

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

STATE OF MAINE
One Hundred and Twelfth Legislature
FIRST REGULAR SESSION
Journal of the Senate
In Senate Chamber
Friday,
April 12, 1985
Senate called to Order by the President.

Prayer by the Honorable Michael E. Carpenter of Aroostook.

SENATOR CARPENTER: My colleagues and friends, let us pause on this the last day of our legislative week and on the historic fortieth anniversary of the death of Franklin Delano Roosevelt, one of our finest Presidents and greatest Americans, and ask God's guidance that the job we do here today we do with compassion, with forgiveness, and as always with the best interest of our constituents in mind.

Our heavenly Father, we ask You as we deliberate over the issues here today, that You lend us Your guidance, Your counsel and most of all, Your love. Amen.

Reading of the Journal of Yesterday.

COMMUNICATIONS

The Following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA, MAINE 04333

April 11, 1985

Honorable Joy J. O'Brien
Secretary of the Senate
112th Legislature
Augusta, Maine 04333
Dear Madam Secretary:

The House voted today to adhere to its former action whereby it accepted the Minority "Ought Not to Pass" Report of the Committee on Education on Bill "An Act to Increase Academic Learning Time" (H.P. 161) (L.D. 195).

Sincerely,
S/ EDWIN H. PERT
Clerk of the House

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:

STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
STATE HOUSE STATION 16
AUGUSTA, MAINE 04333

April 11, 1985

The Honorable Charles Pray
President of the Senate
State House Sta. -3
Augusta, Maine 04333
Dear Senator Pray:

As required by Chapter 94, Part B, Section 20 of the Public Laws of 1983, I am submitting the Department of Transportation's findings and recommendations regarding highway cost allocation, evaluation, extensions, and revisions. Section 20 required that the Commissioner of Transportation extend and revise the findings of the 1982 Highway Cost Allocation Study to reflect any improved methodology and data as may be available. The Commissioner was directed to report his findings to the First Session of the 112th Legislature, together with such revisions in fees as may be appropriate to improve equity. Specifically, Part 20 directed the further examination for the justification of weight-distance legislation, and for the number and form of registration schedules that are appropriate.

The Department of Transportation has not as yet attempted any major revisions to the 1982 HCA study. First, the necessary improvements in data have not been fully realized. Second, there have been recent changes in Federal law that will affect both the methodology and the data available for the special studies relating to both truck taxes, and truck size and weight that could affect future

HCA studies. Last, while highway cost allocation methodology is constantly evolving, and the Department is continually monitoring other state and national activity in this area in order that we may keep abreast of the state-of-the-art, there have been no major changes in methodological theory in the past two years. For these reasons, which will be more fully discussed in the following paragraphs, the Department did not feel that it would be proper at this time to expend public resources on a Cost Allocation Update when the prospect for any additional real improvement in highway tax equity would be poor. We do not, therefore, at this time make any new recommendations regarding the legislative consideration of new registration schedule(s), a weight-distance tax, or other user fee improvements.

Statistically reliable and representative vehicle operating weight data and well-defined registration data both by type of vehicle and weight class are necessary to the design of a weight-distant tax, registration schedule improvements, or other user fee adjustments. This data is not available at this time. A well designed weight-distance tax has, we feel, a considerable potential to improve highway tax equity, and should be given further consideration in the future.

The 1982 Maine Highway Cost Allocation Study was a highly professional effort that was well received both within and without the State of Maine. The methodology was considered sufficiently sound as to lead the Federal Highway Administration to include the Maine Study in a Cost Allocation Guide that draws upon several recent state HCA studies that were considered particularly well done. This does not mean that Maine's HCA methodology is perfect and should never be altered—the final report itself indicated known deficiencies. Indeed there is no one "best" methodology and even superior methodologies will need to be reviewed and altered over time as conditions change. The mix of vehicles in the fleet will change over time, and the State's highway emphasis is shifting from one of new construction to one of maintaining and reconstructing the highway system. These factors will necessarily cause a change in Maine's HCA methodology and/or the selection or mix of best tax instruments. Revisions to the 1982 Study should be made only when desirable methodological improvements have been identified and can be implemented.

