

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Second Legislature

State of Maine

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Pages 1382 - 2139

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

In Senate Chamber
Monday
April 10, 2006

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

Prayer by Reverend Michelle Grube, Peoples United Methodist Church of Union.

REVEREND GRUBE: Let us pray. Eternal God and whose appointment our life stands and who committed our work to us, we come before You this morning, committing ourselves to You as we begin yet another day. We come thanking You for the newness of this day and the opportunity that we all have to not only serve the people we represent but also to serve You. Give us this day Your grace so that we may contribute to truly establishing Maine as the example of the way life should be everywhere. I pray this morning, gracious God, that You might give to these men and women the gifts, graces, and talents they need to hear and follow Your will. As You allowed Samuel to dream and to hear Your call to service, I pray that You would give these, Your servants, fresh dreams and visions for the future of our state, allowing them to continually hear Your call. As You gave courage and strength to David to persevere until he was finally crowned king, I pray that You would give these Senators a portion of that strength and courage so that they may not be content to seek the false comfort of easy answers but will persevere to do the hard work of seeking Your will with each new decision. As You gave wisdom to Solomon to build up and successfully lead the people of Israel, I pray that You might also give these men and women a portion of that wisdom so that they might make bold and responsible and just decisions for all Your people in Maine. Loving God, creator of all humanity, we pray that You would help us to see, listen, and understand the people that we serve. Often we see only the masses but You see individuals, each with names and unique identities. Often we see only persons who appear ordinary and average but You see these, Your children, as having extraordinary potential. Often we see only people whom we place in varying categories of worth, depending on race, class, creed, and age, but whom You see as worthy, no matter what category they may fall. Help us, oh God, to see the individual and the masses, to work with all persons to develop each ones extraordinary potential and to honor the worthiness of each person. Now we look to You, Holy One, to be present with us throughout this day of deliberation and decision-making. Hear our prayers, for it is in Your name that we lift them before you. Amen.

Pledge of Allegiance led by Senator Christine B. Savage of Knox County.

Doctor of the day, Lisa Letourneau, MD of Scarborough.

Reading of the Journal of Friday, April 7, 2006.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

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

H.P. 1330 L.D. 1890
(C "C" H-862)

In House, April 3, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-860).**

In Senate, March 28, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-862), in NON-CONCURRENCE.**

Comes from the House, that Body **ADHERED.**

On motion by Senator **NUTTING** of Androscoggin, the Senate **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE.**

Sent down for concurrence.

COMMUNICATIONS

The Following Communication: S.C. 616

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

April 5, 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 State and Local Government has had under consideration the nomination of Elaine L. Clark of Cumberland, for appointment to the Maine Governmental Facilities 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	2	Schneider of Penobscot, Andrews of York
	Representatives	9	Barstow of Gorham, Blanchard of Old Town, Browne of Vassalboro, Crosthwaite of Ellsworth, Harlow of Portland, McFadden of Dennysville, Moulton of York, Muse of Fryeburg, Schatz of Blue Hill
NAYS		0	
ABSENT		2	Rep. Bishop of Boothbay, Sen. Rotundo of Androscoggin

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 Elaine L. Clark of Cumberland, for appointment to the Maine Governmental Facilities Authority be confirmed.

Signed,

S/Elizabeth M. Schneider
Senate Chair

S/Christopher R. Barstow
House Chair

READ and ORDERED PLACED ON FILE.

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

The Following Communication: S.C. 617

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

April 5, 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 State and Local Government has had under consideration the nomination of Peter G. Cary of Cape Elizabeth, for reappointment to the Maine Governmental Facilities 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	2	Schneider of Penobscot, Andrews of York
	Representatives	10	Barstow of Gorham, Bishop of Boothbay, Blanchard of Old Town, Browne of Vassalboro, Crosthwaite of Ellsworth, Harlow of Portland, McFadden of Dennysville, Moulton of York, Muse of Fryeburg, Schatz of Blue Hill
NAYS		0	
ABSENT		1	Sen. Rotundo of Androscoggin

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 Peter G. Cary of Cape Elizabeth, for reappointment to the Maine Governmental Facilities Authority be confirmed.

Signed,

S/Elizabeth M. Schneider
Senate Chair

S/Christopher R. Barstow
House Chair

READ and ORDERED PLACED ON FILE.

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

The Following Communication: S.C. 618

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

April 6, 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 Donald H. Gean of Alfred, for appointment to the Maine State Housing 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	6	Austin of Gray, Crosby of Topsham, Farrington of Gorham, O'Brien of Lewiston, Robinson of Raymond, Smith of Monmouth
NAYS	Senators	0	
	Representatives	3	Beaudette of Biddeford, Berube of Lisbon, Rector of Thomaston
ABSENT		1	Rep. Jacobsen of Waterboro

Nine members of the Committee having voted in the affirmative and three in the negative, it was the vote of the Committee that the nomination of Donald H. Gean of Alfred, for appointment to the Maine State Housing 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 **GAGNON** of Kennebec, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 619

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

April 6, 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 Scott D. Harriman of Machias, for appointment to the Washington County Development 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 Scott D. Harriman of Machias, for appointment to the Washington County Development 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 **GAGNON** of Kennebec, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 620

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

April 6, 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 Edward R. Pellon of Machias, for appointment to the Washington County Development 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 Edward R. Pellon of Machias, for appointment to the Washington County Development 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 **GAGNON** of Kennebec, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 621

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

April 6, 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 Normand L. Laberge of Trescott, for appointment to the Washington County Development 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 Normand L. Laberge of Trescott, for appointment to the Washington County Development 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 **GAGNON** of Kennebec, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION**.

The Following Communication: S.C. 622

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

April 6, 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 James E. Frey of Milbridge, for appointment to the Washington County Development 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 James E. Frey of Milbridge, for appointment to the Washington County Development 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 **GAGNON** of Kennebec, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION**.

ORDERS

Joint Order

On motion by Senator **BROMLEY** of Cumberland, the following Joint Order:

S.P. 847

ORDERED, the House concurring, that the Joint Select Committee on Research, Economic Development and the Innovation Economy is established as follows.

