

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

In Senate Chamber
Monday
April 3, 2006

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

Prayer by Reverend John J. Ward-Diorio, The First Parish Church
Congregational UCC in Freeport.

REVEREND WARD-DIORIO: Let us be together in the spirit of
prayer. Gracious and Holy God, we give You thanks for this most
beautiful day in this season that Christians call Lent. We
contemplate sacrifice and the meaning of giving ones self for
others. We are so grateful for the work of the men and women of
this chamber and their willingness to represent their districts, the
people who have elected them. We pray that they might set
about their business and do that work as best as they are able,
remembering, indeed, that they not only represent their districts
but seek to find the common good for one and all. We also ask
that we might always remember those who are most in need, for,
indeed, we are asked to seek to do the best that we can for them,
and to always remember those who have the hardest time helping
themselves. If we all might set about that task together we,
indeed, might serve them well. As we are now in the season of
spring, help us too to remember that once again we are seeing
new growth and there is new hope, and hope is so important for
one and all to hold onto. May we find ways to offer it to them.
We offer You this prayer in Your gracious and Holy name. Amen.

Pledge of Allegiance led by Senator Dana L. Dow of Lincoln
County.

Doctor of the day, Christopher Stenberg, MD, of Cape Elizabeth.

Reading of the Journal of Friday, March 31, 2006.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

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

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

In Senate, March 27, 2006, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-840)**, in
concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-840) AS
AMENDED BY HOUSE AMENDMENT "A" (H-926)** thereto, in
NON-CONCURRENCE.

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

Non-Concurrent Matter

Bill "An Act To Make Revisions to the Maine Revised Statutes
Relating to Agricultural Fairs"

H.P. 1391 L.D. 1985
(C "A" H-825)

In Senate, March 22, 2006, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-825)**, in
concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-825) AND
HOUSE AMENDMENT "A" (H-928)**, in **NON-CONCURRENCE.**

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

Non-Concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution of
Maine To Clarify Deadlines for Submitting Direct Initiatives to
Municipal Officials for Signature Verification

S.P. 782 L.D. 2033
(C "A" S-513)

In Senate, March 27, 2006, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (S-513).**

Comes from the House, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (S-513) AS
AMENDED BY HOUSE AMENDMENT "A" (H-895)** thereto, in
NON-CONCURRENCE.

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

COMMUNICATIONS

The Following Communication: S.P. 840

**STATE OF MAINE
122ND MAINE LEGISLATURE**

March 31, 2006

Sen. Arthur F. Mayo III
Senate Chair, Joint Standing Committee on Health and Human Services
Rep. Hannah Pingree
House Chair, Joint Standing Committee on Health and Human Services
122nd Legislature
Augusta, ME 04333

Dear Senator Mayo and Representative Pingree:

Please be advised that Governor John E. Baldacci has nominated Brenda Harvey of Gardiner for appointment as Commissioner of the Department of Health and Human Services.

Pursuant to 22 M.R.S.A. §1, this nomination will require review by the Joint Standing Committee on Health and Human 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 **HEALTH AND HUMAN SERVICES**.

Sent down for concurrence.

The Following Communication: S.C. 583

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

March 29, 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 James S. Henderson of Harpswell, for reappointment as the State Archivist.

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	8	Barstow of Gorham, Bishop of Boothbay, Blanchard of Old Town, Crosthwaite of Ellsworth, McFadden of Dennysville, Moulton of York, Muse of Fryeburg, Schatz of Blue Hill
NAYS		0	
ABSENT		3	Rep. Browne of Vassalboro, Rep. Harlow of Portland, Sen. Rotundo of Androscoggin

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of James S. Henderson of Harpswell, for reappointment as State Archivist 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. 584

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

March 29, 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 Bent Schlosser of Vassalboro, for reappointment to the State Civil Service Appeals Board.

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	8	Barstow of Gorham, Bishop of Boothbay, Blanchard of Old Town, Crosthwaite of Ellsworth, McFadden of Dennysville, Moulton of York, Muse of Fryeburg, Schatz of Blue Hill
NAYS		0	
ABSENT		3	Rep. Browne of Vassalboro, Rep. Harlow of Portland, Sen. Rotundo of Androscoggin

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Bent Schlosser of Vassalboro, for reappointment to the State Civil Service Appeals Board 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. 585

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

March 29, 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 Nelson E. Durgin of Bangor, for reappointment to the State Civil Service Appeals Board.

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	8	Barstow of Gorham, Bishop of Boothbay, Blanchard of Old Town, Crosthwaite of Ellsworth, McFadden of Dennysville, Moulton of York, Muse of Fryeburg, Schatz of Blue Hill
NAYS		0	
ABSENT		3	Rep. Browne of Vassalboro, Rep. Harlow of Portland, Sen. Rotundo of Androscoggin

NAYS 0

ABSENT 3 Rep. Browne of Vassalboro,
Rep. Harlow of Portland,
Sen. Rotundo of
Androscoggin

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Nelson E. Durgin of Bangor, for reappointment to the State Civil Service Appeals Board 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. 586

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

March 29, 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 John R. Hanson of Bangor, for reappointment to the State Civil Service Appeals Board.

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	8	Barstow of Gorham, Bishop of Boothbay, Blanchard of Old Town, Crosthwaite of Ellsworth, McFadden of Dennysville, Moulton of York, Muse of Fryeburg, Schatz of Blue Hill
NAYS		0	
ABSENT		3	Rep. Browne of Vassalboro, Rep. Harlow of Portland, Sen. Rotundo of Androscoggin

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of John R. Hanson of Bangor, for reappointment to the State Civil Service Appeals Board 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. 587

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

March 29, 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 Julie M. Armstrong of Cape Elizabeth, for appointment to the State Civil Service Appeals Board.

