

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Thirtieth Legislature**  
**State of Maine**

**Daily Edition**

**First Special Session**

beginning April 28, 2021

beginning at page H-200

ABSENT - Cebra, Craven, Cuddy, Grignon, Haggan, Hanley, Javner, Kessler, Paulhus, Perry, Prescott, Roche, Rudnicki, Sampson, Sharpe, Tucker.

Yes, 76; No, 59; Absent, 16; Excused, 0.

76 having voted in the affirmative and 59 voted in the negative, with 16 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-699)** was **READ** by the Clerk and **ADOPTED**.

Under suspension of the rules the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-699)** and sent for concurrence.

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Majority Report of the Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-713)** on Bill "An Act To Create Gaming Equity and Fairness for the Native American Tribes in Maine"

(H.P. 399) (L.D. 554)

Signed:

Senators:

LUCHINI of Hancock  
HICKMAN of Kennebec

Representatives:

CAIAZZO of Scarborough  
COREY of Windham  
McCREIGHT of Harpswell  
RIELLY of Westbrook  
SUPICA of Bangor  
TUTTLE of Sanford  
WOOD of Portland

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Senator:

FARRIN of Somerset

Representatives:

DOLLOFF of Milton Township  
HARRINGTON of Sanford  
KINNEY of Knox

**READ.**

Representative CAIAZZO of Scarborough moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Representative **NEWELL**: Thank you, Mr. Speaker. Mr. Speaker, Honorable Members of the House, I signed on as a co-sponsor of LD 554, "An Act To Create Gaming Equity and Fairness for the Native American Tribes in Maine". As the title suggests, this legislation is in large part about equity and fairness. While the focus of this bill is gaming, this is a small piece of the puzzle for the tribes in Maine, with the overarching goal of creating stronger sovereigns that can better provide for their people and make stronger partners for local and State government. Mr. Speaker and Members of the House, today I

am honored to follow in the footsteps of my great-great-grandfather, Louis Mitchell, a Passamaquoddy leader who addressed this Legislature in 1887. While more than a century has passed, our tribe faces similar circumstances yet today. Tribal Representative Louis Mitchell highlighted a litany of broken treaties and promises that resulted in my people living in poverty-ridden communities. Today, tribal citizens in Maine and the Passamaquoddy tribe, in particular, continue to deal with poverty, public health problems, lower attainment of higher education and face other socioeconomic issues at a significantly higher rate than any other demographic in our State.

Our ancestors watched from inside the bounds of our reservation as nontribal members got rich from cutting down our trees on our land, leaving us with little. Today, we watch the operation of commercial casinos in Maine that send millions of dollars to investors in other states with minimal benefits for Maine's citizens. This is happening while tribal nations in Maine, unlike all other federally-recognized tribes across this country, do not have the opportunity to truly engage in governmental gaming operations. This is despite the fact that by federal law those gaming revenues would be required to remain in the State. A tribal gaming operation would not only create revenues for the tribe to care for its members but it would bolster economic development in the surrounding communities and our State as a whole. This is what this bill will address.

Mr. Speaker and Members of the House, it is important to understand the broader context for this bill. The tribes and their chiefs were invited by the Legislature's leadership in 2019 to begin a process to reckoning changes to the Maine Settlement Act that would make the tribes more equal to other federally-recognized tribes across the United States. This process has been ongoing since the legislative resolve was issued in June of 2019. One of those rights the tribes have elsewhere in the United States is the right to conduct gaming under federal law. The Indian Gaming Regulatory Act, or IGRA, was reviewed, discussed and approved by a bipartisan group of legislators in both the taskforce and the Veterans and Legal Affairs Committee. The tribes are continuing to push for broader restoration and recognition of our inherent tribal sovereignty but due to procedural happenstance, the omnibus legislation will not be taken up until next session. While the overall thrust of this effort is not about gaming, this piece was intentionally split off because of the way the other tribal bills were moving and that is why we have a tribal gaming bill ready for a vote this session, separate and apart from the other tribal bills.

