

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

Senate Legislative Record
One Hundred and Twenty-Second Legislature

State of Maine

Daily Edition

Second Regular Session
January 4, 2006 to May 24, 2006

Pages 1382 - 2139

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

In Senate Chamber
Wednesday
April 12, 2006

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

Prayer by Senator Mary Black Andrews of York County.

SENATOR ANDREWS: Good morning. Oh Mighty God, You have given us this great state and this great land as our heritage. We humbly pray that we may always remember Your generosity and faithfully do Your will. Bless our state and our land with honest industry, truthful education, and an honorable way of life. Defend our liberties and strengthen the resolve of the people of this state who have come throughout the U.S. to make this state their home. Lead us to chose the harder right rather than the easier wrong. Help us to appreciate the opportunities that are ours as we struggle to bring harmony to an unsettled world. May we balance our concern for justice with a willingness to display mercy and may our concern for security be tempered with the willingness to take risks that will produce worthwhile change for the good of all people. Oh Lord, we pray for Your guidance as we work together for the best interest of our communities, our state, our nation, and over all the world and the ultimate goal of peace. When times are prosperous, let our hearts be thankful and in troubled times may our deepest trust be in You. Amen.

Reading of the Journal of Tuesday, April 11, 2006.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.P. 848

**STATE OF MAINE
122ND MAINE LEGISLATURE**

April 10, 2006

Sen. Kenneth T. Gagnon
Senate Chair, Joint Standing Committee on Legal and Veterans Affairs
Rep. John L. Patrick
House Chair, Joint Standing Committee on Legal and Veterans Affairs
122nd Legislature
Augusta, ME 04333

Dear Senator Gagnon and Representative Patrick:

Please be advised that Governor John E. Baldacci has nominated A. Mavourneen Thompson of Peaks Island for appointment to the Commission on Governmental Ethics and Election Practices.

Pursuant to Title 1 M.R.S.A. §1002, this nomination will require review by the Joint Standing Committee on Legal and Veterans Affairs and confirmation by the Senate.

Sincerely,

S/Beth Edmonds
President of the Senate

S/John Richardson
Speaker of the House

READ and REFERRED to the Committee on **LEGAL AND VETERANS AFFAIRS.**

Sent down for concurrence.

The Following Communication: S.P. 850

**STATE OF MAINE
122ND MAINE LEGISLATURE**

April 10, 2006

Sen. Nancy B. Sullivan
Senate Chair, Joint Standing Committee on Insurance and Financial Services
Rep. Anne C. Perry
House Chair, Joint Standing Committee on Insurance and Financial Services
122nd Legislature
Augusta, ME 04333

Dear Senator Sullivan and Representative Perry:

Please be advised that Governor John E. Baldacci has nominated Jonathan Beal of Portland and Edmund McCann of Hallowell for appointment to the Board of Directors of Dirigo Health.

Pursuant to Title 24-A M.R.S.A. §6904, these nominations will require review by the Joint Standing Committee on Insurance and Financial Services and confirmation by the Senate.

Sincerely,

S/Beth Edmonds
President of the Senate

S/John Richardson
Speaker of the House

READ and REFERRED to the Committee on **INSURANCE AND FINANCIAL SERVICES.**

Sent down for concurrence.

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. 629

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

April 7, 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 Robert Tyler of Princeton, 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	1	Dow of Lincoln
	Representatives	8	Austin of Gray, Beaudette of Biddeford, Crosby of Topsham, Farrington of Gorham, Jacobsen of Waterboro, O'Brien of Lewiston, Rector of Thomaston, Smith of Monmouth
NAYS		0	
ABSENT		4	Rep. Berube of Lisbon, Sen. Bromley of Cumberland, Sen. Hobbins of York, Rep. Robinson of Raymond

Nine 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 Robert Tyler of Princeton, for appointment to the Washington County Development Authority be confirmed.

Signed,

S/Lynn Bromley
Senate Chair

The Following Communication: S.C. 630

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

April 7, 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 R. Porter of Calais, 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	1	Dow of Lincoln
	Representatives	8	Austin of Gray, Beaudette of Biddeford, Crosby of Topsham, Farrington of Gorham, Jacobsen of Waterboro, O'Brien of Lewiston, Rector of Thomaston, Smith of Monmouth

NAYS 0

ABSENT		4	Rep. Berube of Lisbon, Sen. Bromley of Cumberland, Sen. Hobbins of York, Rep. Robinson of Raymond
--------	--	---	---

Nine 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 R. Porter of Calais, 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. 631

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

April 7, 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 C. Burns of Whiting, 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	1	Dow of Lincoln
	Representatives	8	Austin of Gray, Beaudette of Biddeford, Crosby of Topsham, Farrington of Gorham, Jacobsen of Waterboro, O'Brien of Lewiston, Rector of Thomaston, Smith of Monmouth

