

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

bridge connecting the Twin Villages and holding an annual auction of donated items; and

WHEREAS, after its first 50 years of existence, the Damariscotta-Newcastle Rotary Club was best remembered for its annual Oyster Festival, which ran for more than 15 years and provided support for Little League baseball, Dirigo Boys State, Lincoln Academy's international student exchange, a raft for Red Cross swimming classes, the Lincoln Home for the Aged Founders' Day, painting the library building and sponsoring a poverty dinner; and

WHEREAS, the club is involved with the local Lions Club in a major fund-raiser each summer that consists of a golf tournament and auction, and the club continues to be an active part of the community with current membership at 57, with one member, Gary Speers, who served as district governor in 2011-12; and

WHEREAS, the Damariscotta-Newcastle Rotary Club has continued to raise money to support many community projects through the years, such as the Ecumenical Food Pantry, providing a well for a hospital in Cap-Haitien, Haiti, sponsoring Friends Forever teenagers from Northern Ireland in a grassroots peace effort and supporting the Guatemala Literacy Project; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-sixth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, extend our congratulations to the Damariscotta-Newcastle Rotary Club on its 90th Anniversary and we send our appreciation for its many years of serving the community and the world and honoring its motto of "Service Above Self"; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Damariscotta-Newcastle Rotary Club.

READ.

The SPEAKER: The Chair recognizes the Representative from Newcastle, Representative Devin.

Representative **DEVIN**: Thank you very much, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In 1905, when Mr. Paul Harris, a lawyer who was from a rural area, working in Chicago, started a Rotary. He was looking for likeminded people to put back into his community. Today there are 34,282 clubs and over 1.2 million members worldwide. The Damariscotta-Newcastle club was started in 1924. The club has done a tremendous amount of community service which includes providing the seed money for the Nobleboro ball field, putting up the lights on the Damariscotta-Newcastle bridge and providing scholarships for local students going to college as well as the Tools of the Trade program which helps vocational students to buy the tools they need to work in their chosen profession. The club also does a lot of international giving, providing aid in Haiti after the earthquake, drilling wells for fresh water in South America and helping to build AIDS clinics in South Africa. And then there of course is the annual high school speech contest which gives kids a chance gain experience taking in front of adults. Both my sons participated in that program, with my older one winning the competition in 2007.

I would like to speak about one specific member who I had a long and close relationship with. Karl's Kids is a program started by the Damariscotta-Newcastle Rotary Club to help children purchase equipment, uniforms and other related items so that they can participate in athletic programs. Mr. Karl Burger, unfortunately, suddenly passed away in 2007. I met Karl around 2000 when I was coaching the Hannaford Little League baseball team in Damariscotta and he was an umpire. Over the next six or seven years Karl called nearly 100 Little League, Babe Ruth and school ball games in which I was the manager or assistant

coach. In the first game he ever umpired for me, there was a play at second base. Karl was the only umpire and ran out from behind the plate to make the call. Afterwards, he returned to the plate, but he noticed the boys were confused. He called time, walked out to second base and call the infielders to second base with him. I immediately ran out to second base to see what was going on, as did the opposing coach. When we coaches got there, Karl politely but firmly told us, he was explaining the play and his call to the boys and we coaches could return to our benches.

Over the next six or seven years he would regularly call timeout to explain to the players what had just transpired. Karl could have cared less if the coaches were happy with his calls or agreed with him. However, it was vital to him that the boys learn and understand the game of baseball properly. Karl was all about helping boys and young men navigate through life and baseball was the metaphor he used. Karl embodied the Rotarian principle of giving back to your community. He now lives on through Karl's Kids. So I proudly lead the recognition of the Damariscotta Newcastle Rotary Club as they complete their 90th year of service to Central Lincoln County.

Subsequently, the Joint Resolution was **ADOPTED**.
Sent for concurrence.

