

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Third Legislature

State of Maine

Daily Edition

First Regular Session
December 6, 2006 to June 21, 2007

Pages 1 - 1266

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

READ ONCE.

Committee Amendment "A" (H-55) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Allow Military Personnel Stationed in Maine To Register All-terrain Vehicles As Residents"

H.P. 149 L.D. 167

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-58).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-58).**

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

READ ONCE.

Committee Amendment "A" (H-58) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Make Additions and Deletions to the List of State Endangered and Threatened Species"

H.P. 296 L.D. 366

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-59).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-59).**

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

READ ONCE.

Committee Amendment "A" (H-59) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TRANSPORTATION** on Bill "An Act To Establish an Airport Managers Training Program"
H.P. 184 L.D. 213

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-53).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-53).**

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

READ ONCE.

Committee Amendment "A" (H-53) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Create Fairness in E-9-1-1 Funding"

H.P. 425 L.D. 547

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-57).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-57).**

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

READ ONCE.

Committee Amendment "A" (H-57) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Authorize a Tribal Commercial Track and Slot Machines in Washington County"

I.B. 1 L.D. 805

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

Signed:

Senators:

MARRACHÉ of Kennebec
BRYANT of Oxford
PLOWMAN of Penobscot

Representatives:

MOORE of Standish
WEDDELL of Frankfort
PINKHAM of Lexington Township
TRINWARD of Waterville
PATRICK of Rumford
TUTTLE of Sanford
NASS of Acton
GOULD of South Berwick
HOLMAN of Fayette

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

Signed:

Representative:

BLANCHETTE of Bangor

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

Reports **READ**.

On motion by Senator **MARRACHÉ** of Kennebec, the Majority **OUGHT TO PASS** Report **ACCEPTED**, in concurrence.

READ ONCE.

Under suspension of the Rules, **READ A SECOND TIME**.

On motion by Senator **MARRACHÉ** of Kennebec, Senate Amendment "A" (S-37) **READ**.

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

Senator **MARRACHÉ:** Thank you, Madame President and men and women of the Senate. I would like to put a few words in. This is a 12 - 1 report out of committee. It wasn't debated very much because most of the members had already felt very supportive about this bill prior to coming. It has been seen before in committee and it was voted out similarly before. I would like to provide for you a sum of the information we did talk about, that is some of the concerns that were raised about the cost that it will be to maintain police support for the area. I would like to add that when we look at that issue we found that the racino that is currently in place in Bangor has not seen any new police added. They do not foresee that happening even if they go up to the number of slots that they could. When asked by a representative on the committee they did not state that they would need any more other than just a few for Calais to have the same amount. In terms of safety, I feel it's quite safe. In terms of having two racinos in the state of Maine, I would add that there are two that I know of within a 7-mile radius in Connecticut and they are both doing quite well. Actually I spoke with a Senator who lived within the mile radius of those 7-miles and she stated that it has tremendously helped their community. The revenue that has been coming has supported many things that are good for their communities, so I wouldn't let that be an issue for you. This is very important for the tribes. They have been working on this for

over 15 years. If you want to consider it in terms of fairness, they have been doing so and all the while they never did get any further than this point here whereas Bangor has gotten their racino quite a while before them. This is a problem in terms of making sure that every aspect of Maine is seen in its proper dimension and this really should be looked upon fairly in terms of support. I'm sure there will be people behind me that will speak also of the economic impact this will provide for the area. I welcome you in support of this bill. Thank you.

On motion by Senator **MARRACHÉ** of Kennebec, Senate Amendment "A" (S-37) **ADOPTED**.

The Senator from Kennebec, Senator Marraché requested a Roll Call.

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

Senator **RAYE:** Thank you, Madame President, men and women of the Senate. I rise in support of the pending motion and I want to thank the Senator from Kennebec, Senator Marraché, the Senator from Oxford, Senator Bryant, the Senator from Penobscot, Senator Plowman, and the other members of the Legal and Veterans Affairs Committee for their thoughtful consideration of LD 805 and their 12 - 1 Ought to Pass Report. Sometimes progress does not come easily. Sometimes it requires perseverance and multiple attempts. That is certainly the case for the issue before us. It has been a long and difficult journey to this day, a journey that began 15 years ago with the Passamaquoddy's first proposal for a full-fledged casino in Calais. Over the years other entities have come into Maine and bi-passed our own Native People.

A racino is now operated by Penn National Corporation in Bangor. That has proven to be, by all measures, a very good thing for its host community. The fact that Maine's Native People have been denied that same opportunity to bring economic growth to their home area and Maine's poorest county is a source of great pain and sorrow for the Passamaquoddy people and for the people of Washington County who have long supported the Passamaquoddy's dream. We have been forced to watch from the sidelines as the progress and economic boost we have long sought for our area has instead lifted others.