NAYS 0

ABSENT 4

Rep. Berube of Lisbon, Sen. Bromley of Cumberland, Sen. Hobbins of York, Rep. Robinson of Raymond

Nine 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 C. Burns of Whiting, 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. 632

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

April 7, 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 W. Parker of Veazie, 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 1 Dow of Lincoln
 Representatives 8 Austin of Gray, Beaudette of Biddeford, Crosby of Topsham, Farrington of Gorham, Jacobsen of Waterboro, O'Brien of Lewiston, Rector of Thomaston, Smith of Monmouth

NAYS 0

ABSENT 4 Rep. Berube of Lisbon, Sen. Bromley of Cumberland, Sen. Hobbins of York, Rep. Robinson of Raymond

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 1 Dow of Lincoln
 Representatives 8 Austin of Gray, Beaudette of Biddeford, Crosby of Topsham, Farrington of Gorham, Jacobsen of Waterboro, O'Brien of Lewiston, Rector of Thomaston, Smith of Monmouth

NAYS 0

ABSENT 4 Rep. Berube of Lisbon, Sen. Bromley of Cumberland, Sen. Hobbins of York, Rep. Robinson of Raymond

Nine 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 W. Parker of Veazie, 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.**

Nine 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 Eric G. Robinson of Alexander, 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. 633

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

April 7, 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 Eric G. Robinson of Alexander, for appointment to the Washington County Development Authority.

The Following Communication: S.C. 624

**122ND LEGISLATURE
 OFFICE OF THE PRESIDENT
 AUGUSTA, MAINE 04333**

April 10, 2006

Honorable Joy O'Brien
 Secretary of the Senate
 3 State House Station
 Augusta, ME 04333

Dear Secretary O'Brien:

Pursuant to my authority under Public Laws 2001, Chapter 439, Part PPPP, I am pleased to appoint Alec Hartman of Vassalboro to the Legislative Youth Advisory Council, representing a member enrolled in an equivalent instruction program.

Please contact my office if you have any questions regarding this appointment.

Sincerely,

S/Beth Edmonds
President of the Senate

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 636

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

April 6, 2006

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

Dear President Edmonds and Speaker Richardson:

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

- L.D. 1729 An Act To Promote College Savings Accounts
- L.D. 1775 An Act To Establish a Refundable Historic Rehabilitation Credit
- L.D. 1809 An Act To Provide Additional Property Tax Relief to Maine Citizens
- L.D. 2073 An Act To Bring Maine's Sales and Use Tax Law into Conformity with the Streamlined Sales and Use Tax Agreement

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

Sincerely,

S/Sen. Joseph C. Perry
Senate Chair

S/Rep. Richard G. Woodbury
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

SECOND READERS

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

House As Amended

Bill "An Act To Strengthen and Improve Review Procedures in the Certificate of Need Program"

H.P. 1254 L.D. 1814
(C "A" H-934)

Bill "An Act To Provide Emergency Regional Economic Development Assistance for Brunswick Naval Air Station"

H.P. 1369 L.D. 1955
(C "A" H-980)

Bill "An Act To Establish the Midcoast Regional Redevelopment Authority" (EMERGENCY)

H.P. 1371 L.D. 1957
(C "A" H-981)

Bill "An Act To Prevent Unauthorized Practice of Immigration and Nationality Law" (EMERGENCY)

H.P. 1398 L.D. 1996
(C "A" H-977)

Bill "An Act Relating to Payday Loans"

H.P. 1469 L.D. 2076
(C "A" H-982)

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

H.P. 1484 L.D. 2092
(C "A" H-986)

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

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
(S "A" S-592 to C "A" H-822)

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

(See action later today.)

Senate As Amended

Bill "An Act To Improve Early Childhood Special Education"
(EMERGENCY)

S.P. 689 L.D. 1772
(C "A" S-585)

Bill "An Act To Invest in the Future of Maine Citizens"

S.P. 751 L.D. 1954
(C "A" S-586)

Bill "An Act To Strengthen Maine's Craft Brewers"

S.P. 792 L.D. 2048
(C "A" S-588)

Resolve, To Reduce State Valuation as a Result of the Closure of Georgia-Pacific Facilities (EMERGENCY)

S.P. 838 L.D. 2096
(C "A" S-590)

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

Sent down for concurrence.

On motion by Senator **WESTON** of Waldo, the Senate **RECONSIDERED** whereby it **PASSED TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**, the following:

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
(S "A" S-592 to C "A" H-822)

(In House, April 7, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-822).**)

(In Senate, April 11, 2006, the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence. **READ ONCE.** Committee Amendment "A" (H-822) **READ.** On motion by Senator **MITCHELL** of Kennebec, Senate Amendment "A" (S-592) to Committee Amendment "A" (H-822) **READ** and **ADOPTED.** Committee Amendment "A" (H-822) as Amended by Senate Amendment "A" (S-592) thereto, **ADOPTED**, in **NON-CONCURRENCE.**)

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE.**

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

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 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)

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 Measure

An Act To Protect the Privacy of Cellular Telephone Customers

H.P. 1436 L.D. 2038
(H "A" H-956 to C "A" H-892)

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.

