

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twenty-Second Legislature**  
**State of Maine**

**Volume III**

**Second Regular Session**

April 7, 2006 - May 24, 2006

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**House Legislative Sentiments**  
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STRIMLING of Cumberland

Representatives:

CLARK of Millinocket  
 McCORMICK of West Gardiner  
 PINEAU of Jay  
 SEAVEY of Kennebunkport  
 WATSON of Bath

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

Signed:

Representatives:

HANLEY of Paris  
 WOODBURY of Yarmouth  
 CLOUGH of Scarborough  
 BIERMAN of Sorrento  
 HUTTON of Bowdoinham

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-588).**

**READ.**

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

The **SPEAKER**: The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative **CLOUGH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would ask you to vote against the pending motion. Let me give you my reasons. This bill originally came to us based on the need to change the taxation on exports for Maine brewers because our tax was one of the highest, if not the highest in the nation and they were at a disadvantage when exporting to other states. Of course, they depend on their exports to keep their business going on a year-around basis, as it is rather seasonal in the State. The fact of the matter is that when they export their product, it is taxed by the State to which it is exported. The Maine tax never is a factor. The question also came up as to the constitutionality of this bill. It was noted that the Supreme Court has previously indicated that a state could not implement excise tax policy that favors a brewery located in that state. Don't think that we have a definitive answer on that but it sounds like that should be a factor to consider. Another factor was that if we pass this legislation, this tax incentive would apply to all shipments made, not on a perspective basis, but from day one, it would cost us tax money even if it did not achieve its objective. Finally, my question is, why not implement a fair tax policy for all Maine businesses and stop carving out special exemptions for certain special interest groups? I would, again, ask you to vote against the pending motion and Mr. Speaker, I would request a roll call.

Representative CLOUGH of Scarborough **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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 Millinocket, Representative Clark.

Representative **CLARK**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think the Representative made a lot of good arguments as to why we should have this bill. It's a very small business. I think it is going to help small business in Maine to develop even further and put

more people to work. I think it is a good alternative that we can do. Just the other day we voted on a bill, or a lot of you voted on a bill, to give a tax exemption to lobster traps. You know, we cannot pick and choose. If we want to help small business do business in the State of Maine, we cannot pick and choose. I think this is the right method we're doing with the majority report. I hope when you vote, you vote with us on the majority as amended. Thank you Mr. Speaker.

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. 500**

**YEA** - Adams, Austin, Barstow, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Burns, Cain, Clark, Daigle, Eberle, Finch, Fischer, Fitts, Fletcher, Glynn, Hall, Hamper, Hanley S, Hogan, Jackson, Koffman, Lindell, Makas, Marley, Marraché, McCormick, Merrill, Miller, Mills, Muse, Norton, Paradis, Percy, Pilon, Pineau, Pingree, Rines, Robinson, Saviello, Schatz, Seavey, Shields, Smith N, Tuttle, Vaughan, Watson, Webster, Wheeler, Mr. Speaker.

**NAY** - Annis, Ash, Babbidge, Beaudette, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Canavan, Carr, Churchill, Clough, Collins, Craven, Cressey, Crosby, Crosthwaite, Curley, Curtis, Davis G, Davis K, Driscoll, Duchesne, Duplessie, Duprey, Eder, Edgecomb, Emery, Faircloth, Fisher, Flood, Gerzofsky, Grose, Hanley B, Harlow, Hotham, Hutton, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lerman, Lewin, Lundeen, Marean, Mazurek, McFadden, McKane, McKenney, McLeod, Millett, Moulton, Nass, Nutting, O'Brien, Patrick, Perry, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Rosen, Sampson, Sherman, Simpson, Smith W, Sykes, Tardy, Thomas, Thompson, Trahan, Twomey, Valentino, Walcott, Woodbury.

**ABSENT** - Bryant, Cebra, Cummings, Dudley, Dugay, Dunn, Farrington, Goldman, Greeley, Jennings, Moody, Moore G, Ott, Piotti, Stedman.

