

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twentieth Legislature**  
**State of Maine**

**Volume III**

**Second Regular Session**

March 7, 2002 – April 25, 2002

**First Special Session**

November 13, 2002 - November 14, 2002

Pages 1771-2574

**Appendix**  
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from funding formula to funding formula. However, when I look at the Majority Report, I find no similar language, definitive language, about how, in fact, we are going to transition these. Listening to several of the comments from previous speakers, one of which sits on the Education Committee, stating quite definitively that there would not be cushions. It tells me that there seems to be a misunderstanding or a undefined portion about how we will transition folks in their communities from one funding formula to the second.

One thing that is clear to me is that the current system that we have does not protect local school districts and, in fact, my district was cut 32 percent as a result of Friday's budget vote, which represents \$1.5 million to my local school district. When we look to phasing in new funding formulas, you bet cushions are a big concern and how they are phased in is a very big concern to my school district. That needs to be straightened out for me when we vote on this issue. In fact, how is this phase in period going to happen? What is a maximum loss for one year that a school district is going to sustain? Thirty-two percent was regarded as manageable by this Legislature. What will it be by the next? I need that answer before I vote.

We also have the whole issue about the funding of this new school funding formula. If, in fact, it is going to require it pumped with \$160 million of additional funding looking at the downward times that we have had in this economy and in this state, what happens when we don't meet those funding levels and, again, that phase in is going to be balanced on somebody's school district? What is the guarantee that that school district is going to be left whole? If there is a member of this body that would like to answer these questions, I would like that answer. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 560

YEA - Andrews, Ash, Belanger, Berry RL, Blanchette, Bouffard, Bowles, Brannigan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Carr, Chick, Clark, Collins, Colwell, Cote, Cowger, Cummings, Daigle, Davis, Desmond, Dudley, Duncan, Dunlap, Estes, Etnier, Fisher, Fuller, Gerzofsky, Gooley, Hatch, Hawes, Heidrich, Honey, Hutton, Kane, LaVerdiere, Ledwin, Lemoine, Lundeen, Madore, Mailhot, Marley, Marrache, Mayo, McDonough, McGlocklin, McKenney, McLaughlin, McNeil, Mitchell, Murphy E, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Neil, Paradis, Patrick, Peavey, Pineau, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Shields, Stanley, Stedman, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Trahan, Tuttle, Usher, Watson, Weston, Winsor, Young, Mr. Speaker.

NAY - Berry DP, Buck, Chase, Chizmar, Clough, Cressey, Dugay, Duplessie, Duprey, Foster, Gagne, Glynn, Goodwin, Green, Haskell, Jacobs, Jodrey, Jones, Kasprzak, Labrecque, Landry, Laverriere-Boucher, Lessard, MacDougall, Matthews, McGowan, McKee, Mendros, Michael, Michaud, Murphy T, Muse C, Muse K, Perkins, Pinkham, Sherman, Simpson, Skoglund, Smith, Snowe-Mello, Sullivan, Treadwell, Twomey, Volenik, Waterhouse, Wheeler EM, Wheeler GJ.

ABSENT - Annis, Bagley, Baker, Bliss, Crabtree, Dorr, Hall, Koffman, Lovett, Morrison, O'Brien LL, Perry, Povich, Tracy.

Yes, 90; No, 47; Absent, 14; Excused, 0.

90 having voted in the affirmative and 47 voted in the negative, with 14 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-1002)** was **READ** by the Clerk and **ADOPTED**.

Under suspension of the rules the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-1002)** and sent for concurrence.

#### ENACTORS

##### Emergency Measure

An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2002 and June 30, 2003

(H.P. 1574) (L.D. 2080)  
(H. "K" H-986 to C. "A" H-968)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

Representative KASPRZAK of Newport **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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 Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. What is the size of the structural gap contained in this budget that is before us?

The SPEAKER: The Representative from Kennebunk, Representative Murphy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Livermore, Representative Berry.

Representative **BERRY**: Mr. Speaker, Men and Women of the House. From the blue sheet we had, the work sheet, with the budget documents the other day, I think the estimate was between \$500 an \$600 million.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. It seems like just three years ago we were concerned about a structural gap moving up over \$100 million. We say in this session when we had a \$250 million shortfall we saw almost daily demonstrations, rallies, letters, editorials and e-mails talking about the impact on Medicaid and the state agency kids with their full reimbursement was not going to be included and what that meant without fully funding GPA cushion. If I could pose an additional question, Mr. Speaker?