1. Establishment. The Joint Select Committee on Research, Economic Development and the Innovation Economy, referred to in this order as "the committee," is established.
2. Membership. The committee consists of 14 members of the Legislature: 4 Senators appointed by the President of the Senate and 10 members of the House of Representatives appointed by the Speaker of the House. The 14 members must include at least one member from each of the following joint standing committees: the Joint Standing Committee on Agriculture, Conservation and Forestry; the Joint Standing Committee on Appropriations and Financial Affairs; the Joint Standing Committee on Business, Research and Economic Development; the Joint Standing Committee on Education and Cultural Affairs; the Joint Standing Committee on Marine Resources; the Joint Standing Committee on Natural Resources; the Joint Standing Committee on Taxation; and the Joint Standing Committee on Transportation.
3. Duties. The committee shall:
 - A. Review the current status of state efforts to address research and economic development, including:
 - (1)The final report of the Joint Select Committee on Research and Development from the 118th Legislature;
 - (2)The State's science and technology plan; and
 - (3)The preliminary findings of the 5-year "Evaluation of Maine's Public Investment in Research and Development" by Michael Luger, E. Brent Lane, Irwin Feller and Catherine S. Renault of the Kenan Institute of Private Enterprise; and
 - B. Develop recommendations for future legislative action to expand research and economic development activities in this State. These recommendations may include the following:

(1)The role of research and development in the economic development strategy of the State;

(2)The relative role of educational institutions, governmental agencies, private research facilities and businesses within the State's research and economic development strategy;

(3)The level of bonding for capital investments in support of research and economic development and the manner in which such funds should be expended; and

(4)The level of ongoing appropriations in support of research and economic development and the manner in which such funds should be expended.

4. Meetings. In conducting its duties, the committee may meet with any individuals, departments, organizations or institutions it considers appropriate.

5. Appointments. All appointments must be made no later than 30 days following the adjournment of the Second Regular Session of the 122nd Legislature. The first-named members appointed from each body are cochairs of the committee.

6. Staff assistance. The Office of Policy and Legal Analysis shall provide staffing and clerical assistance to the committee and may, within existing resources, obtain technical assistance from appropriate sources.

7. Compensation. Members of the committee are entitled to receive the legislative per diem as defined in the Maine Revised Statutes, Title 3, section 2 and reimbursement for travel for attendance at meetings of the committee.

8. Report. The committee shall submit its findings and recommendations, along with any necessary implementing legislation, to the First Regular Session of the 123rd Legislature by December 6, 2006.

9. Extension. If the committee requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council, which may grant an extension.

10. Budget. The chairs of the committee, with assistance from the committee staff, shall administer the committee's budget. Within 10 days after its first meeting, the committee shall present a work plan and proposed budget to the Legislative Council for its approval. The committee may not incur expenses that would result in the committee's exceeding its approved budget. Upon request from the committee, the Executive Director of the Legislative Council shall promptly provide the committee chairs and staff with a status report on the committee budget, expenditures incurred and paid and available funds.

READ.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **PASS**.

Joint Resolutions

On motion by Senator **MITCHELL** of Kennebec (Cosponsored by Representative **NORTON** of Bangor and Senators: **ANDREWS** of York, **BARTLETT** of Cumberland, **BRENNAN** of Cumberland, **BROMLEY** of Cumberland, **BRYANT** of Oxford, **CLUKEY** of Aroostook, **COURTNEY** of York, **COWGER** of Kennebec, **DAMON** of Hancock, **DAVIS** of Piscataquis, **DIAMOND** of Cumberland, **DOW** of Lincoln, President **EDMONDS** of Cumberland, **GAGNON** of Kennebec, **HASTINGS** of Oxford, **HOBBS** of York, **MARTIN** of Aroostook, **MAYO** of Sagadahoc, **MILLS** of Somerset, **NASS** of York, **NUTTING** of Androscoggin, **PERRY** of Penobscot, **PLOWMAN** of Penobscot, **RAYE** of Washington, **ROSEN** of Hancock, **ROTUNDO** of Androscoggin, **SAVAGE** of Knox, **SCHNEIDER** of Penobscot, **SNOWE-MELLO** of Androscoggin, **STRIMLING** of Cumberland, **SULLIVAN** of York, **TURNER** of Cumberland, **WESTON** of Waldo, **WOODCOCK** of Franklin, Representatives: **ADAMS** of Portland, **ANNIS** of Dover-Foxcroft, **ASH** of Belfast, **AUSTIN** of Gray, **BABBIDGE** of Kennebunk, **BARSTOW** of Gorham, **BEAUDETTE** of Biddeford, **BERUBE** of Lisbon, **BIERMAN** of Sorrento, **BISHOP** of Boothbay, **BLANCHARD** of Old Town, **BLANCHETTE** of Bangor, **BLISS** of South Portland, **BOWEN** of Rockport, **BOWLES** of Sanford, **BRANNIGAN** of Portland, **BRAUTIGAM** of Falmouth, **BROWN** of South Berwick, **BROWNE** of Vassalboro, **BRYANT** of Windham, **BRYANT-DESCHENES** of Turner, **BURNS** of Berwick, **CAIN** of Orono, **CAMPBELL** of Newfield, **CANAVAN** of Waterville, **CARR** of Lincoln, **CEBRA** of Naples, **CHURCHILL** of Washburn, **CLARK** of Millinocket, **CLOUGH** of Scarborough, **COLLINS** of Wells, **CRAVEN** of Lewiston, **CRESSEY** of Cornish, **CROSBY** of Topsham, **CROSTHWAITE** of Ellsworth, **CUMMINGS** of Portland, **CURLEY** of Scarborough, **CURTIS** of Madison, **DAIGLE** of Arundel, **DAVIS** of Falmouth, **DAVIS** of Augusta, **DRISCOLL** of Westbrook, **DUCHESNE** of Hudson, **DUDLEY** of Portland, **DUGAY** of Cherryfield, **DUNN** of Bangor, **DUPLESSIE** of Westbrook, **DUPREY** of Hampden, **EBERLE** of South Portland, **EDER** of Portland, **EDGECOMB** of Caribou, **EMERY** of Cutler, **FAIRCLOTH** of Bangor, **FARRINGTON** of Gorham, **FINCH** of Fairfield, **FISCHER** of Presque Isle, **FISHER** of Brewer, **FITTS** of Pittsfield, **FLETCHER** of Winslow, **FLOOD** of Winthrop, **GERZOFSKY** of Brunswick, **GLYNN** of South Portland, **GOLDMAN** of Cape Elizabeth, **GREELEY** of Levant, **GROSE** of Woolwich, **HALL** of Holden, **HAMPER** of Oxford, **HANLEY** of Paris, **HANLEY** of Gardiner, **HARLOW** of Portland, **HOGAN** of Old Orchard Beach, **HOTHAM** of Dixfield, **HUTTON** of Bowdoinham, **JACKSON** of Allagash, **JACOBSEN** of Waterboro, **JENNINGS** of Leeds, **JODREY** of Bethel, **JOY** of Crystal, **KAELIN** of Winterport, **KOFFMAN** of Bar Harbor, **LANSLEY** of Sabattus, **LERMAN** of Augusta, **LEWIN** of Eliot, **LINDELL** of Frankfort, **LORING** of the Penobscot Nation, **LUNDEEN** of Mars Hill, **MAKAS** of Lewiston, **MAREAN** of Hollis, **MARLEY** of Portland, **MARRACHÉ** of Waterville, **MAZUREK** of Rockland, **McCORMICK** of West Gardiner, **McFADDEN** of Dennysville, **McKANE** of Newcastle, **McKENNEY** of Cumberland, **McLEOD** of Lee, **MERRILL** of Appleton, **MILLER** of Somerville, **MILLETT** of Waterford, **MILLS** of Farmington, **MOODY** of Manchester, **MOORE** of the Passamaquoddy Tribe, **MOORE** of Standish, **MOULTON** of York, **MUSE** of Fryeburg, **NASS** of Acton, **NUTTING** of Oakland, **O'BRIEN** of Lewiston, **OTT** of York, **PARADIS** of Frenchville, **PATRICK** of Rumford, **PERCY** of Phippsburg, **PERRY** of Calais, **PILON** of Saco, **PINEAU** of Jay, **PINGREE** of North Haven, **PINKHAM** of Lexington Township,