Yes, 52; No, 84; Absent, 15; Excused, 0.

52 having voted in the affirmative and 84 voted in the negative, with 15 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **NOT ACCEPTED**.

On motion of Representative **DUPLESSIE** of Westbrook, the House **RECONSIDERED** its action whereby the Majority **Ought to Pass as Amended** Report was **NOT ACCEPTED**.

On motion of the same Representative, **TABLED** pending the motion of Representative **CLARK** of Millinocket to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

Ten Members of the Committee on **EDUCATION AND CULTURAL AFFAIRS** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (S-566)** on Bill "An Act To Further the Implementation of the Essential Programs and Services Funding Model"

(S.P. 683) (L.D. 1766)

Signed:

Senators:

MITCHELL of Kennebec  
 SCHNEIDER of Penobscot  
 TURNER of Cumberland

Representatives:

DAVIS of Falmouth

FINCH of Fairfield  
 NORTON of Bangor  
 GOLDMAN of Cape Elizabeth  
 MAKAS of Lewiston  
 LANSLEY of Sabattus  
 CAIN of Orono

Two Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "B" (S-567)** on same Bill.

Signed:

Representatives:

EDGECOMB of Caribou  
 MERRILL of Appleton

One Member of the same Committee reports in Report "C" **Ought Not to Pass** on same Bill.

Signed:

Representative:

STEDMAN of Hartland

Came from the Senate with Report "C" **OUGHT NOT TO PASS READ and ACCEPTED. READ.**

Representative NORTON of Bangor moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

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

Representative NORTON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Since everything in this bill is totally within the budget, I move indefinite postponement of this bill and all accompanying papers.

The SPEAKER: The Chair recognizes the Representative from Appleton, Representative Merrill.

Representative MERRILL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise to oppose the pending motion. I'd like to discuss the difference between the two reports, actually there were three reports. There was an ought to pass which was committee report A, there was an ought to pass which was committee report B and then there was an ought not to pass which was committee report C. My seatmate, the good Representative from Bangor is absolutely correct, that the contents of committee report A were absorbed into the budget that was passed several weeks ago. However, the contents of committee report B were not included in the budget. I'd like to tell you the difference. Both reports made adjustments to EPS, Essential Programs and Services, our school funding formula. The difference is that committee report B did everything that committee report A did plus it addressed the inadequacy in teacher pay that is currently part of the school funding formula. Simply put, committee report B evened out the amount of money the State recognizes for teacher pay. If you believe that the current State policy of paying a State employee in Caribou, Greenville, Calais, Farmington or Thorndike the same as a State employee in Cumberland or Bangor is a good policy then you must vote against the pending motion so that we can go on to pass committee report B. If you think that it's important to raise up the pay of our lowest paid teachers, then this is your chance to change the State policy that locks into place those lower wages. If you believe that a child in rural Maine deserves just as good a teacher as a child in the more prosperous parts of the State, then you must vote against the pending motion so that we can go on to accept committee report B. Ladies and Gentlemen of the House, there was a rush last year to pass LD 1. Many of

us expressed great reservations because LD 1 implemented the funding for Essential Programs and Services. A lot of us were very concerned because we knew that there were pieces of LD 1 that were really going to fundamentally harm rural Maine. We were told, "Don't worry, it will be fixed. Go ahead and vote for it now, it will be fixed." Well, I'm here to tell you that one of the most significant problems in LD 1 and EPS was never fixed, and that's the labor market piece for teacher pay. Mr. Speaker, I ask for a roll call.

Representative MERRILL of Appleton **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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 Appleton, Representative Merrill.