Off Record Remarks

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 III, Section 50: Intermediate Care Facilities for the Mentally Retarded, a Major Substantive Rule of the Department of Health and Human Services

H.P. 1458 L.D. 2062

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:

**Pursuant to Constitution
Public Land**

Resolve, Authorizing the Department of Conservation, Bureau of Parks and Lands To Convey Certain Lands

S.P. 827 L.D. 2095
(H "A" H-967)

In accordance with the provisions of Article IX, Section 23 of the Constitution, this requires the affirmative vote of two-thirds of the entire elected Membership of the Senate, 35 Senators having voted in the affirmative and 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 Allow Small Businesses To Participate in Liquor Sales

H.P. 1260 L.D. 1820
(S "A" S-560 to C "A" H-821)

An Act To Amend the Notice of Risk to Personal Data Act

H.P. 1417 L.D. 2017
(C "A" H-925)

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:

Resolves

Resolve, To Ensure Coordination and Effectiveness in the Provision of Services under the MaineCare Noncategorical Waiver

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

Resolve, To Direct the Public Utilities Commission To Examine Continued Participation by Transmission and Distribution Utilities in This State in the New England Regional Transmission Organization

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

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

Off Record Remarks

ORDERS OF THE DAY

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

NOMINATION - of Robert Tyler of Princeton, for appointment to the Washington County Development Authority

Tabled - April 12, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

(In Senate, April 12, 2006, Communication (S.C. 629) 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 (#419)

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

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 **Robert Tyler** of Princeton, 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 **James R. Porter** of Calais, 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:

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

NOMINATION - of James R. Porter of Calais, for appointment to the Washington County Development Authority

NOMINATION - of David C. Burns of Whiting, for appointment to the Washington County Development Authority

Tabled - April 12, 2006, by Senator **GAGNON** of Kennebec

Tabled - April 12, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

Pending - **CONSIDERATION**

(In Senate, April 12, 2006, Communication (S.C. 630) from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT, READ and ORDERED PLACED ON FILE.**)

(In Senate, April 12, 2006, Communication (S.C. 631) 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?"

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.

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

The Secretary opened the vote.

ROLL CALL (#420)

ROLL CALL (#421)

YEAS: Senators: None

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

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 **David C. Burns** of Whiting, 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 **James W. Parker** of Veazie, 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:

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

NOMINATION - of James W. Parker of Veazie, for appointment to the Washington County Development Authority

NOMINATION - of Eric G. Robinson of Alexander, for appointment to the Washington County Development Authority

Tabled - April 12, 2006, by Senator **GAGNON** of Kennebec

Tabled - April 12, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

Pending - **CONSIDERATION**

(In Senate, April 12, 2006, Communication (S.C. 632) from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT, READ and ORDERED PLACED ON FILE.**)

(In Senate, April 12, 2006, Communication (S.C. 633) 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?"

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.

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

The Secretary opened the vote.

ROLL CALL (#422)

ROLL CALL (#423)

YEAS: Senators: None

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 **Eric G. Robinson** of Alexander, for appointment to the Washington County Development Authority was **CONFIRMED**.

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

Senate at Ease.

Senate called to order by the President.

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:

Act

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)

Comes from the House, **FAILED PASSAGE TO BE ENACTED**.

On motion by Senator **PERRY** of Penobscot, Bill and accompanying papers **INDEFINITELY POSTPONED**.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (4/11/06) Assigned matter:

Bill "An Act To Amend Certain Animal Health Laws"
H.P. 1293 L.D. 1853
(C "B" H-918)

Tabled - April 11, 2006, by Senator **NUTTING** of Androscoggin

Pending - motion by same Senator to **RECEDE** and **CONCUR**

(In Senate, April 5, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-918)**, in concurrence.)

(In House, April 11, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-918) AS AMENDED BY HOUSE AMENDMENT "A" (H-988)** thereto, in **NON-CONCURRENCE**.)

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

Senator **RAYE:** Thank you, Madame President, men and women of the Senate. Since we did debate this matter earlier, I just wanted to rise to say that I do support the direction that we are taking here today, given the fact that we have now heard from the U.S. Secretary of Agriculture that they may be coming down with some requirements. I think it is prudent that we follow the lead of the other Body and proceed with this matter. Thank you.

On motion by Senator **NUTTING** of Androscoggin, the Senate **RECEDED** and **CONCURRED**.