During the 1982 HCA study, we found data on vehicle operating weights to be both inadequate and unrepresentative. We also found it impossible to fully resolve the types of trucks registered at various weights. As a result, the cost allocation recommendations for heavy trucks were restrained, and kept at a level clearly justified by the available data. Since that time, MDOT in conjunction with the Division of Motor Vehicles, the Bureau of Taxation, and the Bureau of Public Safety, has taken steps to improve the quality of future data. There is still a great deal to do, however, before the quality of the data reaches a level sufficient to justify the time and expenses of a cost allocation update, and will adequately support changes in the form or amount of various fees.

To improve the quality and quantity of truck data for a variety of purposes, the Federal Highway Administration, is proceeding with its Weigh-in-Motion (WIM) program. When WIM is fully operational, the Department will be able to obtain unbiased information on truck weights versus vehicle configurations in quantity which will permit refinements in both cost allocation methodology, and refinements in the sensitivity of tax policies. The first WIM site will soon be in full operation. It is currently being tested and calibrated. We expect to have seven sites in operation by late 1985, although there will be full instrumentation at only two sites at any one time. These sites were chosen to provide valid and representative informa-

tion on a wide range of Maine's highways. In order to avoid seasonal biases, to allow time for the moving of equipment from site to site, and to obtain adequate data samples for highway planning, at least a year of operation from 1985 will then be necessary.

Recent activity relating to the Regional Fuel Tax Compact will improve the available information on interstate trucking in Maine. Also, the recently implemented Suppliers Law for the taxation of diesel fuel has proved very successful in the data base on trucks.

In addition to improving the information on heavy trucks, there is also a need to improve the available information on automobiles and light trucks. This is being accomplished now by the collection of more complete registration information, license plates and related registration data management improvements.

Highway Cost Allocation in Maine is not performed in a vacuum. In addition to paying state taxes, users of Maine's highways pay federal highway fees. In return, Maine receives federal monies for highway purposes which we feel must be taken into account when conducting a state highway cost allocation study. Both federal taxes and federal highway allocations are in a state of flux due to recent and expected changes in Federal law. Recent changes include increases in federal fuel taxes and the Heavy Vehicle Use Tax. These fee increases will result in additional federal funds becoming available to the states for highway purposes. Also, the Surface Transportation Assistance Act of 1982 caused certain types of vehicles to be permitted in Maine for the first time. These vehicles may have peculiar cost responsibilities that are not as yet fully understood.

Several Congressionally directed studies will examine possible new larger truck configurations and the possibility of implementing weight-distance taxation to replace some or all federal taxes. The National Governors Association (NGA), with the cooperation of the Trucking Industry, is also conducting a study of state taxation and registration issues. The NGA's intent is to encourage voluntary simplification of state procedures. In addition, the Motor Vehicle Division of the Secretary of State is currently conducting an impact study of the International Registration Plan to determine the effects of Maine entering the IRP. In summary, there has rarely been a time when taxation or taxation practices were under greater examination or stood greater possibility of change.

For these reasons, the Department of Transportation does not feel that it is possible to conduct a meaningful Cost Allocation Update at this time. We do feel that the necessary data will be available soon, and we would respectfully ask that the Highway Cost Allocation Extension be postponed until such data is available. We would suggest that a full Highway Cost Allocation evaluation, making use of improved data, be ordered for presentation to the 113th Legislature in 1988 contingent upon the clear direction of the studies noted above. The new HCA study should also take advantage of any improvements in methodology that may become available and should seek data and assistance from interested public or private groups or associations. Upon completion, we would expect to be able to offer evaluations of a weight-distance tax, of multiple registration schedules, and of fee adjustments. We would be pleased to draft any legislation necessary to implement this change.

Thank you for your consideration in this matter.

Sincerely,
S/ DANA F. CONNORS
Commissioner

Which was READ and ORDERED PLACED ON FILE.

