

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 1, 1982 to May 13, 1983

HOUSE

Wednesday, January 12, 1983

The House met according to adjournment and was called to order by the Speaker.

Prayer by Father Normand MacPherson of St. Anne's Rectory, Bradley.

The journal of yesterday was read and approved.

Petitions, Bills and Resolves**Requiring Reference**

The following Bills were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following Committees:

Business Legislation

Bill "An Act to Require Financial Responsibility and Insurance be Provided before being Permitted to Operate a Motor Vehicle" (H. P. 146) (Presented by Representative Foster of Ellsworth) (Cosponsor: Representative Swazey of Bucksport)

(Ordered Printed)

Sent up for concurrence.

Election Laws

Bill "An Act Limiting the Time Period for the Acceptance and Expenditure of Campaign Funds by Candidates" (H. P. 139) (Presented by Representative Salisbury of Bar Harbor)

Bill "An Act to Require Proof of Residency for Voter Registration" (H. P. 147) (Presented by Representative Willey of Hampden) (Cosponsor: Senator Perkins of Hancock)

Bill "An Act to Reduce the Mandatory Number of Election Clerks for Each Voting Place" (H. P. 148) (Presented by Representative Nadeau of Lewiston)

(Ordered Printed)

Sent up for concurrence.

Energy and Natural Resources

Bill "An Act to Prevent the Closing of Fire Lookout Towers" (H. P. 153) (Presented by Representative Rolde of York) (Cosponsors: Representatives Tuttle of Sanford, Ridley of Shapleigh, and Kiesman of Fryeburg)

(Ordered Printed)

Sent up for concurrence.

Fisheries and Wildlife

Bill "An Act to Establish November 15th as the Closing Date of Partridge Season" (H. P. 149) (Presented by Representative Jacques of Waterville) (Cosponsor: Representative Matthews of Winslow)

(Ordered Printed)

Sent up for concurrence.

Judiciary

Bill "An Act Concerning Forfeitures of Property Under the Drug Laws" (H. P. 152) (Presented by Representative Jacques of Waterville) (Cosponsors: Representatives Dexter of Kingfield, Gwadosky of Fairfield, and Conary of Oakland)

Bill "An Act to Make Possession of Marijuana a Criminal Offense" (H. P. 140) (Presented by Representative Lewis of Auburn) (Cosponsors: Representatives Crowley of Stockton Springs, Drinkwater of Belfast, and Carrier of Westbrook)

Bill "An Act Concerning the Publication of the Names of Juveniles in Connection with Arrests and Court Appearances" (H. P. 141) (Presented by Representative Ingraham of Houlton) (Cosponsor: Representative Connors of Franklin)

Bill "An Act Relating to the Escape of Prisoners" (H. P. 142) (Presented by Representative Joyce of Portland)

Bill "An Act Relating to Visitation Rights for Grandparents" (H. P. 143) (Presented by Representative Willey of Hampden)

(Ordered Printed)

Sent up for concurrence.

Marine Resources

Bill "An Act to Establish a Minimum 2-inch Size Limit on Soft Shell Clams" (H. P. 150) (Presented by Representative Dillenback of Cumberland) (Cosponsors: Senators Clark of Cumberland and Brown of Washington)

(Ordered Printed)

Sent up for concurrence.

Public Utilities

Bill "An Act Concerning Special Telecommunications Equipment for the Deaf and Hearing and Speech Impaired" (H. P. 144) (Presented by Representative Matthews of Waterville) (Cosponsors: Representative Joseph of Waterville and Senators Kany of Kennebec and Hichens of York)

(Ordered Printed)

Sent up for concurrence.

State Government

Bill "An Act Relating to the Maine State Lottery Law" (H. P. 151) (Presented by Representative Jacques of Waterville) (Cosponsors: Representatives Joseph of Waterville and Conary of Oakland)

(Ordered Printed)

Sent up for concurrence.

Transportation

Bill "An Act Concerning Renewal of Driver's Licenses for Persons 75 Years of Age or Older" (H. P. 145) (Presented by Representative Ridley of Shapleigh) (Cosponsor: Representative Carroll of Limerick)

(Ordered Printed)

Sent up for concurrence.

Enactor**Reconsidered**

An Act to Increase the Tax on Fire Insurance Premiums (Emergency) (H. P. 117) (L. D. 102) Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Mr. Carrier of Westbrook, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

On further motion of the same gentleman, the Bill was referred to the Committee on Business Legislation in non-concurrence and sent up for concurrence.

