MAINE STATE LEGISLATURE

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Legislative Record

House of Representatives

One Hundred and Thirty-First Legislature

State of Maine

Daily Edition

Second Regular Session

Beginning January 3, 2024

Beginning with Page H-1190

Emergency Measure

Resolve, Directing the Department of Education to Establish the Commission to Study School Construction Policy and Funding

(H.P. 1476) (L.D. 2285)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

Representative TERRY of Gorham **REQUESTED** a roll call on **FINAL PASSAGE**.

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 Final Passage. All those in favor will vote yes, those opposed will vote no.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

ROLL CALL NO. 480

YEA - Abdi, Ankeles, Arata, Arford, Beck, Bell, Blier, Bradstreet, Brennan, Bridgeo, Carlow, Cloutier, Cluchey, Collings, Copeland, Crafts, Craven, Cray, Crockett, Dhalac, Dill, Dodge, Doudera, Drinkwater, Faulkingham, Fay, Gattine, Geiger, Gere, Golek, Graham, Gramlich, Hasenfus, Hepler, Hobbs, Jauch, Javner, Kessler, Kuhn, Lajoie, Landry, LaRochelle, Lee, Lookner, Lyman, Madigan, Malon, Mason, Mathieson, Matlack, Meyer, Millett H, Millett R, Milliken, Montell, Moonen, Moriarty, Murphy, Ness, O'Connell, O'Neil, Osher, Parry, Perry A, Perry J, Pluecker, Polewarczyk, Rana, Rielly, Roberts, Roeder, Runte, Russell, Sachs, Salisbury, Sampson, Sargent, Sayre, Shagoury, Shaw, Sheehan, Simmons, Sinclair, Skold, Stover, Strout, Supica, Terry, Warren, White B, Zager, Zeigler, Madam Speaker.

NAY - Adams, Albert, Ardell, Babin, Bagshaw, Boyer, Campbell, Carmichael, Collamore, Costain, Cyrway, Davis, Ducharme, Dunphy, Foster, Fredericks, Gifford, Greenwood, Griffin, Guerrette, Haggan, Hall, Henderson, Hymes, Jackson, Lanigan, Lemelin, Libby, Morris, Newman, Nutting, Paul, Perkins, Poirier, Pomerleau, Quint, Rudnicki, Schmersal-Burgess, Smith, Soboleski, Swallow, Theriault, Thorne, Walker, White J, Wood, Woodsome.

ABSENT - Andrews, Boyle, Eaton, Galletta, Lavigne, Mastraccio, Pringle, Riseman, Underwood, Worth.

Yes, 93; No, 47; Absent, 10; Vacant, 1; Excused, 0.

93 having voted in the affirmative and 47 voted in the negative, 1 vacancy with 10 being absent, and accordingly the Resolve **FAILED FINAL PASSAGE** and was sent to the Senate.

Resolves

Resolve, Directing the Maine Education Policy Research Institute to Review Certain Components of General Purpose Aid for Local Schools and the Essential Programs and Services Funding Formula

(H.P. 1477) (L.D. 2286)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.

An Act Regarding the Criminal Jurisdiction of Tribal Courts and to Extend the Time for the Penobscot Nation to Certify Its Agreement to Public Law 2023, Chapter 369

(H.P. 1287) (L.D. 2007)
(C. "A" H-910)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative POIRIER of Skowhegan, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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 Hampden, Representative Haggan.

Representative **HAGGAN**: Thank you, Madam Speaker, Men and Women of the House. Except as provided in Subsections 3 and 4 of this bill, the Passamaquoddy and Penobscot Tribes will have the right to exercise exclusive jurisdiction, separate and distinct from the State of Maine, over the following criminal offenses committed within each of those territories by an adult member of any federal recognized Indian Tribe, Nation, Band or other group. The language here is very vague and can be interpreted many ways in law courts.