ORDERED
Joint Resolution

On motion by Senator **KANY** of Kennebec, (Cosponsors: Representative **GWOSKY** of Fairfield, Speaker **MARTIN** of Eagle Lake, and President **PRAY** of Penobscot) (Approved for introduction by a majority of the Legislative Council on April 10, 1985, pursuant to Joint Rule 35-A) the following Joint Resolution S.P. 480

JOINT RESOLUTION MEMORIALIZING CONGRESS TO APPROVE A CONSTITUTIONAL AMENDMENT TO REQUIRE A BALANCED FEDERAL BUDGET

WE your Memorialists, the House of Representatives and Senate of the State of Maine of the One Hundred and Twelfth Legislature, now assembled most respectfully present and petition the Congress of the United States, as follows:

WHEREAS, with each passing year, this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues so that the public debt now exceeds hundreds of billions of dollars; and

WHEREAS, the annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the Federal Government to curtail spending to conform to available revenues; and

WHEREAS, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

WHEREAS, knowledgeable planning, fiscal prudence and plain good sense require that the budget reflect all federal spending and be in balance; and

WHEREAS, believing that fiscal irresponsibility at the federal level, with the inflation which faces our Nation, we firmly believe that restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

WHEREAS, we believe constitutional restrictions concerning federal expenditures to be vital; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully recommend and urge the Congress of the United States to consider and approve a constitutional amendment to require a balanced federal budget, except in time of declared war or when 3/5 of the elected members of each House agree; and be it further

RESOLVED: That this constitutional amendment be expeditiously sent to the several states for the purpose of ratification by the Legislature of each state; and be it further

RESOLVED: That a duly authenticated copy of this Resolution be immediately submitted by the Secretary of State to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Senate and House of Representatives in Congress from this state.

Which was **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator **Kany**.

Senator **KANY:** Mr. President and Senators, the Joint Resolution Memorializing Congress to approve a Constitutional Amendment to require a balanced Federal Budget is before you because we are all aware of the serious problem that we have with our Federal Budget.

We have a National debt now which actually exceeds one point six trillion dollars, with annual interest charges on that debt in 1986 to exceed a hundred and ninety-eight billion dollars — more than the entire Federal Budget in 1970 according to the National Taxpayers Union. The projected deficit for 1986 is a hundred and eighty billion dollars. Obviously we must do something. Any President, of course, today can offer a balanced budget and Congress can, indeed, enact a balanced budget.

We, and I certainly, urge passage of this Resolution letting Congress know that the

Maine Legislature would go on record urging them to actually pass a Constitutional Amendment. The Constitutional Amendment which is suggested, would allow unbalancing of the Federal Budget in time of war, or when three-fifths of the Members of each House of Congress so agree.

Of course that is much less stringent than what we have in the State of Maine, in which we must by a two-thirds vote of each of our Houses adopt any bonds, any long term debt, and then send that proposed long-term debt out to the voters for their approval. All of that over and about the original two million dollars of debt allowed under our State Constitution.

I urge adoption of this and urge adoption of this Resolution instead of proposing a Constitutional Convention, which has been urged by some, and which has been proposed by thirty-two states. There are problems, I am assured by our Attorney General's Office, in that we could not limit the business of a Constitutional Convention to just a Federal Balanced Budget.

I urge passage of the Resolution and hope that you will vote along with me. I ask for a Roll Call.

THE PRESIDENT: A Roll Call has been requested. Under the Constitution in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of the members present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The pending question is **ADOPTION** of the Joint Resolution.

A Yes vote will be in favor of Adoption.

A No vote will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the roll.

ROLL CALL

YEAS:—Senators, Baldacci, Berube, Black, Brown, Bustin, Carpenter, Chalmers, Clark, Dow, Dutremble, Emerson, Erwin, Gauvreau, Gill, Hichens, Kany, Matthews, Pearson, Perkins, Sewall, Stover, Tuttle, Twitchell, Violette, Webster, The President—Charles P. Pray

NAYS:—None

ABSENT:—Senators, Andrews, Danton, Diamond, Shute, Trafton, Usher

29 Senators having voted in the affirmative and No Senators having voted in the negative, with 6 Senators being absent, the Joint Resolution was **ADOPTED**.

Sent down for concurrence.

COMMITTEE REPORTS

House

Ought to Pass

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Make Additional Allocations from the Federal Expenditure Fund for the Fiscal Year ending June 30, 1985" (Emergency) (H.P. 742) (L.D. 1052)

Reported that same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Which Report was **READ** and **ACCEPTED** in concurrence.

