

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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

Daily Edition

First Regular Session

beginning December 3, 2014

beginning at page H-1

ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE
FIRST REGULAR SESSION
67th Legislative Day
Tuesday, June 23, 2015

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

Prayer by Honorable Thomas H. Skolfield, Weld.
Pledge of Allegiance.

Under suspension of the rules, members were allowed to remove their jackets.

The Journal of yesterday was read and approved.

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act To Enhance Energy Cost Reduction and Facilitate Heating Alternatives in furtherance of the Omnibus Energy Act" (EMERGENCY)

(H.P. 839) (L.D. 1221)

House **INSISTED** on its former action whereby the Majority (7) **OUGHT TO PASS AS AMENDED** Report of the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-386) AS AMENDED BY HOUSE AMENDMENT "C" (H-485)** thereto in the House on June 22, 2015.

Came from the Senate with the Bill and accompanying papers **COMMITTED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** in **NON-CONCURRENCE**.

On motion of Representative GIDEON of Freeport, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

COMMUNICATIONS

The Following Communication: (H.C. 266)

STATE OF MAINE
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002

June 23, 2015
Honorable Mark W. Eves
Speaker of the House
2 State House Station
Augusta, Maine 04333

Dear Speaker Eves:
Pursuant to Joint Rule 310, the following Joint Standing Committee has voted unanimously to report the following bill out "Ought Not to Pass:"

Judiciary
L.D. 351 An Act To Reinstate as a Nonprofit Corporation the Orchard Hills Umbrella Association (EMERGENCY)

Sincerely,
S/Robert B. Hunt
Clerk of House

READ and with accompanying papers **ORDERED PLACED ON FILE**.

The Following Communication: (S.C. 476)

MAINE SENATE
127TH LEGISLATURE
OFFICE OF THE SECRETARY

June 22, 2015
Honorable Robert B. Hunt
Clerk of the House
2 State House Station
Augusta, Maine 04333

Dear Clerk Hunt:

Please be advised the Senate today insisted to its previous action whereby it Indefinitely Postponed Bill "An Act To Promote the Safe Use and Sale of Firearms" (H.P. 282) (L.D. 415) and all accompanying papers, in non-concurrence.

Best Regards,
S/Heather J.R. Priest
Secretary of the Senate

READ and **ORDERED PLACED ON FILE**.

REPORTS OF COMMITTEE

Divided Reports

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-304)** on Bill "An Act To Reverse Jail Consolidation"

(S.P. 61) (L.D. 186)

Signed:

Senators:

ROSEN of Hancock
BURNS of Washington

Representatives:

CHENETTE of Saco
DAVITT of Hampden
GERRISH of Lebanon
LONG of Sherman
NADEAU of Winslow
THERIAULT of China
TIMMONS of Cumberland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-305)** on same Bill.

Signed:

Senator:

GERZOFISKY of Cumberland

Representatives:

FOWLE of Vassalboro
LAJOIE of Lewiston
WARREN of Hallowell

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-304)**.

READ.

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

Representative DEVIN of Newcastle moved that the Bill be **TABLED** until later in today's session pending the motion of Representative FOWLE of Vassalboro to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

Representative CHENETTE of Saco **REQUESTED** a roll call on the motion to **TABLE** until later in today's session pending the motion of Representative FOWLE of Vassalboro 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**: A roll call has been ordered. The pending question before the House is Table until later in today's session pending the motion of Representative FOWLE of Vassalboro to Accept the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 374

YEA - Alley, Babbidge, Bates, Beavers, Blume, Brooks, Burstein, Chipman, Cooper, DeChant, Devin, Farnsworth, Gideon, Gilbert, Golden, Grant, Grohman, Hawke, Herbig, Hickman, Hobbins, Hogan, Hubbell, Jorgensen, Kornfield, Kumiega, Luchini, Mastraccio, McCabe, McCreight, McLean, Melaragno, Monaghan, Moonen, Pierce T, Powers, Rotundo, Rykerson, Saucier, Seavey, Shaw, Stuckey, Tepler, Tucker, Verow, Mr. Speaker.

NAY - Austin, Battle, Beebe-Center, Bickford, Black, Bryant, Buckland, Campbell J, Campbell R, Chace, Chapman, Chenette, Corey, Crafts, Daughtry, Davitt, Dillingham, Doore, Duchesne, Dunphy L, Dunphy M, Edgecomb, Espling, Evangelos, Fecteau, Foley, Fowle, Fredette, Frey, Gattine, Gerrish, Gillway, Ginzler, Goode, Greenwood, Guerin, Hamann, Hanington, Hanley, Harlow, Head, Herrick, Higgins, Hilliard, Hymanson, Kinney J, Kinney M, Kruger, Lajoie, Lockman, Long, Longstaff, Lyford, Maker, Marean, Martin J, Martin R, McClellan, McElwee, Morrison, Nadeau, Noon, Nutting, O'Connor, Parry, Peterson, Picchiotti, Pickett, Pierce J, Pouliot, Prescott, Reed, Russell, Sanderson, Sawicki, Schneck, Sherman, Short, Sirocki, Skolfield, Stanley, Stearns, Stetkis, Sukeforth, Theriault, Timberlake, Timmons, Tipping-Spitz, Tuell, Turner, Vachon, Wadsworth, Wallace, Ward, Warren, Welsh, White, Winsor.