Mr. Speaker and Members of the House, I want you to know that in other states like Oklahoma, Florida and Connecticut, tribal governments are seen as economic leaders. Tribes with gaming operations have contributed billions of dollars to State and local governments. There is a significant amount of data and documentation around this. In Connecticut, a State that has had tribal gaming since the 1990s, State Representatives prefer that casinos are tribally owned. This is because of the enormous amount of funds that have been shared with the State over the past decades. The relationship between the State of Connecticut and the tribes continue to evolve and to modernize to make sure gaming is being conducted in the best possible way. Tribal gaming revenues create a rising tide that elevates public health and safety standards more broadly. LD 554 would create a framework to ensure that similar economic benefits can flow from the sovereign indigenous tribes to the State and its municipalities. This will not be a new framework to the contrary. Tribal gaming would be implemented pursuant to federal law, IGRA, which we

are seeking to implement in Maine. Gaming facilities would operate under the jurisdiction of federally regulatory bodies and the laws and regulations that have been in existence since 1988, when IGRA was enacted. This is a well-tested model that without a doubt has been incredibly successful across the country. Furthermore, in addition to incorporating the well-established federal regulatory rules for tribal gaming, the bill ensures that the State public safety laws would create the baseline for regulating in those relevant areas. While tribal governments may operate under their own ordinances, their standards must be no less rigorous than existing State standards. If the tribes do not choose to regulate in those areas, then State law automatically applies until the tribe adopts an ordinance with equally rigorous measures. Maine is one of the very few states that has historically chosen to prohibit tribal gaming. Even northeastern states like Connecticut and Massachusetts support tribal gaming and have seen successes as a result. This legislative effort as well as others seeks to help Maine catch up with the other states with respect to recognizing tribal sovereignty and to maximize the potential economic benefits for everyone in the State, tribal member or not.

It is critical to understand the differences between the existing commercial casinos in our State and a tribal gaming operation in order to see why this bill will benefit all Maine constituents. Under federal law, tribes must be the sole owner and primary beneficiary of tribal gaming operations. This necessarily means that revenues generated through tribal gaming operations remain in our State. If we had more money in federal appropriations to support tribal governmental operations, that would be helpful. But we do not have a way to access more funds. Establishing gaming operations is one way to help close that gap. This will allow the Wabanaki tribal nations to provide better services and share funds as well as resources with State and local governments. Lastly, Mr. Speaker and Members of the House, I will say that the Indian Gaming Regulatory Act requires a good faith approach by the State to negotiate tribal gaming arrangements. The tribal nations hope and expect that if this legislation passes, that good faith practice will be exercised. This legislation does not compel the creation of tribal gaming operations. If the law is enacted, you will not see casinos popping up on tribal lands the following day. There is a process that will still need to be undertaken at the tribal, federal and State level in order for any of this to move forward. What is being voted on will simply create a path forward, where the legislative record can show the insurmountable roadblocks that have existed in the past. I hope you will all vote for equity and fairness in supporting LD 554. Our ancestors are watching. *Chi-woliwon*, Mr. Speaker and Honorable Members of this House.

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

Representative **BICKFORD**: Thank you, Mr. Speaker. I'd like to pose a question through the Chair.

The SPEAKER: The Member may proceed.

Representative **BICKFORD**: Can someone explain what tribal trust land is? Does it belong to specific areas in the State? Is there a size limit? And if there is no size limit and it doesn't pertain to specific areas of the State, if one of the tribes happens to buy a piece of land in South Portland that's 2 acres in size or less and decides that they're going to make that a trust land, could they theoretically build a casino anywhere in the State they want based on trust land that they may buy in the future? Thank you, Mr. Speaker.

The SPEAKER: The Representative from Auburn, Representative Bickford has posed a question to any Member who may care to respond. The Chair recognizes the Representative from Portland, Representative Collings.

Representative **COLLINGS**: Thank you, Mr. Speaker, Ladies and Gentlemen of the House. To answer the question from the Good Representative from Auburn, Representative Bickford; no, a federally recognized tribe here can't just go out tomorrow and buy land and have it go into trust. It's a long process, it's not easy and I know of very few cases in recent history in this country where the Department of the Interior has just gone to some other city outside of a place where tribes live and put it into trust for the purpose of gaming. So, that is highly unlikely and I have not seen that happen. Thank you.

The SPEAKER: The Chair recognizes the Representative from Monticello, Representative Johansen.

Representative **JOHANSEN**: Thank you, Mr. Speaker. I rise in favor of this proposition today, that they be allowed to build a casino on their tribal lands. I've got many of the tribal activities in my area, they've been very good neighbors and I've heard no opposition from anybody in the community to this. So, I'm asking you to support this and give them a chance to help themselves.

Representative **KINNEY** of Knox **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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 Kennebunk, Representative Babbidge.

