

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Legislative Record

OF THE

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

1976

KENNEBEC JOURNAL
AUGUSTA, MAINE

Second Readers

The Committee on Bills in the Second Reading reported the following:

House

Bill, "An Act Amending the Charter of the Caribou Hospital District." (H. P. 2005) (L. D. 2184)

Which was Read a Second Time and Passed to be Engrossed in concurrence.

House — As Amended

Bill, "An Act to Clarify the Laws Relating to County Budgets." (H. P. 1818) (L. D. 1976)

Which was Read a Second Time and Passed to be Engrossed, as Amended, in concurrence.

Senate

Bill, "An Act Relating to the Right of Rescission Under the Truth-in-Lending Act." (S. P. 711) (L. D. 2234)

Which was Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

An Act Concerning the Uniform Processing of Employer Contributions into the Retirement System. (H. P. 1871) (L. D. 2042)

(On motion by Mr. Huber of Cumberland, placed on the Special Appropriations Table.)

Emergency

An Act to Remove the Maine Criminal Justice Sentencing Institute from the Administrative Supervision of the Judicial Council. (H. P. 1974) (L. D. 2163)

This being an emergency measure and having received the affirmative votes of 30 members of the Senate, was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

(Off Record Remarks)

On motion by Mr. Speers of Kennebec, Recessed pending the sound of the bell.

After Recess

Called to order by the President.

Orders of the Day

The President laid before the Senate the first tabled and specially assigned matter:

Bill, "An Act to Revise the Laws Relating to Funding of Public Schools." (H. P. 2020) (L. D. 2196)

Tabled — February 20, 1976 by Senator Speers of Kennebec

Pending — Adoption of House Amendment "C" (H-880)

(In the House — Passed to be Engrossed as amended by House Amendments "C" (H-880) and "O" (H-920).

Mr. Conley of Cumberland moved that House Amendment "C" be Indefinitely Postponed.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I ask for a division on that motion. House Amendment "C" simply adds some words concerning vocational activity in fishing and boat building. It does no harm to the concept of the bill and recognizes trades that are important in the State of Maine.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I ask leave to withdraw my motion.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now requests leave to withdraw his motion to indefinitely postpone House Amendment "C". Is it the pleasure of the Senate to grant this leave?

It is a vote.

Thereupon, House Amendment "C" was Adopted in concurrence.

House Amendment "O" was Read.

Mr. Merrill of Cumberland then presented Senate Amendment "F" to House Amendment "O".

Senate Amendment "F". Filing No. S-407, to House Amendment "O" was Read.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: The purpose of Senate Amendment "F" to House Amendment "O" is to change one aspect of the so-called compromise bill which we find before us, and one aspect only. That aspect is the funding of that bill. It would change the funding from its present posture in House Amendment "O", which is to provide for a surcharge on our present income tax schedule, together with a temporary one-time cigarette tax, to going to an income tax reform to fund the monies necessary to make this tax shift.

If we adopt this amendment, we will have the effect not only of relieving the property tax, with all the benefits that that brings to the average taxpayer in the State of Maine, but also in so doing to amend our income tax laws in such a way as to provide within the income tax structure itself relief to those taxpayers with the least ability to pay.

I believe that this amendment represents a conscious middle ground and responsible approach to taxation based on the idea that our taxation system should be progressive but not confiscatory. This is a tax shift which will benefit the average family which in and of itself not looking to the property tax benefits, the average family which earns \$12,000 a year or less, it will benefit them while giving them property tax relief.

At the same time, this is not a tax proposal that is based on the idea of soaking our more wealthy citizens or — and I emphasize this — of putting an extra burden on Maine businesses or businesses that would like to come to Maine.

As the members of this Senate are aware, I am sure, I served this summer and this fall on the Governor's Tax Policy Committee. One of the issues which we addressed in that work was the situation that businesses that are in Maine or wish to come to Maine face as far as taxation is concerned. The members of that commission, I think to a man, shared the concerns of others, including the Governor, that we not be in a position of discouraging businesses to come to Maine, because in the long run to do so would work a hardship on the working people of Maine who need more jobs and would work a hardship on the tax base of Maine which benefits from every new job that is added, which benefits because we then have a chance to tax that income. In keeping with that philosophy, the effect of adopting this amendment will be to provide some relief to the businesses of Maine.

I think it is interesting to point out, or to emphasize what was pointed out in the Governor's Tax Policy Report, that if you look at the corporate tax that Maine imposes on Maine businesses, that the

three most southerly New England States are far above us in the level and burden of taxation. But if you look at the total tax picture for Maine businesses, the effect is quite the contrary: Maine finds itself almost leading the New England States in terms of the tax burden. It does that because the property tax level in Maine is so high. In providing this relief then, we provide not only general relief to Maine businesses but we relieve them from a tax burden that is not based on their ability to pay. A lot of the small businesses that we have seen going out of business in this economic downturn are partially going out of business because their heaviest tax burden in the State of Maine is that burden which isn't related to their ability to pay. It is the tax on the real estate owned by their businesses or, if they are businessmen who happen to be farmers, on their farms.

I think then that what we are offering here is a true tax reform. It is the intent, the clear intent, that this will fund the 13.5 million dollar shift, will pay off the leeway overruns of last time, and next year the clear intent is that the 2.6 million transitional will be picked up in the monies that are raised by passing this.

