

# MAINE STATE LEGISLATURE

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**STATE OF MAINE  
116TH LEGISLATURE**

*Final Report  
of the*

**UNORGANIZED TERRITORY EDUCATION  
AND SERVICES FUND STUDY COMMISSION**

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## INTRODUCTION

Ch. 100 of the Private and Special Laws of 1994 established the Municipal Cost Component for services to be rendered to the Unorganized Territories (U.T.) of the State of Maine. "Municipal Cost Component" means the cost of funding services in the Unorganized Territory Tax District which would not be borne by the State if the Unorganized Territory Tax District were a municipality (36 MRSA §1603). The cost component is the mechanism whereby the State assesses property taxes on the residents of the Unorganized Territory for those services that are "local" but provided by either the state, e.g. education and general assistance, or a County, e.g. road maintenance, waste disposal, ambulance service, etc.

The municipal cost component is determined annually in much the same way as an organized municipality determines a property tax bill. The Fiscal Administrator of the Unorganized Territory is similar to a town or city manager. The administrator meets with "department heads" to receive and review funding requests for services that need to be provided. The Commissioner of the Department of Education serves as the superintendent of schools and/or the local school board and estimates the cost of schooling for all students living in the U.T. The State Tax Assessor is the tax collector and/or board of assessors. The Department of Human Services processes welfare claims. The various offices of County Commissioners serve as public works directors because the counties are responsible for road maintenance and plowing, waste disposal, cemeteries, etc. for the unorganized territory within each respective county. All of these costs are analyzed and tabulated to determine the "total requirements" of the U.T. Revenues and any available surplus or reserve funds are then subtracted from the "required" amount to determine the tax assessment.

At this point, the proposed costs and revenue estimates are presented to the State Legislature in the form of a bill (see Appendix A, pages 1 and 2). The Legislature acts in the same way a Board of Selectmen or City Council does when determining the local property tax rates. Public hearings and work sessions are held, estimated expenses are scrutinized and changed, if necessary, and once approved, the tax rate is determined. Bills are sent out to all property owners, payments are processed, the administrator reimburses the State for its expenses and sends the counties, their respective shares. The process then begins all over again for the next year.

The municipal cost component has fluctuated widely over the last five years (see Chart 1). Various legislative actions have greatly contributed to this fluctuation. In fiscal years 1991 and 1992 almost \$2.5 million was assessed by the State as an allocation of costs beyond the direct costs associated with the U.T. For example, while the Director of Education in the U.T. is paid for entirely from U.T. tax revenues, no charges had been made for the costs of supervision of the Director by the Commissioner. Likewise, the Bureau of Taxation charges the U.T. for portions of various employees time, but none for supervision and oversight by the State Tax Assessor, the Deputy State Assessor, legal or research assistance etc. Laws in existence at that time (since repealed) authorized an assessment of up to 15% of direct State costs to reimburse the State for these indirect costs.

In fiscal years 1994 and 1995, almost \$1 million was transferred from surplus by the Legislature to reduce the U.T. tax commitment. While this kept tax rates lower than they otherwise would have been, it also brought the level of estimated surplus well below the generally accepted safe range of 5-10% of operating expenditures.

For these and other reasons, certain taxpayers in the U.T. lobbied the Legislature for a study of the Unorganized Territory Education and Services fund. Such a study commission was established (see Appendix A pages 3 - 5) and, after a slight delay while awaiting appointments of members, began work on August 30, 1994. The commission met 5 times, received vast amounts of information from State agencies that provide services to the U.T., surveyed each of the 12 counties that have unorganized territory within their boundaries, heard from 2 major organizations that represent certain taxpayers in the U.T., discussed many issues affecting the U.T. and has made some recommendations that will, hopefully, have a positive impact on the residents and taxpayers in the States' unorganized territory. This report summarizes the Commission's discussions and recommendations and presents draft legislation to implement those recommendations where necessary.

