

MAINE STATE LEGISLATURE

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House of Representatives
One Hundred and Twenty-Fourth Legislature
State of Maine

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Second Regular Session

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Pages 609-1214

Representative **KRUGER**: Thank you, Madam Speaker. I got to know Harry in 1974 when I was a minstrel on the steak and salad circuit in southern Maine and Harry was a frequent visitor to my places of employment. I wound up working on Harry's campaign in '74, occasionally as a driver, but mostly as a diversion. I was his respite from the intensity of campaigning. One of Harry's answers to the question "How are you doing?" was first rate, and that touched me, always touched me, and this is the first time I'm telling anybody this, but I wrote a song which Harry was a big fan of, and some of you may know, called "Back to Maine". In the first verse of that song, the line is "rolling home is a first rate thing to do" and Harry knew that I snatched that from him and sang it as a salute to him, but nobody else ever knew that, and I just want to say that one of my big regrets in life is that I didn't take him up on his invitations more often than I did. I enjoyed him very much, I think he enjoyed me. We had a great sail one time that we went up to Christmas Cove. I'll stop now, but Harry was in fact a first rate mind and a first rate man, and I will miss him.

Subsequently, the Sentiment was **ADOPTED** and sent for concurrence.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-539)** on Bill "An Act Making Unified Highway Fund and Other Funds Allocations for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2010 and June 30, 2011" (EMERGENCY)

(H.P. 269) (L.D. 333)

Signed:

Senators:

- DAMON of Hancock
- PERRY of Penobscot
- GOOLEY of Franklin

Representatives:

- MAZUREK of Rockland
- HARLOW of Portland
- THERIAULT of Madawaska
- ROSEN of Bucksport
- HOGAN of Old Orchard Beach
- BROWNE of Vassalboro
- CEBRA of Naples
- PEOPLES of Westbrook
- CAREY of Lewiston

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

Signed:

Representative:

- THOMAS of Ripley

READ.

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

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

CONSENT CALENDAR

First Day

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

(H.P. 666) (L.D. 964) Bill "An Act Pertaining to the Breeding and Selling of Dogs and Cats" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-553)**

(H.P. 1005) (L.D. 1449) Bill "An Act To Expand Tax Incentives for Visual Media Productions" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-554)**

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

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

ENACTORS

Emergency Measure

An Act To Amend the Laws Governing the Consolidation of School Administrative Units To Delay All Penalties for One Year

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

(C. "A" H-352)

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

On motion of Representative CONNOR of Kennebunk, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

The same Representative **PRESENTED House Amendment "A" (H-548)** which was **READ** by the Clerk.

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

Representative **CONNOR**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise briefly to inform you about the amendment that I have just proposed. Again, as the good Clerk just began to read, the state shall pay the cost of consolidation by July 1, 2012 for any town or community that has complied by June 2, 2009 with the laws governing the reorganization of school administrative units. As we just acted last week, we delayed the penalties for the communities that did not comply with the law, but as of June 2, 2009, we had 98 prior SAUs that were approved to reorganize, coming together and forming 26 reorganized units. When I look at that, we talked about the penalties of noncompliance a lot in the prior debate. We didn't talk at all, or at least, and I apologize I didn't stand up and I didn't talk about the penalties of compliance, because when you come together and you form a new unit, there are costs that are associated with consolidation. You redo your insurance policies; you redo your titles to your buses. On and on, there are a number of items that are required to be paid for because you complied with this law, and this amendment, as brief as it is, will merely say that for those communities that did comply with the law, we appreciate the sincerity and work that you did and we will cover those costs for you by the year 2012. Thank you, Madam Speaker.

Representative SUTHERLAND of Chapman moved that **House Amendment "A" (H-548)** be **INDEFINITELY POSTPONED**.

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

Representative **CONNOR**: Thank you, Madam Speaker. Again, I wish to just briefly speak to this. This is about fairness. At the end of the day, we heard folks, I believe somebody said we created this mess, we need to fix it. Well, folks, we had people that looked at what some may characterize as a mess and say it is the law of the land, I will follow it, I will do this, they went forward, they complied with the law and they are the only ones right now being penalized. I wasn't going to get into kind of jokes, but I always do, so if I'm driving down Route 95, the Turnpike, and I'm going 90 and I get a ticket, I don't say well I really don't want to pay it because I think the speed limit should be 90. I don't do that, I pay my ticket. In fact, if you look at the records, I have. I wasn't going 90. But more importantly, we don't say to folks, well, you're right, the law wasn't that good so no penalty for you. Now this body did choose to do that a week ago and I think we did that for good reason. We thought we wanted to look at fairness, we wanted to give folks time to comply. But to say to the folks that did follow the law, hah, you got nothing, nice job, thanks but go ahead and pay your fees, pay your titles, pay all of those things. Well, the other communities that failed for whatever reason to comply with the law, that's just not fair and I know that this body is all about fairness, and I hope you will follow my red light to defeat the Indefinite Postponement of this amendment and we'll move forward from there. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Smith.