(Off Record Remarks)

On motion of Mr. Jalbert of Lewiston, Recessed until one o'clock in the afternoon.

After Recess

1:00 p.m.

The House was called to order by the Speaker.

(Off Record Remarks)

On motion of Mrs. Mitchell of Vassalboro, Recessed until the sound of the gong.

After Recess

2:40 p.m.

The House was called to order by the Speaker.

The following paper appearing on Supplement No. 1 was taken up out of order by unanimous consent:

**House Reports of Committees
Leave to Withdraw**

Representative Higgins from the Committee on Taxation on Bill "An Act Concerning Retroactive Application of the Income Tax Indexing Law" (Emergency) (H. P. 83 (L. D. 92)) reporting "Leave to Withdraw"

Report was read and accepted and sent up for concurrence.

The following paper appearing on Supplement No. 2 was taken up out of order by unanimous consent:

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Adjust the Effective Date of Income Tax Indexing" (Emergency) (H. P. 134) (L. D. 125)

Report was signed by the following members:

Senators:

WOOD of York
TWITCHELL of Oxford
TEAGUE of Somerset

— of the Senate.

Representatives:

HIGGINS of Portland
CASHMAN of Old Town
MASTERMAN of Milo
DAY of Westbrook
KILCOYNE of Gardiner
KANE of South Portland
INGRAHAM of Houlton
BROWN of Bethel
ANDREWS of Portland

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following member:

Representative:
McCOLLISTER of Canton

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, I move that we accept the "Ought Not to Pass" Report.

The SPEAKER: The gentleman from Portland, Mr. Higgins, moves that the Majority "Ought Not to Pass" Report be accepted.

The gentleman may proceed.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: Myself and eleven other members of the Taxation Committee felt that this bill, An Act to Adjust the Effective Date of Income Tax Indexing, was repealing only the 1981 retroactivity and providing for a refund for 1982 and didn't really provide any funding mechanism. The bill, in its title, limited us in such a way that we could not attach any funding mechanism to the bill. Therefore, this is why we ask that you go along with us and support the "ought not to pass" report.

Thereupon, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

The following paper appearing on Supplement No. 3 was taken up out of order by unanimous consent:

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Address Deficits Imposed by Tax Indexing" (Emergency) (H. P. 133) (L. D. 124)

Report was signed by the following members:

Senators:

WOOD of York
TWITCHELL of Oxford
TEAGUE of Somerset

— of the Senate.

Representatives:

McCOLLISTER of Canton
CASHMAN of Old Town
MASTERMAN of Milo
DAY of Westbrook
KILCOYNE of Gardiner
BROWN of Bethel
INGRAHAM of Houlton
KANE of South Portland
HIGGINS of Portland

— of the House

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following member:

Representatives:

ANDREWS of Portland

— of the House

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, I move that we accept the "Ought Not to Pass" Report.

The SPEAKER: The gentleman from Portland, Mr. Higgins, moves that the Majority "Ought Not to Pass" Report be accepted.

The Chair recognizes the gentleman from Portland, Mr. Andrews.

Mr. ANDREWS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to speak against the motion to accept the "ought not to pass" report and I would like to explain, as concisely as I can, why I am arguing against the recommendation of my committee. Some of you have heard this, some of you haven't, for those of you who haven't, I would like to explain exactly what my position is.

Starting with our committee meeting yesterday, our public hearing, there was a tremendous outpouring of people from throughout the state who depend upon vital human services and they gave us an opportunity to hear first hand exactly how important the State of Maine and state government is to these people. I for one was quite proud of State government and quite proud of those services that we provide the people, and I believe in those services.

I think we have a question here before us that deals not with the question of whether or not we make \$32 million worth of cuts but exactly how we deal with this retroactivity problem.

Now, the bottom line for me, Mr. Speaker and ladies and gentlemen of the House, is fairness. I have studied and studied and studied this problem as a member of the Taxation Committee and as someone who was about to enter the House as a Representative-elect, and I have studied all the options with regard to fairness for both recipients of services, providers of services, voters and taxpayers, and this is what I have come up with.

First of all, I think we have to be fair to these service recipients and to the dedicated Maine workers of this state and cast as our bottom line "no cuts, not a penny of the \$32 million."

