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House of Representatives
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State of Maine

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May 28, 2009 – June 12, 2009

Second Regular Session

January 6, 2010 - March 23, 2010

Pages 609-1214

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

SENATE DIVIDED REPORT - Report "A" (9) **Ought to Pass as Amended by Committee Amendment "A" (S-252)** - Report "B" (3) **Ought Not to Pass** - Report "C" (1) **Ought to Pass as Amended by Committee Amendment "B" (S-253)** - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Authorize the Annexation of a Portion of Redington Township in Franklin County to the Town of Carrabassett Valley" (EMERGENCY)

(S.P. 288) (L.D. 741)

- In Senate, Report "B" **OUGHT NOT TO PASS READ and ACCEPTED.**

TABLED - June 2, 2009 (Till Later Today) by Representative BEAUDETTE of Biddeford.

PENDING - Motion of same Representative to **ACCEPT** Report "B" **OUGHT NOT TO PASS.** (Roll Call Ordered)

Subsequently, Representative EATON of Sullivan **WITHDREW** his **REQUEST** for a roll call.

Subsequently, Report "B" **Ought Not to Pass** was **ACCEPTED** in concurrence. **ORDERED SENT FORTHWITH.**

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (H-352)** - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Amend the Laws Governing the Consolidation of School Administrative Units To Delay All Penalties for 2 Years"

(H.P. 225) (L.D. 285)

TABLED - May 27, 2009 (Till Later Today) by Representative SUTHERLAND of Chapman.

PENDING - Motion of same Representative to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

Representative TARDY of Newport **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **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 Chapman, Representative Sutherland.

Representative **SUTHERLAND:** Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. LD 285 is one of about 40 pieces of legislation that were placed before the Education and Cultural Affairs Committee this session attempting to fix something that various parts of the states had issues with regarding the school reorganization. Most of those were carried over in one or two bills and killed. This particular piece of legislation was also amended so that it would delay so-called penalties per one year for nonconforming units. There were choices that were given to communities in dealing with reorganization. And I want to say up front that, in my particular district, I have four school units, two of which have submitted alternative plans and have reorganized and pretty much the way they were, two others are in the nonconforming category, so I understand the issues from both sides. I just want to put it out to you today exactly what we are looking at and there are different ways of looking. All the school districts were provided with numbers that would indicate what the penalty amount would be should they choose not to attempt to plan and not move forward

with reorganization. Some communities voted no, knowing full well what the cost would be, but they had various reasons. Some tried and it didn't work, some chose not to do it. Other communities chose to reorganize because of the penalties; they didn't want to have to pay them, and others had enough student population so they didn't have to really restructure. After the penalty dollars were identified, there are those reorganized units, about 98 or 99, who reconfigured into 26 school units that were told they could have some of this so-called penalty money to help with their transition costs, whether they were legal costs, costs in looking at contractual agreements, maybe it was an mundane and important as painting the new name on school buses, all of which cost money. The committee, when we got together in January and February and began addressing the problem, was concerned that dollars might be expended throughout those reconfigured and not so reconfigured units and maybe not always in the best interest of what was going forward, knowing that there was a repeal initiative coming. So we chose to put that money away until January. It is parked in what the Appropriations Committee refers to as "the penalty box" so that none of the money has been expended. However, we did feel it was appropriate to give this school communities, who were facing the penalty issue, and opportunity to bring forward a piece of legislation. I won't go into competing measures because you've heard me talk about that before. Since there is a repeal initiative moving forward, it is important that we have, if any measure is going to pass, it not be passed as a competing measure to go on the ballot. So we chose from the committee to put LD 285 before you, and we amended it so that it would provide for a one year delay in the penalty piece, and that's what we're putting before you today. There are about 107 school units that are faced with a penalty. You have seen a list of them, and I think one just floated by here just very recently. There were a number of other school units that were faced with a penalty and we passed some legislation to correct that, because they had voted yes, and that was addressed. So we're talking about a little bit over \$5 million in penalty money that has been put away for this Legislature's use down the road, hasn't been expended. Your choice is to, with this bill, extend, push back that penalty period for a year. There are a number of school units that are currently trying to work together to come up with an alternative plan. They simply will not have it in place by July 1, which is the critical date. That's where we are with this bill, and I thank you very much for your time.