Representative MERRILL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Thank you for the opportunity, Mr. Speaker, to refresh the body with my plea to reject the pending motion. If this motion passes, we will have lost our opportunity to begin to make progress on one of the most important adjustments to EPS. If you vote for this motion, you will be voting to scuttle our only opportunity, this session, to start to insure that the teachers who teach our children in the poorest and most rural parts of the State are valued as much as the teacher in the urban and suburban areas. Some may rise to point out to us that another bill is on its way, the bill that raises teachers pay to \$30,000 as the answer to the inequities found in the EPS formula. If I believed that that bill would really do the job, I'd be its chief advocate. Even if it passes, and is funded, it only addresses the bottom. The EPS labor market formula will still continue to recognize and lock into place lower wages in the poorest parts of the State. Mr. Speaker, this morning I asked if anyone thought it was fair for the State to recognize a lower salary for teachers in Caribou, Farmington, Thorndike and Greenville than teachers in Bangor and Cumberland. I realized, after I spoke, that Greenville is actually doing okay because they are a service center. So, I'll substitute the town of Greenville for almost every school district in Washington County, or Millinocket or you name it around the state. The proponents of this approach point out that it simply recognizes reality. Everyone in these towns earn less and frankly it costs less to live in those areas, so lets recognize a lower wage for them. Here's my answer to that. True, their housing costs may be lower, but that's exactly where the comparison ends. If you live in Washington County, it still costs just as much to send you children to college and to buy fuel oil for your furnace. Frankly, if you live in Aroostook County, you probably find their heating bills are higher. I think that they have a longer winter than we experience in Southern Maine. I'll leave you with this last reiteration of my remarks this morning. We do not distinguish, by area, for State Employees. If you work for a State Park in Washington County or Piscataquis County, you are not paid less than if you work for a State Park down in Southern Maine. I ask you, how could we ever justify recognizing a lower salary for the teachers who teach the highest proportion of poor children in this State? Thank you Mr. Speaker.

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

Representative NORTON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. At least I did hear one thing I agreed with, the idea of defeating the motion. The only way any inequity, or perceived inequity, will ever be dealt with in EPS is if we keep EPS. This amendment would totally destroy your funding mechanism. You need to understand that.

It has grave consequences. People can talk about the costs and what happens, but I'm just going to make a couple points. I don't think you need to have tremendous litany on this. The Education Committee has charged the Department of Education to complete work on the labor market index, teacher salaries, transportation and gifted and talented. There are many, many things that we are still working on. We will be getting reports back. We will be continuing. I have always said EPS is a work in progress and I ask you, did our last funding formula ever not become a work in progress? I think we had that one for decades and we were still tweaking it. What I need to remind you of is we had the old formula for decades. Frankly, when you try to talk about it in a body like this, people's eyes glazed over. People never understood the old formula. I would venture to say you do not understand this formula either because we're just starting. This formula is, at least, based on what we need, to provide equity for kids to learn in this state. We need to keep working this thing and tweaking it. I want you know that if you did in the labor market percentage, those people who are above the labor market would still have to raise the money that their budget is. It would then become outside the formula and those people would have to raise that money locally from property taxes. Those people below one in the labor market would have an artificially infused money into their budget and they would end up having to raise that local portion of their budget locally. The money that they get the first year would help defer that expense. In the out years, years after that, it would not. So, it essentially would have the effect of raising property taxes everywhere. I think you will be getting a sheet on your desk. These are figures that I worked with MEPRI, the Department and other people who care so much about education in this State. I do notice that my seatmate, the good Representative from Appleton, mentioned a bill to come, although it's not there. She talked about teacher minimum salary. That is probably the way to go to help the schools that can't afford to pay their teachers. It is part of the recruitment and retention money. It doesn't artificially change anything or raise anything. It doesn't throw the funding mechanism into disarray. It pumps the money into those systems who need it to support the minimum teacher salary. It gives it directly to those schools that need that money. In fact, that's why we're watching carefully to see what we have to do. I have implored people who have been concerned about that labor market. Please get involved. Please help us find the real thing that will fix this, but throwing your funding formula into disarray now and forever because I notice that the proposed language says a 1 not for the next year out, but forever. People will then lose the incentive, there won't be movement in the formula because we'll all be at 100%. I think I've said enough. I think I see a few eyes glazing over. I will sit down, but please think very carefully about this. Your education funding is probably the biggest thing you come here for, money wise.

