

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 1, 1982 to May 13, 1983

deur of Auburn to Reconsider whereby the House voted to Adhere to its previous action whereby this Bill Failed of Passage to be Enacted.

On motion of Mr. Brannigan of Portland, retabled pending the motion of Mr. Brodeur of Auburn to reconsider whereby the House voted to adhere and specially assigned for Monday, May 2.

The Chair laid before the House the second item of Unfinished Business:

Bill, "An Act to Provide Cost-of-living Adjustments to Retired State Employees, Teachers and Beneficiaries" (H. P. 1142) (L. D. 1507)

Tabled—April 26, 1983 by Representative Diamond of Bangor.

Pending—Passage to be Engrossed.

Mr. Hickey of Augusta offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-165) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

The Chair laid before the House the third item of Unfinished Business:

An Act to Protect Unemployed Workers from the Loss of Unemployment Benefits Without the Opportunity for a Fair Hearing (H. P. 1089) (L. D. 1416)

Tabled—April 26, 1983 by Representative Beaulieu of Portland.

Pending—Passage to be Enacted.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Gauvreau.

Mr. GAUVREAU: Mr. Speaker, Ladies and Gentlemen of the House: I rise to take this opportunity to read into the record the intent of the Joint Standing Committee on Labor regarding L. D. 1416. I would like at this time also to express my appreciation to the bill's sponsor, Representative Connolly, and also to my colleagues on the Labor Committee, especially Representative Zirkilton, for their assistance in working out a satisfactory draft of this bill.

The legislation addresses the situation wherein a person receiving unemployment compensation benefits is confronted with the potential loss or reduction in benefits due to new information or a new issue arising from any source which might affect the person's weekly benefit amount. Should the claimant choose to contest the reduction or elimination in benefit eligibility, he or she has the right to a fact-finding interview with a deputy prior to any agency determination regarding continued eligibility. The claimant will be entitled to continued receipt of benefits pending the interview if he or she or chooses. However, if it is determined that the person's benefits should be reduced or eliminated, he or she may be liable to the department for an overpayment based on current law.

It is important to stress that the bill leaves intact present law regarding the right of a claimant to request a waiver of an overpayment, and this bill should in no way be construed to restrict a claimant's right to request such a waiver.

The bill establishes a specific time frame in which the department is to conduct its fact-finding interview. Nevertheless, the department still retains its inherent authority to grant continuances or reschedule hearings in appropriate circumstances. However, once the claimant and the employer have had the opportunity to appear at the factfinding interview, the Department may consider no additional evidence in resolving the disputed issues other than corroborative documentary evidence filed upon request and notice to the parties who appeared at the interview.

The underlying principle in this legislation is fairness. Accordingly, the bill requires an employer and claimant have an opportunity to

personally address a deputy before any determination is made regarding a claimant's eligibility for benefits.

Thereupon, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the fourth item of Unfinished Business:

Bill, "An Act to Revise the Composition of the Marine Resources Advisory Council" (H. P. 1038) (L. D. 1363) (C. "A" H-162)

Tabled—April 27, 1983 (Till Later Today) by Representative Carter of Winslow.

Pending—Passage to be Engrossed.

Thereupon, the Bill was passed to be engrossed as amended and sent up for concurrence.

The Chair laid before the House the first tabled and today assigned matter:

An Act to Amend the Probate Fees (H. P. 714) (L. D. 905)

Tabled—April 26, 1983 by Representative Diamond of Bangor.

Pending—Passage to be Enacted.

On motion of Mr. Diamond of Bangor, retabled pending passage to be enacted and specially assigned for Monday, May 2.

The Chair laid before the House the second tabled and today assigned matter:

HOUSE DIVIDED REPORT—Majority (10) "Ought Not to Pass" — Minority (3) "Ought to Pass" — Committee on Fisheries and Wildlife on Bill "An Act Concerning the Beginning Date for the Open Season on Deer" (H. P. 686) (L. D. 866)

Tabled—April 27, 1983 by Representative MacEachern of Lincoln.

Pending—Motion of same gentleman to accept the Majority "Ought Not to Pass" report.

On motion of Mr. MacEachern of Lincoln, retabled pending acceptance of the Majority Report and specially assigned for Monday, May 2.