It is also my hope that, if we do adopt this amendment, there will be another amendment offered which will make clear that the additional 5 million or so which will be gained next year because we aren't going to be paying that one-time 5 million deficit we find ourselves with this year will be used to further shift the burden from the income tax to the property tax.

In summary then, I think that this is a fair proposal that is fair to everyone, and I think it is a proposal that moves us in the State of Maine towards a situation where there is greater equity in our tax system. It represents no tax increase, and I think for that reason it will be welcomed by the taxpayers of Maine, whatever bracket they are in, as the most progressive way deal with the situation we find ourselves with.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: I wish to commend the Senator from Cumberland, Senator Merrill, for offering this amendment. There was a discussion several days ago regarding the entire package of educational funding which was presented to us on behalf of the leadership of this legislature, and the general tenor of that discussion was that it was a compromise measure but that it was not the only measure which would be or could be brought before this body. And it stated at that time that there would be ample opportunity to offer additional suggestions and changes with regards to that particular program. I for one feel that there had been a most worthwhile change offered for our consideration, and I would support the adoption of this particular amendment.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Reeves.

Mr. REEVES: Mr. President, I have heard from many persons in my district who say simply that they cannot tolerate an increase in property taxes. This is true in my Town of Pittston and it is also true along the coast, in Southport, in Georgetown, where people are most unfairly treated by L. D. 1994. We do need reform in this instance, and I believe this amendment by Senator Merrill of

Cumberland is a real step in that direction. I compliment Senator Merrill on working out this solution and I will support it.

Life on the coast of Maine is not the luxury that some real estate speculators would have us believe. There are many elderly fishermen and working people who are not rich. In fact, they are poor. They demand fairer taxation in order for their survival. This bill hardly is the ideal solution for them, but I will support it as a first step in that direction. It does bring the mill rate down and it is a step forward towards tax reform.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr. President, in keeping with my position up beside you this morning, I would like to say that I can sense a feeling of success here today, and I am proud to think that the Senate had maybe come along that far.

There is an old prayer that I think reflects the action of this Senate today, and I would like to read into the record this prayer, and I hope that our chief executive will read this record.

Serenity God, grant us serenity to accept those things that we cannot change, the courage to change the things that should be changed, and the wisdom to know one from the other.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate: I will support Senator Merrill's amendment, and I would like to suggest to the Senate that Senator Merrill pointed out one feature of his bill that will require our attention. If you do the arithmetic with respect to the revenues that will be raised by this income tax shift, you will see that it takes care of our needs in the coming fiscal year. But if the same revenue measure were in force in the succeeding year, there might be some excess money raised. In order that this be a true tax shift, therefore, if the amendment offered by the Senator from Cumberland, Senator Merrill, passes this body, I will then offer an amendment, which is now being handed out to you, which will have the effect of using the 13 mill rate for the uniform property tax for the fiscal year beginning July 1 next, but in any year thereafter the rate will drop down to 12½ mills, thus making this a true shift and not producing any excess revenues beyond our clear needs for education.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Berry.

Mr. BERRY: Mr. President, I too would like to thank the Senator from Cumberland, Senator Merrill, for his efforts in working with all of us who are concerned with the educational problem. I think the Senator from Cumberland has had the wisdom and the ability to separate the various problems that have been facing us. Being one of those who would offer an amendment this afternoon, I would like to go on record as supporting Senate Amendment "F" for the simple fact that due to the efforts of Senator Merrill my concerns are incorporated in that amendment. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: I would commend

the good Senator from Cumberland, Senator Merrill, and the leadership for their efforts to reach what would appear to be a compromise which is going to pass at least the Senate. But it is not going to pass with my vote, for one reason, and that is that I think the ceiling which has been placed on education spending is too high. I think it is important that we place a ceiling on educational spending. I realize a ceiling has been placed but I just happen to think that ceiling is too high. And the tax shift which we are talking about is really more of a tax shift than we need to make at this time.

It seems to me that this legislature ought to do everything it can to control the amount of money which is spent on education and to make any tax shift which is a major change in tax policy temporary and not permanent. I don't think this amendment does that. It continues the funding at a level which I think is above the level which the state can afford and which the state education process can get by on, and it goes into a shift in the policy of taxation in the State of Maine which appears to be a good one, but I think it is a little quick and perhaps premature to determine whether that tax shift should be made permanent.

So for those reasons, Mr. President, I cannot support this amendment because I think that the ceiling ought to be the ceiling as proposed by the Governor, which I think is one which is better afforded by Maine in its present state of economy and which I think is more supported by the people of Maine. Thank you, Mr. President.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: First, I would like to commend my colleague, the Senator from Cumberland, Senator Merrill, for his efforts over the past few weeks in dealing with this matter.

The leadership of this legislature has been criticized time and time again since we came to Augusta back in early January, but I think the record should be made clear that the leadership of this legislature has more than walked the extra mile with the chief executive to arrive at what we would consider to be a compromise.

As we all know, the Education Committee held its hearing a few weeks ago dealing with, I believe, five specific pieces of legislation. And the shocking part of that hearing was that three bills were reported from the committee to the House of Representatives for debate. Two of those bills were killed in this chamber last week.

Now, I know that some members of this Senate raised questions at a joint caucus as to the railroading of a specific piece of legislation through both chambers, and I think I for one would strongly oppose such a statement and would strongly oppose playing a role in any way that would suggest such a thing.