ABSENT - Beck, Dion, Farrin, Hobart, Malaby, Sanborn, Wood.

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

46 having voted in the affirmative and 98 voted in the negative, with 7 being absent, and accordingly the motion to **TABLE** until later in today's session pending the motion of Representative FOWLE of Vassalboro to **ACCEPT** the Majority **Ought to Pass as Amended** Report **FAILED**.

The **SPEAKER**: The Chair recognizes the Representative from Skowhegan, Representative McCabe.

Representative **McCABE**: Thank you, Mr. Speaker, Men and Women of the House, first of all, I want to thank the committee for their hard work on this issue. This is not a new issue for many of us around the state, especially those of us representing communities or counties with a receiving jail. So, for many of us, and I think of the folks around the state who have receiving jails, many cases built newer jails, county jails, but board prisoners both for the state, for surrounding counties as well.

Last year we had a very similar debate as far as how to sort of keep our county jails alive. Got to a place where we really didn't do our folks back home any justice, the taxpayers of our communities, so here we are again today. At this point in time, we're looking to reverse the jail consolidation. We're looking to send the jails back to our counties. We're looking to make sure that funding follows those prisoners that might travel from county to county. But, as it stands right now, Mr. Speaker, the motion that's before us has some flaws. It needs some clarities before, I think, many of us in this chamber can support it. And those flaws include some clarity around payments, the amount of payments,

how the money will follow the prisoners that are shipped from one facility to another.

I think other things also and I think of my own county, Somerset County, that's been in a lawsuit with the state for several years going on now, I believe around four. It's in an appeal process. So, for me to be able to support something on this issue as well as, I think, folks from probably Lincoln County as well, my understanding is there's some hesitation in folks from York as well.

So, I think right now, the motion that's before us, Mr. Speaker, is a motion that I probably will not be able to support as it's written now because of some clarities that I need to see, some clarities that I know the folks in my county want to see. So, I think that while I recognize the good work of the committee, I think today's vote, I probably will cast a vote that is in opposition to the pending motion at this time. And if folks can shed some light and some clarity on some of these concerns, I'll be happy to sit and listen. So, thank you, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Saco, Representative Chenette.

Representative **CHENETTE**: Thank you, Mr. Speaker, I rise as a member of the committee. What is before you has taken months of negotiation with all the parties involved and what is before us has been supported in its original format from the Maine Sheriffs' Association, the Maine County Commissioners Association. And any last-minute attempts to try to change the compromise that we have come up with and agonized over, is not warranted.

This is the best path forward that does a number of things. It protects our taxpayers. It protects our state interests. And it keeps our county jails going. This continues a hybrid model with a lot of adjustments to ensure accountability. So, I want to walk you through, step by step, what this actually does, what this actually means. So, I beg of your indulgence, but this is really important so everybody in this chamber knows exactly what they're voting for and there's no misconceptions, there's no last-minute amendments, there's no last-minute individuals coming in to try to change what we've come up with.

So, starting July 1st, \$62-plus million, much like under the Board of Corrections, will be coming from the county level. Starting this year, the counties would have the so-called "control," both financially, administratively. We've made sure that we've stipulated that there's some wiggle room at the local level. So, if they need additional monies, you can start collecting taxes based on your LD 1 growth rate, no higher than three percent. This is really important to note because you might not have an increased growth rate in your area. There'll be no increase. You might not need the additional money. But what was really important in the negotiations with the counties is that they want some wiggle room so they don't have to keep coming back to us every year for additional monies.

The state money, at the same time, is \$14.68-plus million on an annual basis. This will ensure both operational monies and community corrections monies. And community corrections monies is really something I really want to zero in on. This is the programming and the creative solutions to reduce recidivism. Things that help drive down the number of individuals that have to cycle through our criminal justice system. And we've increased the split in the amount of money going to that programming in this compromise. It is now going to be a 70/30 split. So, of that \$14.68 million, 30 percent of that, counties have to spend on community corrections—the programming, the ways to reduce recidivism. So, that is a huge chunk of that money. And we're going to be holding them accountable. This isn't going

to be, "Here's a check," and let you go. This ensures that the DOC in collaboration with the County Commissioners Association and Sheriffs' Association spends that wisely. And if they have a better distribution formula, they can come up with it.

So, we've heard on the floor that there's some questions about the distribution formula. If somebody else can come up with a better distribution formula, we have been begging people to come before our committee and say, "Give us the ideal plan." And guess what? All the parties involved said, "This is the best path forward, but there might need to be some adjustments along the way." So, we've stipulated language in this that gives them the power. It gives the DOC, the Department of Corrections, the County Commissioners Association, and the Sheriffs' Association the ability to come together and craft a better distribution formula. That is good public policy. That ensures that they have the final look. They can say, "Hey, this isn't really working. Let's change that distribution formula to be more effective." And we think that that's a good thing.

If the counties are not spending the state money wisely, here's where we have a safety check, right? We have had strong stipulations in this language, so if they don't spend 30 percent of the state money on that programming piece that is so critically important, we will withhold 20 percent of their funding. The DOC would hold that money in escrow until the county can verify to the state that they are in fact going to spend that money appropriately. That is fiscal responsibility at its best. That is strong government accountability.