During the last legislature this Body and the other Body considered and gave our strong approval to a bill to authorize the Washington County racino only to have the promise of economic revitalization fall victim to a veto by the Chief Executive. This was yet another disappointing setback to Washington County and the Passamaquoddy. Following that exercise, we came back with a similar bill with a petition clause. That, too, sailed through the legislature, falling just a fraction of a vote shy of 2/3 in this Body. Again, our action here was vetoed.

Racino supporters took their case directly to the people of Maine and collected more than 51,000 valid signatures from Mainers who support this cause. As a result, we are once again reconsidering this issue and it is my hope that we will once again unite in strong support of the Washington County racino. LD 805, the bill sent to us by the people of Maine, is an exact duplicate of the bill we considered two years ago and closely mirrors existing law approved by Maine voters in referendum.

As the Senator for Washington County and the Passamaquoddy tribe, I would like to explain to you the human

dimension of why this will be so vitally important to our region and the potential it offers to be a key component of our efforts to boost the long ailing economy of Downeast Maine. In order to fully appreciate that potential it is important to understand the conditions that exist today. I'd like to take a moment to run through them with you briefly. According to the Bureau of Labor Statistics, Maine's average unemployment rate, over a recent 7-year period, was 4.4%. During that same period the unemployment rate in Washington County was an average of 9.1%. In other words, our unemployment rate is chronically more than double that of the rest of the state. That holds true for the latest figures out just for January, with the Calais labor market area experiencing the highest unemployment in the state at 9.5% compared for 5.2% statewide and just 3.6% for the Portland labor market. It is noteworthy that in every single one of those seven years our unemployment rate was the highest of all 16 counties. Even as high profile job losses in other counties gained much media attention and significant resources, our county has continued to quietly suffer the state's highest unemployment rate. Similarly, the Bureau of Labor Statistics shows that Maine's median household income is \$37,963. Compare that to Washington County's level of \$27,007. By a considerable margin, it is the lowest of all 16 counties. In fact, our median household income is nearly 30% lower than the state median. It is less than half that of Cumberland County and York County.

Last year's in-depth report, Poverty in Maine, by the Margaret Chase Smith Policy Center, tells us that Washington County's median income is 25% below the federal poverty rate for a family of four. According to the U.S. Census Bureau 11% of all Maine families and 14% of children under 17 in Maine live in poverty. In Washington County it's 17.6% of our families and an astounding 24.2% of our children who live in poverty. In other words, Washington County's poverty rate is 60% higher than the rest of the state and Washington County children under 17 suffer a poverty rate 70% higher than their counterparts across Maine. The Margaret Chase Smith Policy Center's Poverty in Maine report also showed that Washington County is one of only two counties that experienced continued population decline between 2000 and 2005.

For many years legislators working under this dome, policy makers and a succession of administrations, have pondered how to possibly change that dynamic for Washington County in a way that will allow us to overcome our long time economic distress. As one who was born and brought up in Washington County and who now represents its people here, there is no responsibility I feel greater than to help stimulate a change in that dynamic. This bill is designed to do just that. It literally provides the people of our county the opportunity to lift ourselves, not asking for help from others, but to lift ourselves up by the bootstraps. By devoting 1% of the total gross revenue to economic development and 1% to secondary vocational education, an infusion of funds will finally help fuel economic development and prepare our citizens for the workforce. Currently the Census Bureau tells us that only 14% of Washington County residents over 25 have college degrees compared to 23% statewide. Clearly if we are to be able to lift ourselves out of the economic conditions that have defined our part of Maine for so long an educated populace is one of the key tools. By identifying a portion of scholarship funds for students at Washington County Community College and the University of Maine at Machias it is our goal that Washington County will begin to catch up with the rest of the state in terms of our people who can achieve higher education. I would also point

out that the Joint Tribal Council of the Passamaquoddy Tribe just last week enacted a resolution pledging to donate an additional 2% of their share of the racino revenues to additional scholarships at Washington County Community College above and beyond what is in this bill. This is an unprecedented and extraordinary step that can have a great impact in transforming our workforce and it is yet another in a long line of good faith efforts by the Passamaquoddy people to extend the hand of friendship and partnership to work together.

For those who are concerned that we somehow view this as the end-all, be-all for Washington County, I want to dissuade your concerns. I do not foresee this single proposal as the sole economic salvation of our part of Maine, but there can be no doubt that it is a key component of our economic development strategy. We have watched in utter frustration as tourists pour through our beautiful part of Maine in search of activities and destinations to our east and to our west. With the racino as its anchor, it can leverage the investment necessary to realize the vision of a full service resort featuring convention and meeting facilities, an expansion of the golf course, to provide the critical mass for some of those folks who pour through Washington County to stop and stay a while. While doing so, they would become aware of the other opportunities and attractions that we offer.

