

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twenty-First Legislature  
State of Maine

Volume III

Second Special Session (Continued)  
March 22, 2004 to April 30, 2004

Second Confirmation Session  
August 25, 2004

Interim Appendix

Senate Legislative Sentiments

Index

Pages 1416 - 1812

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

**COMMUNICATIONS**

The Following Communication: H.C. 395

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

April 14, 2004

Honorable Joy J. O'Brien  
Secretary of the Senate  
121st Legislature  
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to adhere to its former action whereby it accepted the Minority OUGHT NOT TO PASS Report of the Committee on TAXATION on Bill "An Act To Make Retirement Benefits More Equitable by Imposing a Surcharge on Income from Congressional Retirement Benefits"  
(S.P. 616)(L.D. 1684)

Sincerely,

S/Millicent M. MacFarland  
Clerk of the House

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

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**ORDERS OF THE DAY**

**Unfinished Business**

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (4/13/04) Assigned matter:

**Mandate**

An Act To Change the Names of Certain Townships in the Unorganized Territory

H.P. 1425 L.D. 1925  
(C "A" H-812; S "A" S-492)

Tabled - April 13, 2004, by Senator **MARTIN** of Aroostook

Pending - **ENACTMENT**, in concurrence

(In Senate, April 5, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-812) AND SENATE AMENDMENT "A" (S-492)**, in **NON-CONCURRENCE**.)

(In House, April 12, 2004, **PASSED TO BE ENACTED**.)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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The Chair laid before the Senate the following Tabled and Later (4/13/04) Assigned matter:

An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws  
H.P. 1456 L.D. 1957  
(H "A" H-866; S "A" S-502)

Tabled - April 13, 2004, by Senator **TREAT** of Kennebec

Pending - **ENACTMENT**, in concurrence

(In Senate, April 7, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-866) AND SENATE AMENDMENT "A" (S-502)**, in **NON-CONCURRENCE**.)

(In House, April 12, 2004, **PASSED TO BE ENACTED**.)

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

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The Chair laid before the Senate the following Tabled and Later (4/13/04) Assigned matter:

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Establish the Gambling Control Board To License and Regulate Slot Machines at Commercial Harness Racing Tracks" (EMERGENCY)  
H.P. 1342 L.D. 1820

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-868)** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-869)** (3 members)

Tabled - April 13, 2004, by Senator **GAGNON** of Kennebec

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-868)** Report, in concurrence

(In House, April 12, 2004, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-868)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-868)**.)

(In Senate, April 13, 2004, Reports **READ**.)

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

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. This has been a long road for us, particularly in the Legal and Veterans Affairs Committee. The first thing that I really want to talk about, in reference to this bill and this report, is that this is not a bill allowing or disallowing slot machines in the State of Maine. This is a regulation bill. I just want to repeat that because this is not a bill concerning whether or not Maine will have slot machines at race tracks in the State of Maine. That has already been decided by the people of the State of Maine. They approved the, so-called, racino bill last fall and there will be slot machines in the State of Maine. The law is currently on the books as we speak. This is a bill having to do with the regulation of those slot machines.

Under the current law, there are really two facilities that are eligible to have slot machines, as it could only be done at commercial racetracks. Those are the commercial racetracks at Bangor and Scarborough. In both instances, a local vote had to occur and the local municipality had to approve of the introduction of slot machines. The City of Bangor put it to a vote and the people of Bangor do want slot machines at Bangor Historic Raceway. The voters of Scarborough rejected it. The surrounding communities that were eligible for this rejected it. The window then closed, according to the law, so no one else is going to be eligible for slot machines, at least not without some other special bill before us in the future that would permit other slot machines in any other area of the state. Let just me emphasize, what we are talking about are slot machines just at Bangor Raceway. No other place in the State of Maine. There is no expansion possible under the current law. There is no expansion called for in this particular bill.

One of the problems with the current law is that it was written by the industry, specifically it was written by a company called Capital Seven who spent a great deal of money making sure that it got passed. They were successful. The advantages that they proclaimed such as drugs for the elderly and funds for the University of Maine and for our students going to the Community Colleges, were all in the bill. It was all there. One of the biggest pieces that was lacking was the regulation. What we currently have on the books, without any adjustment whatsoever, would create kind of a Dodge City in Bangor. A wild, wild west of gambling up there. The most lax regulatory law in the country with a very small percentage in the current law that would be afforded to public safety and to the people who work for us to regulate gambling in the State of Maine. Without this bill, that is what we would have. Dodge City right up in Penobscot County.

