

121st Legislature LD 1623 SP0575

Education and Cultural Affairs

An Act To Implement School Funding Based on Essential Programs and Services. (GOVERNOR'S BILL). **Presented by** Senator DOUGLASS of Androscoggin; Cosponsored by Representative CUMMINGS of Portland and Senators: BRENNAN of Cumberland, MITCHELL of Penobscot, ROTUNDO of Androscoggin, TURNER of Cumberland, Representatives: LEMOINE of Old Orchard Beach, MILLETT of Waterford, MILLS of Cornville. Public Hearing 05/14/03. Majority (OTP-AM) Accepted 06/11/03. **Amended by:** CA S-258. **Final Disposition:** Enacted, Signed 06/25/03, PUBLIC LAWS, Chapter 504.

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OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

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Penmor Lithographers
Lewiston, Maine
2003

CHAPTER 504

S.P. 575 - L.D. 1623

An Act To Implement School
Funding Based on Essential
Programs and Services

Be it enacted by the People of the State of
Maine as follows:

PART A

Sec. A-1. 20-A MRSA §15652, sub-§6, as enacted by PL 1995, c. 368, Pt. Z, §1 and affected by §2, is amended to read:

6. Property fiscal capacity. "Property fiscal capacity" means the lesser of the average of the state valuation amounts for the 2 most recent years prior to the year of funding or and the state valuation amount for the most recent year, except that for fiscal year 2004-05 "property fiscal capacity" means the lesser of the average of the state valuation amounts for the 3 most recent years prior to the year of funding and the state valuation amount for the most recent year.

Sec. A-2. 20-A MRSA §15656, sub-§1, as enacted by PL 1999, c. 401, Pt. GG, §8, is amended to read:

1. Pupil count used for operating costs. The resident pupil count used for operating costs in this chapter is the greater of the average of the 2 census counts for the most recent calendar year and the average of the 4 census counts for the 2 most recent calendar years, except that for fiscal year 2004-05 the resident pupil count used for operating costs in this chapter is the greater of the average of the 2 census counts for the most recent calendar year and the average of the 6 census counts for the 3 most recent calendar years.

A. The 2 census counts in each calendar year must be for April 1st and October 1st.

B. As an exception, only the 2 census counts in the most recent calendar year may be used for:

- (1) Kindergarten to grade 8 students for units that send all their kindergarten to grade 8 students as tuition students to schools elsewhere in the State;
- (2) Grade 9 to grade 12 students for units that send all their grade 9 to grade 12 students as tuition students to schools elsewhere in the State; and
- (3) Kindergarten to grade 12 students for units that send all their kindergarten to

grade 12 students as tuition students to schools elsewhere in the State.

Sec. A-3. 20-A MRSA §15660 is enacted to read:

§15660. Repeal

This chapter is repealed July 1, 2005.

Sec. A-4. 20-A MRSA §15670 is enacted to read:

§15670. Short title

This chapter may be known and cited as "the Essential Programs and Services Funding Act."

Sec. A-5. 20-A MRSA §15671, sub-§7 is enacted to read:

7. Transition; annual targets. To achieve the system of school funding based on essential programs and services required by this section, the following annual targets are established.

A. The annual targets for the essential programs and services transition percentage, excluding program cost allocation, debt service allocation and adjustments, are as follows.

- (1) For fiscal year 2005-06, the target is 84%.
- (2) For fiscal year 2006-07, the target is 88%.
- (3) For fiscal year 2007-08, the target is 92%.
- (4) For fiscal year 2008-09, the target is 96%.
- (5) For fiscal year 2009-10 and succeeding years, the target is 100%.

B. The annual targets for the state share percentage are as follows.

- (1) For fiscal year 2005-06, the target is 49%.
- (2) For fiscal year 2006-07, the target is 49.25%.
- (3) For fiscal year 2007-08, the target is 49.50%.
- (4) For fiscal year 2008-09, the target is 49.75%.
- (5) For fiscal year 2009-10 and succeeding years, the target is 50%.

Sec. A-6. 20-A MRS §§15672 to 15687 are enacted to read:

§15672. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Allocation year. "Allocation year" means the year that subsidy is distributed to school administrative units.

2. Clerical staff. "Clerical staff" means full-time public school secretaries, as documented in the department's database.

3. Economically disadvantaged students. "Economically disadvantaged students" means students who are included in the department's count of students who are eligible for free or reduced-price meals or free milk or both.

4. Education technician. "Education technician" means a full-time public teacher aide or education technician I, associate teacher or education technician II or assistant teacher or education technician III but not a special education technician I, II or III, as documented in the department's database.

5. Elementary free or reduced-price meals percentage. "Elementary free or reduced-price meals percentage" means the percentage, as determined by the commissioner, that reflects either:

A. The actual percentage of elementary students in a school administrative unit who are eligible to receive free or reduced-price meals or free milk or both; or

B. The commissioner's estimated percentage of elementary students in a school administrative unit who are eligible to receive free or reduced-price meals or free milk or both.

6. Elementary grades. "Elementary grades" means kindergarten to grade 8 and includes children enrolled in early kindergarten programs and 4-year-old children enrolled in a 2-year childhood education program prior to grade one.

7. Elementary school level. "Elementary school level" means the grades from kindergarten to grade 5 and includes early kindergarten programs and 2-year childhood education programs enrolling 4-year-old children prior to grade one.

8. Essential programs and services. "Essential programs and services" means those educational resources that are identified in this chapter that enable all students to meet the standards in the 8 content

standard subject areas of the system of learning results established in chapter 222.

9. Essential programs and services transition percentage. "Essential programs and services transition percentage" means the full estimated cost for all essential programs and services for that fiscal year that will be funded by a state contribution or by a required local contribution.

10. Grade 9 to 12 portion. "Grade 9 to 12 portion" means those pupils in the secondary grades or high school level.

11. Guidance staff. "Guidance staff" means full-time public guidance counselors, directors of guidance or school social workers, as documented in the department's database.

12. Health staff. "Health staff" means full-time public school nurses, as documented in the department's database.

13. High school level. "High school level" means grade 9 to grade 12.

14. Income weight. "Income weight" means a value between zero and one that is used to adjust a municipality's ratio of local median household income to the statewide median household income. The income weight plus the property weight, as defined in subsection 24, must total one.

15. Kindergarten to grade 8 portion. "Kindergarten to grade 8 portion" means those pupils in the elementary grades or a combination of the elementary school level and middle school level.

16. Kindergarten to grade 2 student. "Kindergarten to grade 2 student" means a student in any grade from prekindergarten to grade 2 who is at least 5 years old on October 15th of the school year.

17. Librarian. "Librarian" means a full-time public librarian or media specialist, as documented in the department's database.

18. Limited English proficiency student. "Limited English proficiency student" means a student who was not born in the United States or whose native language is a language other than English and who satisfies the definition of a limited English proficient student under the federal No Child Left Behind Act of 2001, 20 United States Code, Chapter 70.

19. Media assistant. "Media assistant" means a full-time public librarian aide or library technician I, librarian assistant or library technician II or librarian associate or library technician III, as documented in the department's database.

20. Middle school level. "Middle school level" means grade 6 to grade 8.

21. Municipality. "Municipality" means a city, town or organized plantation.

22. Per-pupil guarantee. "Per-pupil guarantee" means the total amount of funds that is made available for each subsidizable pupil representing the following cost components:

A. Salary and benefit costs for school level teaching staff;

B. Salary and benefit costs for other identified school level staff;

C. Designated costs for substitute teachers; and

D. Identified nonstaffing costs.

23. Property fiscal capacity. "Property fiscal capacity" means the lesser of the average of the state valuation amounts for the 3 most recent years prior to the year of funding and the state valuation amount for the most recent year.

24. Property weight. "Property weight" means a value between zero and one that is used to adjust a municipality's ratio of local per-pupil property fiscal capacity to the statewide per-pupil property fiscal capacity. The income weight, as defined in subsection 14, plus the property weight must total one.

25. School administrative staff. "School administrative staff" means full-time public school principals and assistant principals, as documented in the department's database.

26. School administrative unit's local contribution to per-pupil guarantee. "School administrative unit's local contribution to the per-pupil guarantee" means the funds that a school administrative unit provides for each subsidizable pupil who resides in that unit.

27. School administrative unit's state contribution to per-pupil guarantee. "School administrative unit's state contribution to the per-pupil guarantee" means the funds that the State provides to a school administrative unit for each subsidizable pupil who resides in that unit.

28. School level. "School level" means elementary level, middle school level and high school level.

29. School level teaching staff. "School level teaching staff" means full-time public classroom teachers, itinerant classroom teachers and special teachers of reading or literacy specialists excluding

special education teachers and vocational education teachers, as documented in the department's database.

30. Secondary grades. "Secondary grades" means grade 9 to grade 12.

31. State share percentage. "State share percentage" means the percentage of the sum of the following amounts that is provided by a state appropriation:

A. Operating costs total allocation, as described in section 15683;

B. Program costs allocation, as described in section 15608, subsection 2;

C. Allocations for debt service costs, as defined in section 15603, subsection 8; and

D. Allocations for all adjustments and miscellaneous costs authorized pursuant to sections 15612 and 15613.

32. Subsidizable pupils. "Subsidizable pupils" means all school level pupils who reside in a school administrative unit and who are educated at public expense.

33. Year of funding. "Year of funding" means the fiscal year during which state subsidies are disbursed to school administrative units, except as specified in section 15005, subsection 1.

§15673. Relationship to School Finance Act of 1985

The provisions of chapter 606 apply except as described in this section.

1. Operating costs mill rate. The operating costs mill rate, as described in chapter 606, is in effect for the limited purposes of determining the state and local shares of each school administrative unit's program costs allocation and its debt service allocation and for determining the amount required to provide the total state share of the operating allocation under this Act. For each individual school administrative unit, the amounts described in section 15681 are used rather than the amounts in section 15608, subsection 1; section 15609, subsection 1, paragraph A; or section 15610, subsection 1, paragraph A.

§15674. Pupil counts

1. Pupil counts used for determination of operating costs. In addition to the additional weighted counts authorized under section 15675 and except as provided in subsection 2, the pupil count used for operating costs in this Act is the sum of:

A. The average number of secondary school-age persons enrolled in an adult education course

counted during the most recent calendar year counted pursuant to section 8605, subsection 2;

B. The average number of students in equivalent instruction programs during the most recent calendar year, as reported pursuant to section 5021, subsection 8; and

C. The greater of:

(1) The average of the 2 pupil counts for April 1st and October 1st of the most recent calendar year prior to the year of funding, reported in accordance with section 6004, including the counts of students enrolled in an alternative program made in accordance with section 5104-A; and

(2) The average of the 6 pupil counts for April 1st and October 1st of the 3 most recent calendar years prior to the year of funding, reported in accordance with section 6004, including the counts of students enrolled in an alternative program and counted in accordance with section 5104-A.

2. Exception. Notwithstanding subsection 1, paragraph C, the pupil count identified in subsection 1, paragraph C, subparagraph (1) must be used for:

A. Elementary school level and middle school level students for school administrative units that send all their elementary school level and middle school level students as tuition students to schools elsewhere in the State;

B. High school level students for school administrative units that send all their high school level students as tuition students to schools elsewhere in the State; and

C. School level students for school administrative units that send all their school level students to schools elsewhere in the State.

§15675. Specialized student populations; additional weights

For the purpose of calculating the total operating allocation under this chapter pursuant to section 15683, the following additional weights must be added to the per-pupil count calculated under section 15674, subsection 1, paragraph C, subparagraph (1).

1. Limited English proficiency students. The additional weights for school administrative units with limited English proficiency students are as follows:

A. For a school administrative unit with 15 or fewer limited English proficiency students, the unit receives an additional weight of .50 per student;

B. For a school administrative unit with more than 15 and fewer than 251 limited English proficiency students, the unit receives an additional weight of .30 per student; and

C. For a school administrative unit with 251 or more limited English proficiency students, the unit receives an additional weight of .60 per student.

2. Economically disadvantaged students. For each economically disadvantaged student, a school administrative unit receives an additional weight of .15. The number of economically disadvantaged students for each unit is determined by multiplying the number of resident pupils in the most recent calendar year by the most recent available elementary free or reduced-price meals percentage. The elementary free or reduced-price meals percentage may be applied to determine the number of economically disadvantaged students in the unit's secondary grades.

3. Kindergarten to grade 2 students. If a school administrative unit is eligible to receive targeted funds for its kindergarten to grade 2 program under section 15681, then for each kindergarten to grade 2 student, the unit receives an additional weight of .10.

A. For purposes of the additional weight under this subsection, the count of kindergarten to grade 2 students is calculated based on the number of resident pupils in the most recent calendar year.

B. Only school administrative units with a kindergarten to grade 2 program approved by the department are eligible for funds pursuant to this subsection or other comparable index.

C. Funds provided pursuant to this subsection may be expended only on behalf of kindergarten to grade 2 students.

§15676. Per-pupil guarantee

For each school administrative unit, the commissioner shall calculate the unit's per-pupil guarantee for each year as the sum of:

1. Teaching staff costs. The salary and benefit costs for school level teaching staff that are necessary to carry out this Act, calculated in accordance with section 15678;

2. Other staff costs. The salary and benefit costs for school-level staff who are not teachers, but including substitute teachers, that are necessary to carry out this Act, calculated in accordance with section 15679; and

3. Additional costs. The per-pupil amounts not related to staffing, calculated in accordance with section 15680.

§15677. Salary matrix

1. Salary matrix defined. For purposes of this section, "salary matrix" means the relationships on a statewide basis between average staff salaries and:

- A. Years of staff experience; and
- B. Levels of staff education.

2. Determination of matrix. The salary matrix must be determined in accordance with the following.

A. For fiscal year 2005-06, the commissioner, using information provided by a statewide education policy research institute, shall establish the salary matrix based on the most recently available relevant data and appropriate trends in the Consumer Price Index or other comparable index.