I think the good Senator from Somerset, Senator Cianchette, clearly spelled out that a good idea is but a thought away. I know how much time Senator Merrill has been working with this particular amendment, and although it may not be appealing to all, it certainly, I feel, satisfies a great majority of us.

There is a letter upon our desks that we found when we came back from lunch from the chief executive clearly pointing

out and I would just pay attention to three, the three areas he mentions. In one he says that he thinks the 107th Legislature by and large has been and is one of the hardest working, dedicated bodies the state has seen in years. Well, I think every one of us can respond to that in our way.

Secondly, he says, "I still feel the Joyce Lewis education funding bill, L. D. 2031, which Education Commissioner Millett and I support, is the only fair approach presented so far that avoids an income tax increase, a tax shift, or a sin tax."

Well, I think one thing should be made clear, that this is the Governor's bill, and in fairness to him I would say, and agree with him, that under the current law the property tax would rise higher than this proposed piece of legislation known as the Joyce Lewis bill, who as a member of the Education Committee, out of kindness to the chief executive, agreed to sponsor his bill.

But I don't want to get into a contest that would be adverse to the chief executive. One thing that does irritate me though is that every step along the way that the leadership and the legislature itself has been dealing with in trying to arrive at a solution that could get us out of Augusta and solve the current fiscal crisis, when the legislative leadership met last Wednesday over the one piece of legislation that they felt would be a workable instrument to apply its various amendments on that might be acceptable to a majority of both houses, and then try to streamline it or clean it up, whatever the case would be, it was presented down in the other chamber, and it was obvious that they had a majority vote to pass it to send it down to this chamber, but obviously there would be problems on trying to get the two-thirds vote. Many of us are reluctant to support a bill or a piece of legislation that is going to raise from the property taxpayer 11.2 million dollars across the state. We know what the problems are. At the same time, the good Senator from Cumberland, Senator Merrill, does have a document that holds the property tax at its current level, and secondly is an incentive program.

Several weeks ago the Cumberland County delegation was invited down before Governor Longley and he spoke of the fiscal problems we have. And he talked about the number of industries that were waiting at Kittery to move over the border if we could hold that line on the taxes. Well, I say we are going to hold that line on taxes. Keeping the property tax down is obviously going to be an incentive for industry to move into the state if they so desire, provided they want to pay a little extra in income tax.

I would ask the Senate to go along with this proposed measure this afternoon because I believe it is the fairest solution to the current situation, and it is one that we can go back home and defend very gladly.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: I would like to address myself to just two questions that have been raised in the debate.

First, I think we are all very well aware of the fact that the voters in the election of Governor Longley sent us a message that they wanted us to give a lot of emphasis in what we did to fiscal responsibility. For that reason, I think the remarks the good Senator from Androscoggin, Senator

Clifford, made in regard to following the Governor's level are certainly appropriate. And originally when I came to the beginning of this session, following the work that I did on the Educational Finance Commission, I was ready to support that, and told many members of this Senate and the other body that I was willing to do so.

But let's look at this squarely for a moment. We are within 1 percent roughly of the figure the Governor asked for. Now, this is a system of compromise, and that isn't necessarily a bad word. It is a system where none of us can get all we want. The whole political system is built on the basis of everybody speaking for what they want and then working out an accommodation. Any time that anybody in government can come within 1 percent of that he wants, I think it has been a terrific success. Frankly, a lot of things about this bill aren't within 1 per cent of what I would like, but I think that we have gone that extra mile, and when you come within 1 percent, I think any of us can look at the Governor honestly or any of the Governor's friends across the state, and he has many, and tell them that we came certainly more than within the ballpark. We came just about as close as you can come without hitting dead center, 1 percent.

Beyond that, in the area of fiscal responsibility, following the approach taken by the Educational Finance Commission and added measures placed on there by the joint committee of this legislature on education, there are many things that are strongly fiscally responsible. For the first time, we are going to step outside of the formula financing that we will have if we don't get a compromise in this legislature, a formula that every year automatically raises the amount that we spend on education if we do nothing, the formula that every year raises the property tax unless we get out of this formula. That, to me, is the most important step towards fiscal responsibility that we can take in the area of education. It is an approach that in the Educational Finance Commission was pushed time and time again by the Chairman of that Commission, a member of this body, the Senator from Cumberland, Senator Huber. I think that he was correct in pushing it, and it is an advance that is more important maybe than anything else in making this law more fiscally responsible.

Beyond that, the Education Committee itself has added in 10 percent. That is unacceptable to many people, but nobody can argue that it doesn't have the effect of bringing fiscally responsible decisions back home in the area of special education, and in which I myself have a special interest and wouldn't like to see that 10 percent added on, if it was just up to me.

In the areas of transportation, which I know many of the members from the rural areas would probably be just as happy if they didn't see added on. In the area of vocational education, which I know some of the members here think is the most important thing we have done in education, to provide an excellent education for those people who aren't going to college. We are finally recognizing the importance of their education, recognizing that that is where most of Maine jobs are. But we have put in, in spite of the fact that we recognize those programs as important, this added

element of fiscal responsibility at the local level. That is something that has been done in this bill, and I think that it makes the whole fiscal responsibility question come down very strongly on the side of this bill.