## CHART 1

## ANALYSIS OF MUNICIPAL COGT COMPONENT ET AL

Five Year Comparison Ended June 30, 1985

	1981/81	1981/82	Increase (Δ) Decrease	1982/83	Increase (Δ) Decrease	1983/84	Increase (Δ) Decrease	1984/85	Increase (Δ) Decrease
<b>State Agencies:</b>									
Fiscal Administrator	\$ 88,884.00	\$ 87,875.00	1.0%	\$ 110,097.00	25.3%	\$ 118,572.00	8.6%	\$ 108,207.00	-9.50%
Education	8,898,775.00	7,475,370.00	9.3%	8,008,304.00	7.9%	9,188,118.00	13.7%	9,372,230.00	2.23%
Forest Fire Service	150,000.00	150,000.00	-	150,000.00	-	262,650.00	75.1%	200,000.00	-23.85%
General Assistance	178,000.00	214,000.00	19.8%	190,000.00	-11.2%	170,343.00	-10.3%	80,000.00	-53.04%
Assessments	477,240.00	437,221.00	-8.4%	431,030.00	-1.4%	428,000.00	-0.7%	457,570.00	8.91%
L.U.R.C.		100,000.00	100.0%	230,000.00	130.0%	428,000.00	85.2%	155,000.00	-63.62%
Other	1,158,800.00	1,270,000.00	9.5%					9,140.00	100.00%
<b>Total State Agencies</b>	<b>8,891,799.00</b>	<b>9,734,468.00</b>	<b>9.5%</b>	<b>8,177,401.00</b>	<b>-5.7%</b>	<b>10,574,683.00</b>	<b>15.2%</b>	<b>10,382,147.00</b>	<b>-1.82%</b>
<b>County Taxes &amp; Services:</b>									
<b>Androscok</b>									
T	332,430.00	343,261.00	3.3%	359,588.60	4.7%	408,949.40	13.2%	452,901.36	11.29%
B	421,890.00	444,072.00	5.3%	443,936.00	-0.0%	559,320.00	28.0%	549,320.00	-1.79%
<b>Franklin</b>									
T	77,228.50	88,024.00	10.8%	70,320.00	1.9%	75,123.00	6.8%	87,543.00	16.53%
B	228,025.00	205,828.00	-9.7%	287,934.00	33.8%	270,652.00	-6.2%	270,857.00	0.30%
<b>Hancock</b>									
T	23,221.20	22,799.00	-1.8%	23,713.30	4.0%	27,359.55	15.4%	28,012.00	2.36%
B						175,242.00	100.0%	91,120.00	-48.00%
<b>Kennebec</b>									
T	1,501.44	1,870.00	24.5%	2,897.50	54.9%	2,867.00	-1.1%	3,412.75	19.04%
B									
<b>Knox</b>									
T	5,688.00	5,424.00	-4.6%	5,786.00	6.9%	5,476.00	-5.5%	7,044.00	28.63%
B									
<b>Lincoln</b>									
T	3,181.48	2,848.00	-9.9%	3,070.31	7.8%	3,027.24	-1.4%	3,241.79	7.09%
B									
<b>Oxford</b>									
T	46,904.00	64,834.00	39.2%	58,097.75	-10.4%	57,611.00	-0.8%	57,812.00	0.00%
B	195,201.00	183,841.00	-5.8%	183,058.00	-0.4%	182,859.00	-0.1%	184,715.00	1.01%
<b>Penobscot</b>									
T	128,896.00	125,411.00	-2.7%	118,845.00	-7.0%	121,749.00	4.4%	136,932.25	12.47%
B	193,896.00	320,668.00	65.4%	395,237.00	23.3%	788,779.00	99.8%	770,175.00	-2.38%
<b>Piscataquis</b>									
T	447,592.50	475,590.00	6.3%	486,249.50	2.2%	551,532.00	13.4%	555,789.50	0.77%
B	554,086.00	529,398.00	-4.5%	494,115.00	-6.7%	510,632.00	3.4%	323,644.00	-36.68%
<b>Somerset</b>									
T	261,294.80	280,720.00	7.4%	293,597.20	4.8%	331,142.00	12.8%	370,627.25	11.92%
B	491,807.00	497,957.00	1.3%	448,161.00	-10.0%	529,403.00	18.1%	592,590.00	11.94%
<b>Waldo</b>									
T	658.00	321.00	-51.2%	368.00	14.0%	381.00	6.8%	471.00	20.48%
B									
<b>Washington</b>									
T	136,281.20	157,317.00	13.8%	158,320.50	0.6%	169,232.00	6.9%	186,042.72	9.93%
B	334,015.00	333,575.00	-0.1%	329,088.00	-1.3%	322,248.00	-2.1%	313,155.00	-2.82%
<b>Total Taxes</b>	<b>1,466,835.13</b>	<b>1,549,405.00</b>	<b>5.8%</b>	<b>1,578,618.68</b>	<b>1.9%</b>	<b>1,752,459.19</b>	<b>11.0%</b>	<b>1,869,629.62</b>	<b>7.63%</b>
<b>Total Services</b>	<b>2,418,680.00</b>	<b>2,515,427.00</b>	<b>4.0%</b>	<b>2,581,528.00</b>	<b>2.8%</b>	<b>3,338,835.00</b>	<b>29.3%</b>	<b>3,095,578.00</b>	<b>-7.29%</b>
<b>Total County Taxes/Services</b>	<b>3,885,515.13</b>	<b>4,064,832.00</b>	<b>4.8%</b>	<b>4,160,146.68</b>	<b>2.3%</b>	<b>5,091,293.19</b>	<b>22.4%</b>	<b>4,965,207.62</b>	<b>-2.08%</b>
<b>Total Requirements</b>	<b>12,777,494.13</b>	<b>13,789,298.00</b>	<b>8.0%</b>	<b>13,337,545.68</b>	<b>-3.3%</b>	<b>15,855,976.19</b>	<b>17.5%</b>	<b>15,367,352.82</b>	<b>-1.91%</b>
<b>Overlay</b>	<b>114,019.71</b>	<b>202,833.00</b>	<b>78.0%</b>	<b>218,324.55</b>	<b>7.8%</b>	<b>165,612.87</b>	<b>-24.2%</b>	<b>190,335.73</b>	<b>14.93%</b>
<b>Revenues:</b>									
<b>Court Revenue (State)</b>									
State Revenue Sharing	190,000.00	250,000.00	31.6%	150,000.00	-40.0%	145,000.00	-3.3%	145,000.00	-
Miscellaneous	234,640.00	850,000.00	262.3%	450,000.00	-47.1%	125,000.00	-72.2%	125,000.00	-
Transfer from Surplus						288,000.00	100.0%	708,140.00	147.95%
<b>Educational Trust</b>									
-Tuition	130,000.00	175,000.00	34.6%	175,000.00	-	125,000.00	-38.8%	125,000.00	-
-Other	100,000.00	115,000.00	15.0%	115,000.00	-	130,000.00	13.0%	130,000.00	-
-Surplus	597,958.00	120,000.00	-79.9%	120,000.00	-	110,000.00	-8.3%	110,000.00	-
<b>Total Revenues</b>	<b>1,122,598.00</b>	<b>1,330,000.00</b>	<b>18.6%</b>	<b>855,000.00</b>	<b>-23.3%</b>	<b>525,000.00</b>	<b>-38.8%</b>	<b>530,000.00</b>	<b>9.5%</b>
<b>Total Deductions</b>	<b>1,252,598.00</b>	<b>1,510,000.00</b>	<b>20.5%</b>	<b>1,010,000.00</b>	<b>-33.1%</b>	<b>921,000.00</b>	<b>-8.8%</b>	<b>1,784,874.00</b>	<b>93.81%</b>
<b>Tax Commitment</b>	<b>\$ 11,639,815.84</b>	<b>\$ 12,482,231.00</b>	<b>7.3%</b>	<b>\$ 12,545,940.21</b>	<b>0.4%</b>	<b>\$ 14,810,589.16</b>	<b>18.8%</b>	<b>13,774,714.35</b>	<b>-7.63%</b>