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	8	Barstow of Gorham, Bishop of Boothbay, Blanchard of Old Town, Crosthwaite of Ellsworth, McFadden of Dennysville, Moulton of York, Muse of Fryeburg, Schatz of Blue Hill
NAYS		0	
ABSENT		3	Rep. Browne of Vassalboro, Rep. Harlow of Portland, Sen. Rotundo of Androscoggin

NAYS 0

ABSENT 3 Rep. Browne of Vassalboro,
Rep. Harlow of Portland,
Sen. Rotundo of
Androscoggin

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Julie M. Armstrong of Cape Elizabeth, for appointment to the State Civil Service Appeals Board 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. 588

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

March 30, 2006

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

Dear Madame President:

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

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

YEAS	Senators	3	Mitchell of Kennebec, Schneider of Penobscot, Turner of Cumberland
	Representatives	6	Cain of Orono, Davis of Falmouth, Edgecomb of Caribou, Finch of Fairfield, Makas of Lewiston, Norton of Bangor
NAYS		0	
ABSENT		4	Rep. Goldman of Cape Elizabeth, Rep. Lansley of Sabattus, Rep. Merrill of Appleton, Rep. Stedman of Hartland

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 Romy V. Spitz of Portland, for reappointment to the School Board of the Governor Baxter School for the Deaf be confirmed.

Signed,

S/Elizabeth H. Mitchell
Senate Chair

S/Jacqueline Norton
House Chair

READ and ORDERED PLACED ON FILE.

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

The Following Communication: S.C. 589

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

March 30, 2006

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

Dear Madame President:

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

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

YEAS	Senators	3	Mitchell of Kennebec, Schneider of Penobscot, Turner of Cumberland
	Representatives	6	Cain of Orono, Davis of Falmouth, Edgecomb of Caribou, Finch of Fairfield, Makas of Lewiston, Norton of Bangor
NAYS		0	

ABSENT 4 Rep. Goldman of Cape Elizabeth, Rep. Lansley of Sabattus, Rep. Merrill of Appleton, Rep. Stedman of Hartland

Senators: DIAMOND of Cumberland NUTTING of Androscoggin CLUKEY of Aroostook

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 R. Gaul of Damariscotta, for reappointment to the School Board of the Governor Baxter School for the Deaf be confirmed.

Representatives: BLANCHETTE of Bangor PLUMMER of Windham HANLEY of Gardiner GREELEY of Levant CHURCHILL of Washburn SYKES of Harrison GROSE of Woolwich DAVIS of Augusta

Signed,

S/Elizabeth H. Mitchell Senate Chair

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**.

S/Jacqueline Norton House Chair

Signed:

READ and ORDERED PLACED ON FILE.

Representatives: GERZOFISKY of Brunswick PARADIS of Frenchville

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

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

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Establish the Island Falls Water District" H.P. 1470 L.D. 2078

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Correct Deficiencies in the Divorce Laws" H.P. 1252 L.D. 1812

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-869)**.

Signed:

Senators: HOBBS of York BROMLEY of Cumberland HASTINGS of Oxford

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Amend the Laws Dealing with a Work-restricted License" H.P. 1399 L.D. 1997

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

Representatives: SIMPSON of Auburn FAIRCLOTH of Bangor GERZOFISKY of Brunswick CANAVAN of Waterville BRYANT of Windham DUNN of Bangor BRYANT-DESCHENES of Turner NASS of Acton

Signed:

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

Signed:

Representatives:

SHERMAN of Hodgdon
CARR of Lincoln

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-869)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-869) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.

Ought to Pass As Amended

Senator HOBBS for the Committee on **JUDICIARY** on Bill "An Act To Prohibit Changing the Flow of Water on Another's Land" S.P. 271 L.D. 816

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-542)**.

Report **READ**.

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

Senator **ANDREWS:** Thank you, Madame President and fellow members of the Senate. I'd like to take this time to get it on the record and to show how the legislature, working together, and a single individual can have an impact on a 200-year-old law. About three years ago I was contacted by a constituent who actually could not vote in the town of York, she only owned summer property. It seemed that someone had built a year-round house next door to her and added something like 10 to 12 yards of fill. In the process of adding this fill, it caused all the surface water to come down onto her property and literally cover her septic tank. She asked me to put a bill in. Seeing as it was the second year of my term, I said, 'I can't do it now, but if I get elected I will be glad to put it in next year.' I did get elected to this Body and I put the bill in. This woman, a resident of Massachusetts, came up with me to testify at the Committee on Natural Resources and brought pictures and presented her bill. They found this subject quite interesting because this woman had attempted to go to court and was told by her lawyer that she had

no protection and no standing in court for this kind of damage. After working the bill, the Natural Resources Committee sent it to the Judiciary Committee and we went through the hearing process all over again with this woman taking time off from work to come up from Massachusetts. The Judiciary Committee held it over to this year. This woman came back up again. Well, at some point in the process the Judiciary Committee decided that they thought that this bill had merit and they were willing to work on the bill. We now have a unanimous committee report. What it does is replaces the Common Enemy Rule, which state had operated under for over 200 years, with the Reasonable Use Rule for Flow of Water, which 47 other states have adopted. This is one woman and this legislature working three years to change a 200-year-old standing law in the State of Maine. This means that in the future if someone feels that they have been aggrieved by this sort of thing, they can at least go to court and attempt to recoup their damages. I think we should be commended for being willing to tackle this. Thank you.

