

MAINE STATE LEGISLATURE

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May 26, 2005 – June 17, 2005

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Pages 737-1487

The Speaker resumed the Chair.
The House was called to order by the Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 235

YEA - Annis, Ash, Austin, Barstow, Beaudette, Berube, Bierman, Bishop, Blanchard, Blanchette, Bowen, Bowles, Brown R, Browne W, Burns, Campbell, Carr, Cebra, Churchill, Clark, Clough, Collins, Cresse, Crosthwaite, Cummings, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dugay, Duprey, Edgecomb, Emery, Farrington, Fischer, Fisher, Fitts, Fletcher, Flood, Glynn, Goldman, Greeley, Hall, Hamper, Hanley B, Hanley S, Hotham, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Koffman, Lewin, Lundeen, Marean, Marley, Marraché, McCormick, McKane, McKenney, McLeod, Merrill, Miller, Millett, Moody, Moulton, Muse, Nass, Nutting, Ott, Perry, Pilon, Pineau, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Saviello, Schatz, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Tuttle, Vaughan, Mr. Speaker.

NAY - Adams, Babbidge, Bliss, Brannigan, Brautigam, Bryant, Cain, Canavan, Craven, Dudley, Dunn, Duplessie, Eberle, Eder, Faircloth, Finch, Gerzofsky, Grose, Harlow, Hogan, Hutton, Jackson, Lerman, Lindell, Makas, Mazurek, McFadden, Mills, Norton, O'Brien, Paradis, Patrick, Percy, Pingree, Piotti, Rines, Sampson, Seavey, Smith W, Thompson, Twomey, Valentino, Walcott, Watson, Webster, Woodbury.

ABSENT - Bryant-Deschenes, Crosby, Lansley, Moore G, Pelletier-Simpson, Smith N, Wheeler.

Yes, 98; No, 46; Absent, 7; Excused, 0.

98 having voted in the affirmative and 46 voted in the negative, with 7 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

HOUSE DIVIDED REPORT - Majority (9) Ought to Pass as Amended by Committee Amendment "A" (H-535) - Minority (4) Ought Not to Pass - Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act To Allow Counties a One-year Exemption For Jail Costs from the Limitation on County Assessments"

(H.P. 1175) (L.D. 1666)

TABLED - May 31, 2005 (Till Later Today) by Representative BARSTOW of Gorham.

PENDING - **ACCEPTANCE OF EITHER REPORT.**

On motion of Representative BARSTOW of Gorham the Majority **Ought to Pass as Amended** Report was **ACCEPTED.**

The Bill was **READ ONCE.** Committee Amendment "A" (H-535) was **READ** by the Clerk.

The same Representative **PRESENTED House Amendment "B" (H-617) to Committee Amendment "A" (H-535),** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Barstow.

Representative **BARSTOW:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This amendment that I present before you today I do ask for your support of it. I have spoke to my fellow committee members on both sides of the

aisle and I have found this to be a compromise on the original version that came out of our committee and feel that it is actually better than what we voted on originally so I ask for your support and indulgence of our work. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from York, Representative Moulton.

Representative **MOULTON:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the original bill Committee Amendment "A" and Committee Amendment "B". Mr. Speaker and Ladies and Gentleman of the house our committee was asked to deal with a problem with respect to jails that was not addressed by LD 1. Unfortunately, we have a situation where the state does not adequately reimburse counties for housing people who are held for short periods following conviction, periods of roughly six to nine months in length. Because of the inadequacies of funding for the county jails there is more than a ripple effect. It is a flooding effect. Sort of like my basement this last weekend. The flooding effect in this case is worse because the county governments have a difficult choice between two evils. Either they cut back on their own services, limited as they are. We might see fewer Sheriff's deputies patrolling on weekends and registries may have to shut down for longer periods than they are right now. Or, in the alternative, they pass those costs onto the municipalities which can ill afford them. So, in making this brief Mr. Speaker, I encourage the members of the house to support this compromise. It is for a limited jurisdiction and it will allow the counties the ability to get their house somewhat in order and I also encourage the members of the house to think strongly of better funding for state prisoners in the county jails. Thank you Mr. Speaker.

Subsequently, House Amendment "B" (H-617) was **ADOPTED.**

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative **CLOUGH:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am going to oppose this motion to adopt this legislation and I will tell you why.

When I served on the committee earlier this year and we talked about LD 1 and we spent a lot of time negotiating and getting spending growth caps for the municipalities, for the counties and for the state this project came up and it was suggested that we refer this to the State and Local Government Committee to see if they could find some resolution that would be acceptable to allow the counties to handle these expenses under a spending cap. The agreement that we had, or that I at least thought we had, was that whatever came out of this the jails must fall under someone's spending cap, whether it be the county or whether it be the state. In this case, the jail is going to be exempt from the spending cap and for that reason I will be voting against it. Mr. Speaker when the vote is taken I request a roll call.