The Bill was **READ ONCE**.

The Bill **TOMORROW ASSIGNED FOR SECOND READING**.

Ought to Pass As Amended

The Committee on **UTILITIES** on Bill "An Act to Increase the Annual Public Utilities Commission Regulatory Fund Assessment and to Clarify the Current Statutes" (Emergency) (H.P. 417) (L.D. 583)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-67)**.

Comes from the House, with the Report

READ and **ACCEPTED**, and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-67)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-67) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended TOMORROW ASSIGNED FOR SECOND READING**.

SENATE

Ought Not To Pass

The following **Ought Not To Pass** report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act Relating to Odometer Readings" (S.P. 342) (L.D. 933)

Leave to Withdraw

The following **Leave to Withdraw** report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Provide Greater Discretion to the Department of Human Services in Providing Assistance to Nursing Home Residents" (S.P. 150) (L.D. 417)

Ought to Pass in New Draft

Senator **BUSTIN** for the Committee on **BUSINESS AND COMMERCE** on Bill "An Act Concerning Motor Vehicle Insurance and the Household Exclusion" (S.P. 145) (L.D. 412)

Reported that the same **Ought to Pass in New Draft** under same title (S.P. 481) (L.D. 1300)

Which Report was **READ** and **ACCEPTED**.

The Bill in **NEW DRAFT READ ONCE**.

The Bill in **NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING**.

Senator **BUSTIN** for the Committee on **BUSINESS AND COMMERCE** on Bill "An Act to Amend the Maine Consumer Credit Code" (S.P. 225) (L.D. 588)

Reported that the same **Ought to Pass in New Draft** under same title (S.P. 482) (L.D. 1301)

Which Report was **READ** and **ACCEPTED**.

The Bill in **NEW DRAFT READ ONCE**.

The Bill in **NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING**.

Divided Report

The Majority of the Committee on **BUSINESS AND COMMERCE** on Bill "An Act Concerning Licenses and Permits for Eating Establishments Engaged in the Business of Serving Seafoods" (S.P. 293) (L.D. 782)

Reported that the same **Ought Not To Pass**.

Signed:

Senator:

BUSTIN of Kennebec

Representatives:

MURRAY of Bangor

BAKER of Orrington

RYDELL of Brunswick

STEVENS of Bangor

MARTIN of Van Buren

TELOW of Lewiston

ARMSTRONG of Wilton

ALIBERTI of Lewiston

BRANNIGAN of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**.

Signed:

Senators:

DANTON of York

SEWALL of Lincoln

Representative:

HILLOCK of Orrington

Which Reports were **READ**

The Majority **OUGHT NOT TO PASS** Report was **ACCEPTED**.

Sent down for concurrence.

Divided Report

The Majority of the Committee on **BUSINESS AND COMMERCE** on Bill "An Act Relating to Additional Charges in Connection with Consumer Credit Transactions" (S.P. 72) (L.D. 168)

Reported that the same **Ought Not To Pass**.
Signed:

Sensors:

BUSTIN of Kennebec
DANTON of York

Representatives:

BRANNIGAN of Portland
MURRY of Bangor
ALIBERTI of Lewiston
STEVENS of Bangor
RYDELL of Brunswick

The Minority of the same Committee on the same subject reported that the same **Ought To Pass As Amended by Committee Amendment "A"** (S-45).

Signed:

Senator:

SEWALL of Lincoln

Representatives:

HILLOCK of Gorham
BAKER of Orrington
TELOW of Lewiston
ARMSTRONG of Wilton

Which Reports were **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator **SEWALL:** I move that we Accept the Minority Ought to Pass as Amended by Committee Amendment "A" Report.

THE PRESIDENT: The Senator from Lincoln, Senator Sewall moves the Senate Accept the Minority Ought to Pass as Amended Report.

The Chair recognizes the Senator from Kennebec, Senator Bustin

Senator **BUSTIN:** Mr. President Men and Women of the Senate, I would call your attention to both reports and hope that you move to defeat this motion. I would just like to say a few words about it. One, what they are asking you to do on that report is to charge a delinquency fee if they aren't charged the ten dollar Not Sufficient Fund fees, for an insufficient funds check on either an open end credit account or a closed end credit account.

