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STATE OF MAINE

ONE HUNDRED AND EIGHTH LEGISLATURE

COMMITTEE ON TAXATION

December 29, 1977

Rep. John L. Martin, Chairman
Legislative Council
c/o Speaker's Office
State House
Augusta, Maine 04333

Dear Representative Martin:

In accordance with HP 1820, which ordered a study of property taxation in the unorganized territory, we enclose herein the final report of the Committee on Taxation.

Respectfully submitted,

Sen Hollis J. Wyman
Senator Hollis J. Wyman
Senate Chairman

Rep Richard J. Carey
Representative Richard J. Carey
House Chairman

enclosures

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James A. McKenna, Legislative
Assistant



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STATE OF MAINE
ONE HUNDRED AND EIGHTH LEGISLATURE
COMMITTEE ON TAXATION

**A SOLUTION TO THE PROBLEM
OF PROPERTY TAXATION IN THE UNORGANIZED TERRITORY**

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A SOLUTION TO THE PROBLEM
OF PROPERTY TAXATION IN THE UNORGANIZED TERRITORY

THE REPORT
OF THE JOINT COMMITTEE ON TAXATION

1. Current situation

A. The Uniform Property Tax (UPT) has been repealed. The UPT has been repealed, resulting in a General Fund loss of approximately \$3.6 million in tax revenues from the unorganized territory. (this is calculated by multiplying the UPT mill rate, 11.5 mills, times the state valuation of the unorganized territory). Of this \$3.6 million, \$1.5 million are education "pay-in" dollars. In an appropriation separate from the School Finance Act, money is appropriated from the General Fund to pay for the entire cost of education for the unorganized territory. Last year \$2.1 million was appropriated.

The problems caused by the repeal of the UPT are compounded by the fact that the current method of raising funds for services in the unorganized territory - the Local and State Government Tax (LSGT) - may be an unconstitutional levy.

Thus, the task given the Committee by House Paper 1820 (see Appendix A) was to propose a constitutional and efficient method of taxing property in the unorganized territory at a rate at least sufficient to pay for the services (local and educational) its residents receive.

B. The Local and State Government Tax (LSGT) seems in violation of the Maine Constitution clause which requires a state

tax to be levied equally on all property (Article IX, §8).

This violation may be both technical and substantive:

(1) Technical violation

In addition to the Uniform Property Tax, there is another state property tax, the Local and State Government Tax (see 36 MRSA §451). This tax is currently at 12 1/4 mills and is a device which allows the State to tax the unorganized territory (UT) at a rate sufficient to provide for their municipal services. By statute it will automatically increase to 13.75 mills by fiscal year 78-79. However, the Constitution requires uniform property taxation so that these mills must also be assessed against municipalities in the organized territory. Currently, many organized towns are not raising this amount and thus creating a potential problem of illegal assessments. Last session the Legislature postponed L.D. 1212, as amended by the Committee on State Government, a resolve seeking to amend the constitution (if passed in referendum) that would have allowed the state to levy and collect a separate property tax on the unorganized territory.

(2) Substantive violation

If the LSGT raises more money than is needed for the services the state provides to the unorganized territory, then individuals in the unorganized territory would be being taxed at a rate higher than other persons. The Bureau of Taxation feels this overcollection may be occurring now; the 1975 Governor's Tax Policy Committee found the opposite and declared the unorganized

territory was under taxed (see Appendix B).

2. History of the Local and State Government Tax (LSGT)

Since 1951 certain Maine municipalities yearly appear to have been violating the State constitution's provision that all state property taxes must be "apportioned and assessed equally." (Section 8 of Article IX of the Constitution). The Bureau of Taxation has long known of this problem and has encouraged its resolution by the legislature.

These constitutional violations have come about due to the following events. In 1951 when the sales tax was finally passed after bitter debate, part of the understanding was that the sales tax revenues would forever remove the State from the levying of a state property tax. This, however, proved to be constitutionally impossible. The State needed property tax revenues from the unorganized territory in order to pay for the governmental services it provided persons living there. But when the Legislature attempted to levy a property tax on just the unorganized property the Justices of the Maine Supreme Judicial Court forbade it. A state property tax, in order to be "apportioned and assessed equally" must be levied on the just value of all property in the state, not just the unorganized territory. See Opinion of the Justices 146. Me. 239 (1951).

Faced with this judicial roadblock the Legislature enacted the Local and State Government Tax (LSGT). This was a state property tax and it was levied on all property in the state but it was agreed that the state would collect revenues only from the unorganized territory. Organized municipalities would be allowed to keep the revenues for their own local needs. The constitutional violation arises when a town, because of sufficiently low muni-

cipal expenditures, does not need to collect the full mill rate of the LSGT. This year, with the LSGT set at 10 3/4 mills, 180 municipalities did not collect it. This results in a state tax that falls heavier on some property than others and a violation of the constitution.