The **SPEAKER:** The Chair recognizes the Representative from Portland, Representative Lovejoy.

Representative **LOVEJOY:** Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise for the first time as a freshman legislator because of this bill, and I have to say that my district does not have any stake in this. We weren't subject to penalties; we weren't expecting to get any penalties. However, I think it's important to realize that each community that is subject to a penalty voted no on consolidation. This is not a case of having voted for it and been abandoned.

Our committee, I was on the Majority Ought Not to Pass, and our committee looked at this very closely. It was not an easy decision. I truly believe small schools are better for students, but they're also more expensive. What these communities have voted, to keep their schools, keep their administration as it was, they made a choice knowing there were penalties out there. Do I think consolidation is perfect? Absolutely not; however, the rules were set, I don't think we should change them in the middle of the game, so I will be voting against this measure. Thank you.

The **SPEAKER:** The Chair recognizes the Representative from Waterford, Representative Millett.

Representative **MILLETT**: Thank you, Madam Speaker. May I pose a question through the Chair to the chair of the Education and Cultural Affairs Committee?

The SPEAKER: The Representative may pose his question.

Representative **MILLETT**: Thank you, Madam Speaker. I appreciate the clarity, and I think the Representative from Portland has followed up on the characterization of the multiple groups that are impacted by that parking lot \$5.3 million that sits in GPA, pending distribution next January. I wonder if you might tell us, in very direct terms, of the four groups that I heard you talk about—namely the 107 units that voted no, the 17 units that voted yes but their partners voted no, and the 96 units that conformed one way or another, and potentially the fourth group of entities or units that might, between now and January, achieve some AOS or other form of consolidation—under current law, to which of the four groups would the penalty box moneys go to, and under the assumption that this Minority report were to be enacted, to which units would the money flow under that circumstance? So we can get a clear picture of who are the intended beneficiaries today, and who would be the intended recipients of the money were this Minority Report to be accepted.

The SPEAKER: The Representative from Waterford, Representative Millett has posed a question through the Chair to the chair of the Education and Cultural Affairs Committee, the Representative from Chapman, Representative Sutherland. The Chair recognizes that Representative.

Representative **SUTHERLAND**: Thank you, Madam Speaker. In the absence of the good chair from Orono, from the Appropriations Committee, I will give it my best shot. The Education and Cultural Affairs Committee will have to deal with this in January. If the penalty is delayed until July 1, 2010, there would be no penalty dollars in the penalty box. Again, that money has been set aside until January. The committee would have to, and somebody may correct me and feel free to do so, my understanding is that the penalty money that has been identified would have to be redistributed to those 107 school units from whom it came. There would be no penalties if this bill were to move forward, if it is passed. If it does not pass, the committee would have to address, in January, for distribution of the those penalty funds. There were various options presented, which is why we asked that they be placed and parked in a fund, because, bottom line, the intent of the committee was and their goal was that these were very critical dollars to educate the children of the State of Maine and our public schools, and they needed to be used in the best possible manner. Sitting in a penalty box probably is not in the best possible manner, but we have issues that we have to deal with before that. I would not expect that those schools, those school units that have already, that were reconfigured because they've met the guidelines and the enrollment minimums, I would not expect that those units would be in line to get some of the dollars. I would expect that the money would be distributed, would be available to help with legal and transition costs for those units who have already been able to reconfigure into those 26 groups, as well as being available to help others moving forward. There was no intent that this process would stop. School units are being encouraged to keep on working towards a consolidation model; however, there was that deadline date of July 1, 2009. They would still be moving forward, and I think it would be up to this Legislature to fully decide how far those dollars could be distributed to help all of those school groups in transition. It is an expensive proposition. I hope that answers at least partially the question that was placed before me, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Johnson.