The feeling that the majority of the Committee had was that in the first place, we have not had any such a thing as a delinquency charge on these kinds of accounts before in the history of Maine. That is number one.

Number two, I would like to quote from Rob Burgess who gave testimony, and he happens to be the Superintendent of the Bureau of Consumer Credit Protection, when he is talking about these finance charges and that you can substitute the delinquent charge for that. "What are the finance charges for?"

"Finance charges are really made up of three things: the interest rate, the risk rate and the inflation rate. The finance is designed to compensate the lender for the time value of his money, for inflation so that he gets back his money in constant dollars, and for the risk and (I repeat, for the risk) associated with extending credit in the first place.

"Increasingly, in credit transactions the notion of the finance charge compensating for the risk taking by the lender is disappearing. More and more lenders want their rate of interest, as well as, as close to a risk free loan as possible. Witness title insurance and mortgage insurance and mortgage lending. The notion of risk taking in retail credit transactions now appears to be going that same route with L.D. 168."

What Mr. Burgess is saying to you and what I am saying to you, is that when you have these credit accounts you already have built in finance charges. If, for instance, you send in a check and you for some reason or other, and it may be because you haven't checked with the bank, you haven't balanced your statement, or whatever, that Not Sufficient Funds

check comes back, the lender gets it back, and the bank, it may or may not charge them the three dollars or the entire ten dollars. I doubt that they do that because they take all of those checks in one bunch for that day for that creditor, and they do a batch kind of thing.

So what is being asked for on this bill is that you, the consumer, pay the full ten dollars and they might not have to. On top of that, that ten dollars goes onto your account, and you pay the finance charge on it, also. So, to me it is a form of double taxation. I hope you will vote against the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator **SEWALL:** Thank you Mr. President and Members of the Senate. I would direct your attention to the Committee amendment on there which says: "if the consumer is subject to a delinquency charge under section 2-502, the creditor may elect to collect either the delinquency charge or the ten dollar charge allowed under this section, but in no case may the creditor collect both charges."

We are not discussing banks, we are discussing businesses, when you pass a bad check and that is all it has to do with. It is already illegal and sometimes it raises havoc with the book-keeping of a business, particularly a small business. This would simply allow a business person to elect either the delinquency charge or a ten dollar fee, but not both.

So I would hope that you would support my position.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN:** I ask for a Division.

THE PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Acceptance of the Minority Ought to Pass as Amended Report, please rise and remain standing until counted.

The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator **SEWALL:** I request a Roll Call.

THE PRESIDENT: A Roll Call has been requested. Under the Constitution in order for the Chair to order a Roll Call it requires the affirmative vote from of at least one-fifth of the members present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The pending question before the Senate is the **ACCEPTANCE** of the **MINORITY OUGHT TO PASS** as **AMENDED** Report of the Committee.

A Yes vote will be in favor of Accepting the Minority Ought to Pass as Amended Report of the Committee.

A No will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators, Black, Emerson, Gill, Hichens, Maybury, McBreaity, Pearson, Perkins, Sewall, Stover, Twitchell, Webster

NAYS:—Senators, Baldacci, Berube, Brown, Bustin, Carpenter, Chalmers, Clark, Dow, Dutremble, Erwin, Gauvreau, Kany, Matthews, Najarian, Tuttle, Violette, The President—Charles P. Bray

ABSENT:—Senators, Andrews, Danton, Diamond, Shute, Trafton, Usher

12 Senators having voted in the affirmative, and 17 Senators having voted in the negative, with 6 Senators being absent, the motion to **ACCEPT the Minority OUGHT TO PASS** as **AMENDED** Report **FAILED**.

The Majority **OUGHT NOT TO PASS** Report was **ACCEPTED**.

Sent down for concurrence.

SECOND READERS

The Committee on **Bills in the Second**

Reading reported the following:

House As Amended

Bill "An Act to Provide for the Negotiability of Transfers, Reassignments and Promotions for Teachers" (H.P. 530) (L.D. 750) (C "A" H-61)

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, as Amended**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Senate As Amended

Bill "An Act to Make Allocations from the Public Utilities Commission Regulatory Fund for the Fiscal Years Ending June 30, 1986, and June 30, 1987" (Emergency) (S.P. 170) (L.D. 493) (C "A" S-42)

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, as Amended**.
Sent down for concurrence.

