

December 31, 2007

To: The Honorable Members of the 123rd Legislature
From: Judy Sproule, Trenton School Committee, RPC member

Regarding: School District Consolidation Law

My purpose in writing is to explain why it is necessary that the new school district consolidation law be repealed.

- The law does not provide net cost savings to municipalities.
- The law will produce massive property tax increases. The legislature owes Maine citizens the courtesy of getting the real facts as to how many millions of dollars this will be.
- LD 1932 does not solve the problem of “unintended financial barriers”.
 - It does not eliminate cost-shifting, but only shifts the responsibility for its allocation, and ultimately the blame, from the DoE to the Regional Planning Committees (RPC).
 - It reinstates the minimum state allocation only for units that received it in FY2007-8 or FY 2008-9 prior to the operational date of the Regional School Unit (RSU). It does not provide any compensation to the units that will meet the criteria set for minimum state allocation subsequent to FY 2008-9. Furthermore, it does not provide compensation to units that currently receive the *regular* state subsidy but will be required to forfeit it when they join an RSU that is a minimum receiver.
 - It does not address the increase in local costs due to the merging of employment contracts.
- There are simply too many flaws to address by legislative amendment. More flaws become apparent every day and indications are they will continue to surface as more questions are asked.

I have invested well over a thousand hours working on this issue on behalf of my community, and it is my opinion that current school district consolidation law is too flawed to withstand adjustment without adversely affecting the education and future of our children and inducing economic and cultural harm to our state’s citizens. I believe that nothing short of complete repeal and a fresh start can accomplish the goals of economic efficiencies intended by this law.

It is an unusual request to ask the legislature to repeal a law which was only enacted seven months ago, but it is equally unusual for a law encompassing such sweeping change to have been based on so little research or planning. Irreparable damage will occur if RSU’s become operational. At this point the adverse effects are minimal in comparison, other than the time it has taken away from our children’s educational needs. If the 123rd Legislature can accept the responsibility to repeal this law, you will be heroes for being able to admit a mistake and Maine citizens will work with you to find the cost savings in education you need to help balance future budgets. It is also crucial that we return as quickly as possible to focus on the real issue of excellence in education.

Evaluation of current status of the law: Please read Geoff Herman’s article in Maine Townsman: <http://www.memun.org/public/publications/townsman/2007/goeth.htm>. This article outlines many of the law’s discrepancies, omissions, and flaws.

Cost Savings:

The \$36.5 million shortfall in revenue was deappropriated in the budget bill. The enactment of legislation to mandate the reconfiguring of school districts under new laws of governance is totally unrelated to this \$36.5 million cost savings. This “one size fits all” legislation puts tremendous financial burdens on school districts due to cost shifting and the cost of merging employment contracts.

Increased Costs for Taxpayers - Cost Shifting:

Cost shifting is the result of creating new quasi-governmental units by combining towns into RSU's. There is a two-step formula by which the sum of the individual schools' total EPS amounts are first allocated based on number of students, and then the additional local share above EPS is allocated based on relative property valuation. The end result is a shift in costs among the member units, relative to what they are currently paying in property taxes, which can be in the hundreds of thousands of dollars (see the appendix for examples).

LD 1932, if passed, would allow units to negotiate their own cost sharing formula. This does not eliminate cost-shifting, but merely passes along the responsibility to the RPC for establishing the formula for winners and losers. Instead of eliminating cost-shifting we now have blame-shifting. Do the DoE and the Legislature really think they are absolved from complicity in cost-shifting if these appointed committees of citizens lose in the negotiations and their towns' property taxes increase? The only way to achieve equity is for each unit to be responsible for its own total costs, but there is no provision for this either under current law or LD 1932.

Increased Costs for Taxpayers - Cost of Merging Employment Contracts:

Our teachers do deserve higher pay and benefits, and we would like to see that realized. However, the fact remains that our towns are simply not going to vote for a plan that establishes significant new expenses without showing any additional benefit to education. From the taxpayers' perspective it looks like their hard earned income is going into the pockets of other individuals who are not going to be doing their job any differently. The result is more costs and more cost-shifting.

