

MAINE STATE LEGISLATURE

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

Daily Edition

First Regular Session
beginning December 7, 2016

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ONE HUNDRED TWENTY-EIGHTH LEGISLATURE
FIRST REGULAR SESSION
65th Legislative Day
Thursday, June 29, 2017

Representative HERBIG of Belfast assumed the Chair.
The House met according to adjournment and was called
to order by the Speaker Pro Tem.
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.

COMMUNICATIONS

The Following Communication: (H.C. 290)

**STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001**

June 27, 2017

The 128th Legislature of the State of Maine
State House
Augusta, Maine

Dear Honorable Members of the 128th Legislature:
Under the authority vested in me by Article IV, Part Third,
Section 2 of the Constitution of the State of Maine, I am hereby
vetoing LD 463, "An Act To Improve the Funding of County
Jails."

Since 2008, when the Democrats crafted one of the worst laws
in the history of our state, the funding for our county jails has
been a mess. That law capped county and local spending on
jails with the understanding the State would pick up the tab on
all spending above that fixed number. The counties therefore
had absolutely no incentive to rein in costs of county jails.
Ever since this law passed, counties have been on a spending
spree at the expense of the state taxpayer.

It has been clear for years now the jail funding system is in
desperate need of repair. I have consistently said that
whoever operates the jails needs to bear the responsibility for
paying for the jails. This bill does not contain that proposed
solution.

For this reason, I return LD 463 unsigned and vetoed. I
strongly urge the Legislature to sustain it.

Sincerely,
S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE. Sent for
concurrence.

The accompanying item An Act To Improve the Funding of
County Jails

(H.P. 329) (L.D. 463)
(C. "A" H-487)

The SPEAKER PRO TEM: The Chair recognizes the
Representative from Biddeford, Representative Grohman.

Representative **GROHMAN**: Thank you, Madam Speaker.
Good morning, everybody. I just wanted to take people
through, a little bit, the thinking of the Criminal Justice
Committee on moving this bill forward. I think everybody
knows and understands that county jail funding is a perennial

issue that comes before the Legislature. We took on this issue
a few different ways this session. We passed LD 516, which
has already been signed into law by the Executive, which will
seek to reduce the pretrial detention population. I think it's
really going to help. These are people who are awaiting a
court date and are held in our county jail system, and that can
create a little bit of backup and additional expense. And we
have asked as a Committee, as part of that work, as you may
know, for the state to fund a greater amount of the cost of
operation of county jails. And we thought it was only
appropriate, and that's what this particular LD does; is ask
counties themselves to increase their funding as well. So you
might look at this bill, LD 463, and say okay, \$62 million in
there; how come it doesn't have a fiscal note? And that's
because this is the amount of money that we are directing
counties to pull from the cities and towns that make them up to
fund the operations of county jails. So the easiest way to think
about this for, I think, to give an example, is York County. I
come from York County. So I'll just give you some quick
numbers there. York County, for the operations of the York
County Jail, assesses all of the cities within it, Biddeford,
Sanford, Saco, and so forth, \$8.3 million a year. That amount
has been fixed since 2008. It hasn't changed since that time.
It's kind of remarkable. And what we propose in this LD is that
that amount increase every year. Facing the opioid crisis like
we are, jail populations and expense increasing like they are,
we really think it's appropriate that the amount that's assessed
to the cities and towns for jail operations increase. I think it
pains all of us at any time to raise taxes, and this is an
assessment that goes to property taxes, but since we are also
asking the state to increase funding to county jails, we think it's
only appropriate that we ask cities and towns to also increase
their assessment. So that's really what this LD does, and this
matter is also addressed in the budget, and I think if we can
override this veto and pull this approach into the budget, it will
be the best way to manage this matter. So, with that, I ask for
your consideration to override this veto. Thank you, Madam
Speaker.

The SPEAKER PRO TEM: The Chair recognizes the
Representative from Windham, Representative Corey.