Representative **JOHNSON**: Thank you, Madam Speaker. I'd like to thank my esteemed colleague from the Education Committee for putting forward the Minority Report. This consolidation effort has been difficult from the beginning. It was poorly conceived, hastily implemented, little thought for the untold, the unintended consequences. So the question becomes what do we do now, and we've heard the argument from one that the participants in this knew what the penalties would be and knew approximately what the penalties would be, and they voted in their best interest. I guess my point of view is that if you hold a gun to somebody's head and tell them they have to do something, then they'll do it, sometimes. It's inconceivable to me that we're going to tell people to go through an excruciating process and make a decision on what's best for the education of their students and then penalize them for doing that, so I very much favor the Minority Report.

Right now, we have at least over 100 communities that are affected, somewhere in the neighborhood of 30,000 students that will be affected. As the chair of the Education and Cultural Affairs Committee pointed out, there was no provision in the law for what would happen to those penalties, so that is an open ballgame. That will have to be decided in January. We have towns from Guilford to Machias, Eastport to Pownal, Fayetteville to Vassalboro, and Brownville to Bethel that are suffering under this penalty, and I think we should vote the Minority Report on this issue. Thank you.

The SPEAKER: The Chair recognizes the Representative from Dennysville, Representative McFadden.

Representative **McFADDEN**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. According to Webster, a penalty is a sum of money assessed for an offense. Why is there an offense when the Democratic vote favors the best education for students and a necessity for the welfare of the town? Now there are 143 nonconforming units subject to be penalized for noncompliance with a flawed law. According to the DOE website, there are 23 units in one CSD with penalties greater than the state adjusted share of GPA, according to line sixty on the 2009-2010 279s. The 279s are the sheets that go out to the superintendents that tell them what they get in an ESP. When the penalty is greater than the state GPA to a local unit, will it make sense to reorganize when the penalty is the lesser of the two evils?

I want to give you a few examples: For example, the GPA for Jonesport, which is a minimum receiver—and these are minimum receivers I'm talking about mainly—the GPA from the state, the amount they receive is \$15,000; the penalty is \$18,000. The Town of Northfield, in my district, the GPA is \$2,700; the penalty is \$3,000. The Town of Acton, down in the southern end of the state, the GPA is \$168,000 and their penalty is \$185,000. The Town of Blue Hill, GPA is \$66,000; the penalty is \$73,000. Boothbay, CSD, GPA is \$195,000; the penalty is \$217,000. In other towns, Jay has a penalty of \$210,000; Baileyville, \$67,000; Machias, \$47,000; East Machias, \$37,000; in Calais, \$78,000.

Now we're all aware of the cost shifting and the loss of over one half million dollars in GPA in RSU 5. RSU 5 isn't the only cost shift in GPA loser under the new law. Major problems have surfaced in Steuben, Frankfort, Etna, Dixmont and other units around the state, probably too numerous to mention. The local share mill rate for the '09-'10 year is 6.73 mills; it's reduced to 6.37 mills, when the federal ARRA Stabilization Funds are included in the state share of GPA. Now the 6.37 mills, which include the stimulus funds, are increased locally for nonconforming units, which might possibly be an unlawful maneuver by DOE. Can penalties be assessed on stimulus funds? That's what's happening, according to the printouts. We,

the Legislature, can correct this mess by delaying all penalties for one year to permit units to have ample time to do the right thing for the students. Now over 70 percent of the House members represent either a penalized or a cost shifting unit, and there are 185 towns in depressed areas of the state where these penalties are taking effect. We certainly need to vote Ought to Pass as Amended on LD 285. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Whiting, Representative Burns.

Representative **BURNS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I, too, just want to rise to give my support to this amendment. This is a very or this was a very convoluted and a very complicated process that was hoisted onto all the towns of this state, and, as many of you do, I have a list here of 185 small towns that have voted or passed resolves to support this amendment, and there's a reason for that. When you are left with absolutely no choices but to lose, no matter which option you accept, it's a very difficult process for our small towns, and that's what happened in our small towns. If you went with consolidation, it was going to cost money; if you chose not to go with consolidation, it was going to cost money; and if you tried to find a compromise and could not, then you still fell into that same category.

