

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eighth  
Legislature***

OF THE

STATE OF MAINE

**1978**

**Second Regular Session**

January 4, 1978 — April 6, 1978

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**Senate Confirmation Session**

June 14, 1978

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**First Special Session**

September 6, 1978 — September 15, 1978

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**Second Special Session**

October 18, 1978

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**Third Special Session**

December 6, 1978

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APPENDIX

enacted during this Session.

The Majority Report Accepted in concurrence.

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**Senate**  
**Leave to Withdraw**

Mr. Pray for the Committee on Health and Institutional Services on Bill, An Act to Provide for Continued Accreditation of Bangor Mental Health Institute. (Emergency) (S. P. 632) (L. D. 1991)

Reports that the same be granted Leave to Withdraw.

The Report was Read.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate: I would just like to take this opportunity for those of you who may have missed the news last night or in today's paper that the Bangor Mental Health Institute has received a two year unrestricted certification. Which is the fullest accreditation which an institute could receive and I would just like to take this moment to thank those individuals who last Session opposed the attempts by the Chief Executive to close down that facility.

Which Report was Accepted.  
 Sent down for concurrence.

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**Ought to Pass — As Amended**

Mr. Collins for the Committee on Judiciary on. Bill, An Act Relating to the Classification of Drug Offenses. (S. P. 676) (L. D. 2094)

Reports that the same Ought to Pass as amended by Committee Amendment "A" (S-504).

Which Report was Read and Accepted.

The Bill Read Once. Committee Amendment "A" Read.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President and Members of the Senate: I note that possession of heroin is moved from a Class D to a Class C Crime and I wonder, I just wonder if somebody might just give us the basis for changing the mere possession of heroin from Class D to Class C.

The PRESIDENT: The Senator from Cumberland, Senator Hewes, has posed a question through the Chair to any Member of the Judiciary Committee who may care to answer.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, it has been the policy of the legislature in general in dealing with drugs to treat the user, the addict less severely than the pusher, the trafficker, the person marketing the product and making a profit. And this was the reason that originally heroin was a Class D status for mere possession. Of course the penalties for pushing are much more severe, some of the severest penalties in the nation.

But for two years the officials in the State who deal with drug traffic have been urging us to lift the penalties on some of the more troublesome substances. The original Bill submitted to us would have raised penalties on quite a number of narcotics the Committee pruned the Bill, considerably. Part of the Bill we pruned on fraudulent substances because the opinion furnished by the legal expertise was that it was already covered under existing Laws. Some of the other substances were left out because there was no evidence brought to us that they were a real problem. The reason for boosting heroin in particular was that there have been a number of arrests for heroin possession and the undercover works, particularly, were persuasive in explaining to us that having the Crime, a penalty higher would give them more leverage in finding out sources and in bargaining with these users so as to get them to lead them to further evidence and I think that is really probably the only justification that you could make for picking out these three items.

The other thing that influenced us I think was the testimony of Doctor Young of Bangor a State Chemist who probably has to handle more drugs in analysis for court work than anyone else and he spoke about the particular high instances of PCP, sometimes called angel dust and this is an extremely dangerous substance and an awfully lot of kids are getting it and sometimes getting it when they do not really know that that is what they are getting. This is one of the great horrors in the drug traffic that so many of these substances have been adulterated and mixed and a youngerster who has no experience and no chemical facility, of course, to analyze is in very great danger of even death in some cases.

So these three were selected as being the ones that were troublesome. The whole schedule was originally adopted after very careful study and it was the feeling of the Committee that we ought not to change the schedule unless there was evidence brought in that there was increasing use and we saw a way in which we felt that we could really help enforcement by moving up the penalty.

Committee Amendment "A" Adopted.

This Bill, as amended, Tomorrow Assigned for Second Reading.