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

Senator **SULLIVAN** of York was granted unanimous consent to address the Senate off the Record.

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

Off Record Remarks

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

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

On motion by Senator **BRENNAN** of Cumberland, **RECESSED** until 11:30 in the morning.

After Recess

Senate called to order by the President.

Off Record Remarks

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

PAPERS FROM THE HOUSE

**Pursuant to Statute
Department of Labor**

The **Department of Labor**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 17: Rules Regarding Proof of Ownership by Employers Employing Foreign Laborers To Operate Logging Equipment, a Major Substantive Rule of the Department of Labor (EMERGENCY)

H.P. 1501 L.D. 2109

Be **REFERRED** to the Committee on **LABOR** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **LABOR** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **GAGNON** of Kennebec, **REFERRED** to the Committee on **LABOR** and ordered printed pursuant to Joint Rule 218, in concurrence.

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

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

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
(S "A" S-592 to C "A" H-822)

Tabled - April 12, 2006, by Senator **WESTON** of Waldo

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**

(In House, April 7, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-822).**)

(In Senate, April 11, 2006, the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "A" (H-822) **READ**. On motion by Senator **MITCHELL** of Kennebec, Senate Amendment "A" (S-592) to Committee Amendment "A" (H-822) **READ** and **ADOPTED**. Committee Amendment "A" (H-822) as Amended by Senate Amendment "A" (S-592) thereto, **ADOPTED**, in **NON-CONCURRENCE**.)

(In Senate, April 12, 2006, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**. On motion by Senator **WESTON** of Waldo, **RECONSIDERED**.)

On motion by Senator **ROSEN** of Hancock, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-822) as Amended by Senate Amendment "A" (S-592) thereto.

On further motion by same Senator, Senate Amendment "B" (S-595) to Committee Amendment "A" (H-822) **READ**.

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

Senator **ROSEN:** Thank you, Madame President, ladies and gentlemen of the Senate. This is the bill that we discussed yesterday regarding a register for lobbyists that includes information that incorporates the photo. As I took a look at the current statute, just to make everyone aware, the lobbyist effort, the registered lobbyists that are a part of the Executive Branch, agencies, departments of the Executive Branch, that have currently men and women that fill positions as legislative liaison or otherwise are, in fact, lobbyists, are required, and have been required for quite some time, to register as lobbyists. There is a line in the current statute that exempts them from other statutory requirements and I'm sure that this friendly amendment will be accepted with the good intentions that I offer, which is to simply make sure that the Executive Branch lobbyists come under the same requirements that all of the other lobbyists are going to comply with. That is that they would also be listed in registry with their photos like every other lobbyist would be the way the bill is currently designed. It clarifies the issues and brings everyone under the same requirements. I hope you support the amendment.

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **ROSEN** of Hancock to **ADOPT** Senate Amendment "B" (S-595) to Committee Amendment "A" (H-822).

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

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

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
(S "A" S-592 to C "A" H-822)

Tabled - April 12, 2006, by Senator **GAGNON** of Kennebec

Pending - motion by Senator **ROSEN** of Hancock to **ADOPT** Senate Amendment "B" (S-595) to Committee Amendment "A" (H-822)

(In House, April 7, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-822).**)

(In Senate, April 11, 2006, the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence. **READ ONCE.** Committee Amendment "A" (H-822) **READ.** On motion by Senator **MITCHELL** of Kennebec, Senate Amendment "A" (S-592) to Committee Amendment "A" (H-822) **READ** and **ADOPTED.** Committee Amendment "A" (H-822) as Amended by Senate Amendment "A" (S-592) thereto, **ADOPTED**, in **NON-CONCURRENCE.**)

(In Senate, April 12, 2006, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE.** On motion by Senator **WESTON** of Waldo, **RECONSIDERED.** On motion by Senator **ROSEN** of Hancock, **RECONSIDERED ADOPTION** of Committee Amendment "A" (H-822) as Amended by Senate Amendment "A" (S-592) thereto. On further motion by same Senator, Senate Amendment "B" (S-595) to Committee Amendment "A" (H-822) **READ.**)

Senator **GAGNON** of Kennebec moved to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-595) to Committee Amendment "A" (H-822).

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 Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. I move to Indefinitely Postpone even though I don't necessarily think this is a bad idea. This bill was intended to be specifically related to a register of lobbyists and not an expansion, change, deletion, or whatnot. That is where it currently sits and this would dramatically change that. I would encourage you to support my motion to Indefinitely Postpone.