Representative **BABBIDGE**: Thank you, Mr. Speaker, Ladies and Gentlemen of the House. I have the greatest respect for the Representative from the Passamaquoddy tribe, but I rise in opposition to this bill and so, those words may sound hollow, but they are not. It is not my choice to be forced to address this important legislation on what was to be our last day of the session at quarter of two in the morning. To me, this is a bad idea. If a bad idea is proposed by good people, it's still a bad idea. I hope my opposition to the gambling industry being in Maine and expanding in Maine is not construed by you my colleagues or our vast YouTube audience that I have anything but good wishes for Maine's tribal citizens. To the contrary, I've spent a professional lifetime teaching about cultural conflict, western imperialism and the injustices suffered by our indigenous peoples throughout the American story. This bill grants tribal sovereignty regarding casinos. I have said in the past I support tribal sovereignty. I support the UN's human rights charter calling for self-determination of indigenous peoples. I celebrated the expansion of tribal sovereignty when our judiciary committee passed our Violence Against Women Act in the 129th. My Minority Report on the 129th's omnibus tribal sovereignty bill, LD 2094, supported territorial expansion and judicial independence. We, in the 130th, expanded tribal sovereignty this session regarding juvenile justice. I don't know if that's all the way through yet, in all these areas I support surrendering State authority for the benefit of the tribes. But I have major reservations about expanding tribal sovereignty in the areas of gaming and mining. My fear, my worst-case scenario, is that the bill before us allows big out-of-state casino operators to carve up Maine into gambling fiefdoms on Indian-purchased land across the State for which the State of Maine will have no authority to protect itself.

There is a history here. The 1980 Settlement Act, of course, was a gigantic change in tribal relations in the country.

There was actually a page in a history book that I was teaching out of dedicated to the Maine Indian Land Claims Act because of its innovation, you might say, or maybe a threshold in changing relations. That 1980 act ended with the federal government, the State and the tribes negotiating an \$81.5 million payment, about \$274 million today, to be divided up three ways; a third into a trust, a third going to the Penobscot Nation to buy 150,000 acres and a third going to the Passamaquoddy Tribe to buy 150,000 acres. Those acres were designated through negotiation. So, in response to the Good Representative from Auburn's question about what lands, the Indian Land Claims Act did designate certain lands that would be put into trust but it is also possible through a long process, admittedly, as the Representative from Portland admits, that additional lands could be bought and put into trust but there is a process for that. In 1988, the Good Representative from the Passamaquoddy tribe mentioned that the Indian Gaming Regulatory Act was passed and that act came as a result of a Supreme Court decision and it specified something. It said that states don't have to approve Indian gaming unless they have already approved casinos to exist in their State. That sounds fair.

The SPEAKER: The Member will defer. The Chair will remind the Member to address his comments through the Chair. The Member may proceed.

Representative **BABBIDGE**: Thank you, Mr. Speaker and I apologize. So, Mr. Speaker, the Indian Gaming Regulatory Act set some guidelines that all the country has to adhere to. Maine's history has many requests by the tribes to have permission to do gaming, which were refused. In 2003, there was an attempt to have a casino in York County. My memory wasn't even that it was an Indian casino but certainly the casino proposition which went to referendum statewide was a big issue in my area. It was defeated, but a secondary question on that referendum slot of questions was should a license for slots be allowed at a harness racing track. And everyone knew that was designed to go to Scarborough Downs. And, in my opinion, Maine voters said you know, we rejected the casino, but who cares about the sequestered campus of Scarborough Downs in the woods at a harness racing track, that sounds like a part B, less dangerous scenario. So, it did pass with more than 50% of the vote. Because of IGRA, Maine voters may or may not have known this, I certainly didn't know it, but because we made Maine a slots State in 2003, slots and gaming make up class 3 casinos and therefore, we became a gaming State with that vote in 2003. We made it official in 2009 when 50.4% of the voters decided to approve an Oxford Casino with 49.6 opposed. But so we have now two casinos. Of course, Scarborough rejected the casino and Bangor said we have a raceway and Hollywood Slots was born.

Representative **HARRINGTON**: Mr. Speaker, Point of Order.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Harrington and inquires to his Point of Order.

Representative **HARRINGTON**: I'm really questioning if whether or not a history lesson of Maine gaming is germane to this particular bill.

On **POINT OF ORDER**, Representative HARRINGTON of Sanford asked the Chair if the remarks of Representative BABBIDGE of Kennebunk were germane to the pending question.

The SPEAKER: The Chair would inform the Body that the question before us is expanding gaming. I would rule that any

comments related to gaming in the State of Maine would be relevant to this topic at hand. However, the Chair will remind the Member once again to address his comments through the Chair.

The Chair reminded Representative BABBIDGE of Kennebunk to stay as close as possible to the pending question.

The SPEAKER: The Member may proceed.