In my communities that I represent, there are 11 small schools that have banded together under one superintendent, and it saved us \$165,000 this year. The penalty was going to \$200,000 for those 11 communities. So you see, you can't win no matter what you do. I heard the statement made by the good representative from Portland, Representative Lovejoy, that a lot of us feel that small schools are better for our kids, but they cost more money. Well someplace in the middle there needs to be some middle ground here where we can get what is best for our children and still not be penalized. It is my understanding that all of the school districts are in the process of doing their budgeting at this point right now, so the penalties would not go into their budget, so they wouldn't expect to get any of these penalties anyway, nor should they, nor should anybody expect to profit from somebody else's misfortune, and that's exactly what this will be if you don't support this, there'll be a misfortune to 185 communities. I'd ask you to support the amendment. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Blue Hill, Representative Schatz.

Representative **SCHATZ**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise in support of the pending motion. First of all, I would apologize for some of the paper that I've been responsible for sending across your desk, but I felt it was important to see over 185 units of local government that have taken the time to pass resolutions supporting the postponement of penalties. They asked us to postpone it, not because they feel they made a mistake, but they all worked very hard, for the most part, all worked hard to try to comply with the school consolidation law. As you've probably learned over the months, to comply with that law, if you're a small group of schools, nine, ten, eleven schools, trying to come together to create a business if you will, this is a very daunting task. As you've heard also in the past months, some schools, some RSUs had nothing to do but just change the lettering on their school bus. Others had an almost turnkey operation read to go. But the small schools did not. It is true that there were some that opted to avoid penalties and come together and therefore comply, and as we've found out, some of those schools as experiencing problems and finding that their costs are much higher than they anticipated, and they are experiencing a form of buyers remorse, and I would hope that we take the issue that

they're facing up at a later date, and as quickly as possible, as a matter of fact, and find a remedy for those problems, because schools are just as much a victim as the schools that are not subject to penalties. So I would hope that if you are in that fix yourselves, that you would be a kindred spirit, if you will, and vote to support the pending motion. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Gilbert.

Representative **GILBERT**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I am voting yes on the motion Ought to Pass as Amended by Committee Amendment "A". As a member of the regional planning committee formed to develop an RSU between the Jay School Department and SAD 36, I could say that we worked hard for more than 18 months to form an RSU. We came to consensus on many difficult items such as debt. Jay was going into the RSU with no debt and SAD 36 was coming in with a debt of \$1.5 million, and Jay, because of its evaluation, was going to be paying 72 percent of that debt that was incurred by that district. We came to an agreement on that. Also, Jay is over EPS, I think it's on 11 items, and that would cost SAD 36 taxpayers quite a bit of money, but we came to consensus on that. Then we looked at how local funding would be paid. Would it be paid by evaluation or by population? If it was by evaluation, Jay would be paying a hefty amount, if it was by population, SAD 36 would be paying a hefty amount. We worked out a combination. After months of discussion, we decided to go by evaluation. In the end, an artificial date was established as a deadline, and that became more important than developing a plan that would work for both school systems. In the end, we lost an opportunity to work out a good solution. The proposed RSU was voted down in Jay by 17 votes. The penalty for Jay will be \$216,000 a year. Now, Ladies and Gentlemen of the House, this could have been avoided if we had been given ample time to work out a palatable plan to present to the voters. This amendment will give us that time. I will be voting yes on the motion and I ask you to do the same.

The SPEAKER: The Chair recognizes the Representative from New Gloucester, Representative Van Wie.

Representative **VAN WIE**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Like tens of thousands of other people in the state, I don't like to be in this situation. I'm in favor of consolidation. I think it's a good idea, I think it's necessary, but there is a big difference between a good idea and implementing a good idea. In general, I keep coming back to a strategy of what I call repeal and repair. I'd like a do over. But that's not what this proposal is about. I'm also not in favor of the penalties, so I'm against penalties. But I'm in a tough situation with my district. I represent citizens of RSU 5, where they did everything that they were asked to do and they are finding that their costs are going up significantly, nonetheless. Yes, they have a number of issues to resolve, and many of them would like a one year delay in implementation to give them time to work those out. I actually drafted an amendment, but had not presented it, with the idea of providing that delay to give them time to work it out, but I fear that that itself would be too divisive within the communities and that the legal gymnastics to make that happen, given the situation of the RSU coming on board and the towns having individual districts that are going to go away and all of those issues, make it prohibitive. I think, as their wonderful RSU chair does, many of them are just trying to be hopeful, put their head down and keep working.