Now, in the area of tax reform, let me say here again that I don't think we are that far out of line with what the Governor has asked for and I think we have gone a long way with him. First of all, the ideas that are implemented in this amendment before us now are ideas that all grew out of the Governor's Tax Policy Committee, people that he appointed, and it is in the recommendations that have been handed down. These were certainly responsible people and he commended them for doing a responsible job when they were done. So it comes out of a commission which he himself created, and he certainly hasn't come out against the work that they have done. In point of fact, he says that next year he intends to offer major legislation that would cause this shift. Well, unfortunately sometimes, the times dictate our actions or the timing of our actions more than we would like ourselves, and certainly we have to take the world as we find it, as the Senator from Somerset, Senator Cianchette, has said. And what this really does is that it just says recognizing that we have this problem, right now, we will take a small step in that direction and will anxiously await the recommendations of the Governor in the 108th, those of us that are lucky enough to still be here, and we will follow those at that time if they go in the direction that he has indicated.

I would just like to say one final thing. There is nothing really to writing good legislation; the trick is all of us keeping flexible and open minds to adopt it, and to overlook things that sometimes stand in the way. The fact that this Republican Senate is standing here ready today to give this sort of consideration to a proposal that was in part at least developed by a Democratic Senator, I think is in keeping with what has been the tenor of this whole session, and I am reminded of when we finally came to grips with the executive council problem and the mood that prevailed then when we finally found our compromise in the best sense of the word, as I pointed out then. So I think that we have responded to the wishes of the Governor as closely as we can. We have come within 1 percent, we have looked at fiscal responsibility, we have tax reform steps recommended by his commission, and I would hope that every Senator that finds it possible to go with this approach would do so here today.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I look upon this amendment as being a very crucial amendment, and when the vote is taken I request that it be taken by the "Yeas" and "Nays."

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Androscoggin, Senator Carbonneau.

Mr. CARBONNEAU: Mr. President and Members of the Senate: I too would like to compliment all those people that worked so hard and diligently on this particular bill. I think they have done a magnificent job but I cannot accept their final recommendation for several reasons. One particular reason is that we are shifting the tax burden to the income tax and removing it entirely from the local area.

Now, I think if you think back a little bit, many of us have seen federal programs and state programs at the local level where the local level has accepted the idea that, well, it don't cost us anything, the state is paying for it or the federal government is paying for it, and that is what we are doing here.

Personally, what I would like to see, I would like to see this shifting half and half, half to the property level and half to the income tax level. I think that would have a certain amount of checks and balances where the local people would get into this and see that their school boards and their school superintendents use a sharp pencil to cut some of these programs that are either unnecessary, unmandated, or whatever, and I don't think that we are doing it right at this point over here.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I guess I have worked most compatibly with the Senator from Androscoggin, Senator Carbonneau, probably more than I have with any other member of this house on this very frustrating question. Perhaps I might explain exactly what we have done.

The so-called Lewis bill deviated very substantially from the 50-50 funding. I didn't realize the extent to which the Governor's legislation would have shifted the burden. It would have meant that the state was only picking up 45 percent of the cost of education and the local communities were being asked to pick up 55 percent, and I have to admit that when I found out the shift was taking place I moved away from it very quickly.

What kind of shift is taking place here in the proposed compromise legislation? Well, really we are only reducing the uniform property tax by one-quarter of a mill from its present level. We are also reducing the allocation for education, which would have been 272 million dollars under the existing law, down to 262.5 million under the existing law.

Now, if you take a look at the implications in Pittston and Damariscotta and Augusta and all the other communities in the state, what are the implications of this shift? The implications are very, very clear to me. It means that this 10 million dollar gap between the allocations of the existing law and what we are tackling here today are going to cause exactly that hard soul searching, that very difficult local determination that the Senator from Androscoggin properly identifies as being essential in these difficult times. And I would predict that if we pass this compromise, rather than seeing a scurry to spend huge sums of money, you are going to find a real knock down, drag out fight in many communities, perhaps even most communities in the state, where the school people on the one hand and the municipal people on the other are going to do some very, very hard negotiating. I think that that probably is the true implication of the compromise that we see here today.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President and Members of the Senate: I rise, as the good Senator from Androscoggin, Senator Clifford, knows, I do want to commend leadership and the good Senator from Cumberland, Senator Merrill, for their efforts in trying to reach a bill which would be acceptable to everybody, but I am going

to be in opposition to the bill today because I have two big questions.

No. 1, the statement was made about being fiscally responsible. Are we are not going to ask the educational community to be fiscally responsible if we are going to adequately fund this bill.

No. 2, I have a problem with the 90-10. I represent six school districts in my senatorial district. They are all rural districts and they depend on transportation. The legislature saw fit in the past, in its wisdom, to mandate special education, vocational education, and yes, they mandate transportation. I sort of question this because it also means to my communities, with this 10 percent reduction, the possibility of in excess of 1 mill increase in the property tax. Therefore, this is why I cannot support this amendment, because I feel I would be voting for the shift of the burden from the property tax to the income tax, and by the same token voting to raise the property tax. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: Mr. President and Members of the Senate: As Chairman of the Education Finance Commission which worked on this bill for approximately seven months during the period between sessions, I would just like to point out some of the features of this bill as amended by the proposed amendment which perhaps have been overshadowed by the funding question.