What we are attempting to do with this bill is to change that. That is the basis of this bill. This provides very strong regulations, in fact, if not one of the strongest regulatory agencies and laws within the country, comparable to what you hear about in the State of Delaware, as an example. Not the wild, wild west at all,

but something that the people of the State of Maine would demand and expect of us in terms of the regulation of slots. Not only that, it is what the industry ultimately wants in order to make sure that they understand that the people of the State of Maine understand that they are doing this as a serious business. They don't want Dodge City and all that it brings up there either.

There has been a lot of confusion about this bill and a lot of confusion about the players. Capital Seven, primarily run by a gentleman by the name of Shawn Scott, has a rather peculiar approach to politics in the State of Maine. In fact, as recently as this morning, I was personally attacked in a couple of newspapers for what we are trying to do. I'm glad that he spends that money on newspapers because they certainly need the revenue. It really has very little impact on any of us or the people of the State of Maine. We have a good bill here. In fact, Mr. Scott is now kind of a secondary figure in all of this. Another company, Penn National, has stepped up to purchase the rights from Mr. Scott and will be the operator of any slots that will be going to Bangor. Penn National is a publicly traded company. It has multiple facilities across the United States that run in a professional way, a responsible way. Take it from me, although they are very tough negotiators, they are a reputable company and they have good people working for them. Very knowledgeable about the industry. Very knowledgeable about the positive aspects of what this could bring to Maine and the negative aspects, including the fact that they support our contention that we have to have some type of system in place for what would be referred to as 'Gamblers Anonymous' or something like that, which we have in the regulatory piece. I would like to applaud the Bangor City Council and the City of Bangor for their connection with Penn National. If we are going to have success in Bangor with slot machines and have the type of facility that the people in that city can be proud of and generate the revenue for that city so the city can move forward from their heavy tax burden and move forward to potentially building a new auditorium in Bangor for all of those Class A, Class B, and Class C basketball championships, they have selected a good partner, I think. I applaud them for that.

Getting back to this bill. There is a lot of information here in this bill. I want to highlight, quickly, what it does. What this bill will do is support the creation of a five member gambling control board to regulate the operation of the slots. Currently the slot machines can go in at Bangor under the current law because all they needed was approval for harness racing at Bangor. A license was granted by the Harness Racing Commission, so there is currently a license to put slots in at Bangor. This bill would repeal that, taking that authority away from the Harness Racing Board, leaving the Harness Racing Board dealing with harness racing in the State of Maine and having gambling or slot machines controlled by this gaming board. That is the primary thing that this does.

That board is going to go through a very lengthy process of licensing anyone who is interested in having a slot license in the State of Maine. At this point that will be Penn National, who is the applicant. It must have a connection to harness racing. They must have a license to operate harness racing in the State of Maine. It requires that the license also receives approval from the municipality even if it they receive a license from the State of Maine. That approval will have to come year after year, similar to a liquor license. Any of you who are familiar with the way liquor licenses are approved, even though the state gives the license the local municipality would have to renew that year after year. It's an annual license renewal. License fees are steep, \$200,000

to get a license in the State of Maine to have slots at Bangor, and on an ongoing basis \$75,000 a year coming to the state to cover its costs and \$25,000 to the municipalities. We're going to make sure the municipalities have the resources annually to do the investigation of any problems that there might be. There will be a limit to the number of slot machines that they can have at Bangor. It's 1,500. They don't anticipate having that many in the first few years. Eventually it will get to that number. In fact, that number is capped statewide at 1,500 even if there were some other bill that would allow slot machines in some other place.