We've also stipulated that county jails cannot charge a boarding rate for prisoners unless the state has not provided the required minimum funding. So, Mr. Speaker, this is really important so that if we don't meet our end of the bargain, and help provide this funding for both operational money and community corrections, the counties have another outlet. They have another funding revenue stream. So they could then charge up to \$108 per boarding prisoner if we don't meet our end of the bargain. That protects the counties. That's a critical piece.

Now, under the Board of Corrections, we've heard a lot over the last couple of months about what's been effective and not effective under that system. There are, and I think we've all agreed, that there are some key aspects in that forced collaboration that actually can be effective. So, we've carried over the standards and policies and procedures that were successful under that collaboration, under the Board of Corrections, and we brought that over into this. So, we are requiring the Commissioner of Corrections to work out compliance with all the parties and we are using the inspectors that already have compliance recommendations for jail certification. They're going to be the ones that ensure that those great things like the regional transportation hubs and other things to reduce costs in our jails are being carried over. This is something all parties have agreed on. This is something that we can all recognize are a good thing.

And last thing, Mr. Speaker, I promise. One thing that we stipulate is we want to hold them accountable. This isn't about writing a check and just leaving you alone. They have to come before us. The Department of Corrections, the County Commissioners Association, and the Sheriffs' Association have to come before the Criminal Justice and Public Safety Committee every single year and I want to see line by line how they're spending the money. I want to see line by line how they're implementing the standards, policies, and procedures that were effective under the Board of Corrections. I want to see everything. They will be held accountable, Mr. Speaker, by our committee and we have drafted language in this to make sure

that our committee holds the jurisdiction or final recommendation for any legislation that we need to report out to make adjustments along the way.

Is this the best policy? Is this the best legislation? No. It is the best one that we have at this time and we will make adjustments along the way if needed. This protects taxpayers. This protects our jails and keeps it running so that we don't have jails closing their doors. This is the one that has the only bipartisan vote out of our committee. This is the only one that is supported by the County Commissioners Association and the Sheriffs' Association. Mr. Speaker, I urge you to vote "yes" on this motion.

The SPEAKER: The Chair recognizes the Representative from Paris, Representative Herrick.

Representative HERRICK: Thank you, Mr. Speaker, Ladies and Gentlemen of the House, simply put, I've looked over, as a former sheriff for 16 years, Oxford County, my fellow sheriffs, some of them are still in office, some of them retired. I wasn't part of that 2008 issue when it took effect and the Board of Corrections was developed. I've looked over this plan. My good Representative across the aisle, Representative Chenette, I agree with him. It's a plan that needs to move forward. It's good for the people. It's good for state corrections. And, we need to support this and we need to get it done. Thank you, Mr. Speaker.

Representative GIDEON of Freeport **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: A roll call has 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. 375

YEA - Alley, Austin, Babbidge, Bates, Battle, Beavers, Beebe-Center, Bickford, Black, Blume, Buckland, Burstein, Campbell J, Campbell R, Chace, Chapman, Chenette, Chipman, Cooper, Corey, Crafts, Daughtry, Davitt, Dillingham, Doore, Duchesne, Dunphy L, Dunphy M, Edgecomb, Espling, Evangelos, Farnsworth, Foley, Fowle, Fredette, Frey, Gattine, Gerrish, Gideon, Gilbert, Gillway, Ginzler, Goode, Grant, Greenwood, Grohman, Guerin, Hamann, Hanington, Hanley, Harlow, Head, Herbig, Herrick, Hickman, Higgins, Hilliard, Hobart, Hobbins, Hogan, Hubbell, Hymanson, Jorgensen, Kinney J, Kinney M, Kornfield, Kruger, Kumiega, Lockman, Long, Longstaff, Luchini, Lyford, Maker, Marean, Martin J, Martin R, Mastraccio, McClellan, McElwee, McLean, Melaragno, Monaghan, Moonen, Morrison, Nadeau, Noon, Nutting, O'Connor, Parry, Peterson, Picchiotti, Pickett, Pierce J, Pierce T, Pouliot, Powers, Prescott, Reed, Russell, Rykerson, Sanderson, Saucier, Sawicki, Schneck, Seavey, Shaw, Sherman, Sirocki, Skolfield, Stanley, Stearns, Stetkis, Sukeforth, Theriault, Timberlake, Timmons, Tipping-Spitz, Tucker, Tuell, Turner, Vachon, Verow, Wadsworth, Wallace, Ward, Warren, Welsh, White, Winsor, Mr. Speaker.

NAY - Brooks, Bryant, DeChant, Devin, Fecteau, Golden, Hawke, Lajoie, McCabe, McCreight, Rotundo, Short, Stuckey, Tepler.

ABSENT - Beck, Dion, Farrin, Malaby, Sanborn, Wood.

Yes, 131; No, 14; Absent, 6; Excused, 0.

131 having voted in the affirmative and 14 voted in the negative, with 6 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-304)** was **READ** by the Clerk.

Representative DEVIN of Newcastle **PRESENTED House Amendment "A" (H-496) to Committee Amendment "A" (S-304)**, which was **READ** by the Clerk.