The Education Finance Commission came out with two bills: one, a corrected version of L. D. 1452, still retaining the formula approach to develop the cost of education. This was presented by Representative Lynch. And a second bill presented by myself and Senator Corson which reinserts judgment, the judgment of the legislature and the judgment of the Governor, as well as the judgment of the Commissioner of Education, in the question of the funding of education. Both of these bills also included provisions which would improve the predictability and fiscal control of education funding. Finally, both of these bills provided for current reimbursement of school construction costs, as I feel these should be considered a current expense.

These features were retained in the Education Committee bill, are retained in the bill before you, as amended. I think these are important. I think the current reimbursement of school construction, as opposed to going the single and often double bonding route that we have in the past and committing Maine taxpayers to a multiple expense for each unit of construction cost, is important, even though this bill does declare a one year moratorium for non-emergency school construction. I think this bill retains these provisions and that they are highly significant.

I would also like to emphasize that if we do nothing, and end up with L. D. 1452 as it now stands, we will have a substantial property tax increase on perhaps the least liked tax of any of the taxes we have, not that any of them are liked; we will have a continuation of the possibility of substantial deficits, and we will again have a bill which is controlled by a formula rather than the judgment of the Governor, the legislature, and the Commissioner of Education.

As to the funding level, I think the 262.6

level of funding can be justified, starting with the certification by the Commissioner of Education at 272.6, and specific statutory changes made in this bill reducing that by 10.6 million dollars to the 262.6.

Because this bill presents legitimate tax reform, as well as retains the essential and significant elements proposed by the Education Finance Commission, I will support this bill and the amendment under consideration, and especially as further amended by the amendment that will be proposed by Senator Collins of Knox.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, we have had a considerable discussion before us this afternoon regarding the bill itself and the theory behind the bill and behind the compromise as proposed by the leadership, and I have no particular objection to that. I think there will be additional comments made regarding that particular bill at the time that the bill is before us for passage to be engrossed.

I would like to point out, however, that the particular amendment that we have before us addresses itself to two specific questions. One is the shift, shall we say, away from the cigarette tax and an adoption of an income tax instead of that cigarette tax. And secondly, the purpose is to revise the income tax schedules in the way in which the income tax is to be applied. So I think when we vote on this particular amendment before us we will be voting specifically on those two questions rather than the entire bill itself.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Carbonneau.

Mr. CARBONNEAU: Mr. President and Members of the Senate: I would just like to make one more point. If you vote for this amendment as it stands, you are voting a 43 percent increase in the income tax. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I just want to make a quick response to the statement. Winston Churchill once described a statement as accurate but not exhaustive. I don't think, with all due respect for the Senator from Androscoggin, that that is even the case here. What we are talking about is different for different people, but what we are talking about is no tax increase, an income tax decrease for the average family with an income roughly under \$15,000, and I think that what we are moving towards with this is in the direction recommended by the Tax Policy Committee of the Governor, which recognized the fact that presently today we are taking 208 million dollars with the property tax, only 43 million dollars with the personal income tax, and that if we are going to move to a more progressive and a more flexible tax system, a tax system that can better absorb the ups and downs of the economy, that we should be going in the other direction.

The PRESIDENT: A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having

arisen, a roll call is ordered. The pending question before the Senate is the motion by the Senator from Cumberland, Senator Merrill, that the Senate adopt Senate Amendment "F" to House Amendment "O". A "Yes" vote will be in favor of adopting Senate Amendment "F" to House Amendment "O"; a "Nay" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators, E. Berry, Cianchette, Collins, Conley, Corson, Cummings, Curtis, Cyr, Danton, Graham, Greeley, Hichens, Huber, Johnston, Katz, Merrill, O'Leary, Pray, Reeves, Roberts, Speers, Thomas, Trotzky, Sewall.

NAYS: Senators, Carbonneau, Clifford, Gahagan, Graffam, Jackson, Marcotte, McNally.

ABSENT: Senators, R. Berry, Wyman.

Mr. Graffam of Cumberland was granted leave to change his vote from "Yea" to "Nay".

A roll call was had. 25 Senators having voted in the affirmative, and six Senators having voted in the negative, with two Senators being absent. Senate Amendment "F" to House Amendment "O" was Adopted.

Mr. Collins of Knox then presented Senate Amendment "H" to House Amendment "O" and moved its Adoption.

Senate Amendment "H", Filing No. S-409, to House Amendment "O" was Read.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate: I have already indicated the general purpose of this amendment, Amendment "O", which came up from the other body, calls for a state uniform property tax mill rate of thirteen mills. In considering this feature of the bill, we need to keep in mind the fact that if this legislature does nothing the uniform property tax mill rate will rise from its present thirteen and one-quarter to fourteen and three-quarters. This will mean a substantial blow to real property taxpayers. In my judgment, we are moving in the right direction when we make this reform shift recommended by the Governor's own committee toward the income tax.

The particular purpose of the amendment which I offer is to make it clear that this is simply a shift. We are, through Senator Merrill's amendment, picking up the deficiency in the present revenue picture for the forthcoming fiscal year which begins July 1. When that year is over, there is the possibility that there would be some excess revenues in the Merrill amendment picture. And so this amendment which I offer would in succeeding years reduce the uniform property tax mill rate down to twelve and a half mills.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President and Members of the Senate: I notice before us another possible amendment, Senate Amendment "B" to House Amendment "O", also sponsored by the same good Senator from Knox, Senator Collins, which would peg the uniform property tax at thirteen mills. I think that it is almost academic which amendment the Senate accepts here today because I am confident and I would certainly hope that the implications of the tax policy committee would, among other things, consider leaving the uniform

property tax a little higher than this, and giving income tax credits for Maine people on property taxes that they pay at home as a way of recapturing some of the dollars that on the face of it we would lose to non-resident property tax owners. I have been assured that this question will be taken up by the next legislature, irrespective of whether we accept Senate Amendment "B" or Senate Amendment "H", and on that basis certainly I will support the amendment.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "H" to House Amendment "O"?