The Chair laid before the House the third tabled and today assigned matter:

Bill, "An Act Requiring Motorists to Protect Children in Motor Vehicles by Use of Approved Child Safety Seats" (H. P. 1149) (L. D. 1514)

Tabled—April 27, 1983 by Representative Carroll of Limerick.

Pending—Passage to be Engrossed.

Mr. Carroll of Limerick offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-171) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: Today I offer this amendment in a spirit of compromise. I am not entirely happy with this legislation; therefore, I felt that this amendment, which is a practice that has been carried out in the State of Tennessee where the State Police carry a spare seat in their vehicle, a child restraining seat, and may loan it to the public. I feel this would be a tremendous public relations object because it would help the State Police carry out the intent of the law. It would also show that they are humanitarians, that they were offering the parent a seat and then the parent could return that either to the state police or court if they were summonsed to court.

Coming back to the fine of \$25, I find that most parents with children cannot afford a \$50 fine. I think the \$50 fine is a little bit excessive. From my point of view, I come from a rural area and we are not all rich people, many of them who have children don't have the money to buy these seats and are not always located where the charitable organizations are that will loan the seats. I feel that the people in the rural areas are going to be at a distinct dis-

advantage and that was my reason for offering this amendment. I am just trying to play my role as the House Chairman and also to play my role believing in safety. I also believe that we must not pass legislation that penalizes those who cannot afford to have these seats.

The SPEAKER: The Chair recognizes the gentleman from So. Portland, Mr. Macomber.

Mr. MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I would move at this time that this amendment be indefinitely postponed.

The SPEAKER: The gentleman from So. Portland, Mr. Macomber, moves that House Amendment "A" be indefinitely postponed.

The gentleman may proceed.

Mr. MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: The Department of Public Safety and the Bureau of State Police have been and are very much in favor of child restraint systems. On the Transportation Committee, we have worked with the State Police very closely on this particular bill. They feel that the bill as presented to you and passed two days ago in its original form was the proper method to use.

We don't feel that there is any need for the State Police to be involved in this particular application of this bill.

The gentleman from Limerick brings up the Tennessee Amendment, which is primarily what his amendment would address. When Tennessee enacted their law in 1980, they did not have one single low rent or loaner program, none whatsoever in the state. Maine at this time has 22 hospitals and five volunteer groups and state agencies involved in loaner or low rent programs. The Department of Public Safety expects to procure another 1,000 to 2,000 seats during the next 12 months to be distributed to hospitals and concerned volunteer groups in every section of the state. This is not a cost to the state, this is federal public safety money.

Another thing about Tennessee that they did not have that we have is that for the past year we have had an educational program; they had none whatsoever. I think perhaps we have learned from the Tennessee Amendment and I feel that because of what has happened in Tennessee, our bill has been drafted differently and I think it covers all the points that the gentleman from Limerick has brought up. I feel that if you were to accept this amendment, what you would really be doing is to further complicate an already complicated bill.

I hope that you will vote against the amendment.

The SPEAKER: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to enlighten you a little bit more in regard to this subject matter of the State Police having loaner seats. They speak about 2,000 seats and making them available to everybody, but the people in the rural areas, we don't have the hospitals out there and we don't have the big charitable organizations out there, and I think this is where we have our big differences; this is where we have our problems.

Also, when I mentioned to the State Police that I thought the seat loaner program would be a wonderful public relations effort on their part, the first remark I got was why they couldn't do it. I am sick and tired of passing laws in state government hearing people say why this cannot be done, why we cannot do this, why we cannot serve the public. I say to you, don't tell me why we can't do it, tell me why you can, and that is what I base my premise on.

The SPEAKER: The Chair recognizes the gentleman from So. Portland, Mr. Macomber.

Mr. MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: To respond very briefly, I would point out that in Tennessee where they had this program where state

troopers carry the seats in their cars, the reason they had that particular program was because there was no other enforcement provision in the law, but now that they have set up this program that the State of Maine already has of these volunteer groups, hospital groups and these things, in a conversation yesterday with the Tennessee State Police, they are in the process at this very moment of getting their state troopers out of the business of providing seats.

