

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Ninth  
Legislature***

OF THE

STATE OF MAINE

**Volume II**

**First Regular Session**

May 7, 1979 to June 15, 1979

INDEX

**First Confirmation Session**

August 3, 1979

INDEX

**First Special Session**

October 4-5, 1979

INDEX

**Second Special Session**

October 10-11, 1979

INDEX

**Second Confirmation Session**

December 7, 1979

INDEX

Senator HUBER: Mr. President and Members of the Senate: I would like to call the Senate's attention to L. D. 1673, which is the Part II Budget.

The Part II Budget traditionally is new or expanded services. This bill contains very few new and in fact, very few expanded services. It is primarily funding of existing programs, required by inflation, by prior constraint and by other causes.

I hope the Senate would give the First Reading today. I hope the various parties will discuss it in caucus, and we can proceed on a more informed basis in the very near future.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Silverman.

Senator SILVERMAN: Thank you, Mr. President. Mr. President and Members of the Senate: As we look at Part II of the Supplemental Budget, and from past experiences over the last 4 years I would like to bring to the attention of the Appropriations Committee that one of our major areas of under-funding has been the energy used by our institutions. In other words as the cost of oil goes up, their costs go up also, quite large now. What has the Appropriations Committee done to anticipate the rising cost of fuel for these institutions?

The PRESIDENT: The Senator from Washington, Senator Silverman, has posed the question through the Chair to any member of the Appropriations Committee who may care to answer.

The Ought to Pass, in New Draft Report accepted. The Bill, in New Draft, Read Once, and Tomorrow Assigned for Second Reading.

#### Second Readers

The Committee on Bills in the Second Reading reported the following:

##### Senate

Bill, "An Act Relating to Requirements for Discharge into Class A Waters." (S. P. 566) (L. D. 1629)

Bill, "An Act Concerning Revisions in the Maine Juvenile Code and Maine Criminal Code." (S. P. 592) (L. D. 1661)

Bill, "An Act to Revise the Physical Therapist Practice Act." (S. P. 593) (L. D. 1664)

Which were Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

##### Senate — As Amended

Bill, "An Act Relating to Nonprofit Hospital or Medical Service Organizations." (S. P. 357) (L. D. 1105)

Bill, "An Act Relating to the Licensing of Auctioneers." (S. P. 430) (L. D. 1379)

Bill, "An Act to Provide for the Registration and Protection of Trademarks." (S. P. 43) (L. D. 29)

RESOLVE, to Reimburse Norman M. Curtis for Financial Loss Due to a Legislative Oversight." (S. P. 412) (L. D. 1268)

Bill, "An Act Concerning the State Claims Board." (S. P. 418) (L. D. 1290)

Bill, "An Act to Indemnify Motor Vehicle Dealers for Legal Expenses Against the Manufacturer." (S. P. 544) (L. D. 1610)

Bill, "An Act to Conform Land Use Regulation in the Unorganized Territory to Statewide Standards." (S. P. 415) (L. D. 1289)

Which were Read a Second Time and Passed to be Engrossed, as amended.

Sent down for concurrence.

Bill, "An Act to Grant the Public Utilities Commission Jurisdiction to Review Adjustments under the Fuel Adjustment Clause." (Emergency) (S. P. 507) (L. D. 1567)

Which was Read a Second Time.

On motion by Senator Pierce of Kennebec, the Senate voted to reconsider its action whereby it adopted Committee Amendment "A".

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

Senator PIERCE: Mr. President, I would

now present Senate Amendment "A" to Committee Amendment "A" under Filing Number S-307 and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now offers Senate Amendment "A" to Committee Amendment "A" and moves its adoption.

Senate Amendment "A" (S-307) Read.

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

Senator O'LEARY: Mr. President, I would like it if the good Senator from Kennebec, Senator Pierce would explain just what this amendment does?

The PRESIDENT: The Senator from Oxford, Senator O'Leary, has posed a question through the Chair.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President and Members of the Senate: The amendment before you actually is present law. When we adopted the rest of the bill, the proofreaders found that this sentence was left out by mistake and there's no change in the present law whatsoever.

