

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twenty-Sixth Legislature
State of Maine

Daily Edition

Second Regular Session

beginning January 8, 2014

beginning page H-1301

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE
SECOND REGULAR SESSION
44th Legislative Day
Wednesday, April 16, 2014

The House met according to adjournment and was called to order by the Speaker.

Prayer by Reverend Jane MacIntyre, South Parish Congregational Church, United Church of Christ, Augusta.

National Anthem by Falmouth Middle School Jazz Band, the "Iron Twinkies."

Pledge of Allegiance.

Doctor of the day, Joel Kase, D.O., North Yarmouth.

The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act Regarding Compensation for the Panel of Mediators"

(S.P. 752) (L.D. 1854)

PASSED TO BE ENGROSSED in the House on April 9, 2014.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-525)** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

Resolve, To Conduct a Market Analysis Regarding the Feasibility of Expanded Gaming in Maine (EMERGENCY)

(H.P. 1343) (L.D. 1856)

PASSED TO BE ENGROSSED in the House on April 9, 2014.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "C" (S-522)** in **NON-CONCURRENCE**.

Representative RUSSELL of Portland moved that the House **RECEDE AND CONCUR**.

Representative BERRY of Bowdoinham **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Portland, Representative Russell.

Representative **RUSSELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. We talk about jobs a lot and when we came several weeks ago to a choice about whether to support the harness racing industry, whether to support the Passamaquoddy Tribe, the Maliseet Tribe and the Penobscot Tribe, we understood that these were people who were begging to get back to work. We voted in support of them. Last week, we had a study before us and I realize it is an 11 to 1 report and I happened to be the 1. I wouldn't fight on an 11 to 1 report if I didn't fundamentally believe that there is a better way to do this. I came to this State House believing in my heart of hearts that a single person could make a huge difference. That is why I stood up last week and opposed the study that we had passed. Since that time, a significant amount of work has gone into fixing that study and to making it more inclusive, ensuring that the issues that I had with it, the issues that potentially excluded our tribes and most certainly excluded our harness racing industry would go away.

If you vote to Recede and Concur this morning, you will be voting yet again to set us on the right course so that the harness racing industry can continue to provide the cultural opportunities and to maintain its cultural heritage. You will be continuing to support the fairs. You will be continuing to support agriculture and you will be continuing to support open space. You will also be continuing to ensure that we are moving in the right direction, and not backwards, toward ensuring that our Indian Tribes are able to increase their economic opportunities, to lift themselves out of poverty and to provide jobs for their people in their sovereign nation.

The amendment before you changes dramatically the bill in one key place and instead of excluding the folks that we already voted in support of, now this bill will include those folks. It does not give preference to, but it studies the market just as folks wanted, but it does not mean that we are going to be prohibiting, that we are going to be giving preference to the existing casinos, which the original bill does.

I am not standing here alone this morning and I want people to understand that. For the 45 folks that voted with me last week, I hope you will vote with me again. For the 99 people that voted in support of the Passamaquoddy Tribe, I hope you will stand here and vote again. For the 95 people who voted in support of the Maliseet Tribe and for all the folks who voted for the harness racing industry, I hope you will support the amended version of this bill, which is a much, much, much better study and a much better future for our state.

I don't want to suggest that the casinos that we currently have have been anything other than good corporate citizens, because that would be false. They have been good corporate citizens. They were brought forth by a citizen's initiative and, as such, they were paying somewhere in the neighborhood of \$250,000 for a licensing fee and that is an important thing to consider. Are we getting the best value for licensing fees? The new study makes sure that we are looking at that, that we are looking at market feasibility and that we are looking at ensuring job growth for Maine people. I knew personally all the folks from Black Bear that started the citizen's initiative for Oxford. I knew them by name. I had spent a significant amount of time in their community because I am from that region. I do not know the people from Churchill Downs because they are not from Maine, though people that work there are from Maine, but the people that own that property are not from Maine. The people that own Hollywood Slots are Penn National, short for Pennsylvania. If we want to fight for jobs that are here, for companies that are here and for our tribes, the way to do that is to Recede and Concur. I have spent six years working on gaming policy with the hope that we would be able to move forward and my fear is that if we vote down the Recede and Concur motion, we will not move forward to a statewide gaming policy, that we will move backward. Ladies and gentlemen, experience matters on these issues.