ACCEPTED.

READ ONCE.

Committee Amendment "A" (S-542) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.

Senator HOBBS for the Committee on **JUDICIARY** on Bill "An Act To Encourage Reporting of Potential Fraud in State Government"

S.P. 658 L.D. 1741

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-543)**.

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

READ ONCE.

Committee Amendment "A" (S-543) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.

Senator COWGER for the Committee on **NATURAL RESOURCES** on Resolve, To Direct the Department of Environmental Protection To Consolidate the Management of Solid Waste

S.P. 694 L.D. 1777

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-545)**.

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

READ ONCE.

Committee Amendment "A" (S-545) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.

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

SECOND READERS

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

House

Resolve, Regarding Legislative Review of Portions of Chapter 1.03: Waters of Special Significance, a Major Substantive Rule of the Department of Inland Fisheries and Wildlife (EMERGENCY)
H.P. 1461 L.D. 2066

Resolve, Regarding Legislative Review of the Final Repeal of Portions of Chapter 130: Rules for Equivalent Instruction Programs, a Major Substantive Rule That Has Been Provisionally Repealed by the Department of Education (EMERGENCY)
H.P. 1464 L.D. 2069

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

House As Amended

Bill "An Act To Amend the Maine Sanitary District Enabling Act"
H.P. 468 L.D. 635
(C "A" H-908)

Resolve, To Transfer Ownership of Certain Public Reserved Lands to the Town of Allagash
H.P. 653 L.D. 934
(H "A" H-907 to C "B" H-750)

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

Senate As Amended

Bill "An Act To Establish the Maine Agricultural Drought Protection Act" (EMERGENCY)
S.P. 693 L.D. 1776
(C "A" S-540)

Bill "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)

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:

Emergency Measure

An Act To Establish a Computer Crimes Unit within the Maine State Police Crime Laboratory
S.P. 779 L.D. 2028
(C "A" S-519)

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

Emergency

An Act Regarding the Sharing of Costs in Certain School Districts
S.P. 750 L.D. 1953
(C "A" S-495)

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

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

Senator **MAYO:** Thank you, Madame President. While I intend to also move for Indefinite Postponement of this particular piece of legislation, I think I should explain why both the other Body and this Body will be doing that. I put in this particular piece of legislation, L.D. 1953, for SAD 75 and it quickly became known as the Harpswell Legislation or the Harpswell Bill. That is a little wrong in that it does apply to 19 school districts or SADs that, given what is taking place with regard to evaluation and the cost sharing, were receiving zero or a little more than zero for special ed reimbursement. This bill, which is now a part of the bi-partisan budget that was passed last week, moves those particular school entities to a 35% reimbursement for special ed as opposed to the 84% for the other districts. In another year they will automatically move up to whatever the other school districts are receiving.

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

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 120: Release of Data to the Public, a Major Substantive Rule of the Maine Health Data Organization

H.P. 1384 L.D. 1976

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 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, Directing the Secretary of State To Establish a Task Force To Develop a Plan for the Maine State Cultural Building in Augusta

H.P. 1473 L.D. 2082
(H "A" H-886)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 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.

Mandate

An Act To Amend the Election Laws

H.P. 1329 L.D. 1889
(C "A" H-866; H "A" H-888)

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

Acts

An Act To Establish the Uniform Partnership Act and the Uniform Limited Partnership Act

S.P. 591 L.D. 1609
(C "A" S-506)

An Act To Strengthen Maine's Timber Theft Laws

S.P. 676 L.D. 1759
(C "A" S-517)

An Act To Allow Smelt Dipping in Mud Brook in Aroostook County
H.P. 1253 L.D. 1813
(S "A" S-524 to C "A" H-806)

An Act To Allow Law Enforcement Agencies To Maintain Sex Offender Websites for Public Use

H.P. 1271 L.D. 1831
(C "A" H-867)

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 Promote Municipal-State Transportation Investment Partnerships

H.P. 802 L.D. 1159
(C "A" H-873)

On motion by Senator **DAMON** of Hancock, placed on the **SPECIAL HIGHWAY TABLE**, pending **ENACTMENT**, in concurrence.

An Act To Increase Wheelchair Van Services Reimbursement Rates

H.P. 1355 L.D. 1914
(C "A" H-871)

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

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

THE PRESIDENT: We have a very exciting thing we are able to do today. We have the Maine Legislative Memorial Scholarship winners here. The Chair would request the Senator from Sagadahoc, Senator Mayo, to come forward and give out these Legislative Scholarship awards.

Senator **MAYO**: Thank you, Madame President. This is, indeed, one of our better days in the Legislature, having a number of students from around the State of Maine here today to receive their Legislative Memorial Scholarship. Unfortunately, not every county is represented today, but there is a student recipient from each of the 16 counties here in the State of Maine. This year the Legislative Scholarship Auction, which was held a month ago, raised \$17,000 plus through the auction, and therefore, we will have funds available to do this a year from now. It is the hope of the Legislative Scholarship Committee that we will be able to increase the size of each scholarship by \$500.