That being said, I think we have to then extend the principle of fairness to the Maine voters. The Constitution of this state gives Maine voters an opportunity, if they don't agree with what we do here, they give Maine people an opportunity to go directly to the people of the State of Maine by referendum, and before I do anything to tamper with that process and that right, I want to be absolutely sure that we have considered every possibility, and particularly that we pass a possibility that is fair to all. I think that L. D. 124 is fair to all, and my basic assumption is this — we have heard a lot of talk and debate about what voters had in their minds when they went and cast their ballots for tax indexing. Well, I think it is sort of off the point to debate that too long. I think what we have to really ask ourselves is, what was the heart and soul of that tax indexing referendum; what were the Maine people trying to tell us? I think that Maine people were trying to tell me as a legislator that if I believe so strongly in the services that I heard about yesterday, and if I believe so strongly in the \$32 million worth of programs that will be cut, then I should have the guts to stand up and vote for a tax increase to pay for them.

I, for one, despite my opposition to this whole plan, particularly to retroactivity, and I campaigned aggressively against it, am willing today to do just that — I am willing to stand up and be counted on behalf of those people, on behalf of those services that we are providing those people.

Let me talk briefly about the 16 percent surcharge. First of all, again, it assures that no program, services or state jobs will be sacrificed or cut.

Secondly, it meets the issue of retroactivity head on, there's no waiting. We take care of the \$32 million problem immediately, it doesn't leave a deficit and therefore does not jeopardize our bond rating or throw into question our bond rating.

Thirdly, it is the only bill before us that does not repeal. It is a bill that recognizes, I believe, the will of the people in a responsible manner. It is also based on the ability to pay; namely, those who are most able to pay for this will pay, and simply by adding a 16 percent surcharge to the tax.

I have passed out a chart that I just want to draw your attention to. It is the blue sheet that I have had placed on all the members' desks, and it breaks down, and a lot of the problems with getting this idea through to a lot of people is that there were a lot of misunderstandings about what the effect of this bill would be on many taxpayers. There were some incorrect figures going around originally, and I simply want to make sure that you understand the facts behind this bill.

On this sheet that was developed by the Maine State Planning Office, you can follow it across and see exactly what will happen to various groups of taxpayers. For example, if you made an adjusted gross income of \$32,000, we would owe you in combined rebates for 1981 and 1982 \$199. The 16 percent surcharge levied on your 1982 tax would be \$164.16, or you would receive an additional refund of \$34.84. You would receive an additional refund, you would come out ahead, in other words, up to \$35,000 adjusted gross income. This assumes a family of four filing jointly. Above that, you would begin to pay.

I submit that people who are paying that are making above that amount of money do have a capacity to pay, and we are talking about 97 of the taxpayers of this state will be receiving a rebate under this plan—97 percent. The top three percent of the income bracket will have to absorb some cost.

The other element to this is that those people will be able to deduct this from their federal income tax, according to the Bureau of Taxation, and if they deduct it from their federal income tax return, they will be able to split the cost with the federal government. This, I submit, is the only bill that gets the federal government into the act as far as helping to pay this rebate.

I won't go on. I simply want to clarify one other point, and that is the compounding problem that we've heard about so much, that by 1983, unless we repeal, we are going to find ourselves in a \$100 million plus problem due to compounding. Well, I simply want to say that there are two ways that we can get to the compounding problem. One is, if we keep indexing as it is; we don't tamper with the law, and we also keep our tax structure static, we don't change any of the brackets. I submit to you that we have the entire Spring, we have the entire rest of the session to take a good hard look at the rest of those tax brackets and determine whether or not those brackets are based fairly and based on the ability to pay. And I submit to you, as a practical matter, that we are going to have to change those brackets, and if we change those brackets, we eliminate that \$70 million or \$100 million compounding problem and we can start off fresh on a very solid foundation with tax indexing.

There are a lot of heated emotions going on, and certainly a lot of heated emotions speaking in my committee, one side promoting and defending the sanctity of the referendum process and promoting the best way of dealing with this indexing problem as a result; the other side talking about the value of state government, the value of its services and the importance to the people who rely on those services.

Well, I propose L. D. 124, and I commend it to you members of the House as the way to embrace both of these highly charged positions. We can obey the will of the people and affirm the government of the State of Maine and our services at the same time, so I urge you to vote no on the "ought not to pass" recommendation by the committee.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker and Members of the House: I believe that this problem we are facing here today is not just \$32 million, it is the compounding, and it was my feeling and some of the committee members that we really had to address it at this point in time for a couple of reasons.