B. For fiscal year 2006-07 and each subsequent year, the commissioner shall update the previous year's salary matrix to reflect appropriate trends in the Consumer Price Index or other comparable index.

§15678. Calculation of salary and benefit costs; school level teaching staff

1. Salary and benefit costs; teaching positions. The commissioner shall annually determine, for each school administrative unit, the salary and benefit costs of all school level teaching positions that are necessary to carry out this Act.

2. Ratios. In calculating the salary and benefit costs pursuant to this section, the commissioner shall utilize the following student-to-teacher ratios.

- A. For the elementary school level, the student-to-teacher ratio is 17:1.
- B. For the middle school level, the student-to-teacher ratio is 16:1.
- C. For the high school level, the student-to-teacher ratio is 15:1.

3. Number of teaching positions required. The commissioner shall identify for each school administrative unit, using the pupil count arrived at under section 15674, subsection 1, paragraph C, subparagraph (1), the number of school level teaching positions that are required in order to achieve the student-to-teacher ratios set forth in subsection 2.

4. Estimated salary costs. The commissioner shall determine the estimated salary cost for the number of school level teaching positions required under subsection 3. In order to calculate this amount, the commissioner shall use the salary matrix pursuant to section 15677 for all school level teaching positions in each category.

5. Total salary and benefit costs for school level teaching staff. The total salary and benefit costs for school level teaching staff are equal to the sum of:

- A. The amount identified pursuant to subsection 4; and
- B. The amount, as determined by the commissioner, that equals the statewide percentage of salary costs that represents the statewide benefit costs.

§15679. Calculation of salary and benefit costs; other school level staff

1. Salary and benefit costs; other school level positions. The commissioner shall annually determine, for each school administrative unit, the salary and benefit costs of all school level positions other than teaching positions, referred to in this section as "staff," that are necessary to carry out this Act.

2. Students-to-staff ratios. In calculating the salary and benefit costs pursuant to this section, the commissioner shall utilize the following student-to-staff ratios.

A. For the elementary school level and the middle school level:

- (1) The student-to-education technician ratio is 100:1;
- (2) The student-to-guidance staff ratio is 350:1;
- (3) The student-to-librarian ratio is 800:1;
- (4) The student-to-media assistant ratio is 500:1;
- (5) The student-to-health staff ratio is 800:1;
- (6) The student-to-school administrative staff ratio is 305:1; and
- (7) The student-to-clerical staff ratio is 200:1.

B. For the high school level:

- (1) The student-to-education technician ratio is 250:1;

(2) The student-to-guidance staff ratio is 250:1;

(3) The student-to-librarian ratio is 800:1;

(4) The student-to-media assistant ratio is 500:1;

(5) The student-to-health staff ratio is 800:1;

(6) The student-to-school administrative staff ratio is 315:1; and

(7) The student-to-clerical staff ratio is 200:1.

3. Number of staff positions required. The commissioner shall identify for each school administrative unit, using the pupil count arrived at under section 15674, subsection 1, paragraph C, subparagraph (1), the number of staff positions that are required in order to achieve the student-to-staff ratios set forth in subsection 2.

4. Estimated salary costs. The commissioner shall determine the estimated salary costs for the number of staff positions required under subsection 3. In order to calculate this amount, the commissioner, where appropriate, shall use the salary matrix pursuant to section 15677 for all staff positions in each category.

5. Salary costs for substitute teachers. The commissioner shall calculate the additional salary costs for substitute teachers for each school administrative unit using the pupil count arrived at under section 15674, subsection 1, paragraph C, subparagraph (1). In order to calculate this amount, the commissioner shall establish a per-pupil rate for the cost of a substitute teacher for 1/2 day.

6. Total salary and benefit costs for staff. The total salary and benefit costs for staff is equal to the sum of:

A. The estimated salary costs determined pursuant to subsection 4;

B. The amount, as determined by the commissioner, that equals the statewide percentage of estimated salary costs determined pursuant to subsection 4 that represents the statewide benefit costs; and

C. The substitute teacher salary costs determined pursuant to subsection 5.

§15680. Per-pupil amounts not related to staffing

1. Additional cost components. The commissioner shall calculate one set of per-pupil amounts for

each of the following cost categories to be applied to the elementary school level and middle school level and shall calculate another set of per-pupil amounts for each of the following cost categories to be applied to the high school level:

A. System administration. The per-pupil amount for "system administration" is the actual system administration expenditures, as defined in the State's accounting handbook for local school systems, for the most recent year available excluding expenditures for leases and the purchase of land and buildings, less revenues to system administration for services to other governments and refunds from a statewide school management association, divided by the average October and April enrollment counts for that fiscal year and then inflated to an estimated allocation year level by a 10-year average increase in the Consumer Price Index or other comparable index;

B. Operation and maintenance of plant. The per-pupil amount for "operation and maintenance of plant" is the actual operation and maintenance of plant expenditures, as defined in the State's accounting handbook for local school systems, for the most recent year available excluding expenditures for leases and the purchase of land and buildings, divided by the average October and April enrollment counts for that fiscal year and then inflated to an estimated allocation year level by a 10-year average increase in the Consumer Price Index or other comparable index;

C. Supplies and equipment;

D. Cocurricular and extracurricular activities;

E. Professional development; and

F. Instructional leadership support.

2. Fiscal year 2005-06. For fiscal year 2005-06, the commissioner shall submit the per-pupil amounts for additional cost components under subsection 1 to the state board for approval.

3. Fiscal year 2006-07 and beyond. For fiscal year 2006-07 and for each subsequent year, the commissioner shall recalculate the per-pupil amounts for additional cost components under subsection 1 using the amounts approved by the state board under subsection 2 as a base and appropriate trends in the Consumer Price Index or other comparable index.

4. Review; approval. Beginning in fiscal year 2006-07, and at least every 2 years thereafter, the commissioner, using information provided by a statewide education policy research institute, shall review the essential programs and services compo-

nents under this Act and shall submit any recommended changes to the state board for approval.

§15681. Targeted funds

1. Eligibility. In order for a school administrative unit to receive targeted funds under this section, the school administrative unit must meet the following eligibility criteria.

A. To receive targeted student assessment funds calculated pursuant to subsection 2, a school administrative unit must be in compliance with applicable state statutes and department rules regarding local assessment systems for the system of learning results established in section 6209 and be in compliance with applicable federal statutes and regulations pertaining to student assessment as required by the federal No Child Left Behind Act of 2001, 20 United States Code, Chapter 70.

B. To receive targeted technology resource funds calculated pursuant to subsection 3, a school administrative unit must be in compliance with the technology components of the unit's comprehensive education plan as required under section 4502, subsection 1.

C. To receive targeted kindergarten to grade 2 funds calculated pursuant to subsection 4, the school administrative unit must be in compliance with any applicable reporting requirements for local early childhood programs.

2. Targeted student assessment funds. For targeted student assessment funds, the commissioner shall calculate one amount that may be made available to the elementary school level and middle school level and another amount that may be made available to the high school level in accordance with the following.

A. For fiscal year 2005-06, the commissioner shall establish a per-pupil amount for targeted student assessment funds.

B. For fiscal year 2006-07 and each subsequent year, the commissioner shall recalculate the per-pupil amount by using the amount calculated under paragraph A as a base and appropriate trends in the Consumer Price Index or other comparable index.

3. Targeted technology resource funds. For targeted technology resource funds, the commissioner shall calculate one amount that may be made available to the elementary school level and middle school level and another amount that may be made available to the high school level in accordance with the following.

A. For fiscal year 2005-06, the commissioner shall establish a per-pupil amount for targeted technology resource funds.

B. For fiscal year 2006-07 and each subsequent year, the commissioner shall recalculate the per-pupil amount by using the amount calculated under paragraph A as a base and appropriate trends in the Consumer Price Index or other comparable index.

4. Kindergarten to grade 2 funds. For targeted kindergarten to grade 2 funds, the commissioner shall calculate the amount that may be made available to eligible school administrative units as follows.

A. For fiscal year 2005-06, the amount equals the product of the per-pupil guarantee calculated pursuant to section 15676 multiplied by the additional weight calculated pursuant to section 15675, subsection 3.

B. For fiscal year 2006-07 and each subsequent year, the commissioner shall recalculate the amount by using the amount calculated under paragraph A as a base and appropriate trends in the Consumer Price Index or other comparable index.

5. Review; approval. Beginning in fiscal year 2006-07, and at least every 2 years thereafter, the commissioner, using information provided by a statewide education policy research institute, shall review the targeted amounts under this section and shall submit any recommended changes to the state board for approval.

§15682. Regional adjustment

The commissioner shall make a regional adjustment in the total operating allocation for each school administrative unit determined pursuant to section 15683. The regional adjustment must be based on the regional differences in teacher salary costs within labor market areas in the State, as computed by a statewide education policy research institute, and must be applied only to appropriate teacher salary and benefits costs as calculated under section 15678. Beginning in fiscal year 2006-07, and at least every 2 years thereafter, the commissioner, using information provided by a statewide education policy research institute, shall review the regional adjustment amounts under this section and shall submit any recommended changes to the state board for approval.

§15683. Total operating allocation

For each school administrative unit, that unit's total operating allocation is the base total set forth in subsection 1 as adjusted in accordance with subsection 2.

1. Base total. The base total of a school administrative unit's total operating allocation is the sum of:

A. The product of the school administrative unit's kindergarten to grade 8 per-pupil guarantee multiplied by the total of the kindergarten to grade 8 portions of the following pupil counts:

(1) The pupil count set forth in section 15674, subsection 1, paragraph C;

(2) The additional weight for limited English proficiency students calculated pursuant to section 15675, subsection 1; and

(3) The additional weight for economically disadvantaged students calculated pursuant to section 15675, subsection 2.

B. The product of the school administrative unit's grade 9 to 12 per-pupil guarantee multiplied by the total of the grade 9 to 12 portion of the following pupil counts:

(1) The pupil count set forth in section 15674, subsection 1, paragraphs A, B and C;

(2) The additional weight for limited English proficiency students calculated pursuant to section 15675, subsection 1; and

(3) The additional weight for economically disadvantaged students calculated pursuant to section 15675, subsection 2;

C. If the school administrative unit is eligible for targeted student assessment funds pursuant to section 15681, subsection 1, the sum of:

(1) The product of the elementary school level and middle school level per-pupil amount for targeted student assessment funds calculated pursuant to section 15681, subsection 2 multiplied by the kindergarten to grade 8 portion of the pupil count calculated pursuant to section 15674, subsection 1, paragraph C, subparagraph (1); and

(2) The product of the high school level per-pupil amount for targeted student assessment funds calculated pursuant to section 15681, subsection 2 multiplied by the grade 9 to 12 portion of the pupil count calculated pursuant to section 15674, subsection 1, paragraph C, subparagraph (1);

D. If the school administrative unit is eligible for targeted technology resource funds pursuant to section 15681, subsection 1, the sum of:

(1) The product of the elementary school level and middle school level per-pupil amount for targeted technology resource funds calculated pursuant to section 15681, subsection 3 multiplied by the kindergarten to grade 8 portion of the pupil count calculated pursuant to section 15674, subsection 1, paragraph C, subparagraph (1); and

(2) The product of the high school level per-pupil amount for targeted technology resource funds calculated pursuant to section 15681, subsection 3 multiplied by the grade 9 to 12 portion of the pupil count calculated pursuant to section 15674, subsection 1, paragraph C, subparagraph (1); and

E. If the school administrative unit is eligible for targeted kindergarten to grade 2 funds pursuant to section 15681, subsection 1, the product of the per-pupil guarantee multiplied by the additional weight for kindergarten to grade 2 calculated pursuant to section 15675, subsection 3.

2. Adjustments. The base total calculated pursuant to subsection 1 must be adjusted as follows

A. The base total calculated pursuant to subsection 1 must be reduced by the amount of all funds received by the school administrative unit under Title I of the federal Elementary and Secondary Education Act of 1965, 20 United States Code, Section 6301 et seq. during the most recent fiscal year.

B. The amount calculated pursuant to paragraph A must be adjusted by the regional adjustment pursuant to section 15682.

C. The amount calculated pursuant to paragraph B must be multiplied by the essential programs and services transition percentage for the appropriate year in accordance with section 15671, subsection 7, paragraph A.

§15684. School administrative unit contributions to total operating allocation

1. School administrative unit's local share percentage. For each school administrative unit, the commissioner shall annually determine the unit's local share percentage of its total operating allocation.

A. Except as provided in paragraph B, the local share percentage of the total operating allocation is the product of:

(1) The school administrative unit's weighted relative property fiscal capacity, determined in accordance with section 15685; and

(2) A statewide adjustment factor to be established annually by the commissioner.

B. Notwithstanding paragraph A, the local share percentage for a school administrative district or a community school district is calculated as a weighted average of the local share percentages of each member municipality as if each member municipality were a separate school administrative unit. The weight for each municipality is the proportion of the district's subsidizable pupils who reside in the municipality.

C. The local share percentage for a school administrative unit in a school administrative district or a community school district may not exceed 100%. If the local share percentage calculation is performed for a municipality in accordance with paragraph B, then the local share percentage for the municipality may not exceed 100%.

2. School administrative unit; contribution.

For each school administrative unit, the commissioner shall annually determine the school administrative unit's contribution in accordance with the following.

A. The school administrative unit's local contribution to the total operating allocation is the product of the amount calculated pursuant to section 15683 multiplied by the school administrative unit's local share percentage of the total operating allocation calculated pursuant to subsection 1.

B. The school administrative unit's state contribution to the total operating allocation is the amount calculated pursuant to section 15683 less the school administrative unit's local contribution to the total operating allocation calculated pursuant to paragraph A.

§15685. Weighted relative property fiscal capacity

For each school administrative unit, the commissioner shall annually determine the unit's weighted relative property fiscal capacity. This determination is the result of the following steps

1. Fiscal capacity. The local per-pupil property fiscal capacity divided by the statewide per-pupil property fiscal capacity as computed by the commissioner is multiplied by a property weight of 0.85.

