

# MAINE STATE LEGISLATURE

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

**Daily Edition**

**Second Regular Session**

beginning January 3, 2018

beginning at page H-1216

Tipping, Tucker, Tuell, Turner, Vachon, Wadsworth, Wallace, Warren, White, Winsor, Wood, Zeigler, Madam Speaker.

NAY - Chapman, Spear.

ABSENT - Black, Cardone, Foley, Fuller, Marean, Sherman, Ward.

Yes, 142; No, 2; Absent, 7; Excused, 0.

142 having voted in the affirmative and 2 voted in the negative, with 7 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

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The following items were taken up out of order by unanimous consent:

**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment Thursday, March 29, 2018, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Bill "An Act To Amend the Laws Governing the Process for a Single Municipality To Withdraw from a Regional School Unit"

(H.P. 930) (L.D. 1336)

- In House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-605) AS AMENDED BY HOUSE AMENDMENT "A" (H-637)** thereto on March 20, 2018.

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-605) in NON-CONCURRENCE**.

TABLED - March 29, 2018 (Till Later Today) by Representative ESPLING of New Gloucester.

PENDING - **FURTHER CONSIDERATION**.

Speaker GIDEON of Freeport moved that the House **ADHERE**.

Representative ESPLING of New Gloucester **REQUESTED** a roll call on the motion to **ADHERE**.

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

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

**ROLL CALL NO. 553**

YEA - Ackley, Alley, Austin B, Babbidge, Bailey, Beebe-Center, Berry, Bickford, Blume, Brooks, Bryant, Cebra, Collings, Cooper, Corey, Daughtry, DeChant, Denno, Devin, Doore, Duchesne, Dunphy, Farnsworth, Fay, Fecteau, Fredette, Frey, Gattine, Golden, Grant, Grignon, Grohman, Haggan, Hamann, Handy, Harrington, Harvell, Head, Herbig, Herrick, Hickman, Hilliard, Hogan, Hubbell, Hymanson, Jorgensen, Kinney J, Kumiega, Lawrence, Longstaff, Luchini, Madigan C, Madigan J, Malaby, Martin J, Martin R, Mastraccio, McCrea, McCreight, McElwee, McLean, Melaragno, Monaghan, Moonen, Nadeau, O'Neil, Ordway, Parker, Perkins, Perry, Pickett, Reckitt, Riley, Rykerson, Sanborn, Schneck, Sheats, Skolfield, Spear, Stanley, Stearns, Stetkis, Sylvester, Talbot Ross, Tepler, Terry, Tipping, Tucker, Tuell, Wadsworth, Warren, Zeigler, Madam Speaker.

NAY - Austin S, Bates, Battle, Bradstreet, Campbell, Casas, Chace, Chapman, Craig, Dillingham, Espling, Farrin,

Gerrish, Gillway, Ginzler, Guerin, Hanington, Hanley, Harlow, Hawke, Higgins, Johansen, Kinney M, Kornfield, Lockman, Lyford, Mason, O'Connor, Parry, Picchiotti, Pierce J, Pierce T, Pouliot, Prescott, Reed, Sampson, Sanderson, Seavey, Simmons, Sirocki, Stewart, Strom, Sutton, Theriault, Timberlake, Turner, Vachon, Wallace, White, Winsor, Wood.

ABSENT - Black, Cardone, Foley, Fuller, Marean, Sherman, Ward.

Yes, 93; No, 51; Absent, 7; Excused, 0.

93 having voted in the affirmative and 51 voted in the negative, with 7 being absent, and accordingly the House voted to **ADHERE**.

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HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (H-697)** - Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Authorize Tribal Gaming"

(H.P. 838) (L.D. 1201)

TABLED - March 29, 2018 (Till Later Today) by Representative LUCHINI of Ellsworth.

PENDING - **ACCEPTANCE OF EITHER REPORT**.

Subsequently, Representative LUCHINI of Ellsworth moved that the House **ACCEPT** the Minority **Ought to Pass as Amended Report**.

Representative FREDETTE of Newport **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **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 Portland, Representative Collings.

