

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

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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.

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.

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

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

RECESSED until 2:30 in the afternoon.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

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).**)

(In Senate, April 14, 2004, at the request of Senator **GAGNON** of Kennebec, Reports **READ**. On motion by Senator **GAGNON** of Kennebec, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-868)** Report, **ACCEPTED**, in concurrence. **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**. On motion by Senator **GAGNON** of Kennebec, Senate Amendment "B" (S-512) to Committee Amendment "A" (H-868) **INDEFINITELY POSTPONED**. On motion by Senator **GILMAN** of Cumberland, Senate Amendment "A" (S-511) to Committee Amendment "A" (H-868) **READ**. On motion by Senator **GAGNON** of Kennebec, Senate Amendment "A" (S-511) to Committee Amendment "A" (H-868) **INDEFINITELY POSTPONED**.)

On motion by Senator **MAYO** of Sagadahoc, Senate Amendment "C" (S-515) to Committee Amendment "A" (H-868) **READ**.

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

Senator **MAYO:** Thank you, Madame President, men and women of the Senate. Senate Amendment "C" (S-515) deals with an issue that was talked about this morning and that is how and under what conditions are we going to control and know what is going on with regard to the slot machines that will be at the racino in Bangor. This amendment that you have before you establishes a procedure for deciding what type of control procedure we shall have. It puts the ultimate decision making within the board that is established by Committee Amendment "A" (H-868). The reason that we are moving in that direction is that there is a strong difference of opinion on the issue of control, whether the State of Maine should go with what is called a control system or whether it should go with what is called a monitoring system. There are also issues within both of those systems. The committee really does not feel that it is qualified to just make a decision without really looking at both of these systems. I talked with somebody in the State of West Virginia and in the State of Delaware. Frankly, I came away very confused because we were talking about the same thing but they were telling me different things. We really feel that this should be passed to the board. This amendment comes to you this afternoon with the endorsement of the commissioner, Commissioner Cantara, speaking for the Chief Executive. I would hope that you would adopt this amendment to Committee Amendment "A" (H-868). Thank you.

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

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. I do encourage your support of this amendment and appreciate the good Senator from Sagadahoc, Senator Mayo, for putting it forward. This was a level of micro-management, for us at the committee, that involved with a great of detail that we weren't prepared for in regards to what kind of operating system this was going to have and whatnot. With the strong vote this morning, we will create a board who is going to specialize in these types of issues and it seemed wise to allow them to come up with the actual system that we're talking about. I really appreciate the Commissioner's involvement in trying to get us there. Keep in mind that the board will be nominated by the

Chief Executive and approved by this Body. I am going to trust them to come up with the proper system. If we don't make this change in the system that would have to be in place, there may be quite a bit of money spent on behalf of the state and others that may not have been the best investment. Once you head down that path, it might be difficult to change it if it isn't the best system, the right type of monitoring or regulation that we really want. We thought this was actually a very good approach to managing this. Again, I appreciate the Commissioner's involvement in this. I would encourage your support.

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

Senator **STRIMLING:** Thank you, Madame President, men and women of the Senate. I guess I feel a little frustrated that this is coming at the last minute. We voted on a bill earlier that we spent a lot of time working on trying to come up with a compromise. I think that it was a strong bill. Now, at the last minute, we're coming in with this controlling authority, which is one of the most important pieces of this, in an amendment that the committee was willing to go to. Now, all of a sudden, we're just offering it up on the last day, at the last minute, at the end of the session. That doesn't feel very comfortable. I'm trying to read this pretty quickly. It takes a little while to absorb it. I want to say that this doesn't feel very appropriate. To that end, unless I feel comfortable after this debate, I will vote against this. I just wish I had more time. I would like to pose a question to the chamber.

THE PRESIDENT: The Senator may pose his question.

Senator **STRIMLING:** Letter "D" on here, in section 10041, it says that they must; d. allow the slot machine operator to install independent playing tracking systems to include cashless technology as approved by the board. I hope that does not mean people can put their ATM card in and watch their bank account disappear.

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

Senator **MAYO:** Thank you, Madame President, men and women of the Senate. To the best of my knowledge, and this is in answer to the good Senator from Cumberland, Senator Strimling's question, that does not apply and credit cards are not involved. In answer to your overriding question, I, too, share some frustrations, but as we all know, once a bill leaves a committee, and this bill left the Legal and Veterans Affairs Committee some time ago, it is impossible to make any changes. This was an ongoing discussion as the bill left the committee. It has been an ongoing discussion since. The amendment could not be offered until this body voted on L.D. 1820 as amended by Committee Amendment "A" (H-868). Then, and only then, could this amendment come forward. While it has been talked about for a good two weeks as a committee, we were not able to do anything at that time. While I sympathize with the expression of the good Senator, sometimes we are bound by the system that we have established.