Senate Amendment "A" Adopted. Committee Amendment "A", as amended, adopted in non-concurrence. The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Bill, "An Act Relating to the Reporting of Illegal Use and Trafficking of Drugs in Maine Schools." (S. P. 469) (L. D. 1417)

Which was Read a Second Time.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President, this bill encourages school personnel to report use or trafficking of drugs on school property. Grants them civil immunity if they do this.

My concern with this is that it is so broadly drawn that I'm afraid it will be very difficult to enforce. That it will become a counter incentive, rather than an incentive. I think that the word drugs has to be defined to get it narrowed down to the classified drugs that are in the criminal code.

The other thing that concerns me is that if we have teachers getting into the permanent records of the children, their suspicions of the passing of drugs, the parents may never know about it. Yet it may become a permanent record, and damage the child in years to come. I think there could be a time limit for notification of parents or some other restraint in this respect.

I have discussed this briefly with members of the Education Committee, with staff of that committee. I understand that staff are working on an amendment. It may be possible that it can be amended so that I could accept it, but in the present posture I think it would be rather a problem and I would not vote for it. So I would urge that it either be tabled or that you vote against it.

On Motion by Senator Trotzky, Tabled for 1 Legislative Day, pending Passage to be Engrossed.

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

Senator PIERCE: Mr. President, in regards to L. D. 1567, I now move we reconsider our action whereby this Bill was Passed to be Engrossed.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, moves the Senate reconsider its action whereby Bill, "An Act to Grant the Public Utilities Commission Jurisdiction to Review Adjustments under the Fuel Adjustment Clause" (Emergency) (S. P. 507) (L. D. 1567) was Passed to be Engrossed.

On Motion by Senator Katz of Kennebec, Tabled for 1 Legislative Day, pending the Motion by Senator Pierce of Kennebec.

#### Enactors

The Committee on Engrossed Bills reported

as truly and strictly engrossed the following:

An Act to Amend the Standard Nonforfeiture Law. (H. P. 726) (L. D. 913)

An Act Concerning Licenses Issued by the Department of Inland Fisheries and Wildlife. (H. P. 270) (L. D. 344)

An Act to Clarify and Amend the Investment Provisions of the Maine Insurance Code. (H. P. 621) (L. D. 778)

An Act Providing for the Consideration of Solar Energy Requirements in Comprehensive Plans. (H. P. 800) (L. D. 996)

An Act to Authorize the Bureau of Public Lands to Lease Lands in the Intertidal Zone Adjacent to Permanent Structures. (H. P. 842) (L. D. 1044)

An Act to Provide for the Issuance of a Warning for Operating an Unregistered Motor Vehicle within one Month of the Expiration of Registration. (H. P. 858) (L. D. 1058)

An Act to Enable Consolidation of the State Water Discharge Licensing Program and the Federal National Pollutant Discharge Elimination System Permit Program. (H. P. 864) (L. D. 1071)

An Act to Facilitate Absentee Voting in Foreign Jurisdictions. (H. P. 905) (L. D. 1126)

An Act Relating to Withdrawal Penalties under the Tree Growth Tax Law. (H. P. 1003) (L. D. 1237)

An Act to Permit the Consideration of Solar Access Issues when Approving any Subdivision. (H. P. 1238) (L. D. 1491)

An Act to Require Disclosure of Certain Information to Prospective Purchasers of Life Insurance. (H. P. 1276) (L. D. 1555)

An Act to Permit Performing Arts Centers to Serve Alcoholic Beverages. (H. P. 252) (L. D. 297)

An Act to Strengthen the Procedures for Prosecuting Operating Under the Influence Cases and Strengthen the Penalties for First Offenses. (H. P. 934) (L. D. 1166)

An Act to Improve the Administration of the Second Injury Fund under the Workers' Compensation Laws. (H. P. 1260) (L. D. 1521)

An Act to Redefine the Term "Political Committee" Under the Election Laws. (H. P. 1332) (L. D. 1579)

An Act Relating to State Agency Purchase of Products of Maine Farms and Fisheries. (H. P. 1436) (L. D. 1638)

An Act to Clarify Equivalent Instruction as an Alternative to Compulsory Education. (H. P. 1440) (L. D. 1642)

An Act to Regulate the Distribution, Labeling and Sale of Plant and Soil Amendments. (H. P. 1441) (L. D. 1643)