2. Local median household income. The local median household income is divided by the statewide average median household income. The final result is multiplied by an income weight of 0.15. The department shall use local median household income data as estimated at the fiscal year 1997-98 level until final Federal Decennial Census figures are established

for the year 2000. The fiscal year 1997-98 estimated census figures must be adjusted so that no municipality's census figure exceeds twice the state average percentage increase from fiscal year 1996-97 to fiscal year 1997-98.

3. Weighted relative property fiscal capacity.
The results of subsection 1 and subsection 2 are added and the sum represents the weighted relative property fiscal capacity.

§15686. Transition adjustment

For each of the fiscal years described in section 15671, subsection 7, the commissioner shall establish a transition adjustment calculated to minimize the fiscal impact directly related to the phase-in of this Act. The amount of this adjustment must decline with each successive fiscal year, and the adjustments must end no later than fiscal year 2009-10.

§15687. Rules

The commissioner shall adopt rules to implement this Act. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. A-7. Review of data. By October 1, 2006, the Commissioner of Education, in consultation with the Maine Education Policy Research Institute, shall review data on limited English proficiency students, including the number of students in the State qualifying for limited English proficiency status and the costs attributable to English as a 2nd language programs. The commissioner shall submit the results of this review to the State Board of Education.

PART B

Sec. B-1. 5 MRSA §17154, sub-§6, ¶E, as repealed and replaced by PL 1995, c. 471, §2, is amended to read:

E. Notwithstanding this section, the employer retirement costs related to the retirement system applicable to those teachers whose funding is provided directly or through reimbursement from private or public grants must be paid by local school systems from those funds. "Public grants" does not include state or local funds provided to school administrative units under Title 20-A, chapters 315 and 606 and 606-B.

Sec. B-2. 20-A MRSA §15602, sub-§1, as amended by PL 1985, c. 505, §12, is further amended to read:

1. Contributions from General Fund. It is the intent of the Legislature to provide at least 55% of the cost of the total allocation from General Fund revenue

sources or a percentage no less than that provided in the year prior to the year of allocation, whichever is greater.

~~The amount of the teacher recognition grants authorized in section 13503-A which are paid or deemed eligible to be paid on August 15, 1986, shall be added to the actual local operating costs expended by local units in 1986-87. The minimum amount of the cost of the total allocation from General Fund revenue sources for 1988-89 shall be increased by the total amount expended by the State in 1986-87 for teacher recognition grants in accordance with section 13503-A and block grants in accordance with section 13509. The resulting percentage shall be used to define the minimum percentage contribution from General Fund revenue sources in 1988-89 and subsequent years.~~

Sec. B-3. 20-A MRSA §15602, sub-§4, as enacted by PL 1989, c. 875, Pt. E, §27, is repealed.

Sec. B-4. 20-A MRSA §15602, sub-§5, as enacted by PL 1991, c. 528, Pt. I, §7 and affected by Pt. RRR and enacted by c. 591, Pt. I, §7, is repealed.

Sec. B-5. 20-A MRSA §15602, sub-§6, as enacted by PL 1991, c. 625, §1 and affected by §5, is repealed.

Sec. B-6. 20-A MRSA §15602, sub-§7, as renumbered by RR 1991, c. 2, §70, is repealed.

Sec. B-7. 20-A MRSA §15602, sub-§8, as enacted by PL 1993, c. 410, Pt. F, §5, is repealed.

Sec. B-8. 20-A MRSA §15602, sub-§9, as enacted by PL 1993, c. 684, §3, is repealed.

Sec. B-9. 20-A MRSA §15602, sub-§10, as enacted by PL 1995, c. 368, Pt. Y, §1, is repealed.

Sec. B-10. 20-A MRSA §15602, sub-§11, as enacted by PL 1997, c. 469, §1, is repealed.

Sec. B-11. 20-A MRSA §15602, sub-§12, as enacted by PL 1997, c. 643, Pt. D, §1, is repealed.

Sec. B-12. 20-A MRSA §15602, sub-§13, as enacted by PL 1999, c. 401, Pt. GG, §1, is repealed.

Sec. B-13. 20-A MRSA §15602, sub-§14, as enacted by PL 1999, c. 731, Pt. D, §1, is repealed.

Sec. B-14. 20-A MRSA §15602, sub-§§15 and 15-A, as enacted by PL 2001, c. 358, Pt. U, §1, are repealed.

Sec. B-15. 20-A MRSA §15602, sub-§16, as enacted by PL 2001, c. 559, Pt. D, §1, is repealed.

Sec. B-16. 20-A MRSA §15603, sub-§28-A, as enacted by PL 1999, c. 401, Pt. JJ, §1, is repealed.

Sec. B-17. 20-A MRSA §15612, sub-§1, as enacted by PL 1983, c. 859, Pt. G, §§2 and 4, is repealed.

Sec. B-18. 20-A MRSA §15612, sub-§5, as amended by PL 1995, c. 303, §1, is repealed.

Sec. B-19. 20-A MRSA §15612, sub-§6, as amended by PL 1989, c. 554, §1, is repealed.

Sec. B-20. 20-A MRSA §15612, sub-§8, as enacted by PL 1983, c. 859, Pt. K, §§6 and 7, is repealed.

Sec. B-21. 20-A MRSA §15612, sub-§12, as amended by PL 1989, c. 875, Pt. E, §31, is repealed.

Sec. B-22. 20-A MRSA §15612, sub-§12-A, as enacted by PL 1999, c. 401, Pt. JJ, §2, is repealed.

Sec. B-23. 20-A MRSA §15612, sub-§13, as amended by PL 1999, c. 401, Pt. JJ, §3, is further amended to read:

13. Adjustment limitations. The amounts of the adjustments paid to school administrative units or municipalities in subsections 1, 2, 4, 6, 7, 10, and 11, ~~12 and 12-A~~ are limited to the amounts appropriated by the Legislature for these adjustments.

Sec. B-24. 20-A MRSA §15612, sub-§14, as enacted by PL 1991, c. 625, §3 and affected by §5, is repealed.

Sec. B-25. Revisor's review; cross-references. The Revisor of Statutes shall review the Maine Revised Statutes and include in the errors and inconsistencies bill submitted to the Second Regular Session of the 121st Legislature pursuant to Title 1, section 94 any sections necessary to correct and update any cross-references in the statutes to provisions of law repealed in this Act.

See title page for effective date.

CHAPTER 505

H.P. 1088 - L.D. 1483

An Act To Improve the Ability of the Public Utilities Commission To Enforce State Laws, Rules and Requirements



STATE LAW LIBRARY
AUGUSTA, MAINE

121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1623

S.P. 575

In Senate, May 22, 2003

An Act To Implement School Funding Based on Essential Programs and Services

Reference to the Committee on Education and Cultural Affairs suggested and ordered
printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator DOUGLASS of Androscoggin. (GOVERNOR'S BILL)
Cosponsored by Representative CUMMINGS of Portland and
Senators: BRENNAN of Cumberland, MITCHELL of Penobscot, ROTUNDO of
Androscoggin, TURNER of Cumberland, Representatives: LEMOINE of Old Orchard Beach,
MILLETT of Waterford, MILLS of Cornville.

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 20-A MRSA c. 606-A, as amended, is repealed.

Sec. A-2. 20-A MRSA §15670 is enacted to read:

§15670. Short title

This chapter may be known and cited as "the Essential Programs and Services Funding Act."

Sec. A-3. 20-A MRSA §15671, sub-§7 is enacted to read:

7. Transition; annual targets. To achieve the system of school funding based on essential programs and services required by this section, the following annual targets are established.

A. The annual targets for the essential programs and services transition percentage are as follows.

(1) For fiscal year 2005-06, the target is 84%.

(2) For fiscal year 2006-07, the target is 88%.

(3) For fiscal year 2007-08, the target is 92%.

(4) For fiscal year 2008-09, the target is 96%.

(5) For fiscal year 2009-10 and succeeding years, the target is 100%.

B. The annual targets for the state share percentage are as follows.

(1) For fiscal year 2005-06, the target is 44%.

(2) For fiscal year 2006-07, the target is 45%.

(3) For fiscal year 2007-08, the target is 46%.

(4) For fiscal year 2008-09, the target is 48%.

(5) For fiscal year 2009-10 and succeeding years, the target is 50%.

Sec. A-4. 20-A MRSA §§15672 to 15687 are enacted to read:

§15672. Definitions

2 As used in this chapter, unless the context otherwise
3 indicates, the following terms have the following meanings.

4
5 1. Allocation year. "Allocation year" means the year that
6 subsidy is distributed to school administrative units.

7
8 2. Clerical staff. "Clerical staff" means full-time public
9 school secretaries, as documented in the department's database.

10
11 3. Economically disadvantaged students. "Economically
12 disadvantaged students" means students who are included in the
13 department's count of students who are eligible for free or
14 reduced-price meals or free milk or both.

15
16 4. Education technician. "Education technician" means a
17 full-time public teacher aide or education technician I,
18 associate teacher or education technician II or assistant teacher
19 or education technician III but not a special education
20 technician I, II or III, as documented in the department's
21 database.

22
23 5. Elementary free or reduced-price meals percentage.
24 "Elementary free or reduced-price meals percentage" means the
25 percentage, as determined by the commissioner, that reflects
26 either:

27 A. The actual percentage of elementary students in a school
28 administrative unit who are eligible to receive free or
29 reduced-price meals or free milk or both; or

30
31 B. The commissioner's estimated percentage of elementary
32 students in a school administrative unit who are eligible to
33 receive free or reduced-price meals or free milk or both.

34
35 6. Elementary grades. "Elementary grades" means
36 kindergarten to grade 8 and includes children enrolled in early
37 kindergarten programs and 4-year-old children enrolled in a
38 2-year childhood education program prior to grade one.

39
40 7. Elementary school level. "Elementary school level"
41 means the grades from kindergarten to grade 5 and includes early
42 kindergarten programs and 2-year childhood education programs
43 enrolling 4-year-old children prior to grade one.

44
45 8. Essential programs and services. "Essential programs
46 and services" means those educational resources that are
47 identified in this chapter that enable all students to meet the
48 standards in the 8 content standard subject areas of the system
49 of learning results established in chapter 222.
50

2 9. Essential programs and services transition percentage.
4 "Essential programs and services transition percentage" means the
6 full estimated cost for all essential programs and services for
 that fiscal year that will be funded by a state contribution or
 by a required local contribution.

8 10. Grade 9 to 12 portion. "Grade 9 to 12 portion" means
10 those pupils in the secondary grades or high school level.

12 11. Guidance staff. "Guidance staff" means full-time
14 public guidance counselors, directors of guidance or school
 social workers, as documented in the department's database.

16 12. Health staff. "Health staff" means full-time public
 school nurses, as documented in the department's database.

18 13. High school level. "High school level" means grade 9 to
20 grade 12.

22 14. Income weight. "Income weight" means a value between
24 zero and one that is used to adjust a municipality's ratio of
 local median household income to the statewide median household
 income. The income weight plus the property weight, as defined
 in subsection 24, must total one.

26 15. Kindergarten to grade 8 portion. "Kindergarten to grade
28 8 portion" means those pupils in the elementary grades or a
 combination of the elementary school level and middle school
30 level.

32 16. Kindergarten to grade 2 student. "Kindergarten to
34 grade 2 student" means a student in any grade from
 prekindergarten to grade 2 who is at least 5 years old on October
 15th of the school year.

36 17. Librarian. "Librarian" means a full-time public
38 librarian or media specialist, as documented in the department's
 database.

40 18. Limited English proficiency student. "Limited English
42 proficiency student" means a student who was not born in the
 United States or whose native language is a language other than
44 English and who satisfies the definition of a limited English
 proficient student under the federal No Child Left Behind Act of
46 2001, 20 United States Code, Chapter 70.

48 19. Media assistant. "Media assistant" means a full-time
50 public librarian aide or library technician I, librarian
 assistant or library technician II or librarian associate or

2 library technician III, as documented in the department's
3 database.

4 20. Middle school level. "Middle school level" means grade
5 6 to grade 8.

6 21. Municipality. "Municipality" means a city, town or
7 organized plantation.

10 22. Per-pupil guarantee. "Per-pupil guarantee" means the
11 total amount of funds that is made available for each
12 subsidizable pupil representing the following cost components:

14 A. Salary and benefit costs for school level teaching staff;

16 B. Salary and benefit costs for other identified school
17 level staff;

18 C. Designated costs for substitute teachers; and

20 D. Identified nonstaffing costs.

22 23. Property fiscal capacity. "Property fiscal capacity"
23 means the lesser of the average of the state valuation amounts
24 for the 2 most recent years prior to the year of funding and the
25 state valuation amount for the most recent year.

28 24. Property weight. "Property weight" means a value
29 between zero and one that is used to adjust a municipality's
30 ratio of local per-pupil property fiscal capacity to the
31 statewide per-pupil property fiscal capacity. The income weight,
32 as defined in subsection 14, plus the property weight must total
33 one.

34 25. School administrative staff. "School administrative
35 staff" means full-time public school principals and assistant
36 principals, as documented in the department's database.

38 26. School administrative unit's local contribution to
39 per-pupil guarantee. "School administrative unit's local
40 contribution to the per-pupil guarantee" means the funds that a
41 school administrative unit provides for each subsidizable pupil
42 who resides in that unit.

44 27. School administrative unit's state contribution to
45 per-pupil guarantee. "School administrative unit's state
46 contribution to the per-pupil guarantee" means the funds that the
47 State provides to a school administrative unit for each
48 subsidizable pupil who resides in that unit.

50

2 28. School level. "School level" means elementary level,
middle school level and high school level.

