

MAINE STATE LEGISLATURE

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present a bill where certain other criteria, by way of salary or benefits are injected as a condition of these tax incentives. Just cause is not the appropriate one to inject. For that reason, I urge you to vote no.

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

ROLL CALL NO. 92

YEA - Adams, Ash, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Earle, Eder, Faircloth, Gerzofsky, Goodwin, Grose, Hatch, Jackson, Jennings, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lerman, Lessard, Mailhot, Makas, Marley, Marraché, McGlocklin, McKee, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Pineau, Pingree, Piotti, Rines, Simpson, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Mr. Speaker.

NAY - Andrews, Annis, Austin, Barstow, Berry, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dugay, Duprey B, Finch, Fischer, Fletcher, Gagne-Friel, Glynn, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lemoine, Lewin, Lundeen, McCormick, McGowan, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson J, Richardson M, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Smith N, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Woodbury, Wotton, Young.

ABSENT - Berube, Duprey G, Greeley, Hutton, Maietta, Perry J.

Yes, 64; No, 81; Absent, 6; Excused, 0.

64 having voted in the affirmative and 81 voted in the negative, with 6 being absent, and accordingly the Bill **FAILED PASSAGE TO BE ENGROSSED as Amended** and was sent for concurrence.

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

An Act to Ban Smoking in Beano and Bingo Halls

(H.P. 186) (L.D. 227)

TABLED - May 9, 2003 (Till Later Today) by Representative DUNLAP of Old Town.

PENDING - **PASSAGE TO BE ENACTED**.

On motion of Representative DUNLAP of Old Town, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

The same Representative **PRESENTED House Amendment "B" (H-309)** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. What this amendment does is it would exempt the federally recognized tribes who conduct high-stakes beano or bingo operations from this particular bill and the effects of it. I think we have had a lot of discussion about this particular issue. Generally we always seem to hear things referred to as various slippery slopes. I am sort of standing at the bottom of a

slippery slope and I think as we have gone through the debate about smoking issues in the last few years, we have seen that the consensus has gone toward greater and greater unanimity or conformity, if you will, a nonsmoking atmosphere in these types of operations. That being the will of the Legislature, that is fine. However, we that federally recognized tribes, it is a bit of a different issue.

When I spoke last on this particular bill, I spoke against it. I was doing so really on behalf, not only of the Penobscot Nation, the Indian Island Voting District, being part of my district, but also on behalf of some of the other non-profits who operate these types of operations. They have been very concerned about this. There is a big difference between whether the VFW in your town has smoking and the VFW in the town over doesn't have smoking and this particular situation where dozens of busloads of people come from Canada, New York, all over the northeast to play these really amazing high stakes games. They have options to go other places, especially those from the Maritime Provinces. I think that to do something to protect the operations of the Penobscot Nation; they could lose a significant portion of their general fund funding, which they derive from these games. I would ask that you would support the adoption of this amendment. I think it is a different situation than what we have talked about in the context of the rest of the bill. Help me help my people. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Watson.

Representative **WATSON**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **WATSON**: Thank you Mr. Speaker. As compared to several times a week that my local VFW holds bingo and beano sessions, I would like to know how often the Indians hold high-stakes bingo? I would also like to know if anyone can tell me how dependent the tribes are to the income from their high-stakes bingo? Thank you.

The SPEAKER: The Chair recognizes the Representative from the Penobscot Nation, Representative Loring.

Representative **LORING**: Mr. Speaker, Men and Women of the House. To answer Representative Watson's question, we have games seven weekends a year and the amount that we use for our general fund is the amount that we make from the bingo games, amounts to over half of that fund. We would lose the majority of our emergency services plus some 75 part-time jobs as well as some of the jobs that are full time within our tribal government.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative O'Brien.

Representative **O'BRIEN**: Mr. Speaker, Ladies and Gentlemen of the House. If we feel the need to protect the citizens, the people of the State of Maine, from themselves, regarding smoking and health, then why don't we have the need to protect the Native Americans of the state? The only word since I have heard of this proposed amendment, the only thing I can think of, I picture a flashing neon sign and it says, hypocritical, hypocritical. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative **TRAHAN**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **TRAHAN**: Thank you Mr. Speaker. During the previous discussion and debate on this issue the argument was used that banning smoking in these types of halls actually does nothing to decrease the businesses, the people that attend

those businesses and the amount of gambling there. Why doesn't that apply in this case as well?

The **SPEAKER**: The Representative from Waldoboro, Representative Trahan has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. To answer the question, I think it is a different situation in terms of where people are traveling to and from. These bus charters come, as I said before, from the Maritime Provinces, which their tribes don't operate under this type of regulation. I think for people to make a choice, they are going to go where they feel most at ease and most comfortable. The smoking issue could very well help them make their decision to not come to the Penobscot high stakes bingo and that could pose a significant downward turn in their revenues.