PIOTTI of Unity, PLUMMER of Windham, RECTOR of Thomaston, RICHARDSON of Carmel, RICHARDSON of Greenville, Speaker RICHARDSON of Brunswick, RICHARDSON of Skowhegan, RICHARDSON of Warren, RINES of Wiscasset, ROBINSON of Raymond, ROSEN of Bucksport, SAMPSON of Auburn, SAVIELLO of Wilton, SCHATZ of Blue Hill, SEAVEY of Kennebunkport, SHERMAN of Hodgdon, SHIELDS of Auburn, SIMPSON of Auburn, SMITH of Monmouth, SMITH of Van Buren, SOCKALEXIS of the Penobscot Nation, STEDMAN of Hartland, SYKES of Harrison, TARDY of Newport, THOMAS of Ripley, THOMPSON of China, TRAHAN of Waldoboro, TUTTLE of Sanford, TWOMEY of Biddeford, VALENTINO of Saco, VAUGHAN of Durham, WALCOTT of Lewiston, WATSON of Bath, WEBSTER of Freeport, WHEELER of Kittery, WOODBURY of Yarmouth), the following Joint Resolution:

S.P. 845

**JOINT RESOLUTION RECOGNIZING
ADULT EDUCATION IN MAINE**

WHEREAS, since 1871, Maine's public schools have supported the development of an adult education system, which has grown and adapted to meet the needs of Maine's population at 120 locations throughout the State, serving more than 117,000 adults annually; and

WHEREAS, adult education in Maine has emphasized comprehensive college transition programs, which have been successfully piloted in 7 Maine adult education programs in collaboration with the Maine Compact for Higher Education and postsecondary institutions, including Maine's community colleges and university system, and which provide career guidance and college preparation classes for aspiring students; and

WHEREAS, these transition programs have been funded by the Nellie Mae Education Foundation and through 18 grants that reach 27 adult education locations from the MELMAC Education Foundation, and the programs build on many years of work by local programs assisting Maine adults in preparing for college and help Maine meet the goal of adding substantially to the number of college degree holders; and

WHEREAS, another area of emphasis in adult education in Maine is direct service to more than 3,500 of Maine's dislocated workers from 100 companies during the past 4 years, including high school completion and GED classes, with 2,787 credentials awarded in Maine last year, and career preparation and upgrading courses, with programs tailored specifically for Maine businesses; and

WHEREAS, community education courses contribute to the quality of life in Maine communities, offering the opportunity for the people of Maine to share their talents and to learn from others. In several regions, adult education programs are leading the way in developing the Creative Economy Initiative; and

WHEREAS, adult education in Maine is a partnership involving many local and statewide organizations and is funded by state subsidy, local taxpayer support, grants, contracts and fees paid by those enrolled in nonacademic courses; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-second Legislature, now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to acknowledge and applaud Maine's adult education programs, which uniquely reflect the needs of the communities they serve and provide a vital system of service to the population of the State as new challenges are faced in economic, community and family life; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Department of Education.

READ.

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

Senator **MITCHELL:** Thank you, Madame President and colleagues in the Senate. For the benefit of the wonderful representatives from the adult education program who are visiting with us this morning, I would like for you to take a look at our calendar. You will notice that the number of people who signed on outnumbers the length of the page for the resolution. That is a complete testament of the support that we have for you and what you are doing in this state.

A very quick story. Many years ago, when I was a young mom and the wife of a law student, I taught adult education. I went into the Winchester Gun Factory in New Haven, Connecticut. Actually there were many Maine people there who had gone there seeking work. Those adults, after putting in a long day, came to the canteen area just to learn the many things that they needed to get their high school education. The dedication and the perseverance of all of you, of all of us, who have gone through adult education to make sure that learning is truly a life-long process are to be congratulated and I'm so pleased to be a part of the entire legislature's congratulations to you.