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:
An Act to Prohibit Smoking in Certain Retail Stores (H.P. 108) (L.D. 133) (C "A" H-58)

An Act to Adjust the Boundaries between House District 103 and House District 55 (H.P. 611) (L.D. 881)

An Act to Establish Eligibility for Burial in the Maine Veterans' Memorial Cemetery for Members of the Maine National Guard (H.P. 769) (L.D. 1061) (H "A" H-65)

An Act to Increase Fairness to Workers' Compensation Claimants (H.P. 864) (L.D. 1221)

Which were **PASSED TO BE ENACTED** and having been signed by the President, were presented by the Secretary to the Governor for his approval.

An Act to Provide a 10% Contingency in the School Construction Debt Service Limit (H.P. 423) (L.D. 603) (C "A" H-63)

On motion by Senator **PEARSON** of Penobscot placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

Emergency

An Act to Create a Maine Sentencing Guideline Commission (H.P. 359) (L.D. 479) (C "A" H-59)

On motion by Senator **PEARSON** of Penobscot placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

ORDERS OF THE DAY

The President laid before the Senate the Tabled and Specially Assigned matter:

An Act to Remove the Small Business Exception Regarding Medical Benefits because of Pregnancy under the Maine Human Rights Act (S.P. 51) (L.D. 69)

Tabled—April 11, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—**ENACTMENT**

(In House, April 4, 1985, **PASSED TO BE ENACTED**.)

(In Senate, March 27, 1985, **PASSED TO BE ENGROSSED**, in concurrence.)

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator **SEWALL:** Thank you, Mr. President. Members of the Senate, I move the Indefinite Postponement of this Bill and all of its accompanying papers, request a Roll Call, and would speak to my motion.

THE PRESIDENT: The Senator has the floor.

Senator **SEWALL:** Thank you. I sponsored this Bill that I am trying to kill, because I thought that it was going to be innocuous to the extent that if a small company was giving an insurance benefit to their employees, they still should provide for their female employees pregnancy coverage. Then I found out that the Bill does a lot more than that. When you get this sort of coverage it also covers: wives, children and every dependent, and every single employee would have to be buying it.

In most states the Human Rights Commission

excludes small businesses who employ under a certain number, for these kinds of cases, we've excluded under the insurance laws this coverage.

As you know, a small business or any business does not have to give insurance to its employees, (health benefits) that is something that they ought to do and all small business do it, as far as I can tell, if they can afford it. A lot of them can't.

The more we keep mandating benefits the less likely a lot of employees in the State of Maine are to ever have insurance through their companies. I have been arguing this point for some years now. In Maine there are over twenty-four thousand businesses who employ fewer than fifteen people. That is more than seventy percent, seventy-seven percent of the businesses in Maine.

By mandating another benefit, which you're doing right here, that's exactly what you're doing, you're saying to the small businessman, "here's another thing you have to do." I know, being a small business person myself, the last thing in the world that I want to do is say, "well, I'm sorry I can't give you health insurance because every time I turn around, it goes up!"

You probably looked at your paychecks this week and there was a note attached to it; we mandated some benefits. I tried to stop it but we did it! We mandated some benefits and what is it at eight point one percent? We're going to pay a little more. You remember the debate? In the debate they said, "this won't cost you any more! You can have all these extra benefits and it's not going to cost you a penny more."

Well my friends, we got our bill at eight point one percent mandated benefit. Now you're trying to mandate a benefit to small businesses; you're trying to say to those businesses starting out who wish to give health insurance, "gee I'm sorry, but if you're going to do it, we want to make sure that we cover every single aspect of health care. If that makes it too expensive, well, after all you don't have to give it, and you can let your employees do it, or you can let them be in a highly contributive form, or you can do something along those lines."

I suggest today that we give small businesses (we all talk about it in our campaigns)—but if you really want to do a favor for small businesses today you won't mandate any benefits, and you'll vote against this Bill with me. Thank you.

THE PRESIDENT: The pending motion by the Senator from Lincoln, Senator Sewall that this Bill be Indefinitely Postponed.