4 29. School level teaching staff. "School level teaching
6 staff" means full-time public classroom teachers, itinerant
8 classroom teachers and special teachers of reading or literacy
specialists excluding special education teachers and vocational
education teachers, as documented in the department's database.

10 30. Secondary grades. "Secondary grades" means grade 9 to
12 grade 12.

14 31. State share percentage. "State share percentage" means
16 the percentage of the sum of the following amounts that is
18 provided by a state appropriation:

20 A. Operating costs total allocation, as described in
22 section 15683;

24 B. Program costs allocation, as described in section 15608,
26 subsection 2;

28 C. Allocations for debt service costs, as defined in
30 section 15603, subsection 8; and

32 D. Allocations for all adjustments and miscellaneous costs
34 authorized pursuant to sections 15612 and 15613.

36 32. Subsidizable pupils. "Subsidizable pupils" means all
38 school level pupils who reside in a school administrative unit
40 and who are educated at public expense.

42 33. Year of funding. "Year of funding" means the fiscal
44 year during which state subsidies are disbursed to school
46 administrative units, except as specified in section 15005,
48 subsection 1.

50 §15673. Relationship to School Finance Act of 1985

The provisions of chapter 606 apply except as described in
this section.

1. Operating costs mill rate. The operating costs mill rate,
as described in chapter 606, is in effect for the limited
purposes of determining the state and local shares of each school
administrative unit's program costs allocation and its debt
service allocation and for determining the amount required to
provide the total state share of the operating allocation under
this Act. For each individual school administrative unit, the
amounts described in section 15681 are used rather than the

amounts in section 15608, subsection 1; section 15609, subsection 1, paragraph A; or section 15610, subsection 1, paragraph A.

§15674. Pupil counts

1. Pupil counts used for determination of operating costs.

In addition to the additional weighted counts authorized under section 15675 and except as provided in subsection 2, the pupil count used for operating costs in this Act is the sum of:

A. The average number of secondary school-age persons enrolled in an adult education course counted during the most recent calendar year counted pursuant to section 8605, subsection 2;

B. The average number of students in equivalent instruction programs during the most recent calendar year, as reported pursuant to section 5021, subsection 8; and

C. The greater of:

(1) The average of the 2 pupil counts for April 1st and October 1st of the most recent calendar year prior to the year of funding, reported in accordance with section 6004, including the counts of students enrolled in an alternative program made in accordance with section 5104-A; and

(2) The average of the 2 pupil counts for April 1st and October 1st of the 2 most recent calendar years prior to the year of funding, reported in accordance with section 6004, including the counts of students enrolled in an alternative program and counted in accordance with section 5104-A.

2. Exception. Notwithstanding subsection 1, paragraph C, the pupil count identified in subsection 1, paragraph C, subparagraph (1) must be used for:

A. Elementary school level and middle school level students for school administrative units that send all their elementary school level and middle school level students as tuition students to schools elsewhere in the State;

B. High school level students for school administrative units that send all their high school level students as tuition students to schools elsewhere in the State; and

2 C. School level students for school administrative units
3 that send all their school level students to schools
4 elsewhere in the State.

6 **§15675. Specialized student populations; additional weights**

8 For the purpose of calculating the total operating
9 allocation under this chapter pursuant to section 15683, the
10 following additional weights must be added to the per-pupil count
11 calculated under section 15674, subsection 1, paragraph C,
12 subparagraph (1).

14 1. Limited English proficiency students. The additional
15 weights for school administrative units with limited English
16 proficiency students are as follows:

18 A. For a school administrative unit with 15 or fewer
19 limited English proficiency students, the unit receives an
20 additional weight of .50 per student;

22 B. For a school administrative unit with more than 15 and
23 fewer than 251 limited English proficiency students, the
24 unit receives an additional weight of .30 per student; and

26 C. For a school administrative unit with 251 or more limited
27 English proficiency students, the unit receives an
28 additional weight of .60 per student.

30 2. Economically disadvantaged students. For each
31 economically disadvantaged student, a school administrative unit
32 receives an additional weight of .15. The number of economically
33 disadvantaged students for each unit is determined by multiplying
34 the number of resident pupils in the most recent calendar year by
35 the most recent available elementary free or reduced-price meals
36 percentage. The elementary free or reduced-price meals
37 percentage may be applied to determine the number of economically
38 disadvantaged students in the unit's secondary grades.

40 3. Kindergarten to grade 2 students. If a school
41 administrative unit is eligible to receive targeted funds for its
42 kindergarten to grade 2 program under section 15681, then for
43 each kindergarten to grade 2 student, the unit receives an
44 additional weight of .10.

46 A. For purposes of the additional weight under this
47 subsection, the count of kindergarten to grade 2 students is
48 calculated based on the number of resident pupils in the
most recent calendar year.

2 B. Only school administrative units with a kindergarten to
4 grade 2 program approved by the department are eligible for
6 funds pursuant to this subsection or other comparable index.

8 C. Funds provided pursuant to this subsection may be
10 expended only on behalf of kindergarten to grade 2 students.

12 **§15676. Per-pupil guarantee**

14 For each school administrative unit, the commissioner shall
16 calculate the unit's per-pupil guarantee for each year as the sum
18 of:

20 1. Teaching staff costs. The salary and benefit costs for
22 school level teaching staff that are necessary to carry out this
24 Act, calculated in accordance with section 15678;

26 2. Other staff costs. The salary and benefit costs for
28 school-level staff who are not teachers, but including substitute
30 teachers, that are necessary to carry out this Act, calculated
32 in accordance with section 15679; and

34 3. Additional costs. The per-pupil amounts not related to
36 staffing, calculated in accordance with section 15680.

38 **§15677. Salary matrix**

40 1. Salary matrix defined. For purposes of this section,
42 "salary matrix" means the relationships on a statewide basis
44 between average staff salaries and:

46 A. Years of staff experience; and

48 B. Levels of staff education.

50 2. Determination of matrix. The salary matrix must be
52 determined in accordance with the following.

54 A. For fiscal year 2005-06, the commissioner, using
56 information provided by a statewide education policy
58 research institute, shall establish the salary matrix based
60 on the most recently available relevant data and appropriate
62 trends in the Consumer Price Index or other comparable index.

64 B. For fiscal year 2006-07 and each subsequent year, the
66 commissioner shall update the previous year's salary matrix
68 to reflect appropriate trends in the Consumer Price Index or
70 other comparable index.

72 **§15678. Calculation of salary and benefit costs; school level**
74 **teaching staff**

2 1. Salary and benefit costs; teaching positions. The
4 commissioner shall annually determine, for each school
6 administrative unit, the salary and benefit costs of all school
 level teaching positions that are necessary to carry out this Act.

8 2. Ratios. In calculating the salary and benefit costs
10 pursuant to this section, the commissioner shall utilize the
 following student-to-teacher ratios.

12 A. For the elementary school level, the student-to-teacher
 ratio is 17:1.

14 B. For the middle school level, the student-to-teacher ratio
 is 16:1.

16 C. For the high school level, the student-to-teacher ratio
18 is 15:1.

20 3. Number of teaching positions required. The commissioner
22 shall identify for each school administrative unit, using the
 pupil count arrived at under section 15674, subsection 1,
24 paragraph C, subparagraph (1), the number of school level
 teaching positions that are required in order to achieve the
26 student-to-teacher ratios set forth in subsection 2.

28 4. Estimated salary costs. The commissioner shall determine
30 the estimated salary cost for the number of school level teaching
 positions required under subsection 3. In order to calculate
32 this amount, the commissioner shall use the salary matrix
 pursuant to section 15677 for all school level teaching positions
 in each category.

34 5. Total salary and benefit costs for school level teaching
36 staff. The total salary and benefit costs for school level
 teaching staff are equal to the sum of:

38 A. The amount identified pursuant to subsection 4; and

40 B. The amount, as determined by the commissioner, that
42 equals the statewide percentage of salary costs that
 represents the statewide benefit costs.

44 §15679. Calculation of salary and benefit costs; other
 school level staff

46 1. Salary and benefit costs; other school level positions.
48 The commissioner shall annually determine, for each school
 administrative unit, the salary and benefit costs of all school

2 level positions other than teaching positions, referred to in
3 this section as "staff," that are necessary to carry out this Act.

4 2. Students-to-staff ratios. In calculating the salary and
5 benefit costs pursuant to this section, the commissioner shall
6 utilize the following student-to-staff ratios.

8 A. For the elementary school level and the middle school
9 level:

10 (1) The student-to-education technician ratio is 100:1;

12 (2) The student-to-guidance staff ratio is 350:1;

14 (3) The student-to-librarian ratio is 800:1;

16 (4) The student-to-media assistant ratio is 500:1;

18 (5) The student-to-health staff ratio is 800:1;

20 (6) The student-to-school administrative staff ratio is
22 305:1; and

24 (7) The student-to-clerical staff ratio is 200:1.

26 B. For the high school level:

28 (1) The student-to-education technician ratio is 250:1;

30 (2) The student-to-guidance staff ratio is 250:1;

32 (3) The student-to-librarian ratio is 800:1;

34 (4) The student-to-media assistant ratio is 500:1;

36 (5) The student-to-health staff ratio is 800:1;

38 (6) The student-to-school administrative staff ratio is
40 315:1; and

42 (7) The student-to-clerical staff ratio is 200:1.

44 3. Number of staff positions required. The commissioner
45 shall identify for each school administrative unit, using the
46 pupil count arrived at under section 15674, subsection 1,
47 paragraph C, subparagraph (1), the number of staff positions that
48 are required in order to achieve the student-to-staff ratios set
forth in subsection 2.

2 4. Estimated salary costs. The commissioner shall
determine the estimated salary costs for the number of staff
4 positions required under subsection 3. In order to calculate
this amount, the commissioner, where appropriate, shall use the
6 salary matrix pursuant to section 15677 for all staff positions
in each category.

8 5. Salary costs for substitute teachers. The commissioner
shall calculate the additional salary costs for substitute
10 teachers for each school administrative unit using the pupil
count arrived at under section 15674, subsection 1, paragraph C,
12 subparagraph (1). In order to calculate this amount, the
commissioner shall establish a per-pupil rate for the cost of a
14 substitute teacher for 1/2 day.

16 6. Total salary and benefit costs for staff. The total
salary and benefit costs for staff is equal to the sum of:

18
20 A. The estimated salary costs determined pursuant to
subsection 4;

22 B. The amount, as determined by the commissioner, that
equals the statewide percentage of estimated salary costs
24 determined pursuant to subsection 4 that represents the
statewide benefit costs; and

26
28 C. The substitute teacher salary costs determined pursuant
to subsection 5.

30 §15680. Per-pupil amounts not related to staffing

32 1. Additional cost components. The commissioner shall
calculate one set of per-pupil amounts for each of the following
34 cost categories to be applied to the elementary school level and
middle school level and shall calculate another set of per-pupil
36 amounts for each of the following cost categories to be applied
to the high school level:

38
40 A. System administration. The per-pupil amount for "system
administration" is the actual system administration
42 expenditures, as defined in the State's accounting handbook
for local school systems, for the most recent year available
44 excluding expenditures for leases and the purchase of land
and buildings, less revenues to system administration for
46 services to other governments and refunds from a statewide
school management association, divided by the average
48 October and April enrollment counts for that fiscal year and
then inflated to an estimated allocation year level by a
50 10-year average increase in the Consumer Price Index or
other comparable index;

2 B. Operation and maintenance of plant. The per-pupil amount
4 for "operation and maintenance of plant" is the actual
6 operation and maintenance of plant expenditures, as defined
8 in the State's accounting handbook for local school systems,
10 for the most recent year available excluding expenditures
12 for leases and the purchase of land and buildings, divided
14 by the average October and April enrollment counts for that
16 fiscal year and then inflated to an estimated allocation
18 year level by a 10-year average increase in the Consumer
20 Price Index or other comparable index;

12 C. Supplies and equipment;

14 D. Cocurricular and extracurricular activities;

16 E. Professional development; and

18 F. Instructional leadership support.

20 2. Fiscal year 2005-06. For fiscal year 2005-06, the
22 commissioner shall submit the per-pupil amounts for additional
24 cost components under subsection 1 to the state board for
26 approval.

26 3. Fiscal year 2006-07 and beyond. For fiscal year 2006-07
28 and for each subsequent year, the commissioner shall recalculate
30 the per-pupil amounts for additional cost components under
32 subsection 1 using the amounts approved by the state board under
34 subsection 2 as a base and appropriate trends in the Consumer
36 Price Index or other comparable index.

32 4. Review; approval. Beginning in fiscal year 2008-09, and
34 at least every 3 years thereafter, the commissioner, using
36 information provided by a statewide education policy research
38 institute, shall review the essential programs and services
40 components under this Act and shall submit any recommended
42 changes to the state board for approval.

38 **§15681. Targeted funds**

40 1. Eligibility. In order for a school administrative unit
42 to receive targeted funds under this section, the school
44 administrative unit must meet the following eligibility criteria.

44 A. To receive targeted student assessment funds calculated
46 pursuant to subsection 2, a school administrative unit must
48 be in compliance with applicable state statutes and
50 department rules regarding local assessment systems for the
system of learning results established in section 6209 and
be in compliance with applicable federal statutes and

2 regulations pertaining to student assessment as required by
3 the federal No Child Left Behind Act of 2001, 20 United
4 States Code, Chapter 70.

5 B. To receive targeted technology resource funds calculated
6 pursuant to subsection 3, a school administrative unit must
7 be in compliance with the technology components of the
8 unit's comprehensive education plan as required under
9 section 4502, subsection 1.

10 C. To receive targeted kindergarten to grade 2 funds
11 calculated pursuant to subsection 4, the school
12 administrative unit must be in compliance with any
13 applicable reporting requirements for local early childhood
14 programs.

15 2. Targeted student assessment funds. For targeted student
16 assessment funds, the commissioner shall calculate one amount
17 that may be made available to the elementary school level and
18 middle school level and another amount that may be made available
19 to the high school level in accordance with the following.