I would also point out to you something that the gentleman from Limerick neglected to say—when you start talking about carrying safety seats around for each particular kid, you have to realize that there are three different varieties of seats that apply to children between the ages of birth and four years old. They vary according to weight. If a child is of a certain weight, he has to have a certain seat; if he is heavier than that, he has to have another seat. I think to fully comply with what the gentleman from Limerick wants, each state trooper would have to carry three different varieties of seats and I think this is a very unreasonable thing to expect of the State Police.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the motion of the gentleman from So. Portland, Mr. Macomber, that House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken. 92 having voted in the affirmative and 20 in the negative, the motion did prevail.

Thereupon, the Bill was passed to be engrossed and sent up for concurrence.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mr. Livesay.

Mr. LIVESAY: Mr. Speaker, is the House in possession of Bill, "An Act to Improve Voter Registration Access for Potential Absentee Voters" (H. P. 114) (L. D. 121)

The SPEAKER: The Chair would answer in the affirmative.

Mr. LIVESAY: Mr. Speaker, I move that the House reconsider its action whereby this bill was passed to be engrossed.

The SPEAKER: The gentleman from Brunswick, Mr. Livesay, moves that the House reconsider its action whereby this Bill was passed to be engrossed.

Mr. LIVESAY: Mr. Speaker, Ladies and Gentlemen of the House: I held this bill at the request of Representative Higgins and Representative Higgins is not here today, so I hope somebody will table this one legislative day.

The SPEAKER: The Chair recognizes the gentlewoman from Woolwich, Mrs. Cahill.

Mrs. CAHILL: Mr. Speaker, I move this bill lie on the table one legislative day.

Mrs. Mitchell of Vassalboro requested a Diversion.

The SPEAKER: The pending question before the House is the motion of the gentlewoman from Woolwich, Mrs. Cahill, that this Bill be tabled one legislative day. Those in favor of tabling one day will vote yes; those opposed will vote no.

A vote of the House was taken.

Mrs. Cahill of Woolwich requested a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those in favor of a roll call will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is on the motion of the gentlewoman from Woolwich, Mrs. Cahill, that this Bill be tabled one legislative day. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Anderson, Armstrong, Bell, Bonney,

Bott, Brown, D.N.; Cahill, Callahan, Conary, Conners, Davis, Day, Dillenback, Drinkwater, Foster, Greenlaw, Hickey, Holloway, Ingraham, Jackson, Kelleher, Kiesman, Lebowitz, Lewis, Livesay, MacBride, Masterman, Masterton, Matthews, K.L.; Maybury, McPherson, Murphy, Paradis, E.J.; Parent, Perkins, Pines, Randall, Reeves, J.W.; Roderick, Salsbury, Scarpino, Sherburne, Small, Smith, C.W.; Soule, Sproul, Stevenson, Stover, Strout, Telow, Theriault, Walker, Webster, Wentworth, Weymouth, Willey, Zirnkilton.

NAY—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Carroll, D.P.; Carroll, G.A.; Cashman, Clark, Connolly, Cooper, Cote, Cox, Crouse, Daggett, Diamond, Erwin, Gauvreau, Handy, Hobbins, Jacques, Joyce, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Locke, MacEachern, Macomber, Manning, Martin, A.C.; Martin, H.C.; Matthews, Z.E.; McCollister, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Moholland, Murray, Nelson, Norton, Paradis, P.E.; Paul Perry, Pouliot, Racine, Reeves, P.; Richard, Roberts, Rotondi, Smith, C.B.; Soucy, Stevens, Swazey, Tammamo, Thompson, Tuttle, Vose, The Speaker.

ABSENT—Brown, A.K.; Carrier, Carter, Chonko, Crowley, Curtis, Dexter, Dudley, Gwadosky, Hall, Hayden, Higgins, H.C.; Higgins, L.M.; Jalbert, Joseph, Kane, Lisnik, Mahany, McGowan, Mitchell, J.; Nadeau, Ridley, Rolde, Seavey.

Yes, 57; No, 67; Absent, 25; Vacant, 2.

The SPEAKER: Fifty-seven having voted in the affirmative and sixty-seven in the negative, with twenty-five being absent and two vacant, the motion does not prevail.

The SPEAKER: The Chair recognizes the gentleman from Woolwich, Mrs. Cahill.

Mrs. CAHILL: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you to please reconsider this bill on its merits, or I guess lack thereof.