A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The Chair recognizes the Senator from Knox, Senator Chalmers.

Senator **CHALMERS:** Thank you, Mr. President. Ladies and Gentlemen of the Senate, I rise to speak against this motion because I did sponsor this, and this is not a mandating; this is a fairness Bill.

This is a Bill that says, "that if a small business is going to give health insurance, you've got to also give health insurance to the women employees." You don't have to give health insurance; it just says, "if you're going to give health, you've got to treat the women equally."

I think that's a fair statement, and I would urge you to oppose this motion.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator **BALDACC:** Mr. President I would

like to pose a question through the Chair.

THE PRESIDENT: The Senator may state his inquiry.

Senator **BALDACC:** Mr. President, in this bill that is being discussed here this morning, does it require that the employer has to pay for the coverage that is being mandated specifically, or can there be an arrangement between the employer and the employee to pay a share of that additional coverage?

THE PRESIDENT: The Senator from Penobscot, Senator Baldacci has posed a question through the Chair which any Senator may respond to if they so desire.

The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator **SEWALL:** In response to the question; any employee and an employer may work out any arrangement for payment they want, but you must have this specific coverage, even if all your employees are over the age of sixty.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator **BALDACC:** Mr. President, Members of the Senate, I think if an employer is going to provide health insurance or a disability insurance to his employees, you're saying that if he provides that type of insurance in that package it must also include pregnancy benefits. I think Senator Chalmers is accurate that it is fairness.

Also, I would like to point out that if an employer and employee would like to work out an arrangement for the payment of that benefit, that it is entirely possible. So it is not just thrown on the employer's back.

The third point that I would like to make is that the insurance did increase eight point one percent. I would also like to point out to the Members of the Senate without any mandated benefits two years ago, that it rose twenty-one percent. So I think to tie the increase directly to increase in mandated benefits is not totally accurate. Thank you, Mr. President.

THE PRESIDENT: A Roll Call has been ordered.

The pending question before the Senate is the motion by the Senator from Lincoln, Senator Sewall that the Bill and accompanying papers be Indefinitely Postponed.

Is the Senate ready for the question?
The Doorkeepers will secure the Chamber.
The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators, Black, Emerson, Gill, Hichens, Maybury, McBreairty, Perkins, Sewall, Stover, Twitchell, Webster

NAYS:—Senators, Baldacci, Berube, Brown, Bustin, Carpenter, Chalmers, Clark, Dow, Durtremble, Erwin, Gauvreau, Kany, Matthews, Najarian, Pearson, Tuttle, Violette, The President—Charles P. Pray

ABSENT:—Senators, Andrews, Danton, Diamond, Shute, Trafton, Usher

11 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 6 Senators being absent, the motion that the Bill and accompanying papers be **INDEFINITELY POSTPONED, FAILED.**

Which was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

The President laid before the Senate the second tabled and specially assigned matter:

Bill "An Act Concerning Persons on Partial Release from a Mental Health Institution" (Emergency) (H.P. 856) (L.D. 1213)

Tabled—April 11, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—**PASSAGE TO BE ENGROSSED** (In House, April 9, 1985, **PASSED TO BE ENGROSSED.**)

(In Senate, April 10, 1985, **READ A SECOND TIME.**)

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator **CARPENTER:** Mr. President, I present Senate Amendment "A" to L.D. 1213 and move its Adoption and would speak to my motion.

THE PRESIDENT: The Senator from Aroostook Senator Carpenter presents Senate Amendment "A" and moves it Adoption.

Senate Amendment "A" (S-47) was **READ.**

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator **CARPENTER:** Mr. President, this is what amounts to a technical amendment. The word "appropriated" was in there talking about the kinds of conditions that a judge could impose on somebody on partial release. "Appropriated conditions," we made a mistake somewhere we changed to "deemed appropriate." This is a very technical amendment. Thank you.

Senate Amendment "A" (S-47) was **ADOPTED.**

Which was **PASSED TO BE ENGROSSED AS Amended**, in **NON-CONCURRENCE.**

Sent down for concurrence.