Representative **COLLINGS**: Madam Speaker, Ladies and Gentlemen of the House, I'll try to do this as succinctly as I possibly can here. There's a lot to cover. I won't cover it all today. So, this is a bill that had buy-in from five tribal communities here in the state, and the question may be why did I submit this bill being from Portland? I submitted this bill because I thought, as been the case when these bills have come up the past 12 years on occasion, it was a matter of fairness which was an argument both sides of the aisles in the House and Senate usually voted for. But this year, I wanted to talk about something else which doesn't happen in Maine but happens all across the country, and that's Indian gaming. In about half the states, based on a federal law, tribes are allowed to have gaming, and it's been an overall success. I've worked with tribes around the country and I've seen the great things they did, and I ask myself, "Why can't we do this here in the State of Maine? Why can't we help the tribes and why can't we give a big boon economically to the rest of the state?" So, that's what I brought the bill forward with. I did a lot of work with the Committee, it was great working with -- always great working with the VLA Committee.

The bill as first proposed has been completely altered. The bill as first proposed was to put the State of Maine in compliance with the Indian Gaming Regulatory Act passed in 1988, which simply states if commercial gaming is allowed in a state, you can't deny it to a federally recognized Indian tribe, which does happen here because of the 1980 Settlement Act precludes federal laws from benefitting the tribes in Maine after they signed that. So, that is why the tribes in Maine can't do that, and it's been argued over the years, well, they signed that Act so they can't do it, but what I want to talk more about today is the spirit of the law, not the letter of the law. And so, when

the bill was first proposed, it said that the tribes in Maine should have what's allowed to commercial entities, as is the case around the country. So, if that would've been the case here in Maine, if it wasn't for the Settlement Act, once they opened up gaming in Bangor and in Oxford, the tribes would've had to negotiate with the state for a gaming compact. If the state wouldn't, the Federal Government would negotiate with the tribes and remove the state from the process.

So, because of that issue, the bill was put forward that said all recognized tribes in the state should be able to have those gaming rights. Now, obviously, four federally recognized tribes in five communities for the -- I do a lot of work with gaming markets around the country, and it just wasn't possible to have four or five new gaming sites around the state. It wouldn't work for the tribes and it would not work for the state, so why do it, right? Just common sense. So, I came back to the tribes and I met with them and several other members in the House and Senate, Democrats, Republicans, Independents; we had talks with the tribes. And we said, "Do you just want us to let this die on a moral argument? Do some education, make this a symbolic thing? Or do you want to try to do something with it?" And there came to a consensus with tribal leaders over the past year, that while they tried many years, they've been told no again and again and again, but if the state would reach out a branch and say we are proposing this law, would you like to weigh in on it, they said, "We'll weigh in on it and we'll do something that makes sense. We'll ask to have one site for all of us instead of all of us having our own sites and competing with other casinos in the state. We will ask for the tribes to be united," which has not happened before. There has not been one case since the Settlement Act in 1980, that I know of, where all the tribes have come together jointly and asked for one site. So, the tribes did put some effort into this to work together. Now you have five distinct communities and four recognized tribes, they all have different issues, they're in different geographical locations, so it's not a one size fits all that automatically -- the Penobscots say they want something so the Passamaquoddy, Micmac and Maliseets say okay, we'll just do that because another tribe wants it. They all have distinct different issues. So to get everyone together at the table to agree on something, that's a big effort from the tribes, and I really appreciate their willingness to work with us here on this.

So, it got amended from all of them being able to have what was currently on the books for Bangor and Oxford, for them to have one joint facility up to what Bangor and Oxford could have, up to 1500 machines. But as you know the history in Maine, you don't start out with that much, you go with what the market would bear, which probably would be a facility of 300-400 machines, which the fiscal note estimates it to be about 15-16 million for the tribes at that minimal amount and about 5-6 million, I believe, for the state. Also what happened in the bill, when it got amended in the Committee, was that when they passed Oxford by referendum, there was a stipulation that Penobscot and Passamaquoddy would get funding from the casino operation, but if they were to get gaming themselves, they would have to forego that money. So that money goes right into the general fund. All the money from this facility, if it's passed, would go into the general fund in addition to the revenue stream from Oxford going back into the general fund.

The amended law also stipulates that a facility held by all the tribal communities could be either on a tribal land that's already in existence from one of the four recognized tribes, or it could be in a municipality if the municipality votes for it, which

is usually the precedent for these matters. So, that's what the amended bill came to be, from all of them having one, for them working together for one site. So, that's where the bill stands now that we're voting on.