On motion of Representative BEAR of the Houlton Band of Maliseet Indians, the following Joint Order: (H.P. 1339)

ORDERED, the Senate concurring, that Bill, "An Act To Authorize a Federally Recognized Indian Tribe in the State To Benefit from the Operation of an Existing Casino," H.P. 942, L.D. 1319, and all its accompanying papers, be recalled from the legislative files to the House.

READ.

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 Maine House of Representatives. Today, I rise as the legislative representative of the Houlton Band of Maliseet Indians. But, I also rise in defense of what some have advised me is a lost cause, which is this motion to recall LD 1319, "An Act to Authorize a Federally Recognized Indian Tribe in the State to Benefit from the Operation of an Existing Casino." In the circumstances, I don't believe this necessarily is true. Days after my being elected the first Maliseet Tribal Representative to the Maine House of Representatives last year, and in furtherance of my tribe's strategic economic development vision, I proposed certain legislative bills, joint resolutions and sentiments to the Revisor's Office, including LD 1298, the Maliseet Casino in Aroostook County bill, and LD 1319, this bill, which is an act to authorize our tribe to benefit from an existing casino in Maine. Hearings and work sessions were scheduled and occurred for both of these bills. Written and oral testimony was also received by the VLA Committee for both of these bills, both for and against. As you might expect, the Town of Houlton, our Maliseet Tribal leadership and others supported our proposed Maliseet tribal casino bill in Aroostook County as presented by LD 1298. The tribe also initially supported this bill, LD 1319, which I bring before the body today.

But, as the hearing for our tribal casino bill unfolded before the Committee, it appeared to be in the tribe's interest to set it aside so that it would not distract the VLA Committee, or the House, or the Senate, or the Governor, should it ever reach him, from focusing on our casino bill. To that end, my leaders instructed me to inform the Committee that we would prefer LD

1319 to be postponed indefinitely or set aside, or whatever the procedure might be at that time, so that the Committee might focus exclusively on our tribal casino bill, which the Committee readily agreed to do by concluding the hearing, going immediately into a work session and unanimously voting Ought Not to Pass on LD 1319, thus sending it, ultimately, to the legislative file where it now rests. By this time, however, the Committee had received testimony both in favor and in opposition to the bill, LD 1319, including testimony from Hollywood Casino, the City of Bangor, which opposed the casino bill, but it also opposed LD 1319, this one, which was the act authorizing our tribe to benefit from the operation of an existing casino.

Interestingly, Oxford Casino opposed our tribal casino bill, but it did not oppose this bill. We can imagine why and the reason I propose, I suggest, is that it was already under Maine law, providing 2 percent of the net slot revenues for the benefit of the Penobscot and Passamaquoddy tribes. In the circumstances, it's easy to understand why Oxford Casino did not submit testimony actively opposing this bill. I'm not saying that Oxford Casino actually supports the bill either. As an email that is attached in the packet that has been sent out clearly shows, yesterday, they do not support it, but, at the time, they did not oppose this sharing. So I submit that it's up to this body to decide. For that reason, I've asked that this bill be recalled. My point is that while LD 1319, which I am now moving to have recalled from the legislative file, was sent to the legislative file at our request as a tribe. I want to impress upon you that it was not because of a lack of merit. It was a matter of freeing up time so that the Committee could focus on the tribal casino bill which we had proposed, which also received broad support. We're very pleased and thankful for that support that we did receive. However, at the time, it seemed like the right thing to do.

Now, the rules allow for me to stand up and ask this body to reconsider, to reach into the so-called dead file and pull a bill out. I know this is rarely done. I'm asking, however, that this be a suitable opportunity to do so because there is still good reason to do so. Our economic circumstances have not changed. We are still in need of employment. We need support, consistent funding for important tribal government programs that provide fuel and health supports, public safety supports, monies that could be used to spur job creation, business development, to supply our fishermen and our workers with the tools they need to stay employed in good jobs. So for all of those reasons, we believe there is a good basis to make an exception, if there is such a rule, the reluctance to bring a bill out of the dead file, there is an exception and that there is merit to do so in this case.

