

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Nineteenth Legislature
State of Maine

Volume 2

First Regular Session (Continued)
May 6, 1999 to June 18, 1999

Pages 747 - 1547

STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Tuesday
June 1, 1999

Senate called to order by President Mark W. Lawrence of York County.

Prayer by Senator Judy A. Paradis of Aroostook County.

SENATOR PARADIS: Chers, Colleque, Bonne Après-midi. Esteemed Colleagues- Good afternoon. Let us bow our heads in the spirit of prayer.

Dear God, the Memorial Day ceremonies yesterday helped us remember the service of the one million men and women who made the ultimate sacrifice for our Country by losing their lives. Let us reflect on and be ever mindful of how fortunate we are to live in a free land because of their sacrifices. Help us to do our part in keeping the faith. Guide us in the important decisions we are making for the people of this great State of Maine during these last few days of this session. Help us to continue to work together in the spirit of cooperation and friendship that has prevailed throughout this year. Thank you for all our blessings. Ainsi-soit-il. Amen.

Pledge of Allegiance led by Senator Mary Cathcart of Penobscot County.

Reading of the Journal of Friday, May 28, 1999.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Revise Certain Provisions of the Fish and Wildlife Laws" (EMERGENCY)

S.P. 738 L.D. 2088
(S "A" S-322 to C "A" S-292;
S "A" S-358)

In Senate, May 27, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-292) AS AMENDED BY SENATE AMENDMENT "A" (S-322)** thereto, **AND SENATE AMENDMENT "A" (S-358)**, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-292) AS AMENDED BY SENATE AMENDMENT "A" (S-322)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **KILKELLY** of Lincoln, the Senate **RECEDE** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-292) AS AMENDED BY SENATE AMENDMENT "A" (S-322)** thereto, **AND SENATE AMENDMENT "A" (S-358)**, in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "B" (S-368) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-292) AS AMENDED BY SENATE AMENDMENT "A" (S-322) thereto, **AND SENATE AMENDMENTS "A" (S-358) AND "B" (S-368)**, in **NON-CONCURRENCE**.

Sent down for concurrence.

REPORTS OF COMMITTEES
House

Ought to Pass As Amended

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Clarify the Standard for Cause in the Request for Proposal Process for the Department of Mental Health, Mental Retardation and Substance Abuse Services"

H.P. 692 L.D. 959

Reported that the same **Ought to Pass As Amended by Committee Amendment "B" (H-709)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-709)**.

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

READ ONCE.

Committee Amendment "B" (H-709) **READ** and **ADOPTED**, in concurrence.

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

Senate

Ought to Pass As Amended

Senator KONTOS for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Expand Membership on the Maine Tourism Commission"

S.P. 824 L.D. 2227

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-371)**.

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

READ ONCE.

Committee Amendment "A" (S-371) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Off Record Remarks

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

ENACTORS

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

Emergency Measure

An Act Regarding Tobacco Manufacturers

H.P. 687 L.D. 943
(S "A" S-247 to C "A" H-448)

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

Emergency Measure

An Act to Amend the Nutrient Management Laws

S.P. 846 L.D. 2246

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

Emergency Mandate

An Act Relating to the Kennebec Regional Development Authority
S.P. 807 L.D. 2219
(C "A" S-356)

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

Acts

An Act to Amend the Maine Tort Claims Act
H.P. 825 L.D. 1148
(C "A" H-691)

An Act to Designate December 3rd as Organ Donor Awareness Day
S.P. 834 L.D. 2234
(C "A" S-363)

PASSED TO BE ENACTED and having been signed by the President were presented by the Secretary to the Governor for his approval.

An Act to Improve Access to Electronic Filing for Businesses
S.P. 77 L.D. 180
(C "A" S-337)

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

An Act to Increase Access to Prescription Drugs for the Elderly and for Disabled Persons
S.P. 414 L.D. 1203
(C "A" S-359)

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

An Act to Increase the Minimum Wage
S.P. 669 L.D. 1891
(C "A" S-280)

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

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Require Disclosures in Connection with Transfers of Residential Property" H.P. 1368 L.D. 1966

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-712).**

Comes from the House with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-712).**

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

READ ONCE.

Committee Amendment "A" (H-712) **READ and ADOPTED**, in concurrence.

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

Under suspension of the Rules, ordered sent forthwith to the Engrossing Division.

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

COMMUNICATIONS

The Following Communication: H.C. 216

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA, MAINE 04333**

May 28, 1999

Honorable Joy J. O'Brien
Secretary of the Senate
119th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Treat All Employees Equitably with Respect to Leaves of Absence for Legislative Service" (H.P. 235) (L.D. 339):

Representative HATCH of Skowhegan
Representative DUPLESSIE of Westbrook
Representative MAYO of Bath

Sincerely,

S/ Joseph W. Mayo
Clerk of the House

READ and ORDERED PLACED ON FILE.

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

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution: H.P. 1602

**JOINT RESOLUTION HONORING RICHARD B. ANDERSON
ON THE OCCASION OF HIS RETIREMENT**

WHEREAS, Richard B. Anderson is widely known and admired for his involvement with environmental issues throughout the State; and

WHEREAS, Mr. Anderson served as a biologist with the former Department of Fish and Wildlife, as the Executive Director of the Maine Audubon Society, as the Commissioner of Conservation and as a respected environmental consultant involved with issues of importance to recreational marine angling; and

WHEREAS, as the Commissioner of Conservation, Mr. Anderson was hailed by paper company officials and environmentalists as "a man who will listen to all sides"; and

WHEREAS, Richard B. Anderson has been an active member of numerous conservation-oriented groups and task forces; and

WHEREAS, Mr. Anderson's international involvement includes his work with the Montreal aquarium, which educates others on the importance of increasing the numbers of striped bass in the St. Lawrence estuary; and

WHEREAS, Mr. Anderson is also known for his efforts as the president of the International Appalachian Trail / Sentier International des Appalaches to establish an international trail that will connect the end of the Appalachian Trail on Mt. Katahdin to Mount Carleton in New Brunswick and Mont Jacques Cartier in Quebec; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Nineteenth Legislature now assembled in the First Regular Session send our appreciation to Richard B. Anderson on the occasion of his retirement, for his service and commitment to Maine and its environment; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to Richard B. Anderson as a tangible token of our high esteem.