Nineteen Eighty One was a very high inflationary year. This is the base year on which all of the compounding is taking place. That's why we had \$12 million in the initial year, \$20 million for the second year, and that is where we come up with the \$32 million.

But what we see as being the real problem is the future years, the \$102 million that we're talking about here through the next biennium, the \$28 million that we're talking about in the current biennium, and it was felt that while this might be a suitable funding mechanism if some of the inequities could be somehow addressed, it was just felt that the compounding was one of the two issues that we are facing and one of the two that have to be addressed here today. For that reason, I think the Taxation Committee chose not to go along with this proposal.

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mr. Higgins, that the Majority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Conolly of Portland requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mr. Higgins, that the Majority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Anderson, Armstrong, Bell, Benoit, Bonney, Bost, Bott, Brannigan, Brown, Gorham; Brown, Livermore Falls; Brown, Bethel; Cahill, Callahan, Carroll, Gray, Carroll, Limerick; Carter, Cashman, Chonko, Clark, Connors, Crouse, Crowley, Daggett, Davis, Day, Dexter, Diamond, Drinkwater, Erwin, Gauvreau, Greenlaw, Gwadnosky, Hall, Hickey, Higgins, Portland; Higgins, Scarborough; Hobbins, Holloway, Ingraham, Jacques, Jalbert, Joseph, Joyce, Kelleher, Kelly, Ketover, Kiesman, Kilcoyne, LaPlante, Lehoux, Lewis, Lisnik, Livesay, Locke, MacBride, MacEachern, Macomber, Mahany, Manning, Martin, Brunswick; Martin, Van Buren, Masterman, Master-ton, Matthews, Caribou, Matthews, Winslow, Maybury, Mayo, McCollier, McGowan, McPherson, Melendy, Michaud, Mitchell, Vassalboro; Mitchell, Freeport; Moholland, Murray, Nadeau, Norton, Paradis, Old Town; Paradis, Augusta; Parent, Paul, Perkins, Pines, Pouliot, Racine, Reeves, Newport; Richard, Ridley, Roberts, Roderick, Rolde Rotondi, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, Island Falls; Smith, Mars Hill; Soucy, Soule, Stevens, Stevenson, Strout, Tammara, Telow, Theriault, Thompson, Tuttle, Vose, Wentworth, Weymouth, Willey, Zirkilton.

NAY—Allen, Andrews, Baker Beaulieu, Brodeur, Conary, Connolly, Cooper, Curtis, Foster, Hayden, Jackson, Lebowitz, McHenry, Michael, Murphy, Randall, Reeves, Pittston; Sproul, Walker, Webster.

ABSENT—Carrier, Cote, Cox, Dillenback, Dudley, Handy, Kane, McSweeney, Nelson, Perry, Stover, Studley, Swazey, SPEAKER.

Yes, 116; No, 21; Absent, 14.

The SPEAKER: The Chair would like to make note that members of the Joint Standing

Committee on Legal Affairs are meeting, and members of that committee who appear absent on this and subsequent roll calls are absent because of that meeting.

The Chair will announce the vote. One hundred sixteen having voted in the affirmative and twenty-one in the negative, with fourteen being absent, the motion does prevail.

Sent up for concurrence.

The following paper appearing on Supplement No. 5 was taken up out of order by unanimous consent:

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act To Provide for Tax Credits for Refunds Due in Tax Years 1981 and 1982 under Tax Indexing" (Emergency) (H. P. 107) (L. D. 114)

Report was signed by the following Members:

Sensors:

WOOD of York
TWITCHELL of Oxford
TEAGUE of Somerset

— of the Senate

Representatives:

HIGGINS of Portland
CASHMAN of Old Town
MASTERMAN of Milo
DAY of Westbrook
ANDREWS of Portland
KILCOYNE of Gardiner
INGRAHAM of Houlton
BROWN of Bethel
KANE of South Portland

— of the House

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following member:

Representative:
MCCOLLISTER of Canton

— of the House

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, I move that we accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The gentleman from Portland, Mr. Higgins, moves that the Majority "Ought Not to Pass" Report be accepted.

The gentleman may proceed.

Mr. HIGGINS: Mr. Speaker and Members of the House: The reason we're here today and talking about the indexing referendum is because of the \$32 million retroactive clause, and this proposal asks that we make either \$16 million worth of cuts in programs or layoffs or a combination thereof.