We are mindful that there is a tradition to let things lay once they've been dealt with, but in this case, it was our initiative to set it aside, and it is now our initiative to revive it and we ask that you support us doing that. We will, if allowed to then argue the bill, should it be brought back to the House, we will be able to argue its merits and then it's in your hands to determine, after having a full opportunity to do so. You should know that if, in the future, the Houlton Band of Maliseet Indians, for example, operates a gaming facility, then we would no longer be eligible for a percent of the distribution of net profits from Oxford Casino. Of course, neither would the Passamaquoddy or the Penobscot, should they get into the casino gaming business. It's in the Maine law. Under current Maine law, once a tribe starts its gaming business, casino business, then the casino that was once providing help would no longer have to do so and they would then retain those funds for themselves, Mr. Speaker.

Our health and safety issues remain serious. Our unemployment rate and economic depression is still high and has gone on for too long, we would submit. We are your friends, we

are your neighbors, but, collectively, we are friends in need, still yet, and you have the power to help us and I'm asking that you do so. I urge you to support this motion to recall LD 1319 from the dead file so that it can be fully considered on its merits. Thank you, Mr. Speaker.

Representative RUSSELL of Portland REQUESTED a roll call on **PASSAGE**.

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 Winterport, Representative Brooks.

Representative BROOKS: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise this morning to support my friend, our colleague, Representative Bear, in the small favor that he is asking of us to retrieve from the legislative files LD 1319. Bear, as I call him as my friend, has only been here a little over a year and has already educated us a great deal, particularly last year, about treaties between the State of Maine and the tribes, about his friendship, about his dedication to his job as the Representative from the Maliseets – by the way, that dedication being superb. He has been here almost every day, except when there were tribal council meetings, and he has tried to enlighten us, not only about the treaties that existed back when with the Wabanaki, but with the relationship that they feel they have with the State of Maine.

During the course of the deliberations with the Oxford Casino and the other two major tribes, the Penobscots and the Passamaquoddy, 2 percent of their gross revenue was dedicated to helping the Native Americans. During that time, the Maliseets did not propose nor did they become part of this. Now is our opportunity to level the playing field. At this point, casinos are apparently out of the question as these permits for gaming, right now, are out of the question for the Maliseets. But their population is no different than the other tribes. Their needs are just as overwhelming, as if, as more, perhaps, than the others, so I urge you to join with me and allow the good Representative, the man I call my brother, to go ahead, pull this bill back, ask if we can't all a 2 percent allocation to the Maliseets and level the playing field. As he said to me, as we were talking about this last night at dinner, "All this would do is help us pay for the fuel next year." Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Berry.

Representative BERRY: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise reluctantly and with the greatest respect for my colleague from the Houlton Band of Maliseets to say that I cannot vote for the pending motion. Representative Bear has been an energetic advocate for the Houlton Band of Maliseets in his first term and has really distinguished himself in that respect, and I do hope that if the motion does not prevail today, that he will introduce this legislation right away for next term, provided that he's reelected. I think it is something that deserves a full hearing and that we probably can't give the attention that this issue needs, at this time, this late in the session. The motion before us requires two-thirds to be enacted. It is a motion and an approach that is really reserved for things that rise to the very highest level. Recalling a bill from the dead files is not something that we can take lightly. So I hope that Representative Bear will move forward with this in the next session, if the motion does not prevail, but I cannot support it at this time. Thank you.

The SPEAKER: The Chair recognizes the Representative from Freedom, Representative Jones.

Representative JONES: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. It's bad enough that

our dear friend and colleague from the Maliseet Nation has no vote on the floor, but it's shameful that his legislation cannot be properly reconsidered. I urge you to support the pending motion.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Boland.

Representative **BOLAND**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm actually rising to ask a question. It's my understanding that all the Houlton Band of Maliseet Indians is looking for is to have equal status with the Penobscot and Passamaquoddy tribes. Is that not true?

The SPEAKER: The Representative from Sanford, Representative Boland, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from the Houlton Band of Maliseet Indians, Representative Bear.

Representative **BEAR**: Thank you, Mr. Speaker. Yes.