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, this amendment does four things: it allows boarding rates to be negotiated, it clarifies some language, and it has more precise definition of the formula for expenditure, and finally it contains a precise deadline for payment by the states.

If I take the last issue, first, you're probably wondering, why do we want in statute when the jails will be paid and it says, "by the tenth day of the start of the quarter." Presently, receiving jails do not know when they're going to get paid or how much they're going to get paid. And I ask all you business people out there: how can you run a business when you don't know when you're going to get paid or how much you're going to get paid.

One of the big issues that we've heard is that this amendment would result in double dipping. Well, it's not double dipping because it has two separate revenue sources to cover different expenses incurred by the jails. The operation support fund pays for those state entities, state police, probation and parole, game wardens and any other state law enforcement entity that puts inmates into our jail. As an example, probation and parole has just arrested an individual for a probation violation, and because he came in with cancer with morning, the county is paying to transport him to a cancer treatment on the coast.

The fund in this amendment allows us to charge a boarding rate for out-of-county inmates to be held in our jail. We cannot afford to house inmates from other counties if there is no funding. In short, the amendment allows us to get boarding fees from out-of-county inmates from other counties and has nothing to do with the operational support fund, which pays for the state prisoners put in our jails and mandatory programs set forth to reduce recidivism. For example, I live in Lincoln County. Lincoln County and Sagadahoc County built a regional county jail known as the Twin Bridges Jail. Presently, there are about 140 inmates in Two Bridges Jail. Thirty of those come from Waldo County. When the state presents their money to each county for jails, there is no way to ensure that Waldo County pays the Two Bridges Jail for their inmates. This amendment will ensure that occurs.

What's exciting is that the Maine County Commissions Association and the Maine Sheriffs' Association support this amendment. And with that, Mr. Speaker, I'll sit down. Thank you very much.

Representative **ESPLING** of New Gloucester **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-496) to Committee Amendment "A" (S-304)**.

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 Sherman, Representative Long.

Representative **LONG**: Thank you, Mr. Speaker, Ladies and Gentlemen of the House, I don't arise too often. We've worked this bill. We've had eight work sessions on this bill. And there are a number of issues that have come up that we haven't quite heard the whole truth on.

The boarding rates you've heard about, this is decided by the receiving jail. They get credit for the number of prisoners and the rate is based on this. What happens then—I'll use my own county for example—if an inmate is shipped from Aroostook County to Penobscot County, the money that is allotted for that inmate follows them to Penobscot County. This way, the jails are

getting funded. The purpose of this \$108 that we keep hearing about was to take place in case the state did not follow through with their obligation or their amount of money there was going forward.

This is a compromise reached by a number of individuals on the committee. It was reached with the Sheriffs' Association, the County Commissioners. Once we explained this, there was a little heartburn, but they got over it. Going forward with this bill, as you've heard, there may be a few mistakes made. But if we go forward under the system that this amendment describes, we are actually going to be double dip because they're going to get the money from the state and they're also going to charge, and this is not right. So I'm going to ask everyone to follow my light and defeat this motion.

The **SPEAKER**: The Chair recognizes the Representative from Winslow, Representative Nadeau.

Representative **NADEAU**: Thank you, Mr. Speaker, Men and Women of the House, I rise in support of the committee's group Majority Report. I am not in favor of the amendment to attach to this. The committee Majority Report is a strong group effort. My colleagues on the committee, the good Representatives from south and north and myself, right here in the middle, and we have spent many hours, which now has stretched into many days, which I think we're working on months now. We worked together on a report now before you. We collaborated to reach this report, this Majority Report, which addresses the reservations that I had in particular on the communities that I represent and how it would impact them.

This report of the committees, the Majority Report out of committee, limits the growth of the county tax assessments to support the operation of jails. The measure would limit it to a three percent increase in county tax. In other words, if there's no growth in your town and if the additional money isn't needed, there will be no increase to your county tax. If there is significant growth in your town, having the three percent cap in place protects our local taxpayers. To be sure, I double checked with the Town Manager in my town.

I ask you to join me to support the bipartisan group report that came out of committee. I do not ask that any amendment that wants to be included with our Majority Report be voted on. I request that you vote it down. It asks for more monies. It asks for the cap to be lifted, and therefore increases the amount to the county tax, which equates to an increase for the taxpayers. Thank you very much.

The **SPEAKER**: The Chair recognizes the Representative from Knox, Representative Kinney.

Representative **KINNEY**: Mr. Speaker, may I pose a question through the Chair?

The **SPEAKER**: The Representative may pose her question.

Representative **KINNEY**: I've got a question. Is there currently a guarantee that Waldo County will pay their share to Two Bridges? Because it's my understanding that we not only pay our share, but we pay it early.

The **SPEAKER**: The Representative from Knox, Representative Kinney, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Skowhegan, Representative McCabe.

Representative **MCCABE**: In reference to the question, I just wanted to respond that part of the amendment would allow for sending jails to actually enter into an agreement with other county facilities. So, I know in the case of Somerset, you know, it's much easier to enter into an agreement with our neighbors in Franklin County than maybe some other jails. So, I think there's a great opportunity for Waldo to probably have a similar

relationship and based on what's written in the amendment, that's really up to the agreement between those two counties and the folks negotiating that. So, hopefully that's helpful.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative McCabe.