The law that was passed didn't have any funding mechanism not did it propose cuts in any specific area, and this bill doesn't propose any cuts in any specific areas or address the problems that we have here. The sponsor had some ideas but it wasn't something that we could put together in a matter of hours, nor days, would I expect; I expect it would be a complete review of the budget process. This is one of the prime reasons the committee chose not to endorse this proposal.

Additionally, it gets into the area of tax credits for future years and could affect our bond ratings in the future. For these reasons, I hope you will go along with the Majority "Ought Not to Pass" proposal.

The SPEAKER: The Chair recognizes the gentleman from Canton, Mr. McCollister.

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: Having been reported out alone on two bills, I felt I should stand and tell you, I'm not necessarily supporting these bills, but I believe the sponsors should have the right to speak to these bills on the floor if they so desire, that's why I signed them out.

Thereupon, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

By unanimous consent, all matters acted

upon were ordered sent forthwith to the Senate

The following paper appearing on Supplement No. 4 was taken up out of order by unanimous consent:

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Delay the Implementation of Income Tax Indexing and Compensate Municipalities for Revenue Losses Resulting from Indexing" (Emergency) (H. P. 137) (L. D. 126)

Report was signed by the following members:

Sensors:

WOOD of York
TWITCHELL of Oxford

— of the Senate.

Representatives:

HIGGINS of Portland
MCCOLLISTER of Canton
CASHMAN of Old Town
ANDREWS of Portland
KILCOYNE of Gardiner
KANE of South Portland
INGRAHAM of Houlton

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following members:

Sensor:

TEAGUE of Somerset

— of the Senate.

Representatives:

MASTERMAN of Milo
DAY of Westbrook
BROWN of Bethel

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, I move that we accept the Majority "Ought Not to Pass" Report and ask to speak to my motion.

The SPEAKER: The gentleman from Portland, Mr. Higgins moves that the Majority "Ought Not to Pass" Report be accepted.

The gentleman may proceed.

Mr. HIGGINS: Mr. Speaker and Members of the House: This divided report from the committee on the bill from the minority leader, there was quite a bit of discussion that came forth at the committee hearing. A gentleman from Goldman, Sachs and Company, the company that works more or less as bond counsel to the State of Maine, appeared and presented some written testimony dealing with tax credits which I feel would be of interest to this House. I would like to read from a copy of the letter that he sent to us.

"This is in response to Senator Wood's question concerning the credit market impact of the deferred liability created by retroactivity. There are at least two potential problems. First, such a deferral would have to be accompanied by a funding plan. If it were not, there could be a continuing concern among the municipal community about the state's ability to produce balanced budgets in the future. This scenario would probably be the riskiest for the state's credit.

"Even with the presence of a funding plan, however, there still remains some uncertainty until the liability is actually worked through.

"Second, and related to this creation of a deferred liability, particularly without a funding plan, it makes future budget planning less flexible.

"In the event of revenue shortfalls or economic decline, the state could be faced with pressure to continue this deferral. This, in turn, would subject the state to being viewed as exploiting accounting devices to balance its budget, which is generally viewed negatively in the municipal markets."

What this proposal does is, it makes in the 1983-1984 biennium budget the \$32 million shortfall that we are facing here today a budget item. It is something that would be competing

with other programs in the future for funding. It is my belief and the belief of many that this is not a problem that should be put off to next and future legislatures; it's a problem that should be dealt with here today, funded here today, or repealed here today. We're talking about \$32 million, and I believe there are mechanisms available either to repeal or to fund in one way or another and it shouldn't be put off to future legislatures.

Also, the issue of tax credits could have an adverse effect on bonding in the future, specifically with a bond coming out February 15 dealing with Bath Iron Works. It could severely hamper our credit and cost us more in the long run.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: It is rather difficult to debate an issue such as this when we really don't have all the bills before us. There is another bill at the other end of the hall and we're waiting disposition there which, in turn, is waiting the disposition of these three or four bills from here.

To say that the issue of income tax indexing is a complicated one would be an understatement but, at the same time, the people of this state have mandated it upon us and we have to reach a resolution of a quite serious problem.

I think the difference here between the two, and I am going to have to try to refer to the Governor's bill, the repeal bill, in an attempt to try to identify the differences in philosophy and the differences in attitude between the two proposals, realizing that the other bill is not here, but at least at this point they are the two highlighted issues.