## RECOMMENDATIONS

### 1. **Make the U.T. eligible for the 5% minimum state subsidy for education.**

Maine subsidizes the costs of education in the State substantially. However, while some school units historically received as much as 90% state subsidy, other units received nothing because the subsidy is based on a complex formula that incorporates, among other things, the number of students in a district and the value of all taxable property in a district. A school unit with many students but a small property tax base receives more funding than a unit with the same number or less students but a large tax base. For the most part, units in southern Maine have been low receivers, or "zero receivers" while units in northern and central Maine have been high receivers due almost entirely to the differences in tax bases.

One major exception to this geographic division is the U.T. Most of the U.T. is located in Aroostook County and nearly all of it is found in the northern half of the state. However, since education is a statewide expense, all of the U.T. is considered a single unit. Therefore the tax base is incredibly large (\$1.5 billion) compared to the number of students (1,350 Ave.) in the district. Obviously, the U.T. had never been eligible for any state subsidy for education under the formula, much like some of the wealthier, smaller districts elsewhere in the state.

During the middle and late 1980's, property values surged upward in southern Maine. This caused many low receiving units to receive less subsidy than they had been. The double whammy of higher taxes causing a loss of state aid thereby causing even higher taxes led to many taxpayer revolts. The Legislature responded to this crisis by enacting a "minimum state allocation" (20-A MRSA §15613 sub-§13). While not solving the crisis, these funds mitigated the problem somewhat by providing at least some state aid to help lower property tax bills in units that received little or no aid previously. Unfortunately for the residents of the U.T., the minimum state allocation was guaranteed to "...each school administrative unit..." The Department of Education does not consider the U.T. to be a "school administrative unit" even though 36 MRSA §1603 specifically states that the cost of education (in the U.T.) is to be determined by the School Finance Act in Title 20-A as if the U.T. were a municipality. Since all municipalities either are a school administrative unit or in one, the implication of section 1603 is clear: any special programs, like the minimum state allocation, that reduce the cost of education in municipalities must be provided to the residents of the U.T. to reduce the cost of education in the U.T.

The Commission understands that the entire school funding issue is under intense scrutiny and the minimum state allocation concept may be changed. Indeed, some commission members believe it should never have started in the first place and should be repealed. However, to the extent that it exists and the U.T. meets the eligibility requirements of this (or any other) program, the Commission recommends that the residents of the U.T. receive their fair share of available state funds.

The Commission stopped short of recommending that the U.T. become a "school administrative unit" because the Department of Education raised a number of administrative concerns that were unable to be addressed within the time frame of this study. While such a recommendation remains a future possibility (indeed, the concept should be the focus of continued discussion between the Fiscal Administrator and the Commissioner of Education), until a decision is finally reached, every effort must be made to treat the residents of the U.T. in the same manner as residents in organized municipalities.

Legislation is included in Appendix B to implement this recommendation.

**2. Avoid collection through the municipal cost component of teacher retirement costs that are paid by the State through the General Fund.**

The State of Maine pays 100% of the employer share of teacher retirement. This is not part of General Purpose Aid for Education that subsidizes the local costs of education in the amount of \$515 million annually but represents a significant additional local subsidy (hence a reduction in local property tax bills) of more than \$128 million in FY 1994-95. For many years, teacher retirement costs for teachers in the U.T. were still funded by U.T. property taxes rather than the state. While this is no longer the case (the State now pays the employer share for U.T. teachers and even partially reimbursed the U.T. for some of the years of overpayment), there is still a problem with funding U.T. teacher retirement.

As noted in the introduction, the U.T. budget is based on agency requests for funds and taxes are assessed in the amount needed to satisfy those requests. If actual expenditures are less than the budgeted amount, a surplus will exist at the end of the year. Existing budget development rules require the Fiscal Administrator to include the amount of U.T. teacher retirement costs (about \$125,000 in FY 1994-95) in the U.T. budget, upon which taxes are based. At the end of the year, however, when the Administrator makes the final reimbursement to the General Fund for costs of services rendered, the retirement costs are not paid for by the U.T.; the General Fund picks up the employer share. Since taxes were raised on the budgeted amount, a surplus exists and taxes were raised that were not necessary. Even though this surplus can be (and in fact often is) used to lower the tax assessment in the next fiscal year, the Commission believes that U.T. residents should not have to pay "unnecessary" taxes to begin with.

Legislation is included in Appendix B to implement the recommendation that U.T. taxpayers not be assessed up front for the General Fund share of teacher retirement costs.

**3. Recommend the Commissioner (or his designee) work closely with local residents on issues concerning each of the seven schools in the U.T.**

Another education issue arose during the study period regarding local control over schools. Unlike organized municipalities, the U.T. has no school board or superintendent to determine or administer education policy. The Commissioner (or designee) is charged by statute to oversee all education related matters. While this ensures that U.T. residents will receive the education guaranteed all residents of Maine, it does so without the "official" local involvement of school boards that most citizens enjoy.