The motion prevailed

Mr. Corson of Somerset then presented Senate Amendment "G" to House Amendment "O" and moved its Adoption.

Senate Amendment "G", Filing No. S-408, to House Amendment "O" was Read and Adopted, and House Amendment "O", as Amended by Senate Amendments "F", "H" and "G" thereto, was Adopted.

Thereupon, under suspension of the rules, the Bill was Read a Second Time.

Mr. Speers of Kennebec then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-404, was Read and Adopted.

The PRESIDENT: The Senator has the floor.

Mr. SPEERS: Mr. President and Members of the Senate: This bill now stands before this body in a posture ready to be engrossed with the various amendments on it. I think much has been said regarding the efforts of this legislature to solve the educational funding crisis that we were called into session to solve. Much has also been said about the efforts of this legislature to acquiesce in the desires of the chief executive of this state as much as we in good conscience could do. The fact that this legislature has not adopted every posture and every position the chief executive has desired of us should in no way diminish the quality of work, the degree of effort that has been put into arriving at the position in which we now find ourselves.

There is fundamental disagreement over the method of funding education in this state. The governor has requested in his posture that education be funded through an increase in the property tax rate from thirteen and a quarter mills, where it exists at the present time, to fourteen and a half mills as he proposes. To be entirely fair, it should also be said that the fourteen and a half mill rate which he is proposing or has proposed is a reduction from the fourteen and three quarter mills at which the uniform property tax would be pegged had we taken no action in this body and the other body in this session.

The fact still remains, however, that this legislature was faced with a choice, a very clear choice, on behalf of the people of this state as to whether the education problems that we were faced with should be solved with an increase in the property tax rate or an increase in the income tax. The legislature has indicated consistently its desire to fund through the income tax rather than a property tax increase.

We have also recognized, and I think it has been said a number of times that the legislature has gone the extra mile in recognizing the very realistic desire on the part of the governor to hold a limit on the

spending on the part of government of this state, and we have done everything that we can to acquiesce in that desire on the part of the governor. Much more will be forthcoming because as soon as we have dealt with this problem we will indeed be faced with the problem of additional deficits. And the possibility of deficits in the budget which we passed last July. And we will be faced with the problem of identifying low priority programs and solving that deficit problem. So we have not ignored the desire to reduce spending, to limit spending, to spend as little as possible to accomplish the task which is before us.

The bill that we are faced with today, we have before us now, is a reduction in spending for educational purposes in this state. It is in a very good posture at the present time, I believe, because it has placed the question squarely before the people of funding education through the property tax or through the income tax. I certainly support this bill not as being the perfect bill, but as being the best that I believe can be worked out in this very difficult situation that we are faced with at the present time.

So, Mr. President, I would move the passage of this bill to be engrossed and would ask for a roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: I think for the record, it was said that this bill represents a decrease in education costs. In fact, it represents an increase of 19 million dollars in the cost of education. So, I think that is important for the record to note that the amount of money in this bill represents in excess of 19 million dollars over what is being spent in the current fiscal year. It is not a decrease in the cost of education.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Gahagan.

Mr. GAHAGAN: Mr. President and Members of the Senate:

My vote against passage today is more than opposition to the particular bill we have before us. I oppose this bill for the same reason I opposed the two education funding proposals last week. Leadership had requested we focus our thoughts on a single proposal, and I agree with them. It has saved valuable time for us to do this. I would like to proceed in that spirit today, giving this subject the attention I believe is necessary.

Our work in the Maine Senate is determined by two very basic principles which are at the heart of both our Maine and United States Constitutions:

First, that the people are the ultimate grantor and repository of power in our system; and

Second, that the people, either directly or through their elected representatives, shall always control spending and taxation.

In the federal constitution, even the basic civil liberties were added as amendments after these fundamental principles were established. We are here today, as we have been since the beginning of the Senate fellowship, because the people of Maine gave us this privilege, and have renewed it for each of us with their votes.

First and foremost, then, they have consigned to us the power we have; and

second, we are here in their behalf to control spending and taxation in their state government. It is not a question of whether we are able to do it or not. We must control spending and taxation because it is the first obligation of our office: And we must, as the state constitution directs us, balance our budget.

The educational funding law was landmark legislation for a reason I believe I must discuss today. It was a major delegation of our power to control spending and taxation to two departments of state government in the executive branch. For the first time, the greater part of the state budget and of every local community budget in the state passed through these two departments. I doubt that this would have worked, even in the best of economic times. There are some serious problems with this approach, problems both practical and economic.

First, from a practical standpoint, the funding law mandate requires the state executive branch to work with units of local government. This requires diplomacy. It also requires creating consensus, not just among the units of local government, but also among the people they represent. As anyone involved in this process readily agrees, this is functionally impossible. A push rapidly comes to a shove, and state administrators wind up creating multi-colored printouts only to have legislators, local administrators and citizens read them, assess their relative benefits, and take sides. This is anything but a consensus. Mister Webster calls consensus "Agreement in matters of opinion." We have not even achieved his second, more liberal definition of a "convergent trend."

