

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

1978

Second Regular Session

January 4, 1978 — April 6, 1978

INDEX

Senate Confirmation Session

June 14, 1978

INDEX

First Special Session

September 6, 1978 — September 15, 1978

INDEX

Second Special Session

October 18, 1978

INDEX

Third Special Session

December 6, 1978

INDEX

APPENDIX

HOUSE

Tuesday, January 17, 1978

The House met according to adjournment and was called to order by the Speaker.

Prayer by Father Leopold Huof of St. Francis Xavier Church, Winthrop.

FATHER HUOT: Heavenly Father, we pause at the beginning of our workday to get in touch with you and to ask your blessings for our activity. We praise you and we thank you for your help in the past; we also believe in your constant presence in our daily lives. With this in mind, we pray for the wisdom to legislate with the real needs of our fellow citizens before our eyes. May we make each law with the intent of being the first one to obey it; thus, we will be giving life to the Golden Rule by living it ourselves and translating it into action.

Heavenly Father, hear our prayer through Jesus Christ your son, Our Lord, who lives and reigns with you in the unity of the Holy Spirit as one God forever and ever. Amen.

The journal of yesterday was read and approved.

Message and Communications

The following Communication:
STATE OF MAINE
DEPARTMENT OF
EDUCATIONAL AND CULTURAL
SERVICES

AUGUSTA, MAINE 04330

January 13, 1978

TO: Members of the 108th Legislature Bureau of the Budget

FROM: H. Sawin Millett, Jr., Commissioner
SUBJECT: Actual Education Costs for Base Year 1976-77

Pursuant to the provisions of 20 M. R. S. A. 3744, I forward herewith notification of the "actual education costs" as defined in subsection 13 of 20 M. R. S. A. 3743 for the base year 1976-77.

- A. Elementary operating costs \$141,072,840
- B. Secondary operating costs 87,288,743
- C. Costs of special education programs operated by administrative units 87,288,743
- D. Costs of special education tuition and board, excluding medical costs 2,965,996
 - (1) Tuition and board for pupils placed by administrative units 2,919,379
 - (2) Tuition and board for State wards and direct State placements 46,617
 - (3) Adjustments under section 3748, subsection 3, paragraph H N/A
- E. Costs of vocational education programs 6,574,306

- F. Transportation costs
 - (1) Operating costs 16,390,728
 - (2) Purchase of buses 2,713,391
- G. Debt service costs 24,889,193
- H. Major capital costs 3,593,825
- I. Costs of unusual enrollment adjustments 600,000

Actual Education Costs for Base Year 1976-77 (continued) January 13, 1978

- J. Cost of geographic isolation adjustments \$285,639
- J-1. Cost of small unit adjustment (No statutory provision for 1976-77) N/A
- K. Costs of reimbursement for private school transportation 165,386
- L. State expenditures for paragraphs C-K for 1976-77 (includes portion from Uniform Property Tax)

- (1) Special education costs for programs operated by the administrative units 7,070,102
- (2) Special education tuition and board, excluding medical costs 2,650,654
- (3) Vocational education costs 5,176,891
- (4) Transportation costs
 - a. Operating costs (prorated at 90%) 13,303,495
 - b. Purchase of buses 1,828,782
- (5) Debt service costs 24,889,194
- a. Principal & interest

- b. Insured value factor 283,324
- c. Leases 384,242
- (6) Major capital costs 433,589
- (7) Costs of unusual enrollment adjustments (prorated @ 99.5241%) 600,000
- (8) Costs of geographic isolation adjustments 285,639
- (9) Costs of reimbursement for private school transportation 165,386

M. Audit adjustments (No statutory provision for 1976-77) N/A

- N. Optional local appropriations with state participation
 - (1) Local share 13,577,030
 - (2) State share 5,223,239
- O. Optional local funds without state participation 14,220,102

The above figures include all adjustments in expenditure reports through December 12, 1977 and include state and local monies only except that P. L. 874 funds are included.

NOTE: The sum of items A to H represent the total expenditures for the base year while items I to O are duplicative.

The Communication was read and ordered placed on file.

The following Communication:

PAULA H. ELKINS
ATTORNEY AT LAW
291 OCEAN HOUSE ROAD
CAPE ELIZABETH, MAINE

January 12, 1978

Clerk
House of Representatives
State of Maine
Augusta, Maine 04330

Dear Sir:

Please accept the 1977 Report of the Correctional Advisory Commission for general distribution to the membership and for inclusion into the record of proceedings.

(Signed)

Yours very truly,
PAULA H. ELKINS, CHAIRMAN
Correctional Advisory Comm.

The Communication was read and with accompanying papers ordered placed on file.

Orders

An Expression of Legislative Sentiment (H. P. 2001) recognizing that: Edward Little High School of Auburn has won the State Class A Football Championship for the 1977 academic year

Presented by Mrs. Trafton of Auburn (Cosponsor: Mr. Hughes of Auburn, Mr. Torry of Poland, Mr. Green of Auburn)

The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 2002) recognizing that: David Cunningham of Freeport has been presented with the Amvet of the Year Award for 1977

Presented by Ms. Clark of Freeport.
The Order was read and passed and sent up for concurrence.