20 A. For fiscal year 2005-06, the commissioner shall establish
21 a per-pupil amount for targeted student assessment funds.

22 B. For fiscal year 2006-07 and each subsequent year, the
23 commissioner shall recalculate the per-pupil amount by using
24 the amount calculated under paragraph A as a base and
25 appropriate trends in the Consumer Price Index or other
26 comparable index.

27 3. Targeted technology resource funds. For targeted
28 technology resource funds, the commissioner shall calculate one
29 amount that may be made available to the elementary school level
30 and middle school level and another amount that may be made
31 available to the high school level in accordance with the
32 following.

33 A. For fiscal year 2005-06, the commissioner shall establish
34 a per-pupil amount for targeted technology resource funds.

35 B. For fiscal year 2006-07 and each subsequent year, the
36 commissioner shall recalculate the per-pupil amount by using
37 the amount calculated under paragraph A as a base and
38 appropriate trends in the Consumer Price Index or other
39 comparable index.

40 4. Kindergarten to grade 2 funds. For targeted kindergarten
41 to grade 2 funds, the commissioner shall calculate the amount
42 that may be made available to eligible school administrative
43 units as follows.

2 A. For fiscal year 2005-06, the amount equals the product of
4 the per-pupil guarantee calculated pursuant to section 15676
multiplied by the additional weight calculated pursuant to
section 15675, subsection 3.

6 B. For fiscal year 2006-07 and each subsequent year, the
8 commissioner shall recalculate the amount by using the
amount calculated under paragraph A as a base and
10 appropriate trends in the Consumer Price Index or other
comparable index.

12 5. Review; approval. Beginning in fiscal year 2008-09, and
14 at least every 3 years thereafter, the commissioner, using
information provided by a statewide education policy research
16 institute, shall review the targeted amounts under this section
and shall submit any recommended changes to the state board for
18 approval.

20 **§15682. Regional adjustment**

22 The commissioner shall make a regional adjustment in the
24 total operating allocation for each school administrative unit
determined pursuant to section 15683. The regional adjustment
26 must be based on the regional differences in teacher salary costs
within labor market areas in the State, as computed by a
28 statewide education policy research institute, and must be
applied only to appropriate teacher salary and benefits costs as
30 calculated under section 15678. Beginning in fiscal year
2008-09, and at least every 3 years thereafter, the commissioner,
32 using information provided by a statewide education policy
research institute, shall review the regional adjustment amounts
under this section and shall submit any recommended changes to
34 the state board for approval.

36 **§15683. Total operating allocation**

38 For each school administrative unit, that unit's total
40 operating allocation is the base total set forth in subsection 1
as adjusted in accordance with subsection 2.

42 1. Base total. The base total of a school administrative
unit's total operating allocation is the sum of:

44 A. The product of the school administrative unit's
46 kindergarten to grade 8 per-pupil guarantee multiplied by
the total of the kindergarten to grade 8 portions of the
48 following pupil counts:

50 (1) The pupil count set forth in section 15674,
subsection 1, paragraph C;

2 (2) The additional weight for limited English
proficiency students calculated pursuant to section
15675, subsection 1; and

4
6 (3) The additional weight for economically
disadvantaged students calculated pursuant to section
15675, subsection 2;

8
10 B. The product of the school administrative unit's grade 9
to 12 per-pupil guarantee multiplied by the total of the
grade 9 to 12 portion of the following pupil counts:

12 (1) The pupil count set forth in section 15674,
14 subsection 1, paragraphs A, B and C;

16 (2) The additional weight for limited English
18 proficiency students calculated pursuant to section
15675, subsection 1; and

20 (3) The additional weight for economically
22 disadvantaged students calculated pursuant to section
15675, subsection 2;

24 C. If the school administrative unit is eligible for
26 targeted student assessment funds pursuant to section 15681,
subsection 1, the sum of:

28 (1) The product of the elementary school level and
30 middle school level per-pupil amount for targeted
32 student assessment funds calculated pursuant to section
34 15681, subsection 2 multiplied by the kindergarten to
grade 8 portion of the pupil count calculated pursuant
to section 15674, subsection 1, paragraph C,
subparagraph (1); and

36 (2) The product of the high school level per-pupil
38 amount for targeted student assessment funds calculated
40 pursuant to section 15681, subsection 2 multiplied by
the grade 9 to 12 portion of the pupil count calculated
pursuant to section 15674, subsection 1, paragraph C,
subparagraph (1);

42
44 D. If the school administrative unit is eligible for
targeted technology resource funds pursuant to section
15681, subsection 1, the sum of:

46 (1) The product of the elementary school level and
48 middle school level per-pupil amount for targeted
technology resource funds calculated pursuant to
50 section 15681, subsection 3 multiplied by the

2 kindergarten to grade 8 portion of the pupil count
4 calculated pursuant to section 15674, subsection 1,
paragraph C, subparagraph (1); and

6 (2) The product of the high school level per-pupil
8 amount for targeted technology resource funds
10 calculated pursuant of section 15681, subsection 3
multiplied by the grade 9 to 12 portion of the pupil
count calculated pursuant to section 15674, subsection
1, paragraph C, subparagraph (1); and

12 E. If the school administrative unit is eligible for
14 targeted kindergarten to grade 2 funds pursuant to section
16 15681, subsection 1, the product of the per-pupil guarantee
multiplied by the additional weight for kindergarten to
grade 2 calculated pursuant to section 15675, subsection 3.

18 2. Adjustments. The base total calculated pursuant to
20 subsection 1 must be adjusted as follows.

22 A. The base total calculated pursuant to subsection 1 must
24 be reduced by the amount of all funds received by the school
26 administrative unit under Title I of the federal Elementary
and Secondary Education Act of 1965, 20 United States Code,
Section 6301 et seq. during the most recent fiscal year.

28 B. The amount calculated pursuant to paragraph A must be
30 adjusted by the regional adjustment pursuant to section
15682.

32 C. The amount calculated pursuant to paragraph B must be
34 multiplied by the essential programs and services transition
percentage for the appropriate year in accordance with
section 15671, subsection 7, paragraph A.

36 §15684. School administrative unit contributions to total
38 operating allocation

40 1. School administrative unit's local share percentage.
42 For each school administrative unit, the commissioner shall
annually determine the unit's local share percentage of its total
operating allocation.

44 A. Except as provided in paragraph B, the local share
46 percentage of the total operating allocation is the product
of:

48 (1) The school administrative unit's weighted relative
50 property fiscal capacity, determined in accordance with
section 15685; and

2 (2) A statewide adjustment factor to be established
3 annually by the commissioner.

4
5 B. Notwithstanding paragraph A, the local share percentage
6 for a school administrative district or a community school
7 district is calculated as a weighted average of the local
8 share percentages of each member municipality as if each
9 member municipality were a separate school administrative
10 unit. The weight for each municipality is the proportion of
11 the district's subsidizable pupils who reside in the
12 municipality.

13
14 C. The local share percentage for a school administrative
15 unit in a school administrative district or a community
16 school district may not exceed 100%. If the local share
17 percentage calculation is performed for a municipality in
18 accordance with paragraph B, then the local share percentage
19 for the municipality may not exceed 100%.

20
21 2. School administrative unit; contribution. For each
22 school administrative unit, the commissioner shall annually
23 determine the school administrative unit's contribution in
24 accordance with the following.

25 A. The school administrative unit's local contribution to
26 the total operating allocation is the product of the amount
27 calculated pursuant to section 15683 multiplied by the
28 school administrative unit's local share percentage of the
29 total operating allocation calculated pursuant to subsection
30 1.

31
32 B. The school administrative unit's state contribution to
33 the total operating allocation is the amount calculated
34 pursuant to section 15683 less the school administrative
35 unit's local contribution to the total operating allocation
36 calculated pursuant to paragraph A.

37
38 §15685. Weighted relative property fiscal capacity

39
40 For each school administrative unit, the commissioner shall
41 annually determine the unit's weighted relative property fiscal
42 capacity. This determination is the result of the following
43 steps.

44
45 1. Fiscal capacity. The local per-pupil property fiscal
46 capacity divided by the statewide per-pupil property fiscal
47 capacity as computed by the commissioner is multiplied by a
48 property weight of 0.85.

49
50 2. Local median household income. The local median
51 household income is divided by the statewide average median
52

2 household income. The final result is multiplied by an income
4 weight of 0.15. The department shall use local median household
6 income data as estimated at the fiscal year 1997-98 level until
8 final Federal Decennial Census figures are established for the
10 year 2000. The fiscal year 1997-98 estimated census figures must
12 be adjusted so that no municipality's census figure exceeds twice
14 the state average percentage increase from fiscal year 1996-97 to
16 fiscal year 1997-98.

18 3. Weighted relative property fiscal capacity. The results
20 of subsection 1 and subsection 2 are added and the sum represents
22 the weighted relative property fiscal capacity.

24 §15686. Transition adjustment

26 For each of the fiscal years described in section 15671,
28 subsection 7, the commissioner shall establish a transition
30 adjustment calculated to minimize the fiscal impact directly
32 related to the phase-in of this Act. The amount of this
34 adjustment must decline with each successive fiscal year, and the
36 adjustments must end no later than fiscal year 2009-10.

38 §15687. Rules

40 The commissioner shall adopt rules to implement this Act.
42 Rules adopted pursuant to this section are routine technical
44 rules as defined in Title 5, chapter 375, subchapter 2-A.

46 Sec. A-5. Review of data. By October 1, 2006, the Commissioner
48 of Education, in consultation with the Maine Education Policy
50 Research Institute, shall review data on limited English
52 proficiency students, including the number of students in the
54 State qualifying for limited English proficiency status and the
56 costs attributable to English as a 2nd language programs. The
58 commissioner shall submit the results of this review to the State
60 Board of Education.

62 **PART B**

64 Sec. B-1. 5 MRSA §17154, sub-§6, ¶E, as repealed and replaced
66 by PL 1995, c. 471, §2, is amended to read:

68 E. Notwithstanding this section, the employer retirement
70 costs related to the retirement system applicable to those
72 teachers whose funding is provided directly or through
74 reimbursement from private or public grants must be paid by
76 local school systems from those funds. "Public grants" does
78 not include state or local funds provided to school

2 administrative units under Title 20-A, chapters 315 and 606
and 606-B.

4 **Sec. B-2. 20-A MRSA §15602, sub-§1**, as amended by PL 1985, c.
505, §12, is further amended to read:

6
8 **1. Contributions from General Fund.** It is the intent of
the Legislature to provide at least 55% of the cost of the total
10 allocation from General Fund revenue sources or a percentage no
less than that provided in the year prior to the year of
allocation, whichever is greater.

12
14 ~~The amount of the teacher recognition grants authorized in~~
~~section 13503-A which are paid or deemed eligible to be paid on~~
~~August 15, 1986, shall be added to the actual local operating~~
16 ~~costs expended by local units in 1986-87. The minimum amount of~~
~~the cost of the total allocation from General Fund revenue~~
18 ~~sources for 1988-89 shall be increased by the total amount~~
~~expended by the State in 1986-87 for teacher recognition grants~~
20 ~~in accordance with section 13503-A and block grants in accordance~~
~~with section 13509. The resulting percentage shall be used to~~
22 ~~define the minimum percentage contribution from General Fund~~
~~revenue sources in 1988-89 and subsequent years.~~

24
26 **Sec. B-3. 20-A MRSA §15602, sub-§4**, as enacted by PL 1989, c.
875, Pt. E, §27, is repealed.

28 **Sec. B-4. 20-A MRSA §15602, sub-§5**, as enacted by PL 1991, c.
528, Pt. I, §7 and affected by Pt. RRR and enacted by c. 591, Pt.
30 I, §7, is repealed.

32 **Sec. B-5. 20-A MRSA §15602, sub-§6**, as enacted by PL 1991, c.
625, §1 and affected by §5, is repealed.

34
36 **Sec. B-6. 20-A MRSA §15602, sub-§7**, as renumbered by RR 1991,
c. 2, §70, is repealed.

38 **Sec. B-7. 20-A MRSA §15602, sub-§8**, as enacted by PL 1993, c.
410, Pt. F, §5, is repealed.

40
42 **Sec. B-8. 20-A MRSA §15602, sub-§9**, as enacted by PL 1993, c.
684, §3, is repealed.

44 **Sec. B-9. 20-A MRSA §15602, sub-§10**, as enacted by PL 1995, c.
368, Pt. Y, §1, is repealed.

46
48 **Sec. B-10. 20-A MRSA §15602, sub-§11**, as enacted by PL 1997,
c. 469, §1, is repealed.

2 **Sec. B-11. 20-A MRSA §15602, sub-§12**, as enacted by PL 1997,
c. 643, Pt. D, §1, is repealed.

4 **Sec. B-12. 20-A MRSA §15602, sub-§13**, as enacted by PL 1999,
c. 401, Pt. GG, §1, is repealed.

6 **Sec. B-13. 20-A MRSA §15602, sub-§14**, as enacted by PL 1999,
8 c. 731, Pt. D, §1, is repealed.

10 **Sec. B-14. 20-A MRSA §15602, sub-§§15 and 15-A**, as enacted by
12 PL 2001, c. 358, Pt. U, §1, are repealed.

14 **Sec. B-15. 20-A MRSA §15602, sub-§16**, as enacted by PL 2001,
c. 559, Pt. D, §1, is repealed.

16 **Sec. B-16. 20-A MRSA §15603, sub-§28-A**, as enacted by PL 1999,
18 c. 401, Pt. JJ, §1, is repealed.

20 **Sec. B-17. 20-A MRSA §15612, sub-§1**, as enacted by PL 1983, c.
20 859, Pt. G, §§2 and 4, is repealed.

22 **Sec. B-18. 20-A MRSA §15612, sub-§5**, as amended by PL 1995, c.
24 303, §1, is repealed.