Representative **BABBIDGE**: So, we have the State of Maine become a gaming State and subject to the Indian Gaming Regulatory Act of 1988, which means that should we relinquish our authority as was part of the treaty, the Settlement Act of 1980, then there is a blanket permission slip for tribes to have casinos, plural, in the State of Maine. The one thing about a class 1 and class 2 are automatic, class 3 there does have to be negotiation with the government. And that sounds like a safety net but because of IGRA, any federal guideline, the deferred position is in favor of the tribe. So, it really is a surrendered State authority should we decide to do this. Of the United States, 500-plus tribes federally recognized, 43% of them have casinos. Maine has two casinos, neither of them tribal. One of them disburses net income, a percentage of net income to the tribes, it amounts to seven figures divided between the Passamaquoddy and Penobscot. I sponsored a bill to increase that amount and have it be from both casinos to benefit the tribes, but the tribes were not in favor of that proposal. That proposal would've been money to the tribes until a third casino was built.

Okay, I'm going to finish up. It's late in the morning and I just needed to share this information with you so that we go forward with our eyes open. LD 554 as amended is a 30-page bill that was reported out of VLA committee on June 16th, that's today. The other side of the aisle, I don't know how long you've had to discuss it, we Democrats caucused this bill in all of about three minutes at the very end of our long evening caucus today. We owe our constituents and all people of Maine, now and generations to come, Mr. Speaker, to understand this bill. This Legislature has the sole authority to pass, which once passed cannot be undone by any future Legislature. We have a rule here usually, we can't tie the hands of a future Legislature. With regard to sovereignty, once we give it up, we cannot unilaterally get it back. Before we take this action, we should fully understand the pros and cons for the bill for our tribal Maine citizens and for the nontribal citizens of Maine. Understanding the full picture is our responsibility. It is my hope, Mr. Speaker, that this 30-page bill be deliberated fully by this Body in the interests of good responsible government. And I would hope that this bill would be carried over and, to that end, I move to commit this bill back to the committee of jurisdiction of Veterans and Legal Affairs. Thank you, Mr. Speaker.

Representative BABBIDGE of Kennebunk moved that the Bill and all accompanying papers be **COMMITTED** to the Committee on **Veterans and Legal Affairs**.

Representative DUNPHY of Old Town **REQUESTED** a roll call on the motion to **COMMIT** the Bill and all accompanying papers to the Committee on **Veterans and Legal Affairs**.

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 the Passamaquoddy Tribe, Representative Newell.

Representative **NEWELL**: Thank you, Mr. Speaker. If I may provide a response to the comments that were just presented to this Body. I would submit for your consideration the testimony that was provided to the Veteran and Legal Affairs Committee. The Legislative record that I stated in the comments would show activity since 1993. In the testimony provided to the

Veterans and Legal Affairs Committee from me personally, there is a link that I requested from the legal and law library, the legislative history around gaming. I would also say that in relation to the subject of the Indian Gaming Regulatory Act, as I mentioned in my comments, there was a significant amount of discussion and review –

Representative **DILLINGHAM**: Point of Order.

The **SPEAKER**: The Chair recognizes the Representative from Oxford, Representative Dillingham.

Representative **DILLINGHAM**: Please advise that we should be talking about the motion before us which is recommit.

On **POINT OF ORDER**, Representative **DILLINGHAM** of Oxford asked the Chair if the remarks of Representative **NEWELL** of the Passamaquoddy Tribe were germane to the pending question.

The **SPEAKER**: The Chair would advise the Member that the question before us is recommitting this item back to the committee of jurisdiction. The Member may proceed should she conclude her remarks by indicating why recommitting is or is not the right move.

The Chair reminded Representative **NEWELL** of the Passamaquoddy Tribe to stay as close as possible to the pending question.

The **SPEAKER**: The Member may proceed.

Representative **NEWELL**: I would not support the recommitment to the VLA committee. As I was about to state, the Veterans and Legal Affairs Committee as well as the taskforce established by leadership discussed IGRA at the taskforce level, the Indian Gaming Regulatory Act was discussed within the taskforce and it was discussed again within the Veterans and Legal Affairs Committee. I think that is all that I wish to state at this time, Mr. Speaker. Thank you.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Commit the Bill and all accompanying papers to the Committee on Veterans and Legal Affairs. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 357**

**YEA** - Andrews, Arata, Austin, Babbidge, Bernard, Bickford, Blier, Bradstreet, Cardone, Carlow, Carmichael, Connor, Dillingham, Downes, Gifford, Griffin, Head, Hutchins, Hymanson, Kinney, Kryzak, Lemelin, Libby, Lyman, Morris, Parry, Perkins, Poirier, Skolfield, Tuell, Wadsworth.