The SPEAKER: The Chair recognizes the Representative from Hodgdon, Representative Sherman.

Representative SHERMAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I don't know about throwing the funding formula into array, but I've had long talks with Jim Ryer about my school district at .88% of whatever the so-called labor market is. All I know is we're \$6,000 to \$7,000 less, that average teacher salaries in our area, than they are in other areas of the State. If we want to use that as a fairness issue, I don't think it's very fair. Jim Ryer, who's a wonderful user of numbers, you talk to him for an hour, frankly, and not be sure what car you're buying when he's done, and I apologized for that ahead of time, but, I asked him how are we going to raise teachers salary in rural areas, and he said, "Well, if

you pay them more, we'll reimburse you more." So, that's a chicken and an egg issue. You dig up the money to pay them more and, theoretically, you'll reimburse them more. I think the funding for the old funding formula, those who have understood it, we negotiated under it, and what it needed was a little more money and it would have worked quite well. Thank you.

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Under suspension of the rules, members were allowed to remove their jackets.

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The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Goldman.

Representative GOLDMAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As we go over this issue, I think a lot has been expressed already that I certainly do not want to repeat, I would like to address an issue that, since this did come up in our committee and I would like to repeat some of that, this is, in fact, a very serious issue. EPS, with its supposed inequities, frankly, is only reflecting inequities that have existed in Maine for a long time. That is, if you negotiate teacher salaries, custodian salaries or bus driver salaries, you always start by saying, "What is it going to take to get somebody to do that job in this particular area." EPS is not the perpetrator of these differences, it is simply reflecting them. To me, the real policy issue here is of course, as a teacher, myself, I would love to see all teachers, wherever they are working in whatever part of our State or anybody else's state receiving far more in compensation for what they are doing. That is really important. However, I have also worked with the previous funding formula as well as this funding formula and I know how difficult it makes things if you try to make policy by fiddling with the formula. Pretty quick, your formula doesn't do what you think it's supposed to do. This is a serious policy issue. It deserves to come to the Education Committee in a serious bill. It deserves to have a realistic fiscal note on it and we need to be sure that we have public hearings that allow everybody on any side of this issue to be heard. To put this through in this way at this time means that the impact, as the little green sheet points out to you, 50% of the teachers in the State of Maine are working in areas where there is a higher labor market cost. If, in fact, we were to throw the EPS formula into a tizzy by doing this, going directly to 1, what we would be saying to those teachers is, "Well, let's hope that the district that you happen to be working in is going to be willing to add to their local tax burden by continuing to pay you at your contracted, negotiated salary rate. Many of us, in the southern part of the State, are what we call low-receivers or minimal-receivers. We're already paying most of the freight for our particular local school districts. What we put into the State pot for income tax and for sales tax or corporate tax that goes to the State pot, we're getting very little back. I get, for instance, in our district, we get 12% of our budget. Many of the districts that would like to have, and definitely, in my mind, deserve attention, are districts that are already receiving 70%, 80% even 90% of their budget. They are high receivers. So, we have in all of these differing issues, we already are a State that has an equity funding formula where we are trying to help those who do not have it. This, however, would actually add an additional burden and would put in jeopardy the 50% of those teachers who are receiving higher salaries because I am not convinced that all districts would continue to put in that extra money. I am raising that issue because I hope you understand this is not a simple issue. It deserves serious policy consideration. It should be

brought in with a bill and it should have public hearing. Thank you very much.

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

The **SPEAKER**: The Chair recognizes the Representative from Caribou, Representative Edgcomb.