We'll start off today with Jacob Landry of Livermore, who is attending UMO, with Senator Nutting of Androscoggin County; Kyle Griffin of Gorham, who is attending USM, with Senator Bartlett of Cumberland County; Dawn Fernandez of Oakland, who is attending UMO, with Senator Rosen of Hancock County; Doug Wheeler of Windsor, who is attending Maine Medical Center School of Technology, with Senator Dow of Lincoln County; Kyle Feltis of Bristol, who is attending UMF, with Senator Dow of Lincoln County; Faith Jones of Oxford, who is attending UMF, with Senator Hastings of Oxford County; Ashley Pingree of Etna, who is attending UMO, with Senator Weston of Waldo County; Kelly Lougee of Harmony, who is attending UMF, with Senator Davis of Piscataquis County; Trevor Senter of Freedom, who is attending UMO, with Senator Weston of Waldo County; and Sandra Klausmeyer of Stuben, who is attending UMO, with Senator Raye of Washington County.

THE PRESIDENT: The Chair is pleased to recognize in the Chamber and in the gallery all the friends and family of all these scholarship recipients. Would they please rise and receive the greetings of the Maine Senate.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Facilitate the Maine Quality Forum"
H.P. 1490 L.D. 2097

Comes from the House, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

On motion by Senator **MAYO** of Sagadahoc, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed, in concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Authorize Chebeague Island To Secede from the Town of Cumberland"

H.P. 1243 L.D. 1735

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-915)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-915)**.

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

READ ONCE.

Committee Amendment "A" (H-915) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **LABOR** on Bill "An Act To Clarify the Change of Beneficiary Provision in the Maine State Retirement System Laws"

H.P. 1290 L.D. 1850

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-921)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-921)**.

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

READ ONCE.

Committee Amendment "A" (H-921) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **INLAND FISHERIES AND WILDLIFE** on Resolve, To Allow the Department of Inland Fisheries and Wildlife To Convey a Part of a Parcel of Land in the Town of Fairfield
H.P. 1444 L.D. 2050

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-922)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-922)**.

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

READ ONCE.

Committee Amendment "A" (H-922) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.

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 Regarding the Maine Clean Election Act
S.P. 570 L.D. 1596
(C "A" S-521)

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.

Emergency Measure

An Act To Amend the Laws Regarding Aquaculture Leases
H.P. 1443 L.D. 2049
(C "A" H-880)

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.

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 Definition of "Municipality" as It Relates to the Maine Municipal Bond Bank Act
H.P. 1466 L.D. 2072

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.

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 270: Uniform Reporting System for Health Care Quality Data Sets, a Major Substantive Rule of the Maine Health Data Organization
H.P. 1389 L.D. 1982
(C "A" H-881)

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 **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:

Act

An Act To Protect Drivers' Privacy by Clarifying Ownership of Data Recorded by Motor Vehicle Data Recorders
H.P. 1325 L.D. 1885
(C "A" H-876)

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:

Resolve

Resolve, To Preserve Patient Records
H.P. 1396 L.D. 1994
(C "A" H-882)

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

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

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

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

Off Record Remarks

On motion by Senator **BRENNAN** of Cumberland, **RECESSED** until 4:00 in the afternoon.

After Recess

Senate called to order by the President.

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

REPORTS OF COMMITTEES

Senate

Committee of Conference

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act To Amend the Laws Relating to Motorized Scooters, Motor-driven Cycles and Mopeds" (EMERGENCY)

H.P. 1027 L.D. 1464

Had the same under consideration, and asked leave to report:

That the Senate **Recede** from **Passage to Engrossed as Amended by Committee Amendment "B" (H-730) and Senate Amendment "A" (S-441)**.

That the Senate **Concur** to **Passage to be Engrossed as Amended by Committee Amendment "B" (H-730) and House Amendment "A" (H-747)**.

That the House **Read** and **Accepted** the Committee of Conference Report.

On the Part of the Senate:

Senator DAMON of Hancock
Senator SAVAGE of Knox

On the Part of the House:

Representative SAMPSON of Auburn
Representative HOGAN of Old Orchard Beach
Representative THOMAS of Ripley

Comes from the House with the Committee of Conference Report **READ** and **ACCEPTED**.

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

The Senate **RECEDED** and **CONCURRED**.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Certain Real Property Located on State Highway 191 in East Machias; U.S. Route 1 in Thomaston; U.S. Route 2 in Skowhegan; Hospital Street in Augusta; and the Presumpscot River in Falmouth

H.P. 1304 L.D. 1864

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-927)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-927)**.

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

READ ONCE.

Committee Amendment "B" (H-927) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Protect Consumers from Credit Card and Debit Card Holds"

H.P. 1275 L.D. 1835

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-930)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-930)**.

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

READ ONCE.

Committee Amendment "A" (H-930) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Establish the Pine Tree Recreation Zone" (EMERGENCY)

H.P. 143 L.D. 192

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-929)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-929)**.

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

Committee Amendment "A" (H-929) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act Requiring Equal Retirement Benefits for Corrections Officers and Mental Health Workers with 25 Years of State Service" (EMERGENCY)

S.P. 246 L.D. 748
(C "B" S-432)

In House, March 2, 2006, Report "B", **OUGHT NOT TO PASS, READ** and **ACCEPTED**.

In Senate, March 7, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-432)**, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-432) AS AMENDED BY HOUSE AMENDMENT "A" (H-935)** thereto, in **NON-CONCURRENCE**.

Senator **STRIMLING** of Cumberland moved the Senate **RECEDE** and **CONCUR**.

On motion by Senator **WESTON** of Waldo, **TABLED** until Later in Today's Session, pending the motion by Senator **STRIMLING** of Cumberland to **RECEDE** and **CONCUR**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

COMMUNICATIONS

The Following Communication: H.C. 423

**STATE OF MAINE
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

April 3, 2006

Honorable Joy J. O'Brien
Secretary of the Senate
122nd Maine Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Making Improvements to the Laws Regarding Local Land Use Ordinances" (H.P. 1080) (L.D. 1535).