Here are some estimates for increased personnel costs in Hancock County:

School Unit	Additional Cost for Salaries and Benefits
RSU 7 Ellsworth/Eastbrook/Hancock/Lamoine/Mariaville/Otis/Surry/ Trenton/Waltham	\$710,029
RSU 8 Southwest Harbor/Mt Desert/Bar Harbor/Tremont/Frenchboro/Swan's Island/Cranberry Isles	\$0*
RSU 9 Bucksport/Orland/Prospect/Verona	\$204,848
RSU 10 Sedgwick/Penobscot/Deer Isle-Stonington /Brooksville/ Brooklin/Blue Hill/Castine	\$358,039
TOTAL	\$1,272,916

RSU 8 **Already has unified pay scale, but if Lamoine and Trenton were to join would increase* \$575,629

\$1.27 million in additional property taxes to cover new expenses for personnel will have to be raised in Hancock County alone. The total incremental cost to *all* of the state's taxpayers should be calculated before anyone cavalierly disregards this issue. There does not appear to be any resolution of this financial barrier to consolidation within the confines of the mandated RSU structure. It must be kept in mind that personnel costs are the largest part of school budgets, probably averaging around 75%. These costs, in general, increase from year to year at roughly the rate of cost-of-living increases.

Increased Costs for Taxpayers – Other Flaws in LD 1932

Aside from not providing relief from cost-shifting, LD 1932 fails to address the loss of minimum subsidy for all receivers. It applies only to units that receive the minimum subsidy in FY2007-08 or FY2008-09. Units which are not currently minimum receivers, but who will fall into that category in the future beyond FY2008-09 will get nothing. Furthermore, LD 1932 does not address the situation where a unit currently receiving the state subsidy joins an RSU that is a minimum receiver and therefore the unit is forced to forfeit its regular state subsidy.

Lack of Financial Support for Decision Making:

Despite the law's requirements that the DoE provide models and assist in the collection and presentation of data, there is inadequate support from the DoE for RPC's to make sound, responsible decisions regarding their financial futures. In the corporate world mergers are not considered without legal and financial counsel, extensive fact finding, and pro forma detail. The Securities and Exchange Commission determines requirements for financial information and disclosure. In regulated industries, consumers have the protection of state commissions to request information and approve any merger or sale. If Federal and State legislatures can provide these protections for companies and consumers, why do we have to accept anything less with respect to our education system? RPC merger teams consist of Maine citizens, municipal officers, and school board representatives who have collectively spent thousands of unpaid hours on this project, as well as school administrators with another full time job to do. Very few of these people have the requisite legal or financial experience. They are further handicapped by the constraints of a hastily constructed and admittedly flawed law and a severe lack of information.

The DoE financial models, which were produced only after the law was passed and implemented, are woefully inadequate in terms of what school units and municipalities require in order to make sound decisions. It is not even clear what was the intent of this template as it merely produced numbers for a proposed RSU based on a "sum of the parts" of individual members' total EPS allocations for this current year. It fails to provide a pro forma statement for the RSU's because 1) it does not utilize the method that will be used to determine EPS once the RSU is in operation and 2) it ignores the mandated cuts of 50% system administration and 5% each for transportation, special education, and operation and maintenance.

What it did accomplish, unbeknownst to its creators, is to alert school units to the cost-shifting as well as the loss of minimum subsidy that are now acknowledged to exist as unintended consequences of the law. However, school units still do not have an accurate financial picture of what consolidation will look like.

The DoE has provided a second template to illustrate cost sharing formulae possible with LD 1932, but this evidences a further lack of understanding of the basic financial ramifications imposed by this law and its purported fix. Taken on its own, it simply does not alleviate the cost-shifting to any significant degree. In addition, it ignores the fact that cost shifting actually occurs in two steps (see the appendix for examples based on proposed RSU's that illustrate this).

One reason RPC's are unable to assess finances is the non-transparency of the EPS funding formula. While this funding formula supposedly relates to per pupil cost, its computation is mysterious and when the DoE divulges its allocations to school units there are often big surprises. It is difficult enough in a normal year to build a school budget not knowing what the state share might be. It is utterly impossible for an RPC to attempt to guess at this factor which is now affected by mandated cuts that, with one exception, have not been defined in dollars. As a side note, the new law moves the notification date for EPS from February 1 to March 31 for the first two years. As many town meetings occur in March, they will not be able to determine the school budget at their annual meetings and will incur the cost and inconvenience of having to hold a second, special meeting.

Governance:

The formation of new regional school units requires the various member towns coming together for the first time to subordinate their municipal authority to population-based representation in a new quasi-governmental entity. This mandated form of governance is the basis for creating the financial hardships outlined above. If you look carefully at the non-SAD school districts that are now in discussion to form RSU's where cost shifting is a financial barrier, you will observe that the members share few common characteristics. Trying to combine municipalities with dramatically uneven student populations, total populations, property valuations, and school budget expenditures is at the base of cost-shifting, and as long as these inequities are present, no formula can extinguish them. If LD 1932 passes and RPC's get to the point of looking at these relationships more closely, the increase in cost of merged contracts raises even more complications as to who should pay for what. In many cases, it will be far cheaper to pay the penalty than conform to the law.