Comes from the House, **READ and ADOPTED.**

READ and ADOPTED, in concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

RECALLED FROM GOVERNOR'S DESK

An Act to Provide for the 1999 and 2000 Allocations of the State Ceiling on Private Activity Bonds

S.P. 417 L.D. 1206
(C "A" S-341)

(In Senate, May 26, 1999, **PASSED TO BE ENACTED**, in concurrence.)

(**RECALLED** from the Governor's Desk, pursuant to Joint Order S.P. 850, in concurrence.)

On motion by Senator **KONTOS** of Cumberland, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENACTED**.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-341)**, in concurrence.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-341).

On further motion by same Senator, Senate Amendment "A" (S-362) to Committee Amendment "A" (S-341) **READ**.

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

Senator **KONTOS:** Thank you Mr. President. Members of the Body, I regret we had to take you backwards through that procedure. The reason we did was there was an omission that was discovered right before we got ready for Enactment and we needed to back it up in order to correct that. It was primarily a technical error. Had we had the Errors and Omissions Bill we probably could have done it that way, but we didn't so we had to do this. I thank you for your indulgence and I thank you Mr. President.

On further motion by same Senator, Senate Amendment "A" (S-362) to Committee Amendment "A" (S-341) **ADOPTED**.

Committee Amendment "A" (S-341) as Amended by Senate Amendment "A" (S-362) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-341) AS AMENDED BY SENATE AMENDMENT "A" (S-362) thereto, in **NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

Unfinished Business

The following matter 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 (5/10/99) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Exempt Military Retirees from State Income Taxes" H.P. 360 L.D. 485

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-392)** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - May 10, 1999, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 7, 1999, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-392)**.)

(In Senate, May 10, 1999, Reports **READ**.)

Senator **RUHLIN** of Penobscot moved the Bill and accompanying papers be **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

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

Senator **RUHLIN:** Thank you Mr. President. Ladies and gentlemen of the Senate, the reason for this action, at this point in time, on this particular piece of legislation was felt, by the Tax

Committee, necessary to have here should something happen to the other Pension Exemption Bill. As you recall, that was L.D. 1268 which was discussed at length in this Chamber last week and did have successful Passage here. In that Bill, many of the provisions in L.D. 485 were contained, including the pension exemptions for veterans. We now feel, with the passage beyond the stage of that particular piece of legislation, that this legislation, which was held as a safety valve if you will, is no longer necessary. So that is why I am moving the Indefinite Postponement.

On motion by Senator **AMERO** of Cumberland, 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 (#181)

YEAS: Senators: CAREY, CATHCART, DAGGETT, DOUGLASS, GOLDTHWAIT, KILKELLY, KONTOS, LONGLEY, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CASSIDY, DAVIS, FERGUSON, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MITCHELL, PENDLETON, SMALL

ABSENT: Senator: LAFOUNTAIN

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **RUHLIN** of Penobscot to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE, PREVAILED.**

Under suspension of the Rules, ordered sent down forthwith for concurrence.

Senator **PINGREE** of Knox was granted unanimous consent to address the Senate off the Record.

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

On motion by Senator **PINGREE** of Knox, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/26/99) Assigned matter:

Bill "An Act to Regulate Push Polling"

S.P. 420 L.D. 1257
(C "A" S-315)

Tabled - May 26, 1999, by Senator **BENNETT** of Oxford.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, May 20, 1999, **READ A SECOND TIME.**)

(In Senate, May 26, 1999, Senator **DAGGETT** of Kennebec moved to **SUSPEND THE RULES** for the purpose of **RECONSIDERATION**. Senator **BENNETT** of Oxford **OBJECTED.**)

On motion by Senator **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED.**

The Chair laid before the Senate the following Tabled and Later (5/28/99) Assigned matter:

HOUSE REPORT - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Amend the Harness Racing Laws"

H.P. 1276 L.D. 1837

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-703)**

Tabled - May 28, 1999, by Senator **RAND** of Cumberland.

Pending - **ACCEPTANCE OF THE REPORT**

(In House, May 27, 1999, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-703) AS AMENDED BY HOUSE AMENDMENT "A" (H-706)** thereto.)

(In Senate, May 28, 1999, Report **READ.**)

Report **ACCEPTED**

READ ONCE.

Committee Amendment "A" (H-703) **READ.**

On motion by Senator **DAGGETT** of Kennebec, Senate Amendment "A" (S-367) to Committee Amendment "A" (H-703) **READ.**

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Daggett

Senator **DAGGETT:** Thank you Mr. President. Members of the Senate, I would just like to speak briefly to this Amendment. There has been a lot of discussion and a lot of activity regarding the concerns about harness racing in this state. This is the third Session in which there was thought to be an agreement and then things seemed to have changed. We find the parties back in front of us again. The Committee felt this year that it would be appropriate to try to develop a system or a place where there could be an effort made to sort out the issues facing the various parties in the harness racing industry prior to coming to the Legislature so that there would be information, a report, presented to the Legislative Committee that would allow the Committee to better sort through and figure out what the issues were. I think it is extremely important for all of us to do what we can to support the industry and the continued difficulties within the industry. I think many of us felt, and certainly I felt, they were very disruptive to the industry and were not productive. It's very difficult, as I'm sure you all know, for the Legislative Committee to sort through things at times, and frankly we're not in Session year around, and there needs to be a process available to the parties even though, clearly, mediation is appropriate. The Committee felt that it was important to put a procedure in Statute that would deal with this. Unfortunately, the Bill came up near the end of the Session. The Committee worked on it quite a bit. We thought we had an agreement. We met with someone from the Maine Labor Relations Board to help us understand the unique qualities of bargaining, of mediation, and of trying to resolve disputes.

While the Committee, at the very end we were meeting, did not move to do an Amendment in Committee, an additional Amendment, there had been a few of us outside of Committee who have made an effort to incorporate some of the items that were suggested to us by the person from the Maine Labor Relations Board. The Amendment before you is precisely that Amendment. I know there has been some discussion and some distress about one of the phrases in the early part of the Amendment that talks about a resolution for any harness racing issue. I feel it is important to make sure that we gather every issue so that neither side has an opportunity to suggest that perhaps an issue is not part of what traditionally has been discussed so that all the unresolved issues would be caught up and would go to mediation. The Amendment does identify a number of things which the Legislative Committee and the Legislature, hopefully, would like to have the mediator's report present. We specifically would be looking in the Amendment to a report that helps to identify the issues, identifies each party's stance on the issues, helps to identify those things that are pertinent to industry, helps to identify ways in which these disputes might best be resolved, and identifies any statutes, rules, regulations, or whatever that addresses the kinds of issues that are a concern. We are asking for a report back by January 15 and that is in the Amendment. There also are some standards by which the mediator would be looking at the issue. This was again a part of what was suggested by Mark Ayotte, with the Maine Labor Relations Board. One of those is the profitability of the industry. It's important for both the tracks and the horsemen to show a profit, to be able to make a living.