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

Senator **ROSEN:** Thank you, Madame President, men and women of the Senate. I have to respectfully disagree with my

good colleague from Kennebec. I don't see that this is a dramatic change or expansion. The members of the Executive Branch that hold positions as lobbyists are required, and have been required since the late 1980's, to register as lobbyists. Many of them, hopefully all of them, that are required to do that do comply. The original bill deals with registered lobbyists and they are, in fact, registered lobbyists. They are registered now. If this is a bill that wants to address transparency I think it's hard to argue that the army of Executive Branch lobbyists that are here in this building to influence those of us, as was discussed the other day, that press the buttons and make the decisions to vote. They certainly do represent a very significant element of the lobby. For them to not be included, as is every other registered lobbyist, as part of this register seems to be incomplete and does not fulfill the hope and the desire that this is providing through openness and transparency. I hope you will reject the motion and go on to adopt this amendment.

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

Senator **MITCHELL:** Thank you, Madame President and colleagues in the Senate. Very briefly. I encourage you to Indefinitely Postpone this amendment. As you recall, I gamely fought for another piece of legislation, which this chamber did not accept, which would have given us the opportunity to do more things with members of the Executive Branch. That failed. The only thing before us now is simply the registry. It is what it is what it is. This simply allows us to put on a website existing law. This is not the vehicle for making changes of the magnitude that good Senator is supporting. I encourage you to vote for Indefinite Postponement.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Gagnon to Indefinitely Postpone Senate Amendment "B" (S-595) to Committee Amendment "A" (H-822). 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 (#424)

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

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

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **GAGNON** of Kennebec to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-595) to Committee Amendment "A" (H-822), **PREVAILED.**

On motion by Senator **DAVIS** of Piscataquis, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-822) as Amended by Senate Amendment "A" (S-592) thereto, in **NON-CONCURRENCE**.

The Chair laid before the Senate the following Tabled and Later (4/11/06) 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 11, 2006, by Senator **DAVIS** of Piscataquis

Pending - motion by Senator **MITCHELL** of Kennebec to **ACCEPT** Report "C", **OUGHT NOT TO PASS**

(In Senate, April 10, 2006, Senator **MITCHELL** of Kennebec withdrew her motion to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-566)**. On further motion by same Senator, Report "C", **OUGHT NOT TO PASS ACCEPTED**. On motion by Senator **RAYE** of Washington, **RECONSIDERED**.)

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. It is important that we defeat this motion because this is the Senate's opportunity to address the inequities that current law imposes regarding a labor market index within the Essential Programs and Services formula. You will note from the handouts that have been distributed by the Senator from Waldo, Senator Weston, that those inequities are real and they have significant consequences in many of our communities across this state. We must not codify existing income disparities that will make it impossible for many of our schools to ever compete for the teachers that we so desperately need. Let's stand behind the long-held fundamental principle of Maine's historic commitment to insuring an equal education, no matter where in this great state one may live. Please join me in opposing the pending motion.

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

Senator **MITCHELL:** Thank you, Madame President and distinguished colleagues in the Senate. Very briefly. The concern that is being raised here is what's fondly called labor market areas. The bad news is that labor market areas reflect in

our school funding how things really exist out in the marketplace, not what they should be. Communities have the opportunity to raise those salaries that are impacted by labor market areas by increasing those salaries that get fed into the Essential Programs and Services formula. Those of you who are concerned about this, soon you will have an opportunity to increase the wages of teachers. That is the clearest way to change the reality of these labor market areas that are impacting your schools. The other sad proof is that it is not one of inequity, but rather it is an attempt for the state to define what is the cost of Essential Programs and Services. Part of that is the cost of paying your personnel. You are not forever frozen, as the good Senator suggested, at a lower wage rate. That is simply not the way the formula works. The truth of the matter is, at this point, should one move the labor market areas at this state of the game there are two ways to do that. That would be to rerun the entire school allocations, assuming the pie is the same and I look to my good friends on the Appropriations Committee who tell me there is no more money. My belief is this is what would happen. That same pie would have to be reallocated, affecting every school district in the state. There would be some winners and there would be some losers. Those school budgets that have already been voted on at home would have to be reopened. Is that fair?

In our committee we have people who come from high labor market areas as well as low labor market areas. They would be very distressed to learn that, simply because they pay their teachers a high wage and that they live in an area of the state where housing costs are very high, they would have to give back what it actually costs them to pay teachers to help those units which in most cases are very high receivers of state aide, the ones who would get more state aide. That's one option. The other option is to add more money and frankly I have no idea how much more that would be. We'd have to recalculate everything. If you think you are in the middle of the labor market areas and it wouldn't impact you, it really isn't true because it might cost us to have to raise that mill rate which is the minimum effort everybody has to make. This is a very far-reaching thing.