Currently, a person can register to vote on election day if that person appears in person before the registrar. This bill would allow the would-be voter to register absentee on election day. Not allowing a person to register by absentee is an incentive to the voter to register early. If this bill passes, the person probably wouldn't bother to register prior to an election because he knows that if he should become incapacitated before an election, he could still register and then vote on election day.

It seems to me that by allowing this bill passage, we are once again opening up the voting process in this state to potential fraud and abuse.

I would request a roll call.

The SPEAKER: The Chair recognizes the gentleman from Wells, Mrs. Wentworth.

Mrs. WENTWORTH: Mr. Speaker and Members of the House: I think it is time that we educated our voters to act in anticipation of elections and not to treat them like last-minute thoughts.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Handy.

Mr. HANDY: Mr. Speaker, Men and Women of the House: Actually, what Representative Cahill presented to you is part of what the bill does. Currently, there are towns in the State of Maine which have closed periods of up to nine days prior to election day.

This bill addresses a problem that has occurred with me personally, as well as a great number of other individuals who take part in making sure that those individuals who are confined to their homes or for some other reason can't go to the polls and vote, it helps those individuals in the process and to vote. What it does is, for example, if there is someone who moves to Maine and may not have registered to vote and becomes ill or incapacitated, or any one of the other reasons under the statutes that individual may vote absentee, this bill would allow that person, providing they meet

those requirements, to register to vote and then vote absentee. It is something that takes into consideration the various mishaps that might happen in one person's life that might be untimely and opens up the process to those individuals, and I don't feel that they should be excluded because of illness or being confined to home.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Brunswick, Mr. Livesay, that the House reconsider its action whereby this Bill was passed to be engrossed. All those in favor of reconsideration will vote yes; those opposed will vote no.

ROLL CALL

YEA—Anderson, Armstrong, Bell, Bonney, Bott, Brown, D.N.; Brown, K.L.; Cahill, Callahan, Conary, Conners, Davis, Day, Dillenback, Drinkwater, Foster, Greenlaw, Holloway, Ingraham, Jackson, Kiesman, Lebowitz, Lewis, Livesay, MacBride, Masterman, Masterton, Matthews, K.L.; Maybury, McPherson, Murphy, Paradis, E.J.; Parent, Perkins, Pines, Randall, Reeves, J.W.; Roderick, Salsbury, Scarpino, Sherburne, Small, Smith, C.W.; Sproul, Stevenson, Stover, Strout, Telow, Walker, Webster, Wentworth, Weymouth, Willey, Zirnkilton

NAY—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Carroll, D.P.; Carroll, G.A.; Cashman, Clark, Connolly, Cooper, Cote, Cox, Crouse, Daggett, Diamond, Erwin, Gauvreau, Handy, Hickey, Hobbins, Jacques, Joyce, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Locke, MacEachern, Macomber, Manning, Martin, A.C.; Martin, H.C.; Matthews, Z.E.; McCollister, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Moholland, Murray, Nelson, Norton, Paradis, P.E.; Paul, Perry, Pouliot, Racine, Reeves, P.; Richard, Roberts, Rotondi, Smith, C.B.; Soucy, Soule, Stevens, Swazey, Tammamo, Theriault, Thompson, Tuttle, Vose, The Speaker.

ABSENT—Brown, A.K.; Carrier, Carter, Chonko, Crowley, Curtis, Dexter, Dudley, Gwadosky, Hall, Hayden, Higgins, H.C.; Higgins, L.M.; Jalbert, Joseph, Kane, Lisnik, Mahany, McGowan, Mitchell, J., Nadeau, Ridley, Rolde, Seavey.

Yes, 54; No, 71; Absent, 24; Vacant, 2.

The SPEAKER: Fifty four having voted in the affirmative and seventy one in the negative, with twenty four being absent and two vacant, the motion does not prevail.

Sent to the Senate.

The following papers appearing on Supplement No. 2 were taken up out of order by unanimous consent:

Passed to Be Enacted Emergency Measures

An Act to Provide Legislative Participation in the Allocation of Consumer Settlements and for Allocation of Funds for the Low Income Energy Assistance Program (H. P. 1136) (L. D. 1495) (H. "A" H-161)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 107 voted in favor of same and one against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act Governing State Participation in the Federal Job Training Partnership Act (H. P. 1148) (L. D. 1512)