26 **Sec. B-19. 20-A MRSA §15612, sub-§6**, as amended by PL 1989, c.
26 554, §1, is repealed.

28 **Sec. B-20. 20-A MRSA §15612, sub-§8**, as enacted by PL 1983, c.
30 859, Pt. K, §§6 and 7, is repealed.

32 **Sec. B-21. 20-A MRSA §15612, sub-§12**, as amended by PL 1989,
c. 875, Pt. E, §31, is repealed.

34 **Sec. B-22. 20-A MRSA §15612, sub-§12-A**, as enacted by PL 1999,
c. 401, Pt. JJ, §2, is repealed.

36 **Sec. B-23. 20-A MRSA §15612, sub-§13**, as amended by PL 1999,
38 c. 401, Pt. JJ, §3, is further amended to read:

40 **13. Adjustment limitations.** The amounts of the adjustments
42 paid to school administrative units or municipalities in
subsections 1, 2, 4, 6, 7, 10, and 11, ~~12 and 12-A~~ are limited to
the amounts appropriated by the Legislature for these adjustments.

44 **Sec. B-24. 20-A MRSA §15612, sub-§14**, as enacted by PL 1991,
46 c. 625, §3 and affected by §5, is repealed.

48 **Sec. B-25. Revisor's review; cross-references.** The Revisor of
50 Statutes shall review the Maine Revised Statutes and include in
the errors and inconsistencies bill submitted to the Second

2 Regular Session of the 121st Legislature pursuant to Title 1,
3 section 94 any sections necessary to correct and update any
4 cross-references in the statutes to provisions of law repealed in
5 this Act.

6 **SUMMARY**

8 Part A of this bill repeals the School Finance Act of 1995
9 and establishes in its stead the Essential Programs and Services
10 Funding Act.

12 Specifically, Part A of this bill proposes to accomplish the
13 following.

14 1. It establishes targets for a transition to a new school
15 funding approach, based on essential programs and services, in
16 order to provide all children with an equitable opportunity to
17 access the resources necessary to achieve the high standards of
18 Maine's system of learning results.

20 2. It defines the elements of essential programs and
21 services in order to:

24 A. Determine the resources necessary for all students in
25 each school administrative unit;

26 B. Establish the methodology to calculate per-pupil
27 guarantees unique to each school administrative unit based
28 on each unit's personnel profile for years of experience and
29 education level;

32 C. Address providing additional resources for specialized
33 student populations;

34 D. Define the major cost components;

36 E. Provide for targeted funds;

38 F. Provide for an annual updating of the components; and

40 G. Establish that a review of the essential programs and
41 services components occurs every 3 years.

44 3. It provides for a transition adjustment to minimize the
45 fiscal impact directly related to the phase-in of this Act.

46 4. It incorporates the statutory language necessary to
47 maintain the current distribution method for operating allocation
48 that was established in the School Finance Act of 1995.

50

2 5. It establishes targets for a transition to an increased
state share percentage.

4 Part B of this bill makes technical changes and corrects
cross-references necessitated by Part A.

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EDUCATION AND CULTURAL AFFAIRS

Reported by: *Majority*

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE
SENATE
121ST LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 575, L.D. 1623, Bill, "An Act To Implement School Funding Based on Essential Programs and Services"

Amend the bill in Part A by striking out all of section 1 and inserting in its place the following:

Sec. A-1. 20-A MRSA §15652, sub-§6, as enacted by PL 1995, c. 368, Pt. Z, §1 and affected by §2, is amended to read:

6. **Property fiscal capacity.** "Property fiscal capacity" means the lesser of the average of the state valuation amounts for the 2 most recent years prior to the year of funding ~~or~~ and the state valuation amount for the most recent year, except that for fiscal year 2004-05 "property fiscal capacity" means the lesser of the average of the state valuation amounts for the 3 most recent years prior to the year of funding and the state valuation amount for the most recent year.

Sec. A-2. 20-A MRSA §15656, sub-§1, as enacted by PL 1999, c. 401, Pt. GG, §8, is amended to read:

1. **Pupil count used for operating costs.** The resident pupil count used for operating costs in this chapter is the greater of the average of the 2 census counts for the most recent calendar year and the average of the 4 census counts for the 2 most recent calendar years, except that for fiscal year 2004-05 the resident pupil count used for operating costs in this chapter is the greater of the average of the 2 census counts for the most

COMMITTEE AMENDMENT

recent calendar year and the average of the 6 census counts for the 3 most recent calendar years.

A. The 2 census counts in each calendar year must be for April 1st and October 1st.

B. As an exception, only the 2 census counts in the most recent calendar year may be used for:

(1) Kindergarten to grade 8 students for units that send all their kindergarten to grade 8 students as tuition students to schools elsewhere in the State;

(2) Grade 9 to grade 12 students for units that send all their grade 9 to grade 12 students as tuition students to schools elsewhere in the State; and

(3) Kindergarten to grade 12 students for units that send all their kindergarten to grade 12 students as tuition students to schools elsewhere in the State.

Sec. A-3. 20-A MRSA §15660 is enacted to read:

§15660. Repeal

This chapter is repealed July 1, 2005.'

Further amend the bill in Part A in section 3 in subsection 7 in paragraph A in the 2nd line (page 1, line 21 in L.D.) by inserting after the following: "percentage" the following: 'excluding program cost allocation, debt service allocation and adjustments.'

Further amend the bill in Part A in section 3 in subsection 7 in paragraph B by striking out all of subparagraphs (1) to (4) (page 1, lines 37 to 43 in L.D.) and inserting in their place the following:

'(1) For fiscal year 2005-06, the target is 49%.

(2) For fiscal year 2006-07, the target is 49.25%.

(3) For fiscal year 2007-08, the target is 49.50%.

(4) For fiscal year 2008-09, the target is 49.75%.'

Further amend the bill in Part A in section 4 in that part designated "§15672." in subsection 23 in the 3rd line (page 4, line 25 in L.D.) by striking out the following: "2" and inserting in its place the following: '3'

2 Further amend the bill in Part A in section 4 in that part
designated "§15674." in subsection 1 in paragraph C in
4 subparagraph (2) in the first line (page 6, line 29 in L.D.) by
striking out the following: "2" and inserting in its place the
6 following: '6'

8 Further amend the bill in Part A in section 4 in that part
designated "§15674." in subsection 1 in paragraph C in
10 subparagraph (2) in the 2nd line (page 6, line 30 in L.D.) by
striking out the following: "2" and inserting in its place the
12 following: '3'

14 Further amend the bill in Part A in section 4 in that part
designated "§15680." in subsection 4 in the first line (page 12,
16 line 32 in L.D.) by striking out the following: "2008-09" and
inserting in its place the following: '2006-07'

18 Further amend the bill in Part A in section 4 in that part
designated "§15680." in subsection 4 in the 2nd line (page 12,
20 line 33 in L.D.) by striking out the following: "3" and
inserting in its place the following: '2'

22 Further amend the bill in Part A in section 4 in that part
designated "§15681." in subsection 5 in the first line (page 14,
24 line 12 in L.D.) by striking out the following: "2008-09" and
26 inserting in its place the following: '2006-07'

28 Further amend the bill in Part A in section 4 in that part
designated "§15681." in subsection 5 in the 2nd line (page 14,
30 line 13 in L.D.) by striking out the following: "3" and
inserting in its place the following: '2'

32 Further amend the bill in Part A in section 4 in that part
designated "§15682." in the first paragraph in the 9th line (page
34 14, line 29 in L.D.) by striking out the following: "2008-09,
36 and at least every 3" and inserting in its place the following:
'2006-07, and at least every 2'

38 Further amend the bill in Part A in section 4 in that part
designated "§15687." in the first paragraph in the 2nd line (page
40 18, line 26 in L.D.) by striking out the following: "routine
42 technical" and inserting in its place the following: 'major
substantive'

44 Further amend the bill by relettering or renumbering any
46 nonconsecutive Part letter or section number to read
consecutively.

48

SUMMARY

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This amendment is the majority report of the Joint Standing Committee on Education and Cultural Affairs. The amendment proposes to accomplish the following.

1. It establishes July 1, 2005 as the effective date for the repeal of the School Finance Act of 1995 to coincide with the implementation of the transition to a new school funding approach, based on essential programs and services, beginning in fiscal year 2005-06.

2. It establishes that, beginning in fiscal year 2004-05, the pupil counts and the property valuation data used for determination of the state subsidy to be distributed to each school administrative unit will be based on the averages of the annual numbers for pupil count and for property valuation for the most recent 3-year period or the pupil counts and the property valuation data for the most recent year, whichever results in a greater pupil count or a lesser property valuation compared to statewide averages for these factors.

3. It clarifies that the annual targets established for the essential programs and services transition percentage exclude program cost allocation, debt service allocation and adjustments.

4. It amends the annual targets established for the transition to an increased state share percentage under the essential programs and services funding approach.

5. It amends the timeline established for reviewing the essential programs and services components by establishing that the review begins in fiscal year 2006-07 and takes place at least every 2 years thereafter.

6. It amends the rule-making provisions of the bill to establish that rules adopted to implement the provisions of the Essential Programs and Services Funding Act are major substantive rules.

FISCAL NOTE REQUIRED
(See attached)

121st Maine Legislature
Office of Fiscal and Program Review



LD 1623

An Act to Implement School Funding Based on Essential Programs and
Services

LR 2124(02)

Fiscal Note for Bill as Amended by Committee Amendment *A/S-258*

Committee: Education and Cultural Affairs

Fiscal Note Required: Yes

Fiscal Note

	2003-04	2004-05	Projections 2005-06	Projections 2006-07
Net Cost (Savings)				
General Fund	\$0	\$0	\$ (17,017,327)	\$ 4,198,058
Appropriations/Allocations				
General Fund	\$0	\$0	\$ (17,017,327)	\$ 4,198,058

Fiscal Detail and Notes

This bill replaces the School Finance Act of 1995, the current method used to determine individual school units' operating cost subsidy, with the Essential Programs and Services Funding Act, which uses specific key components to determine the operating cost subsidy for each local school unit. Although the method used to calculate each school unit's operating subsidy is replaced, the current distribution method for the operating cost allocation established in the School Finance Act of 1995 is maintained. However, this bill makes changes to the calculation of pupil count and property fiscal capacity that is used to determine the amount of state subsidy to be distributed to each school administrative unit beginning in fiscal year 2004-05. Although this change will not impact the total amount of funds available for distribution for General Purpose Aid for Local Schools, it may affect the amount of school subsidy that each individual unit receives. The impact to each individual school unit can not be determined at this time.

The School Finance Act of 1985, the current method used to determine program costs, debt service and all adjustments, is also maintained. However, the estimates provided by the Department assume the transition of program costs to the Essential Programs and Services model beginning in fiscal year 2005-06.

Since the operating cost allocation for each school administrative unit will be determined based on a different set of factors than what is used in the current school funding formula, the subsidy amount for each local unit may change as well. The impact to each individual school unit cannot be determined at this time. A key component of operating cost allocation is the additional per pupil funding targeted at K-2 students, assessments and technology resources. Local school units will only receive this additional funding if it is in compliance with certain requirements or meets certain eligibility criteria. The impact on the local school units' funding associated with this key component can not be determined at this time.

The following table provides estimates for the total State and Local Operating cost of funding education based on the Essential Programs and Services model and compares the total State and Local cost of funding K-12 education based on the EPS model, adjusted for the transition percentage, with the total State and Local cost of funding education based on the current model. The table also provides a comparison of the General Fund appropriations that are estimated to be needed to fund the state's share of the cost of funding K-12 education.

	Base Year			
	<u>2003-04*</u>	<u>2004-05*</u>	<u>2005-06</u>	<u>2006-07</u>
Total State & Local Operating Cost allocation based on EPS model (100%)	\$ 1,256,951,694	\$ 1,260,260,954	\$ 1,270,125,664	\$ 1,285,714,652
EPS Transition Percentage	80.82%	82.00%	84.00%	88.00%
Adjusted Total Operating Allocation based on EPS model	\$ 1,015,868,359	\$ 1,033,413,982	\$ 1,066,905,558	\$ 1,131,428,894
Total State & Local cost based on EPS funding model (includes program costs, debt service and adjustments)	\$ 1,467,457,416	\$ 1,518,173,106	\$ 1,537,199,970	\$ 1,618,879,589
Total State & Local cost based on current funding formula (includes program costs, debt service and adjustments)	\$ 1,467,408,432	\$ 1,503,862,194	\$ 1,543,887,175	\$ 1,589,694,612
Net Increase (Decrease) in Allocation	\$ 48,984	\$ 14,310,912	\$ (6,687,205)	\$ 29,184,911
State Share Targets to fund K-12 education based on EPS model	49.89%	47.81%	49.00%	49.25%
Estimated General Fund appropriation needed to fund K-12 education based on EPS model			\$ 753,227,985	\$ 797,298,197
Estimated General Fund appropriation needed to fund K-12 education based on current funding model			\$ 770,245,312	\$ 793,100,139
Net General Fund Appropriation (Deappropriation) required to fund EPS model vs. current funding formula			\$ (17,017,327)	\$ 4,198,058

* No adjustment in fiscal year 2003-04 and fiscal year 2004-05

State of Maine
DEPARTMENT OF EDUCATION

Testimony of Susan Gendron, Commissioner

Supporting L.R. 2124

An Act to Implement School Funding Based on Essential Programs and Services

Before the Committee on Education and Cultural Affairs

Sponsored by: Senator Douglass

Cosponsored by: Representative Cummings

Date: May 14, 2003

Senator Douglass, Representative Cummings, and Members of the Joint Standing Committee on Education and Cultural Affairs:

My name is Susan Gendron, Commissioner of Education, and I am here today to speak in strong support of the Governor's Bill, L.R. 2124, An Act to Implement School funding Based on Essential Programs and Services.