The **SPEAKER**: The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative **TRAHAN**: Mr. Speaker, May I pose a question through the Chair?

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

Representative **TRAHAN**: Thank you Mr. Speaker. I also thank the Representative from Old Town for that explanation, but wouldn't that same answer apply that if banning smoking in the Indian halls would mean less business, wouldn't the same argument apply to the opposite end of the spectrum which is, if we ban smoking in every other one of the beano halls, wouldn't those people that want to smoke in a casino then go to the Indian casino?

The **SPEAKER**: The Representative from Waldoboro, Representative Trahan has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. I get the sense that my good friend from Waldoboro, Representative Trahan, is trying to help. I would like him to stop. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Biddeford, Representative Laverriere-Boucher.

Representative **LAVERRIERE-BOUCHER**: Mr. Speaker, Men and Women of the House. I would support this amendment if it was designed in the same way that the off-track betting is designed. There is a separate room where people who want to smoke go into, but the workers are not allowed in that room. I cannot say that I would allow this the way it is now because it means people are exposed to second-hand smoke and it is just not a healthy thing for the workers. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative **COWGER**: Mr. Speaker, Men and Women of the House. I would just like to remind the members of this body that the committee that voted on this bill had a 10 to 3 bipartisan Ought to Pass vote. The committee considered the contents of this amendment and rejected it. Please keep that in mind and join me in voting against House Amendment "B."

Representative **MILLS** of Cornville **REQUESTED** a division on the motion to **ADOPT House Amendment "B" (H-309)**.

The Chair ordered a division on the motion to **ADOPT House Amendment "B" (H-309)**.

The **SPEAKER**: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Mr. Speaker, Ladies and Gentlemen of the House. I spoke on this bill last week and said it was an anti-business bill, but some of my colleagues said it is health bill. I wish my friend from Old Town would stand up and

representative **TRAHAN**: Mr. Speaker, Ladies and Gentlemen of the House. He is speaking for the Penobscot. What is good for the Penobscots is good for all business. It is discriminatory to turn around and pit one group against another group. If I am going to vote on this as a health issue, that is fine; if we are going to vote on it as a business issue, that is fine. It is not a two way street. You can't have it both ways, Mr. Speaker. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Bangor, Representative Blanchette.

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. I believe the difference to prevent smoking in the high stakes bingo hall on Indian Island is a lot different and it is not an anti-business bill that we are applying by stopping smoking in our existing VFW, American Legion and St. Mary's Church. That is a different thing all together. Back in 1992 the State of Maine allowed the Penobscot Nation to enter into high-stakes bingo games. Since that date, the Penobscot Nation has made this income from these beano games, seven weekends a year. That is all. It isn't 52 weeks a year. It is seven weekends a year. Fifty percent of their operational budget comes out of the funds for these high-stakes bingo games. I have had people tell me they go in there and they don't even realize there is smoking going on. They have put very, very expensive, high powered, smoke scrubbers in there to protect people. I know we want to protect everybody in the State of Maine. It is our God given charge. I know it is. We will do that to the best of our ability. I also have to remind you that it is not a life and death matter that you, at any time in your adult life play bingo. You have to go to a restaurant to eat if you are locked out of your house. You want to support your not for profit organizations and go to their beano games, but you don't have to. You can write the check out to the American Legion, Post such and such and skip the bingo game. Let's give our Native American friends some support in keeping their livelihood alive.

Over the years, and I hate to bring this up, on a personal note, but my husband has been taking a course at the University of Maine offered by the Abanaki Tribe. I don't want to tell you how many things we have done as Mainers to hurt our Native Americans. Let's not add taking half of their income away from them as another one of the crimes that we commit against people. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. My good friend from Newfield, Representative Campbell, brings up a very good point about the issues that are laying before us now. You have the issue of health and the issue of business. There is also a third issue, which we have not discussed and that is the issue of the sovereignty of the Penobscot Nation. In allowing them to do the high-stakes beano and bingo, we have sort of set them off on their own course. They have their own human services, fish and wildlife; they have all these state agencies within the tribe that they depend on for their own well-being and their own welfare. We have told them they have to fund those themselves. We have given them a mechanism to do that and I just don't think that it is prudent to send them on that course and then not allow them to fulfill the mission. That is why I stand here with this amendment today.

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

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. We keep trying to tell the people of the State of Maine how to live their lives. It seems to me that this is a great example of why it would be much better to let them figure it

out for themselves and make their choice if they will go or not go. If they want to smoke, they will go. If they don't, they won't. Thank you.

The SPEAKER: The Chair recognizes the Representative from the Penobscot Nation, Representative Loring.