On further motion by same Senator, **ADOPTED.**

Sent down for concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the gallery of the Chamber a number of folks representing the adult education community in Maine. Would you please stand and receive the greetings of the Maine Senate.

On motion by Senator **MAYO** of Sagadahoc (Cosponsored by President EDMONDS of Cumberland and Senators: ANDREWS of York, BARTLETT of Cumberland, BRENNAN of Cumberland, BRYANT of Oxford, COWGER of Kennebec, DAMON of Hancock, DIAMOND of Cumberland, GAGNON of Kennebec, HOBBS of York, MARTIN of Aroostook, MITCHELL of Kennebec, PERRY of Penobscot, ROSEN of Hancock, ROTUNDO of Androscoggin, SCHNEIDER of Penobscot, STRIMLING of Cumberland, Representatives: ADAMS of Portland, BABBIDGE of Kennebec, BLANCHARD of Old Town, BLANCHETTE of Bangor, BLISS of South Portland, BRANNIGAN of Portland, BRAUTIGAM of Falmouth, BRYANT of Windham,

BURNS of Berwick, CAIN of Orono, CAMPBELL of Newfield, CUMMINGS of Portland, CURLEY of Scarborough, DAVIS of Falmouth, DAVIS of Augusta, DRISCOLL of Westbrook, DUCHESNE of Hudson, DUGAY of Cherryfield, DUPLESSIE of Westbrook, EBERLE of South Portland, EDER of Portland, FARRINGTON of Gorham, FISCHER of Presque Isle, GROSE of Woolwich, HANLEY of Gardiner, HUTTON of Bowdoinham, LERMAN of Augusta, LUNDEEN of Mars Hill, MAKAS of Lewiston, MARLEY of Portland, MERRILL of Appleton, MILLER of Somerville, MILLS of Farmington, MOODY of Manchester, NORTON of Bangor, O'BRIEN of Lewiston, PARADIS of Frenchville, PATRICK of Rumford, PERCY of Phippsburg, PERRY of Calais, PILON of Saco, PINEAU of Jay, PINGREE of North Haven, PIOTTI of Unity, RINES of Wiscasset, SCHATZ of Blue Hill, SAMPSON of Auburn, SMITH of Monmouth, SMITH of Van Buren, THOMPSON of China, TUTTLE of Sanford, TWOMEY of Biddeford, VALENTINO of Saco, WALCOTT of Lewiston, WATSON of Bath, WHEELER of Kittery) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214.), the following Joint Resolution:

S.P. 846

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES TO ADOPT CERTAIN CHANGES TO THE MEDICARE PART D PROGRAM

WE, your Memorialists, the Members of the One Hundred Twenty-second Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the President of the United States and the Congress of the United States, as follows:

WHEREAS, beginning on January 1, 2006, prescription drug coverage was to be provided through the Medicare Part D program to eligible residents of the State of Maine, and these Medicare beneficiaries must now navigate a new and extremely complex system for purchasing coverage and receiving prescription drug benefits; and

WHEREAS, thousands of these Maine residents who are Medicare beneficiaries are eligible for both Medicare and Medicaid and are known as "dual eligible." These residents are sicker and poorer than other Medicare beneficiaries. Nationally, more than 60% of dual eligibles live below the poverty level; and

WHEREAS, more than half of all dual eligibles require assistance with activities of daily living and have higher rates of a range of chronic conditions than other Medicare beneficiaries, including Alzheimer's disease, diabetes, pulmonary disease and stroke; and

WHEREAS, the enrollment process for dual eligibles in Maine and the Nation has failed to adequately protect the health and safety of these most vulnerable of our citizens. There are significant and widespread data management and other implementation problems, resulting in dual eligibles being charged excessive copayments, being denied necessary medications, being refused enrollment and subsidies and not being informed of appeal procedures and other rights; and

WHEREAS, the State of Maine has incurred costs of almost \$6,000,000 to ensure that its neediest citizens who previously received their medications through Medicaid or our own prescription drug program receive needed medications through Medicare Part D, including paying the costs of reimbursing pharmacies improperly denied payment by prescription drug plans, reenrolling beneficiaries in plans with formularies that cover a greater percentage of their needed medication, providing counseling and education about the confusing array of plans and formularies and staffing telephone hotlines; and

WHEREAS, the federal Medicare Part D program has failed to operate as intended, and the Federal Government has given no assurance to the State of Maine that these unanticipated costs to protect the health and safety of our citizens will be fully and quickly reimbursed; and

WHEREAS, the State of Maine has also been charged \$19,100,000 associated with the phased-down state contribution, or the "clawback" provision of Medicare, which requires states to reimburse the Federal Government for the costs of dual eligibles based on a formula that is inaccurate and overcharges the State by millions; and

WHEREAS, individuals eligible for Medicare who enroll in Part D after May 15, 2006 will be assessed a 1% penalty for each month between the date they were eligible and the date they enrolled, and this penalty is cumulative, less predictable and more severe than the enrollment penalty for other parts of Medicare; and

WHEREAS, each prescription drug plan has a different formulary, different copayments and varied cost sharing that Medicare beneficiaries must understand in order to determine which plan has a formulary that not only includes most or all of their drug needs but is also the best value; and

WHEREAS, each plan is allowed to modify its formulary on a monthly basis, including dropping coverage of medications, while most Medicare beneficiaries may only change plans once a year during an open enrollment period; and

WHEREAS, a beneficiary who needs a drug not covered by the formulary must change to another drug or pay out of pocket for the drug, and drugs not listed on the formulary that are purchased out of pocket or paid for by using a state discount do not count towards the beneficiary's cost sharing under the Part D plan; and

WHEREAS, prescription drug plans are not required to disclose complete information about the actual price of drugs on their formularies, nor the cost of these drugs as negotiated by the plan with drug manufacturers, resulting in the opportunity for plans to inflate prices charged to Medicare beneficiaries who will then have a higher total cost-sharing amount; and