This also illustrates the mistaken thinking which surrounds title 30 and similar statutes creating independent levels of taxing authority below the state level, calling these statutes an enhancement of home rule.

Home rule really only applies to the sovereignty of state governments. Since the people gave the state its power, they are the source of its sovereignty. Accordingly, the taxing authority really exists at two levels: at the state level through elected representation; or at the local level either by direct vote or through elected representation. The present school funding law uses a "State-Local partnership" concept which violates these principles by transforming part of the state executive branch into one super administrative district and granting this super district its own independent power to tax. If the legislature wants the power to control the taxes, it will have to repeal this and pass a law giving this most vital power back to the legislative branch.

Efficiency means literally "Producing an immediate result".

This is important to remember in our work with the education funding problem, for intermediate taxing authorities were promoted as a cure for citizen apathy and indecisiveness. School administrative districts were towns with a council-manager government make decisions efficiently, but with undesirable effects. Instead of solving the problem of citizen apathy, or at least doing away with citizen indecisiveness, this approach became a self-fulfilling prophecy. Using a "modern" form of administrative district or town government to reduce apathy has made citizens more apathetic. Acting decisively on local budgets has proven

impossible because the present taxing authority is a "state-local partnership."

I voted to surrender legislative taxing authority to the executive branch when I voted for L. D. 1994. In the 107th regular session, I voted to support those same concepts in L. D. 1452. I am voting against the revision as it is being presented today, because I believe that present conditions are very different from those which led us to pass the law in the first place. Proponents of the funding law and the uniform property tax told us we were ignoring a Maine real estate boom in second homes, year-round vacation homes, and the related land speculation. They told us we should assess this newly-valuable property at fair market value, thereby documenting and committing a tax base far larger than the one then on the books. The failure of projects such as Squaw Mountain and Evergreen valley should be evidence enough that the anticipated boom has proven to be wishful thinking. The expansion of the tax base was supposed to be sufficient to carry the system's new obligations. We now know that this is just not happening, and we find ourselves looking everywhere for new sources of revenue to broaden the tax base.

It is more accurate to say that we are not documenting increasing values for property, but that we are documenting decreasing values of the unbacked paper dollar. Annual inflation rates from 1973 to 1976 total 34%, if we accept Treasury Secretary Simons' optimistic estimate of 6% for 1976. The assessment of property makes its basic reference to the market, adjusting the replacement cost for age and condition in relation to fair market value. I committed myself in the 106th Legislature to a mandate which I now find is forcing the posting of property at or near this inflated value. This makes an asset in property a tax liability, because the premise that the uniform property tax would show a sufficient increase in tax base to support educational funding at the mandated mill rates is false.

In order for this design to work, the value of the unbacked paper dollar has to remain relatively stable. Since it is not stable, we are faced with an entirely different situation than we initially had thought: We are now taxed even harder to the limit of anyone's ability to pay just to maintain existing services. If we look at the proposed educational spending figure of \$262.6 million, for example, the dollars have lost \$89.3 million of their buying power just since 1973. We can only buy \$173.3 million worth of goods and services for that money, and we are being forced to tax people at a level they are clearly telling us is too high. What, then, has become of the people's power to control spending and taxes? Inflation has taken that power away.

Let us say for a moment that by some miracle we were able to agree as a legislature on an austerity program for state government, making major sacrifices as President Sewall correctly suggested we would have to do to avoid a tax increase. If we cannot even agree on educational funding, this is highly unlikely; but for the sake of argument, let us imagine we have done it. This would represent our recognition that paper money is losing value faster than we can tax to compensate for the loss in value. Another way of looking at this is to say that the loss in value of money is a serious and continuing problem for which we have no

political solution. The choices are either austerity, which requires political work we have not even really begun; or, alternatively, a tax increase every session as the buying power of money continues to fail. These may be grim choices, but they are real ones.

I believe it is a mistake to approach this problem piecemeal as we have been doing with educational funding. All this has done is to set town against town and district against district as each entity tries to get as much money from the political system as it can. The "Federal-State" Partnership has placed us in the same position as a state in relation to other states. In this situation everyone loses because most, if not all, obligations of government will be chronically underfunded.

We do not control federal monetary policy; it controls us. Arthur Burns and others at the top have been telling us for years to use fiscal restraint, but we have yet to figure out how to do it.

This is the real task which faces us: I believe that until we work with the dollar obligations of state government ourselves, recognizing that progress can be made to balance the state budget only when we work in a spirit of sacrifice, instead of a spirit of "grab and keep", we will fail.

We do not need to make drastic organizational changes to accomplish this. We need only the will to do the job and the personal commitment to work in our joint committees to that end. We do not expect to make government perfectly harmonious but we can do our best to make government more harmonious.

Our tendency in recent years has been to assign the task of legislative work of this kind to others. We have used research staff, citizen's commissions and outside agencies to work on questions of this kind. This leaves us in a position of constantly needing to digest the enormous volume of printed matter which this process generates. The tendency has been to condense volumes of evidence into one volume, to a report abstract, to condense the abstract to a one-page cover sheet. Who among us has seen the material from which it came? We are given a summary of a summary when to achieve consensus we really need to work with this information personally from start to finish. We need to do it ourselves.