Representative CLOUGH of Scarborough **REQUESTED** a roll call on the motion to **ADOPT Committee Amendment "A" (H-535) as Amended by House Amendment "B" (H-617).**

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 Boothbay, Representative Bishop.

Representative **BISHOP:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill has gone through quite a number of transitions and the latest amendment actually does put it under a cap. It puts it under the county cap and the way that it was done was that we have averaged the last three years of boarding expenses for prisoners and medical expenses for prisoners and taken the average of those and that

will be the cap for those particular expenses. Probably, in the haste of trying to get this to the floor, we unfortunately failed to inform everyone that we were trying very hard to comply with the caps and to create a situation where there would be nothing that was outside of the caps. Basically, we all know that county budgets are overwhelmingly driven by jail expenses and we all know that these same jail expenses are exacerbated by the state's inadequate reimbursement. We all know that in whose facilities the state chooses to house many of its inmates is not he choice of the county.

We have got a situation in the counties where they have no control over the number of prisoners the state will send them and they have no control over the reimbursements that the state will give them and they have no control over these expenses which drive a good portion of their total budgets, but they will appear under the caps and we are trying to make it amenable to LD 1.

In essence, the bill that we have before us will go a long way towards ensuring continuing services for those citizens of the county who are law abiding. This bill will give the counties a little wiggle room. Not a whole lot of room and only for a single year, but it will be precious time that is needed to solve this existing and ongoing problem. The bill is strictly first aid. It's not a final answer for this ongoing distortion and it is a temporary remedy and it expires in a year. It will staunch the flow and hopefully it will serve until a real solution can be found. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Lerman.

Representative LERMAN: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I was a member of the Joint Select Committee on Property Tax Reform. We clearly discussed the issue of caps at length and recognized that while there needed to be a cap on prison expenses it wasn't something that we could accomplish in the forty days and forty nights that we spent together.

I do believe that this proposal is very much in the spirit of what we requested of the State and Local Government Committee. As a communication from the Joint Select Committee to complete our work in property tax relief and I applaud the committee for their efforts and I will be supporting this motion. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of Committee Amendment "A" (H-535) as Amended by House Amendment "B" (H-617). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 236

YEA - Adams, Annis, Ash, Babbidge, Barstow, Beaudette, Berube, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Cebra, Churchill, Clark, Collins, Craven, Cressey, Cummings, Daigle, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Kaelin, Koffman, Lansley, Lerman, Lindell, Lundeen, Makas, Marley, Marraché, Mazurek, McCormick, McFadden, Merrill, Miller, Mills, Moody, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson M, Richardson W, Rines, Robinson, Saviello, Schatz, Seavey, Sherman, Shields, Smith W, Stedman, Tardy, Thomas, Thompson, Trahan, Tuttle,

Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Woodbury, Mr. Speaker.

NAY - Austin, Bierman, Carr, Clough, Crosthwaite, Curley, Curtis, Joy, Lewin, McKane, McKenney, McLeod, Millett, Richardson D, Richardson E, Rosen, Sykes.

ABSENT - Bryant-Deschenes, Crosby, Farrington, Marean, Moore G, Sampson, Smith N, Wheeler.

Yes, 126; No, 17; Absent, 8; Excused, 0.

126 having voted in the affirmative and 17 voted in the negative, with 8 being absent, and accordingly **Committee Amendment "A" (H-535) as Amended by House Amendment "B" (H-617) was thereto 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-535) as Amended by House Amendment "B" (H-617)** thereto and sent for concurrence.

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

SENATE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (S-220)** - Committee on **NATURAL RESOURCES** on Bill "An Act To Create a 5-year Statute of Limitations for Environmental Violations"

(S.P. 218) (L.D. 682)

- In Senate, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**

TABLED - May 26, 2005 (Till Later Today) by Representative EBERLE of South Portland.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

Subsequently, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence. **ORDERED SENT FORTHWITH.**

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act To Decrease Correctional Costs and To Increase the Number of Probation Officers"

(H.P. 375) (L.D. 500)

Signed:

Senators:

DIAMOND of Cumberland
CLUKEY of Aroostook
NUTTING of Androscoggin

Representatives:

PLUMMER of Windham
GREELEY of Levant
CHURCHILL of Washburn
GERZOFSKY of Brunswick
SYKES of Harrison
GROSE of Woolwich
DAVIS of Augusta
PARADIS of Frenchville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-614)** on same Bill.