Maine has adopted the *Learning Results*, a far-reaching set of expectations that describe what every Maine student should know and be able to do. We have crafted a vision that characterizes what education in Maine would look like, after these *Learning Results* are fully attained. The vision is challenging, and every local school unit must be a full partner in working to achieve this vision. This partnership requires that each local school unit have sufficient resources to assure that its students have the opportunity to reach these *Learning Results* standards. In order to translate equally high expectations into strong outcomes for all students, every student and school in Maine must have access to the essential programs and other resources necessary to achieve them. The costs associated with those programs, personnel, and other resources make up the *Essential Programs and Services model*.

The Essential Programs and Services approach to school funding represents a new concept in funding. In the past, we have had school funding that was "expenditure-driven", where the State has attempted to keep up with an arbitrary percentage of whatever happened to be spent by school units. We have had "revenue-driven" funding based on whatever the State could afford to appropriate. The Essential Programs and Services model is research based, cost-driven, and focused on adequacy. It is designed to respond to student needs and is based on years of research and information gleaned from high performing cost effective school units. For the first time funding would be based on an adequate amount of resources for every student, rather than prior year expenses that have to be adjusted, curtailed, or cushioned over and over again.

Important emphasis: EPS defines the total (state and local) expenditures needed for each child to meet Maine's Learning results. It does not by design call for a certain level of state participation in those expenses nor does it provide for a distribution formula for any level of state participation. However, EPS does provide a sound basis for those decisions relating to state participation and distribution.

The EPS model provides per pupil amounts tailored for each individual school unit that reflect the costs for personnel, administration, and instructional support for each student K-12. The per pupil amounts are responsive to established pupil teacher ratios, teaching staff experience/education and other modeled support. Additional per pupil amounts are provided for specialized student populations that include economically disadvantaged and limited English proficiency students. Targeted amounts are also included for assessments, technology, and K-2 programs. Finally, an adjustment is included for regional cost differences in salaries and benefits. With the exception of targeted amounts school units are still free to determine how the defined EPS funds will be used.

The bill advances the concept and further defines key elements of the essential programs and services model. A phase-in to the full costs of the EPS model is spelled out and a timeline for achieving the stated goal from Chapter 660 of 50% state share of those costs. Finally, the bill proves for the development of criteria and a response to individual school unit transition issues.

An important factor leading to the attainment of Maine's *Learning Results* is funding education according to a model of Essential Programs and Services. In addition to providing a sound basis for school funding law, the EPS model also presents a well-defined and measured way of considering other reforms like regionalization of services and tax reform. I strongly encourage the Joint Standing Committee for Education and Cultural Affairs to endorse this bill and to recommend its enactment by the full Legislature.

I will be pleased to answer any questions you may have and will be available to the Committee for work sessions on this bill.

Testimony of Weston L. Bonney
Member Maine State Board of Education

Supporting LR 2124

An Act to Implement School Funding Based on Essential Programs and Services

Before the Joint Standing Committee on Education and Cultural Affairs

Sponsored by: Senator Douglass

Cosponsored by: Representative Cummings

Date: May 14, 2003

Senator Neria R. Douglas, Representative Glenn R. Cummings, Co-chairs, and Members of the Joint Standing Committee on Education and Cultural Affairs:

My name is Weston L. Bonney, Member of the Maine State Board of Education. In 1996 when the State Legislature requested the State Board to develop an educational funding proposal based on the concept of providing enough resources for each student in Maine to meet the Learning Results standards, I was asked to lead that effort.

Now, on behalf of the State Board, I would like to strongly recommend the passage of LR 2124, An Act to Implement School Funding Based on Essential Programs and Services.

This recommendation is being made for the following reasons:

1. LR 2124 continues the work of providing for the implementation of a more rational system for funding K-12 education than the current one which is based on whatever amount has been spent in the past. Five successive Legislatures, primarily through the efforts of five successive Joint Committees for Education, have directed and supported the continued work on this project. Appropriate funding is an important component of the continued implementation of the Learning Results.
2. Essential Programs and Services is a rational educational funding system that attempts to provide an adequate amount of resources for each student based on the particular needs of the student. The fundamental conceptual framework for the development of funding based on Essential Programs and Service is to provide enough funding for each student in order to meet differing learning needs so each student can be successful in meeting the Learning Results standards.

3. Essential Programs and Services is the only effort currently being made to provide better equity of resources for all students across the state. As an example of the current disparity in the fiscal year ending June 30, 2002, there were 34 School Administrative Units (SAUs) where less than \$4,500 per student was spent for K-8 students. There were 37 SAUs that spent more than \$7,000. This is a fifty-five percent disparity. It is not appropriate to continue this disparity based on where a student happens to go to school.

The process through which the current recommendations have been developed has been the use of a number of task forces made up of diverse groups of people doing concentrated work of defining the financial model and its components. These task forces have worked with the support of research conducted by representatives of the Maine Educational Policy Research Institute. The researchers have developed information from other states, data from Maine schools, research done both within the State of Maine and at the national level as well as "best practices" information and data from high performing low spending Maine School Districts. In other words the recommendations are based on numerous inputs of data and information and using the collective judgment of a diverse group of educators and others. The recommendations have also been discussed at a number of meetings with educator groups to get their responses and suggestions. At each stage of the process recommendations have been presented to members of the State Board for consideration, where debate resulting in some changes have taken place. Each successive Joint Committee for Education has reviewed the State Board recommendations and made suggestions for the continuation of the work.

The current bill provides for a phase in of EP&S as the funding mechanism for the State with required cushions to ameliorate the negative impact of any changes in State subsidy for particular SAUs. The phase in proposed also requires the State to pay at least 50% of the EP&S amount in the aggregate by the fiscal year 2009-2010.

With the implementation of EP&S funding the State will have a defined amount for its share of State/Local funding for the first time. There would no longer be an open-ended amount of funding for the State's share.

The State Board strongly and unanimously recommends the passage of LR 2124 to continue the orderly process of implementing a new education funding program which supports the continued implementation of Learning Results.

Thank you for your time.

Maine School Administrative District No. 9

11 School Lane
New Sharon, Maine 04955

Telephone: (207) 778-6571

Fax: (207) 778-4160

May 15, 2003

Dear Senator Douglass, Representative Cummings, and Members of the Education Committee:

I would like to offer you the following comments regarding LR 2124.

Page 4, section 23, Property Fiscal Capacity, I would recommend that you support Commissioner Albanese's recommendation that valuation be averaged over a 3 year period, instead of 2.

Page 6, section 1.C. Again, I would recommend supporting Commissioner Albanese's recommendation that per pupil average be increased from 2 to 3 years.

Page 9, section 2, A, B, C. These are not classroom size ratios. I strongly encourage you to remove the Title I staff from staff ratio calculation. Including Title I staff creates an artificially low teacher/student ratio. The Department of Education and former Governors have encouraged school systems to adopt Title I programs (e.g. Reading Recovery) that have small teacher/student ratios. Including these programs in the student/staff ratio has the potential to dramatically increase class size. Also, Ms. Cameron stated that the reason these positions were included was because there was no way to break them out of the classroom teacher count data source. I would like to point out to you that the same problem exists with teacher counts in systems that run vocational centers. The vocational staff can not be broken out from the totals because of how the data is collected, so the Department will have to find a way to disaggregate the data for vocational teachers and I would suggest they could do the same for Title I teachers. The reason for including them is faulty.

Page 12, Section 1, D. Cocurricular and extracurricular activities. This data needs review and updating prior to implementing the EPS model. Dr. Silvernail has stated that this needs to happen.

Page 14, Section 15682, Regional adjustment. I would strongly encourage you to modify the proposed language so you provide regional adjustments to help boost needy districts and not take subsidy away from others. This might be an excellent way to use the funding cushion. I encourage you to ask the Department to calculate the cost for supporting those in need compared to applying this adjustment to all. It is important when implementing a radical change that everyone view it as a win-win situation. I would further suggest that if you can't hold folks harmless that you drop the regional adjustment language.

Page 16, Section 2, A, Adjustments: Again, the issue of Title I. Since the Title I staff were included in the earlier calculations the Department wants to deduct the money districts receive to

*Committed to providing an environment where students can
achieve their maximum potential.*

fund the program. A fault with this idea is that around 20% of the Title I money goes to pay the unfunded liability for teacher retirement. This is not figured into the earlier calculation and therefore disproportionately penalizes all systems. It takes away more than it gives.

Page 18, Section 15686, Transition adjustment. Please see my earlier comments about using this to help with the Regional Adjustment. I ask, "Would it be fair that a school system benefit from a Regional Adjustment and then also receive money from the cushion?"

There are still pieces missing related to small school adjustments and how districts that tuition all their high school students will calculate their funding for secondary education. The original proposal suggested by Dr. Silvernail does not seem to work.

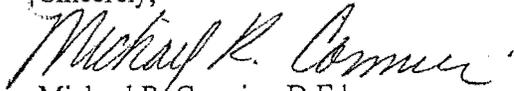
It is very important that ALL school systems receive printouts using both the current formula and the new EPS model. Everyone, including the Education Committee, needs to see what happens across the State. This is too dramatic a change to rely on sample data from selected regions.

One last comment, I would like to suggest that this formula be used to calculate the State student per pupil guarantee that is part of the current formula for the 2005 school year. It might be nice to phase in the use of this formula by initially using it to justify the per pupil guarantee. This would provide justification that is currently missing.

I would like to suggest that this LR be carried over into the next session. I firmly believe there are too many unanswered questions and incomplete sections to adopt it as printed.

Please feel free to call me if you have any questions.

Sincerely,


Michael R. Cormier, D.Ed
Superintendent of Schools

**REPORTS OF COMMITTEE
Committee of Conference**

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Revise the Reimbursement by the County Jail Prisoner Support and Community Corrections Fund and To Provide Additional Support to County Jails"

(S.P. 390) (L.D. 1186)

has had the same under consideration, and asks leave to report:

That the Senate **RECEDE** from **Passage to be Engrossed as Amended by Committee Amendment "A" (S-227)** and **COMMIT** the Bill and accompanying papers to the Committee on Criminal Justice and Public Safety in **Non-Concurrence**.

That the House **RECEDE** and **CONCUR** with the Senate.

Signed:

Senators:

STRIMLING of Cumberland

DAVIS of Piscataquis

Representatives:

BUNKER of Kossuth Township

BLANCHETTE of Bangor

RECTOR of Thomaston

Came from the Senate with the Committee of Conference Report **READ** and **ACCEPTED** and the Bill and accompanying papers **COMMITTED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** in **NON-CONCURRENCE**.

The Committee of Conference Report was **READ** and **ACCEPTED**.

The House voted to **RECEDE AND CONCUR**.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

SENATE PAPERS

Bill "An Act To Improve the Maine Rx Program"

(S.P. 590) (L.D. 1634)

Committee on **HEALTH AND HUMAN SERVICES** suggested and ordered printed.

Came from the Senate, under suspension of the rules and **WITHOUT REFERENCE** to a Committee, the Bill **READ TWICE** and **PASSED TO BE ENGROSSED**.

Representative **CURLEY** of Scarborough **OBJECTED** to suspending the rules in order to give the Bill its **FIRST READING WITHOUT REFERENCE** to any Committee.

The Chair ordered a division on the motion to give this Bill its **FIRST READING** pursuant to Joint Rule 308.

Representative **RICHARDSON** of Brunswick **REQUESTED** a roll call on the motion to give this Bill its **FIRST READING** pursuant to Joint Rule 308.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is give First Reading pursuant to Joint Rule 308. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 231

YEA - Adams, Ash, Barstow, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Landry, Laverniere-

Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGlocklin, McLaughlin, Mills J, Mills S, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Walcott, Watson, Wheeler, Woodbury, Mr. Speaker.

NAY - Andrews, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Dugay, Duprey B, Fletcher, Glynn, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, Maietta, Marraché, McCormick, McGowan, McKenney, Millett, Moody, Moore, Murphy, Muse, Nutting, O'Brien J, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan.

ABSENT - Annis, Bennett, Davis, Fischer, Goodwin, Greeley, McKee, McNeil, Peavey-Haskell, Perry J, Usher, Wotton, Young.

Yes, 74; No, 64; Absent, 13; Excused, 0.

74 having voted in the affirmative and 64 voted in the negative, with 13 being absent, and accordingly the motion to give this Bill its **FIRST READING** pursuant to Joint Rule 308 **PASSED**.

The Bill was **READ ONCE** and assigned for **SECOND READING** Thursday, June 12, 2003.

**REPORTS OF COMMITTEE
Divided Report**

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-258)** on Bill "An Act To Implement School Funding Based on Essential Programs and Services"

(S.P. 575) (L.D. 1623)

Signed:

Senators:

DOUGLASS of Androscoggin

BRENNAN of Cumberland

MITCHELL of Penobscot

Representatives:

CUMMINGS of Portland

GAGNE-FRIEL of Buckfield

LEDWIN of Holden

NORTON of Bangor

FINCH of Fairfield

THOMAS of Orono

FISCHER of Presque Isle

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Representatives:

DAVIS of Falmouth

ANDREWS of York

MURPHY of Kennebunk

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-258)**.

READ.

Representative **CUMMINGS** of Portland moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Cummings.

Representative CUMMINGS: Mr. Speaker, Ladies and Gentlemen of the House. Before you is a bill to implement the school funding based on essential programs and services. Many of us have been discussing this over the last few weeks. Many in the Education Committee have actually been discussing it over the last few years.

Please let me summarize briefly what it does. I think it is necessary to summarize what it does not do. What it does very simply is it says how much money should be behind every child who goes to school K-12 in our education system. It tries to get a handle on what kids need to reach the learning results that we, as a Legislature, said they ought to learn. It shifts the conversation away from topics that I think are less fundamental to more fundamental, what do kids need to succeed? We hope good public policy.

We should be careful what EPS does not do. EPS is simply a model for getting a handle on what is needed by our students. It is a method by which taxpayers can feel some level of accountability. It is a method we hope, in which teachers and educators can succeed.