3. Committee recommendation: creation of an unorganized territory tax district

The committee recommends that this coming session the Legislature should create a Unorganized Territory Tax District. The Bureau of Taxation would be charged as an agent of the state for the collection of a tax, which would be called, the Unorganized Territory Local Services and Education Tax. This tax would be the strict equivalent of the local municipal tax that will remain after the Legislature passes this coming session its new School Finance Act. The tax revenues would not be used to fund other General Fund programs.^{1/} It would have the following characteristics:

(1) the District Tax will be set each year by the Legislature. Each year the Governor will submit to the Legislature a budget for the unorganized territory. This budget will list the cost of services to the unorganized territory and the State's cost of services to the un- vices not being funded as the state's share under the new School Finance Act. The Legislature will then set the mill rate of the District Tax as it sees fit.

(2) The revenues will be placed in a dedicated fund, with any surpluses being carried over each year.

The committee will have legislation drafted creating such a District Tax and will submit it to this coming Legislative session.

S.
D. DE R.

STATE OF MAINE

APPENDIX A

In House

XXXXXXXXXX
XXXXXXXXXX

Whereas, the Local and State Government property tax currently may be being assessed in an unconstitutional manner; and

Whereas, to cure such unconstitutional taxation requires a mechanism whereby property in the unorganized territory may be efficiently and equitably taxed; and

Whereas, the possible repeal of the Uniform Property Tax lends great urgency to the resolution of how the property in the unorganized territory should best be taxed; now, therefore, be it

Ordered, that the Committee on Taxation study the different ways in which property in the unorganized territory can most equitably and efficiently be taxed; and be it further

Ordered, that the committee shall complete this study no later than December 1, 1977 and submit to the Legislative Council within the same time period its findings and recommendations, including copies of any recommended legislation in final draft form; and be it further

Ordered, upon passage in concurrence, that a suitable copy of this order shall be forwarded to members of the committee.

HOUSE OF REPRESENTATIVES

READ AND PASSED

and

IN SENATE CHAMBER

TABLED BY SEN. ~~SEN. SPEERS~~
OF ~~OF KENNEBEC~~

JUL 8 1977

SENT UP FOR CONCURRENCE

JUL 8 1977

Lead

ORDERED SENT FORTHWITH CLERK

PENDING
MAY M. ROSS, Secretary

Passage

D.F. Collins

HP1820

Name: *(Spencer)*
Richard A. Spencer

Cosponsors:

(Carey)

(Merney)

(Collins)

Town: Standish

Richard Carey
Waterville

Merney
Lisbon Falls
Collins
Moostook

Unorganized Territory

1. The unorganized territory should pay the uniform tax for education and be taxed at a rate that pays for other services it receives.

A fairly detailed review of tax expenditures for services and the uniform property tax for educational purposes shows that property owners of this part of the State are not paying their fair share of the taxes. The unorganized territory pays \$6,262,145 in property taxes, yet receives \$2,037,430 more than that for services from the State See table IX - 1, page 62.

The committee recommends that the Legislature adjust the State tax rate and tree growth formula so that the taxes on the unorganized territory property reflects services provided it and also reflect revenues comparable to what the uniform education tax would yield.

UNORGANIZED TERRITORY SHARE OF EDUCATION ¹COSTS AND
AN ANALYSIS OF OTHER COSTS OF STATE SERVICES ² TO THE UNORGANIZED TERRITORY

<u>Estimated Property Taxes Receivable</u>		\$6,262,145.00
 <u>Estimated State Expenses</u>		
Education (13.25 mills x state valuation)	\$4,246,249	
State Planning Office	2,000	
Bureau of Property Taxation Administration	200,000	
Soil and Water Conservation Commission	10,000	
Pesticide Control	1,000	
Forest Fire Control	1,712,000	
Forest Management	84,000	
Bureau of Geology	56,000	
LURC	318,000	
Conservation - Central Administration	35,000	
Bureau of Public Lands	33,000	
Bureau of Water Quality	15,000	
University of Maine Forestry Research	21,000	
Reimbursement to Counties for Services to Unorganized Territories	1,039,514	
Department of Health & Welfare - General Assistance	60,000	
Entomology	381,000	8,213,763.00
 Excess of Estimated Expenses over Property Taxes Receivable		 (1,951,618)
 <u>Spruce Budworm Control</u>		
Estimated Excise Taxes Receivable	2,264,188	
Less - Estimated Expenses	2,350,000	(85,812)
 Total Amount, Estimated Expenses in Excess of Estimated Taxes Receivable		 (2,037,430)

¹ The unorganized territory's share of education costs is estimated at 13.25 mills times state valuation of that area. This is the same rate of the uniform property tax paid in municipalities by all other property for educational purposes. The unorganized territory would be considered a "pay in" community if it were incorporated as a municipality. Actual costs of education for unorganized students is \$1,858,128, according to the State Department of Education.

² The above list does not include estimation for services such as state police, environmental protection, and possibly others which would normally be costs borne by the local property tax.