Class C felonies, Class D and E crimes in Titles 15, 17, 17-A, 19-A and 29-A, that are not committed against a person or the property of a person; and Class C, D and E crimes committed against a person who is a member of any federally recognized Indian Tribe, Nation, Band or other group; or against the property of a person who is a member of any federally recognized Indian Tribe, Nation, Band or other group. The District Court of Maine will have no jurisdiction if this bill passes, unless the Tribes offer it on all three of those classes of crimes. The State of Maine would have no say and no ability to try persons that are Tribal for crimes on Native land. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Tribes under Paragraph A and juvenile crimes as defined in Title 15, Section 3103, subsection 1, paragraphs B and C, committed by a juvenile member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, Mi'kmaq Nation and Penobscot Nation within the Passamaquoddy Indian territory would have exclusive jurisdiction of the Tribal Courts. State of Maine District Courts would have no say and no ability. Are the above-mentioned crimes against non-Tribal members also, and why do they enjoy exclusive jurisdiction over the State of Maine District Court?

Once again, this is way too vague and open to interpretation in this bill. In dealing with the above jurisdictions, an interesting phenomenon is created through this bill where we have a Tribal government entity where a person, who is not Tribal in some circumstances of Class D and E crimes, has no ability to ever become a Tribal citizen and can be prosecuted in some circumstances by that Tribal entity. If a Maine citizen were to move to New York, for example, and be prosecuted for a particular crime, that Maine citizen would have the right to eventually move to that state and participate in New York government and perhaps have the ability to overturn a law that they deemed not fair or what have you. In this case, that can never happen. I would argue that this scenario created by this bill tips the scales of justice in an unfair way, where we are, in essence, creating a 51st state that is sovereign over the other 50, with no recourse to the 50. The Supreme Court has never talked about this, this brand-new territory for the United States of America in our approximate 250-year history. Also, the jury

pool, we learned from the Penobscot judge; where does it come from? The pool is non-Native employees on the Reservation and Natives. State system is not observed. So, the Penobscot County regular District Court pool would not be observed.

Then we start with Section B-2. On the surface, this is about water. Safe water seems like a common-sense thing to have. The Safe Water Act language here does not create the same parity with the Penobscot Tribe to that of the Passamaquoddy issues discussed last year with the water quality from Cutler, Maine, to the Reservation and on to Eastport. These are two different, completely different issues. In B-2, the regulation for drinking water by Penobscot Nation on specific drinking-water-related issues in this section are extremely vague and open to a great deal of interpretation. This lack of precision is unacceptable in the language of this section of the bill. Concurrent jurisdiction with the State of Maine will go away and the Penobscot Nation will achieve exclusive jurisdiction on this matter. When the Tribe feels that lands not on Indian territory affect water coming into the territory, they will have the possible authority to bring in the federal EPA and to intervene and outweigh the State. This will render the State of Maine legally helpless on its own lands and territories to determine water quality going forward.

I might also remind you that the State of Maine is a leader of air and water quality regulations in the entire United States of America. We are the standard for high quality. This will render the State of Maine legally helpless on its own lands and territories to determine water quality going into the Reservation or the Tribal territories. At this point, Penobscot Tribe then becomes, like we said earlier, a 51st state, and will have more than equal status than Maine in determining what is right on Maine lands and territories.

The Penobscot Nation can be the 51st state under the Safe Drinking Water Act. This bill, if this thing goes forward, can never be reversed. The only way that it would be reversed if all of the tribes agreed to do that. This bill here is not ready for primetime. It came way too quick. It is extremely detailed and complicated and I would urge you to not pass this version at this time. Thank you.