Representative **KOFFMAN** of Bar Harbor
Representative **DUCHESNE** of Hudson
Representative **DAIGLE** of Arundel

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and **ORDERED PLACED ON FILE.**

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator **PERRY** for the Committee on **TAXATION** on Bill "An Act To Clarify the Taxable Status of Parts Provided under a Service Contract"

S.P. 815 L.D. 2084

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-551).**

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

READ ONCE.

Committee Amendment "A" (S-551) **READ** and **ADOPTED.**

SECOND READERS

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

House

Bill "An Act To Establish the Island Falls Water District"
H.P. 1470 L.D. 2078

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

House As Amended

Bill "An Act To Clarify the Change of Beneficiary Provision in the Maine State Retirement System Laws"

H.P. 1290 L.D. 1850
(C "A" H-921)

Resolve, To Allow the Department of Inland Fisheries and Wildlife To Convey a Part of a Parcel of Land in the Town of Fairfield

H.P. 1444 L.D. 2050
(C "A" H-922)

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

Bill "An Act To Authorize Chebeague Island To Secede from the Town of Cumberland"

H.P. 1243 L.D. 1735
(C "A" H-915)

READ A SECOND TIME.

On motion by Senator **BRENNAN** of Cumberland, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED**, in concurrence.

Bill "An Act To Correct Deficiencies in the Divorce Laws"

H.P. 1252 L.D. 1812
(C "A" H-869)

READ A SECOND TIME.

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 Aroostook, Senator Clukey.

Senator **CLUKEY**: Thank you, Madame President, ladies and gentlemen of the Senate. I hope you take a close look at this bill before you vote on it. What it appears to do, as amended by H-869 which replaces the bill, is change the grounds for divorce. Currently one of the grounds for divorce is mental illness that requires confinement in a mental institution for at least seven consecutive years prior to the commencement of the action. What the H-869 does is repeals that section of the law and adds, 'if the person is incapacitated'. A scenario would be that if a husband and wife is driving down the road, the husband rolled the car over, and the wife has a serious head injury, apparently that would be grounds for divorce. If it is any different than that, would somebody please explain it to me. Thank you.

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

Senator **HASTINGS**: Thank you, Madame President, ladies and gentlemen of the Senate. In some ways I believe the Senator from Aroostook, Senator Clukey, is right. In reality, no. There are numerous grounds for divorce in Maine. Perhaps early in my career, maybe 25 years ago, it did make a difference. However, 25 years ago Maine, for better or worse, joined most states and added the ground for divorce of 'irreconcilable differences' which is defined, as best as I can understand it, as 'we don't get along'. That is the ground for divorce that is used, as far I know, perhaps in every divorce granted now. I don't know of any other ground divorce in my career, or since the institution of this. When I started out we used 'cruel and abusive treatment' and we all coached our clients in how to testified to establish 'cruel and abusive treatment'. 'Irreconcilable differences' came into effect, I guess probably I would say, in the early 1980's. Since then none of the other grounds are ever used. There are plenty of them. There is adultery. I can't name them all. The good Senator from Aroostook seems to have the list. I can't name them because I've never used them in my career. So he's right. The point being made is that people in the committee said, 'When I took my marriage vows, I said for better or worst.' That means, to me, that because my spouse has become disabled that should not be a grounds for divorce. That may be perfectly good and maybe we all should live by that. Unfortunately, the law in Maine, or fortunately, whichever way you want to look at it, has gone beyond that. We now recognize 'irreconcilable differences'. I cannot believe there will be a divorce granted on this new ground any sooner than there would have been under the old 'insanity' ground that was in the statute. Neither will be used. 'Irreconcilable differences' is if I say it is irreconcilable. Either side believes that it is irreconcilable, that is the grounds for divorce and that is always what is used. I think the majority of the committee believed that, for better or worst, this really made no difference and that's why I would urge that we support the bill as before us. Thank you.

On motion by Senator **BRENNAN** of Cumberland, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED**, in concurrence. (Roll Call Ordered)

Senate As Amended

Bill "An Act To Prohibit Changing the Flow of Water on Another's Land"

S.P. 271 L.D. 816
(C "A" S-542)

Bill "An Act To Encourage Reporting of Potential Fraud in State Government"

S.P. 658 L.D. 1741
(C "A" S-543)

Resolve, To Direct the Department of Environmental Protection To Consolidate the Management of Solid Waste

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

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

Sent down for concurrence.

ENACTORS

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

Emergency Resolve

Resolve, Concerning the Authority of "Do Not Resuscitate" Directives

S.P. 680 L.D. 1763
(C "A" S-522)

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

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

THE PRESIDENT: The Senator may pose her question.

Senator **ANDREWS**: Thank you, Madame President. As a nurse who has handled emergency patients, I would just like to know what this bill does. I haven't researched the bill. I'm just curious for my own edification.

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

Senator **BRYANT**: Thank you, Madame President, men and women of the Senate. What this bill does is allows emergency responders to create a one-page document that allows them to replace what the orange form was. We had a number of concerns around the authority for end-of-life. What this agreement does is allows the language to be a consultation with a doctor instead of getting a doctor's permission in order to end your life. You have a consultation, you have a one-page document that the emergency responders will respond to, and it really moves us, I think, four or five steps in the right direction as

far as allowing the individual to control their own healthcare providing. Thank you.