This bill also requires that this gambling control board make a decision in September. They have been familiarized with this amendment. They have been working on that with the Department of Public Safety. It's a short timeframe, but we did leave enough wiggle room in the bill that will allow the gaming control board, in concert with the licensee or applicant, to extend that to some future date if more time is necessary. The racino must enter into an agreement with the host municipality that provides the revenue sharing. In other words, the host municipality must actually have a contract. They currently do. Bangor does with Penn National. That needs to be maintained. There must be some type of revenue sharing arrangement in that. We also have a high pay out. Players that come to play slot machines at Bangor Raceway will receive no less than 89% of the revenues going into the machines, 1% of that will be going to the state to make sure we administer this as we need to and for our regulation costs. The remaining 10% will be divided up amongst a variety of players in the harness racing arena. That is what we have been spending most of our time on, this 10%. In fact this is what distinguishes the majority report from the minority report. It is my understanding, from what I've reviewed, that the minority report is almost identical in every way other than what this 10% is split up to. This 10% is not taxpayer money. It's money that is being put into these machines by players. Of that 10%, 3% of that will go to the General Fund for the administration of the expenses of the board, including gambling addiction and counseling services; 10% will go to supplement harness racing purses across the State of Maine; 3% will be going to the Sire Stakes fund. Those of you who are not familiar with the Sire Stakes, they are horses that are actually bred in the State of Maine. Of the original 10%, 3% will go to the Agricultural Fairs Support Fund; 10% to the Fund for a Healthy Maine, which was in the originally presented question; 2% to the University of Maine scholarships, which was also in the original bill; 1% for Community College scholarships, also in the bill; 4% to fund and encourage racing at Maine's commercial tracks. Most of that money will also be used to supplement purses. There will also be 2% to stabilize off track betting facilities, which will be reduced to 1% after four years with the remaining 1% going back to the General Fund; and 1% to the host municipality. We spent a lot of time on this breakdown and fiddled with it quite a bit. Essentially, the industry came together and determined what was best for their industry.

The committee got a lot of pressure from a variety of different sources. The one group that probably had more influence with the committee than any other was the Maine people, the horse people in the State of Maine. They were heavily involved with what this breakout was going to be, how we would support their industry, what this is going to do for their industry. They hope it is going to bring it from the ashes and harness racing will be come a viable agricultural entity in the State of Maine once again. The two big winners in this bill and in this whole program, as I

mentioned, are the horsemen. They will benefit dramatically, if this all comes to fruition the way everybody sees it happening. The other will be the City of Bangor and Maine people. Will Penn National generate profits? Of course they will. As any other business that comes into the State of Maine, they anticipate a certain return. They have been successful in other facilities. I have not visited them, we are trying to get to that at some juncture but couldn't do that. From what we understand and the reports we get on those facilities is that they are very good.

Finally, I can't sit down without talking about the committee. The committee is comprised of a number of freshmen whose only interest is doing what is best for the people of the State of Maine. What a job they did. I'm terribly impressed, both with those people who are on the minority report and the majority report. This was all consuming. In fact, there was a newspaper article that said that almost \$100,000 was spent in lobbying activities in the month of January alone, on this bill alone. We were receiving phone calls at home at all hours, over the weekends. The committee held firm as to what they thought was the best arrangement for the industry, for the horsemen in the State of Maine, respecting the will of the people since they voted for slots in the State of Maine, and making sure that we had one of the highest levels of regulation in the country. I have a great deal of respect for each one of the committee members. I request, Madame President, that the Secretary read the report so that all of you can understand or know who those members are on the committee. I hope that you can support the majority report. Thank you.

At the request of same Senator, Reports **READ**.

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

Senator **LEMONT:** Thank you, Madame President, ladies and gentlemen of the Senate. I first would like to also start by complimenting the good chair, the Senator from Kennebec, Senator Gagnon. He did an outstanding job. This is the third time I have had the good fortune to serve on a committee that he chaired. I've always admired his work and have the greatest respect for him. Rarely did I agree with him though.

This whole process started in November when the citizens of the State of Maine voted in a citizen initiated referendum to authorize racinos at the two commercial tracks in the State of Maine. The good Senator is exactly right, Scarborough rejected that idea in the local vote. I respect the will of the people. I respect the citizen initiated referendum. What I'm afraid has happened here is that we have possibly created a casino at the Bangor Historic Raceway. The reason I come to that conclusion is because 80% of the revenues generated through gambling in a casino comes from slot machines. Bangor Raceway is going to have 27 races this year. Obviously a lion's share, or greater than 80%, is going to come from slot machines. It will have the same problems, potentially. Those being economic, social, and criminal. We're had that debate. The people spoke emphatically on that also. It's time to move on.