The Commission understands that the biggest drawback to living in the U.T. is the lack of local control over community decisions. However, we also understand that education is a personal issue as well as a community one. Without a "local" school, some residents of the U.T. would have to send their kindergartners more than 25 miles one way to school. Elementary students could easily spend 1 1/2 to 2 hours on a bus both going to and coming from school. Parents have no representation on school boards or in school units that receive their children as tuitioned students. Residents of the U.T. "community" would be without the one local place they have to congregate and socialize when necessary. Having no control over these personal aspects of ones life is very different than having no control over local government issues.

The Commission received testimony that the Department of Education does work closely with some school groups such as PTA's/PTO's or an elected 3 member advisory board in the case of one school. The Commission also received testimony that the Department has occasionally said: "Because the law says so!" when local residents have questioned the rationale for a decision by the Commissioner or been denied input on important school decisions. A proposal for statutory language requiring an elected or appointed school board for each of the U.T. schools was discussed by the Commission but members stopped short of recommending such a mandate at this time. Instead, we believe that the Commissioner should become more active in establishing good working relationships at each of the schools over which he exerts control. If informal groups do not or can not work effectively, we would encourage residents in the U.T. to approach their representatives in the Legislature to develop legislation that would create a formal process more like that which exists in organized municipalities.

Along these lines, the Commission heard from some residents of the U.T. that the entire state administration component of education in the U.T. should be abolished. Students could either be tuitioned out to the nearest organized municipal school or the schools in the U.T. could be annexed to the nearest school administrative unit. Since both of these options have positive and negative results associated with them, Commission members believe that further study is needed. Proponents of such a move are encouraged to work with U.T. residents, the Department of Education, the Joint Standing Committee on Education and the Fiscal Administrator of the U.T. to determine the feasibility of such change. If education services can be provided more efficiently and cost effectively, then we believe these options should be pursued vigorously. Given more time to conduct our study, we would have gladly looked into these possibilities ourselves.

4. **Repeal statutory language that requires taxpayers in the U.T. to pay up to 10% of the General Fund appropriation to the Land Use Regulation Commission (LURC) to account for planning services and activities.**

Years ago, LURC was funded entirely by the residents of the U.T. even though some of its activities were conducted in certain plantations and other organized communities. This practice was stopped in the early 1980's based on an opinion of the Attorney General that stated in effect that any service provided to residents of the State in both organized municipalities and unorganized territories could not be funded by a tax solely on residents of the U.T. LURC thus became a General Fund agency.

In the early 1990's, 12 MRSA §685-E was enacted and provided that residents of the U.T. could be assessed up to 10% of the General Fund appropriation for LURC for planning services rendered to the U.T. No such assessment was made on organized municipalities. This means that property owners in the U.T. pay an extra tax over and above that paid by property owners in organized areas for essentially the same service.

The Commission realizes that most of LURC's work is done in the U.T. However, unless all LURC's funding is derived from user fees, it is unfair to tax one group of receivers differently than another for the same service. Since the Commission does not want to make the efficient operation of LURC subject to the whims and vagaries of user fees or dedicated revenue, we believe that as a matter of fairness, LURC must be funded entirely from the General Fund.

Legislation is included in Appendix B to implement this recommendation.

5. **Recommend that an advisory budget committee be appointed in each County that has unorganized territory within its borders.**



Much like the school board issue discussed earlier in this report, many residents of the U.T. feel powerless when critical decisions about their well-being are made. Recognizing again that no local control is the price one pays for not being in an organized municipality, the Commission nevertheless believes that residents of the U.T. should have a forum to present their views in certain instances. Budget issues are just as important to taxpayers in the U.T. as they are elsewhere. However, most U.T. taxpayers have little or no input in the process and receive little or no feedback on decisions even when made directly on their behalf. While very few people like paying taxes everyone should at least know how and why their tax dollars are being spent.

The Commission heard testimony that in some counties the budget process is working well and people have no complaints. Still, an advisory budget committee made up of 3 (or more) residents of the U.T., working closely with the County Commissioners to develop their "piece" of the County budget, would go a long way towards improving the budget process in all counties with U.T. Such a committee could advocate for U.T. taxpayers during the official budget process when spending decisions are made and could serve as information resources in their particular section of U.T. when residents or other taxpayers have budget questions.

We believe that an informal process can and should work at this time. If, for some reason it doesn't, we believe that a formal process similar to that currently used by some counties and municipalities (described by statute; see 30-A MRSA chapter 3) should be established by legislation at a later date. All taxpayers, organized or not, deserve at least an opportunity to be heard by their representatives to taxing authorities. Otherwise, "taxation without representation" becomes a rallying cry with the potential for significant changes. Therefore, we recommend that the County Commissioners in each county with U.T. appoint an advisory budget committee of at least 3 members, all of whom live in the U.T. of that particular county. This committee would advise the commissioners on that portion of the county budget that deals with the U.T.

6. **Recommend that the State Tax Assessor, upon request of the county commissioners, provide one set of U.T. tax maps without charge to each county with U.T.**

As the Commission discussed issues that might improve service delivery in and to the U.T., testimony was received that indicated the difficulty of obtaining tax information in certain instances. Unlike organized municipalities, there is rarely a single location outside of Augusta for U.T. taxpayers to use tax maps. Surveyors, appraisers, real estate agents and others would benefit from easier access to this data and thus be able to provide better service to the U.T. citizens. Having a set of U.T. tax maps available to the public at the respective offices of the county commissioners should provide this easier access. Since we believe the Tax Assessor has existing authority to implement this recommendation, no legislation is included in Appendix B.