WHEREAS, Medicare law explicitly prohibits negotiation over the price paid by the Federal Government for these prescription drugs, and yet these same medications currently provided to all dual eligibles under Medicaid are subject to price negotiation by the Federal Government, and so the cost of these Medicare medications, which will be reimbursed by the states to the Federal Government, is likely to increase without price negotiations; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the administration of President George W. Bush and the Congress of the United States address these concerns immediately and as necessary through changes to the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and the allocation of additional funding; and be it further

RESOLVED: That We, your Memorialists, respectfully urge and request that the President and Congress specifically adopt the following changes to the Medicare Part D program:

1. Eliminate the unfair penalty for all eligible Medicare individuals who do not enroll by May 15, 2006;
2. Permit the prescription drug plans to drop coverage of drugs on their formularies only after advance notice once a year to coincide with the annual open enrollment period, except for those drugs determined to be dangerous or that have been removed from the market;
3. Standardize the formulary design so that each plan has the same number of tiers and requirements for coverage;
4. Modify the requirements for what can be counted towards the Medicare beneficiary's true out of pocket cost to include all prescription drugs purchased on behalf of the beneficiary regardless of where the drugs are purchased, or whether the drugs are purchased through a state pharmacy program or with a discount card, and regardless of whether the drugs are on the formulary of the beneficiary's plan;
5. Ensure transparency, so that states know the cost negotiated by the prescription drug plan to make certain that all negotiated rebates are passed through to the beneficiaries;
6. Institute price negotiation for the purchase of prescription drugs for the Medicare program, similar to provisions already in place under Medicaid and the Department of Veterans Affairs;
7. Provide timely and sufficient funding and reimbursement to the State of Maine to ensure that the State is made whole for costs incurred in ensuring its citizens who are eligible for or required to participate in Medicare Part D are not denied needed medications or otherwise harmed by the faulty implementation and design of this program; and
8. Provide that the "clawback" provision is based on actual experience and costs; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States, the President of the Senate and the Speaker of the House of Representatives of the United States, and to each Member of the Maine Congressional Delegation.

READ.

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **MAYO** of Sagadahoc to **ADOPT**.

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Support the Efficient Implementation of Maine's Learning Results" (EMERGENCY) H.P. 989 L.D. 1425

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-913)**.

Signed:

Senators:

MITCHELL of Kennebec
SCHNEIDER of Penobscot
TURNER of Cumberland

Representatives:

DAVIS of Falmouth
FINCH of Fairfield
NORTON of Bangor
GOLDMAN of Cape Elizabeth
MAKAS of Lewiston
CAIN of Orono
MERRILL of Appleton

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

Signed:

Representatives:

EDGECOMB of Caribou
STEDMAN of Hartland
LANSLEY of Sabattus

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-913)**.

Reports **READ**.

On motion by Senator **MITCHELL** of Kennebec, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-913) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act Regarding the Maine Insurance Guaranty Association"
H.P. 1463 L.D. 2068

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-941)**.

Signed:

Senators:

STRIMLING of Cumberland
BARTLETT of Cumberland

Representatives:

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

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

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

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

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-941)**.

Reports **READ**.

Senator **STRIMLING** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Extend the Lobbyist Reporting Requirements to Executive Branch Lobbying Activities"
H.P. 1235 L.D. 1727

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

Signed:

Senators:

GAGNON of Kennebec
PLOWMAN of Penobscot

Representatives:

FISHER of Brewer
OTT of York
PINKHAM of Lexington Township
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" (H-923)**.

Signed:

Senator:

MITCHELL of Kennebec

Representatives:

VALENTINO of Saco
PATRICK of Rumford
TUTTLE of Sanford

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-923)**.

Reports **READ**.

Senator **GAGNON** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Require the Commission on Governmental Ethics and Election Practices To Produce a Register of All Registered Lobbyists"
H.P. 1262 L.D. 1822

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

Signed:

Senators:

GAGNON of Kennebec
PLOWMAN of Penobscot

Representatives:

FISHER of Brewer
OTT of York
PINKHAM of Lexington Township
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" (H-822)**.

Signed:

Senator:

MITCHELL of Kennebec

Representatives:

VALENTINO of Saco
PATRICK of Rumford
TUTTLE of Sanford

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-822)**.

Reports **READ**.

Senator **GAGNON** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

Senate

Ought to Pass As Amended

Senator **ROTUNDO** for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Implement the Recommendations of the Commission To Reform the State Budget Process"

S.P. 790 L.D. 2045

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-570)**.

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

READ ONCE.

Committee Amendment "A" (S-570) **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 Enhance the Protection of Maine Families from Terrorism and Natural Disasters " (EMERGENCY)

S.P. 789 L.D. 2044

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-575)**.

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

READ ONCE.

Committee Amendment "A" (S-575) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **NATURAL RESOURCES** on Bill "An Act To Ensure Proper Disposal of Debris and Protection of the Environment"

S.P. 47 L.D. 141

Reported that the same **Ought to Pass as Amended by Committee Amendment "C" (S-573)**.

Signed:

Senators:

COWGER of Kennebec
MARTIN of Aroostook
SNOWE-MELLO of Androscoggin

Representatives:

JOY of Crystal
WHEELER of Kittery
DAIGLE of Arundel
DUCHESNE of Hudson
ANNIS of Dover-Foxcroft
EBERLE of South Portland
KOFFMAN of Bar Harbor
ROSEN of Bucksport
THOMPSON of China

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "D" (S-574)**.

Signed:

Representative:
TWOMEY of Biddeford

Reports **READ**.

Senator **COWGER** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (S-573)** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (S-573)** Report.

Bill "An Act To Allow Consolidation of the Winterport Sewerage District and the Winterport Water District To Create Incentives For Consumers To Pay Water Bills"

H.P. 1418 L.D. 2018
(C "A" H-958)

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

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

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

SECOND READERS

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

House

Resolve, Regarding Legislative Review of Portions of Chapter III, Section 50: Intermediate Care Facilities for the Mentally Retarded, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY)

H.P. 1458 L.D. 2062

Bill "An Act To Implement the Recommendations of the Joint Standing Committee on Education and Cultural Affairs Regarding Review of the State Board of Education under the State Government Evaluation Act"

H.P. 1494 L.D. 2103

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

Bill "An Act To Create the Insurance Fraud Division within the Bureau of Insurance"

H.P. 1394 L.D. 1990
(C "A" H-924)

READ A SECOND TIME and **PASSED TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Senate

Bill "An Act Relating to Secondary School Construction Projects"
S.P. 844 L.D. 2104

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

Sent down for concurrence.