There is also a reference to looking at existing statutes or rules, customs and practices. I think that this is a good compromise. It's not perfect and it's not an immediate solution. For those people who are looking for a quick fix, I think that when you have a problem that has developed over many years, you're not going to see a quick fix that is developed over a few months. Any long standing dispute requires a lot of time and effort to try and fix it. I think that the kind of report, the standards and criteria that we are looking for in the report, would go a long way in helping to sort the issues out so that the Legislative Committee can make appropriate decisions if necessary. I certainly think putting this into the hands of a professional mediator, someone who is trained in dispute resolution, and can help the parties identify the issues is very appropriate. I know that we have done this in other areas in State Government. I think there are times when a dispute reaches an elevated stage when it really does need the intervention of a professional person. So I urge your support in this Amendment. Thank you.

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

Senator **FERGUSON:** Thank you very much Mr. President. Ladies and gentlemen of the Senate, I do stand in support of my Chairperson, the good Senator from Kennebec, Senator Daggett. She has laid out the argument for the Amendment and I would solicit your support so we could go on and Pass this Amendment. Thank you very much.

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

Senator **NUTTING:** Thank you Mr. President. Ladies and gentlemen of the Senate, permission to pose a question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **NUTTING:** I would like to pose this question to the good Senator from Kennebec or any other member of the Body. In reading the Amendment (S-367), the one question that I wanted to ask and have clarified is, if I'm one party or the other and I bring a totally unreasonable, preposterous, condition before the mediator, can the mediator just deal with that and reject it. If the harness horsemen are asked to pay for flying the blimp or things like that, can the mediator just dispense with that and go on to the real constructive issues? Thank you.

THE PRESIDENT: The Senator from Androscoggin, Senator Nutting, poses a question through the Chair to anyone who may be able to answer. The Chair recognizes the Senator from Kennebec, Senator Daggett.

Senator **DAGGETT:** Thank you Mr. President. Members of the Senate, it certainly is our expectation that a mediator would be dealing with essential issues. The Amendment particularly refers to the relationship of each issue to the viability of the harness racing industry. I think this a strong implication that we are looking to identify those issues that actually relate to the industry and the strength of the industry. I think that it's entirely possible that there may be issues that are seen as very frivolous. There are others that are not quite so frivolous and it really may not be in the eye of the beholder. But I think the mediator certainly

would, and certainly a trained and professional mediator would be able to, differentiate between the kinds of issues that are important to the industry and those that are simply a smoke screen.

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

Senator **LONGLEY:** Thank you Mr. President. Colleagues in the Senate, to add to that answer from the Senator from Kennebec, I would add that mediation is basically facilitating and coercion. That is not any aspect that a mediator is involved in. Basically what mediation does is it helps the parties realize that, an example that we always use in training is, when they're arguing one party might not realize that they want the rind of the orange and the other party wants the juice of the orange. Rather than fight over the orange, the mediators abilities are to help them understand that they want different parts of the same piece. The beauty of mediation too is it helps people, it's empowering for the parties because where they haven't been able to talk before, suddenly the mediator frames it in such a way that they realize they can solve their problems by themselves. That primes the pump and after those initial resolutions are found, they might be minor but it leads to major if the mediation is successful. But they do not coerce in any way. Their skill is to facilitate. Thank you.

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

Senator **MILLS:** Thank you Mr. President. Men and women of the Senate, as I understand the mediation provisions of this Bill, mediators are also entitled to take a very aggressive role if the occasion calls for it. In fact, he must make a public report of what he finds from his discussion with the parties. I rather approve of that mode of mediation. I think it is often times effective. I understand that the Floor Amendment that is now before us will remove, from the Committee Amendment, the provision in regard to binding arbitration, which is something that I would not support, at least for the resolution of the conflicts that I've heard about. I don't think that binding arbitration would have a place. I think that a strong mediation provision, on the other hand, sounds like the kind of remedy that ought to be forthcoming. While I'm on my feet, I understand that one of the major purposes of the Committee Amendment was to define the criteria for being a commercial track, in such fashion that it seems likely that Bangor would continue to be eligible for the commercial category. If I'm wrong in that, I would like to be corrected. But in summary, I understand that the purpose of the Bill before us, the Committee Amendment as amended by the Floor Amendment, would do basically two things; it would preserve Bangor status as a commercial track and, number two, it would provide for a strong mediation provision to try and reconcile differences between commercial tracks and the nominated bargaining agent, but without an arbitration clause it would make the process binding on the parties. Thank you.

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

Senator **DAGGETT:** Thank you Mr. President. Members of the Senate, I do apologize to the members of the Senate in my trying to explain the Amendment. I did not speak to what actually is left

in the Bill. The Bill originally in front of us actually did ask for a clarification of the status of Bangor as a commercial track, which everyone has agreed needed to be done. That is left in place with the Amendment that is in front of you. The other piece, that was actually eliminated, was the reference to binding arbitration. For those who have had some concern or interest in the binding arbitration piece, I know that some did not, the phrase binding arbitration was actually used in the Committee Amendment but it was not binding. I want to repeat that. The phrase was used but it actually was not binding because the Committee Amendment actually said, prior to going to the Legislature or to court you must go through this process, which was the mediation and then the binding arbitration. But because the binding arbitration was not really binding, it was simply another process beyond mediation. On second look, it did not really need to be there because it was referred to as binding arbitration but it, in fact, was not binding. So I want to make that clear, it does indeed leave the Bangor track clarification there, eliminates the binding arbitration, sets up some very good criteria and standards for a mediator to go by, and asks for the report back. If this Amendment is adopted then that is what you will be left with. Thank you.