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 **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 Today Assigned matter:

Bill "An Act To Correct Deficiencies in the Divorce Laws"
H.P. 1252 L.D. 1812
(C "A" H-869)

Tabled - April 3, 2006, by Senator **BRENNAN** of Cumberland

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence (Roll Call Ordered)

(In House, March 31, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-869)**.)

(In Senate, April 3, 2006, **READ A SECOND TIME**.)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#361)

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

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAMON, DAVIS, DOW, MARTIN, NASS, SAVAGE, SNOWE-MELLO, STRIMLING, WESTON, WOODCOCK

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

NOMINATION - of James S. Henderson of Harpswell, for reappointment as the State Archivist

Tabled - April 3, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

(In Senate, April 3, 2006, Communication (S.C. 583) 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 (#362)

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 S. Henderson** of Harpswell, for reappointment as the State Archivist 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 Bent Schlosser of Vassalboro, for reappointment to the State Civil Service Appeals Board

Tabled - April 3, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

(In Senate, April 3, 2006, Communication (S.C. 584) 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 (#363)

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 **Bent Schlosser** of Vassalboro, for reappointment to the State Civil Service Appeals Board 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 Nelson E. Durgin of Bangor, for reappointment to the State Civil Service Appeals Board

Tabled - April 3, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

(In Senate, April 3, 2006, Communication (S.C. 585) 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 (#364)

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 **Nelson E. Durgin** of Bangor, for reappointment to the State Civil Service Appeals Board 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 John R. Hanson of Bangor, for reappointment to the State Civil Service Appeals Board

Tabled - April 3, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

(In Senate, April 3, 2006, Communication (S.C. 586) 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 (#365)

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 **Julie M. Armstrong** of Cape Elizabeth, for appointment to the State Civil Service Appeals Board 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 **John R. Hanson** of Bangor, for reappointment to the State Civil Service Appeals Board 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 Romy V. Spitz of Portland, for reappointment to the School Board of the Governor Baxter School for the Deaf

Tabled - April 3, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

(In Senate, April 3, 2006, Communication (S.C. 588) from the Committee on **EDUCATION AND CULTURAL AFFAIRS, READ and ORDERED PLACED ON FILE.**)

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

NOMINATION - of Julie M. Armstrong of Cape Elizabeth, for appointment to the State Civil Service Appeals Board

Tabled - April 3, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

(In Senate, April 3, 2006, Communication (S.C. 587) 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 **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

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

The Doorkeepers secured the Chamber.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **STATE AND LOCAL GOVERNMENT** be overridden?"

The Secretary opened the vote.

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.

ROLL CALL (#367)

YEAS: Senators: None

The Doorkeepers secured the Chamber.

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

The Secretary opened the vote.

ROLL CALL (#366)

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,

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 **Romy V. Spitz** of Portland, for reappointment to the School Board of the Governor Baxter School for the Deaf was **CONFIRMED**.

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

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

NOMINATION - of David R. Gaul of Damariscotta, for reappointment to the School Board of the Governor Baxter School for the Deaf

Tabled - April 3, 2006, by Senator **GAGNON** of Kennebec

Pending - **CONSIDERATION**

(In Senate, April 3, 2006, Communication (S.C. 589) from the Committee on **EDUCATION AND CULTURAL AFFAIRS, READ and ORDERED PLACED ON FILE.**)

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#368)

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 **David R. Gaul** of Damariscotta, for reappointment to the School Board of the Governor Baxter School for the Deaf was **CONFIRMED**.

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

The Chair laid before the Senate the following Tabled and Later (3/31/06) Assigned matter:

NOMINATION - of Theodora J. Kalikow of Farmington for reappointment to the Finance Authority of Maine

Tabled - March 31, 2006, by Senator **BRENNAN** of Cumberland

Pending - **CONSIDERATION**

(In Senate, March 31, 2006, Communication (S.C. 578) 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 (#369)

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 **Theodora J. Kalikow** of Farmington for reappointment to the Finance Authority of Maine 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 (3/31/06) Assigned matter:

NOMINATION - of Edward A. Cormier of Minot for reappointment to the Maine Rural Development Authority

Tabled - March 31, 2006, by Senator **BRENNAN** of Cumberland

Pending - **CONSIDERATION**

(In Senate, March 31, 2006, Communication (S.C. 580) 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 (#370)

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 **Edward A. Cormier** of Minot for reappointment to the Maine Rural 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 (3/31/06) Assigned matter:

NOMINATION - of Alain M. Ouellette of Fort Kent for reappointment to the Maine Rural Development Authority

Tabled - March 31, 2006, by Senator **BRENNAN** of Cumberland

Pending - **CONSIDERATION**

(In Senate, March 31, 2006, Communication (S.C. 581) 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 (#371)

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 **Alain M. Ouellette** of Fort Kent for reappointment to the Maine Rural 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.

The Chair laid before the Senate the following Tabled and Later (3/28/06) Assigned matter:

HOUSE REPORTS -from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Make Revisions to the Laws Governing Pesticide Control" H.P. 1330 L.D. 1890

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-860)** (6 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "B" (H-861)** (5 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "C" (H-862)** (2 members)

Tabled - March 28, 2006, by Senator **NUTTING** of Androscoggin

Pending - motion by same Senator to **ACCEPT** Report "C", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (H-862)**, in **NON-CONCURRENCE**

(In House, March 27, 2006, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-860)** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-860)**.)