Representative **McCABE**: Thank you, Mr. Speaker, Men and Women of the House, I rise in support of the pending amendment and I also just wanted to clarify. There was some discussion about an increase in the LD 1 cap and I encourage folks to read the amendment. I encourage folks who don't have the amendment before them to request a copy through the Clerk or through the Speaker because in this amendment proposed, there is actually not the increase of the cap as previously stated.

Really what this does is this is some clarifying language. This is language that has been floating around. I met with my county officials probably about a month ago. It was a hope that this would end up in the final bill. For many folks who've been around for multiple sessions here, many of us representing Somerset County know that Somerset has been in a long sort of dispute and lawsuit with the state around funds. And this is something that was brought forward; it was endorsed by the County Commissioners' Association. It was brought forward, it was worked on and drafted and reviewed by the attorneys from several counties. And really, this is just to clarify some language.

There's been some discussion around, sort of, that double-dipping and, you know, I encourage folks to actually read what's in here in regards to the reimbursement rate and this actually sets a cap at \$108 per day per prisoner under the reimbursement section line "A" and it talks about the sending and receiving jails and the amount computed per diem per prisoner. And also, it talks about an agreed upon amount between the two jails. I think in some cases, some of the counties have been able to work out agreements where there's some, sort of, co-relationship where one county helps facilitate keeping beds full, helps with the transportation, and helps to keep costs down, which sort of helps facilities like the one that is in my county as well as, you know, the one that might be in Lincoln County as well. So, I just wanted to clarify that.

There's some other aspects in this that I think folks can generally, by just reading the summary, understand what the amendment gets at. It's not really an attempt to get more money, or to increase the money, but just to make sure that the counties are receiving their money. One of the most important aspects about this, and I sort of related it in discussions with folks is similar to how our towns pay our school districts. There's a line in this amendment that talks about making sure that the folks receive the money, the counties receive the money from Department of Corrections, in a timely manner. We talked a lot about burden on taxpayers, and I know for those of us that represent larger municipalities, there was a time in our municipality when we were a little cash strapped, so to pay our school districts, we'd actually have to borrow money. We would actually have to borrow money in our municipality to then pay our school district. We changed our tax year to be, sort of, a biannual tax year. We changed our year end and that seemed to help us. So now we're not borrowing money to sort of float the operations of our school district.

So when you look at this amendment, under the summary where it talks about number four, it talks about Department of Corrections paying the counties in a timely manner. And it sets forth a ten day period as far as it relates to being paid within the first ten days of the calendar of the quarter, which for many of our counties, if we're trying to float jail operations—and I think of the facility that's in Somerset County, I think of some of the other

facilities that were discussed today—these are much larger than a small county jail. These are larger facilities, 100-plus prisoners, and the costs are quite expensive to keep these operations going from month-to-month. And in many cases, I know for us in Somerset, a lot of the beds are filled with prisoners that aren't actually all from Somerset County.

So, that seemed like more than a reasonable thing to do. So, I encourage folks to take the opportunity to actually read the amendment and to just see that this is really just providing some clarifying language. It was recommended to those of us from Somerset County that we support this amendment based on, sort of, a legal opinion as well as some clarity that our county administrator was seeking. So, thank you very much, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from South Berwick, Representative Beavers.

Representative **BEAVERS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen, my York County administrators and commissioners have let me know they do support this amendment. Thank you.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Fowle.

Representative **FOWLE**: Thank you, Mr. Speaker, I wasn't going to speak on this, but I want to take everybody back to 2007 when the county jails were the county jails and the sheriffs were running the jails and the county commissioners were running the jails and what was going on at that time. At that time, and why it changed, was a tax increase to counties where it's increasing on an average of nine percent a year and the state jails were overcrowded.

So the agreement at that time was that we would consolidate and the state would start sending inmates to the county jails with a rate to help solve the problem of overcrowding in the state jails and would help with the tax revenue shortfall that was going on in the counties. Now, there may be issues with Somerset and I know there are issues with Somerset getting their money from state prisoners going down in that whole county jail setup. That's different than what we're referring to—the double-dipping. At that time, the state started funding for county jails and currently in the bill in front of you, there is \$14.8 million to fund, from the state, to help support county jails.

Now, charging the state \$108 for their inmates is one thing, but when you're charging from county-to-county \$108, up to—which this amendment would do—up to \$108 for your inmates that will be sent out, that is a municipal cost, not a state cost. That is something that, when you have 30 inmates on the day that I toured Kennebec County that are housed somewhere else—and I completely understand that they're in Cumberland—but Cumberland is getting their pie of the \$14.8 million. It isn't like they're not getting any state money for having taken on that responsibility. They are getting money. That's where the double-dipping, they are still getting their share of the \$14.8 million and now they will charge Kennebec \$108, up to—I will state that. It doesn't say they will. Negotiated, they said between sheriff-to-sheriff. I question whether or not it's the sheriffs that are doing that negotiation or if it's the county manager that's doing that. So this even changes who would be doing that negotiation.