In January, this process started. The administration recognized that the citizen initiated referendum was lacking in licensing and administration. It also failed to provide funds for gambling addiction. At that time, we took that bill. I think we all agree that this citizen initiated referendum needed and received licensing administration. The minority, of which I am one of three,

had a problem with the distribution of funds. The majority report certainly does allocate funds for the Sire Stakes, purse supplements, agricultural fairs, the Fund for a Healthy Maine, scholarships for the Maine university system, and scholarships for the community colleges. As does the minority report.

My problem with the majority report is, and I hope you also share my problem with it, the distribution of the revenues. In the majority report, we're going to give five OTBs located throughout the state, when all the machines are up and running, \$1.65 million a year. We're going to give to the commercial racetracks almost \$3.3 million a year. That is going to be divvied up between the two commercial racetracks. It is going to be determined on race dates. If you take this year's racing schedule of 112 dates of Scarborough and 27 dates at Bangor, Scarborough Downs will receive \$2,560,000 a year. For what, I ask? Scarborough will not even be in Bangor's market area. The initiated referendum had no mention, no mention whatsoever, of revenue for the commercial racetracks nor the OTBs.

I'd like to touch on just one point. I feel it is an extremely dangerous precedent when we allow one gaming entity in this state to, in essence, fund their competition. We are requiring that Bangor Historic Raceway, once they have slots operating, to distribute money to their competition, the aforementioned racetrack and the OTBs. What is the argument here? Are they going to lose business? We don't know. We have no idea. I took the time to call the National Council of State Legislators to see if they had any information that would help me with this issue. They gave me two examples. One was that Louisiana is the only state that has racinos and OTBs. They have been in place for anywhere from six months to a year. They weren't comfortable saying if it had an effect on OTBs or was going to affect OTBs business. They did say that OTBs revenue did increase in the State of Louisiana. One other example is scratch tickets, which is also a form of gambling. Once West Virginia opened up their racinos, they saw an increase in their scratch ticket revenues for the first year of 13.7% and in the second year 12.6%. If it is a case of competition and if it is a case of OTBs and Scarborough Raceway losing business, and in essence, put them in jeopardy and cost us jobs in this state, why wasn't high stakes beano included in the majority report? They are within ten miles of the Bangor Historic Raceway.

Once again, I would like to reiterate. I think we all, in the committee, recognized the need to license and regulate this industry. In tight budgets, I think we can do better. We're talking about the fiscal note on this bill in the year 2006-2007 of \$830 million being generated in Bangor. There is a better way. I encourage my Senators to read the minority report. I would remind them, it's not Ought Not to Pass, it's Ought to Pass. Thank you, Madame President.

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

Senator **HATCH:** Thank you, Madame President, ladies and gentlemen of the Senate. I'd like to make a few brief remarks in support of the commercial racing fund. The people in my district voted for Question 2 because they wanted to save, revitalize, and restore Maine harness racing. In case you don't know, I have the Skowhegan Fair. We have a few days of racing every year. I've many horse people who live in my district and raise some of the finest racehorses in the state. Today Maine has fewer racing horses, fewer horse farms, and fewer days of live racing than it

had just a few short years ago. Introducing slot machines will reverse that decline only if some of the money is used to fund an increase in racing opportunities in Maine. That will lead to an increase in the number of horses and horse farms.

Question 2 by itself offered no reasonable assurance of increased racing opportunities. The revenues from the slot machines would have gone largely to an out-of-state company that operates a track that traditionally runs 26 days of live racing each year. Question 2 would have provided that entity with no incentive to offer more racing, which is a very expensive enterprise. As a result, the entire harness racing community asked the out-of-state owners of Bangor Historic Race Track and the Maine Legislature to create a fund, taking 4% from that out-of-state entity and distributing the money among the commercial tracks based on how much racing they offer. Everyone agreed that this fund is essential to saving Maine's harness racing, including the Legal and Veterans Committee, Capital Seven, Penn National Gaming, Maine horsemen, the Maine fairs, and the entire Maine harness racing community. Without this fund, Question 2 is about slot machines and funding out-of-state profits. With this fund, the slot machine business will fulfill its promise of preserving and expanding our great harness racing industry. This body has a proud history of supporting Maine harness racing. Future legislatures will point to the fund to encourage an increase in commercial racing in Maine as an important part of that proud history. Thank you very much.

