

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twenty-Second Legislature

State of Maine

Daily Edition

First Special Session  
April 4, 2005 to June 17, 2005

Pages 411 - 1350

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act To Modify the Calculation and Implementation Date of Savings Offset Payments under the Dirigo Health Act"  
S.P. 555 L.D. 1577  
(C "A" S-359)

In Senate, June 10, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-359)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-359) AS AMENDED BY HOUSE AMENDMENT "B" (H-687)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **SULLIVAN** of York, the Senate **RECEDED** and **CONCURRED**.

On motion by Senator **PLOWMAN** of Penobscot, the Senate **RECONSIDERED** whereby it **RECEDED** and **CONCURRED**.

On further motion by same Senator, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-359)**.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED COMMITTEE AMENDMENT "A" (S-359)**.

House Amendment "B" (H-687) to Committee Amendment "A" (S-359) **READ** and **ADOPTED**, in concurrence.

On motion by Senator **PLOWMAN** of Penobscot, Senate Amendment "A" (S-370) to Committee Amendment "A" (S-359) **READ**.

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

Senator **PLOWMAN:** Thank you, Madame President, men and women of the Senate. I'm offering an amendment as we consider L.D. 1577, a bill to modify the calculation and implementation date of savings offset payments under the Dirigo Health Act. As we discussed in quite length the other day, we were discussing how we would arrive at a figure for savings. The more I checked into what we actually owe the hospitals, I thought that while we're calculating bad debt that we ought to be taking into account the payments that we have not made that due from the State of Maine and have been owed to the hospitals since 2003. They actually come to about \$190 million. I would say that we are actually in the bad debt category with our state hospitals. What I am offering is an amendment to say that when the adjudicatory process starts to decide when and how we will determine savings offsets and how our hospitals have benefited from insured patients under Dirigo we consider that we owe them \$190 million and have for some years and that should be considered as part of their bad debt until we actually pay them.

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

On motion by Senator **SULLIVAN** of York, Senate Amendment "A" (S-370) to Committee Amendment "A" (S-359) **INDEFINITELY POSTPONED**.

On motion by Senator **MARTIN** of Aroostook, the Senate **CONCURRED**.

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

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

**PAPERS FROM THE HOUSE**

**House Paper**

Bill "An Act To Authorize, Subject to State Referendum, a Tribal Commercial Track and Slot Machines in Washington County"  
H.P. 1197 L.D. 1690

Committee on **LEGAL AND VETERANS AFFAIRS** suggested and ordered printed.

Comes from the House, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Under suspension of the Rules, **READ TWICE**, without reference to a Committee.

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

Senator **RAYE:** Thank you, Madame President. May I ask where we are in the Parliamentary process at the moment?

**THE PRESIDENT:** The pending question is passage to be engrossed.

Senator **RAYE:** Thank you, Madame President, men and women of the Senate. I rise in support of the pending motion. Just days ago we debated this topic at length before our vote to enact L.D. 1573 and the people of Washington County are enormously grateful to all those in this body who helped ensure its historic passage. Now, with L.D. 1573 having been vetoed by the Chief Executive, we have before us a bill that is identical in every respect but one, it would give the citizens of Maine the right to determine whether or not Maine's Native Americans and the people of Washington County will have the right to share fully in the promise and the potential of the state's racino law. As I noted during our previous debate, this issue is the culmination of an historic partnership between Maine's First People, our Native Americans, and the people of Washington County. Ironically,