I want to say that this committee, even though I wasn't on the report that just passed, worked eight work sessions. And I'm not talking where the bill came up and under a hammer went to a table motion. They worked it. They had panels. We had panels of commissioners and sheriffs sitting in front of us twice during those work sessions on how to work this law and make it better. And they worked hard together and they listened to me, who they

knew was on somewhere else on a report. They listened to what I brought to the table and what I questioned, and they amended this bill to a point where I could say, "I'm much more comfortable with that, but I'm still not coming along." Until today, when I feel I need to.

So I think you need to consider the work that this committee has done over the months and who we've had at our committee working this. We've had everyone from Somerset at the table coming in, talking to us, talking to us in the hall, and to pull back on the work that we've done, I think, is not a good move. We can address any concerns that come up that are not addressed in this in January, and I don't think the world's going to fall apart if we don't do it today. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Lajoie.

Representative **Lajoie**: Thank you, Mr. Speaker, Ladies and Gentlemen of the House, as you will see on your calendar, I'm on the Minority Report and I continued to vote that way on the previous vote on the Majority Report. One of the reasons I did that is because, I guess I've been here since the incipient stage in 2008 when this began, and I saw the progress that the BOC did with the extreme hard work that they put in with the commitments and the good things that they did as well as save money for the counties and the state.

I also sat in with regards as to discussions with the committee, specifically Representative Chenette, Nadeau, and Long, who work extremely hard with the members of the commissioners and the sheriffs to come up with the proposal the Majority Report referred to. And, as much as I believe in the BOC, I don't believe that anything that we would do to bring the BOC back would work unless there was a change on the second floor. But that's my opinion. And therefore, I do support the Majority Report, as it was brought forward, and I would ask that you vote in opposition of the current motion that is on the floor and go with the Majority Report. A lot of work was put in there and there were agreements that were came up with and I believe they were fair, they were justified, and I would ask you to go with the Majority Report only. Thank you.

The SPEAKER: The Chair would remind Members the motion before the House is shall they Adopt House Amendment "A." The Majority Report has been adopted. Remarks can be limited to the motion before us and that is related to House Amendment "A."

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, I apologize for standing a second time, but I wanted to clarify and stress a couple of things. The Maine County Commission Association is in support of this amendment. The Maine Sheriffs' Association is in support of this amendment.

This morning I have been in contact with the County Commissioners from York County, Cumberland County, Somerset County, and Lincoln County, Sagadahoc County. Those five people have all told me that as the bill stands right now, there is no concrete mechanism to ensure that prisoners coming from other counties being housed in receiving jails, there is no mechanism to ensure that that funding follows them. This is from Mr. Joel Merry: "Take Waldo and Oxford for example. Those counties, under the proposed bill will receive funding for all their inmates. However, they don't have a facility to house them. They send their inmates out to Two Bridges or Cumberland, for example."

Now, Cumberland will only receive funding from the state for the Cumberland County inmates only. Two Bridges will only receive funding that came for those prisoners that came from Lincoln and Sagadahoc County. Two Bridges and Cumberland County will get nothing for housing the Waldo inmates. Presently, Two Bridges houses 31 prisoners from Waldo County. And in Two Bridges, we also have prisoners from Androscoggin County, Hancock County, and Kennebec County as well. So this is not just an issue for the counties that have receiving jails. This is an issue for the entire state. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Chenette.

Representative **Chenette**: Thank you, Mr. Speaker, I rise in strong opposition to the current motion and the amendment before us. I just want to break down something. We all agreed on this final compromise—the Maine Sheriffs' Association, the Maine County Commissioners Association. Everybody agreed that this was the best path forward. We agreed there might be some bumps in the road, much like anything else, and we have to come back every year to make maybe some minor adjustments.

But for individuals to come last-minute to have, what I would call a "money grab," is despicable. We have a few loud counties...

The SPEAKER: Will the Representative defer? Comments and suggestions of "despicable" question the motives of others will not be tolerated.

The Chair reminded Representative **Chenette** of Saco that it was inappropriate to question the motives of other members of the House.

The SPEAKER: The Representative may proceed.

Representative **Chenette**: Sorry, Mr. Speaker, but that's how I feel. A few loud counties...

The SPEAKER: Will the Representative defer? If the Representative proceeds, he will be asked not to continue with his remarks.

The Chair advised Representative **Chenette** of Saco that his comments were despicable and questioning the motives of other members of the House would not be tolerated.

The SPEAKER: The Representative may proceed.

Representative **Chenette**: Trying really hard, Mr. Speaker. A few loud counties are not playing ball. Okay? We all agreed around our horseshoe, just like all of your committees have worked extremely hard this session. Not one of them really got along in our committee process. We had several conversations, one-on-one, with sheriffs, with county commissioners. We brought everybody together through so many work sessions, and even beyond work sessions, just one-on-one conversations. This took a lot to get to this place.

This is more money, what is in this amendment. They want \$14.68 million from the state, \$62-plus million from the county, and now on top of that you want to charge boarding rates? Who do you think pays for that, Mr. Speaker? We're already paying for operations and programming in our Majority Report. Why are we now saying we're going to add on top of that and double-dip? We've stipulated in the proposal that if the state doesn't meet their fair share, they have this outlet. Then they can charge the boarding rate up to \$108. I think that's a fair deal.