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

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

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

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. This particular L.D., L.D. 1890, was a department bill, a recodification of all pesticide laws. The Committee worked very hard on it. At the time of the report, it was a 3-way report. The only difference in committee was when, and if, the new rules promulgated by the Board of Pesticide Control would be major substantive or minor technical. The report I'm supporting, Report C, says that when the Bureau of Pesticide Control issues a new rule, which they do about once every three to four years, that this new rule would be a major substantive rule that would be reviewed by the Agriculture, Conservation and Forestry Committee. All other amendments would be minor technical. I know I can't go on to the details of the other two reports, but I would urge your support of Report C. Thank you.

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 support of my Chairman, the Senator from Androscoggin, Senator Nutting. While I had been on Report B, which was a more stringent measure, since the time of the committee vote it has become evident that Report C would work well. It is perfectly acceptable. I would urge members of the Senate to support the motion by the Senator from Androscoggin, Senator Nutting.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Nutting to Accept Report C, Ought to Pass as Amended by Committee Amendment "C" (H-862), in Non-Concurrence. 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 (#372)

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

NAYS: Senators: BARTLETT, BRENNAN, ROTUNDO, THE PRESIDENT - BETH G. EDMONDS

31 Senators having voted in the affirmative and 4 Senators having voted in the negative, the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** Report "C", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (H-862)**, in **NON-CONCURRENCE, PREVAILED**.

READ ONCE.

Committee Amendment "C" (H-862) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (3/29/06) Assigned matter:

HOUSE REPORTS -from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Clarify the Uninsured Motorist Laws"

H.P. 1422 L.D. 2021

Report "A" - **Ought to Pass** (8 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "A" (H-870)** (4 members)

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

Tabled - March 29, 2006, by Senator **SULLIVAN** of York

Pending - **ACCEPTANCE OF ANY REPORT**

(In House, March 28, 2006, Report "A", **OUGHT TO PASS** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, March 29, 2006, Reports **READ**.)

Senator **SULLIVAN** of York moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS**, in concurrence.

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

Senator **SULLIVAN**: Thank you, Madame President, men and women of the Senate. We have before us a bill that if you try to understand it you probably will be in another institution here in Augusta. It is an interesting bill. We were riveted in committee last session several times, a carry-over bill, and two more sessions. It had two public hearings, because we went back with the resolve to report the bill out after the study. There was one group in opposition, the Maine Trial Lawyers. One group. AARP, who weighs in on motor vehicle insurance rates constantly, never showed up, nor the Maine People's Alliance and all the consumer groups. For those of you who have any history here, you can remember a Kotch bill where it was a law decision. Well Butterfield, you will come to love that name. Butterfield was a law court decision. To make a long story short, it says that if there is a wrongful motor vehicle death, uninsured, you can all of a sudden have an enlarged family so people can go file claims and it's a lot more than that. This enlarged family comes through a lot of fighting for our lawyers in court on who can claim after you claim. There are more, but 20 states, so far, have had to look at this decision, Butterfield, and 14 have adopted the exact same language that we have. Of the other six states, the legislature in three of them, 50%, have changed it. You are going to hear how this won't change anything, we're just expanding that definition a little bit, we've massaged it and the courts will figure it out. Yes, I'm sure they will to about 1/3 of the settlement of the policy. I ask you to support what eight members have said in this and I ask you to please accept this report from the Insurance and Financial Services Committee. Thank you.

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

Senator **MAYO**: Thank you, Madame President, ladies and gentlemen of the Senate. The good Senator from York, Senator Sullivan, who just spoke is correct. This is not an easy situation to understand. However, there have been attempts during the debate in committee and in other venues to make this as complicated as possible. It really isn't that complicated. The Butterfield-type cases are very rare. They are cases in which there is a death resulting from an accident that results in a valid wrongful death claim.

I'll give you a little background on the Butterfield case. Mr. Butterfield's adult daughter, who did not live in his home, was a passenger in a motor vehicle and was killed in a situation in which the operator was clearly negligent. As the surviving heir, Mr. Butterfield had a valid claim for wrongful death against the operator. If the driver had insurance Mr. Butterfield clearly would have been paid. The problem is the operator did not have insurance. Mr. Butterfield then made the claim against his own uninsured motorist policy. His insurance company refused to pay the claim, stating that new language in their policy exempted this type of claim. The insurance company appealed a decision of the Superior Court to the Maine Law Court. The court found that the insurance company could not avoid the claim by putting new language into their policy because there was something currently in Maine Statute dealing with this issue. That particular insurance company could not rewrite its policy in violation and in attempting to void what was already in statute and had been put there by this legislature.

Ladies and gentlemen of the Senate, I would urge that you reject the motion in front of you so that we can go on with a subsequent motion. Thank you very much.

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

Senator **SULLIVAN**: Thank you, Madame President, men and women of the Senate. When you have insurance and you buy it for uninsured, it's for the named insured, spouse, and members of the household living with you. Not adult children in California, New Mexico, or wherever they have decided to reside. When insurance companies figure out the peril and what they charge you for the premium, they look at the risk. The company needs to know what that risk is: a spouse and the children living with in the household. If you begin to expand it, you are asking a company to write something out for insurance that is in case. The Senator is exactly right. This is seldom used. In a case where there will be several people killed because of negligence, guess what, the insurance company is going to have to write and base the premium on the what-ifs. That's not fair to the company. I had somebody say to me, 'Well, do we support the Trial Lawyers or do we support the insurance companies?' I have a better suggestion. I say let's support the policyholders in the state of Maine, the people who are going to pay those rates. That's what I'm asking you to support. You are right, it's not complicated. It's about knowing your risk. That's what insurance is about. We need to be able to give them the limits and not have something dragged out and fought out in court. Thank you.