The 55% Fallacy:

Many of us are well aware that while a 2003 vote by citizen initiative requires the state to fund 55% of the cost of education, the state is in fact not able to afford this. If the Governor, Commissioner of Education, and Members of the Legislature could admit this fact and ask its citizens to assist in redefining the state's financial responsibility, I believe a solution can be found. There are still many folks who are under the impression that the state gives every school 55% of its budget and do not realize it is the *total* statewide cost that is subsidized by 55%. Please look at <http://www.maine.gov/education/data/subsidy/subs08.html>. The far right column shows each school's state share and you will be amazed to see the huge disparities in the state's share of communities' education costs.

The 55% requirement drives a lot of shadowy manipulations from the machinations regarding EPS to the withholding of state money versus schools' federal allotments. This would be a good time to reinstate an open, honest, and fair system of funding.

Caveat Emptor:

In the spring of 2007 the DoE hired a public relations person to manage their press coverage. School district consolidated was to be sold, not bought. When you read articles that depict the triumph of seeing school districts complying with the law you must realize that so far the requirements have only been to submit simple, non-binding checklist type forms. While our law-abiding public has been willing to pay lip-service to these filing dates, the general temperament is what you would expect from prisoners hoping they will get a life sentence and not the death penalty. There is even a desperate hope that this is all a bad dream and we can wake up to find it gone.

Conclusion:

The intended cost savings do not exist for municipalities. Cost-shifting and the increase in cost for salaries and benefits will result in huge property tax increases as a result of this legislation or now if the *non-action* of this legislature does not repeal this law. LD 1932 does not remove "unintended financial barriers". Other flaws are so numerous that those who have studied them agree that there are certain to be even more flaws that have not yet been identified. Picture trying to cover a wide-mesh fish net with band-aids because you need to use it to bail out your sinking boat.

Finally, even if the legislature chooses to let school consolidation law stand, with or without amendment, there is no guarantee of compliance. *If* RPC's are willing to do more work, *if* they are willing to submit a detailed plan, and *if* the Commissioner approves the plans, then there is a very big *if* when it comes time for the towns to vote. Another fact gathering request of this legislature might be to assess the likelihood of voter acceptance.

Undoubtedly Maine’s citizens can all agree on the point that we need to be diligent in striving for economic efficiencies in all state programs, and we need to confirm this goal and work to that end. In *Charting Maine’s Future*, The Brookings Institution points out: “With Yankee ingenuity and the town meeting each part of its mystique, the most important among all of Maine’s advantages in the coming years will be its knack for community-spirited problem solving.” We should be capitalizing on this resource to build efficiencies in our educational system that have a direct goal of enhancing educational excellence, not exhausting our resources - our elected officials and our volunteers – by forcing them to react to a crisis established by misguided legislature mandated from the top down, for which they will pay with significant increases in their property taxes.

There is a positive side to this debacle: many of us have met and exchanged ideas with others whom we would not otherwise have had the opportunities. The future is promising if these people with the local knowledge and commitment are given a chance to work together unencumbered by the current legislation.

Appendix:

The following is excerpted from my testimony on December 12, 2007 to the Joint Committee on Education and Cultural Affairs in opposition to LD 1932. While the examples relate to the RPC’s I have worked on, I would be willing to calculate for your consideration comparisons for any RPC if provided with the raw data.

Cost-Shifting and LD 1932 adjustments:

The highlighted column shows the cost-shifting produced by the original formula in the law, which is an application of a two-step formula based first on percent of students and then on relative valuation.

The language of LD 1932 and the accompanying template allow the RSU to replace the second step, formerly based on valuation, with any combination of pupil count and valuation. As you see below, the range of possibilities between and including 100% of either factor, pupil count or valuation, still produce substantial cost shifting for the members. In this example, application of the law as it now stands results in approximately \$776,000 being shifted, and the suggested options under LD 1932 result in a range of approximately \$711,000 - \$903,000 being shifted.

RSU based on Union 92

Cost-Shifting

The negative numbers in red are less cost, or a financial benefit to that municipality; the positive numbers are additional cost.