It was mentioned on the House floor, Mr. Speaker, that maybe the state's not going to pay out the money. They're not going to distribute the money. Well, guess what? Then they can charge the boarding rates if we're not meeting our fair share and I bet you anything the amount of the flood of calls from county sheriffs, from county commissioners, and all of us will force the

state to pay. Otherwise, we're going to be paying out of our pockets.

I think it's really important to note that the parties could not identify how much more money they need. And somebody quoted the President of the Sheriffs' Association. So let me quote the President of the Sheriffs' Association. They said they need, "a good year to know for sure about their budget." How they're spending it, how much money they need. So, it's funny how last-minute now, we're coming back to this and saying, "Well, now we want more money." Of course we want more money. Any program, any policy, of course we could always throw more money at it. But is that a sound policy? Is that based in fiscal responsibility, both for our taxpayers, and is it what was agreed upon originally through strong negotiations over many, many months?

What this will do is create a bidding war, which is what we saw consistently over many years. And I would strongly recommend that we turn this down and we support the hard work of the Criminal Justice Committee and the negotiations that we have developed that actually pays more money to the county jails in the current system. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Embden, Representative Dunphy.

Representative **DUNPHY**: Thank you, Mr. Speaker. Mr. Speaker, I've received emails from a county administrator and a couple of county commissioners and they support this amendment. And I'd like to thank Representative Devin for putting this amendment in.

It's obvious that the consolidation doesn't work in a lot of areas and I think this is one of those areas. I've talked with sheriffs who've reported that their jails are in disarray from a structural standpoint, simply because they couldn't get the funding back from the state. In Somerset's situation, they haven't been paid for prisoners that they boarded. And again, I'm a firm believer in local control; I think that our county sheriffs should be managing their assets, which is what we're paying them to do. So, another concern is that these counties actually put up bonds that they've invested taxpayer money in these facilities. And I think it is absolutely critical that they control them.

And if I may pose a question through the Chair, I would like to know if, in fact, that the Sheriffs' Association and the County Commissioners Association do support—I think I heard it, but I wanted clarification—do, in fact, support this amendment.

The SPEAKER: The Representative from Embden, Representative Dunphy, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Newcastle, Representative Devin.

Representative **DEVIN**: Thank you very much, Mr. Speaker, both organizations support this amendment. Thank you.

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, as you know, we created the county government and Massachusetts did away with it, so I'm making a motion to Indefinitely Postpone and I ask for a roll call. Thank you.

The same Representative moved that **House Amendment "A" (H-496) to Committee Amendment "A" (S-304) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-496) to Committee Amendment "A" (S-304).**

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 Skowhegan, Representative McCabe.

Representative **McCABE**: Thank you, Mr. Speaker, I rise in opposition of the Indefinite Postponement. Seemed like we were getting to the point where we were going to have a vote on the actual amendment and then we were thrown this curveball.

So, the reason I oppose this is what's before you, I was thinking back, I know this is a confusing issue for folks so I'm trying to think of a way to compare this to something else. And what it's very similar to is something that many of us who've been elected for a while are familiar with. And it's similar in the sense to, like, a Superintendent's agreement. You have folks...

The SPEAKER: Would the Representative defer? The Chair would inquire as to why the Representative from Newfield, Representative Campbell, rises.

Representative **CAMPBELL**: Because there's a motion on the floor and a roll call's been ordered.

The SPEAKER: Yes, the motion on the floor is Indefinite Postponement of House Amendment "A." The Representative may proceed with his comments.

Representative **McCABE**: Thank you, Mr. Speaker, I appreciate it. As I was saying before, you know, for a lot of folks, this might be a new issue. And the discussion that we're having around boarding prisoners and sending them to county facilities is similar to instances that I've been involved with, where children want to attend school in another district. And in those cases, Mr. Speaker, the money actually follows the people from one district to another.

So, I think what we're looking for today is some clarity in our statewide jail system that is very similar to that. So I just provide that as, sort of, a point for folks, a reference point, is so they have something to compare it to. And I encourage folks to vote down the Indefinite Postponement measure so that we actually may take up the amendment and just have an up or down vote on the amendment. Thank you, Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-496) to Committee Amendment "A" (S-304). All those in favor will vote yes, those opposed will vote no.

The Chair recognizes the Representative from Wales, Representative Greenwood, and would inquire why the Member rises?

Representative **GREENWOOD**: I would ask the Chair to clarify the motion on the floor.

The SPEAKER: The motion on the floor is Indefinite Postponement of House Amendment "A" presented by the Representative from Newcastle, Representative Devin. If you are in favor of Indefinitely Postponing House Amendment "A," you will vote green. If you are in favor of not Indefinitely Postponing, you will vote red.

A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-496) to Committee Amendment "A" (S-304). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 376

YEA - Austin, Battle, Black, Brooks, Buckland, Campbell J, Campbell R, Chace, Chenette, Corey, Crafts, Dillingham, Doore, Dunphy M, Edgcomb, Espling, Foley, Fowle, Fredette, Frey, Gerrish, Gilbert, Gillway, Ginzler, Golden, Goode, Grant, Greenwood, Guerin, Hanington, Hanley, Harlow, Head, Herrick, Higgins, Hilliard, Hobbins, Kinney J, Kinney M, Kornfield, Lajoie, Lockman, Long, Lyford, Maker, Marean, Martin J, Martin R, McElwee, Melaragno, Morrison, Nadeau, Noon, Nutting, O'Connor, Parry, Pickett, Pierce J, Pouliot, Prescott, Reed,

Rotundo, Saucier, Sawicki, Schneck, Seavey, Sherman, Sirocki, Skolfield, Stanley, Stearns, Theriault, Timberlake, Timmons, Tipping-Spitz, Tuell, Turner, Vachon, Verow, Wadsworth, Wallace, Ward, Warren, White, Winsor, Wood.