Madame President, I heard the suggestion yesterday that this issue had somehow not been properly vetted. Arguably, no other single issue this session has been more thoroughly vetted and debated in this building than the issue of a racino in Washington County through the well attended public hearing, numerous committee work sessions, and extended floor debate in both bodies. Today we simply ask that you allow the debate to move beyond this building and out to the people of Maine. In the interest of time I will not repeat in catalog here today the many challenges facing the people of Washington County that I mentioned in our previous debate. The facts are well known. At this point, on behalf of the people I represent, I ask only that you let the people of Maine decide. Let the people of Maine decide if we in Washington County should have the opportunity to take advantage of our unique geographic location. Let the people of Maine decide if a racino is appropriate for a county that boasts the nation's eighth busiest border crossing with Canada with 2.5 to 2.9 million people crossing annually and that, for the vast majority of the 1.8 million residents in the maritime providences, is the gateway to New England. Let the people of Maine decide if a racino is as appropriate for Washington County as it is for Bangor. Speaking of Bangor, I'd like to point out that the Senator from Penobscot, Senator Perry, stands with us as do each of the Senators from Penobscot on both sides of the aisle. I appreciate their leadership in promoting this basic fairness. We ask that this body let the people of Maine decide if they will help put an end to the frustration of struggling local business owners who watch helplessly as tourists pour through our communities. Let the people of Maine decide if we can put an end to decades of economic distress and fruitless efforts to attract businesses to our county, even as our economy and our population have declined. Let the people of Maine decide if Washington County will have a chance to create jobs in the tourism and agriculture sectors to help rein in the chronic high unemployment and poverty that plagues us. Let the people of Maine decide if our state's horsemen deserve additional racing days so they are not forced to leave this state to cobble together enough race days to stay in business. Let the people of Maine decide if there is validity to the argument that a racino on the Canadian border, more than four hours northeast of Portland, will somehow disadvantage southern Maine more so than the massive Foxwoods Resort Casino an hour closer. Let the people of Maine decide if additional racino funds should support our fairs, the General Fund, economic development, and increased educational opportunities in long impoverished Washington County. Let the people of Maine decide if our Native American neighbors, who populated our state long before any of our ancestors arrived in this place and who have come together across traditional tribal lines to form a partnership for the Washington County racino, will be afforded equality of opportunity. Madame President, unlike the professional lobbyists who have prowled these halls, working overtime to derail this grassroots effort, our Native Americans and we in Washington County are willing to place our trust in our fellow Mainers to make an informed, wise, and fair decision. The people of Maine can discern between the prospect of citing a mega casino in southern Maine and a relatively modest casino in Washington County.

We all know that one of the staunchest foes of the Washington County racino is the Portland Press Herald. They have shined the spotlight on their opposition through numerous editorials and articles, yet four separate on-line questions of the day conducted by the Press Herald themselves have recently

shown overwhelming public support for a Washington County racino. First, on May 24, nearly 500 readers participating in the Press Herald poll expressed support for the Washington County racino by a margin of more than 2 to 1. On Friday, June 3, 327 readers responded to the question 'Can a racino succeed financially in Washington County?' Their reply, by a margin of 57.8 - 35.1, was yes. The following day, Saturday, June 4, 387 readers responded to the question 'Should the Governor veto the Washington County racino bill?' By a margin of 65.4 - 29.2 the participants in that poll said no. Finally, on this past Friday, June 10, after the Governor's veto and the bill before us had been introduced, 588 readers of the Press Herald responded to the question 'Would you vote for a racino to be run by the tribes in Washington County?' The results were 63.3% said yes while only 34.7% said no. Unscientific, yes, but these results are certainly consistent and I would note that they have come from the readers of the southern Maine newspaper that is leading the editorial charge against this effort.

Ladies and gentlemen of the Senate, I urge you to stand with Maine's Indian tribes and the partnership they have forged with each other and with the people of Washington County to reverse the decades old economic stagnation that has plagued them both. In the final analysis, no matter how any of us may stand on the issue of gaming, certainly we can all agree that the people of Maine should be the final arbiters. The greatest expression of respect each of us can grant to our constituents, no matter where we live, is to entrust them with this decision. Let's put an end to the speculation over what we think the people want. Let's put an end to conjecture over what people meant when they voted in favor of the racino across this state. Let's determine, once and for all, how the people of Maine feel about a Washington County racino. We, whose future is so directly at stake with this proposal in Downeast Maine, are willing to place our trust in the people of this state. Surely if you represent a different part of the state you should be willing to place the same degree of trust in your own constituents. I hope we can agree on that and I ask for your support of the pending motion. Thank you.