An Act Concerning the Saco River Corridor Commission. (H. P. 797) (L. D. 967)

An Act to Clarify the Requirements Relating to Campaign Reports and Finances. (H. P. 1050) (L. D. 1301)

An Act to Strengthen the State's Capability to Assess Maine's Forest Resources. (H. P. 1317) (L. D. 1571)

Which were Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

An Act to Establish A Marijuana Therapeutic Research Program. (H. P. 523) (L. D. 665)

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

Senator GILL: Thank you, Mr. President. I don't want to talk too long on this item, but I just can't let it go by. It's at the last stages. If nothing else, I want to say I told you so. I want it to be on Record that I'm telling you so, that in the future 2 years, 4 years down the road we're going to come back in here. Someone's going to come back with amendments to amend this piece of legislation, which I consider very permissive legislation.

It was expanded to include many areas of health that I consider not really serious. Having been involved in the drug business in

the past, we have had what we've used as placebos which doctors have prescribed to different people. They're nothing. They're a capsule with nothing in them. The psychological effect of these placebos really does help a lot of people. The doctors are surprised at this and yet they continue to prescribe it. The people seem to get some relief out of nothing that they are taking.

I maintain that that is about what we're doing here. The marijuana is not going to help that many people. What we're going to do is put on the books a way for people to get at this and expand it. I just can't let it go by, I would feel remiss in my duties if I just let this go by. So I would ask that a Division be taken on this.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Thank you, Mr. President. Mr. President and Members of the Senate: Sharing completely the thoughts expressed by the good Senator from Cumberland, I make a motion for this bill to be indefinitely postponed. I would ask for a Roll Call.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell.

Senator LOVELL: Mr. President and Ladies and Gentlemen of the Senate: I think I've debated this bill 3 or 4 times. Speaking of placebos, I have the gout and I don't think a placebo is going to do any good for the gout. The pain is very serious. The pain in the aftermath of the cancer treatment, and saving possibly the eyesight from glaucoma to me is very, very important.

I just ask the Senate to stick by their last vote. I could go into a great deal more. This is only going to last 2 years, not 4 years, just a 2 year program.

It's strict as can be. The doctor has got to have every kind of a qualification. The pharmacist has got to have every kind of a qualification, and the prescription has got to be written and rechecked and checked. Many doctors won't even bother with it, unless they've got a cancer patient or somebody with glaucoma. So I would urge you to defeat the Indefinite Postponement, and request a Roll Call.

The PRESIDENT: Is the Senate Ready for the question?

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 Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, I would just echo the words of the good Senator from York, Senator Lovell. We've had I think 4 or 5 Roll Calls on this issue. I think the medical evidence, the research that's been done indicates that this is not a placebo type measure. I concur wholeheartedly with my friend, the Senator from Cumberland, Senator Gill, that there undoubtedly will be amendments to this statute if it becomes law, offered to the next session of the Legislature. I think that's fine. That's the Democratic Process.

Let's take those amendments one by one, based on the medical evidence. If the next one that comes along has as much problem getting through here as this one has, I don't think we're really opening that door too wide. But we can, as admitted by one of the opponents to the bill, we can help some people, relieve some suffering. If you have any doubts, I suggest you read the front page of today's Boston Globe. Thank you very much.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, Amen!

The PRESIDENT: The pending question

before the Senate is the Motion by the Senator from York, Senator Hichens, that L. D. 665 be Indefinitely Postponed.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

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

#### ROLL CALL

YEA — Devoe, Gill, Hichens, Silverman.  
NAY — Carpenter, Chapman, Clark, Collins, Conley, Cote, Emerson, Huber, Katz, Lovell, McBreairey, Minkowsky, O'Leary, Perkins, Pierce, Pray, Redmond, Shute, Sutton, Teague, Trafton, Trotzky, Usher.

ABSENT — Ault, Danton, Farley, Martin, Najarian.

A Roll Call was had.

4 Senators having voted in the affirmative, and 23 Senators in the negative, with 5 Senators being absent, the Motion to Indefinitely Postpone does not Prevail.