The SPEAKER: The Representative may pose his question.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. To anyone from the Appropriations Committee, within this budget that is before us, that includes a projection for GPA in each of the two years, what would be that percentage increase for each year?

The SPEAKER: The Representative from Kennebunk, Representative Murphy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Acton, Representative Nass.

Representative **NASS**: Mr. Speaker, Men and Women of the House. I am a little puzzled by the question. I am not sure it is a number that I am familiar with. Hopefully someone from the Education Committee might know what the projected increase is,

I think the question was, for the upcoming two years. I am not sure I have seen that.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. Over the last two legislative days we have had extensive legislative debate over GPA cushions and what happens when you don't fully fund education. We are being asked this evening to vote on a budget, which has a tail of \$500 to \$550 million. That is based on a reprojection. If we hit that reprojection, which was a very optimistic reprojection, if we hit it right on the button, we are still going to be \$500 to \$550 million short. We haven't been told yet what in that tail includes money that is committed two years out to GPA. Does that mean we are not only \$550 million short, but we are short of whatever it would take to do GPA in those two years? Is that added to that? We have heard in debate this evening a cost of \$160 million a couple years out, but that may very well begin in the second year of the next biennium and that is added to that. Mr. Speaker, might I ask a question to any member of the Taxation that might want to respond.

The SPEAKER: The Representative may pose his question.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. For a \$550 million shortfall, how many cents would it take on the sales tax to make that up or how many percentages in the income tax would we have to increase to make up that \$550 million?

The SPEAKER: The Representative from Kennebunk, Representative Murphy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gardiner, Representative Colwell.

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. I rose a little late. I was actually going to answer the previous question, but I can probably do the math on that one as well. It is my understanding that the first question was, what is the percentage of education that would be included in that \$500 to \$550 million structural gap that the good Representative from Kennebunk was referring to? I think when you think about that structural gap you have to realize that that is set by statute. One of the statutes that is in play there is that the State of Maine would fund education at 55 percent. I believe that over 50 percent of that structural gap would be the GPA figures.

I would just like to say that I am not sure what the good Representative is getting at, but certainly he is not suggesting that we cut general purpose aid to education to reduce that structural gap. None of us want to do that. It has been a real struggle to try to increase it to get it up to the \$730 million dollar figure as well. I hope that that answers the good Representative's question.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. In light of the Representative from Kennebunk's question about the structural gap, if we enact this budget, I guess my question would be, what would be the structural gap if we adopted no supplemental budget at all?

The SPEAKER: The Representative from Old Town, Representative Dunlap has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Acton, Representative Nass.

Representative **NASS**: Mr. Speaker, Men and Women of the House. All these structural gap questions today are just going to

exhibit our lack of knowledge about the structural gap. In order to determine the structural gap, you are talking about the economic projections, tax revenues and additional spending. We are chasing down a road here where these answers are not going to be fruitful. There are things that we can't necessarily project. They are based on current levels of spending. They are estimates based on most of those factors.

I would like to go back and address some of the earlier questions. There is in the structural gap a projection for the increase in education funding. My recollection is that we are currently at about 6 percent per year. Those projected increases in GPA are part of the structural gap. I guess we need more of an analysis of the gap up here to answer some of these other questions.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I would like to thank my good friend from Acton, Representative Nass. That was my point exactly.

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative **STEDMAN**: Mr. Speaker, Ladies and Gentlemen of the House. One of the earlier questions I thought what is the percentage of increase in this year's budget for education? Under the plan that was adopted, I believe, the \$730.8 million budget for education, that is a 4.11 percent increase in total budget. There is no increase in operating because what we did was arrive at the same level it was in 01-02. There is a 10 percent increase in program money, a 2.75 percent increase in foundation costs, a 9.1 percent increase in debt service money and an 18.37 percent increase in the adjustments, which include those things such as state ward and state agency clients, which we did put money into in addition to what had originally been requested. Those are the numbers that deal with the percentages of increase in each line item in the budget this time around. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Mendros.