On motion by Senator **DAGGETT** of Kennebec, Senate Amendment "A" (S-367) to Committee Amendment "A" (H-703) **ADOPTED.**

House Amendment "A" (H-706) to Committee Amendment "A" (H-703) **READ.**

On motion by Senator **DAGGETT** of Kennebec, House Amendment "A" (H-706) to Committee Amendment "A" (H-703) **INDEFINITELY POSTPONED, in NON-CONCURRENCE.**

Committee Amendment "A" (H-703) as Amended by Senate Amendment "A" (S-367) 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-703) AS AMENDED BY SENATE AMENDMENT "A" (S-367) thereto, in NON-CONCURRENCE**

Under suspension of the Rules, ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/28/99) Assigned matter:

SENATE REPORTS - from the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Implement the Recommendations of the State Compensation Commission" S.P. 770 L.D. 2168

Report "A" - Ought to Pass as Amended by Committee Amendment "A" (S-364) (7 members)

Report "B" - Ought Not to Pass (5 members)

Report "C" - Ought to Pass as Amended by Committee Amendment "B" (S-365) (1 member)

Tabled - May 28, 1999, by Senator **PENDLETON** of Cumberland.

Pending - motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-364)**

(In Senate, May 28, 1999, Reports **READ**.)

On motion by Senator **AMERO** of Cumberland, 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 (#182)

YEAS: Senators: **CAREY, CATHCART, DAGGETT, DOUGLASS, GOLDTHWAIT, KILKELLY, KONTOS, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE**

NAYS: Senators: **ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CASSIDY, DAVIS, FERGUSON, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MILLS, MITCHELL, SMALL**

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **PENDLETON** of Cumberland to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-364)**, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-364) **READ**.

On motion by Senator **PENDLETON** of Cumberland, Senate Amendment "A" (S-375) to Committee Amendment "A" (S-364) **READ**.

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

Senator **PENDLETON:** Thank you Mr. President. Men and women of the Senate, this particular Amendment really doesn't change the Bill as amended by the Committee. The Amendment just clarifies the Majority Report of the Joint Standing Committee on State and Local Government. It insures the cost of living adjustment begins with the First Regular Session of the 120th Legislature. It further clarifies that the cost of living adjustment to the Legislative salary may not exceed 5% annually. When our analyst put this together, apparently he had the wording flip-flopped. It was backwards and so he asked if we would amend it so that it would be proper for the Bill. So I present that to you, and I hope that you will accept it. Thank you.

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

Senator **BENNETT:** Thank you Mr. President. I request permission to pose a question through the Chair.

THE PRESIDENT: Senator may pose his question.

Senator **BENNETT:** Thank you Mr. President. To anyone who may have the answer, I'm trying to understand what exactly this Amendment does or what defect in the original Committee Amendment that this corrects. Thank you.

THE PRESIDENT: The Senator from Oxford, Senator Bennett, poses a question through the Chair to anyone who may be able to answer. The Chair recognizes the Senator from Cumberland, Senator Pendleton.

Senator **PENDLETON:** Thank you Mr. President, and thank you to the good Senator from Oxford, Senator Bennett, for asking that question. I will give it a stab because I'm not a legal person and I don't work in OPLA. What was explained to me is, our Committee Amendment asked that we have a cost of living adjustment to begin with the First Regular Session of the 120th Legislature. It was improperly worded so it appeared that the cost of living adjustment would come on next year. We are not allowed to do that. It's not Constitutional for us, as a Body, to give ourselves any kind of adjustment in our salaries or our compensation, so he had to change that date and change it back around so that it would be Constitutional. Also in the cost of living adjustment, our Committee when we amended this particular Bill, stated in the Amendment that the cost of living adjustment to the Legislative salaries may not exceed 5% annually. That was not included in the Committee Amendment when it came up from downstairs. The people from OPLA asked me if I would add this on, so that we would capture exactly what the Committee Amendment was trying to do. Thank you.

At the request of Senator **HARRIMAN** of Cumberland a Division was had. 35 Senators having voted in the affirmative and no Senators having voted in the negative, the motion by Senator **PENDLETON** of Cumberland to **ADOPT** Senate Amendment "A" (S-375) to Committee Amendment "A" (S-364), **PREVAILED**.

Committee Amendment "A" (S-364) as Amended by Senate Amendment "A" (S-375) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-364) AS AMENDED BY SENATE AMENDMENT "A" (S-375)** thereto.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/27/99) Assigned matter:

Bill "An Act to Establish a Trust Fund to Provide Statewide Assistance to Low-income Electric Consumers"
H.P. 1069 L.D. 1500

After Recess

Senate called to order by the President.

Tabled - May 27, 1999, by Senator **GOLDTHWAIT** of Hancock.

Pending - motion by Senator **CAREY** of Kennebec to **ADOPT** Senate Amendment "A" (S-354) to House Amendment "A" (H-692)

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

(In Senate, May 24, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-618) AS AMENDED BY SENATE AMENDMENT "A" (S-338)** thereto, in **NON-CONCURRENCE**.)

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2000 and June 30, 2001" (EMERGENCY)
H.P. 454 L.D. 617

(In House, May 26, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-692)**, in **NON-CONCURRENCE**.)

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-713)**.

(In Senate, May 27, 1999, on motion by Senator **CAREY** of Kennebec, **RECEDED** from **PASSAGE TO BE ENGROSSED AS AMENDED**. **RECEDED** from **ADOPTION** of **COMMITTEE AMENDMENT "A" (H-618) AS AMENDED BY SENATE AMENDMENT "A" (S-338)** thereto, and **INDEFINITELY POSTPONED** same. House Amendment "A" (H-692) **READ**. On motion by Senator **CAREY** of Kennebec, Senate Amendment "A" (S-354) to House Amendment "A" (H-692) **READ**.)

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-713) AS AMENDED BY HOUSE AMENDMENT "K" (H-732)** thereto.

Senator **CAREY** of Kennebec requested and received leave of the Senate to withdraw Senate Amendment "A" (S-354) to House Amendment "A" (H-692).

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

The Senate **CONCURRED**.

READ ONCE.

Under suspension of the Rules, ordered sent forthwith to the Engrossing Division.

Committee Amendment "A" (H-713) **READ**.

Senate at Ease.

Off Record Remarks

Senate called to order by the President.

Off Record Remarks

House Amendment "K" (H-732) to Committee Amendment "A" (H-713) **READ** and **ADOPTED**, in concurrence.

Senator **PINGREE** of Knox was granted unanimous consent to address the Senate off the Record.

Committee Amendment "A" (H-713) as Amended by House Amendment "K" (H-732) thereto, **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY** Committee Amendment "A" (H-713) **AS AMENDED BY HOUSE AMENDMENT "K" (H-732)** thereto, in concurrence.