Representative **COREY**: Thank you, Madam Speaker. I'd
like to thank my colleague on the other side of the aisle,
Representative Grohman, for giving a pretty good analysis of
exactly what this bill does. I may be repeating a little bit of
what he says, but I think it's important that people understand
what we're doing here. So I'm asking you to support the good
work of the Criminal Justice and Public Safety Committee and
override this veto. Representative Gerrish and Representative
Grohman took the reins on this difficult issue and they
convened the stakeholders to take a deep dive on it. From that
came a series of reforms. Some have been passed already by
this body. This reform threads a difficult needle. Counties can
only raise 3% in their budgets to fund increases in jail
expenses each year. There are some counties that want this
cap lifted altogether. In some towns with high property taxes
right now, lifting the cap is sort of an untenable solution, and
we hear that. So, unfortunately, the county jails have had to
live under a fixed baseline, so we're talking about a baseline.
So if your jail's baseline is \$1 million, that's just a number I've
picked, and you went up 3% last year to spend \$1,030,000, in
the following year your baseline will again be \$1 million, and
this is the way it has worked since 2008. So this bill allows
counties to build on their new baseline of 1.3, or \$1,030,000,
allowing them to add an additional 3% or less each budget
cycle, essentially ratcheting up their budgets in a controlled

manner, protecting their taxpayers. So, basically... I'll just move on. So it was quite a bit of work to build consensus on our Committee and find a way to find a workable solution. This bill is a move in the right direction. I know some counties want to lift the caps altogether, but that's a politically untenable solution for a lot of people. So I ask you to please support this override. Thank you.

After reconsideration, the House proceeded to vote on the question, 'Shall this Bill become a law notwithstanding the objections of the Governor?' A roll call was taken.

The SPEAKER PRO TEM: The pending question before the House is 'Shall this Bill become a law notwithstanding the objections of the Governor?' All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 416V

YEA - Ackley, Alley, Austin B, Austin S, Babbidge, Bailey, Bates, Battle, Beebe-Center, Berry, Bickford, Black, Blume, Bradstreet, Brooks, Bryant, Campbell, Cardone, Cebra, Chace, Collings, Cooper, Corey, Craig, Daughtry, DeChant, Denno, Dillingham, Doore, Duchesne, Dunphy, Espling, Farnsworth, Farrin, Fay, Fecteau, Frey, Fuller, Gerrish, Gillway, Ginzler, Golden, Grant, Grignon, Grohman, Guerin, Haggan, Hamann, Handy, Harlow, Harrington, Harvell, Hawke, Head, Herbig, Hickman, Higgins, Hilliard, Hogan, Hubbell, Hymanson, Johansen, Kinney M, Kornfield, Kumiega, Lawrence, Longstaff, Luchini, Madigan C, Madigan J, Malaby, Martin J, Martin R, Mastraccio, McCrea, McCreight, McElwee, McLean, Melaragno, Monaghan, Moonen, Nadeau, O'Connor, O'Neil, Ordway, Parker, Parry, Perkins, Perry, Picchiotti, Pierce T, Pouliot, Reckitt, Riley, Rykerson, Sampson, Sanborn, Schneck, Seavey, Sheats, Sherman, Simmons, Skolfield, Spear, Stanley, Stearns, Stetkis, Stewart, Strom, Sylvester, Talbot Ross, Tepler, Terry, Theriault, Tucker, Tuell, Vachon, Wallace, Warren, White, Wood, Zeigler.

NAY - Fredette, Hanington, Hanley, Lockman, Lyford, Mason, Pickett, Pierce J, Prescott, Reed, Sanderson, Sirocki, Sutton, Timberlake, Turner, Wadsworth, Winsor.

ABSENT - Casas, Chapman, Foley, Gattine, Herrick, Jorgensen, Kinney J, Marean, Tipping, Ward, Madam Speaker. Yes, 122; No, 17; Absent, 11; Excused, 1.

122 having voted in the affirmative and 17 voted in the negative, with 11 being absent and 1 excused, and accordingly the Veto was **NOT SUSTAINED**. Sent for concurrence.