As I said before, I am not standing here today on my own and I look forward to hearing other folks stand with me today as they stood with me on several other bills that this body overwhelmingly supported. Again, I remind you to think about why you came to the State House and to think about whether one voice, one voice can matter. Yes, I stand on a lot of issues, but I realize this is an 11 to 1 report, but this vote matters to such a degree for the future of gaming in this state. We need a statewide policy. We need a comprehensive approach and we need to back Maine people. That is what the Recede and Concur motion does. Thank you, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Ellsworth, Representative Luchini.

Representative **LUCHINI**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to the pending motion. I would urge this body to Insist in agreement with the Veterans and Legal Affairs Committee's 11 to 1 report and the previous actions taken by this body.

Today, I am supporting our committee's bipartisan work which would commission a market analysis and feasibility study of our state's gaming industry. After that study is completed, the VLA Committee would meet this summer and try to set up the framework for a comprehensive gaming plan. Gaming has clearly become an enormous asset for the state, contributing tens of millions of dollars over the years to the General Fund, to state programs, other programs critically important to Mainers. So, the rationale for this study is simple. Now, by developing a more thorough understanding of this industry, we can make better informed data-driven decisions on a comprehensive gaming policy and we would avoid this piecemeal approach that we have taken for many years now.

This study is intended to be a tool for use by the VLA Committee when we meet this summer and fall and try to set up statewide policy. In this light, we want to accomplish our goals of economic development, job creation, tourism. Our committee's recommendation, the 11 to 1 report, achieves these goals in a completely objective, unbiased way. The Senate Amendment, as presented before us, however, does not do that. As written, this Resolve interjects both policy and bias into the study. First, it requires a consulting group to examine casino legislation that was killed by this Legislature earlier in this session. Specifically, it would require the group to look at any proposal for a license fee and there were only three before us. Clearly, this gives preferential treatment to those three groups. It also raises the question, why should the state pay to study any individual's casino proposal? It should be incumbent on the applicant to make their case, and the state to make the decision after that.

Secondly, it also involves policy decisions that I think would be better made in this body by instructing the consultant group to develop a uniform revenue distribution from these casinos. In my opinion, determining how our casino revenue gets spent is much better decided by people who live in this state, people who work in this room, work in the Appropriations room, not by an independent consultant. We know what our goals and our policy objectives are in this state. I think those decisions should remain within this body. For those reasons, I urge you to vote against the pending motion and in support of the committee's 11 to 1 report. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Beaulieu.

Representative **BEAULIEU**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I appreciate the opportunity to speak on this issue and I respect the opinions presented before me. We worked diligently, I think, on the original or the initial plan to conduct this study. I think that we have expressed, over the years, the need to have a study so that you can look at the data to make sure that when you do make decisions with regard to future casinos or any other gambling institution that you do the right thing. As a fear that I have and had, really, that any vote today is going to end without a study and that would be, I think, something that is probably a little bit dangerous and may lead to future problems with regard to a plethora of submissions next session and the sessions thereafter if you don't have an appropriate study. I think I am going to go today with the vote that I had taken in committee, which was to support the study without this particular amendment. So, I will be voting against the Recede and Concur motion and hope that

those who are involved after me will do the right thing. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from the Passamaquoddy Tribe, Representative Soctomah.

Representative **SOCTOMAH**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today in support of the Recede and Concur motion. Just a few short weeks ago, this body voted to insure that each tribe represented here today could use gaming as an economic development tool to address the poverty and unemployment which is rampant in our tribal communities in the State of Maine. More than 20 years ago, as a representative of this body, I introduced the first bill asking for a gaming facility, a casino, in Washington County, on behalf of the Passamaquoddy Tribe. I am so grateful to the members of this body who supported the Passamaquoddy Tribe in this endeavor. I appreciate that you stood strong with me and the tribe, and I respectfully ask that you vote in support of the Recede and Concur motion before you. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Maker.