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

Under suspension of the Rules, ordered sent forthwith to the Engrossing Division.

On motion by Senator **PINGREE** of Knox, **RECESSED** until the sound of the bell.

Off Record Remarks

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator KONTOS for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Retain Jobs at Paper Production Facilities in the State" (EMERGENCY)
S.P. 816 L.D. 2222

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-373)**.

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

READ ONCE.

Committee Amendment "A" (S-373) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-373)**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Protect Medicaid Recipients and Providers from Unintended Consequences of the Noncompliance of the Department of Human Services with Year 2000 Readiness"
H.P. 1597 L.D. 2242

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

Signed:

Senators:
PARADIS of Aroostook
BERUBE of Androscoggin
MITCHELL of Penobscot

Representatives:
KANE of Saco
BROOKS of Winterport
FULLER of Manchester
QUINT of Portland

WILLIAMS of Orono
BRAGDON of Bangor
SHIELDS of Auburn
DUGAY of Cherryfield

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-716)**.

Signed:

Representatives:
LOVETT of Scarborough
SNOWE-MELLO of Poland

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

Reports **READ**.

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

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/28/99) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Enhance the Payment Options for Certain Employers"
H.P. 214 L.D. 292

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-477)** (6 members)

Tabled - May 28, 1999, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 26, 1999, Reports **READ**. Bill and accompanying papers **COMMITTED** to the Committee on **LABOR**.)

(In Senate, May 28, 1999, motion by Senator **DOUGLASS** of Androscoggin to **COMMIT** Bill and accompanying papers to the Committee on **LABOR**, in concurrence, **FAILED**.)

Senator **DOUGLASS** of Androscoggin moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-477)** Report, in **NON-CONCURRENCE**.

Senator **MILLS** of Somerset requested a Division.

On motion by Senator **LAFOUNTAIN** of York, 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 (#183)

YEAS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CAREY, CASSIDY, CATHCART, DAGGETT, DAVIS, DOUGLASS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, KILKELLY, KONTOS, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MILLS, MITCHELL, MURRAY, NUTTING, PARADIS, RUHLIN, SMALL, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: MICHAUD, O'GARA, PENDLETON, PINGREE, RAND, TREAT

29 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator **DOUGLASS** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-477)** Report, in **NON-CONCURRENCE, PREVAILED.**

READ ONCE.

Committee Amendment "A" (H-477) **READ.**

On motion by Senator **DOUGLASS** of Androscoggin, Senate Amendment "C" (S-372) to Committee Amendment "A" (H-477) **READ.**

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

Senator **DOUGLASS:** Mr. President. Women and men of the Senate, I rise to speak to an issue of fundamental fairness to those who are at our lowest economic stratum. There has been considerable discussion about the merits of weekly, biweekly, or semimonthly pay. I present this Amendment to protect those who are at 90% of the federal poverty level or below. That is equivalent to an hourly wage of \$7.28 rounded to \$7.30 in this summary. I want to take you back to what occurs on your first day of work. What does a worker provide? A worker must provide food, shelter, transportation, a good working back or a moderate or supreme intellect, and good health. What does the employer provide? The employer provides an enterprise endeavor, in which that employee will work, capital, investment, building, and various other items to produce the work. At the end of a week what has been invested? By the worker, five days have been invested. That's five days in which they've fed, clothed, transported themselves, and dealt with any household emergencies. For the employer, they've paid for the rent on their building and any return that is necessary on their investment. They have a product that they are ready to sell or services that they are ready to sell. I think that those who are paid \$7.30, 90% of the federal poverty level, deserves to be paid so that they can continue to be ready for that job.

Now, the Bill that was originally presented to the Labor Committee proposed to delete any requirement of even biweekly pay. It simply deleted any requirements by the State as to pay,

other than those that pertain to municipalities. Why I can't tell you, but that's what the Bill did. The Amendment that was attached proposes to allow payment up to twice a month. I think that is a good thing for those employers who pay more than \$7.30. It's a good thing for those employers who are providing wages that are above the living wage, which is now \$9.00, or it's not quite as high as what's been called the living wage according to various Economic Growth Councils around the state at \$9.42. But it is above the minimum wage and it is a number that, for purposes of conferring a benefit on employers, I picked for a variety of reasons, primarily because of some statistics. The Maine Center For Economic Policy surveyed individuals in Maine who fell below 185% of poverty. Of those people, women who were single parents average \$6.90 in their work. Men average \$9.50. The women who were in couples average \$7.50. Among those people, half the sample have had utility shut-off notices. 13% actually had their utilities shut off. I want to pull you back to that first day of work when I remind you that the worker who provides the production capacity for our great state has to provide whatever down payment is required on the utility, whatever down payment is needed on the vehicle and other transportation. Nevertheless, even that had gone for some of these people, it is important to point out that of these families who are below the poverty level most of them worked. Men averaged 44 hours a week; women averaged a little less; single mothers averaged 32 hours a week. These people are trying to make ends meet but they are having difficulty. Of the sample 300 who were surveyed by John Fitzgerald, who is Professor of Economics at Bowdoin College, 20% had gone to food banks or skipped meals for a day or more because of lack of food. I want you to think about how you vote on this measure. I think we owe it to those individuals who are not making ends meet, who are having difficulty because they are the lower end of our economic strata, to give them weekly pay. It is important also, to look at the title of this Bill. It's a Bill to enhance payment options for certain employers. You today, this evening, must weigh whether you want to enhance the employer under my proposal or confer the stability for a worker from our state who depends on that pay to get to work, to provide transportation, to get food into their bellies so that they can continue to work for the next week. I could say much more, perhaps I will in rebuttal, to some of what you say. I hope you will do the right thing here and vote Ought To Pass.