By offering racing days during times that other Maine tracks do not currently operate, this proposal carves out a unique niche for Maine's horsemen. Rather than competing with any other race site, it will help them to make a go of it. In the process, Maine's horsemen will be provided with additional racing days in the spring and the fall, helping to make it possible for them to make a living. For Washington County, in addition to the direct jobs that will be created, the spin-off in the agricultural sector will benefit feed stores, hay producers, and the like. It will afford us the opportunity to restore a part of our own proud agricultural heritage. During the last century my great-grandfather was a horseman in Washington County, as were many others. I grew up going with my grandparents to see the old racetrack where Pa Bishop had his horses. Like so many other things in Washington County, those tracks are gone. This can allow that part of our history to come back.

We've come a long ways since 1993, when the late great State Senator Harry Vose of Washington County, who served in this Body with distinction, teamed up with the then Senator from Penobscot, Senator Baldacci, to sponsor legislation to allow a full fledged casino, not a racino but a casino, in Calais, a proposal that overwhelmingly approved by that city's residents in a local referendum. I would note that his Honor, the Mayor of Calais, is in the rear of the chamber today and he well remembers that. Nearly a decade and a half later the proposal before you is not for a casino. It's for a much more modest commercial track with slots. The debate on whether or not this is a form of economic development appropriate for our state has been decided already by the voters of Maine. Perhaps more importantly, LD 805 is also a matter of basic fairness. All we ask for in this legislation is that this part of Maine be able to benefit from a proven formula that has helped lift the economies of other communities across this country. By the same token, Maine's Indian tribes seek only a level playing field by having the same opportunities that Penn National has been afforded. Every member of the Washington County Delegation, Republican and Democrat alike, as well as Passamaquoddy tribal representative, Representative Soctomah, are on record in support of this racino. It has strong support from

local officials, the business community, and Maine's horsemen. A letter has been circulated to each Senator making that clear. Even the Washington County Sheriff has weighed in with his support. This breadth, the depth of support sends a powerful message about the partnerships that have been forged in our shared determination to move forward and improve our own situation. We are asking for a hand up, not a hand out.

Madame President, I would remind this Body that shortly after issuing his two vetos in the last legislature the Chief Executive established a much-touted task force on Washington County's economy. Two years later that effort is recalled as one in which many of our counties leaders and business people spent 7 months rolling up our sleeves to come up with recommendations that have largely gathered dust. It is particularly noteworthy that the Governor's own handpicked task force voted overwhelmingly, as one of its central recommendations, that the Washington County racino be approved. Only two of that task force's 23 members voted in opposition, both of them members of the Administration and who do not hail from Washington County. Just the night before last we in Washington County received the terrible news that Domti, our county's largest private employer who employs 500 Washington County residents, is closing down its one and only paper machine, throwing over 100 more of our residents out of work and highlighting, as if we needed it, the tremendous need that exists for other opportunities in our area.

Against this backdrop, I hope we will once again vote to extend the quality of opportunity to a part of Maine so sorely in need of an economic lift and extend fairness to Maine's tribes who have long sought to strengthen their economic position. Madame President, the time has come for us to do the right thing and enact this bill. The time has come to reward a 15 year long effort by the Passamaquoddy's and the people of Washington County to give them an opportunity to develop a racino resort, an endeavor that envisions, as I said, a hotel, conference center, expanded golf course, the amenities that can provide that critical mass necessary to become a destination. The time has come, men and women of the Senate, to right a wrong. It is noteworthy that on Sunday the Maine Sunday Telegram and the Portland Press Herald, long the state's leading voice of opposition to our efforts in Washington County, reversed its editorial stance. They have now endorsed the racino, acknowledging the inherent unfairness of denying our Native People the same opportunities afforded an out-of-state corporation. Likewise, I hope the Senate will come together to offer a new day of hope for Washington County by supporting the pending motion.