The only comfort I can offer to my good colleague from Washington County is that the top item on our list is to find if there is a better way to do labor market areas. This is not something we made up as a committee. It comes from the Department of Labor. It is, in theory, a reflection of what it cost to live and do business in certain areas. Is there a better way? That is the top issue for the institute that we've hired through the university to evaluate issues of note. That will be there. I would encourage you to think very carefully and would encourage you to vote Ought Not to Pass knowing that this issue is very real to many communities, that there is a great deal of sympathy, but there has also been an effort to address many of the inequities there are spoken of here. The transportation budget was increased so that rural communities get the better of actual mileage so they get the better of that. Extra money was put in for small rural schools. We're running as fast as we can to make this as equitable as possible. We're also moving towards that 55% statewide for school funding. This is not the way to fix the problem, although I'm sympathetic to your concerns. I encourage you to vote with me on Ought Not to Pass.

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

Senator **MILLS**: Thank you, Madame President and men and women of the Senate. This has been an ongoing discussion between myself and Professor Silver now for about three years. When I first heard that they were going to take existing salary data as the base in each case from which to go forward and fund EPS I was deeply distressed. The effect of the formula would be to freeze existing patterns of under funding in some districts and perhaps over generous funding in others. I thought the whole purpose of EPS, as was with the previous formula, was to distribute funds on the basis that they would be there to help districts who do not have the resources with which to help themselves. I'm afraid that has not happened. One of the biggest reasons that L.D. 1 suffered what I have called the dead cat bounce last February when we produced it was that we were discounting the state's share of its distribution to 84%. We were discounting the state's share by 16%. There was a percentage reduction built into the formula of about 16% so that very high receiving districts were suffering something close to a 12% to 14% loss below what Essential Programs and Services required. On top of that we told certain districts that their teachers were only worth 84% of what they were worth in other regions. You had the percentage discount actually multiplied times the labor market survey data with regard to salaries. You had a double-whammy hitting some districts that weren't well favored by the labor market system.

There are good reasons to vary the assumed salaries of teachers from one district to another. My view is that there is only one such reason and that is the difference in housing costs. Every other cost of living, every other element of the household budget, is pretty much the same from one area to the other. Food, gasoline, heating fuel, or clothing, there may be minor differences of course, but they don't vary greatly. Housing costs do. The problem with our existing salaries that we pay teachers is that they don't vary by the difference in housing costs; they vary depending on whether you have a papermill, a lakefront, or an oceanfront in your town. A town that has a lot of saltwater property pays its teachers a whole lot more than a town that doesn't have high value attributes. That's that basis and that's the very distinction that the school funding formula should seek to eradicate.

I just think we need to get this thing out in the open. We need to fix it sooner rather than later because by delaying the implementation of EPS over a 4-year phase-in, rather than doing it in one or two years as I had proposed, because once we get to a full 55% funding of the formula you will not be able to make large scale adjustments without raising Cain all over the state. As they say, the losers always whine louder than the winners sing. We will not get the job done. The time to fix this defective formula is now, maybe not this year but next year, so that we can start fixing it at a time where there is new money flooding into the system. I'm just very distressed that we adopted a defective system in the first place. I think it was one of the major reasons why there was such widespread public dismay at the arrival of L.D. 1. I fought it as hard as I could. The problem you have is that this isn't a well-understood issue and it's hard to garnish support for it. I'm just very glad that the Senator from Washington, Senator Raye, brought this issue out into the open. I know that there are members of the Education Committee who are sensitive to this issue. Until we get it onto the floor of the Senate and start talking about it publicly, it's very hard to put pressure on people to start doing it right. That's why I support the amendment. Thank you.

Same Senator requested a Roll Call.

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

Senator **TURNER**: Thank you, Madame President, ladies and gentlemen of the Senate. First of all, I support the motion before us, which is Ought Not to Pass. I do agree with a number of things put forward by the Senator from Somerset, Senator Mills. For example, he said this a very complex undertaking. Most of the people in this chamber, if we sit and talk about this for three or four hours, will still not have a good understanding of the EPS school funding formula. This is not the place or the time to be making wholesale changes to it, which is why I support the motion before us. The plan of the Education Committee is to look at this element and come back to the 123rd in January with changes to this aspect of the school funding formula. It is not, as the Senator from Washington, Senator Raye, categorized it a formula that disadvantages and forever holds his Senate district in economic bondage because they happen to pay lower salaries than some other places.

In the fullness of time, as we've looked at this funding formula we have been able to make a whole series of changes to correct inequities. We were able to unbed in the supplemental budget just passed, for example, a mechanism that deal with spikes in assessment. That's a good thing. That's one of the things that, frankly, hurts Washington County. For many years the real estate values languished. In the past year or so they have been going up at the rate of 30% to 35% a year. No matter how you slice a school funding formula the two drivers are always the number of students and property evaluation. In the case of the Senator from Washington, Senator Raye, he's been hurt in both ways because the evaluations have gone up significantly and the student enrollments have gone down significantly. I think the best way to deal with this is to allow the committee to work it, work it aggressively, and come forward with a reasonable proposition that everybody understands and can be in a position to support based on knowledge and understanding as opposed to emotion. Again, Madame President, I would encourage support of the pending motion.