7. **Recommend that general statutory statements be enacted that ensure U.T. residents are treated fairly with respect to certain state programs.**

In the mid-1980's certain legislators realized that the citizens of the U.T. were not enjoying the same benefits that residents of organized municipalities were. Legislation was drafted that referenced the U.T. in specific state programs (e.g., 36 MRSA §1505; 30-A MRSA §5681 sub-§6; 20-A MRSA §§3253-A and 3254-A) but many people still believed that broader statements of legislative intent already in existence (i.e., 36 MRSA §1603) meant that the U.T. would be eligible for any program of state assistance provided to organized units of government. Unfortunately for the U.T. program administrators determined that any law that did not specifically reference the U.T. did not apply to the U.T. Even some programs that clearly mentioned U.T. were not funded appropriately (see earlier discussion of teacher retirement).

For these and other reasons, a fiscal administrator for the U.T. was created. It was hoped that an administrator could review all statutes and proposed legislation to ensure U.T. citizens were treated fairly and equally. However, even this proved too much to hope for and programs still exist (e.g., tree growth reimbursement) that treat U.T. taxpayers differently than organized taxpayers.

This recommendation is intended to overcome this situation in the future. During our study it became apparent that the U.T. is simply forgotten when new programs are being developed outside of the taxation area. By adding statements of intent to the statutes that most frequently impact the U.T. (Title 36, Taxation; Title 20-A, Education; Title 30-A, Municipalities and Counties) the Commission hopes to keep the U.T. in the minds of policy makers as programs are created or amended. Coupled with a very strong suggestion that the fiscal administrator review all proposed legislation for actual or potential impact on the U.T., we believe that this recommendation will ensure that citizens of the U.T. will be treated just like every other citizens of Maine. We do not expect retroactive payments for the U.T., but from now on, we believe the U.T. should be treated fairly, especially regarding tree growth reimbursement, property tax relief and other existing programs.

Legislation is included in Appendix B to implement this recommendation.

## **8. Other Issues**

During the course of our review a number of other issues were discussed and debated without finding majority support for recommended action. An important issue the Commission was made aware of involves a lawsuit against the State on behalf of U.T. taxpayers (Appendix C). The suit was filed prior to the formation of the study commission and is currently being appealed to the Supreme Court. The Commission voted early on in its deliberations to ignore the suit, per se, because it was not included within the scope of our study. Still, many of the issues in the lawsuit did end up being discussed by members of the Commission. Any discussion, recommendation or lack thereof should not be construed as expressing an opinion or statement of intent on behalf of either the U.T. or the State relative to the suit. The members of the Commission, along with everyone involved in the suit eagerly await a decision by the lawcourt on the merits of each issue.

A second issue discussed by the Commission concerns the impact of deorganization on the taxpayers in the U.T. Deorganization of a municipality can occur for many reasons, but a primary one seems to be the cost of providing services. Those towns that have recently deorganized have found their mill rates substantially reduced once the state and the county become responsible for service provision. This is only because the cost of those services is spread over a larger tax base which means that existing taxpayers in the U.T. have to pay more than they otherwise would if the municipality had not deorganized.

Obviously, there is limited control over a local decision to deorganize. However, some Commission members felt that the process is perceived as too easy, especially if towns with hundreds of residents can do it. If the problem continues to develop, the commission believes that the Legislature will have to review the statutory deorganization process.

A closely related issue is the amount of taxes paid by U.T. taxpayers versus the amount of services received. Many people see the low mill rates in the U.T. and think everything is okay. However, a mill rate of 8 or 10 may be high if there is a limited need for services. Also, evidence was presented that showed various organized municipalities with mill rates lower than those in the U.T. We understand and empathize with taxpayer frustration when taxes rise without good reason. Undocumented payments such as state cost allocation charges (see introduction and Appendix C, Count III) can lead to such frustration. However, if taxes are based on legitimate costs of services then complaints are minimal. Therefore, it is incumbent on everyone involved in establishing the U.T. mill rates that they be set at levels sufficient to provide needed services but low enough to avoid creating unneeded surpluses.

The final issue before the Commission dealt with the administration of the U.T. Some taxpayers wanted a great deal of financial and accounting information to be readily available to them, some of which doesn't usually exist publicly for organized municipalities, much less the U.T. Others wanted a strong independent administrator with no ties to State government. Still others wanted much more local control over U.T. functions. While the Commission understands peoples' concerns about these issues, we choose to make no recommendations about them at this time. The sudden death of the first Fiscal Administrator has required much on the job learning by the present administrator. Given time, we believe that she will further develop the knowledge, skills and abilities to serve the people of the U.T. well. Financial reporting and auditing are already scheduled to begin and should help taxpayers better understand their situation. If problems become too difficult to handle under the existing form of administration, local control is an option for U.T. residents who decide to organize in an attempt to better meet their needs for services. While this option is unlikely to be viable for most residents of the U.T., it is an important one to consider for those residents in areas with comparatively large numbers of people such as Benedicta, Greenfield, Rockwood, etc.

## CONCLUSION

The Unorganized Territory Education and Services Fund Study Commission realizes that this report represents a single step on the road to fair and equal treatment of the residents and taxpayers that live, work and play in the State's vast unorganized territories. We know it will take a lot more effort by many people to travel that road to its end. Indeed, one member of the Commission was fond of saying that no one forgot the U.T. residents when a new tax was enacted, but no one knew they were there when programs to reduce taxes were created. We simply ask that whenever policy makers and administrators devise new programs or amend existing ones in the name of improving services or reducing the tax burden for the citizens of Maine, they remember the more than 6,000 residents of the Unorganized Territory that are also citizens of the State. We urge serious discussion of our proposals and encourage continued review and analysis of programs that affect the U.T.