Representative **SMITH**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise briefly to speak against the pending motion with great respect for the Chair of the Education Committee, but I do agree with my seatmate, this is an appropriate motion. Good faith efforts were made, they were to be rewarded; however, prior action by this body and the other, last week as a matter of fact, has undone that option. I think this is an appropriate mechanism, and I request a roll call. Thank you.

Representative SMITH of Monmouth **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-548)**.

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 Brewer, Representative Celli.

Representative **CELLI**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. This bill, every school district tried to comply. They worked hard, they met in committees. A lot of money was spent over the last couple of years trying to come up with a consolidation. If the voters voted it down, there was still a lot of money spent and a lot of time spent. The state education office has spent over \$5 million on this issue in the last two years—\$5 million. So how far do we go to repay everybody because of a really bad piece of legislation that was put out? It could go on forever and we don't have the money for that. I say, I vote against this.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I think more than any other comment that I have heard about consolidation and about the RSU that has formed in my community has been comments regarding the sense that Augusta, whoever that is, doesn't get it. He or she doesn't get it. People say to me, I want you to tell Augusta, I keep trying to find that office in the State House, but they want me to tell Augusta that the people back home are losing faith in the legislative and executive process.

They don't understand that it's a legislative and executive process. We made a commitment to people. We were unhappy, some of us, with the deal that got made, but we created a law, and law abiding citizens sat down together and worked day after day for weeks and months to put together something to comply with the law. It concerns me greatly that now because people are not happy with the law that we made, that we do not feel responsible for the consequences of our actions. Men and Women of the House, many RSUs, and I know I can speak for the one that I represent, part of their motivation for complying was that it was the law. Part of it was the threat of penalty and part of it was the help that was going to be offered, and they took those three factors into account, two of which were financial in nature, and we are now pulling that back out, two of those back out from under their calculations. The damage is being done in terms of our credibility, and I would appreciate the fact that we will have a roll call, and I support Representative Connor's amendment and I hope that you will follow his light. Thank you.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Magnan.

Representative **MAGNAN**: Thank you, Madam Speaker. Madam Speaker, Honorable Members of the House. I will build on what has been said. I have two RSUs which contain all of my towns, and we complied because it was the law. I was on one of the RSU teams myself. I can tell you that Orland, one of my little towns, is going to be penalized, not because they didn't join an RSU, but because of a rearranging of finances for \$366,000. Two of my other little towns are going to be around \$33,000 and they have fewer than 600 people in them. These are towns that complied. Now I can tell you if we don't get some help for these RSU teams that did the job, wait until you see what happens with the people in those towns if this goes to a referendum. Do you think they're going to want to stay there? I think we need some incentives to keep our RSUs together. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Valentino.

Representative **VALENTINO**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise today to also support the amendment. One of the reasons I support this is that we have an election tomorrow in Saco. I was fortunate enough to vote by absentee ballot on Friday because we were let out early, and that was the first question that the clerks and all of the people in city hall asked me: What about the penalties Linda? What's going on with the penalties? This isn't fair. We voted to consolidate because we thought there were going to be penalties involved. I understand that some districts were not able to do this in a timely fashion; I understand that we've given a delay on this. What I don't understand and what I cannot answer are the questions to my citizens saying we went ahead and we went and did this, we went to meetings after meetings, we rushed it and we have a vote tomorrow. Should we vote for this budget or should we not vote? Are you going to change this again in Augusta? Are you going to eliminate the school consolidation? Are you going to delay the penalties? How should we vote tomorrow? I feel that we should go with this amendment, Members of the House, because I feel this is what we voted for originally when we passed school consolidation, and I know I want the election in Saco to be held tomorrow, I want people to come out, and I want them to vote of the budget for the new RSU. Thank you.

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

Representative **JOHNSON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I have great empathy for the towns that are involved in this law, that are

now facing the problem of penalties. This was a poor law. It was premised on saving money and improving education, and the further we get down the line, the less we see of certainly the cost implications and there has been no discussion of improving education. The law is seeing cost shifts in many of the RSUs that are formed and we see that, due to the lack of time for implementation, a lot of these plans are not well thought out. So what do we do about it? We are now presented with an amendment that would help some of these communities. I am in favor of helping those communities, but it's an undefined cost so I'd like to ask anyone who is capable of answering, Madam Speaker, with your permission, what is the cost of this amendment?