On motion by Senator **MILLS** of Somerset, 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 Kennebec, Senator Gagnon.

Senator **GAGNON**: Thank you, Madame President, men and women of the Senate. Just to be sure that people understand that there are some people who are singing the phrases of L.D. 1. I've been in the legislature for almost ten years now. I came here with the effort to try to do something about property taxes. Last year my community, the city of Waterville, for the first time in my 25 years of living in that city, had a tax decrease. We went from one of the highest rates in the state of Maine, somewhere around 28 mills, and were able to cut taxes last year by not quite a mill. It was the first time we've seen a tax cut in the city of Waterville. In today's local paper, The Morning Sentinel, the city council has decided to lower taxes by one full mill in the city of Waterville as directly related to L.D. 1. Thank you.

THE PRESIDENT: The Chair will remind members to speak to the motion at hand. The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. I used to dream of the day when Essential Programs and Services would be rolled out because our discussion was that all children would receive a quality education, no matter where they lived. We would decide what was essential and what was necessary. We would decide how much it costs to provide that essential education. Those towns and districts who couldn't muster that amount would be subsidized by the state. What we got was something different than that.

In the town of Waldo, in the county of Waldo, that particular town is part of MSAD 3 even though the town itself borders the city of Belfast, which is MSAD 34. A teacher beginning in MSAD 3 will start at the minimum of \$7,000 less than MSAD 34. They are going to be continually be punished because MSAD 3 is a more rural district. If you look at their printouts you will see that they have to subtract because they pay their teachers less. The dream and the hope of Essential Programs and Services was not to keep these schools down, but to be able to have them offer more and be able to compete for those top quality teachers. My husband is an elementary principal and he loses teachers almost annually to these nearby districts. I know that every year I've been here we have stood and said the school funding formula is too complicated for us to deal with and we must let this go and let the committee take it up another time. My hopes have been diminished in what we've seen and the promises I gave my school districts have seemed to fallen empty. I'm going to urge you not to support the motion before us, but especially if you have a rural district, I would ask you to reconsider this motion and to on to something that could possibly be presented soon that would correct this and not make our school districts bound for this downwards spiral. Thank you.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I obviously represent rural Maine. It's about as rural as it comes. I understand the issues that have been laid out for us this morning. One of the problems we have is the fact that in many of the school districts the school boards refused to pay their teachers and have constantly held the salary of teachers down. I say that as a person who is on a school board, who is the chief negotiator for the board, and has constantly fought to raise the salaries for our beginning teachers. I can't have a better argument today than the argument I've just heard to raise the minimum salary for teachers. Then it will, in fact, help those municipalities get more money from the state. I look at Washington, Piscataquis, Northern Penobscot, and rural Aroostook. If you look at the beginning salaries for teachers at \$22,000, is it any wonder that we're losing teachers to other districts? We had no choice because we were losing them to Madawaska. If we wanted to keep our teachers, we had to pay them. It's made a difference. I think it's clearly an issue that is very local. I'm not at all the believer of the system of where we are in our payment schedule and reimbursement formula. I'm not sure I'm there all the way with some of the proponents of it, but I do see the benefit of where it can go. I have problems with the

labor market. I'm just glad that the committee choice the old labor market than the new labor market proposed by the Department of Labor. That's going to have to change as well because this entire state has been redone in terms of labor market. We need to be concerned about that. The one thing I don't see is deciding at this point that we're going to send out new figures for school districts because we're there and we have made out budgets and plans on what we are going to get. We need to keep working at this system and improving it next year, but I will simply say to Waldo to raise your teacher's salaries.

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

Senator **RAYE:** Thank you, Madame President, men and women of the Senate. I just wanted to respond to a couple of things that have been said by my good colleagues here. With regard to the cost of living, there is more than housing at play. I would point out that residents of Washington and Aroostook Counties, and this has been confirmed by a study recently done by the Attorney General, are paying 20¢ to 25¢ more per gallon of gasoline. They similarly pay more for home heating oil. These are parts of the state where incomes are low, so those things need to be factored in as well. I wanted to also respond to my friend, the good Senator from Kennebec, Senator Mitchell, who is also the chair of the Education Committee, with respect to the comments that she made about changing this years formula. There is no proposal before us to do that. I would not propose to do that. I just wanted to make sure that it is on record here in the Senate that this is not part of this discussion. I would close by urging you to defeat the motion so we can move on. 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 want to address comments to the Body as a whole, but I must take issue with some of the things suggested by my good colleague, the Senator from Waldo, Senator Weston. First of all, the Maine Learning Results and Essential Programs and Services funding mechanism, if you like the term use it, if you don't it is reality. This is an inadequacy funding model that says that we want to provide an equal opportunity for children in Waldo County, Cumberland County, Kennebec County, Penobscot County, or Washington County with an opportunity to meet the Learning Results. That is a pretty arduous standard that we have set for our children on a go-forward basis. Within L.D. 1, if you wish to allocate more money as a municipality, you have the option of doing that by going before your voters and saying that meeting the Maine Learning Results is enough for you and you want to spend more. You would then take your risk with the voters in trying to insure that this money actually gets allocated. The obligation of the state, under the Maine Learning Results and the Essential Programs and Services funding mechanism, is to insure that everybody has an opportunity to meet the Maine Learning Results. Not to far exceed them or exceed them at times, but to meet them.