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. How much is enough? I did some research on line. I looked up the State of Oregon. We are all familiar with that state. It is considered a pretty liberal state. There is 94,000 square miles in their land area. Maine is 30,000 square miles. They are a little more than three times our size. Their population is 3.4 million. Our population is 1.2 million. They are a little less than three times our size. They are even more sparsely populated than we are. Their biennial budget is \$5.1 billion. It is less than ours. A liberal state three times our size, but their budget is less than ours. Granted, they got rid of Commissioner Concannon. It probably saved them some money in their DHS budget, but since he brought MTBE to Maine, it probably saved them some money in their DEP budget. The fact remains that our budget is big. If you take a look at me, I am not using myself as a prop, I am overweight. I get to the point where I get so overweight that I have to go on a diet or I have to start exercising or I have to do something. That is the state budget. Our state budget is beyond overweight. It is bloated. We have to get it on a treadmill. We have to get it to the gym. It probably needs liposuction. The problem with being that overweight, whether you are a person or a budget, is you collapse. That is where we are headed. In a best case scenario, we have \$500 million structural gap. That means if revenues are great our budget is going to go from \$5.2 billion to \$5.7 billion for the next 121<sup>st</sup> Legislature to have to deal with, assuming they have no new programs. I am tired of going on line and looking at AOL

and having AOL say that Maine is the highest taxed state in the country. Do you know why we are the highest taxed state in the country? We spend too much.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. In reference to the budget that is before us, a couple of points of interest that I thought you might like to know. One is that of the budget that is before us tonight, 45 percent of the cost of this budget is conformity, conforming to the federal tax code, the two major changes that they made in the last few months. Twenty-five percent of this budget is dedicated to education. You asked about the structural gap in the upcoming years relative to conformity, according to the Office of the Bureau of Revenue Services, the cost of conforming to the conforming passage passed by Congress last December is approximately \$58 million. On top of that the so-called economic stimulus package that passed a couple weeks ago adds another \$20 million to year to conform to the other pieces. It is approximately \$100 million in the next biennium for conformity and economic stimulus. Thank you.

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Representative BERRY of Livermore assumed the Chair.  
The House was called to order by the Speaker Pro Tem.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Enactment. All those in favor will vote yes, those opposed will vote no.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

**ROLL CALL NO. 561**

YEA - Ash, Belanger, Berry DP, Berry RL, Blanchette, Bouffard, Bowles, Brannigan, Bruno, Bryant, Buck, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clough, Colwell, Cote, Cowger, Daigle, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hatch, Hawes, Heidrich, Hutton, Jacobs, Jones, Kane, Koffman, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Madore, Mailhot, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McNeil, Michaud, Mitchell, Murphy E, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Neil, Paradis, Patrick, Peavey, Pineau, Pinkham, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Trahan, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Young, Mr. Speaker.

NAY - Andrews, Brooks, Clark, Collins, Cressey, Cummings, Duprey, Foster, Glynn, Goodwin, Gooley, Haskell, Honey, Jodrey, Kasprzak, MacDougall, Marley, McLaughlin, Mendros, Michael, Murphy T, Muse C, Perkins, Quint, Stedman, Tobin J, Treadwell, Waterhouse, Winsor.

ABSENT - Annis, Bagley, Baker, Bliss, Crabtree, Dorr, Hall, Lovett, Morrison, O'Brien LL, Perry, Povich, Tracy.

Yes, 109; No, 29; Absent, 13; Excused, 0.

109 having voted in the affirmative and 29 voted in the negative, with 13 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Representative DUDLEY of Portland **OBJECTED** to sending all matters **FORTHWITH**.

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The Speaker resumed the Chair.  
The House was called to order by the Speaker.

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

**CONSENT CALENDAR**

**First Day**

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 461) (L.D. 1514) Bill "An Act to Ensure Fairness in the Regulation and Reimbursement of Nursing Facilities" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-501)**

(S.P. 689) (L.D. 1891) Bill "An Act to Require Majority Resident Representation on the Board of Any Assisted Living Facility Receiving Bonds from the Maine Health and Higher Education Facilities Authority" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-502)**

(S.P. 801) (L.D. 2160) Bill "An Act to Amend the Maine Criminal Code to Address Terrorism" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-499)**

(H.P. 1676) (L.D. 2177) Bill "An Act to Implement the Recommendations of the Joint Standing Committee on State and Local Government Pursuant to Reviews Conducted under the State Government Evaluation Act" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence and the House Paper was **PASSED TO BE ENGROSSED** and sent for concurrence.

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**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-448)** on Bill "An Act to Require Appropriate Public Notice of a State Building Project"

(S.P. 742) (L.D. 2067)

Signed:

Senators:

PENDLETON of Cumberland

ROTUNDO of Androscoggin

Representatives:

BAGLEY of Machias

McDONOUGH of Portland

HATCH of Skowhegan

LESSARD of Topsham

McLAUGHLIN of Cape Elizabeth

MURPHY of Berwick

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

Signed:

Senator:

YOUNGBLOOD of Penobscot