A Joint Resolution (H. P. 2003) in memory of the death of Bernard Langlais of Cushing, fondly remembered as "Blackie", who was widely admired as one of Maine's finest sculptors

Presented by Mrs. Post of Owls Head.
The Resolution was read and adopted and sent up for concurrence.

On motion of Mr. Carey of Waterville, the following Joint Order: (H. P. 2004) (Cosponsor: Mr. Curran of South Portland)

Whereas, at the present time, many Maine communities are undertaking housing and community development projects involving housing and urban development and other federal agency funding; and

Whereas, there are approximately 80 different state agencies in the area of housing and

community development; and

Whereas, the lack of coordination among these agencies presents problems in providing effective and efficient state assistance in this area; now, therefore, be it

Ordered, the Senate concurring, that the Joint Standing Committee on State Government shall study the feasibility of establishing a State Department of Housing and Community Development to include those agencies currently involved in providing services and financial assistance in the areas of housing and community development and to study any other alternative means of reorganizing those agencies; and be it further

Ordered, that those agencies directly affected by the study shall provide to the Joint Standing Committee on State Government staff assistance necessary to complete this study; and be it further

Ordered, that the committee shall complete this study no later than December 1, 1978, and submit to the Legislative Council within the same time period its findings and recommendations, including copies of any recommended legislation in final draft form; and be it further

Ordered, upon passage in concurrence, that a suitable copy of this Order shall be forwarded to the members of the committee.

The Order was read and passed and sent up for concurrence.

On motion of Mr. Nadeau of Sanford, it was ORDERED, that Elmont Tyndale of Kennebunkport be excused for the duration of his illness.

AND BE IT FURTHER ORDERED, that James Silsby of Ellsworth be excused January 19th and 20th for personal reasons.

AND BE IT FURTHER ORDERED, that Lena Durgin of Kittery be excused January 17th and 18th for personal reasons.

House Reports of Committees
Leave to Withdraw

Mr. McHenry from the Committee on Labor on Bill "An Act Relating to Eligibility of Adult Education Instructors under the Unemployment Compensation Laws" (H. P. 1933) (L. D. 1999) reporting "Leave to Withdraw"

Report was read and accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on Education reporting "Ought to Pass" on Bill "An Act Relating to Type of Notice under the Exceptional Children Statutes" (H. P. 1868) (L. D. 1918)

Report was signed by the following members:

Mr. Usher of Cumberland, Mr. Katz of Kennebuc—of the Senate

Mr. Bagley of Winthrop, Mr. Plourde of Fort Kent, Mr. Lynch of Livermore Falls, Mr. Fenlason of Danforth, Mr. Birt of East Millinocket, Mrs. Lewis of Auburn, Mrs. Mitchell of Vassalboro—of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-957)

Report was signed by the following members:

Mrs. Beaulieu of Portland, Mr. Connolly of Portland, Mr. Wyman of Pittsfield—of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, I move acceptance of the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would not accept the minority report today.

This bill came about from some problems that educators had in sending out certified mail, every time that they needed to get in contact with the parents of exceptional children. I think the amendment is better than what they have now, but I think the bill as written is a better situation.

All the testimony at the hearing seemed to indicate that no certified letter was really needed, that all the superintendents and principals were contacting all people either by mail or by telephone, and I would hope that you would not support the minority report and would go along with the majority "ought to pass" as written.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker and Members of the House: When the law relating to exceptional children was passed, one of the basic reasons why the certified mail aspect was incorporated into that bill was to make sure of parental rights, particularly in notification that their child was to be examined, also to let them know that they have a right by law to participate on their pupil evaluation team.

I will admit that leaving no option other than to send a certified mail to the parent was a little drastic, but please remember that I represented this legislature in a conference in Boston to look over and to learn about federal laws and the various state laws. We thought at the time this was the best method to make sure that no parent would suddenly find their child put in a program without their prior notice or participation in that process.

I feel very strongly that schools need to be protected by law, that they need to be able to prove at all times that that parent was indeed notified of their rights.

The amendment that is offered to you is a step backwards. Most of the people who testified at the hearing indicated that they are calling the parents, that many of the parents got upset when they got the certified letter; yet, none of them told us that while they were talking to the parents that they ever took the time to explain to them by law that there would be a letter forthcoming. This allows the superintendent or the principal of the school to call the parents, to notify them by sending someone to the home if they have to, but there needs to be a bottom line. There needs to be something in that child's record to indicate that every single possible effort was made to contact the parents, and should any parent decide to sue that school, at least the certified mail and the receipt that the letter was accepted by someone would be allowable in a court of law.