Municipality	100% Pupil Count	75P:25V	at 50:50	Add'l Local Share (orig. formula)	25P:75V	100% Valuation
Eastbrook	(\$88,232)	(\$96,643)	(\$105,054)	(\$112,956)	(\$113,465)	(\$121,876)
Hancock	\$390,792	\$357,006	\$323,220	\$303,593	\$289,434	\$255,649
Lamoine	\$217,994	\$206,118	\$194,243	\$206,318	\$182,368	\$170,493
Mariaville	\$29,086	\$14,882	\$679	(\$17,528)	(\$13,525)	(\$27,728)
Otis	\$113,717	\$133,464	\$153,211	\$170,024	\$172,958	\$192,706
Surry	(\$343,222)	(\$277,063)	(\$210,904)	(\$203,225)	(\$144,745)	(\$78,587)
Trenton	(\$471,087)	(\$473,964)	(\$476,840)	(\$442,746)	(\$479,716)	(\$482,592)
Waltham	\$150,954	\$136,199	\$121,445	\$96,520	\$106,690	\$91,936
Total \$ Shifted	\$902,541	\$847,670	\$792,798	776,455	\$751,451	\$710,783

1st Step Shift in Total EPS

The negative numbers in red represent a penalty to the associated municipality.

Municipality	Current Total EPS	New Regional EPS	Change in EPS
Eastbrook	\$516,544	\$539,803	\$23,259
Hancock	\$2,523,201	\$2,732,491	\$209,290
Lamoine	\$1,754,332	\$1,844,327	\$89,994
Mariaville	\$653,573	\$685,215	\$31,642
Otis	\$662,861	\$706,138	\$43,277
Surry	\$1,858,317	\$1,623,593	(\$234,723)
Trenton	\$2,079,309	\$1,897,679	(\$181,630)
Waltham	\$413,161	\$432,052	\$18,891
Total	\$10,461,297	\$10,461,297	\$0

RSU based on Union 92 plus Ellsworth

In order to present this scenario in terms comparable to the preceding one, these numbers do *not* include the additional \$710,029 cost of merging employment contracts as well as other adjustments that may result.

Cost-Shifting

This example illustrates the effect of adding just one member with very different characteristics. The total shift is now approximately \$1,300,000, crediting a windfall gain of over \$900,000 to that one unit at the expense of the other members. In this case, the minimum shift occurs under the current law's formula, and application of the LD 1932 template only increases it further.

The negative numbers in red are less cost, or a financial benefit to that municipality; the positive numbers are additional cost.

Municipality	100% of Pupils	75P:25V	at 50:50	Add'l Local Share (orig. formula)	25P:75V	100% of Valuation
Ellsworth	(\$720,187)	(\$795,412)	(\$870,636)	(\$917,468)	(\$945,861)	(\$1,021,085)
Eastbrook	(\$51,778)	(\$58,725)	(\$65,672)	(\$73,374)	(\$72,618)	(\$79,565)
Hancock	\$579,932	\$556,084	\$532,236	\$517,814	\$508,388	\$484,540
Lamoine	\$343,801	\$341,772	\$339,742	\$360,545	\$337,713	\$335,683
Mariaville	\$76,317	\$62,957	\$49,598	\$29,959	\$36,239	\$22,880
Otis	\$162,338	\$192,838	\$223,338	\$250,454	\$253,838	\$284,339
Surry	(\$232,033)	(\$135,180)	(\$38,327)	(\$16,594)	\$58,526	\$155,378
Trenton	(\$339,845)	(\$329,900)	(\$319,956)	(\$272,414)	(\$310,011)	(\$300,067)
Waltham	\$181,457	\$165,567	\$149,677	\$121,078	\$133,787	\$117,896
Total \$ Shifted	(\$1,343,843)	(\$1,319,218)	(\$1,294,591)	(\$1,279,850)	(\$1,328,491)	(\$1,400,717)

1st Step Shift in Total EPS

The negative numbers in red represent a penalty to the associated municipality.

Municipality	Current Total EPS	New Regional EPS	Change in EPS
Ellsworth	8,899,863	8,691,225	(\$208,638)
Eastbrook	516,544	549,857	\$33,313
Hancock	2,523,201	2,788,007	\$264,806
Lamoine	1,754,332	1,879,969	\$125,636
Mariaville	653,573	698,938	\$45,365
Otis	662,861	720,235	\$57,374
Surry	1,858,317	1,655,379	(\$202,937)
Trenton	2,079,309	1,936,116	(\$143,193)
Waltham	413,161	441,434	\$28,274
Total	19,361,160	19,361,160	(\$0)