**APPENDIX A  
ENABLING LEGISLATION**

APPROVED

CHAPTER

APR 20 '94

100

BY GOVERNOR

P & S LAW.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-FOUR

H.P. 1410 - L.D. 1920

An Act to Establish the Municipal Cost Component for  
Unorganized Territory Services to Be Rendered in Fiscal  
Year 1994-95

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, prompt determination and certification of the municipal cost components in the unorganized territory district is necessary to the establishment of a mill rate and the levy of the unorganized territory educational and services tax; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. Municipal cost component for services rendered.** In accordance with the Maine Revised Statutes, Title 36, chapter 115, the Legislature determines that the net municipal cost component for unorganized territory services and reimbursements to be rendered in fiscal year 1994-95 is as follows.

Audit - Fiscal Administrator

\$108,207

Education - Operations

9,372,230

Forest Fire Protection	200,000
Human Services - General Assistance	80,000
Property Tax Assessment - Operations	457,570
Legislative Study Commission	9,140
Maine Land Use Regulation Commission - Operations	155,000
<b>TOTAL STATE AGENCIES</b>	<u>\$10,382,147</u>

County reimbursements for services:

Aroostook	\$549,320
Franklin	270,857
Hancock	91,120
Oxford	184,715
Penobscot	770,175
Piscataquis	323,644
Somerset	592,590
Washington	313,155
<b>TOTAL COUNTY SERVICES</b>	<u>\$3,095,576</u>
<b>TOTAL REQUIREMENTS</b>	<u>\$13,477,723</u>

COMPUTATION OF ASSESSMENT

Requirements	\$13,477,723
Less Deductions:	
General -	
State Revenue Sharing	\$145,000
Miscellaneous Revenues	125,000
Transfer from Surplus	709,140
<b>TOTAL</b>	<u>\$979,140</u>

Educational -	
Lands Reserve Trust	\$125,000
Tuition and Travel	130,000
Miscellaneous	10,000
Special - Retirement	100,000
Transfer from Surplus	440,834
<b>TOTAL</b>	<u>\$805,834</u>

<b>TOTAL DEDUCTIONS</b>	<u>(\$1,784,974)</u>
<b>TAX ASSESSMENT</b>	<u>\$11,692,749</u>

**Sec. 2. Commission established.** The Unorganized Territory Education and Services Fund Study Commission, referred to in this section as the "commission," is established.

**1. Commission membership.** The commission consists of 11 members:

A. Two members of the committee of the Legislature having jurisdiction over taxation matters appointed jointly by the President of the Senate and the Speaker of the House of Representatives;

B. Three Legislators whose districts include portions of the unorganized territory appointed jointly by the President of the Senate and the Speaker of the House of Representatives;

C. Two members of the public who are taxpayers of the unorganized territory appointed jointly by the President of the Senate and the Speaker of the House of Representatives; and

D. Four members of the public who are taxpayers in the unorganized territory appointed by the Governor.

**2. Appointments and meetings.** All appointments must be made no later than 30 days following the effective date of this Act.

The Executive Director of the Legislative Council must be notified by the appointing authorities once the selection is made. The Chair of the Legislative Council shall call and convene the first meeting of the commission no later than 30 days after the appointment of all members has been completed. The commission shall select a chair from its members.

**3. Duties.** The commission shall review and analyze all aspects of establishing the municipal cost component for the unorganized territories. The commission shall examine ways to ensure improved legislative oversight as well as review agency accountability to the Unorganized Territory Education and Services Fund including, but not limited to, an examination of county service costs, reporting and auditing, school construction and teacher retirement costs, state agency service costs, unexpended balances and cash flow requirements and overall administration of the program.

The commission shall evaluate the findings of their review and make recommendations to improve the effectiveness and efficiency of establishing and administering the municipal cost component for unorganized territories.

4. **Powers.** In conducting its review, the commission may:

A. Hold public hearings;

B. Meet at such times and places as the commission determines necessary and hold informational sessions for discussions with knowledgeable persons;

C. Establish subcommittees or advisory committees;

D. Conduct a literature search and summarize and analyze the results of this search;

E. Conduct a survey of the public or affected persons and groups and tabulate and analyze the results of this survey;

F. Procure and analyze relevant data;

G. Conduct legal research and prepare opinions on legal questions within the scope of the study; and

H. Determine and summarize the legislative actions or governmental programs undertaken in other jurisdictions related to issues within the scope of the study.

5. **Staff assistance.** The commission may request staff assistance from the Legislative Council. The fiscal administrator of the unorganized territory, the Bureau of Taxation, the Department of Education and Cultural Services, the Maine Land Use Regulation Commission, the Department of Audit and the Division of Forest Fire Control of the Maine Forest Service shall provide additional staff support upon request of the commission.

6. **Reimbursement.** The members of the commission who are Legislators are entitled to the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, for each day's attendance at commission hearings. All other members are entitled to expenses, as defined in Maine Revised Statutes, Title 5, chapter 379, upon application to the Executive Director of the Legislative Council.

7. **Report.** The commission shall submit its report, together with any necessary implementing legislation, to the First Regular Session of the 117th Legislature and the joint standing committee of the Legislature having jurisdiction over taxation matters no later than November 15, 1994.

**Sec. 3. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.



1994-95

**LEGISLATURE**

**Unorganized Territory Education  
and Services Fund Study Commission**

Personal Services  
All Other

\$2,970  
6,170

Provide funds to the Unorganized Territory  
Education and Services Fund Study Commission  
for the per diem and expenses of members and  
miscellaneous committee expenses.