I do want to say what it does not do. What it does not do is it does not change the funding formula as we know it. Other groups are discussing that and other committees are discussing it. The EPS could be coupled with any version of the school funding formula that you want. The present school funding formula could be coupled with conversations around a 10 mil expectation or a 9 mil expectation or an 8 mil expectation. All of those things could be coupled with this. That is not what EPS does. I just want to make sure that we are clearly discriminating in our conversation between that and other plans to fund it. The way I have described it is it is really the first 50 yards of the football field. The other 50 yards of the football field is how you distribute and what is your formula for distribution?

I want to say a few other things. The elements of EPS are to determine what are the conditions in your school system or conditions of your students that would merit certain amounts of money and those issues would include transportation, special education, free and reduced lunch, etc. Those weights we have put in. We do not know what the weights yet will be for transportation and special education so we have simply used the present expenditure, which means no district will lose money in each of those areas.

Let me conclude by saying this. The committee felt strongly that the Legislature should maintain its fingers in the pie of EPS. We have put in an amendment that would require us to review within the first year, the original document asked us for three years. We wanted to do it immediately. Secondly, we moved it to major substantive so that the Legislature will be able to change any weights as necessary.

I want to make a case that as we asked the taxpayers of Maine to fully fund K-12 education. I think we have an obligation to them to determine how much. As many of you know, there has been a lot of discussion since the early 1990s about funding education at 55 percent. The fair question on the part of Maine taxpayers is 55 percent of what? EPS gets us to that foundation. It helps us make ourselves accountable. It also makes us accountable to the children of Maine.

At this point, we have a choice in front of us. If we do not seek to use EPS, we have to ask ourselves the basic question, how will we determine how much should be raised for Maine kids and that, I think, after six years is in front of you. I ask you for

your support of the Majority Ought to Pass as Amended Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House. First, I am very sorry that this very important issue has come to you late in the evening when some members aren't here and many are tired. It probably is one of the most important, whether you have one year left to serve or you are beginning your service here in the Maine Legislature. It is probably one of the most important decisions you will make.

My good friend from the committee, the good chair, has talked about that you need a handle on education spending. Part of getting a handle is you have to have a yardstick in order to do that. What is before you is called essential services and it is projected as a new model, but it really is a hybrid. Part of it does have schedules or models or yardsticks within it, but 20 to 30 percent of it is current formulas. The current way of determining how a local spends and how you are going to evaluate that. I think a very tragic thing happened. I think you could call it a hijacking. This has been studied for quite a while. It had just moved from the academic side where they looked at an academic model of saying that these are the indexes or the bonuses that you should get for English as a second language or if you have children that are eligible for free and reduced lunch, special ed, looking at those categories, those youngsters that are more expensive to educate. That was the academic side. What would have happened normally is that for the next six months, the committee would have had an opportunity to look at those indexes and say, are they valid of being able to go into four or five different regions of Maine and saying, here is a the labor index on labor costs for your teaching staff. Here is the index or model for the number of administrators. We didn't have that opportunity. It was presented and then immediately taxation seized it and because of the MMA referendum, it left our committee about six months early.

We have seen the academic theory. We have not been able to take those indexes and look at your district or your region and is it a fair yardstick? If it isn't a fair yardstick and we find that out, then locally your taxpayers are picking up 100 percent beyond that yardstick in a variety of categories. If we do proceed to keep moving so quickly on this without taking the close look, we will discover whether it is fair as it gets applied to your district. If it turns out each of those indexes to be wrong, then locally they will have two choices, raise the property taxes or slash the programs and staff that are involved.

The other problem with this being here before us tonight is that vocational ed, which in many of your local budgets is extremely important, growing ever more important, special ed and transportation are not in this. Outside committees, separate from the Legislature, are studying those trying to come up with the index with the understanding that they would be bringing those to the committee in late fall. The committee would review it and then bring a complete package out to the Legislature. What you are being asked to do because of the MMA referendum is rush this out without a full analysis, wait and see when we come back in the second session how those other components will work. Some of you have seen printouts. A printout is based on the hybrid. As the special ed and the transportation of those components come in, the printouts you have seen will change. As every one of those move to go into, if you enact this and put it into the statute, every one of those will be a political decision, rather than an educational decision. It will affect your subsidy. There are at least three or four items if they are dealt with after

the fact, that are going to be political and financial fights rather than educational policy.

If you are from a rural district, transportation is not in here. In the short discussions that we had, we saw wide discrepancies from high to low in units that had the same kind of square mileage, same number of students, same miles of bus travel. The word that we are getting is that as that index comes back after we go home and before we meet again, that is going to be drawn as tightly as possible, which means if you are in a rural district and you have high transportation costs, then you are beyond the yardstick and you are going to pick up 100 percent of that cost. If we are talking about reorganization and having school units reach out and maybe draw in other units, shouldn't we decide that factor first, which is going to drive up education costs. There is a handful of us on this that are opposed to the process, not to essential services.

I will have people ask me, do you support essential services? I will say yes with what I have seen so far, but I haven't seen the rest and I want to be able to take it out into three rural areas, be able to take it to a Maine city, take it to the south and have superintendents and nurses. Many of you have received communications from school nurses saying that the yardstick of 1 to 800 doesn't reflect the needs of what are in the schools. With that yardstick per 800 population, if you have more than one nurse, then you will pick up 100 percent of that cost because it doesn't get into the box. You will also hear that the 55 percent, which ranges from the first state dollar to the last local dollar deals with the whole spectrum of what is spent on K-12. We have heard in the last week that under this plan the state will do 50 percent or maybe 53 or 55 percent of what is inside the box, but not what is outside the box.

It was our hope to be able to keep this in committee, get the rest of the indexes done, be able to look and see. This is what the academic side said, can we go out and see in a school districts, does it apply? Is it a real index? Will it work?

If you enact this this evening, that will not occur. You will not find out until this goes into affect whether those are accurate indexes. If any of those indexes are wrong, whether you are Portland, rural, north, south, east, west, it will be too late. When you go and meet with your school boards, the first issue that always comes up, no matter what part of the state you are in, is special education. They always tell you about the federal government, but they also tell you about the State of Maine. That is not in here. An important element of this is as you look at staff and do ratios it tries to separate out title 1 teachers and your regular staff. We don't have that information, because every year when teachers fill out a form in September or October they list their years of service, their degree and the district writes in the dollar amount and we currently don't ask if you are title 1 or a regular classroom teacher. If you see a printout, that is not included, because we don't have the information. We are not going to have the information until October or early November with that information coming if this is in committee as another tile in the mosaic of what would be a brand new school distribution formula.

What has happened and I know people think the sky is falling because of the MMA referendum and that you have to do something, even if its hasty and even if it bringing out something that is only halfway done and creating a promise on your part to your districts what a change will do when, in reality, the old tiles are in there, a couple new tiles are in there and you really don't know how it is going to run until January or February.

I think we were moving toward a unanimous committee report. The three of us had the attitude, show us, make sure it works, make sure the indexes are right, because there are going

to casualties out there. The first immediate casualties will be the young people K-12 in your district and the second casualties will be the property taxpayers. You would be committing a fraud to something that is coming out too early and it is not the full program. It is a partial. It is an attempt to throw something up and making people think there is an alternative to something they are going to vote on. Maine voters are pretty smart and they will pick their way through.

Mr. Speaker, I move that LD 1623 and all its accompanying papers to be committed to the Education Committee.

Representative MURPHY of Kennebunk moved that the Bill and all accompanying papers be **COMMITTED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

Representative RICHARDSON of Brunswick **REQUESTED** a roll call on the motion to **COMMIT** the Bill and all accompanying papers to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Bangor, Representative Norton.

Representative **NORTON**: Mr. Speaker, Ladies and Gentlemen of the House. In due deference to what the good Representative from Kennebunk, Representative Murphy, just had to say, I need to let you know why I went the way I did. In spite of the fears that the good Representative has, we are at a strange time in our history right now. We are truly in danger if we don't make decisions of having other bodies make decisions around our educational funding. It is very important that we have some control over the kind of funding that we want Maine's children to have for their public education. I believe that we have tried to see to the fact that we had some of these dangers covered. That is the reason for the one-year review. We have known that this would be a work in progress for several years to come. I think that is good, rather than writing something in stone and then having to deal with it, I think it is much better for us to realize that it is simply a work in progress.

Those parts of EPS that we all embrace dearly, the one that means the most to me is that it truly gives all of Maine's children an equitable opportunity to access the resources, which they need to meet the Maine Learning Results. This funding mechanism ultimately is the funding part of the Maine Learning Results. We do need to get on with the program if we want our children to be meeting those high standards. The children going into high school next year are going to have to fully meet those learning standards. By the time they graduate from high school, they have to be on board with the MEAs and everything. We do need to get on with some of this material. I think that even though some of the things that the good Representative from Kennebunk told us, weren't fully in place, I think that is fine. The reality is, we are continuing to work on that. This is why we have asked for the one-year review and the major substantive rule changes. I urge you to support our essential programs and services. Thank you.

Representative **DUPLESSIE** of Westbrook assumed the Chair.

The House was called to order by the Speaker Pro Tem.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. In the minutes that this matter has been debated, I

Curley, Duprey B, Fletcher, Heidrich, Honey, Joy, Kaelin, Lewin, Maietta, McKenney, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Richardson M, Rogers, Rosen, Shields, Snowe-Mello, one, Sykes, Tardy, Treadwell, Vaughan, Young.

ABSENT - Berube, Davis, Goodwin, Greeley, McGlocklin, McGowan, Usher.

Yes, 106; No, 37; Absent, 7; Excused, 1.

106 having voted in the affirmative and 37 voted in the negative, with 7 being absent and 1 excused, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-570) in NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

Bill "An Act To Implement School Funding Based on Essential Programs and Services"

(S.P. 575) (L.D. 1623)

(C. "A" S-258)

Which was **TABLED** by Representative RICHARDSON of Brunswick pending **PASSAGE TO BE ENGROSSED as Amended.**

The **SPEAKER**: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. I think, first of all as an aside, Mr. Speaker, I drive through your district twice a day as a commuter and I think going home late last night everything was quiet in your district, but there was one of those Maine moments on the way in. As I came down the steep hill and was starting up the hill toward the Irving, there were two 11 year old boys walking along. The first thing as a teacher I knew was school is out in Gardiner. They were trying their fishing polls. One had a little bait bag. They were optimists because they had a big bucket and they knew they were going to catch something. There was a very subtle message to me and to this body that it is time for this institution to go home.

Last night we had two choices before us. One, to return this bill back to committee or to begin the process of moving toward enactment. Today we really only have one choice. An Ought Not to Pass would kill the issue for the next two years and that would be a very serious error, I think, on our part. I do take offense in terms of comments made on the floor last night as to my possible making misrepresentation of special ed and transportation. I think the comment was made that you would lose it. I picked my words very carefully and very clearly last night had said that there was a hybrid before you and part of that was the old law dealing with special ed and transportation. I made it very clear that once the index has been set, it will probably not match the printout that you have been given today. You might get more. You might get less or you might get just the same. I did not imply or say that you would not be getting the money for special ed and transportation.

I was very pleased to hear last night in the debate that on the other side of the issue from the Majority Report that there was an agreement between the two sides on this issue. One, the bill that is before us is incomplete. It is not a full mosaic. I also heard, it gave me a little reassurance last night, that this is long term. You were told to put it into the statutes because this will not happen for another two or two and a half years. It will be years before it will be implemented. During these last two days of this session or if we return for a special session, if this does appear on the floor as a competing issue or if a reference is made to this

essential services on the ballot, then it will not match with what we were told last night.

Even though there were two divided reports on this committee, every member of that committee is unanimous in finding the best way of getting more resources to our children. I first came to this Legislature in January 1981. The reason for running was to get those resources to Maine school children. I returned in December 1988 for that same reason and for the last three years I have been a thorn in the side of leadership on both sides of the aisle for us not meeting our partnership obligations at the state level when it comes to funding education. I think as we move into the closing days we will look to see, is this a long-term implementation or is there a separate agenda to enact this fall. You will not have an opportunity to attend a hearing or a work session in your region to find out how this matches up with what is at home.

About a week after this session ends and after you go through your decompression and you return to a normal mental state, I will have delivered to you in the mail a worksheet and it will take the current ratios that are in this bill, the ones that are in there already, and it will be a simple one page worksheet that you can take to your superintendent and ask, how does this ratio match with what is happening in our school unit? In that way you will be able to find, are these indexes correct or are they too light? What impact will it have on children before we come back in January to finish up this essential programs and services?

The Chair ordered a division on **PASSAGE TO BE ENGROSSED as Amended.**

A vote of the House was taken. 97 voted in favor of the same and 18 against, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-258) in concurrence. ORDERED SENT FORTHWITH.**

The following items were taken up out of order by unanimous consent:

ENACTORS

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Preserve the Fund for a Healthy Maine

(H.P. 1188) (L.D. 1612)

(C. "A" H-568)

The **SPEAKER**: The Chair recognizes the Representative from Belmont, Representative Berry.

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I received on my desk after our last vote a document and one of the statements on it is the coalition will be very disappointed. I would just like to explain something here. Over a year ago I chose to support protecting the Fund for a Healthy Maine. I chose to support making sure that the funds for that were used for a single purpose and that was the health care and those programs related to what I determined to be legitimate use of funds. I have in my hand the document and in that document also highlighted is a statement that says, "In these tough times it isn't every day that you see a leader standing up for health programs. Here in Maine our Governor and 129 members of our Legislature are making Maine a national leader in health care issues by protecting Maine's tobacco settlement dollars for the Fund for a Healthy Maine." They know that preventing kids from smoking, helping adults quit and keeping healthier in general is a smart choice that will save a lot of state money and protect generations to come.

Ladies and gentlemen of the House, nowhere in this document does it say that I had to or I ever approved the use of a Constitutional Amendment to achieve this. I look at this