Representative **EDGEComb**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is the most unfair and inequitable part of EPS. In January, I had an opportunity to attend the World Junior Biathlon Championship held in Presque Isle. The racers left the starting gate at 30 second intervals and then their order of finish was recorded with their time. The next day, the racers left the starting line in the order that they finished, and also, if you finished 10 seconds behind the winning racer, then you waited 10 seconds before you left. There were racers that left more than seven minutes later. Could you imagine trying to win a race that you're seven minutes behind the person that's been out there skiing for seven minutes. This is a position that you're putting these schools in, that are in a low labor market area. I respectfully request that you vote to defeat the indefinitely postponement so that we can really discuss the issue of labor market. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative **DAVIS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Very briefly, I agree with the Representative from Cape Elizabeth and Bangor. I represent Falmouth, of course, and it was estimated that Falmouth would lose \$1 million next year if this went through. I think it's late in the game and the Representative from Cape Elizabeth said we didn't have a public hearing on this. We didn't. So, if you wanted to try this in another Legislature, that's the time to try it, not now. I do respect my colleague from Caribou and I think he's a very good legislator. I just disagree with him. Thank you Mr. Chairman.

The **SPEAKER**: The Chair recognizes the Representative from Appleton, Representative Merrill.

Representative **MERRILL**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I just have one response to a couple of statements that have been made, in particular the statements made by my good friend the Representative from Falmouth as well as my other good friend and committee colleague, the good Representative from Cape Elizabeth. This is a serious issue. It's such a serious issue that many of us were promised, when LD 1 passed, that it would be addressed. Our committee looked at it, we looked at it after LD 1 passed. Did you see a fix come through? No, because the committee decided it was just kind of too big and we'd have to ask for other folks to look at it and come back with recommendations. We didn't get those recommendations this year. Again, this is too big of an issue; we'll have to put it off until next year. I respectfully submit that this is going to get put off year after year after year. That wasn't what the promise was. Thank you.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone the Bill and all Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 501**

**YEA** - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant,

Burns, Cain, Campbell, Canavan, Clough, Collins, Craven, Davis G, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Farrington, Finch, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Koffman, Lerman, Makas, Marley, Mazurek, McCormick, Miller, Moody, Norton, O'Brien, Paradis, Patrick, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Richardson M, Richardson W, Rines, Sampson, Seavey, Simpson, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

**NAY** - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Clark, Cressey, Crosby, Crosthwaite, Curley, Curtis, Daigle, Davis K, Dugay, Duprey, Edgcomb, Emery, Faircloth, Fischer, Fisher, Fitts, Fletcher, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Lundeen, Marean, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Mills, Moulton, Muse, Nass, Nutting, Ott, Plummer, Rector, Richardson D, Richardson E, Robinson, Rosen, Saviello, Schatz, Sherman, Shields, Sykes, Tardy, Thomas, Trahan, Vaughan.

**ABSENT** - Cummings, Jennings, Marraché, Moore G, Stedman.

Yes, 76; No, 70; Absent, 5; Excused, 0.

76 having voted in the affirmative and 70 voted in the negative, with 5 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED**.

The **SPEAKER**: The Chair recognizes the Representative from Bangor, Representative Faircloth who wishes to address the House on the Record.

Representative **FAIRCLOTH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. When I went to press the button, I pressed the wrong button. I wish to be recorded as green.

Seven Members of the Committee on **LABOR** report in Report "A" **Ought to Pass as Amended by Committee Amendment "B" (H-1007)** on Bill "An Act To Implement Task Force Recommendations Relating to Parity and Portability of Benefits for Law Enforcement Officers and Firefighters"

(H.P. 706) (L.D. 1021)

Signed:

Senators:

STRIMLING of Cumberland  
BARTLETT of Cumberland

Representatives:

DRISCOLL of Westbrook  
JACKSON of Allagash  
HUTTON of Bowdoinham  
TUTTLE of Sanford  
CLARK of Millinocket

Five Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "C" (H-1008)** on same Bill.

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

HALL of Holden  
DUPREY of Hampden