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

Senator **MILLS:** Mr. President, and men and women of the Senate. The Floor Amendment that lies before you essentially guts the Bill; makes it unworkable; makes it unadministrative. It would require the employer, somehow, to figure out whether each employee qualifies under the nebulous standard that is set out in the Bill. It would depend on knowing the circumstances of the family members of the employee, whether there are two people in the house perhaps, I'm not sure that is the case. But, if the intent of the Bill, the policy behind the Bill, is to take households that are in a certain category and treat them differently from households that are in other categories, it just strikes me as completely unworkable from a point of view of administration. I'm sure the Department of Labor would hesitate to enforce this law

in a meaningful way. So the result of passing this Floor Amendment would be that we have weekly pay in Maine, not just for the employers or enumerated in the current statutes. That is a practical matter for everybody because it will be easier, in one sense I suppose, for employers who have any employees that are likely to be in this category simply to pay everybody weekly in order to comply with the law. I've done a search and looked at searches done by other people on what the national standard is for paying people, whether it be weekly, biweekly, semimonthly or monthly. Many states have a monthly standard. That is not what is being proposed by the Committee Bill that lies before you. Most states have a semimonthly standard. Excuse me, I was wanting to address biweekly or every other week, but I'm not able to find any, maybe one or two states, that have a biweekly standard and only a few that have a weekly standard for any portion of the labor force. The predominant National standard, the one that prevails in state after state in more than 40 states, is the 16 day or semimonthly standard. Now there are two things that have to be addressed by a Bill that deals with wages like this. One is what I call the periodicity which is when anybody gets paid. That is how frequently must someone get paid in order to comply with law? But there is a second issue, and that is to what date, how currently must you be paid, when the paycheck falls due? There are many states that have a semimonthly periodicity followed by another half month as the minimum period by which you must get your first paycheck. In other words, when you start working, it would be possible to work for an entire month without getting paid if you started at the beginning of a pay cycle. That is not the Bill that you have before you. We took the delay time and kept the current Maine law on delay time at 8 days. In other words, when you get paid the paycheck must reflect all earnings earned up to within 8 days of the date of the check so that you must be paid with reasonable currency. That is as short a period as I think you find in any of the statutes that exist in the United States. At the same time that we would propose to convert the standard to the National standard of semimonthly pay, as an outside limit, with the notion and idea that people can bargain for less, that an employer may elect to pay more frequently, or may by contract or agreement pay more frequently. The other variable in this two part equation is stricter than that which prevails in most other states and is as strict, I believe, as exists in the United States. In other words, we will require, if you pass this Bill with the Committee Amendment, that a person's paycheck be brought current to within 8 days so that, if you start work at the beginning of a pay period, the longest time that you could conceivably go, the worse case scenario, is 23 or 24 days without a paycheck. More typically, you would go for less time than that before getting your first paycheck because the odds are that you would start at some point during a pay cycle, rather than at the commencement of one. So the standard that we propose is actually tighter than the National standard that we see in terms of when the person must get his/her first paycheck. And the periodicity is simply consistent with what we saw in state after state after state. If this State wants to attract business, and more and more now-a-days the businesses that are making investments in this state are those that maintain a national payroll system, or a regional payroll system. If they do so and they have to make a special rule for Maine, it's seems to me that it is imposing an unnecessary burden on businesses for very little advantage or gain for those in the workforce. We are not talking about the amount of money that somebody gets paid, we're talking about the frequency or periodicity with which a person gets a paycheck. It seems to me that the Bill, as it was drawn by

the Committee, will save bureaucratically some of the burdens that our own employers that will conform Maine to the National standard of semimonthly pay, and it's a provision that is obviously long overdue in this State given the fact that we have had, according to the press reports, widespread avoidance of our current law. There are other provisions of the Committee Amendment that are not amended by the proposed Floor Amendment. It seems to me that if you do vote for the Floor Amendment, it will have the effect, essentially, of gutting the Bill and making it worse than our current law by quite a bit and making it unenforceable. If Social Security is any form of National Standard, Social Security checks come monthly. Some of our Social Security recipients are among the poorest citizens in this State and yet the Federal Government in its wisdom, or whatever, deems to pay them monthly. The same is true of most welfare checks and the welfare systems. Those benefits are administered monthly as well. It does seem to me that going to a semimonthly standard for paychecks is not a large burden on the workforce and it will save a fair amount of complexity, unnecessary administrative effort on the part of many employees, particularly those with a National presence. Thank you.

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

Senator **TREAT:** Thank you Mr. President. Men and women of the Senate, I rise to urge you to support the Amendment offered by the good Senator from Androscoggin, Senator Douglass, and I want to thank her for doing work on this issue, recognizing that the original Bill had a great deal of support and listening to the concerns of many people in the Body to try to craft legislation that responded to modern concerns and modern needs. You know there have been many statements made about this old law. It was something passed many years ago at the beginning of the century. It is irrelevant; it's not necessary. It has always struck me that this Bill has relevance and I believe it does still, this law that requires weekly pay. The relevance is especially for those who are paid very little, so I'm very glad that the Senator has come forward with an Amendment to address that need. The Amendment, in my view, does not gut the Bill. It says that only those employers that pay a fairly low wage of \$7.30, and again it is adjustable but it could easily be done through rules by the Department of Labor on a yearly basis by simply setting the amount that would trigger the weekly pay, it simply says that those that don't even make the Federal Poverty Level would be able to be paid on a weekly basis.

Now the good Senator from Somerset has said that under his Amendment, at the most people would have to wait 23 or 24 days, which is over 3 weeks, to get a paycheck. And they ought to figure out how to budget their time, budget their money, and deal with those things that come up like your car breaking down and you have to spend \$350 to \$500 to fix it, or your kid getting hurt and having to go to the emergency room, whatever. You ought to budget it. I would remind you that the employers that are not paying weekly but are paying semimonthly or later than that are, in fact, getting a float from that money that I assume is assisting those employers with their budgets for their businesses. It seems to me that an individual, and we have heard from the good Senator from Androscoggin, that many of the people who are making this low wage are women, single women, who are struggling to keep their heads above water; who are struggling to stay off of welfare, or TANF as we now call it. It is these people who we are trying to assist; whose children are in school that

need help. They need someone to keep an eye on them. They are really struggling to make a go of it. And the reality is that it is extremely difficult, whether you learn budgeting skills or not, to deal with emergencies. I think there is some significant differences. I have heard the Senator from Somerset, and others in previous discussion on this issue, state why should we do this for people who are working when those who are receiving Social Security or TANF are paid on a monthly basis and they manage to get by? Well I question whether that is appropriate either, but I would point out that people on Social Security and those who are on TANF, do get major additional benefits aside from that monthly pay which include, for example, medical insurance which most of the people who are earning say \$6.90 an hour are not getting. They do not have medical insurance. When they have a medical emergency they're not paying a deductible, they are paying everything. Or they are trying to pay for some insurance in a way that is extremely expensive and it requires huge monthly payments because it is not covered by their employer. I think that this Amendment is a very targeted approach, it does not fit the bill. Any employer that would like to have a different level of pay, weekly for part of their workforce, and semimonthly for the rest, can certainly do that and I know that there are places that pay that way right now. For managerial employees they have one approach and for the hourly employees they have a different approach. They are paid differently. It's calculated differently already. I think this Bill is important; this issue is important. I understand the concerns of many employers and the difficulties that they face. This Amendment is an attempt to focus our Weekly Pay Law on those who need it most. I think they need your help and I hope that you will vote to support this Amendment.