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

Senator **SAWYER:** Thank you, Madame President, ladies and gentlemen of the Senate. I'd like to add two-cents from Six Gun City again. One of the reasons why the City of Bangor is in favor of a central monitoring system is because, in effect, this system has been used by other states that have very mature and highly regulated rules surrounding this. Those include Nevada, New Jersey, Illinois, Mississippi, Iowa, and Missouri. So this is not virginal technology. This is something that has been around for a while and worked quite well and frankly, it is supported by my community. I would add as kind of a serendipitous point, if you will, for those of you who are opposed to the whole thing, the opposite to central monitoring is the notion of what is called central control. Central control involves a lot more technology. It is a so-called two-wire system where one wire literally goes to the state. Let me point out, ironically, the other system to this, the central control system, may actually make it easier to expand gambling in the State of Maine because the infrastructure becomes available. In fact, in West Virginia, where a state-wide cap on these terminals actually exists, small businesses are allowed to own and operate up to five machines. With some irony, a central monitoring system actually should reduce the number of machines that end up around the State of Maine. I would urge your support of the amendment in front of you. Thank you.

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

Senator **BENNETT:** Thank you, Madame President and fellow members of the Senate. We've had well over a year's worth of debate on the fundamental question that is before us today, which is should we have racinos in Maine and how should they be regulated? In November of last year, six months ago, the people of Maine, in a narrow vote, approved the racino legislation that was put before them. A narrow vote despite the huge sums of dollars spent on behalf of its passage and no organized opposition to speak of.

The committee has been working on this bill now for at least three months. They have dealt with a lot of various issues. I compliment them on their persistence in their work. It looks like the work on this bill is not done. In fact, it's never going to be done because we are treading on ground that we know very little about here in the State of Maine. Ground that this amendment acknowledges, I think, by its very existence. It is treacherous. I don't like the direction the people of Maine decided to take us with respect to the racino last November. I have to say I'm unhappy with the fact that we are going to have to deal with this not only the pernicious public policy aspects it, but the state management of it, for many years to come. I think the fact that this amendment is before us and wasn't dealt in a timely fashion by the committee isn't a reflection of the fact that the bill left the committee two weeks ago, it's a fact that this bill is just not ready yet. We don't know where we are going. With all deference to the committee and the efforts they have put into it, the effects of this legislation are too wide open for me.

I'd like to believe my colleague, the Senator from Penobscot, Senator Sawyer, that this central monitoring system is in some way going to reduce or be a better alternative to the expansion of racino gambling or slot machines in Maine than the

alternative. Unfortunately, I don't have enough information to accept that on face value. In fact, I read this and I see this as creating an infrastructure which is transferable in its application easily to the expansion of slot machines in Maine whether they are at another racetrack somewhere else or whether they are at a not-for-profit organization for which we are going to be taking up another bill that apparently emerged from the committee expanding slot machines to anybody who claims that they are a not-for-profit in this state. The effects in this legislation are very far reaching. We just don't know enough. If I had my druthers I'd send the whole matter back to the committee and have them continue to work on this. I'd put a hold on the implementation of the racino legislation. That doesn't seem to be an option. Certainly it doesn't in this body based on the votes of earlier today. At the very least, I can object to this amendment, and by so doing, object to the process by which this legislature has tackled this important issue.

Same Senator requested a Roll Call.

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

Senator **STRIMLING:** Thank you, Madame President. I do appreciate what the good Senator from Oxford, Senator Bennett, was saying. I voted for this bill when it first came through because I felt that what the committee had done was much better than what was originally in place. If this amendment gets put on, that very much jeopardizes whether I'm going to support this as it gets the final moment of voting. I would ask again, I really need to hear whether this part "D" including cashless technology means that people can put their ATM into a slot machine and watch their bank account disappear, or even worse, put their credit card in a slot machine and money they don't have disappear. That is a vital issue in the conversations about casinos. They want to make it as easy as possible for people's money to go away, even money they don't have. All of a sudden, at the last minute, we're getting a provision that says it must allow cashless technology. I hope that somebody can answer that question before we are let go out of this body.

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 PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Bromley.

Senator **BROMLEY:** Thank you, Madame President. Sadly, I agree with my colleague from Cumberland, Senator Strimling. I need more information. I would sadly move to table this item until later in this session so we can have a discussion.