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

Pursuant to Joint Rule 404, this Joint Order required the affirmative vote of two-thirds of those present for passage.

ROLL CALL NO. 643

YEA - Ayotte, Beaudoin, Beaulieu, Beavers, Boland, Bolduc, Briggs, Brooks, Campbell R, Carey, Casavant, Cotta, Cray, Daughtry, DeChant, Devin, Dickerson, Dill, Doak, Dunphy, Evangelos, Farnsworth, Fitzpatrick, Fowle, Gilbert, Gillway, Grant, Hamann, Hickman, Jones, Jorgensen, Kaenrath, Kent, Keschl, Kinney, Knight, Kumiega, Kusiak, Lajoie, Libby A, Libby N, Long, Longstaff, MacDonald S, Maker, Malaby, Marean, Mason, McElwee, McGowan, McLean, Monaghan-Derrig, Moonen, Nadeau A, Nadeau C, Newendyke, Pease, Peavey Haskell, Peoples, Pouliot, Priest, Russell, Rykerson, Saucier, Short, Stanley, Stuckey, Theriault, Tipping-Spitz, Turner, Tyler, Verow, Wallace, Weaver, Wilson, Winchenbach.

NAY - Beck, Bennett, Berry, Black, Campbell J, Chase, Chenette, Chipman, Clark, Cooper, Crafts, Crockett, Davis, Dion, Dorney, Duprey, Espling, Fredette, Frey, Gattine, Gideon, Gifford, Goode, Graham, Guerin, Harvell, Hayes, Herbig, Hubbell, Johnson P, Kornfield, Kruger, Lockman, Luchini, MacDonald W, Marks, Mastraccio, McCabe, McClellan, Moriarty, Morrison, Nelson, Nutting, Parry, Peterson, Plante, Powers, Rankin, Reed, Rochelo, Rotundo, Sanborn, Sanderson, Saxton, Schneck, Shaw, Sirocki, Timberlake, Treat, Volk, Welsh, Werts, Willette, Winsor, Mr. Speaker.

ABSENT - Cassidy, Chapman, Harlow, Hobbins, Jackson, Johnson D, Noon, Pringle, Villa, Wood.

Yes, 76; No, 65; Absent, 10; Excused, 0.

76 having voted in the affirmative and 65 voted in the negative, with 10 being absent, and accordingly the Joint Order **FAILED PASSAGE**.

On motion of Representative RANKIN of Hiram, the following House Order: (H.O. 43)

ORDERED, that Representative Jarrod S. Crockett of Bethel be excused March 5 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Joyce A. Fitzpatrick of Houlton be excused March 31 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Erin D. Herbig of Belfast be excused March 26, 27 and 28 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Craig V. Hickman of Winthrop be excused March 24, 25 and 26 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Roger A. Jackson of Oxford be excused March 26, 27 and 28 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Karen Kusiak of Fairfield be excused March 31, April 1 and 2 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Paul D. McGowan of York be excused March 31 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Anita Peavey Haskell of Milford be excused March 26 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Christine B. Powers of Naples be excused March 26, 27 and 28 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Megan M. Rochelo of Biddeford be excused March 28 and 31 for personal reasons.

READ and PASSED.

REPORTS OF COMMITTEE

Divided Reports

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-466)** on Bill "An Act To Support School Nutrition and Expand the Local Foods Economy" (EMERGENCY)

(S.P. 517) (L.D. 1431)

Signed:

Senators:

VITELLI of Sagadahoc
BOYLE of Cumberland
SHERMAN of Aroostook

Representatives:

DILL of Old Town
BLACK of Wilton
HICKMAN of Winthrop
JONES of Freedom
KENT of Woolwich
MAREAN of Hollis
NOON of Sanford
SAUCIER of Presque Isle

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-467)** on same Bill.

Signed:

Representatives:

CRAY of Palmyra
TIMBERLAKE of Turner

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-466) AS AMENDED BY SENATE AMENDMENT "A" (S-495)** thereto.

READ.

Representative DILL of Old Town moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

Representative FREDETTE of Newport **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.