Last year, this legislature was made aware of parents in Caribou who had gone to the point of petitioning and were planning to sue their school board and their school administrators. We don't want that to happen again. It is law that the parent needs to be notified. I feel this amendment gives every option to the school to use alternative methods, but at the very end there needs to be something that is acceptable in a court of law, should that day come, in that child's record. So I would urge you to consider this amendment as an alternative, a reasonable alternative, to maintain the integrity of the fact that the parents must be notified and it needs to have proof of notification.

The SPEAKER: The Chair recognizes the gentleman from Danforth, Mr. Fenlason.

Mr. FENLASON: Mr. Speaker, Ladies and Gentlemen of the House: I am going to speak against this amendment for several reasons. It is normal practice for a school under conditions of this sort to notify the parent by telephone, by ordinary letter and frequently by a visit. It seems to me that a superintendent of schools or principal or the teaching staff should be perfectly competent to get in touch with a parent by whatever means they find best. I think it is superfluous for us to mandate how this is sent out. Besides that, the business of

certified mail is expensive, it is disturbing to the parent who perhaps doesn't get one in four or five years and he thinks that the roof is going to fall in on him. I think it is really an unnecessary amendment and I hope you vote against it.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: Being a signer of the minority report and in support of Mrs. Beaulieu's position, I would just point out that the law as it stands now says that parents must be notified in every situation by certified mail. The amendment, the compromise that we have offered, says, only after all other attempts have been made and failed should certified mail be used.

We agree with Representative Higgins and Representative Fenlason and others that in most all cases parents are notified by phone or by a home visit or by regular mail, and we say that is fine. But what the minority report does, it says that if all those attempts fail to notify the parents, and there has been testimony before the committee that such circumstances have on occasion arisen, then, after all those failures, the parents will be notified by registered. It is to ensure that the schools are protected against suit and that the parents are in fact notified that they can be a member of the team. It seems to me to be a reasonable compromise and one which really surprises me that so many people are in objection to.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mrs. Lewis.

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I can agree with Representative Connolly and Representative Beaulieu. My objection to the amendment is that I don't know how anybody is going to know that all attempts had failed. There is nothing that spells out that if a person gets notice, the person has to reply that he has gotten notice. This says, that if all attempts have failed and there is no way to know that they have failed, if this is the route they want to go, I wish that they would try to strengthen that part of it and maybe if a letter is sent, say that the person has to respond in writing that he has gotten a letter. Otherwise, how do you know it has failed?

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: In response to the gentlelady's question, I would just say that if that situation arises, then I would hope that Representative Lewis and others would support the minority position and tomorrow we would allow her to offer an amendment to even strengthen the minority position further.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentlewoman from Portland, Mrs. Beaulieu, that the Minority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

35 having voted in the affirmative and 71 having voted in the negative, the motion did not prevail.

Thereupon, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

Consent Calendar

First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(S. P. 628) (L. D. 1960) Bill "An Act to Amend the Appeal Procedures in the Employment Security Law"—Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-429)

On the objection of Mr. Talbot of Portland, was removed from the Consent Calendar.

Thereupon, the Report was read and ac-

cepted in concurrence and the Bill read once. Committee Amendment "A" (S-429) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

(S. P. 627) (L. D. 1959) Bill "An Act Providing that Student Scholarships Under the Maine Student Incentive Scholarship Program Shall Not be Lowered from one School Year to the next and Appropriating Funds to Carry Out That Intent", (Emergency)—Committee on Education reporting "Ought to Pass"

No objections being noted, the above item was ordered to appear on the Consent Calendar of January 18, under listing of the Second Day.

Consent Calendar

Second Day

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the Second Day:

(H. P. 1902) (L. D. 1963) Bill "An Act Converting Beaver Cove Plantation into the Town of Beaver Cove" (C. "A" H-956)

No objections having been noted at the end of the Second Legislative Day, the House Paper was passed to be engrossed and sent up for concurrence.

Second Reader

Tabled and Assigned

Bill "An Act to Increase the Bonding Limit of the Maine State Housing Authority" (Emergency) (H. P. 1880) (L. D. 1934)

Was reported by the Committee on Bills in the Second Reading and read the second time. (On motion of Mrs. Najarian of Portland, tabled pending passage to be engrossed and specially assigned for Thursday, January 19.)

Passed to Be Engrossed

Bill "An Act to Require Certain Out-of-State Sellers to Register under the Maine Sales and Use Tax Law" (H. P. 1883) (L. D. 1937)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed and sent up for concurrence.

Second Reader

Tabled and Assigned

RESOLVE, Appropriating Funds to Renovate an Elementary School Building at Windham which was Destroyed by Flood Waters (Emergency) (H. P. 1864) (L. D. 1914) (C. "A" H-954)

Was reported by the Committee on Bills in the Second Reading and read the second time. (On motion of Mr. Birt of East Millinocket, tabled pending passage to be engrossed as amended and tomorrow assigned.)

(Off Record Remarks)

On motion of Mr. Kelleher of Bangor, Adjourned until 9:30 tomorrow morning.