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

Senator **LAFOUNTAIN:** Thank you Mr. President. Men and women of the Senate, I encourage you to defeat the pending motion and I agree with the good Senator from Somerset, Senator Mills, that this Amendment will gut the Bill. If you take a look at the Bill, the Amendment that came from the Committee, the Minority Amendment, you will see what the whole purpose of the Bill was. And that was to try to help the business community by reducing the payroll processing cost that they currently experience. For any of you that have attempted in your other life to make a payroll, you will know how difficult it is and you will know how cumbersome it is because of what the State Government has mandated; what Federal Government has mandated as far as withholdings; and what we have encouraged stronger employers to do as far as optional withholdings, such as 401K, savings, and so forth. A payroll is very technical and difficult. What we are hearing from employers across the state is that many employers now farm out their payroll to payroll services because they do not have the in-house expertise or time in which to do so.

Unfortunately, this debate has really centered around those who you hear out in the lobby, and who are sitting in the back row behind me, and that is those coming from large industries, the Maine chamber of paper industry, the banking industry. But those weren't the people I was hearing from during the months of September, October, November, and December when that lawsuit and issue first arose involving MacDonalds and Wal-Mart. I do not condone the actions of those two businesses. I was hearing from individuals along Main Street in Biddeford who

operate mom-and-pop grocery stores. I was hearing from the hotel owners down in Old Orchard who may have 7 or 8 rooms. I was hearing from the gas station owner in Kennebunkport. They are the individuals I am trying to help with this Bill. The good Senator from Kennebec, Senator Treat, made reference to the issue of TANF and Social Security. That is one of my arguments here. We, as a State Government, have clearly told TANF recipients that we are only going to pay you once a month. The Federal Government has even gone so far as to tell Social Security recipients that not only aren't we going to pay you by a check, we are going to send funds to you once a month directly to your banks. So these people don't even see that money. I encourage you to vote against the pending motion so that we could truly benefit the employers of Maine and hopefully some of those funds that they save, and it is a large amount, will trickle down to the employees of Maine.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you Mr. President. Ladies and gentlemen of the Senate, I had the great pleasure of spending the last few days at home and spending the evening walking around my hometown. In the town of Bar Harbor the Memorial Day weekend is an omen. If we have a good weekend, it's going to be a great season. If we have a bad weekend, it's going to be a terrible season. We had an incredible weekend. I heard two things from the business owners late in the evening, who were hanging around about their front doors as the evening faded, and that was that they liked what we did about smoking and that we really had to fix this weekly pay thing. The issue for these businesses is that weekly pay is more cumbersome and more costly than biweekly pay. Unfortunately, the Amendment before you, as well intentioned as it is and as honest an effort as it is to meet the needs of some of our citizens who are on the lower end of the income scale, would be even more cumbersome and more costly than weekly pay. It would create two separate payroll systems based on the wage you were earning. An employer in my area who has grown from a business of 10 employees to 250 employees and has 11 branches in the highest unemployment area of our state puts it this way: this law obviously doubles our cost of processing payrolls. It would also double the opportunities for mistakes and losses in distributing the checks or confirmation thereof to our eleven locations from Calais to Warren with a \$5.4 million payroll. Even though many employers use direct bank deposits, the complications are doubled. Our payroll processor fees would double. Timecards from employees in the field to headquarters would double. The time required of our controller and two clerks who aid in its preparation would double. Eleven branch managers would have to be involved with timecards every week, rather than every two weeks. All in all, I imagine that such a fiasco would cost an additional expense of about \$15,000 a year and he offers a breakdown to support that figure. To me the most egregious aspect of this Amendment, as well as the old Weekly Pay Law, and in fact, amounting in my mind to being bizarre, is that this is a serious case of the State saying do as I say, not as I do, because, as an employer, we do not pay our employees weekly. The State pays its employees every two weeks. When I asked some people why this Bill didn't include the State in requiring weekly pay, they said because it would have too big a fiscal note. It would cost too much. I submit that if it's a good enough reason to say that it costs too much for the State as an employer to pay weekly, then how can

we turn around and expect our businesses to pay weekly and say we don't care what the cost is to you. This is a benefit for our society and you should do that even though we are not doing it ourselves. I urge you to Defeat the pending motion.

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

Senator **DOUGLASS:** Mr. President. Members of the Senate, it's important to point out that my Amendment is very clear in its calculation of the people who must pay at intervals of seven days and those who pay at up to sixteen days. It's 90% of the poverty level for a family of four converted to an hourly wage. That doesn't change if the individual is single. I simply chose a figure that we can get from the Federal Government that comes out once a year that can be calculated to an hourly wage based on a 40 hour week. I want to say something about these employees who are struggling from week to week. They are not the people who have money in the bank to do budgeting and holding back of dollars for this payment or that payment. They are the folks who would say, as Tom Cruise did, show me the money. They need that money to make their payments on their own ability, to get to work. When you balance the burden to a business, which is working during office hours, it's in business to make money. Part of that business is conducting a payroll. I can't see that this is a burden. It's a responsibility, yes. It's their same responsibility that those workers have to make sure they have transportation to get to work. It's fundamental. I urge you to pass this law.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Douglass to Adopt Senate Amendment "C" (S-372) to Committee Amendment "A" (H-477). 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 (#184)

YEAS: Senators: CATHCART, DOUGLASS, MICHAUD, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CAREY, CASSIDY, DAGGETT, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, KILKELLY, KONTOS, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, RUHLIN, SMALL

7 Senators having voted in the affirmative and 28 Senators having voted in the negative, the motion by Senator **DOUGLASS** of Androscoggin to **ADOPT** Senate Amendment "C" (S-372) to Committee Amendment "A" (H-477), **FAILED**.

On motion by Senator **MURRAY** of Penobscot, Senate Amendment "D" (S-378) to Committee Amendment "A" (H-477), **READ**.

