required of a municipality. One quarter of Drew's taxable property has been purchased by the Department of Inland, Fisheries and Wildlife. I think it would be difficult for any of us in this chamber to be able to imagine being a municipal official in this little community, struggling and trying to keep up with the requirements imposed by the state to just do the paperwork required. I hope that you will join with me in opposing the Minority Ought Not to Pass report so that we can move on to the Majority Ought to Pass report. This is a clear cut instance and I would point out that Drew has only about a third of the population of even Cooper. I hope that you will join with me in opposing the motion. Thank you.

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

Senator **ANDREWS:** Thank you, Madame President and fellow members of this esteemed Body. Unlike the last bill, in which I sided with my Senate Chair because I felt they did not make convincing arguments, in the case of this one I am voting with the majority. As the good Senator from Washington, Senator Raye, stated no one testified in opposition to this bill. I generally do not go along with deorganization, but in this case I felt they gave ample proof and ample testimony that they cannot continue to function as a town. They cannot even fill the necessary municipal offices that they need to do. In this case I would ask you to not accept the Minority Ought Not to Pass report and go on to accept the Majority report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you, Madame President and good Senate colleagues. I still submit to you that, though it is true and I do agree with my colleague, this is a tiny community and certainly their arguments were stronger than those of Cooper. I still submit that if you took the tax incentive away they would not be bringing this forward to us. I think that this is a much greater issue and I happen to know that, though there was not testimony in opposition, there are many communities looking at this. I would encourage you to support the pending motion. This is a greater issue that we need to address in another way. Thank you very much, Madame President.

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

Senator **ANDREWS:** Thank you, Madame President and fellow members of the Senate. Unlike the last bill that we just voted on where taxes were listed as a concern, taxes were very clearly not stated in any of the testimony of the people that came forward so eloquently to ask to be allowed to deorganize. I state; taxes and property taxes were not an issue. It was the function of the community as a whole and the ability to do it. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **TURNER:** Thank you, Madame President. There are 57 souls who live in this community. How many municipal positions do those 57 souls have to fill in order for this town to function?

THE PRESIDENT: The Senator from Cumberland, Senator Turner poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE:** Thank you, Madame President. They would have the same array of offices as larger communities around the state. They have a Board of Selectmen, Board of Assessors, School Board, Town Clerk, Treasurer, Tax Collector, and the full compliment of offices that much larger communities must fill.

THE PRESIDENT: The Chair recognizes the Senator from Arostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President. I'm looking at the Maine Municipal book that contains the list. Right now, all of the positions in that community are filled. I was surprised because they are different individuals. Usually in small communities you will find that the Registrar of Voters, the Town Clerk, the Road Commissioner, or the Treasurer are all the same. That's not the case here. Of course they have a Superintendent of Schools but that is the Superintendent from next door. They have a school committee of three, which obviously handles the school business that they may have with another community. I do agree that there is a difference between the two, but I am surprised when looking at this. It could be they don't want to run. I think that when the rub sort of occurs that we chose not to pass this bill, they will, in fact, fill those positions. I will also, in addition to that, point out that one of the things that I would hope communities would start to look at is to merge with their communities next door. I can recall a situation in Washington County that exists now where we have a very large unorganized territory. We maintain the state school in the unorganized, across the town line, where all the students pay tuition to a state school. Guess who's picking up the freight? The State of Maine in the unorganized portion because of the tuition differential. The school is in the unorganized territory. Roughly 80% is coming from organized towns, but they don't maintain the school. They are paying tuition to the State of Maine. We can't continue to be doing that.

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

Senator **RAYE:** Thank you, Madame President. I would just like to point out to the Senate that I am familiar with one, the only one that I know of, in terms of being an unorganized territory school in Washington County. I certainly would be surprised to learn, as they would, that 80% of their students come from outside the unorganized territory. I don't think that this is accurate. I wanted to just respond to that. Also I would like to point out, with respect to the town offices, that the good Senator from Aroostook, Senator Martin, mentioned in the town of Drew Plantation, it is my recollection that at the hearing presenting this bill there was testimony received that some of those town officers, as the depopulation of the community continues, no longer even reside there but have left. In fact, there are some vacancies.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. If I may pose a question through the Chair to anyone who may answer?

THE PRESIDENT: The Senator may pose his question.

Senator **COURTNEY:** Thank you, Madame President. How many students are there in Drew Plantation?

THE PRESIDENT: The Senator from York, Senator Courtney poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE:** Thank you, Madame President. I believe that there are 8 children under the age of 18. I'm only going by memory, but I believe that this was presented at the hearing.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Accept the Minority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#341)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, NUTTING, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

ABSENT: Senator: PLOWMAN

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled Unassigned matter:

Bill "An Act To Amend the Laws Governing All-terrain Vehicles"
S.P. 722 L.D. 1922
(C "A" S-494)

Tabled - March 22, 2006, by Senator **BRYANT** of Oxford

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-494)**

(In Senate, March 22, 2006, **READ A SECOND TIME.**)

On motion by Senator **BRYANT** of Oxford, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-494)**.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Make Changes to the Laws Regarding Pine Tree Development Zones"

H.P. 1483 L.D. 2091

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

On motion by Senator **BROMLEY** of Cumberland, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Allow a Second Opportunity To Elect Coverage under the State Group Health Plan"

H.P. 1484 L.D. 2092

Comes from the House, **REFERRED** to the Committee on **LABOR** and ordered printed.

On motion by Senator **STRIMLING** of Cumberland, **REFERRED** to the Committee on **LABOR** and ordered printed, in concurrence.

Off Record Remarks

All matters thus acted upon were ordered sent down forthwith for concurrence.

Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, to Tuesday, March 28, 2006, at 10:00 in the morning.