House As Amended

Resolve, To Ensure the Coordination and Effectiveness in the Provision of Outpatient and Medication Management Services under Maine's Noncategorical Waiver

H.P. 1208 L.D. 1701
(C "A" H-964)

Bill "An Act To Protect Maine's Electricity Consumers"

H.P. 1338 L.D. 1897
(C "A" H-959)

Bill "An Act To Ensure Appropriate Reimbursement of Rising Energy Costs for Long-term Care Facilities" (EMERGENCY)

H.P. 1402 L.D. 2000
(C "A" H-963)

Senate As Amended

Bill "An Act To Clarify the Laws Governing Agricultural Composting Operations"

S.P. 381 L.D. 1064
(C "B" S-563)

Bill "An Act Concerning Technical Changes to the Tax Laws"

S.P. 668 L.D. 1751
(C "A" S-571)

Bill "An Act To Ensure the Long-term Capacity of Municipal Landfills" (EMERGENCY)

S.P. 712 L.D. 1795
(C "A" S-539)

Resolve, To Improve Retention, Quality and Benefits for Direct Care Health Workers

S.P. 735 L.D. 1934
(C "A" S-568)

Resolve, To Improve Quality and Access to Mental Health Care Through the Development of a Joint Strategic Plan
S.P. 760 L.D. 1973
(C "A" S-569)

Bill "An Act To Make Adjustments to the Allagash Wilderness Waterway"
S.P. 811 L.D. 2077
(C "A" S-559)

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.

ENACTORS

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

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine Regarding Procedures for the People's Veto and Direct Initiative

S.P. 782 L.D. 2033
(H "A" H-895; S "A" S-544
to C "A" S-513)

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

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Create a Property Tax Exemption for Property Owners with Limited Personal Property Assessments

H.P. 1446 L.D. 2052
(C "A" H-877)

Comes from the House, RESOLUTION and accompanying papers **INDEFINITELY POSTPONED.**

On motion by Senator **PERRY** of Penobscot, RESOLUTION and accompanying papers **INDEFINITELY POSTPONED**, in concurrence.

Emergency Resolve

Resolve, To Establish a Blue Ribbon Commission on Solid Waste Management

S.P. 694 L.D. 1777
(C "A" S-545)

On motion by Senator **GAGNON** of Kennebec, placed on the **SPECIAL STUDY TABLE**, pending **FINAL PASSAGE**, in concurrence.

Resolve

Resolve, Establishing the Commission To Study Eliminating the Normal Retirement Age for Corrections Officers and Mental Health Workers

S.P. 246 L.D. 748
(H "A" H-935 to C "B" S-432)

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

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.

On motion by Senator **BRENNAN** of Cumberland, **RECESSED** until 11:15 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:

NOMINATION - of Elaine L. Clark of Cumberland, for appointment to the Maine Governmental Facilities Authority

Tabled - April 10, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

(In Senate, April 10, 2006, Communication (S.C. 616) from the Committee on **STATE AND LOCAL GOVERNMENT, READ and ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **STATE AND LOCAL GOVERNMENT** 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 (#400)

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, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: MILLS

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 **Elaine L. Clark** of Cumberland, for appointment to the Maine Governmental Facilities 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 Peter G. Cary of Cape Elizabeth, for reappointment to the Maine Governmental Facilities Authority

Tabled - April 10, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

(In Senate, April 10, 2006, Communication (S.C. 617) from the Committee on **STATE AND LOCAL GOVERNMENT, READ and ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **STATE AND LOCAL GOVERNMENT** 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 (#401)

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, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: MILLS

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 **Peter G. Cary** of Cape Elizabeth, for reappointment to the Maine Governmental Facilities 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 Donald H. Gean of Alfred, for appointment to the Maine State Housing Authority

Tabled - April 10, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

(In Senate, April 10, 2006, Communication (S.C. 618) from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT.**)

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 (#402)

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, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, 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 H. Gean** of Alfred, for appointment to the Maine State Housing 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 Scott D. Harriman of Machias, for appointment to the Washington County Development Authority

Tabled - April 10, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

(In Senate, April 10, 2006, Communication (S.C. 619) from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**.)

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 (#403)

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, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, 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 **Scott D. Harriman** of Machias, for appointment to the Washington County Development 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 Edward R. Pellon of Machias, for appointment to the Washington County Development Authority

Tabled - April 10, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

(In Senate, April 10, 2006, Communication (S.C. 620) from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**.)

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 (#404)

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, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, 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 **Normand L. Laberge** of Trescott, for appointment to the Washington County Development Authority was **CONFIRMED**.

No Senator having voted in the affirmative and 35 Senators having voted in the negative, 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 **Edward R. Pellon** of Machias, for appointment to the Washington County Development Authority was **CONFIRMED**.

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

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 James E. Frey of Milbridge, for appointment to the Washington County Development Authority

Tabled - April 10, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

(In Senate, April 10, 2006, Communication (S.C. 622) from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**.)

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 (#406)

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, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, 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 **James E. Frey** of Milbridge, for appointment to the Washington County Development Authority was **CONFIRMED**.

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

NOMINATION - of Normand L. Laberge of Trescott, for appointment to the Washington County Development Authority

Tabled - April 10, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

(In Senate, April 10, 2006, Communication (S.C. 621) from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**.)

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 (#405)

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, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON,

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

Off Record Remarks

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

JOINT RESOLUTION - Memorializing the President and the Congress of the United States to Adopt Certain Changes to the Medicare Part D Program

S.P. 846

Tabled - April 10, 2006, by Senator **GAGNON** of Kennebec

Pending - motion by Senator **MAYO** of Sagadahoc to **ADOPT**

(In Senate, April 10, 2006, on motion by Senator **MAYO** of Sagadahoc, **READ**.)