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

Senator **GILMAN:** Thank you, Madame President, men and women of the Senate. I stand in opposition to the majority report. I feel I must speak on behalf of my constituents in Westbrook and the voters of Scarborough and Saco. They voted to keep slots out of their area. Because of this majority report, Scarborough Downs will be getting a percent of the funds from the Bangor facility. Technically, Scarborough Downs will be funded by the slots that the voters opposed. I urge you to oppose the majority report in favor of the minority report. Thank you, Madame President.

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

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. I rise this morning in support of the motion, the majority Ought to Pass as Amended report. Serving on the Legal and Veterans Affairs Committee in the past has been rather an enjoyable experience. I cannot say that the last few months of serving on that committee have been enjoyable. In the last 24 hours, I have received 15 phone calls and 38 e-mails at home. I'm most appreciative to have left home this morning at 6:30 and I have not checked to see how many more e-mails I have received.

Basically this was as a result of something that appeared in the morning paper. The good Senator from Kennebec, Senator Gagnon, talked a few minutes ago about the fact that one of the groups involved, Capital Seven, had a company out of Houston, Texas call and e-mail to people in the State of Maine telling them to contact two members of the committee and tell them what a poor job they had done in the last few months. I think most of us in this particular chamber realize that when we get e-mail you

have to open it. It was interesting to find that none of the e-mail that I received and none of the telephone calls I've received in the last 24 hours came from my district. I have roughly 35,000 people in that district. They all came from Maine, but not from my district. A very interesting tactic used by those who would like to derail this whole process and get us back to Question 2.

The good Senator from Kennebec, Senator Gagnon, who did an outstanding job in moving this particular bill, L.D. 1920, through the committee as amended, was entirely correct. If we do not pass this particular bill and revert back to Question 2, it is a disaster. It is a complete disaster because it has no control of the gambling that would come to the State of Maine. It has been mentioned by some, in both printed word and verbally, that Penn National might not be the best group to run the racino in Bangor. To determine whether they were a good group or not, a number of the Bangor City Councilors as well as the City Manager took a trip, at their own expense, not at the expense of Penn National, to West Virginia to check out the racino there. They spent a couple of days there. They took people from Penn National out for dinner while they were there but Bangor paid the bill, not Penn National. They talked with the city councilors. They talked with the Police Chief. They talked with the sheriff. They also talked with a number of clergy. All of the people with whom they talked said that their experiences with Penn National were nothing but positive. The Bangor people came back and that is why they have been supportive of the committee and what it has been doing since then. The good Senator from Somerset, Senator Hatch, adequately talked about the influence of the harness racing community on this particular bill.

I would like to address one of the issues that the good Senator from York, Senator Lemont, made dealing with the OTBs. The giving of the money to the OTBs is something that the committee wrestled long and hard with. I think there are a couple of facts that have not come out thus far dealing with the OTBs. In recent years, the five OTBs in the State of Maine have generated over \$30 million for the harness racing industry. The Maine OTBs, currently are the highest taxed OTBs in this country. The five Maine OTBs represent almost 70% of the harness racing wagering in Maine and approximately 70% of the income to all of the benefactors of Maine harness racing. At one point it was thought they might be going to Scarborough but they are not and they will not be able to go to Scarborough without this body and the other body taking legislative action at some point in the future. It was felt by the committee that with slot machines at Bangor Raceway that there would be a decrease in the revenue of the OTBs. For the first four years they will be receiving some money from what is wagered at Bangor. After that four years the 2% figure will be reduced to a 1% figure.

I feel that what you have in front of you this morning, the Ought to Pass as Amended report, is the best that the committee could come up with at that time. I would urge your support.

Same Senator requested a Roll Call.

**THE PRESIDENT:** The Chair recognizes the Senator from Knox, Senator Savage.

Senator **SAVAGE:** Thank you, Madame President, men and women of the Senate. I, too, am standing to ask for your support for the majority report. I speak to you as one who has been associated with agricultural fairs for more years than I want to even say. As a matter of fact, I can look down on the fairgrounds

from my house. My whole family has grown up as part of the fair. I'm also treasurer of the Maine Association of Agricultural Fairs and I'm an evaluator for the Department of Agriculture. We do evaluate the fairs to make sure that they are continually educating people on agriculture and not just a frilly carnival.