Representative **MAKER**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I stand in support of the pending motion. The concern that I am hearing is that we are going to give preference to the prior votes that we have taken in the House. When I read the amendment, it states that they are going to look at the following. It doesn't say they are going to give preference to the following. They are going to look at it. Who, in my opinion only, the preference was given during this whole debate during this session, was to the prior casinos that have been selected for the State of Maine. We need to stand up and be counted here. I don't see this as a preferential treatment for the prior applicants for the tribe at all and I am going to vote for it and I hope you follow our light.

The SPEAKER: The Chair recognizes the Representative from the Houlton Band of Maliseet Indians, Representative Bear.

Representative **BEAR**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Mr. Speaker, I rise today in support of the Recede and Concur motion. When this bill came up last week, we could not be here to debate the bill as tribal council had met and these are the Chiefs of the entire Wabanaki Confederacy for the first time in a long time on the gaming issue. We were holding that meeting on this very issue. While we were holding that meeting on that day, the bill was heard, LD 1856, it was voted on and it went right over to the Senate. So, we went to work to try to respond to that.

At the time, we were meeting because we just couldn't support the bill, the one that came from the Veterans and Legal Affairs Committee. It wasn't written in a manner that would have benefitted the tribes, clearly. A lot of work over the years, the many years and we know the story, has been completed. There have been many efforts by the tribes, specifically the Passamaquoddy, leading it, but the other tribes as well, watching and hoping to follow in the Passamaquoddy lead and all of that ought not be for not.

Through that period and even through this Legislature, many negotiations have occurred in formal and in presentations to the state by the tribes and the back and forth in committee, the debates here in the House, then in the Senate. By a very close margin in the Senate, the tribal casinos did not pass. I mean had there been a two vote difference, they would have passed, but that didn't occur. In this body, there was overwhelming support for the idea, for the concept of tribal gaming. We believe because we had made the case successfully and repeatedly, that there is a good reason to agree that the tribes should be able to

go into business, create jobs, go to work and to benefit from the proceeds of what are obviously successful business enterprises here in the State of Maine with the non-tribal casinos in Bangor with Hollywood Slots and with the non-tribal casino in Oxford, very lucrative. They are generating over a billion dollars in economic activity. They are generating over \$100 million in profits. We see that. Everyone sees that. The studies that this amendment that we are supporting that has come from the Senate will simply not basically break new ground, but will ratify studies that have essentially already been completed – Scarborough Downs, the Maliseet gaming proposal in Aroostook County, the Passamaquoddy proposal in Washington County. The markets are there to a greater or lesser extent. It is not a question of whether there is feasible gaming proposals here, it is just a matter of how feasible.

The questions have already been answered to the extent that the initial bill, 1856, calls for a study. We all know that that study has been done to a greater or lesser degree. The amendment, however, will insure that work that has already been done, the feasibility studies, the market analysis, that have already been done, will be incorporated in this. It is a good middle ground, I would submit, for this body to vote for in support. It respects the work that has already been done, the voices that have already been spoken to this body and the other body and among ourselves. We know where we are at and we believe, from a tribal perspective, that this amendment that we are asking that this body Recede and Concur with is a good result. In our view, from a tribal perspective, again, the studies have been done. The experts have already declared their opinions that tribal casinos will not be the threat that people want to paint them as. So, we hope that you will not see this as preferring the tribes, but to fairly include them.