On motion by Senator **MAYO** of Sagadahoc, **ADOPTED**.

Sent down for concurrence.

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

SENATE REPORTS - from the Committee on **NATURAL RESOURCES** on Bill "An Act To Ensure Proper Disposal of Debris and Protection of the Environment"

S.P. 47 L.D. 141

Majority - **Ought to Pass as Amended by Committee Amendment "C" (S-573)** (12 members)

Minority - **Ought To Pass as Amended by Committee Amendment "D" (S-574)** (1 member)

Tabled - April 10, 2006, by Senator **COWGER** of Kennebec

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (S-573)** Report

(In Senate, April 10, 2006, Reports **READ**.)

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

Senator **COWGER:** Thank you, Madame President and colleagues in the Senate. I rise because I hope there is not a lengthy debate on this issue because I hope we can all support the majority Ought to Pass as Amended report. I just wanted to give you a little bit of information. There has been an awful lot of information floating around on the internet on this bill and I just wanted to set the record straight. Also, while I generally think that bills that are good for the environment are all good bills for the

economy, I think this is a bill that we can agree is certainly good for both. I passed around to all of you a chart showing the biomass boilers in the state of Maine. I didn't really identify that, but that chart pertains to this bill. This, by the way, is a 12 - 1 ought to pass report. The shaded boilers on this chart are those that are currently allowed, under current law and current permits, to burn assorted construction demolition debris wood. I want to make it clear that this bill does absolutely nothing to increase the amount of wood that will be allowed to be burned in any of these boilers. In fact, this bill puts a cap, a limit, as to the amount of construction demolition debris wood that can be part of your fuel mix at 50%. This bill puts a cap, I want to be clear about that, on the amount of wood that can be burned in any of these boilers. It does not affect any existing boiler in the state of Maine because all of them are burning something less than 50%. Many of them don't want to burn any of it because of the technological challenges that this brings on. By capping it at 50%, what this bill does is virtually eliminates the opportunity for a plant that is being proposed in Athens that would double the entire amount of construction demolition debris wood that is burned in the state today. It would have imported over 300,000 tons a year of out-of-state waste to be burned in the state of Maine. This bill, with the cap involved, eliminates that plant as it was being proposed today. The Athens plant was looking at burning 100% construction demolition debris fuel in their facility.

We've been waiting a long time to adopt rules to control the quality of fuel that goes into these boilers. It's called the Fuel Substitution Rule. As you see, this is L.D. 141. It was one of the first bills we considered in this session over a year and a half ago. We are now telling the Board of Environmental Protection that we need to adopt rules. The current rules in place are very lax, very loose. We've had to cover permit-by-permit the restrictions for this wood. You should feel great about voting for this bill. We are going to adopt the strictest rules in the nation for assorted construction demolition debris wood and how clean this material has to be before going into our boilers. This is a great bill for the environment and a good bill to keep our boilers in business.

I also want to point out that there is nothing in this bill that prohibits these rules from getting any stricter in the future. In fact, there is language in this bill that directs the Department of Environmental Protection to study new technology and report back to us next year as to whether we can make the rules even stricter and if it is feasible to do so. We are also directing the Department of Environmental Protection to look at implementing even stricter air emissions technology on the existing boilers that are currently licensed to burn this material.

I just want to tell you what you are doing if you don't vote for this bill. You are putting no limits on the amount of construction demolition debris wood that can be burned in the state. You might be allowing 320,000 more tons of this assorted material to come into the state and be burned in Athens. Also if you don't vote for this bill you will be voting against putting any rules that qualify the cleanliness of the wood that is going into these burners. With that said, Madame President, I hope we can all join together on this Ought to Pass as Amended report. Thank you.

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 pending question before the Senate is the motion by the Senator from Kennebec, Senator Cowger to

Accept the Majority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

ROLL CALL (#408)

The Doorkeepers secured the Chamber.

YEAS: Senators: None

The Secretary opened the vote.

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

ROLL CALL (#407)

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

No Senator having voted in the affirmative and 35 Senators having voted in the negative, 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 **Ernest W. Hilton** of Starks for reappointment to the Environmental Protection Board was **CONFIRMED**.

NAYS: Senators: None

35 Senators having voted in the affirmative and no Senator having voted in the negative, the motion by Senator **COWGER** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (S-573)** Report, **PREVAILED**.

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

READ ONCE.

Senate at Ease.

Committee Amendment "C" (S-573) **READ** and **ADOPTED**.

Senate called to order by the President.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

ENACTORS

The Chair laid before the Senate the following Tabled and Later (3/16/06) Assigned matter:

NOMINATION - of Ernest W. Hilton of Starks for reappointment to the Environmental Protection Board

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

Emergency Measure

Tabled - March 16, 2006, by Senator **BRENNAN** of Cumberland

Pending - **CONSIDERATION**

An Act To Amend the Harness Racing Laws Regarding Distributions from the Fund to Supplement Harness Racing Purses

(In Senate, March 16, 2006, Communication (S.C. 526) from the Committee on **NATURAL RESOURCES READ** and **ORDERED PLACED ON FILE.**)

S.P. 786 L.D. 2042
(C "A" S-553)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **NATURAL RESOURCES** be overridden?"

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 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.

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.

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

The Secretary opened the vote.

ENACTORS

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

Emergency Resolve

Resolve, To Clarify Contingency Allowance under the Certificate of Need Law

S.P. 701 L.D. 1784
(C "A" S-548)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 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 33: Home Day Care Provider Rules, a Major Substantive Rule of the Department of Health and Human Services

H.P. 1459 L.D. 2064

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 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.