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

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

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

Senator **STRIMLING:** Thank you, Madame President, men and women of the Senate. There is only one question that we are being asked to answer today. Although we can talk about economic development and I would be happy to have that debate in long detail about the fact that there are casinos and racinos all around the United States that have proven destructive to

economies. They have not proven to be the hope that has been portrayed so far. I can go on and on about other economic development opportunities that are going on in Washington County right now around wind and LNG. True economic development opportunities. I could contrast those and we could spend all afternoon debating whether or not a racino is a good idea. I'd be happy to debate for hours on end because I know without question that it is not. There is one question today we are being asked and that is whether or not the voters should be allowed to decide. That's it. Should the voters be allowed to decide this issue? After years and years of ballots across this state in which voters have said no, once perhaps said yes, are we now going to decide for them, without letting them have the opportunity to make up their minds for themselves, that we are going to decide it here today? Madame President, this question should be sent to the voters. It is for them to decide because if it is not, if we say today that we are going to make this decision on their behalf, it's not an issue about whether or not we could do that, it's an issue that we not set a precedent that says that if you are out there and you would like to have a casino or a racino in the state of Maine all you need to do is go buy 50,000 signatures and submit it to the legislature. That's all you need to do because how are we going to turn away the next developer who comes forward and says, 'Here are my 50,000 signatures, why can't I have mine in Sanford? Why can't I have mine in Kennebunk? Why can't I have mine in Presque Isle?' That's it. It's the only issue. Should the voters be allowed to decide? I say to you, Madame President, absolutely without question, we cannot just stand aside and say, 'Yes, all you need to do is buy 50,000 signatures and put them in front of us and we will give you a casino.' That is not what we do. That is not how we have done that before. We say they should submit their signatures and then we send it out to a referendum to let the people make up their minds for themselves. I would be happy to debate the merits of a casino or racino anywhere in the state at any time. I hope to do it this fall on the ballot when we are having the opportunity, when the people get to chose. I certainly think that today the debate is solely about whether or not we are going to allow somebody to just come to us with the signatures and we will automatically give them what they have asked for. Madame President, I ask this Body to please reject this today. Send it out to the voters and let them have their say one more time on this issue. Thank you.

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

Senator **MARRACHÉ:** Thank you, Madame President, men and women of the Senate. The prior speaker talked about letting this go out to the voters and no doubt it probably will go out to the voters. However, it did go out to them before when we had the prior initiative and they did speak and they voted in favor and there was no limit to who could have a racino except for those who have a horse track and this will. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. There is one question to ask. I agree with the previous speaker. I think the question is, 'What is fair?' I don't agree many times with the editorial page in our Portland papers, but I do agree with this statement, 'Left with the choice

between the status quo and allowing the tribes to develop a racino, we now endorse the approval of the Washington County proposal by lawmakers directly.' We are here to make decisions. This has been debated for years. It is a question of fairness and we should push the buttons for our lights. Thank you.

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

Senator **RAYE:** Thank you, Madame President. I just want to respond to my friend, the Senator from Cumberland, Senator Strimling, that, with all due respect, we have been through theoretical debates longer than I have been alive about what could happen for Washington County or what might be better for Washington County. The time for that debate has ended. We need to make things happen. Theory is irrelevant at this point. We need concrete action. As for this Body's ability to enact this directly, that is what the Constitution of Maine provides for. We have, over the course of our state's history, many times enacted directly under this dome legislation brought to us through citizen initiatives. This is not some shocking new precedent or somehow something slightly inappropriate that we are being asked to do. We're being asked to do our job. Constitutionally mandated. We have the authority as the elected representatives of the people of Maine to take this action. We think nothing of enacting a bill brought to us by a single legislator. I don't think there is a member of this Body who would find that to be unacceptable. Why should it be unacceptable to enact something brought to us by over 51,000 citizens of Maine? I think that is an auspicious argument and I hope that we can move forward in a positive fashion and end the endless cycle of discussions and theory and task forces and commissions and committees to look at Washington County and wring our hands and figure out what can be done for them. We know what we need to do. Now is the time to do it. Thank you.

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed. 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 (#44)

YEAS: Senators: BENOIT, BRANNIGAN, BRYANT, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, MARRACHE, MARTIN, MCCORMICK, MITCHELL, NUTTING, RAYE, ROSEN, SAVAGE, SCHNEIDER, SHERMAN, SNOWE-MELLO, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BARTLETT, BOWMAN, BROMLEY, COURTNEY, HOBBS, MILLS, NASS, PERRY, ROTUNDO, SMITH, STRIMLING, SULLIVAN

ABSENT: Senator: PLOWMAN

22 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being absent, the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-37), in NON-CONCURRENCE.**

Sent down forthwith for concurrence.

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

Divided Report

The Majority of the Committee on **MARINE RESOURCES** on Resolve, To Require the Department of Marine Resources To Report on Results of Anadromous Fish Restoration on the Kennebec River System

H.P. 259 L.D. 324

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

Signed:

Senators:

DAMON of Hancock
DOW of Lincoln

Representatives:

PENDLETON of Scarborough
EATON of Sullivan
MacDONALD of Boothbay
PERCY of Phippsburg
MAZUREK of Rockland
ADAMS of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-63).**

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

CRESSEY of Cornish
FLETCHER of Winslow
McDONOUGH of Scarborough

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

Reports **READ.**

On motion by Senator **DAMON** of Hancock, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.