Through these positions that I've had, I can see that all of the fairs are struggling. I know, as a member of the Union Fair board, that we do have difficulty in encouraging the race horses because there is not enough to go around. I see this as a savior for the racehorse industry and all of the effects of the racing of horsing and the spin off from it. I'll ask for your support for the majority report. Thank you.

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Off Record Remarks

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

Senator **SAWYER:** Thank you, Madame President. As the Senator representing Dodge, I wanted to make sure that my community goes on record on how they stand. In my former life, the notion of a host community had an entirely different meaning. It had to do with waste and landfills. I don't know if it applies, racinos and their horses have stuff that needs to be gotten rid of. In any event, I want to speak to the issue from the host community. I am fully appreciative if the residents of the City of Scarborough did not want to have a racino in their community. That's perfectly fine. I'm totally pleased and understand if the citizens Westbrook or Portland don't want a racino in their community. That's fine. Frankly, if the citizens of Wytopitlock were to take a vote and not be in favor of a racino for their community, that would be fine with me. The citizens of my community, at a referendum vote, said, 'We are willing to deal with the downsides, possibly, and we certainly anticipate enjoying the upsides.' I want to be sure that Dodge City is about to put on the record that my community is fully in favor of this. I urge your support. Thank you.

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

Senator **LEMONT:** Thank you, Madame President, ladies and gentlemen of the Senate. I just want to take this opportunity to repute a few things that my good colleague and Senator from Sagadahoc, Senator Mayo, said. He said that he thought that some people would just be content to go back to Question 2. I don't think you'd find anybody in this state, anybody in this body or the administration, that feels that we ought to go back to what Question 2 proposed when it comes to licensing and regulation. I think we are all in agreement with that. Also, I'd like to repeat the figure that he used when talking about OTBs one more time. We're talking about \$1.6 million for the third year, \$1.6 million for the fourth year, and the out years would be 1%. I'm sure they anticipate their business growing, that being that the casinos will be additional revenues. There could possibly be \$1 million a year for perpetuity. What a good deal. I own a small video store in the town of Kittery. We're not a big chain. My wife and I run the business. We have to work a lot of the hours. We can't afford to

hire that many people. Movie Gallery moved to town. It was devastating. It was tough. We didn't run to Movie Gallery and say help us out. They were the competition. We got leaner and we got meaner and came up with some marketing strategies. I feel we do a better job. We survived and have employed four people in our community. We continued on. Giving the OTBs and Scarborough Raceway millions of dollars does not motivate them to do a better job. It does not motivate them to be lean and mean and compete with their competition. That is what we should be fostering in this state. As the good Senator from Sagadahoc, Senator Mayo, said, the reason we did this was because we felt that we should do it. It was a feeling. I hope we don't budget the State of Maine on feelings. Thank you, Madame President.

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

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. Let me first explain that the percentage breakout of this 10% was on a basis of what the industry came up with themselves. The industry had included OTBs. The industry had included the commercial track. All of these people sitting in a room unanimously came up with this distribution of funds. The money comes from the players. The money comes from Penn National. The committee carefully looked at these alternatives, including the alternative of high stakes beano. We understood that the reason why high stakes beano wasn't included in their proposal was because high stakes beano has not contributed in any way to harness racing in the State of Maine or to the horse owners in the State of Maine. That is why, ultimately, even though I supported the idea of them being in, the committee and the majority of the committee chose that they shouldn't be because of the concept or the philosophy behind what the industry did was those entities that support the horsemen in the State of Maine needed to be part of the mix. OTBs have been a strong supporter of harness racing in the State of Maine and ultimately of agriculture. They have the highest rate in the country of what they turn over year after year. In fact, we had a bill last session that would allow slot machines at the OTBs. It passed overwhelmingly in the House and the Senate. Why? Because we love OTBs? No. Because you knew what it would do for harness racing in this state. They will continue to do that for harness racing in this state. That's what the horse people want to make sure happens and continues. Why the commercial tracks? Horse people don't want to just raise horses and get money to do that. They want to race. That is what it is all about. They want to make sure there are more races, that there are better purses that will bring more horses from out-of-state, and that people who live in Maine and have horses out-of-state will bring those horses to Maine. In fact, I have a gentleman who works with me in Waterville who owns a horse. That horse has never seen the State of Maine. The purses aren't good enough. If you are going to invest that type of money, get involved with that, you go to races in up state New York and train in Tennessee. He came by my office in Waterville and said that if this passes the horse is coming to Maine this summer. Wonderful. That's what we are trying to do. That is what we are trying to achieve. Places to race. Make sure they remain viable. Make sure the input of cash that comes into harness racing remains there. That is what this is about.