The Following Communication: (H.C. 294)

**SENATE OF MAINE
128TH LEGISLATURE
OFFICE OF THE PRESIDENT**

June 28, 2017

Honorable Robert B. Hunt
Clerk of the House
2 State House Station
Augusta, Maine 04333
Dear Clerk Hunt:

In reference to the action of the Senate on June 28, 2017 in which it Insisted and Joined in a Committee of Conference on L.D. 390, "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2018 and June 30, 2019" (H.P. 281) I am pleased to appoint the following as conferees on the part of the Senate:

Senator Michael D. Thibodeau of Waldo

Senator Roger J. Katz of Kennebec
Senator Cathy Breen of Cumberland
Please contact my office if you have any questions regarding these appointments.

Sincerely,
S/Michael D. Thibodeau
President of the Senate

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 558)

**MAINE SENATE
128TH LEGISLATURE
OFFICE OF THE SECRETARY**

June 28, 2017

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 accepted Report "A" Ought to Pass as Amended from the Committee on Veterans and Legal Affairs, and Passage to be Engrossed as Amended by Committee Amendment "A" (S-302) on Bill "An Act To Repeal the Ranked-choice Voting Law" (S.P. 578) (L.D. 1625).

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

READ and ORDERED PLACED ON FILE.

**ENACTORS
Emergency Measure**

An Act To Fund the Agreement with Executive Branch Employees

(H.P. 1135) (L.D. 1644)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 129 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

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

SENATE PAPERS

The following Joint Order: (S.P. 596)

ORDERED, the House concurring, that, in accordance with emergency authority granted under the Maine Revised Statutes, Title 3, section 2, the First Regular Session of the 128th Legislature is further extended for up to 5 legislative days.

Came from the Senate, **READ and PASSED.**
READ.

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

Representative **KINNEY**: Thank you, Madam Speaker, Men and Women of the House. My remarks, in a few of the instances here, are directed more to the Representative from Freeport, but I felt compelled to have the entire body hear some of my concerns. I support the pending motion because we haven't been able to do our job as our constituents have

expected of us, but I do need to address some comments made by you yesterday. You said we will be here every day until a budget is passed. My concern comes from a question posed by the good Representative from Burlington about the holiday on the 4th of July. If we are here every day, as you have said, we will use up these five days, with the fifth day being July 4th. It is my understanding we need at least one legislative day to come back for potential vetoes, which would back us up to July 3rd. However, if the Committee of Conference has no budget to present to the bodies, I have concerns about wasting the people's money and time, calling us in just to wait around. I may be mistaken, if you call us in, but if you call us in the people expect us to convene, thus using at least one legislative day. Instead, I hope you as both the Speaker of the House and member of the Committee of Conference tasked with deciding on a compromised budget, will not bring the whole body in if there's no business for us to tend to on a particular day. I realize there are additional options after those five days but they involve us receiving a paycheck again, and quite frankly, I don't believe we deserve it. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Newport, Representative Fredette.

Representative FREDETTE: Good morning. Thank you, Madam Speaker. In regards to the extending of the five additional days, I will be supporting the motion and ask that you follow my light. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lincoln, Representative Hanington.

Representative HANINGTON: Thank you, Madam Speaker, Ladies and Gentlemen of the House. I voted against, you know, having a five-day extension last time. More than likely I'll support this one, but it's going to come at a cost of probably close to half a million dollars just in per diems. I think that's a waste of time. It may be irresponsible if we vote against it, but it was very irresponsible getting to the place where we are today. Thank you.

Pursuant to 3 M.R.S.A., Section 2, this Joint Order required the affirmative vote of two-thirds of those present for **PASSAGE**. 131 having voted in the affirmative and 8 in the negative, 131 being more than two-thirds of the membership present, the Joint Order was **PASSED** in concurrence.

COMMUNICATIONS

The Following Communication: (H.C. 298)

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

June 29, 2017

Honorable Robert B. Hunt

Clerk of the House

2 State House Station

Augusta, Maine 04333

Dear Clerk Hunt:

Pursuant to my authority under House Rule 201.1 (H), I appoint Representative Erin D. Herbig of Belfast to serve as Speaker Pro Tem to convene the House on June 29, 2017.