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**Enactors**

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

An Act to Provide Funding for Programs to Aid School Administrative Units to Identify and Provide Special Educational Programs for Gifted and Talented Children. (H. P. 1934) (L. D. 2005)

On Motion of Mr. Huber of Cumberland, placed on the Special Appropriations Table.

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**Emergency**

An Act Clarifying the Statutes Relating to Municipalities. (H. P. 1921) (L. D. 1982)

This being an emergency measure and having received the affirmative votes of 27 Members of the Senate, this Bill was Passed to be Enacted and having been signed by the President was by the Secretary presented to the Governor for his approval.

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**Emergency**

An Act Relating to the Funding of Education. (H. P. 1943) (L. D. 2022)

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, with reference to the L. D. 2022 the Education Funding Act of 1978. I want to commend the Committee on Education, the Members here in the Senate, particularly the Chairman of that Committee, Senator Katz, for the work that they have done on this particular piece of Legislation.

I think that Committee has kept faith with the vote that was cast on December 5th by the people of the State of Maine. And as a result of that vote, the Chief Executive of this State who had advocated the repeal of the Uniform Property Tax presented to this Legislature, a piece of Legislation that substantially you see before you on your desk this afternoon, and it was that piece of Legislation that the Education Committee worked on and molded and presented for our consideration and which we have for enactment this afternoon.

One major feature of the Bill that we have before us tonight, is the fact that there is a level of funding attached to it which will make this Bill a deficit proof Bill for educational funding for the coming year. This Bill is funded to the maximum exposure of the State of Maine. Now the good Senator from Kennebec, Senator Katz, made the point a number of times as this Bill has been going through the Legislative Process, that we do not expect that the full amount appropriated under this piece of Legislation will actually be utilized. There are a number of local contingencies that may or may not be exercised depending upon the

local decision and if they are not exercised there will be a surplus in the particular Bill that you see before you this afternoon. But it is the responsible approach to this Legislation to be taken to enact Legislation on the basis of the possibility that every contingency will be acted upon at the local level, and that if it is acted upon, if all those contingencies are voted by the local level that the funds will actually be appropriated and actually be available on the part of the state to meet those various contingencies.

Education Funding has contributed in the past to the surplus that we see in the general fund today and over the past two years, there has been perhaps \$10 million which has lapsed from the Education Funding back into the general fund.

In the past also, however, we have seen Legislation enacted that has not fully funded for every contingency on the local level and because the localities have chosen to exercise those options to a further extent than was anticipated by the Legislature in enacting past legislation, we have seen, give and rise, a number of educational deficits and those deficits in turn have given rise to increase in taxation on the people of the State of Maine.

And for that reason, I feel that the Education Committee has been very responsible in taking the approach that it has taken and in insisting that we fully fund to the maximum exposure possible that could be presented to the State of Maine. It is far better to end up with surpluses in education financing than to be faced with the possibility of deficits which can result in tax increases in the future.

Mr. President, I move the enactment of this piece of Legislation.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I believe that this is a such a significant piece of Legislation on the enactment, I request that it be done by Roll Call.

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call please rise in their places to be counted.

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

The pending question before the Senate is the Enactment of L. D. 2022, An Act Relating to the Funding of Education.

A yes vote will be in favor of Enactment.

A nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

YEA — Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Huber, Katz, Levine, Lovell, Mangan, Martin, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Wyman and Sewall.

YEA — Hichens and McNally.

ABSENT — Jackson and Usher.

29 Senators having voted in the affirmative and 2 Senators in the negative, with 2 Senators being absent, this Bill was Passed to be Enacted having been signed by the president.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, in moving for reconsideration of our action just taken, I would like to point out a couple of things of a personal note.

In the first place, I sincerely hope that this Senate does not see this Bill back here again this Session. I want to call it to the Senate's attention, that every single Amendment that has been offered to this Bill in both Houses of the Legislature has been defeated and in every case, the Committee on Education in opposing these Amendments was supporting specific positions of the Governor. This is the first time a Bill has gotten through both Houses on school

finance without any House or Senate Amendment, and the Governor's position has been upheld in every case where an Amendment has been proposed.