What is the alternative if we don't give this money to OTBs, we don't give it to the racetracks? We can give it back to Penn National. They don't need it. They would like it. They are from out-of-state. The state could keep it. We've got what we need. We've got more than we need to administer this program at this point. Who's left? Give it to the horse people themselves? They don't want that. They've already said that. They want to continue the support of the OTBs, who will continue to support them well into the future. They want to make sure that the commercial tracks, all the tracks in Maine, continue to have race dates so they can race these gorgeous animals. That is what it is all about. That is why the committee fell where they did. What is the alternative? This isn't taxpayer money that is going out. If that was the case I'd say to return it to the taxpayers. This is about the industry. Protecting the industry. Any gaming that is done in the State of Maine needs to be linked in some way through some entity and harness racing has that link and they deserve this type of protection. Thank you.

On motion by Senator **MAYO** of Sagadahoc, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Kennebec, Senator Gagnon to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" (H-868) Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#365)**

**YEAS:** Senators: BLAIS, BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HATCH, KNEELAND, LAFOUNTAIN, MARTIN, MAYO, MITCHELL, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, STANLEY, STRIMLING, TREAT, TURNER, WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

**NAYS:** Senators: BENNETT, DAVIS, GILMAN, HALL, LEMONT, NASS

29 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator **GAGNON** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-868)** Report, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-868) **READ**.

On motion by Senator **STRIMLING** of Cumberland, Senate Amendment "B" (S-512) to Committee Amendment "A" (H-868) **READ**.



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

Senator **STRIMLING:** Thank you, Madame President. I offered this amendment this morning. I do believe the committee did do a very good job in regulating this industry. I have to commend them for that. What is on the books, or will be on the books if this passes, is much stronger than what would have been there. I have been a strong opponent of having a racino, of having a casino in the state. If we have to do it, they have found the right way. However, I do believe there is one piece of this bill that is unfortunate. That is the amount of money that we're receiving. When you look at other states like New York, which receives 71%, or Rhode Island, which receives 59%, you start to see that the State of Maine is not getting its fair share through this bill. We are facing serious budget cuts in the state and serious funding shortfalls. I believe we should use every opportunity we can bring in additional revenue, especially in this industry when the profits are so large for those companies that choose to open up. This adds on just 3%, just an additional 3% for the state. Half of that will go into property tax relief programs and the other half will go into general assistance. It leaves everything else as is. It's just an additional 3% for property tax relief, circuit breaker program, and general assistance. They are our most needy citizens and we need to make sure that we take care of them. I encourage you to support my amendment. Thank you.

Senator **GAGNON** of Kennebec moved to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-512) to Committee Amendment "A" (H-868).

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

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. As I explained earlier, and the good Senator is correct in what the percentages are, it gets somewhat complex, but the difficulty in Maine is that it's a different market. This is not Miami Beach. This is not New Orleans. This is Bangor, Maine. It is a very limited market. The return that has been required to make this type of entity that we want should be there. It was not the committee's intent to create this type of Christmas tree. Gee, here's money coming into the state. Let's take it and use it to fund all this. They are all very good things. No doubt about it. We could probably list another 20 on top of what the good Senator mentioned. We did not want to create that type of Christmas tree. We really wanted to take the money that was involved, provide the regulation that we needed, make sure that it was paid for, and then make sure that the bulk of the money goes back to the horse people. To see that they win from this whole effort and all the time and effort that they have committed and the years and years of being in the business. If we take more from the project will we risk the project? Possibly. We could risk the whole project. We're told we will have to find out. It could certainly delay it. Ultimately that amount of money would come from the horse owners, the horse people. They are the ones who have done the heavy lifting on all this and are the people we have listened to the most. I would encourage you to indefinitely postpone this amendment. Thank you.