We hope further that the version that provides the horsemen a path forward through preserving their important cultural contribution to the state with harness racing, which supports farms, preserves the space for other generations and, you know, experiences for families to the south, predominately, but importantly is that we are all standing together, all of the parties who hope that this amendment will pass are standing together. This is a great compromise and a great work product that is being offered for this body to consider today. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I hope you notice, Mr. Speaker, I'm looking right at you and I am speaking to the 149 other members in this body. I read a letter from a young couple who live in my town that built a number of barns and they have their own training track and I am standing here today to agree with my good friend, Representative Russell, on her bill and I hope you all follow my light on this bill because my concern is, and I have talked to them this morning, is the horsemen in the State of Maine. It is like American apple pie, harness racing, the fairs, the farmers that raise their hay for the horses and the grain and the farrier. It takes so many and so many to put this together and to lose this would be a shame for the State of Maine. So, I hope you all put aside, I don't care about the two existing casinos, my concern is the horsemen of the State of Maine and the horsemen only. I hope you will follow my light and vote for this amendment to Recede and Concur. Thank you very much Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Hollis, Representative Mearan.

Representative **MAREAN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I stand in support

of the Recede and Concur motion, but I clearly want everyone to know that I also supported the report that came from the VLA Committee when we voted on it here a week or so ago, passed from this chamber, we sent it to the other chamber. My biggest concern here is that we have a study of some sort. I don't care which study it is that we have as long as we have a study. We sent it to the other chamber and they didn't agree with us. They have amended it. They have sent it back. I now support the Recede and Concur because it looks like we have the opportunity to finally pass something in concurrence with the other chamber that can establish this study. If we defeat the Recede and Concur and we Insist, we are still in non-concurrence. My biggest fear is that the bill will die. If the bill dies, then we are right back to square one bouncing the ball for another two or three years, trying to decide what we are going to do about gaming in the State of Maine. This bill is not about gambling. It is about a study. The study is going to bring information back to the VLA Committee. They have the authority to make the final decision. The study is not going to change policy. It is not going to do anything like that. It is going to look at the facts. Can Maine support additional gaming? That is what we need to know. I would appreciate your support on the Recede and Concur motion.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Recede and Concur. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 710

YEA - Beaudoin, Beavers, Bennett, Black, Boland, Brooks, Campbell J, Campbell R, Carey, Casavant, Cassidy, Chapman, Chase, Chenette, Cotta, Cray, DeChant, Dickerson, Doak, Dunphy, Evangelos, Fitzpatrick, Fowle, Hamann, Harlow, Harvell, Hickman, Hobbins, Johnson P, Jones, Kaenrath, Keschl, Kinney, Knight, Kusiak, Libby A, Long, MacDonald S, Maker, Malaby, Mearan, Mason, McClellan, McElwee, McGowan, Monaghan-Derrig, Moonen, Nadeau C, Nutting, Parry, Pease, Peoples, Pouliot, Priest, Russell, Sanderson, Saucier, Saxton, Shaw, Short, Sirocki, Stanley, Stuckey, Theriault, Turner, Villa, Volk, Willette, Wilson, Winchenbach, Wood.

NAY - Beaulieu, Beck, Berry, Bolduc, Briggs, Chipman, Clark, Cooper, Crafts, Crockett, Daughtry, Davis, Devin, Dill, Dion, Dorney, Duprey, Espling, Farnsworth, Frey, Gattine, Gideon, Gilbert, Gillway, Goode, Graham, Grant, Guerin, Hayes, Herbig, Hubbell, Jackson, Jorgensen, Kornfield, Kruger, Kumiega, Lajoie, Libby N, Lockman, Longstaff, Luchini, MacDonald W, Marks, Mastraccio, McCabe, McLean, Moriarty, Morrison, Nelson, Newendyke, Peterson, Plante, Powers, Pringle, Rankin, Reed, Rochelo, Rotundo, Rykerson, Sanborn, Schneck, Timberlake, Tipping-Spitz, Treat, Verow, Wallace, Weaver, Welsh, Werts, Winsor, Mr. Speaker.

ABSENT - Ayotte, Fredette, Gifford, Johnson D, Kent, Nadeau A, Noon, Peavey Haskell, Tyler.

Yes, 71; No, 71; Absent, 9; Excused, 0.

71 having voted in the affirmative and 71 voted in the negative, with 9 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

Subsequently, the House voted to **INSIST**.