**LEGISLATURE  
TOTAL**

---

\$9,140

**Emergency clause.** In view of the emergency cited in the  
preamble, this Act takes effect when approved.

**APPENDIX B  
IMPLEMENTING LEGISLATION**

## An Act to Implement the Recommendations of the Unorganized Territory Education and Services Fund Study Commission

Be it enacted by the People of the State of Maine as follows:

Sec. 1 12 MRSA §685-E as enacted by PL 1991, c. 591, §LL-1 is repealed.

Sec. 2 20-A MRSA §3351, sub-§1 as amended by PL 1985, c. 490, §14 is further amended by adding at the end the following new sentence:

It is the intent of the Legislature that any program whereby funding is provided for education purposes to organized school units that otherwise are not eligible to receive funding through the formula established in Chapter 606 must be applicable to the Unorganized Territory.

Sec. 3 20-A MRSA §15613, sub-§13, as enacted by PL 1987 c. 848, §10 is further amended by adding at the end the following new paragraph:

Effective in the fiscal year beginning July 1, 1996 the Unorganized Territory is guaranteed the same minimum 5% state subsidy as is guaranteed for school administrative units under this subsection. Amounts provided to the Unorganized Territory under this provision shall not be treated as general purpose subsidy for school administrative units and shall not be part of the total allocation. The Commissioner shall annually, prior to February 1, notify the Fiscal Administrator of the Unorganized Territory of the amount to be provided to the Unorganized Territory under this provision.

Sec. 4. 30-A MRSA §7301 as enacted by PL 1987, c. 737, §A, 2 is amended by adding at the end the following new sentence:

It is the intent of the Legislature that any program that provides funding to all eligible organized municipalities, to be used for any purpose, must be applicable to the Unorganized Territory.

Sec. 5. 36 MRSA §578, sub-§1 as amended by PL 1993, c. 452, §4 is further amended by adding at the end the following:

For the purposes of this section, the unorganized territory must be reimbursed as if it were a municipality.

Sec. 6. 36 MRSA §1601, as enacted by PL 1977, c. 698, §8 is amended by adding the following new sentence:

It is the intent of the Legislature that any program that provides funding to all eligible organized municipalities to be used to reduce property taxes must be applicable to the Unorganized Territory.

Sec. 7 36 MRSA §1604 sub-§1 as repealed and replaced by PL 1985, c. 459, Pt. C, §14 is amended by adding at the end the following new sentence:

Requests for funding from the Department of Education must not include the General Fund share of teacher retirement costs for which the state is liable pursuant to 5 MRSA, §17001.

### Statement of Fact

This bill implements the recommendations of the Unorganized Territory Education and Services Fund Study Commission.

**APPENDIX C**  
**LAWSUIT: RESIDENTS OF THE UNORGANIZED**  
**TERRITORY vs. THE STATE OF MAINE**

STATE OF MAINE  
AROOSTOOK, SS.

SUPERIOR COURT  
DOCKET NO. CV-93-097

JAMES MCBREAIRTY, et als, )  
 )  
 Plaintiffs )  
 )  
 vs. )  
 )  
 H. SAWIN MILLETT, JR., )  
 et als, )  
 )  
 Defendants )

MOTION FOR  
SUMMARY JUDGMENT

Plaintiffs, James McBreairty, et als, move this Honorable Court, pursuant to Rule 56 M.R.Civ.P. for a summary judgment in their favor for the relief demanded in the Complaint on the grounds that there is no genuine issue as to any material fact in regard thereto, and Plaintiffs are entitled to judgment as a matter of law. This motion is based upon the pleadings, the Answers to Interrogatories, the Affidavit of James MCBreairty, and the Agreed Statement of Facts.

Wherefore, Plaintiffs pray for summary judgment on all counts of the Complaint as follows:

COUNT I  
EDUCATION

(A) A declaratory judgment that the unorganized territory be considered a school administrative unit under Title 20-A and entitled to the minimum five percent (5%) state share of its total allocation for education pursuant to 20-A M.R.S.A. §15613(13);

(B) Alternately, a declaratory judgment that the provisions of 20-A M.R.S.A. §15613 and/or 36 M.R.S.A. §1601 et seq. are unlawful;

(C) An Order requiring the Defendants to credit and/or reimburse the Unorganized Territory Education and Services Fund the amount of One Million Four Hundred Eleven Thousand Eight Hundred Sixteen Dollars and Fifty-Six Cents (\$1,411,816.56) from the State General Fund for sums due pursuant to Title 20-A M.R.S.A. §15613(13) for fiscal years 1986 through 1993;

(D) Attorney's fees, interest and costs;

(E) A permanent injunction enjoining the Defendants from assessing or collecting taxes on taxpayers within the unorganized territory which are unlawful;

SOULMAN & HUBBARD, P.A., ATTORNEYS AT LAW, 100 BOX 600, LAKESIDE, MAINE 04756

(F) Such other and further relief as this Court may deem just.

COUNT II  
LURC

(A) A declaratory judgment that the provisions of 12 M.R.S.A. §685-E and those portions of the municipal cost component law 36 M.R.S.A. §1603 which have included the cost of LURC services are unlawful;

(B) An Order requiring the Defendants to credit and/or reimburse the Unorganized Territory Education and Services Fund the amount of Seven Hundred Fifty-Six Thousand Dollars (\$756,000.00)

(C) Attorney's fees, interest and costs;

(D) A permanent injunction enjoining the Defendant's from assessing or collecting taxes on taxpayers within the unorganized territory which are unlawful;

(E) Such other and further relief as the Court may deem just.