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

Senator **MILLS:** Thank you, Madame President. Rule 17 of the Joint Rules specifies that any bill or resolution that has been introduced and finally rejected in a regular or special session may not be introduced in a subsequent regular or special session of the same legislature except by vote of two-thirds of both chambers. The bill that lays before us, as the good Senator from Washington, Senator Raye, has stated in his supporting speech, is word-for-word identical to a measure that was rejected in the House of Representatives just a few days ago with the exception that a Part B has been added to provide for a referendum process by which the substance of the bill might be enacted. I suggest that because the substance of the proposed law is exactly the same as that which we have previously dealt with, that the bill is not properly before this body and this chamber. Thank you, Madame President.

Senator **MILLS** of Somerset rose to a **POINT OF ORDER** as to whether the Bill was **PROPERLY BEFORE THE BODY**.

**THE CHAIR MADE THE FOLLOWING RULING:**

"The Chair will rule, having anticipated this question, from Mason's, section 726, number 5. When a bill has been rejected at any stage in the house in which it originated, it may not be reintroduced in the same house; however, a new bill, presenting the same question or the same question in a modified form, or a bill presenting substantially the same question, may be introduced."

The Chair **RULED THE BILL PROPERLY BEFORE THE BODY.**

On motion by Senator **STRIMLING** of Cumberland, Senate Amendment "A" (S-366) **READ.**

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

Senator **STRIMLING:** Thank you, Madame President and colleagues. I could not agree more with my colleague from Washington County. Let's let the people decide. Let's no longer try to figure out what they meant. Let's no longer read into it. Let's have a vote. What this amendment does is it says that if the people vote yes, then yes, we can put a racino in Washington County. If they vote no, there are no slots in Maine. Let's stop the process. Let's have our up or down vote, finally, to say if we are going to have slots or not have slots. Yes, if they want it, it goes in Washington County. If they say no, then we have no slots in Maine. It seems to me that is a fair trade off. Are we going to have to have a vote every time any county wants to have a racino? Is the legislature going to have to put it out for a statewide referendum every time somebody wants to have a racino? Let's stop that process now and have one more up or down vote. If they say yes, they can have it. Washington County. It's in. If they say no, let's remove slots. I say to those people in Washington County who want to have a racino that this will help your cause because the people in Bangor will do everything possible to make sure that it passes. The racino in Bangor will do everything to make sure that slots are not repealed. This helps your cause. As a matter of fact, if you don't do it this way, if you just have an up or down vote statewide on Washington County, I think that those folks who have another racino are not going to be as interested in helping you set up their competition. Why would the group that is organizing a racino in Bangor say, 'Hey, we want to help them in Washington County set up something that is going to compete with our business.' They are not going to do it. If we have a statewide referendum on whether or not slots are going to be allowed at all, then they will help. I encourage my colleagues to support this amendment. Thank you.

Senator **GAGNON** of Kennebec rose to a **POINT OF ORDER** as to whether Senate Amendment "A" (S-366) was Germane.

**THE CHAIR MADE THE FOLLOWING RULING:**

"The Chair ruled Senate Amendment "A" (S-366) is not properly before the Body. Merely changing the title of a bill under the color of an amendment, in fact, extends the scope of the bill and introduces a completely new subject to the bill, the way this does is not germane."

The Chair **RULED SENATE AMENDMENT "A" (S-366) NOT GERMANE.**

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

Senator **STRIMLING:** Thank you, Madame President. Since the amendment was not allowed to be voted on, I now encourage my colleagues to please vote against this referendum. How many times are we going to have to go through this? This was bad economic development last week. It is bad economic development this week. It will be bad economic development next week. We rejected this. It was vetoed and the veto was not overridden. We didn't even have a chance to reject and I believe we would have down here. This is bad policy for the State of Maine. We don't have to reiterate all the issues that came up before. We know the devastating impact of what this is going to do to Washington County and to the rest of the state. We voted on this. We have rejected this. Reject it again. We don't need more people in poverty in Washington County. We don't need more drug abuse in Washington County. We don't need more bankruptcy in Washington County. What we need is real economic development, investments in our roads, investments in our schools, and investments in research and development. That builds the future of this state. This sucks money from people who can least afford to have it taken from them. Thank you, Madame President.