The one thing I want to make clear at the outset is — the proposed cuts that we have heard about for the last two weeks are not caused by indexing, they are caused by a lack of the legislature, the potential lack of the legislature, to resolve the issue. I don't want for a minute any citizen or legislator here to feel that indexing is causing the problems or the potential problems that we hear from the people, it is not. It is the potential that this legislature will not react to the mandate of the people. They have entrusted in us the responsibility to enact, to implement, to resolve the question that they voted favorably on in November.

We all know the Governor's position on indexing. He was opposed to it last year, he was opposed to it during the campaign, and he is still opposed to the idea of indexing. I think that is unfortunate, because I think the people have spoken and I think it is up to us as elected officials, whether we be Representatives, Senators or Governor, to implement the will of the people in the most beneficial, less disruptive way that is possible, and that has not happened here at the State House over the last two or three weeks.

We have chosen to play on the fears of the people of this state, those people who can least afford to be fearful, and I think that is disastrous, I know it is.

Enough said about that.

The piece of legislation that I have offered to you, to the legislature, to my caucus, obviously, is what I consider an honest attempt to implement the vote of the people on November 2. Now, I understand that there are a lot of clouds that are trying to be cast over whether or not this somehow jeopardizes our bond rating, and I submit to you that it is not, it does not. I knew if they waited long enough they could find someone who would write a letter such as the one that my good friend from Portland with the same name read to you.

Last Thursday afternoon I was approached by Mr. Shapiro in my office who said the big expert, just the top guy at Standard and Poor's, felt very strongly that if the legislation I offered were adopted, it would jeopardize our credit rating. I said, all right, I would like to speak to

him personally, not because I dispute you but because I feel it is important, that I, having spoken to Standard and Poor's once before, ought to have the opportunity to speak with them again. This gentleman is the head of the municipal bond rating for Standard and Poor's. It was told to me by Mr. Shapiro on Thursday that they were 'the' key as far as our bond rating powers go and that anything he said would have a serious impact on our bond rating. I believed him because I understand, and no one here wants to jeopardize our bond rating.

I spoke to that same gentleman the following morning. He indicated to me his concern over tax credits, he indicated his concern to me that the issue should be resolved at the earliest possible will of the legislature. We agreed to that. But when I explained to him that the proposal I had in front of us was the one that did not implement tax indexing until July 1, 1983, he changed completely, unequivocally, and said "We would have no problem with that."

Now, there were three of us on this end of the conversation, and I would just absolutely ask them to say that I'm stretching the fact because I'm not. They are not in the business of saying one proposal is better than another. I didn't want them to do that. I had called them because I wanted them, I wanted to hear from this fellow as to whether or not this would harm our credit rating, not did he like it or what was his personal feeling but would it harm our credit rating, and he said no.

We all have a letter, at least I have a letter from him, indicating that, that follows, I might add, a letter that was written the day before when he had talked with Mr. Shapiro. Mr. Shapiro, by the way, was not aware that my proposal had a July 1 effective date on it, and that is the key difference in this instance, because we are not causing an unfunded liability because the effective date is not until July 1. He was not aware of that and consequently did not inform the people at Standard and Poor's that that was the way the bill was drafted. Once they found out that it in fact did not become effective until July 1, they had no problem. They sent me a letter the following day. I don't know which letter you have seen, but the most recent letter says: "We conclude that should your proposal be implemented, it would not have a negative impact upon the state's Triple A general obligation credit rating with S&P."

I don't have to read any more of it and you don't have to read between the lines—it isn't going to have an effect. It's a red herring, it's sort of like the idea of every time there is a bill that comes up that we have a problem with, we talk about, is it constitutional, we are going to have a constitutional problem with this bill. As a last resort, talk about the constitution, talk about, in this case, bond ratings. It's a scare tactic; there's no problem.

The letter that he read to you just recently still does not say "is it going to have an effect if it is implemented." It says, should this happen, should that happen, if we don't pass a balanced budget—of course if we don't pass a balanced budget we are going to have a problem, no one is denying that. If we have economic problems in this state, no one is going to deny that. It all fits together. But the important thing is, this one single act in and of itself is not going to affect our bond rating.