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

ROLL CALL NO. 481

YEA - Abdi, Ankeles, Arford, Beck, Bell, Brennan, Bridgeo, Cloutier, Cluchey, Collamore, Collings, Copeland, Crafts, Craven, Crockett, Dhalac, Dill, Dodge, Doudera, Fay, Gattine, Geiger, Gere, Golek, Graham, Gramlich, Hasenfus, Hepler, Hobbs, Jauch, Kessler, Kuhn, Lajoie, Landry, LaRochelle, Lee, Lookner, Madigan, Malon, Mathieson, Matlack, Meyer, Millett R, Milliken, Montell, Moonen, Moriarty, Murphy, Newman, O'Connell, O'Neil, Osher, Perry A, Perry J, Pluecker, Rana, Rielly, Roberts, Roeder, Runte, Russell, Sachs, Salisbury, Sargent, Sayre, Shagoury, Shaw, Sheehan, Sinclair, Skold, Stover, Supica, Terry, Warren, White B, Zager, Zeigler, Madam Speaker.

NAY - Adams, Albert, Arata, Ardell, Babin, Bagshaw, Blier, Boyer, Bradstreet, Campbell, Carlow, Carmichael, Cray, Cyrway, Davis, Drinkwater, Ducharme, Dunphy, Faulkingham, Foster, Fredericks, Gifford, Greenwood, Griffin, Guerrette, Haggan, Hall, Henderson, Hymes, Jackson, Javner, Lanigan, Lemelin, Libby, Lyman, Mason, Millett H, Morris, Ness, Nutting, Parry, Paul, Perkins, Poirier, Polewarczyk, Pomerleau, Quint, Rudnicki, Sampson, Schmersal-Burgess, Simmons, Smith, Soboleski, Strout, Swallow, Theriault, Thorne, Walker, White J, Wood, Woodsome.

ABSENT - Andrews, Boyle, Costain, Eaton, Galletta, Lavigne, Mastraccio, Pringle, Riseman, Underwood, Worth.

Yes, 78; No, 61; Absent, 11; Vacant, 1; Excused, 0.

78 having voted in the affirmative and 61 voted in the negative, 1 vacancy with 11 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.

The SPEAKER: The Chair would like to advise Members that we have finished our business for the day. I want to thank each and every one of you for hanging in there, for your patience, a very long day, for being attentive, for staying, for doing some hard work.

The SPEAKER: The Chair recognizes the Representative from Carmel, Representative Thorne.

Representative **THORNE**: Thank you Madam Speaker, permission to speak on the record?

The SPEAKER: The Representative has requested unanimous consent to address the House on the record. Hearing no objection, the Member may proceed.

Representative **THORNE**: Thank you. Today is National Former Prisoner of War Recognition Day. As we all go home or to a hotel and get into our warm bed and relax, I want you to remember that today, National Former Prisoner of War Recognition Day on April 9th, honors the courageous men and women who endured brutal treatment at the hands of their captors. As a result, they've also suffered separation from family and displayed incredible endurance and faith during their captivity. On this day in 1942, the largest number of U.S. forces were captured by Japanese troops in the Bataan Peninsula of the Philippines. After battling through extreme conditions and prolonged battles, they captured troops. There were thousands and thousands of them that were forced to march 65 miles to the prison camp. Without medical attention, food or water, thousands died. If a prisoner fell, they were shot on the spot. If they stumbled and fell down, they were shot on the spot; no chance to get up. No food, no water, no rations. The mistreatment continued for those who survived the brutal journey. In the compounds, deep in the unfamiliar jungle, the hardships, brutality and suffering lasted for more than two years for those that survived. It's better known as the Bataan Death March. Madam Speaker, God bless all these warriors who endured restrictive captivity for the sake of our unrestricted freedoms. Thank you.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Sayre.

Representative **SAYRE**: Thank you Madam Speaker, permission to speak on the record?

The SPEAKER: The Representative has requested unanimous consent to address the House on the record. Hearing no objection, the Member may proceed.

Representative **SAYRE**: Thank you. With great thanks to the Member who preceded me for bringing back the memories of my childhood and hearing the stories from a survivor of the Bataan Death March; a troubling, chilling and educational experience for all of us in our community. Something that now one can only read about in the library.