I then would only like to thank the Leadership of this Legislature and Members of the Senate in particular for the support and extremely trying time. I think that we have lived up to our responsibilities to the people of the State of Maine in reflecting their will in the referendum and although I would be the first one to suggest that this Bill is not school funding of my choosing, it is a good Bill, it is a honest Bill and the people of the State can make it work for the advantage of our children.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, having voted on the prevailing side, I move that the Senate reconsider its action whereby this Bill was Passed to be Enacted.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate reconsider its action whereby this Bill was Passed to be Enacted.

Will all those Senators in favor of reconsideration please say yes.

Will all those opposed please say no.

A viva voce vote being had, the Motion to reconsider does not prevail.

Which was by the Secretary presented to Governor for his approval.

#### Emergency

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Knox County for the Year 1978. (H. P. 2121) (L. D. 2149)

#### Emergency

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Waldo County for the Year 1978. (H. P. 2120) (L. D. 2148)

These being emergency measures and having received the affirmative votes of 27 Members of the Senate, these Resolves are Finally Passed and having been signed by the President, were by the Secretary, presented to the Governor for his approval.

#### Orders of the Day

The President laid before the Senate: Bill, "An Act Concerning the Charter of the Guilford-Sangerville Water District." (Emergency) (H. P. 2161) (L. D. 2170)

Tabled — Earlier in the day by Senator Speers of Kennebec

Pending — Motion of Senator Pray of Penobscot that Bill be given its First Reading.

Under suspension of the Rules, this Bill given its First Reading and Tomorrow Assigned for Second Reading.

The President laid before the Senate:

Bill, "An Act to Ensure the Safety of Minors Taking Canoe Trips while Attending Summer Camp." (Emergency) (S. P. 630) (L. D. 1989)

Tabled — Earlier in the day by Senator Speers of Kennebec

Pending — Passage to be Engorssed

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Redmond.

Mr. REDMOND: Mr. President, under suspension of the rules, I move reconsideration of Committee Amendment "A."

The PRESIDENT: The Senator from Somerset, Senator Redmond, now moves that the Senate reconsider its action whereby it Adopted Committee Amendment "A." Is it the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. REDMOND: Mr. President, I now offer Senate Amendment "A" to Committee Amendment "A" and I move its Adoption.

The PRESIDENT: The Senator from Somerset, Senator Redmond, now offers Senate Amendment "A" to Committee Amendment "A" and moves its Adoption. The Secretary will read Senate Amendment "A."

Senate Amendment "A" (S-496) Read and

Adopted. Committee Amendment "A," as amended, Adopted.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President, I move that L. D. 1989 be indefinitely postponed and I would like to speak to my Motion.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky has the Floor.

Mr. TROTZKY: Mr. President and Members of the Senate: As I said earlier that safety on canoe trips depends on counselors, Trip Leaders who have maturity and good judgement and should be left in the hands of Maine camp directors who have a good safety record. There are thousands and thousands of canoe trips taken all over the State throughout the many, many past summers and as I said, they have a good safety record. I do not believe a judgment can be written into certification procedures or Legislative requirements. The first question on any canoe trip is whether to launch the canoe and I think experience determines that, not courses offered by the Department.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate: Just to echo the remarks of the Senator from Penobscot, Senator Trotzky, he stated that the safety of the children should be left in the hands of the Maine Camp Directors. It was the Maine Camp Directors who wrote this Amendment.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: Mr. President, I would like to commend the good Senator from Somerset, Senator Redmond, for all the effort he put in on this Bill and I think that perhaps there are a lot of questions that remain unanswered.

One of them is an allegation made in the Sunday Maine Telegram about those who are six in number even going to the movies or such, I can assure you Mr. President and Members of the Senate, there is nothing of that in this Bill. In this Bill under section 2052, it just straightens out the language on a Junior Maine Guide Curriculum Board. It changes the Board from five down for four. I wish that they had left it at five. However, I must say that in their wisdom, I believe that the Majority of the Committee on Fisheries and Wildlife which the Senator heads up had their reasons, I shall not argue that.