It's interesting, because they are in a situation which is entirely predictable. I did a little research and you look at corporate mergers, and there is literature out there that says

about one-third of corporate mergers succeed in achieving their objectives of lowered costs and increased profitability, other things like that, and about two-thirds fail to meet their objectives. So it's not surprising that in a situation of school consolidation, or reorganizations or mergers, that we'd have one-third where their costs might go down, a third where their costs might stay the same, and a third where their costs might actually go up, even though they might achieve their educational objectives, the cost situations are different. In the corporate world, they take a one time charge against earnings, and they put aside the money to cover the extraordinary costs of reworking deeds and contracts and computer systems and moving and severance, and not to mention the time and energy and lost productivity taken away from the business of educating our children.

So here we are, we have a district that's done everything right, and one of the few things that might be available to them, and I say might, would be some help from some of the penalty dollars, because there was no other fund set aside to help them out. With regret, I feel I have to oppose the current amendment, because my district did what they were asked to do and potentially some of those dollars, although I recognize how divisive this is within the state, could or should go to help them out unless we come up with another mechanism. So I'm going to be not supporting the motion. The only way I could support it was if we could give them another year to try to work things out, and I don't really believe we have a mechanism to do that, so I will not be supporting the motion. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Saviello.

Representative **SAVIELLO**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. First, my good friend Representative Schatz, please don't apologize for using paper. For my friend from Portland, I want to just point out to you that this bill that we're dealing with, as many of you know, was a very strongly negotiated, hardly worked, very difficult bill for us to all pass as a budget a couple of years ago. Some of us spent some long hours and a long time trying to fix this. Penalties were put in there, but I don't think with the purpose that we're now dealing with them.

I have two school districts, SAD 9 and SAD 58, and they worked diligently for hours, days, weeks, months to try to come to a plan to consolidate. They, at the end, came out with a vote and both school districts voted against it. Interestingly enough, SAD 9 is not going to be penalized, because they are big enough, they have more than 2,500 students, so they're going to be able to be their own RSU and drive on in forward. SAD 58 will be penalized. Now they met their goal, because as we all talk about, we wanted to reduce administration costs. Well, at the time, their administrative cost was 4.01 percent. They are one hundredth of one percent from being considered a high performing school district, because they did meet all the other requirements as far as test grades, but that .01 percent, one field trip, kept them being there. This year's budget, they are 2.5 percent for administrative costs. They've more than met the goals that we've established as far as this consolidation is concerned. They have some other ideas that they'd like to pursue, but they need some time to do that, because SAD 9 is no longer in the picture. So I don't think we need to penalize them while they try to work through this effort and find out what they need to do. I think they have worked to minimize costs, they've met that requirement, and we need to give them a little bit more time before we penalize them to come up with a new plan. Thank you very much, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry.

Representative **PERRY**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I really want to describe some of the work that has been done in my area. I have three unions who have been talking for at least the last nine years about the possibility of consolidation and how to do that. They have, from the beginning, been working very hard to find ways to do this. The original bill that went out actually made it very difficult for rural schools to solve some of the issues of getting together. There was an amendment that was done last year that did a little bit, but not quite enough. They were not able to completely take care of the issues that had kept the people from really looking at voting at this. All of the towns in those districts voted against the consolidation, not because they haven't been working, not because this discussion has not been going on for awhile, but unfortunately, some of this was so prescriptive it made it very, very difficult for rural schools to solve some of the issues that needed to be solved. So we punish them? We're not asking that this punishment that is set forth be taken away, but that it be delayed, that we allow the work to continue and come up with a resolution.

The other reason I ask this is we are in a recession, and whatever happens, we're going to be hit hard. But I've got a school district in my area that has lost of 350 employees, which is a large portion of their population. They have lost their major property tax donor, because they have been laid off, what might look like permanently. They are dealing with more than just whether they are consolidating or not. This is a town that is looking at a very different property tax base, that is looking at a very different student population. We've got problems that need to be taken care of; it does not mean we shouldn't be working towards it. But I'm asking that we look at this delay, as we are dealing with a recession and a lot of job losses that are affecting a lot of the things that are around the subsidies that we get for schools, and I think we need time to be able to work on it. So I would ask that you vote for this.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Austin.