Sincerely,

S/Sara Gideon

Speaker of the House

READ and ORDERED PLACED ON FILE.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act To Regulate and Tax Sports Fantasy League Activities in Maine"

(S.P. 449) (L.D. 1320)

Minority (1) **OUGHT NOT TO PASS** Report of the Committee on **VETERANS AND LEGAL AFFAIRS READ and ACCEPTED** in the House on June 28, 2017.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Majority (12) **OUGHT TO PASS AS AMENDED** Report of the Committee on **VETERANS AND LEGAL AFFAIRS** was **READ and ACCEPTED** and the **BILL PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-314)** in **NON-CONCURRENCE**.

Representative DILLINGHAM of Oxford moved that the House **RECEDE AND CONCUR**.

Representative HICKMAN of Winthrop **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Oxford, Representative Dillingham.

Representative DILLINGHAM: Thank you. I'd like to speak to my motion. I believe it's important that we Recede and Concur along with the other body. This bill in front of us isn't a vote as far as prohibiting fantasy sports in the State of Maine but it is a policy piece that came out of our Committee with a Majority Report, and we worked bipartisanly on this to make sure that we had a policy that would be in place to not only regulate fantasy sports that would continue to happen in the State of Maine, but more importantly, to make sure that there's consumer protections in place. Without it, this industry would continue to operate in the State of Maine without any regulations and without those consumer protections in place. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from East Machias, Representative Tuell.

Representative TUELL: I would concur with the Representative Oxford here. I think this is a good bill. I know there are many folks in this state that play daily fantasy sports and some do it for entertainment, everybody does it... a lot do it for... are sports fans. And I think this bill is probably the best way forward with daily fantasy. A few years ago, when Massachusetts first regulated daily fantasy there was some concern about college athletics. When their bill went through, every state in the country lost college athletics as part of daily fantasy, and I would say that as states adopt these laws, what impacts one impacts every state. So it is this law, this bill, will have implications well beyond our state and I think that's a good thing, and I think it's important to be consistent with what other states like New York, and others, that have seen the value of daily fantasy, have done. Thank you, Madam Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winthrop, Representative Hickman.

Representative HICKMAN: Thank you, Madam Speaker. Madam Speaker, Women and Men of the House, I believe yesterday this body did something courageous and right by voting this bill Ought Not to Pass. This bill has more holes in it than cheesecloth. This bill is written by an industry to protect an industry in the State of Maine, is being -- we're not going to get very much out of this bill, Madam Speaker. What this bill does that I object to is it codifies the notion that fantasy sports is not gambling. We will put that in statute. If we pass this law,

it will protect the industry in case our own Attorney General at any point in time in the future decides that this is gambling and therefore shuts it down here in Maine. The unallocated language in Section 3 of the Committee Amendment on the last page, line 25 through 32, tells us that unless the Department receives applications and writes rules, whoever is operating fantasy sports in the State of Maine will continue to do that, and that's codified; and if that never happens, they will be the only people who are able to do that in the State of Maine. Some of these fantasy sports leagues are owned by sports members, and I believe that that sets up a really bad precedent, and so I would hope that we oppose this motion and move to Insist. Thank you, Madam Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Oxford, Representative Dillingham.

Representative **DILLINGHAM**: Thank you. I apologize for rising a second time. I rise... I would have to disagree with some of the statements from my colleague from Winthrop as far as codifying this in language. Without moving forward, fantasy sports is still going to be practiced in the State of Maine. We're giving an affirmative action so that we can affirmatively move forward with regulating and making sure that they operate with consumer protections in place. The Unlawful Internet Gaming Act of 2006 actually provides specific exemptions for fantasy sports and prescribes certain criteria that fantasy sports must meet, and we used that in crafting this language. The original bill, as it came forward, certainly was written by the industry, and if you have had the opportunity to look at the bill, you would see that we amended the entire bill by striking their language, and looked to states such as New York and Maryland with the legislation that they had passed, and used those pieces, along with the Professional and Amateur Sports Protection Act of 1993, in crafting language to make sure that these protections are in place and that we have sound regulations moving forward to oversee this industry that is taking place here in the State of Maine. Some of the... one of the exemptions that is prescribed in the UIGA specifically states that a participant placing or participating in fantasy sports, that it is not defined as a bet or wager, and therefore the federal government has given leeway to the states to go ahead and craft legislation to define whether this is a game of skill or a game of chance, which that comes down to defining our gambling and wagering laws. So I would ask that you support the motion, move forward to make sure that we are able to have regulations in place for this industry, and that we ensure there are consumer protections for the 215,000 participants in the State of Maine that are taking place in fantasy sports. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Monmouth, Representative Ackley.