**NAY** - Alley, Arford, Bailey, Bell, Berry, Blume, Brennan, Brooks, Bryant, Caiazzo, Cloutier, Collamore, Collings, Copeland, Corey, Costain, Crafts, Crockett, Cuddy, Dodge, Dolloff, Doore, Doudera, Drinkwater, Ducharme, Dunphy, Evangelos, Evans, Faulkingham, Fay, Fecteau, Foster, Gere, Gramlich, Greenwood, Grohoski, Hall, Harnett, Harrington, Hasenfus, Hepler, Johansen, Kessler, Landry, Lookner, Lyford, Madigan, Martin J, Martin R, Martin T, Mason, Mathieson, Matlack, McCrea, McCreight, McDonald, Melaragno, Meyer, Millett H, Millett R, Morales, Moriarty, Nadeau, Newman, O'Connell, O'Connor, O'Neil, Ordway, Osher, Pebworth, Perry, Pickett, Pierce, Pluecker, Quint, Reckitt, Rielly, Riseman, Roberts, Roeder, Rudnicki, Sachs, Salisbury, Sheehan, Stanley, Stearns, Stetkis, Stover, Supica, Sylvester, Talbot Ross, Tepler, Terry, Theriault, Thorne, Tuttle, Underwood, Warren C, Warren S, White B, White D, Williams, Wood, Zager, Zeigler, Mr. Speaker.

**ABSENT** - Cebra, Craven, Geiger, Grignon, Haggan, Hanley, Javner, Paulhus, Perry, Prescott, Roche, Sampson, Sharpe, Tucker.

Yes, 31; No, 106; Absent, 14; Excused, 0.

31 having voted in the affirmative and 106 voted in the negative, with 14 being absent, and accordingly the motion to **COMMIT** the Bill and all accompanying papers to the Committee on **Veterans and Legal Affairs FAILED**.

The **SPEAKER**: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative **MARTIN**: I just want to make a couple points. I'm the only person in this Body who was present during the deliberations when we did the lands claim case. This bill works in solving the direction that we had taken at that time. The Veterans and Legal Affairs Committee, having seen the bill, read most of it, especially the last portion of it, they satisfied, I believe, the conditions that were laid out at that time. I support the legislation that's being proposed.

The **SPEAKER**: A roll call having previously been ordered, the pending question before the House is Acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 358**

**YEA** - Alley, Arford, Bailey, Bell, Bernard, Berry, Blume, Brennan, Brooks, Bryant, Caiazzo, Cloutier, Collamore, Collings, Copeland, Corey, Costain, Crafts, Crockett, Cuddy, Dodge, Doore, Doudera, Drinkwater, Dunphy, Evangelos, Evans, Faulkingham, Fay, Fecteau, Gere, Gramlich, Grohoski, Hall, Harnett, Hasenfus, Hepler, Hutchins, Johansen, Kessler, Landry, Lookner, Madigan, Martin J, Martin R, Martin T, Mathieson, Matlack, McCrea, McCreight, McDonald, Melaragno, Meyer, Millett H, Millett R, Morales, Moriarty, Nadeau, Newman, O'Connell, O'Connor, O'Neil, Ordway, Osher, Pebworth, Perry, Pierce, Pluecker, Quint, Reckitt, Rielly, Riseman, Roberts, Roeder, Rudnicki, Sachs, Salisbury, Sheehan, Skolfield, Stover, Supica, Sylvester, Talbot Ross, Tepler, Terry, Thorne, Tuttle, Underwood, Warren C, Warren S, White B, White D, Williams, Wood, Zager, Zeigler, Mr. Speaker.

**NAY** - Andrews, Arata, Austin, Babbidge, Bickford, Blier, Bradstreet, Cardone, Carlow, Carmichael, Connor, Dillingham, Dolloff, Downes, Ducharme, Foster, Gifford, Greenwood, Griffin, Harrington, Head, Hymanson, Kinney, Kryzak, Lemelin, Libby, Lyford, Lyman, Mason, Morris, Parry, Perkins, Pickett, Poirier, Stanley, Stearns, Stetkis, Theriault, Tuell, Wadsworth.

**ABSENT** - Cebra, Craven, Geiger, Grignon, Haggan, Hanley, Javner, Paulhus, Perry, Prescott, Roche, Sampson, Sharpe, Tucker.

Yes, 97; No, 40; Absent, 14; Excused, 0.

97 having voted in the affirmative and 40 voted in the negative, with 14 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-713)** was **READ** by the Clerk and **ADOPTED**.

Under suspension of the rules the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-713)** and sent for concurrence.

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By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.

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