Representative **AUSTIN**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise to thank the good sponsor of this bill for his vigilance and perseverance. Many of us, over the last few weeks, have turned to him in this bill as a vehicle that perhaps could help some of our challenges. I represent RSU 5, in the form of three quarters of the Town of Pownal, and had hoped that we could work to bring forth a pause for them in their incredible challenge, as what has been quoted as one of the unique situations in Maine's educational situation. Many, many hardworking citizens in our towns and our school districts have spent countless time and talent to meet this law. For some along the way, this work just has not panned out; it has not gone well for them. I feel that some of them are very discouraged with the hours that they put in, the lack of savings that they found, and always that penalty that is hung over their head. As a body of leadership, we put this law into action, and I feel that these folks are looking to this body of leadership, whether you were with us at the time that this was put into the budget or not, they're looking to us for help. They want to do the people's business for the children; they want to find savings; they want to go forth. They do not want ruined relationships that have been started. In other words, they don't want the divorce that isn't even available to them by the law. I would ask you to please consider supporting this Ought to Pass as Amended and let these folks have some more time to do the good, creative work that I know they're capable of, actually find some savings, and again, go on with the quality product of education for our future. Thank you.

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

Representative **HARLOW**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I will not be a member of the on and on club. I was on the Education Committee for two years while the consolidation was occurring. We weakened the consolidation that was going to come forward. The Chief Executive wanted to create 26 school districts. The idea was to try to balance the budget and that's what we're trying to do now. It was \$135 million in savings if we went to just 26 school districts. As the good Representative from Portland, Representative Lovejoy said, these folks voted for the penalty by voting against consolidation. The thing that I saw that hurt consolidation the utmost was people yelling local control, local control, but they don't want to pay for local control. Efficiencies, schools of 7,000 are supposed to be ideal as far as efficiencies. Under 5,000, efficiency goes down slowly. Under 2,500, it goes down rapidly. From 2,500 to 4,000, it would be 60 school districts in Maine. I didn't think we'd be closing schools, I know we're not going to close schools unless the town wants to do it. Thank you very much for your patience and time.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Celli.

Representative **CELLI**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I don't want to hurt any feelings. I could get up here and say this is the worst legislation I've ever seen in my life, but I won't say that, because I don't want to hurt anyone's feelings, so disregard that. What you have to remember is what I said earlier when this first came up. This is Tammany Hall. This is probably still currently is going on in Chicago. But you're telling the people their vote doesn't count. You know, I used to live in another state, I've been here 16 years, and out of the state, we call this blackmail. You vote the way we want you to or we're going to give you a penalty. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Lincolnville, Representative O'Brien.

Representative **O'BRIEN**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I stand before you in strong support of the motion on the floor. My school district, like many of the school districts who were described by my colleagues here, faces really a lose-lose situation. The members of the school board that I've talked to are really bright people and they really want to make this work, but we need more time to do it.

My three towns in the Five Town CSD face a tremendous financial barrier to reorganization. If we reorganize, our schools will lose a great part of our subsidy. In fact, the total subsidy loss across our towns would exceed the total penalties that will be imposed for not reorganizing. In my district, under our recent projected 6.37 mill rate and 50 percent minimum subsidy for special education, the penalties we face this coming year for not reorganizing will be roughly \$610,000; if we had reorganized we'd see our subsidy drop by \$720,000.

Mike, the numbers guy on our school board, describes the subsidy loss we face as similar to the income tax "marriage penalty." In the high school subsidy computation for our "un-reorganized" Five Town CSD, all five towns receive the standard mill-rate based state subsidy. But under reorganization, Camden's 9-12 student population would be combined with its K-8 population, raising Camden's mill rate cap above its EPS allocation and reducing the subsidy accrued by its high school students to the much smaller minimum subsidy for special education. The same holds for Rockport, leading to a total loss of \$720,000.