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

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. Just two points, briefly. I've not seen amidst any of the literature that has circulated across our desks, either on this occasion or in prior evenings when we've debated this subject, anything that even comes close to being a business plan to explain why this enterprise has any viability or any likelihood of success or any likelihood of improving life for anyone in Washington County. I remember quite well when, under the King administration, there was a major inducement offered by the Department of Economic and Community Development of a \$1 million prize to be awarded to any group of communities that would put together a sensible business plan for opening and developing a business park. I recall the amount of time and the effort that went into developing First Park, which is a real jewel of economic development in Central Maine, located in Oakland. It involved the participation of some 24 communities who got together and pledged their own tax support to the enterprise and there was a joint contribution of money from federal, state, and many local sources. Before we embarked on that enterprise, there was a thorough business study and a business plan and a presentation made to selectmen in town meetings throughout the region before we finally put money down and began what was and remains, frankly, a still risky and difficult enterprise. It has come to fruition in just recent times with the landing of the T-Mobile business development with the T-Mobile location and the production of some 700 meaningful jobs paying \$20,000 to \$40,000 a piece. We're very grateful for the help that the state rendered and very grateful for the vision of Governor King and his economic development people.

I suggest to you that this was true economic development. It stemmed from a plan, stemmed from a strategy, and most importantly of all, it had a business plan behind it that had experts who reviewed the viability of the plan. Even at that, there was substantial risk of public money, public energy, and local

commitment. I see none of that laying behind this dream of a racetrack for Washington County. It isn't even designated specifically for Washington County but for some sort of tribal location that isn't well specified in the bill. We are operating on a wing and a prayer. We are being lobbied by the very best. I think that the Indian tribal representatives are wonderful people. They do an amazingly effective job of convincing us of their own dreams and talking to us about their aspirations and about their own frustrations with Washington County. They are very convincing. They are very good lobbyists as well as legislators. I respect them deeply. My concern is that, if this thing should pass and if they should convince the public that their dreams are somehow viable, this is perhaps the last we will see of them in this project and we will begin, once again, to see the nature of the people who come forward to support the project once there is public gratification for it. These will be the people that we've been accustomed to seeing associated with gambling enterprises in this state in times past. I don't need to remind you who they are or where they come from or what their backgrounds are or where their money comes from. I'm deeply concerned about this fly by night notion, about the lack of preparation or planning for it, and about the very idea that somehow just this notion of being able to stop a certain string of traffic from Canada will somehow come to fruition. There is only one thing that is certain about this, 1,500 slot machines will take all of the money that there is in Washington County and not even hic-cup as they process those coins through the slots. Whether they will actually take any Canadian money or not is entirely speculative and I think we are doing a great disservice to the people of Maine to perpetuate this speculation and this lack of planning. Thank you.

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

Senator **STRIMLING:** Thank you, Madame President. One final point. To my colleagues who supported the civil rights bill earlier this year, there is a very good chance that if this passes tonight this bill will be put on the November referendum. If it is put in the November general election and the people who are trying to collect signatures to repeal the civil rights bill get their signatures that will also be on. This will hurt the cause of protecting civil rights.

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

Senator **GAGNON:** Thank you, Madame President. I believe that it is inappropriate to discuss what may happen and what future action may occur.

**THE PRESIDENT:** The Senator is correct. Would the Senator from Cumberland, Senator Strimling, like to proceed talking about what is before us presently? The Chair recognizes the Senator from Cumberland, Senator Strimling.

Senator **STRIMLING:** Thank you, Madame President. Is there some way I can get some clarification? I guess I don't understand what I was doing wrong.

**THE PRESIDENT:** I think that the Senator from Kennebec, Senator Gagnon, is referring to the fact that you are referring an action that could take place and not the action that is presently

before us. The civil rights question is not currently before us. The question before us is the acceptance of this bill.