Representative **LORING**: Mr. Speaker, Men and Women of the House. I am not going to repeat what some of the other Representatives have said, but I will say that the Penobscot Nation recognizes that there is a health hazard in smoking. As a matter of fact, all of our public buildings in our community are declared nonsmoking buildings. We allow smoking in super bingo seven weekends during the year, because if we didn't we didn't want to take the chance of losing that business. We are working towards improving the environment for people who play bingo. We want to do it in our own time. We have already put in a million dollars worth of equipment in there. It has taken care of a great deal, maybe not all of it, but a great deal of the smoke. We are working on making that a nonsmoking game eventually.

We would ask you to let us do this in our own time and not dictate to us to do this right now. Thank you.

The SPEAKER: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative **PARADIS**: Mr. Speaker, Members of the House. I think this is a very reasonable amendment. Finally we seem to be listening to our Native Americans, the Penobscot and the Passamaquoddy. We don't do enough of that. This might be a temporary compromise, if and when we can decide and maybe build one or two or even three casinos smoke free, then there will be no problem. Vote for the amendment, it is a good one.

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

Representative **COURTNEY**: Mr. Speaker, Ladies and Gentlemen of the House. I was going to try and not say anything today, but I heard a couple of things. I thought we should talk about them a little bit. I voted in opposition to the ban. I think that we have become more and more intrusive on people and maybe it is time that we have gone far enough. I enjoy more than anybody going into a restaurant at night and enjoying my dinner without smoke blowing in my face. It really is nice. I think we have gotten to a certain point where we are intruding on everybody. Now we seem to have decided that we are going to do that, but we feel there is a certain class or a certain group of people that are exempt from that. I have heard sovereignty and I guess I question the whole concept because I think they still get benefits that are provided by the State of Maine, but when it comes to a financial consideration, it seems that there is a different standard.

It is especially troubling to me when we talk about all the buildings they have are nonsmoking, yet when the busload of money starts to come in, all of a sudden it is okay to open that up to smoking. I just think there is hypocrisy there and I think that we really ought to treat this as we treated the rest of the bill. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Mr. Speaker, Men and Women of the House. I don't smoke. I haven't in over 20 years so if any of you think because I speak for these bills that I smoke, I don't. My wife has some Pigwacket blood in here and the Pigwackets are related to the Penobscots. I don't have anything against the American Indians. I have been married to her for almost 50 years and I don't think she deserves anything more than I do. It is an equal basis. It either has to be no smoking in all the bingo buildings or we smoke in all of them. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative O'Brien.

Representative **O'BRIEN**: Mr. Speaker, Men and Women of the House. I think what we are looking at is an amendment for a group of people who are living within the State of Maine but, in fact, have their sovereign tribal area that they are responsible for. We are talking about seven; I know that takes two hands, but seven times a year on the weekends in a special bingo hall. I will tell you I am guilty of everything. I am guilty of smoking. I am guilty of playing bingo. I am guilty of all those things. However, this is about a group of people that I respect highly. I know living in the State of Maine that it is their land. They were here long before any of my ancestors came. What I think we have to look at is, is this a reasonable amendment. We are not talking about all smoking. God bless us, we are not talking about restaurants. What we are talking about is these particular games and the people that decide to go there. Nobody makes them go. Thank you.

The SPEAKER: A division has been ordered. The pending question before the House is Adoption of House Amendment "B" (H-309). All those in favor will vote yes, those opposed will vote no.

A vote of the House was taken. 74 voted in favor of the same and 55 against, and accordingly **House Amendment "B" (H-309) was ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "B" (H-309) in NON-CONCURRENCE** and sent for concurrence.

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

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE DIVIDED REPORT - Majority (9) Ought to Pass as Amended by Committee Amendment "A" (H-300) - Minority (4) Ought Not to Pass - Committee on LEGAL AND VETERANS AFFAIRS on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Restrict the Appearance of Referenda on Ballots at General Elections

(H.P. 962) (L.D. 1308)

Which was **TABLED** by Representative CLARK of Millinocket pending his motion to **ACCEPT** the Minority **Ought Not to Pass** Report.

The SPEAKER: The Chair recognizes the Representative from Dixfield, Representative Hotham.

Representative **HOTHAM**: Mr. Speaker, Men and Women of the House. As sponsor of this legislation, I rise not only to urge that we defeat the Minority Ought Not to Pass Report, but also to clarify its intent. First of all, the title of this bill does not truly describe what is being proposed. This is not a bill to restrict referendum questions to the general election. It is, through the amendment, a bill that would restrict the appearance of such referenda to all statewide elections in November, not just general elections.

I sponsored this bill because I have often wondered why when we ask the people of the State of Maine to participate in making decisions, do we occasionally offer that opportunity at a time when we know the least number of voters are likely to show up. The cynic in me thinks that someone is trying to sneak one by. Quite frankly, so do many others. Maine has always been proud of its voter turnout and rightfully so for general elections. Let's look at the results. The Secretary of State's Office reports