I am voting against this educational funding bill today but I am speaking as strongly as I know how in favor of beginning the work which will lead us toward a solution to our problems. If we commit ourselves to this task and work with this call before us we will have started in the best direction for ourselves and for the people of Maine.

For the past two weeks leadership has been waiting for a response from the Governor for his reaction to their suggestion that the Legislature and the Executive cooperate in a review of state programs to find areas of low priorities for possible program elimination. The objective of leadership as I interpret it is to try to begin to live within our means. This is a goal which I enthusiastically endorse.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: The remarks of the Senator from Aroostook, Senator Gahagan, were long, and I am not sure that I understood them completely in their

impact, but there were two points made that I think deserve a little response.

First of all, obviously we are in a position of great inflation. In times of great inflation what you look for is elasticity in your taxing mechanism. If any Senator or any Representative or any member of the public ever thought that heavy reliance on the property tax brought about the type of elasticity needed to get through times of inflation, of course, they were not only wrong, they were exactly opposite from the truth. The property tax is not elastic. That is one of the problems, the more we rely on their property tax, the more we are going to be faced with the problems the Senator from Aroostook, Senator Gahagan, talked about in times of inflation.

Secondly, I think that in the beginning of his remarks the Senator from Aroostook touched on one of the most important issues before us, and that is to assure that the people can continue to control. As he pointed out, the way the people control is through this body, and the most important aspect, and I mentioned it once before, I think of this bill in that regard is the aspect that came about as a result of the work of members of the public as well as members of the legislature on the commission chaired by Senator Huber which put the control back in the hands of the people. Presently under the law, if we don't vote for this law and leave things as they are, the effect will be to leave this law in the hands of a formula, and because of the steps we took in 1452, the formula, if we take no steps, will be in the hands of one single person, the governor of the State of Maine.

Where this should be, it should be in the elected representatives. We should step out of this formula and we should face the question as we face every other question, from the standpoint of what we have to spend, from the standpoint of what the projected needs are, and then exercising our wills for the people and reflecting their wills as they present them to us.

I think the most important aspect of this bill before us is that it does the very thing that Senator Gahagan directed himself to, or it takes a step in that direction, certainly not an end step, but it says from now on education, like everything else, is going to be set by an affirmative action here.

Consider for a moment, talking about the people's power to tax, that the present education law, if we don't change it, if we were to all follow the wishes of the Senator from Aroostook and vote against this, has the property tax itself set without a vote here. The property tax, probably the most regressive tax that we have, certainly the least elastic, will be set by the basis of a formula and not one of us will have to go on record. Now, if that isn't moving outside the control of the people through their elected representatives, then I don't know what is. It has been one of my greatest objections, and it has been the reason I have worked as closely as I have with Senator Huber in his efforts to bring an end to this. That is one of the most important reasons why we should vote yes on this bill.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President and Members of the Senate: Because I think it is important that we vote based upon a clear statement of record, I am going to impose on the Senate for just a moment to take down two figures. One figure is 262.6

million dollars. That is the cost of the measure before us. And the other is 251.1 million dollars. Now, when the Senator from Androscoggin, Senator Clifford, says that we are increasing spending by 19 million dollars this year, like so many other figures and printouts that you have seen, there is some validity to it. But actually when this year finishes, and if our action becomes an accomplished fact here on this piece of legislation, the 251.1 million dollars is the total cost of education for this current year. The 262.6 is in the bill. The difference is not 19 million but 11.5 million, which represents an increase of 4.5 percent.

Now, I have to admit that I am not one to deal with figures very successfully, being under the handicap of having been an English major, but it seems to me that in a time of historic inflation we have seen an increase of 4.5 percent in one year. I don't intend to play a game of whether we have under appropriated or overspent, but 4.5 percent to me does not sound like run-away spending by the Maine Legislature in the account of education.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the engrossment of L.D. 2196, as amended. A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the passage to be engrossed of L.D. 2196, as amended. A "Yes" vote will be in favor of engrossment; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators, E. Berry, Cianchette, Collins, Conley, Corson, Cummings, Curtis, Cyr, Danton, Graffam, Graham, Greeley, Hichens, Huber, Johnston, Katz, Merrill, O'Leary, Pray, Reeves, Roberts, Speers, Thomas, Trotzky, Sewall.

NAYS: Senators, Carbonneau, Clifford, Gahagan, Jackson, Marcotte, McNally.

ABSENT: Senators, R. Berry, Wyman.

A roll call was had, 25 Senators having voted in the affirmative, and six Senators having voted in the negative, with two Senators being absent, the Bill was Passed to be Engrossed, as Amended, in non-concurrence.

Sent down for concurrence.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, having voted on the prevailing side, I now move the Senate reconsider its action whereby it passed this bill to be engrossed.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate reconsider its action whereby this bill was passed to be engrossed. Will all those Senators in favor of reconsideration please say "Yes"; those opposed will say "No".

A viva voce vote being taken, the motion did not prevail.

The President laid before the Senate the second tabled and Specially Assigned matter:

Bill, "An Act to Include Grain in Weight Tolerances for Certain Vehicles Operated on State Highways. (H. P. 1887) (L. D. 2065)

Tabled February 20, 1976 by Senator Speers of Kennebec.

Pending Enactment.

(In the House — Passed to be Enacted)

On motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending Enactment.

On motion by Mrs. Cummings of Penobscot,

Adjourned until 10 o'clock tomorrow morning.