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

Senator **COURTNEY**: Thank you, Madame President, men and women of the Senate. If I might ask a couple of questions through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **COURTNEY**: Thank you, Madame President. To anyone who might be able to answer, the reference to the Mr. Butterfield case, was the claim on his homeowner's policy? The second question is, if not, if it was his auto policy, was Mr. Butterfield's daughter insured on the policy that he had?

THE PRESIDENT: The Senator from York, Senator Courtney poses two questions through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN**: Thank you, Madame President. In response to that, the first one, it was the uninsured motorist policy. That's what we are talking about. Not homeowners. The other question, and my age has allowed me to forget it. Could you repeat it, Madame President?

THE PRESIDENT: Would the Senator repeat the question.

Senator **COURTNEY**: Was Mr. Butterfield's daughter on his auto policy?

Senator **SULLIVAN**: Thank you, Madame President. Sorry for that senior moment thing. They become more and more frequent, unfortunately. The answer is, she was an adult daughter. That is where this all came in. She was no longer living in the household.

Your insurance policy is covered is the people are members of your household. That's why an insurance company is able to figure the peril, because they know what it is limited to. This is somebody outside. I might add that the insurance companies did not get off scott free. The daughter's policy paid the estate and the mother's policy, with whom she had lived, paid. It's the father who wanted to get in on the action that caused this. The insurance companies paid on two wrongful deaths. That's the problem. This would expand who could file afterwards. This could go on forever. It's very complicated if you make it complicated. Believe me, there are those who would like to make it complicated. I hope that answered the question. Thank you.

On motion by Senator **MAYO** of Sagadahoc, 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 York, Senator Sullivan to Accept Report A, Ought 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 (#373)

YEAS: Senators: ANDREWS, BROMLEY, BRYANT, CLUKEY, COURTNEY, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SNOWE-MELLO, SULLIVAN, TURNER, WESTON, WOODCOCK

NAYS: Senators: BARTLETT, BRENNAN, COWGER, MARTIN, MAYO, MILLS, MITCHELL, PERRY, ROTUNDO, STRIMLING, THE PRESIDENT - BETH G. EDMONDS

24 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **SULLIVAN** of York to **ACCEPT** Report "A", **OUGHT TO PASS**, in concurrence, **PREVAILED**.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (3/29/06) Assigned matter:

Bill "An Act To Implement Recommendations of the Study Commission Regarding Liveable Wages Concerning the State Earned Income Tax Credit"

H.P. 1428 L.D. 2027
(C "A" H-865)

Tabled - March 29, 2006, by Senator **GAGNON** of Kennebec

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-865)**, in **NON-CONCURRENCE** (Roll Call Ordered)

(In House, March 27, 2006, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, March 28, 2006, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**. **READ ONCE**. Committee Amendment "A" (H-865) **READ** and **ADOPTED**.)

(In Senate, March 29, 2006, **READ A SECOND TIME**.)

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. I would just like to let everybody know a little about this. It's kind of gone by, under the radar screen here. This bill increases the low income tax credit from 5% to 30%. It makes it refundable. It creates three new tax examiner positions. By the way, there is a \$45 million fiscal note on it.

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

Senator **STRIMLING:** Thank you, Madame President. I would mention that there is a \$45 million tax cut to the people of Maine that you will be voting on momentarily. I would also quote President Ronald Regan, who called the earned income tax credit 'the best anti-poverty, the best pro-family, the best job creation measure to come out of Congress.' Thank you, Madame President.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **COURTNEY:** Thank you, Madame President. If you have a tax cut, don't you have to pay taxes?

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

Senator **BARTLETT:** Thank you, Madame President. I rise not so much as to answer this specific question but to raise the important point that one of the biggest criticisms often of our welfare system in this state and in this country is that rewards people for staying home and not working. What this is designed to do, the low income tax credit, is to help people to move towards work. It provides a clear incentive. It helps families. What better approach can there be than to help people to get back into the workforce and back building up a head of steam so they can be successful for themselves and their families?

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed as Amended, in Non-Concurrence. 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 (#374)

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 Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/30/06) Assigned matter:

HOUSE REPORTS -from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Increase the Salary of the Governor"

H.P. 1349 L.D. 1908

Report "A" - Ought to Pass as Amended by Committee Amendment "A" (H-896) (8 members)

Report "B" - Ought to Pass as Amended by Committee Amendment "B" (H-897) (4 members)

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

Tabled - March 30, 2006, by Senator **SCHNEIDER** of Penobscot

Pending - motion by same Senator to **ACCEPT** Report "B", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-897)**, in **NON-CONCURRENCE**

(In House, March 29, 2006, Report "C", **OUGHT NOT TO PASS READ** and **ACCEPTED**.)

(In Senate, March 30, 2006, Reports **READ**.)

The Senator from Franklin, Senator **WOODCOCK**, requested and received leave of the Senate to be excused from voting pursuant to Senate Rule 401.3.

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

The Senator from Somerset, Senator **MILLS**, requested and received leave of the Senate to be excused from voting pursuant to Senate Rule 401.3.

Senator **PLOWMAN** of Penobscot was granted unanimous consent to address the Senate off the Record.

ROLL CALL (#375)

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

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

EXCUSED: Senators: MILLS, WOODCOCK

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators being excused, the motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** Report "B", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-897)**, in **NON-CONCURRENCE**, **PREVAILED**.

READ ONCE.

Committee Amendment "B" (H-897) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

Off Record Remarks

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

Off Record Remarks

On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, to Tuesday, April 4, 2006, at 10:00 in the morning.