Which was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

**RESOLVE**, Relating to a Report on a Single Source for Funding of and Reporting by Residential Programs for Youth. (H. P. 951) (L. D. 1220)

Which was Finally Passed and having been signed by the President, was by the Secretary presented to the Governor for his approval.

#### Emergency

An Act Extending the Time for the Appointment of County Taxes to June in the Year 1979. (H. P. 1473) (L. D. 1660)

#### Emergency

An Act Creating a State of Maine Trustees Advisory Board. (H. P. 1404) (L. D. 1617)

These being emergency measures and having received the affirmative votes of 25 members of the Senate, were Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

#### Emergency

An Act to Regulate Commercial Whitewater Outfitters. (S. P. 348) (L. D. 1094)

Comes from the House, Failed of Final Enactment.

On Motion by Senator Redmond of Somerset, the Senate voted to Suspend the Rules.

On Motion by Senator Redmond of Somerset, the Senate voted to Reconsider its action whereby the Bill was Passed to be Engrossed.

On Motion by Senator Redmond of Somerset, the Senate voted to reconsider its action whereby it adopted Committee Amendment "A".

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

Senator REDMOND: I now present Senate Amendment "C" to Committee Amendment "A" and move its Adoption.

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

Senate Amendment "C" (S-308) Read.

The PRESIDENT: The Senator has the floor.

Senator REDMOND: What this amendment does, it removes the Emergency Clause that was on the bill, it also explains the specifications of what a bateau is. It removes also the dories. It explains the specifications on the bateau because they should be 28 feet from stern stem to bow stem.

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

Senator PRAY: Mr. President and Members of the Senate: I move the Indefinite Postponement of this amendment.

The PRESIDENT: The Senator from Penobscot, Senator Pray, moves that Senate Amend-

ment "C" be Indefinitely Postponed.

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

Senator REDMOND: Mr. President, I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President and Members of the Senate: I have tried to stay as far away from this piece of Legislation as possible, I think you're all well aware, seeing some material that came across your desk last week. It is my understanding that this amendment being offered by the Senator from Somerset, Senator Redmond, we completely eliminate one business that presently exists and that is the dory business running down the Kennebec River.

Now I have my own personal feelings about dories, and rafting and whatnot, I have been rafting down the Penobscot, it's a great sport and I think it's something that's come to Maine and is going to be here for a long, long time.

The Legislation that we have before us is basically safety Legislation. I would really question as to the intent. It is my understanding that the bill was put into Legislative Session for the purpose of providing safety for those individuals who either went down the white waters of the Kennebec and Penobscot and other rivers in Maine in rafting, running it by bateau or running it by dories, all three being done commercially.

The amendment before us completely eliminates dories, and the intent of the amendment is to basically outlaw them. As I stated there is presently a business that runs down in the West Forks Country down the Kennebec. This bill would eliminate them from being able to run next year. I don't know if this is really the way we want to try to outlaw a particular business, and I think that is the intent of the amendment, thus I would hope that you would go along with my Motion to Indefinitely Postpone.

The PRESIDENT: Is the Senate ready for the question? A Division has been requested.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Mr. President and Members of the Senate: The dories, as far as I know, are used by one of the outfitters that is located at "The Forks," which is in my district. We are excluding the dories from licensing under the Commercial Whitewater Outfitters, because the dories are a short bateau like type of equipment and the people in my area, and the people in the area that I serve feel that they should not be licensed as Commercial Whitewater Outfitters because they are too small.

Last summer there was a drowning in the Kennebec River with one of those dories. So this is the reason why we are leaving them out of the whitewater outfitters and that outfit that uses the dories, also uses the other rafts and if he wants to continue, he can get licensed just like the others and use his rafts. If he wants to use another type of bateau, he would have to use the original, traditional River Driver Bateau that is authentic. I can't see anything wrong with that. It seems that is only the right thing to do.

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

Senator PRAY: Mr. President and Members of the Senate: It's my understanding that the bill is to require individuals to be qualified to run. If we specify those individuals who have been qualified as to bateaus, commercially qualified bateaus 28 feet or larger, or rafts, then I would wonder, or ponder the thought as to whether or not if an individual that was running dories would have to be licensed. Thus they wouldn't have to meet the specifications and the safety standards that we're providing for these other modes of transportation which I think are far safer than dories. If you go down a