But section 2054 is the meat of this whole Bill and I would like to explain it and it applies only to boys and girls summer camps located in Maine and those that are duly licensed by the Department of Human Services and located in another State. It does not apply to those who are not duly licensed that come in here from out of State. That is an oversight, but I can live with that, because the Committee has made some tremendous stride but I think there is a part in here that may confuse someone as to how to get these permits.

Now the Amendment which the good Senator just presented and has been adopted to the Committee Amendment provides that they will not be restricted in any way from what they are at the present time. And now the Maine Camp Directors Association has some very good programs and there is no problem with that. I believe that they have an idea of what we would like to see in rules and regulations that these persons who will have Trip Leaders Permits will have in these courses will be given right at the Maine Camp Directors campground. Nowhere else. They do not have to come from Presque Isle to Augusta for certification. Once the program is approved by this Board all they have to do is when they send in for the Trip Leaders Permit, is a statement from the camp director of that camp saying that this person is qualified under our program and that that is program accepted by the Board.

Now we are not establishing a new Board. A new Board is already in place. We are cutting it

from five down to four under this Bill, so there is no added expense. I think that is important. However, there may be some question about the Maine Junior Guide Trip Leader's Curriculum Board. However, we will find that we have Maine Guides who are not as qualified as those who are Junior Maine Guides and under the Junior Maine Guide section anyone that can pass a certain test between the years of 14 and 18 can be a Junior Maine Guide and his qualifications are more qualified than those of a regular Maine Guide. Now it is not necessary that this person pass a Junior Maine Guide test. All he has to do is pass a program that he is going to be working on all this summer and he as a camp counselor is for a fee of \$5 given a permit to be a camp counselor and through this summer he will if he is interested in the next year be a certified trip leader, can go through whatever the camp directors think is the proper curriculum and the next year be a certified trip leader. There are no more restrictions being added. It is not that complicated. It is giving the camp more incentive to train their personnel so they will save the lives of these boys. They will be more acquainted with the woods and waters of this State.

So I hope that you will not go along with the Motion to indefinitely postpone. I think that the good Senator from Somerset, Senator Redmond, has done an admirable job with the Bill. It is a difficult question I know, instead of giving the whole loaf of bread the other day, I got three slices, I am satisfied. Thank you.

The PRESIDENT: Is the Senate ready for the question? The Chair will order a Division.

The pending motion before the Senate is the Motion by the Senator from Penobscot, Senator Trotzky, that L. D. 1989 and all its accompanying papers be indefinitely postponed.

Will all those Senators in favor of Indefinite Postponement please rise in their places to be counted.

Will all those opposed please rise in their places to be counted.

The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: I request a Roll Call.

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one fifth of those Senators present and voting.

Will all those Senators in favor of a Roll Call please rise in their places to be counted.

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

The Chair recognizes the Senator from Penobscot, Senator Cummings.

Mrs. CUMMINGS: Mr. President and Members of the Senate: As a parent I think that it is in my jurisdiction to speak that I know that many a parent when they are sending their children off to another State to camp to some place that they are not going to be in charge, that they look very carefully into the qualifications of the people who are going to be in charge of their children during the summer. It is impossible for them to know the actual experience of the counselors or the Leaders, and what I am afraid of this Bill is that it will give in the minds of the parents the false sense of security. They will think that because a camp can say that your child is going to be led into the woods, he or she is going to be led in canoes and rivers and waters by someone who has been licensed by the State as being competent that they will take that as meaning that the person is truly competent. In my mind competence cannot be tested and it cannot be learned from a book. It is something that is learned by experience and I really think that this has hidden dangers in it that more than offset any of the safety precautions that are supposed to happen.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate: Yesterday I read into the record