I wanted to briefly just state the history of the gaming in Maine. So, before the Settlement Act, the tribes, specifically the Penobscot, had a high-stakes bingo operation. When they got federal recognition, when there was a Settlement Act that included the Penobscot and Passamaquoddy, Maliseet joined it at the end in 1980, Micmac had their own Settlement Act in the early '90s, about 12 years later... Before that Settlement Act there was some gaming, there was some bingo. After the Settlement Act, that bingo went away, and then there's a precedent for tribal gaming here in the Legislature. What happened was once that bingo went away the Legislature overwhelmingly voted to allow the bingo to come back; and an outgoing attorney general, I think it was Attorney General James Tierney, spoke out to the State of Maine and said look, the letter of the law in the Settlement Act stipulates that we don't have to let the tribes do this, but all around the country and around 1988 tribes got the right for gaming with the states, they said while you don't have to in Maine, you should, because it's the right thing to do and it will help the tribes. The Legislature overwhelmingly supported it, fraternal clubs that had bingo and would've had the competition supported it, a former governor vetoed it, the Legislature overrode, and the Legislature gave high-stakes bingo back to the tribes. Go down the road, after the 1988 law that gave gaming to tribes nationally, the Passamaquoddy, through the courts, tried to get gaming, they didn't succeed in the courts.

In 2003, the Penobscot and Passamaquoddy tried for a large resort-style casino in southern Maine, they got turned down. That year, they voted to allow Bangor to have a racino, later got -- the developers sold it, Pen National took it over. More legislation came in through here, some votes were close for both Penobscot and Passamaquoddy to have gaming facilities. They were very close votes. One got overrode by the former governor, came within two votes of being overrode. Then they tried to do a racino referendum for the Passamaquoddy in 2007. On a very close vote by the public, they turned that down. Shortly after that, I believe, is when they voted to allow Oxford to have a casino there. When Bangor opened up the casino, after a short amount of time, it closed down the Penobscot's high-stakes bingo. When Oxford opened up, it took away some of Bangor's business, but then Bangor was allowed to add table games and that helped them gain more revenue; and that's currently where we stand right now with gaming in the State of Maine.

As far as Indian gaming, I know we're aware of two facilities, Oxford and Bangor; but I want to say that if all of you could come with me around the country and see the positive impact of Indian gaming, I think a lot of you would be here speaking with me today. In states like Arizona, tribes like the Tohono O'odham who have gaming are one of the first groups that is asked for for help. We need money for the Boys and Girls Club, here's a million-dollar check. In Wisconsin, a former chairman of the Oneida of Wisconsin, Chairman Danforth, when there was emergencies, tragedies, one of the first person the governor would pick up the phone and call would be the tribal leader, we need help, we need support. When there were big storms in the south, around Louisiana, everything was shut down, the first thing the state did was said let's get the gaming on the boats and the other enterprises going, because that's going to help the state. In Oklahoma, where there's about 40 tribes with over a hundred or so

casinos, they go to the tribes all the time and ask them for money. They give away millions and millions of dollars. There's a tribe in Minnesota, it's one of the most philanthropic groups in the country. They take Indian gaming money and they give it out.

Indian gaming is successful, and it was passed overwhelmingly in Congress. It was looked at tribal communities around the country where there was lacking economic opportunities, especially in rural areas, and they said this is one model that can work for tribes and so they gave it to them. Unfortunately, it didn't come to Maine, and we know the tribes in rural locations could benefit from it, but the great story about Indian gaming is it doesn't benefit just tribes. About 75% of the people it employs are nontribal members. Last year it set a record federally. There was over -- close to 31 billion dollars in revenue gained from federal gaming, from Indian gaming. Billions of dollars goes to the Federal Government. I don't have the statistics per state, but the impact is huge. So, this is a win-win for the communities around the tribes, it's a win-win for the tribes and the state. And, I have to ask, by not allowing the tribes to do this, who are we benefitting? By allowing them not to do these economic ventures, they don't win and the state doesn't win. This is a win-win for the State of Maine, and I would ask you to greatly consider voting for this measure today. And I would like to close by posing the question before you vote this way; some people have said to me I don't like gaming or I don't want casinos in Maine. Well, I think the real question is different. I think the question has been answered, because we do have casinos in Maine, and we do have lotteries in Maine, and we've kept expanding them. We have off-track betting in Maine. So, I think to be very genuine and sincere, I do think that it's too late for the State of Maine to take the high road on this issue of gaming, and continue to let a couple out-of-state corporations do it, for the state to make money on it, and the tribes that need revenue badly for their communities and their surrounding communities, for us to continue to say no. We have said no -- in the past 30+ years since the Settlement Act, we've said no to the tribes time and time and time again. Today I would be very honored if you would all vote with me and say yes, and go back to the elders of the tribes and say we listened, we care, and we're with you, we're supporting you. Thank you.