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

Senator **MURRAY:** Thank you Mr. President. Men and women of the Senate, I stand before you to offer the proposed Amendment as a friendly Amendment to the Bill. I've supported the Biweekly Bill since throughout the process so far. This proposal before you is quite simple, quite clear, and is meant to clarify an issue that I think is important none the less. That issue is quite simply make the biweekly issue truly biweekly. The Bill before you clarifies that the pay interval will, in fact, be 14 days rather than the provision, which was suggested in the Committee Amendment, that could go up to semimonthly. Now I think that is important for a couple of reasons. Primarily because of the issue, as it has presented to me from the outset before this Session began, was a discussion of biweekly pay. Those who came up to me to discuss the issue, talked in terms of biweekly pay. Those either in favor of or against the Bill talked in terms of biweekly pay and biweekly pay means twice, biweekly, every two weeks, not just every 16 days or semimonthly. That is a variable, as you quite clearly understand, using simple math and simple logic. It's important also, aside from clarity's sake and the fact that the whole debate has been framed in terms of biweekly, for another substance of reasons. There are, if we choose the option of semimonthly versus biweekly, going to be those occasions where pay will only occur once after every three weekends. In other words, there are times throughout the year where employees will be ask or required to go for three weekend periods without a paycheck. That is significant to me because I think most of the spending that occurs by the workers in this state occurs on the weekend where they have the opportunity to do that kind shopping and those other sorts of requirements that arise. And on those occasions where we're asking employees, I think legitimately so, to budget differently and rearrange, it's going to be different on those occasions where they would now be asked to go for a semimonthly version and perhaps a pay interval that would include three weekends without a check by law. I think the more important and clearer way to approach this is to require 14 day intervals. Obviously the argument may be that you would have certain national companies that would be on a semimonthly option that would be disadvantaged by this, or not benefit quite as much. Quite frankly, men and women of the Senate, we are making a substantial change to go from the current weekly version to a biweekly version. That is a significant move that will hopefully enhance the advantages to Maine's employers. I don't think it's too much to ask that we keep it at biweekly and not create that problem that I've just outlined for you. So I would urge you, all of you, whether you were inclined to support the original Bill or not, to support this clarifying Amendment that, as I say, is a friendly Amendment that makes it clear what our intentions ought to be on this issue.

Senator **FERGUSON** of Oxford inquired as to whether the Senate was in violation of Senate Rule 514.

Senator **MILLS** of Somerset moved the Senate extend until 9:10 p.m., pursuant to Senate Rule 514.

At the request of Senator **FERGUSON** of Oxford a Division was had. 26 Senators having voted in the affirmative and 8 Senators having voted in the negative, and 26 being more than two-thirds of the Members present and voting, the motion by Senator **MILLS** of Somerset to **EXTEND** until 9:10 p.m., **PREVAILED**.

Senator **MILLS** of Somerset requested a Division.

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

Senator **MILLS:** I have had lengthy discussion with the good Senator from Penobscot on the issue about the difference between biweekly and semimonthly, or biweekly and 16 days, whatever the case may be. We did consider this rather carefully in the Committee. I can only say to you that the vast majority of states in America are either at a semimonthly or a monthly standard. I can only find two or three on my list that use a biweekly standard at all. It would seem to me, as it came out of Committee, that if the purpose of this Bill is to try to conform Maine to a emerging National standard, or a standard that has already emerged, that we ought to go to the semimonthly and stick to it and insist, as the Committee Report does, on a very quick period for the first paycheck, the eight days standard which is more accelerated by far than that which prevails in most other States. For that reason I do urge that you vote for Against the pending motion.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc Senator Small

Senator **SMALL:** Thank you Mr. President, may I pose a question through the Chair.

THE PRESIDENT: The Senator may pose her question.

Senator **SMALL:** Thank you. In looking at this, it said the intervals may not exceed 14 days. What would happen if an employer, because of a holiday, I know at BIW we usually get our checks on Thursday. But if there is a holiday coming up they will give the check a day early on the Wednesday before so the employee can have it for the long weekend or for the holiday. But the next check would come on the Thursday as regular which would be, if it were biweekly, 15 days later. Would they be in violation of this or is there some mechanism, by which, that early paycheck could somehow be counted on the later day? How would this be accommodated?

THE PRESIDENT: The Senator from Sagadahoc, Senator Small, poses a question through the Chair to anyone who may be able to answer. The Chair recognizes the Senator from Penobscot, Senator Murray.

Senator **MURRAY:** Thank you Mr. President. Men and women of the Senate, I assume that issue could surface whether we picked the day 14 or 16, that it could end up falling on a holiday and the same issue would surface. So I would hope by the term regular interval that it would be fairly clear that it's not an issue that would create too much of a problem, especially given the

point from which we are coming with regard to this issue, which is the 7 day requirement. I think that is a relatively minor concern.

On motion by Senator **AMERO** of Cumberland, 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 (#185)

YEAS: Senators: BERUBE, CASSIDY, CATHCART, DAVIS, DOUGLASS, FERGUSON, MICHAUD, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, CAREY, DAGGETT, GOLDTHWAIT, HARRIMAN, KIEFFER, KILKELLY, KONTOS, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MILLS, MITCHELL, SMALL

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **MURRAY** of Penobscot to **ADOPT** Senate Amendment "D" (S-378) to Committee Amendment "A" (H-477), **FAILED**.

On motion by Senator **MILLS** of Somerset, Senate Amendment "A" (S-361) to Committee Amendment "A" (H-477), **READ** and **ADOPTED**.

On motion by Senator **RAND** of Cumberland, 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 (#186)

YEAS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CAREY, CASSIDY, CATHCART, DAGGETT, DAVIS, GOLDTHWAIT, HARRIMAN, KIEFFER, KILKELLY, KONTOS, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MILLS, MITCHELL, MURRAY, NUTTING, PARADIS, PENDLETON, RUHLIN, SMALL, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: DOUGLASS, FERGUSON, MICHAUD, O'GARA, PINGREE, RAND, TREAT

28 Senators having voted in the affirmative and 7 Senators having voted in the negative, Committee Amendment "A" (H-477) as Amended by Senate Amendment "A" (S-361) 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-477) AS AMENDED BY SENATE AMENDMENT "A" (S-361)** thereto, in **NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

On motion by Senator **RUHLIN** of Penobscot, **ADJOURNED**, until Wednesday, June 2, 1999, at 9:00 in the morning.