Our other concern is that costs might further increase in order to make teacher contracts "consistent." The RPC couldn't offer any significant savings to offset these increases, because our districts came together years ago: MSAD28 and the Five Town CSD share a superintendent and services; Hope, Appleton and Lincolnville share a superintendent and services; and the districts share staff to coordinate curriculum and technology.

In our districts, then, it would cost more to reorganize than to remain separate. Until this substantial subsidy loss is remedied, voting for reorganization will increase our taxes, and there is little chance of passing a reorganization plan.

Furthermore, I would just like to say that I have spoken to some of the other members of this body about my district's predicament and I've heard them say things like, "Oh, well those penalties don't affect my district. Why would I vote to allow districts more time?" I've also spoken to members of this body who struggled to consolidate and are still paying the high costs of managing their newly reorganized districts who have said, "It's the law. Those who don't comply with the law must face the consequences."

Well, I urge you as legislators to think in terms of justice, fairness and the democratic process. This law was shoved down the throats of the good people of rural Maine, and I urge you to think about the concepts of justice and fairness when you vote on this bill, and vote for the pending motion and vote to allow our struggling rural districts more time to comply. Thank you.

The SPEAKER: The Chair recognizes the Representative from Livermore Falls, Representative Knight.

Representative **KNIGHT**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise also in support of the pending motion. The good Representative from Jay pretty well explained our situation. I just want to add a little bit to that. One size, we all know, does not fit all. I am a proponent of consolidation, when the right size is there, and in the case of SAD 36 in Jay, it makes eminent sense. We would be and should be the poster child. As we worked through this process, as my good friend from Jay pointed out, over 18 months, lots of things have happened in the areas of Livermore Falls and Jay, not the least of which you're all familiar, the Wausau Paper Company closing. So we now have loss our economic base, or a good chunk of it. We were without a town manager during this process. We now have one; he came on board three weeks ago. We actually lost our superintendent of schools during the process for personal reasons. We have worked diligently, very hard on this project. I personally voted for it. But again, by a very, very few votes, we lost this vote in Jay and Livermore Falls. We need desperately, the additional time, and I guess the word would be plead and beg those of you who feel that this is not an issue, to give those communities like ours the additional time to make this work. This will work in Jay and Livermore Falls, but we do need the one additional year, please give it to us. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Berry.

Representative **BERRY**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. In some ways, I'm of the least likely candidate to stand here before you today in support of this measure, and yet I do so out of a sense of obligation to the state as a whole. The two districts that I represent, one of them was essentially "held harmless" by the school consolidation law that we passed a couple of years ago. It was already big enough; it had its budget cut somewhat, relative to what it might have been. The other needed to do some work and did in fact successfully consolidate. They might be a candidate for some of this transition money, if that money were to

materialize, but Madam Speaker, Men and Women of the House, the earliest that this money could be awarded to that community would be in January, and we have no assurance, at present, that it would be awarded at that time. Even if it were, by then, the budget is in motion, there are only a few months left until next year at this time, and so the delay would only serve to be buy a few months of marginal, at best, transition funding. That \$5 million in the meantime sits there, does nothing for our schools, it does nothing for our children. All it does is increase pressure on the mill rates. You know, a Republican hero of mine, Teddy Roosevelt, once said that 90 percent of wisdom is wisdom in time. I think it is time for us to give time to the schools. I'm a teacher by trade, I've been in education for 20 years, and when I give an assignment that is unclear or it has unrealistic deadlines, and that does happen, I admit, from time to time, usually I can give an extension and the children who have done the work appropriately and handed it in on time have absolutely no resentment for those who needed a little extra time to make sense of the assignment. I think that's what we're talking about, Madam Speaker. I think we should give that extension on the assignment and allow a few months to go by, that might very well go by anyway if we were not to pass this bill. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Chapman, Representative Sutherland.

Representative **SUTHERLAND**: Thank you, Madam Speaker. I'd like to point out a correction for the members of this body. The Minority Report, Ought to Pass as Amended, the amendment was an emergency preamble and that was passed, it was attached to the bill and whether it was a clerical issue, I just want to point out that we are talking, discussing a bill with an emergency preamble. That is the only way we can move a bill, this piece of legislation forward, if you choose that way, otherwise it would not meet the competing measure guidelines which require a minimum of a two-thirds vote, so my apologies. I appreciate one of my colleagues pointing it out to me. It was an oversight on my part to not point that out to you sooner.