NAY - Alley, Babbidge, Bates, Beavers, Beebe-Center, Bickford, Blume, Bryant, Burstein, Chapman, Chipman, Cooper, Daughtry, Davitt, DeChant, Devin, Duchesne, Dunphy L, Evangelos, Farnsworth, Fecteau, Gattine, Gideon, Grohman, Hamann, Hawke, Herbig, Hickman, Hobart, Hogan, Hubbell, Hymanson, Jorgensen, Kruger, Kumiega, Longstaff, Luchini, Mastraccio, McCabe, McClellan, McCreight, McLean, Monaghan, Moonen, Peterson, Picchiotti, Pierce T, Powers, Russell, Rykerson, Sanderson, Shaw, Short, Stetkis, Stuckey, Sukeforth, Tepler, Tucker, Welsh, Mr. Speaker.

ABSENT - Beck, Dion, Farrin, Malaby, Sanborn.

Yes, 86; No, 60; Absent, 5; Excused, 0.

86 having voted in the affirmative and 60 voted in the negative, with 5 being absent, and accordingly **House Amendment "A" (H-496) to Committee Amendment "A" (S-304)** was **INDEFINITELY POSTPONED**.

Subsequently, **Committee Amendment "A" (S-304)** was **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" (S-304)** in concurrence.

Majority Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act Regarding the Disposition of Certain Funds Received by the Attorney General Pursuant to a Court Order or Settlement" (EMERGENCY)

(H.P. 961) (L.D. 1414)

Signed:

Senator:

VALENTINO of York

Representatives:

ROTUNDO of Lewiston

FREY of Bangor

GATTINE of Westbrook

GRANT of Gardiner

JORGENSEN of Portland

MARTIN of Eagle Lake

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:

Senators:

HAMPER of Oxford

KATZ of Kennebec

Representatives:

NUTTING of Oakland

SIROCKI of Scarborough

TIMBERLAKE of Turner

WINSOR of Norway

READ.

Representative MARTIN of Eagle Lake moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative ESPLING of New Gloucester **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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 Acceptance of the Majority **Ought Not to Pass** Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 377

YEA - Alley, Babbidge, Bates, Beavers, Beebe-Center, Blume, Brooks, Bryant, Burstein, Campbell J, Chapman, Chenette, Chipman, Cooper, Daughtry, Davitt, DeChant, Devin, Doore, Duchesne, Dunphy M, Evangelos, Farnsworth, Fecteau, Fowle, Frey, Gattine, Gideon, Gilbert, Golden, Goode, Grant, Grohman, Hamann, Harlow, Herbig, Hickman, Higgins, Hobbins, Hogan, Hubbell, Hymanson, Jorgensen, Kornfield, Kruger, Kumiega, Lajoie, Longstaff, Luchini, Martin J, Martin R, Mastraccio, McCreight, McLean, Melaragno, Monaghan, Moonen, Morrison, Nadeau, Noon, Peterson, Pierce T, Powers, Rotundo, Russell, Rykerson, Saucier, Schneck, Shaw, Short, Stanley, Stuckey, Tepler, Tipping-Spitz, Tucker, Verow, Warren, Welsh, Mr. Speaker.

NAY - Austin, Battle, Bickford, Black, Buckland, Campbell R, Chace, Corey, Crafts, Dillingham, Dunphy L, Edgecomb, Espling, Foley, Fredette, Gerrish, Gillway, Ginzler, Greenwood, Guerin, Hanington, Hanley, Hawke, Head, Herrick, Hilliard, Hobart, Kinney J, Kinney M, Lockman, Long, Lyford, Maker, Marean, McClellan, McElwee, Nutting, O'Connor, Parry, Picchiotti, Pickett, Pierce J, Pouliot, Prescott, Reed, Sanderson, Sawicki, Seavey, Sherman, Sirocki, Skolfield, Stearns, Stetkis, Sukeforth, Theriault, Timberlake, Timmons, Tuell, Turner, Vachon, Wadsworth, Wallace, Ward, White, Winsor, Wood.

ABSENT - Beck, Dion, Farrin, Malaby, McCabe, Sanborn.

Yes, 79; No, 66; Absent, 6; Excused, 0.

79 having voted in the affirmative and 66 voted in the negative, with 6 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Seven Members of the Committee on **VETERANS AND LEGAL AFFAIRS** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-491)** on Bill "An Act To Provide Income Tax Relief by Expanding Gaming Opportunities"

(H.P. 876) (L.D. 1280)

Signed:

Senators:

CYRWAY of Kennebec

COLLINS of York

Representatives:

HANINGTON of Lincoln

KINNEY of Limington

MONAGHAN of Cape Elizabeth

SAUCIER of Presque Isle

TURNER of Burlington

Two Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "B" (H-492)** on same Bill.