COUNT III  
STATE COST ALLOCATION CHARGE  
36 M.R.S.A. §1602(4)(B-3) (REPEALED)

(A) An Order requiring the Defendants to credit and/or reimburse the Unorganized Territory Education and Services Fund the amount of Two Million Four Hundred Twenty-Nine Thousand Eight Hundred Dollars (\$2,429,800.00);

(B) Attorney's fees, interest and costs;

(C) Such other and further relief as the Court may deem just.

COUNT IV  
TREE GROWTH

(A) A declaratory judgment that the provisions of 36 M.R.S.A. §571 et seq., and in particular the provisions of 36 M.R.S.A. §578 are unlawful;

(B) An Order requiring the Defendants:

(1) to calculate the amount of tax revenues the unorganized territory would have received pursuant to 36 M.R.S.A. §578 had it been eligible for the ninety percent (90%) state reimbursement, and

(2) to reimburse the Unorganized Territory Fund for all lost revenues as if the unorganized territory were a municipality.

(C) An Order requiring the state to reimburse the Unorganized Territory Fund for all tax revenues lost in all future years pursuant to 36 M.R.S.A. §578 as if it were an organized municipality;

(D) Attorney's fees, interest and costs;

(E) Such other and further relief as the Court may deem just.


COURT V

(A) An Order requiring Defendants to prepare and publish annual financial reports for the years 1991 and 1992 as required by 36 M.R.S.A. §1608, and to prepare or cause to be prepared, annual audits for the years 1990 through and including 1994 as required by 36 M.R.S.A. §1609;

(B) A permanent injunction requiring Defendants to prepare annual financial reports and audits for all future years as mandated by 36 M.R.S.A., §1608 and §1609;

(C) To such other and further relief as the Court may deem just.

Dated: June 10, 1994

  
RICHARD D. SOLMAN, Esquire  
Attorney for Plaintiffs  
For: Solman & Hunter, P.A.  
P.O. Box 665  
Caribou, ME 04736

NOTICE OF MOTION

To: H. Cabanne Howard, Esquire  
Office of the Attorney General  
State House Station 6  
Augusta, ME 04333

Please take notice that the undersigned will bring the above Motion For Summary Judgment on for hearing before this Court, at 240 Sweden St., Caribou, Maine, on the first available date.

Date: June 10, 1994



RICHARD D. SOLMAN, Esquire  
Attorney for Plaintiffs  
For: Solman & Hunter, P.A.  
P.O. Box 665  
Caribou, ME 04736

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of June, 1994, I made service of the within Motion For Summary Judgment upon the Defendants' Attorney, H. Cabanne Howard, Esquire, by depositing in the United States Mail, postage prepaid, a copy of said Motion addressed as follows: H. Cabanne Howard, Esquire, Office of the Attorney General, State House Station 6, Augusta, ME 04333.

Date: June 10, 1994



RICHARD D. SOLMAN, Esquire  
Attorney for Plaintiffs  
For: Solman & Hunter, P.A.  
P.O. Box 665  
Caribou, ME 04736

IMPORTANT NOTICE  
OPPOSITION DEADLINE

IF YOU WISH TO OPPOSE THE ATTACHED MOTION, MAINE RULE OF CIVIL PROCEDURE 7. (c) REQUIRES THAT YOU FILE A MEMORANDUM AND ANY OTHER SUPPORTING AFFIDAVITS OR DOCUMENTS IN OPPOSITION NOT LATER THAN 21 DAYS AFTER YOUR RECEIPT OF THE COPY OF THE MOTION AND THIS NOTICE. A PARTY FAILING TO FILE A TIMELY MEMORANDUM IN OPPOSITION TO A MOTION SHALL BE DEEMED TO HAVE WAIVED ALL OBJECTIONS TO THE MOTION, WHICH MAY BE GRANTED WITHOUT FURTHER NOTICE OR HEARING.

Dated: June 10, 1994



RICHARD D. SOLMAN, Esquire  
Attorney for Plaintiffs

SOLMAN & HUNTER, P.A., ATTORNEYS, PO BOX 665, CARIBOU, MAINE 04736



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STATE OF MAINE ..  
ARCOSTOOK, SS.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. CV-93-097

RECEIVED

JAMES MCBREAIRTY, et als, )  
Plaintiffs )  
 )  
v. )  
 )  
H. SAWIN MILLET, JR., et als )  
Defendants )

OCT 20 1994

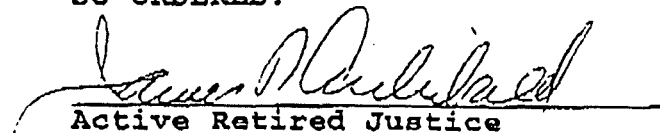
JUDGEMENT  
LAND USE REGULATION COMMISSION

Counsel were heard in argument as a supplement to their respective memoranda. Each, in argument, demand summary judgement.

This Court is not convinced that the cited statutes violate any constitutional provisions, as urged by the Plaintiffs. The facts are not in dispute and do not require summarization here. Neither does the Court feel it appropriate to elaborate on its underlying rationale because the issues raised are broad enough to encompass the assessment of taxes in unorganized territories throughout the entire State. In such case, this Court believes that such decisions should originate in the Law Court and thus have general applicability. Until the Law Court otherwise indicates, this Court will give the various enactments here argued the presumption of constitutionality

The Defendants' Request for Summary Judgement is granted and, a fortiori, the Plaintiff's Motion is denied.

SO ORDERED.

  
Active Retired Justice  
Supreme Judicial Court  
Sitting in the Superior Court

DATED: 10/05/94  
FILED & ENTERED  
SUPERIOR COURT

OCT 11 1994

ARCOSTOOK COUNTY