The SPEAKER: The Representative from Greenville, Representative Johnson has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Kennebunk, Representative Connor.

Representative CONNOR: Thank you, Madam Speaker. I will attempt to answer that question. As you know, the fiscal note on this is an undetermined fiscal note, and what I do know is that a portion of the penalty dollars which were collected, which was roughly \$5.2 million, was going to go to help offset the cost of consolidation for some of those communities. Now I will admit that the good Committee on Education looked at that issue by some of the statements made by the commissioner in regard to where those dollars would go, but I do think that we have a full understanding that it is less than that \$5.2 million. As a member of the Appropriations Committee, I am always worried about fiscal notes, but I think this is a situation when we look at fairness, when we look at folks that did comply with the law, this may be one of the issues that we go out and we find the dollars as we go forward. It's one of the reasons that I wrote this to be 2012. Thank you, Madam Speaker.

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

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'm in favor of the amendment and here's why. I think that, first of all, 285 is really a delay of penalties and there is probably an assumption that even if the penalties are delayed and those school districts who would benefit from that of forward, which is my assumption they would do, there are those same costs that are being experienced by the schools that the good Representative from Kennebunk has pointed out will be seeded in those districts. So I'm presuming the law the language, I see the language of this amendment, that those additional costs for consolidating of those districts, such as the ones I represent, will also be covered in this amendment. I think what we have, if you look at the situation, is a population of two victims: We have the victims, who couldn't get it together in time and, therefore, are being penalized, and the others ones, who rushed to consolidate because they were trying to comply will the law and didn't see the cost of that consolidation for them. I think everybody should be cured, if you will, and the remedy of this amendment is that remedy and it would apply to the school districts who are going to come into compliance within the next year, I think we have a remedy that suits all. I'm inclined to vote red in this case. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative WEBSTER: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I would just respond to the question regarding the cost. Certainly, as another member of Appropriations Committee, I, too, am concerned about any costs that we can't nail down and we don't know exactly what the resource is. However, in the past budgetary process, what we did is we crafted and worked together in order to do the best we could with the dollars we had in order to be fair and to look towards the future. I would ask you what is the cost of not fulfilling the expectations that we created. Now some might say that the Legislature never said that people were going to be helped if they consolidated, but believe me, we were all aware that that was being put out there and we did not do anything to stop it. So I would ask you to think whether in fact it is fully our responsibility that that expectation was created. The image now at home for all of us has to do with the credibility of this body, and I would ask you what is the cost of not maintaining credibility with our citizens. Thank you.

Subsequently, Representative SMITH of Monmouth WITHDREW her REQUEST for a roll call.

Subsequently, Representative SUTHERLAND of Chapman WITHDREW her motion to INDEFINITELY POSTPONE House Amendment "A" (H-548).

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Sykes.

Representative SYKES: Thank you, Madam Speaker. Madam Speaker, I question whether or not House Amendment (H-548) is properly before the body and is germane and ask for a ruling.

Representative SYKES of Harrison asked the chair to RULE if House Amendment "A" (H-548) was germane to the Bill.

The SPEAKER: The Representative from Harrison, Representative Sykes, has questioned the germanous of House Amendment A. This matter will be tabled pending a ruling of the Chair. Is this the pleasure of the House?

Subsequently, the Bill was TABLED by the Speaker pending a RULING OF THE CHAIR.

Emergency Measure

An Act To Conform State Mortgage Laws with Federal Laws
(S.P. 523) (L.D. 1439)
(H. "A" H-532 to C. "A" S-221)

Reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 135 voted in favor of the same and 0 against, and accordingly the Bill was PASSED TO BE ENACTED, signed by the Speaker and sent to the Senate.

Acts

An Act To Direct Fines Derived from Tribal Law Enforcement Activities to the Passamaquoddy Tribe and the Penobscot Nation
(H.P. 545) (L.D. 796)
(C. "A" H-527)

An Act To Amend the Animal Welfare Laws
(H.P. 758) (L.D. 1103)
(C. "A" H-523)

An Act To Amend the Maine Certificate of Need Act of 2002 To Change Nursing Facilities Review Thresholds for Energy Efficiency Projects and for Replacement Equipment
(H.P. 803) (L.D. 1164)
(C. "A" H-534)