Senator **STRIMLING:** Thank you, Madame President. I won't say much more because I think the people understand the point that I am making. If this goes out, if this passes, it will be on the ballot in November. There is nothing in this bill to have it go at any other time than in November. I ask you to keep that in mind as you are thinking about this and the implications of what that could have for the State of Maine in terms of other legislation that we have passed. Thank you, Madame President.

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

Senator **RAYE:** Thank you, Madame President. I rise to respond to my good friend, the Senator from Somerset, Senator Mills. Once again, I am taken aback by his comments and the connotation for what that represents in terms of how he views our Native Americans and the residents of Washington County. The suggestion that Maine's Native People are nothing but dupes, I think, is insulting. The suggestion that the people of Washington County lack the intellectual capacity and self-control to resist gambling away every last cent they have is beyond the pale. I would also respond to my friend from Somerset, Senator Mills, that it most certainly is designated for Washington County. If you read the bill and read a map you will see that. As for the business plan, there is no public money in this plan. I guess I'm a little bit curious as to why the good Senator would be so deeply concerned about that issue that he would stand in the way of this opportunity because the economic development that the good Senator praised in his remarks as having been so successful under Governor King and others has not succeeded in lifting either the tribes or the people of Washington County. Once again I would remind you that all of these issues I am certain will be thoroughly vetted in the campaign to come between now and the November election by the people of Maine who do have the intellectual capacity, as do the people of Washington County, to size up the situation and to make a fair determination. That is all we ask with this vote, that we trust the people of Maine. We, in Washington County, are willing to put that trust in our fellow Mainers and I hope that everybody in this body would have the same level of respect for the citizens of Maine. Thank you.

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

Senator **SCHNEIDER:** Thank you, Madame President. It's no secret to most that I am not a person who particularly likes any form of gambling. However, I did vote for the racino in Bangor and I did so because it would, I believe, help the horseracing industry, help to build potentially a new civic center, and help the general economy of the area. I feel it's irresponsible to vote for one and not for another in this case, in a situation where the state is faced with losing many more thousands of jobs. Is it a wing and a prayer? Maybe so. I think the people of the State of Maine should have the option of voting for this on their own. We are not voting yes or no, up or down, on this particular issue at this time. We are allowing the people of the State of Maine to vote for this if they so choose or to turn it down. I think they are the ones who should be entitled to make this decision. We were given that option for the Bangor racino and I think we should allow this for

the Washington County racino. I hope my colleagues will allow the people of the State of Maine the opportunity to vote this up or down. Thank you very much.

On motion by Senator **GAGNON** of Kennebec, 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 Engrossment. 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 (#267)**

YEAS: Senators: BRYANT, COURTNEY, DAMON, DAVIS, DOW, GAGNON, HASTINGS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SNOWE-MELLO, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, CLUKEY, COWGER, DIAMOND, HOBBS, MILLS, NASS, ROTUNDO, STRIMLING, SULLIVAN

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, **PASSED TO BE ENGROSSED**, without reference to a Committee, in concurrence.

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

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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 **JUDICIARY** on Bill "An Act To Include Regional Transportation Systems under the Maine Tort Claims Act"

H.P. 629 L.D. 910

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-691)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-691)**.

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

**READ ONCE.**

Committee Amendment "A" (H-691) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

**COMMUNICATIONS**

The Following Communication: H.C. 293

**STATE OF MAINE  
CLERK'S OFFICE  
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AUGUSTA, MAINE 04333**

June 14, 2005

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

Dear Madam Secretary:

The House voted today to adhere to its previous action whereby Bill "An Act To Amend Certain Fish and Wildlife Laws" (S.P. 344)(L.D. 1004) was Passed to be Engrossed as Amended by Committee Amendment "A" (S-317), House Amendment "A" (H-668) as Amended by Senate Amendment "A" (S-361) thereto and Senate Amendment "A" (S-330) as Amended by House Amendment "A" (H-684) thereto.

Sincerely,

S/Millicent M. MacFarland  
Clerk of the House

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

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**