THE PRESIDENT: The motion to table is not in order. The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator **BENNETT:** Thank you, Madame President. I, too, share the concerns of the Senator from Cumberland, Senator Strimling, regarding letter "D". It doesn't seem to be that anybody has an answer to the question. So I move that letter "D" from this amendment be stricken and the letters be re-lettered to accommodate that.

THE PRESIDENT: The Chair would advise members that it has not been the practice to accept verbal amendments from the floor on issues as complicated as this. If there is an interest in tabling it pending a new amendment, that tabling motion must be offered without debate.

On motion by Senator **LAFOUNTAIN** of York, **TABLED** until Later in Today's Session, pending the motion by Senator **MAYO** of Sagadahoc to **ADOPT** Senate Amendment "C" (S-515) to Committee Amendment "A" (H-868). (Roll Call Ordered)

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

An Act To Promote the Public Interest by Providing for Reasonable Rates of Compensation for Forest Products Harvesting and Hauling Services

H.P. 972 L.D. 1318
(H "A" H-864 to C "C" H-848)

Tabled - April 13, 2004, by Senator **CATHCART** of Penobscot

Pending - **ENACTMENT**, in concurrence

(In Senate, April 9, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-848) AS AMENDED BY HOUSE AMENDMENT "A" (H-864)** thereto, in concurrence.)

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

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

Senator **CATHCART:** Thank you, Madame President, men and women of the Senate. Just for the record, there was discussion of exempting this bill from the Appropriations Table. A majority of the committee voted yesterday to exempt the bill. In the meantime, I have received a letter from the chair of the State Board of Arbitration and Conciliation, Shari B. Broder. She states the need for this fiscal note is for \$4,200 in funding to conduct rulemaking and goes on to state that the BAC, while they do plan to conduct rulemaking on the bill, they do not anticipate beginning that process this year. Therefore, I believe that it is ready to be enacted. Thank you, Madame President.

Senator **MARTIN** of Aroostook requested a Roll Call.

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

Senator **BLAIS:** Thank you, Madame President, men and women of the Senate. We have yet another opportunity to consider the potential impact of this legislation. I think it's important, once again, to recognize the validity of the business dispute that exists between the enterprises contemplated in this legislation. I respect that, but I also think it's very important that we must consider the consequences of this type of legislation, particularly the unintended consequences of this legislation.

As I understand it from our conversations in the hallways and from the testimony that we heard in our committee and from the various permutations of this legislation since our first regular session; it's aimed at a single business relationship between many small businesses and a particular landowner in Aroostook County. One of the unintended consequences of this legislation as it is drafted is that it pulls in two other landowners who, as I understand it, have very good relationships with their loggers and haulers. I think we need to keep the potential disruption to their business in mind. It also leaves out others who also meet the size criteria, the 400,000 acres that is contemplated in the legislation, because their land holdings span labor market areas. They are not all in one labor market area. I think that this points to a concern that we should have with legislation that is intended and manipulated to specifically target a specific company with legislation that has the potential to have an impact statewide.

Another unintended consequence of this legislation arises from the fact that the rate-setting board has a 30-day process, at minimum, for establishing these rates. I think that 30 days could have the potential to create a serious disruption in the pulp supply for our mills. What happens when a mill puts in an order with a landowner and says they need a certain amount of pulp but the landowner is forced to say they will not be able to do that because they have to go and set rates that will take a minimum of 30 days to establish. That, in turn, has the potential unintended consequence of increasing the cost of pulp for all of the mills in our state. We already know that it costs more for our mills and our forest products industry to do business in Maine than in the other venues where they are engaged in the United States. Here we have legislation, at a time when we're doing our best to keep our mills here and keep their good paying jobs here, that has the potential to increase the cost even more for doing business here in Maine for our papermills. This may eventually result in the loss of those good paying jobs that we're all struggling so hard to keep here in Maine.

I would encourage my colleagues in the Senate to, please, oppose enactment of this legislation. Thank you very much, Madame President.

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I just have a few remarks in response to the good Senator from Kennebec, Senator Blais. My sense is that if a company already has good relationships with loggers and haulers, they will still have those good relationships. There is nothing in this bill that will hamper that. Any two entities that have worked out decent arrangements with one another will not be interfered with. Further, if pulp is needed, the existing rates that are being paid to those loggers and haulers will be enforced until rate setting is done. I don't think that will inhibit the flow of pulp to mills. I guess, further, I just want to remind people that people in this room have been waiting a long time for a good resolution to this issue. I think we should not delay any further and move immediately to enact this legislation that is so important to people. Thank you.

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