Representative **ACKLEY**: Thank you, Madam Speaker, Men and Women of the House. I rise to oppose the pending motion for two reasons. One, I don't believe that the State of Maine ought to be in the business of feeding what could be an addiction. And two, I'm looking at the fiscal note attached to this bill and it looks to me, correct me if I'm wrong, it looks to me that in the first year we're estimating that the State of Maine will make \$10,000 when you look at the revenue and the expenses; and in the second year it will be \$7,000, and in the third year it's estimated to be about \$4,000, and before you know it, the State of Maine is going to take a loss on having to regulate this industry. And so I'm all for raising revenue in a reasonable way and engaging industry with sensible regulation, but it seems to me that this is just a bad deal for,

not only the people of the State of Maine, but for the State of Maine itself.

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

ROLL CALL NO. 417

YEA - Alley, Austin S, Battle, Bickford, Bradstreet, Campbell, Cardone, Casas, Chace, Collings, Corey, Craig, Denno, Dillingham, Duchesne, Espling, Farrin, Fay, Frey, Fuller, Gerrish, Gillway, Ginzler, Golden, Grignon, Guerin, Hanington, Hanley, Harvell, Hawke, Head, Herbig, Hilliard, Hubbell, Jorgensen, Kinney J, Kinney M, Kornfield, Kumiega, Lawrence, Longstaff, Luchini, Madigan J, Malaby, Marean, Martin J, Martin R, Mason, McCreight, McLean, Monaghan, Moonen, Nadeau, O'Connor, Ordway, Parry, Perkins, Perry, Picchiotti, Pickett, Pierce J, Pouliot, Prescott, Riley, Rykerson, Sanborn, Sanderson, Schneck, Sheats, Sherman, Sirocki, Skolfield, Stearns, Stetkis, Stewart, Strom, Sutton, Sylvester, Tepler, Terry, Theriault, Timberlake, Tucker, Tuell, Vachon, Wadsworth, White, Winsor, Wood, Zeigler.

NAY - Ackley, Austin B, Babbidge, Bailey, Bates, Beebe-Center, Berry, Black, Blume, Brooks, Bryant, Cebra, Cooper, Daughtry, DeChant, Doore, Dunphy, Farnsworth, Fecteau, Fredette, Grant, Grohman, Haggan, Hamann, Handy, Harlow, Harrington, Hickman, Higgins, Hogan, Hymanson, Johansen, Lockman, Lyford, Madigan C, Mastraccio, McCrea, McElwee, Melaragno, O'Neil, Parker, Pierce T, Reckitt, Reed, Sampson, Seavey, Simmons, Spear, Stanley, Talbot Ross, Turner, Wallace, Warren.

ABSENT - Chapman, Foley, Gattine, Herrick, Tipping, Ward, Madam Speaker.

Yes, 90; No, 53; Absent, 7; Excused, 1.

90 having voted in the affirmative and 53 voted in the negative, with 7 being absent and 1 excused, and accordingly the House voted to **RECEDE AND CONCUR**.

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

ENACTORS

Acts

An Act To Regulate Fantasy Sports Contests

(S.P. 449) (L.D. 1320)

(C. "A" S-314)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

The Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act To Encourage Development in the Logging Industry by Requiring State and Local Government Agencies To Give Preference to Lumber and Solid Wood Products Harvested in the State"

(S.P. 551) (L.D. 1573)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-269) AS AMENDED BY HOUSE AMENDMENT "B" (H-520) thereto in the House on June 20, 2017.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-269) AS AMENDED BY SENATE AMENDMENT "C" (S-315)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

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

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Greene, Representative Wood, who wishes to address the House on the record.

Representative **WOOD**: Madam Speaker, we have unfinished business on the calendar. Why aren't we doing them?

On motion of Representative **SANBORN** of Portland, the House adjourned at 2:35 p.m., until 10:00 a.m., Friday, June 30, 2017.