On motion by Senator **BENNETT** of Oxford, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#366)**

**YEAS:** Senators: BLAIS, BRENNAN, BROMLEY, CARPENTER, CATHCART, DOUGLASS, EDMONDS, GAGNON, HATCH, KNEELAND, MAYO, MITCHELL, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, STANLEY, TREAT, TURNER, WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

**NAYS:** Senators: BENNETT, DAMON, DAVIS, GILMAN, HALL, LAFOUNTAIN, LEMONT, MARTIN, NASS, STRIMLING

**ABSENT:** Senator: BRYANT

24 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **GAGNON** of Kennebec to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-512) to Committee Amendment "A" (H-868), **PREVAILED**.

On motion by Senator **GILMAN** of Cumberland, Senate Amendment "A" (S-511) to Committee Amendment "A" (H-868) **READ**.

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

Senator **GILMAN:** Thank you, Madame President. My amendment is simple. It takes money from the off-track betting facilities, money that was not approved by the citizens of Maine, and moves it to the Agricultural Fair Support Fund within the bill, a proposal that was approved by the voters. The amendment retains the 1% of the off-track betting monies that will move to the General Fund after 48 months have passed. L.D. 1820, as originally drafted, created a fund for agricultural fairs only. The majority report now gives a portion of the Agricultural Fair Support Fund to commercial tracks. My amendment seeks to make agricultural fairs whole while halting the subsidies to the off-track betting monopolies. Agricultural fairs are crucial to Maine's landscape. They are part of our Maine heritage and history. At a time when young people are hesitant to choose an agricultural career, we need these fairs to carry on an important tradition. Thank for this opportunity. I hope you will support the amendment.

Senator **GAGNON** of Kennebec moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-511) to Committee Amendment "A" (H-868).

On further motion by same Senator, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#367)**

**YEAS:** Senators: BLAIS, BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HATCH, LAFOUNTAIN, MARTIN, MAYO, MITCHELL, PENDLETON, ROTUNDO, SAVAGE, SAWYER, STANLEY, TREAT, WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

**NAYS:** Senators: BENNETT, DAVIS, GILMAN, HALL, KNEELAND, LEMONT, NASS, SHOREY, STRIMLING, TURNER

25 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **GAGNON** of Kennebec to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-511) to Committee Amendment "A" (H-868), **PREVAILED**.

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-868), in concurrence.

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The Chair laid before the Senate the following Tabled and Later (4/13/04) Assigned matter:

Bill "An Act To Implement the Recommendations of the Governor's Task Force on ATV Issues" H.P. 1413 L.D. 1912

Tabled - April 13, 2004, by Senator **CARPENTER** of York

Pending - motion by Senator **BRYANT** of Oxford to **ADOPT SENATE AMENDMENT "A" (S-509) TO COMMITTEE AMENDMENT "A" (H-881)**

(In House, April 12, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-881).**)

(In Senate, April 13, 2004, Report **READ** and **ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "A" (H-881) **READ**. On motion by Senator **BRYANT** of Oxford, Senate Amendment "A" (S-509) to Committee Amendment "A" (H-881) **READ**.)

On motion by Senator **BRYANT** of Oxford, Senate Amendment "A" (S-509) to Committee Amendment "A" (H-881) **ADOPTED**.

Committee Amendment "A" (H-881) as Amended by Senate Amendment "A" (S-509) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-881) AS AMENDED BY SENATE AMENDMENT "A" (S-509)** thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

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Senate at Ease.

Senate called to order by the President.

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Off Record Remarks

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**RECESSED** until 2:30 in the afternoon.

After Recess

Senate called to order by the President.

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**ORDERS OF THE DAY**

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

Bill "An Act To Establish the Gambling Control Board To License and Regulate Slot Machines at Commercial Harness Racing Tracks" (EMERGENCY) H.P. 1342 L.D. 1820

Tabled - April 14, 2004, by Senator **GAGNON** of Kennebec

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-868)**, in concurrence

(In House, April 12, 2004, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-868)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-868).**)