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

Representative BEAR: Thank you, Madam Speaker, Ladies and Gentlemen of the House. It is always a great honor to stand before you and speak. However, today, I'm not going to. I'm going to simply say to my friend from Portland; *woliwon*, my friend, and thank you for this fair bill. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Deer Isle, Representative Kumiega.

Representative KUMIEGA: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House, there is a successful precedent for the tribes working together. Six or seven years ago, there was a lot of controversy about tribal members participating in the state's lucrative elver fishery. There were citations, there were law enforcement actions, there were court cases, and a lot of negative publicity. But the Commissioner of Marine Resources and the Marine Resources Committee worked together with leadership of all four tribes, and we figured it out, and the elver fishery opened last week or a week and a half ago, and I didn't see any negative publicity, I didn't see any press coverage about arrests or citations. And

so, this is something that can happen in the State of Maine, and it can happen and it can be done right and it's a good economic opportunity for our tribes who really need that opportunity. Thank you, Madam Speaker.

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

**ROLL CALL NO. 554**

YEA - Alley, Austin B, Babbidge, Bailey, Bates, Battle, Beebe-Center, Berry, Blume, Brooks, Bryant, Casas, Cebra, Chapman, Collings, Cooper, Corey, Daughtry, DeChant, Denno, Devin, Doore, Duchesne, Dunphy, Farnsworth, Fecteau, Gattine, Golden, Grant, Grohman, Hamann, Harlow, Herbig, Hickman, Higgins, Hogan, Hubbell, Hymanson, Johansen, Jorgensen, Kinney J, Kumiega, Longstaff, Luchini, Madigan C, Madigan J, Malaby, Martin J, Martin R, Mastraccio, McCrea, McCreight, McElwee, McLean, Melaragno, Monaghan, Moonen, Nadeau, O'Connor, O'Neil, Parker, Perry, Picchiotti, Prescott, Reckitt, Riley, Rykerson, Sanborn, Sheats, Simmons, Sirocki, Skolfield, Spear, Stanley, Sylvester, Talbot Ross, Tepler, Terry, Tipping, Tucker, Vachon, Warren, Zeigler, Madam Speaker.

NAY - Ackley, Austin S, Bickford, Black, Bradstreet, Campbell, Chace, Craig, Dillingham, Espling, Farrin, Fay, Fredette, Frey, Gerrish, Gillway, Ginzler, Grignon, Guerin, Haggan, Handy, Hanington, Hanley, Harrington, Harvell, Hawke, Head, Herrick, Hilliard, Kornfield, Lawrence, Lockman, Lyford, Mason, Ordway, Parry, Perkins, Pickett, Pierce J, Pierce T, Pouliot, Reed, Sampson, Sanderson, Schneck, Seavey, Stearns, Stetkis, Stewart, Strom, Sutton, Theriault, Timberlake, Tuell, Turner, Wadsworth, Wallace, Ward, White, Winsor, Wood.

ABSENT - Cardone, Foley, Fuller, Kinney M, Marean, Sherman.

Yes, 84; No, 61; Absent, 6; Excused, 0.

84 having voted in the affirmative and 61 voted in the negative, with 6 being absent, and accordingly the Minority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-697) 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-697)** and sent for concurrence.

**SENATE PAPERS**

Bill "An Act To Improve Efficiency through Electric Rate Design and Advanced Technology" (S.P. 726) (L.D. 1896)

Came from the Senate, **REFERRED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** and ordered printed.

**REFERRED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** in concurrence.