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

ROLL CALL NO. 185

YEA - Austin, Ayotte, Beaudette, Beaudoin, Beaulieu, Beck, Berry, Blodgett, Boland, Bolduc, Browne W, Burns, Butterfield, Campbell, Carey, Casavant, Cebra, Celli, Chase, Clark H, Clark T, Cleary, Cornell du Houx, Cotta, Crafts, Crockett J, Crockett P, Curtis, Davis, Dill, Driscoll, Duchesne, Eaton, Eberle, Edgecomb, Eves, Finch, Fitts, Flemings, Fletcher, Flood, Fossel, Gifford, Gilbert, Giles, Greeley, Hamper, Hanley, Harvell, Hill, Hogan, Hunt, Innes Walsh, Johnson, Joy, Kaenrath, Kent, Knapp, Knight, Kruger, Lajoie, Langley, MacDonald, Magnan, Martin JL, Mazurek, McCabe, McFadden, McKane, McLeod, Morrison, Nass, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Pieh, Pinkham, Pratt, Rankin, Richardson D, Richardson W, Rosen, Russell, Sarty, Saviello, Schatz, Shaw, Sirois, Stevens, Stuckey, Sutherland, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tilton, Trinward, Tuttle, Wagner J, Wagner R, Watson, Weaver, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Adams, Briggs, Bryant, Cain, Cohen, Connor, Dostie, Flaherty, Goode, Harlow, Haskell, Hayes, Hinck, Legg, Lovejoy, Martin JR, Miller, Millett, Nelson, Peterson, Pilon, Plummer, Priest, Robinson, Rotundo, Sanborn, Smith, Strang Burgess, Treat, Valentino, Van Wie, Webster.

ABSENT - Bickford, Blanchard, Cray, Cushing, Jones, Lewin, Piotti, Prescott.

Yes, 111; No, 32; Absent, 8; Excused, 0.

111 having voted in the affirmative and 32 voted in the negative, with 8 being absent, and accordingly the Minority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-352) 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-352)** and sent for concurrence. **ORDERED SENT FORTHWITH.**

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (H-257)** - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Repeal the School District Consolidation Laws"

(I.B. 4) (L.D. 977)

TABLED - May 13, 2009 (Till Later Today) by Representative SUTHERLAND of Chapman.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

The SPEAKER: The Chair recognizes the Representative from Chapman, Representative Sutherland.

Representative **SUTHERLAND**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. We have before us a piece of legislation that is a citizen's initiative, and I previously moved the Majority Ought Not to Pass Report and I like to speak to that a little bit.

One of my first reasons for doing that is you've seen the list of the small towns we just addressed previously. Not a whole lot of people, lots of towns. Those people worked very, very hard to collect over 55,000 signatures in order to put their citizen's initiative forward. I suspect that there were very few, if any, paid signature gathers, maybe there were, but they worked very hard in order to gather that number of signatures. Personally, I think they deserve to have this put before the people of the state, which is what they wish to do.

Secondly, I have concerns about the legal ramifications if we repeal this piece of legislation. There would be a whole host of currently legally existing school units that would disappear, because the entire law, this eliminates, repeals all of the law, not just provisions of it. If I use MSAD 43, Rumford, as an example, and they are part of RSU 10 now that includes MSAD 21, Dixfield; MSAD 39, which is Buckfield, Hanover and the Rumford SAD. They have formed an RSU tent. Let's just talk about one community. MSAD 43 in Rumford would have no legal identity, not a new identity, not an old identity, because the old identity was put away when the new one was begun. There would be no elected school board, no superintendent under contract, no school unit budget, no line of credit established, whole lots of other things I don't need to go into. You know, you've all heard all of this. It would create a legal quagmire for our school units around the state. Certainly could work their way out of it, certainly this Legislature could help, or not, in moving some things forward, but it really would create a situation of a morass, if you will, of what do we do now, and it can be done but there would be those months when it would be very difficult, very challenging, and again, whatever issues we adults in this state have around how we're going to run our schools, we must put