I was criticized by a Superintendent in my district. He said, 'Inadequacy funding model, that's unacceptable. We should be scheming to always succeed.' Wonderful suggestion that would cost us boatloads of money. Again, I urge you to allow the Education Committee to continue to do its work with respect to

Essential Programs and Services and bring something forward when we fully understand the implications of it financially and the impact on all of our various areas of the state as we have done with several elements within the school funding formula that came out of L.D. 1 fifteen months ago. We have worked hard and have made a number of changes to it. Taking and gutting this particular aspect of it is a big mistake, in my opinion. Again, I urge you to support the pending motion. Thank you very much, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. I will try to be brief because I don't know how long my voice can last. I've got to kind of agree with the good Senator from Kennebec, Senator Mitchell, about running as fast as we can. My position, though, is that we need to run away from EPS as fast as we can. In a previous school funding formula, offered by myself and the good Senator from Somerset, Senator Mills, teachers salaries were based on your ability to pay. If you had only a \$150,000 valuation per student, you got extra money to make up the difference so you could try to compete. Under EPS, as I've looked through this handout, if you have \$1 million valuation per student you pay your teachers more and the new formula rewards you for doing that, for having that huge valuation per student. Your number is 1.12 or 1.08. As I look at these school districts in Maine that have the highest actual mill rate effort per student, that's rural Maine, they are always at .82 or .88. They are penalized for that. What this does, by using a labor market, is rewards those that have high valuations per students. To me the proof is in the pudding, so to speak. It's very sad. Now, for the first time ever in the state of Maine, we have 100 school districts that have 1/3 the mill rate effort for education as the poorest 100 school districts. We've never had that before. That, in my opinion, has largely been created by EPS. I can't support this motion and I just wanted to explain why. Thank you.

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

Senator **MITCHELL:** Thank you, Madame President and colleagues in the Senate. I will be brief, but I want to bring the discussion back. I've very fortunate, my communities are basically in the middle. We're not to the extremes that the communities feel that they are disadvantaged by this formula. We're not enriched by the formula. I have the advantage of chairing the committee and also have presided over several wars in dividing up school funding. That is what this is about. I am encouraging you to think as a community today. Many of you who have spoken against the current formula receive over 60% to 70% of your funding from the state. We're trying to give you more by going to 55% state funding. Should this motion fail the only thing left to do, if there is no new formula being done, is to ask for some more money from somewhere, I don't know where, or to go back and take it from those communities who raise most of their money on their own. There is no other way. I look at the salaries. As my good colleague from Aroostook, Senator Martin, mentioned, almost all of those people who are concerned about the labor market area have pathetically low salaries for their teachers. I know that you are saying that this is true because you have no ability to raise those funds, but I would point out to you

that you are getting 60% to 70% of your funding from the state now and perhaps it is time to take a look.

This bill, this proposal, the labor market thing, has nothing to do with teacher retention or recruitment. You are going to have to face that issue head on some other way. What it does is looks at what things are, as they exist, not what we want them to be. Money is being given to rural areas. If the chose to raise those salaries as one of their goals, they can do that and more money continues to flow. I would request that you think as a community, that you think of schools from the so-called wealthiest schools, from the property rich parts of the state, to those who feel that they have no property valuation. This bill tries to serve all of our kids. I hate to see it turned into a rural versus urban or north versus south. It isn't that. I implore you to vote with the Ought Not to Pass and let's deal with teacher recruitment and retention in Waldo and other places in a more appropriate way and come up with a better proxy, if you have one. As has been mentioned, housing costs do drive many of the differences in the labor markets. Is it perfect? No, but not one of you came to our committee, no one came from any place, to give us a better proxy. Until you have a better answer I think it's important that you do think as a community for all the kids, whether they are from Cape Elizabeth or from Van Buren. It's very important. Please vote Ought Not to Pass and let's continue to improve this formula to make education better for all our kids.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Mitchell to Accept Report "C", Ought Not to Pass. 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 (#425)

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

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

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **MITCHELL** of Kennebec to **ACCEPT** Report "C", **OUGHT NOT TO PASS, PREVAILED.**

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

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

On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, to Thursday, April 13, 2006, at 10:00 in the morning.