The President laid before the Senate the Tabled and Specially Assigned matter:

An Act Concerning Eligibility to Hunt Moose (H.P. 52) (L.D. 65) (C "A" H-36)

Tabled—April 11, 1985, by Senator **VIOLETTE** of Aroostook

Pending—**ENACTMENT** (In House, April 10, 1985, **PASSED TO BE ENACTED.**)

(In Senate, April 4, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-36)** in concurrence.)

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator McBreairty.

Senator **McBREAIRTY:** Mr. President, I move that the Rules be Suspended for the purpose of Reconsideration.

THE PRESIDENT: The Senator from Aroostook, Senator McBreairty moves the rules be suspended for the purpose of Reconsideration.

The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator **MATTHEWS:** Mr. President, I request a division and I hope you all vote against the motion.

THE PRESIDENT: The Chair would advise the Senator he may not debate the motion on suspension of the rules.

The Chair recognizes the Senator from Aroostook, Senator Violette.

Senator **VIOLETTE:** I request a division.

THE PRESIDENT: A Division has been requested on Suspension of the Rules.

The Chair recognizes the Senator from Aroostook, Senator McBreairty.

Senator **McBREAIRTY:** I request a Roll Call.

THE PRESIDENT: A Roll Call has been requested. Under the Constitution in order for the Chair to order a Roll Call it required the affirmative vote of at least one-fifth of the Members present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The pending question before the Senate is the motion by the Senator from Aroostook, Senator McBreairty to **SUSPEND THE RULES.**

The Doorkeepers will secure the Chamber.
The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators, Black, Carpenter, Clark, Dow, Emerson, Erwin, Gauvreau, Gill, Kany, Maybury, McBreairty, Najarian, Pearson, Perkins, Sewall, Twitchell, Webster

NAYS:—Senators, Baldacci, Berube, Chalmers, Hichens, Matthews, Stover, Tuttle, Violette, The President—Charles P. Pray

ABSENT:—Senators, Andrews, Brown, Dan-

ton, Diamond, Dutremble, Shute, Trafton, Usher

President **PRAY** of Penobscot was granted permission to change his vote from Nay to Yea.

19 Senators having voted in the affirmative and 8 Senators having voted in the negative, with 8 Senators being absent, the motion to **SUSPEND THE RULES, PREVAILED.**

The Chair recognizes the Senator from Aroostook, Senator McBreairty.

Senator **McBREAIRTY**: Mr. President, I move the Senate Reconsider its action whereby the Bill was Passed to be Engrossed as Amended.

The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator **PEARSON**: Mr. President, is a Tabling motion in order?

THE PRESIDENT: The Chair would answer in the affirmative.

On motion by Senator **GILL** of Cumberland Tabled 1 Legislative Day, pending the motion by Senator **McBREAIRTY** of Aroostook to **RECONSIDER PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-37)** in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Violette.

Senator **VIOLETTE**: Mr. President is the Senate in possession of L.D. 1289?

THE PRESIDENT: The Chair would respond in the affirmative the Bill having been held:

BILL HELD

Bill "An Act to Require Medical Practitioners to Warn Patients of Possible Side Effects for Prescription Drugs" (H.P. 894) (L.D. 1289)

(In House, April 10, 1985, referred to the Committee on **BUSINESS AND COMMERCE** and **ORDERED PRINTED.**)

(In Senate, April 11, 1985, referred to the Committee on **BUSINESS AND COMMERCE** and **ORDERED PRINTED** in concurrence.)

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby the Bill was referred to the Committee on **BUSINESS AND COMMERCE** and **ORDERED PRINTED.**

On further motion by the same Senator, referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**, in **NON-CONCURRENCE.**

Sent down for concurrence.

Out of Order and under Suspension of the Rules by the Senate considered the following:

ENACTOR

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency

An Act Related to the Observance of Memorial Day (H.P. 777) (L.D. 1098)

This being an emergency measure and having received the affirmative vote of 25 Members of the Senate, with 2 Senators having voted in the negative, and 25 being more than two-thirds of the entire elected membership of the Senate was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

(Off Record Remarks)

Senate at Ease

The Senate called to order by the President.

On motion by Senator **CLARK** of Cumberland,

ADJOURNED until Tuesday, April 16, 1985 at 9 o'clock in the morning in memory of Franklin Delano Roosevelt.