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

ENACTORS

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

Acts

An Act To Create Employment Opportunities for People with Disabilities

H.P. 1351 L.D. 1910
(C "A" H-938)

An Act Regarding Prescription Drug Information Intermediaries

S.P. 771 L.D. 1992
(C "A" S-549)

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

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

ENACTORS

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

Resolve

Resolve, Authorizing a Pilot Project To Allow Timber Harvesting Equipment To Be Moved during Nighttime

H.P. 1454 L.D. 2058
(C "A" H-942)

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

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

ENACTORS

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

Emergency Measure

An Act To Amend the Rule-making Authority of the Commissioner of Public Safety Regarding the Construction, Installation, Maintenance and Inspection of Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances

H.P. 1265 L.D. 1825
(C "A" H-943)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 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.

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

ENACTORS

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

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 115: Certification, Authorization and Approval of Educational Personnel, Part I and Part II, a Major Substantive Rule That Has Been Provisionally Adopted by the Department of Education

H.P. 1375 L.D. 1963

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 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 895: Underground Facility Damage Prevention Requirements, a Major Substantive Rule of the Public Utilities Commission
H.P. 1456 L.D. 2060
(C "A" H-948)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 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.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (4/07/06) Assigned matter:

Bill "An Act To Implement the Recommendations of the ATV Trail Advisory Council"
H.P. 1453 L.D. 2057

Tabled - April 7, 2006, by Senator **WESTON** of Waldo

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-947) AS AMENDED BY SENATE AMENDMENT "A" (S-564)** thereto, in **NON-CONCURRENCE**

(In House, April 6, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-947).**)

(In Senate, April 7, 2006, Committee Amendment "A" (H-947) **READ**. On motion by Senator **BRYANT** of Oxford, Senate Amendment "A" (S-564) to Committee Amendment "A" (H-947) **READ** and **ADOPTED**.)

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

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. I appreciate the work of the chair of our committee, the good Senator from Oxford, Senator Bryant. I appreciate the reasons why he's offering this Senate Amendment, S-564. However, I would just offer to the members of this Body that our committee and the members of the Advisory Council, to include the Warden's Service, did not include these recommendations in the original bill as part of the committee amendment. I would also tell you that the Advisory Council continues to work on the age limits and the fines involved with the

ATV issue. I would ask you to oppose the motion before us. Thank you.

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 pending question before the Senate is Adoption of Committee Amendment "A" (H-947) as Amended by Senate Amendment "A" (S-564). 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 (#409)

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

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

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, **ADOPTION** of Committee Amendment "A" (H-947) as Amended by Senate Amendment "A" (S-564) thereto, in **NON-CONCURRENCE, FAILED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (4/07/06) Assigned matter:

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Further the Implementation of the Essential Programs and Services Funding Model"

S.P. 683 L.D. 1766

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (S-566)** (10 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "B" (S-567)** (2 members)

Report "C" - **Ought Not to Pass** (1 member)

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

Pending - motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-566)**

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

Senator **MITCHELL** of Kennebec requested and received leave of the Senate to withdraw her motion to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-566)**.

Same Senator moved the Senate **ACCEPT** Report "C", **OUGHT NOT TO PASS**.

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

Senator **MITCHELL:** Thank you, Madame President and colleagues in the Senate. I am moving acceptance of Report C because I have discovered all of Report A has been adopted in the budget bill that was approved by both Bodies and signed by the Governor. The appropriate motion, at this point, for those who supported Report A is Report C, which is Ought Not to Pass.

On further motion by same Senator, Report "C", **OUGHT NOT TO PASS ACCEPTED**.

On motion by Senator **RAYE** of Washington, the Senate **RECONSIDERED** whereby it **ACCEPTED** Report "C", **OUGHT NOT TO PASS**

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by Senator **MITCHELL** of Kennebec to **ACCEPT** Report "C", **OUGHT NOT TO PASS**.

The Chair laid before the Senate the following Tabled and Later (4/07/06) Assigned matter:

Emergency

An Act To Amend the Laws Relating to Motorized Scooters, Motor-driven Cycles and Mopeds

H.P. 1027 L.D. 1464
(C "B" H-730; H "A" H-747)

Tabled - April 7, 2006, by Senator **DAVIS** of Piscataquis

Pending - **ENACTMENT**, in concurrence

(In Senate, April 3, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-730) AND HOUSE AMENDMENT "A" (H-747)**, in concurrence.)

(In House, April 6, 2006, **PASSED TO BE ENACTED**.)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with 1 Senator 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.

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

ENACTORS

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

Acts

An Act To Clarify the Use of Dedicated Funds for the Preservation of Deeds Records

S.P. 804 L.D. 2063
(C "A" S-538)

An Act To Implement Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Regarding Pesticide Registration

H.P. 1460 L.D. 2065
(C "A" H-944)

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 Further Reduce Mercury Use and Emissions
S.P. 787 L.D. 2043
(C "A" S-561)

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#410)

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

NAYS: Senators: None

35 Senators having voted in the affirmative and no Senator having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

ENACTORS

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

Acts

An Act To Clarify Laws Governing Eminent Domain
H.P. 1310 L.D. 1870
(C "A" H-945)

An Act Regarding Working Waterfront Covenants
S.P. 730 L.D. 1930
(C "A" S-556)

An Act To Implement Model Time-share Foreclosure Procedures
S.P. 732 L.D. 1932
(C "A" S-557)

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

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

ENACTORS

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

Acts

An Act To Change the Date for Agency Submission of Provisionally Adopted Major Substantive Rules
S.P. 843 L.D. 2102

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

An Act To Increase Wetland Protection
H.P. 1465 L.D. 2071
(C "A" H-949)

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#411)

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

NAYS: Senators: None

35 Senators having voted in the affirmative and no Senator having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

ENACTORS

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

Resolves

Resolve, To Require the Department of Labor, in Consultation with Interested Parties, To Examine the Laws and Practices Regarding the Definition of "Employment" for Purposes of Unemployment Compensation

H.P. 1287 L.D. 1847
(C "B" H-937)

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

H.P. 1401 L.D. 1999
(S "A" S-541)

Resolve, To Ensure the Availability of Public Drinking Water Supplies

S.P. 809 L.D. 2070
(C "A" S-562)

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

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

Senator **NUTTING** of Androscoggin was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

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

On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, to Tuesday, April 11, 2006, at 10:00 in the morning.