Sometimes I think when we are here in the legislature we lose sight of what the people back home have told us, and we have only been here for a couple of weeks, but it seems to me that when we voted for tax indexing, when the people out there voted for it, they didn't say to us, we want you to cut state programs, we don't want you to lay off workers, we don't want to hurt the needy, the handicapped, the University of Maine, they didn't say that and I'm not saying it, and so far I haven't found one single member of the legislature who is willing to say that either. But what the people did say is, if

you are going to take more bucks out of my hind pocket, you're going to vote for a tax increase. We have lost sight of that.

The proposal I have made, while I cannot deny it for a minute and never have, postpones the decision on how the \$32 million is funded, I maintain that it can be done in a much more rational, reasonable and responsible way once the legislature has a chance to, number one, look at the Governor's budget and study it by members of this body and the other body; number two, when you deal with the highway funding issue because, God only knows, we are always trying to transfer funds back and forth, mostly from the General Fund to the highway budget, and that always has a significant impact. Many of us here are going to have pieces of legislation that come before this body that they will want additional money for, and I view this as a positive approach, to add a fourth to that, something that the people out there wanted and voted for. I say to you that it deserves the consideration that they gave it in a positive way and not in a negative way towards its implementation.

We can talk here all night and it is not going to change one single vote. It is one of those frustrating things that comes towards the end of the session and here we are in the fifth or sixth day. But I feel that I have to speak my piece and have to make the position of at least myself and the caucus known. We feel there is a positive way of handling implementing of tax indexing. It's not a backdoor approach, it's an upfront approach and it gives this legislature the opportunity to review all the pieces of the puzzle and where do they fit in the process. How much money are we going to need at the end of the session to fund these bills? We don't know that now, and whether we pass a tax increase or a surcharge or whatever we do, we're guessing as to what is going to happen.

I say the way to meet the test of supporting what the people voted for and implementing it that way and at the same time meeting the needs of the people of this state is to put the decision on the board with every other single issue out there. You pass it, you pass it with a July 1 effective date, no programs are cut, no taxes are raised now, we do not take any precipitous action and we have accomplished the will of the people, most importantly, and a lot of us here I know do not happen to believe in indexing, but that is not what we were sent here to do, at least that is the way I feel about it. We were sent here to implement what they said they wanted done. If you don't agree with what they did, you still ought to believe that the power is with the people and they have spoken and we ought to try and implement it in the best possible way.

I hope you will vote against the motion and, Mr. Speaker, I'll ask for the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, Men and Women of the House: It is no secret to anybody in these chambers that I have not been an advocate of repeal. I have sought diligently, I have looked with the gentleman in the opposite corner, I have looked with members of the Taxation Committee, I have looked with the Governor's staff, I have sought an alternative to that proposal; I have not found one. The Taxation Committee has not found one which satisfies the immediate problem before us, which is to resolve a crisis, an impending crisis, because the Constitution says that the indexing measure which was passed becomes effective on January 15.

Mr. Higgins is absolutely right—indexing as a concept will be in place. We will have an opportunity to look carefully at revenue-raising measures, and I would suggest that we all be prepared to do that because we are going to have to do that later on in the session.

I also had wanted to solve the entire problem now by looking at those revenue-raising mea-

sures at this point, but I think it is more important that we not put our financial budget into a state of crisis, that we do not lay off hundreds of state employees and start a ripple effect that is detrimental to everybody in this state which would be extremely difficult to recover from. Therefore, I am willing to move forward to deal with this problem not in the way that I would choose but in a way that will work, and to satisfy what you had described, Mr. Higgins, as one of the prime reasons behind tax indexing was to make us stand up and be counted if we felt we needed additional monies, repeal does the same thing, because I have looked at the social service budget cuts, I have looked at the proposed cuts across state government, and I believe that the last legislature that passed that budget made some wise decisions and I am willing to stand up for those decisions. If that means raising taxes now, which repeal does, I am willing to do that, and to go back and tell the people from my district that I did not think we could afford those cuts, so therefore I am not going to let that happen.

Dealing more with some of the specifics of your alternative at this point, why I cannot work with it, because we are postponing to some unknown time in the future something in the regular budget process, a problem, \$32 million due to the rebate problem, but another \$46 million from the retroactivity compounding. Those are debts that we are deferring and it just doesn't make sense because the problems of State Government are going to continue in addition to these bills that are going to be coming due. It seems to me that any critic house would look very suspiciously at a state who failed to address this problem in a timely manner with no specific plans for dealing with an outstanding contingency of that magnitude.

To your credit and to the members of the minority party, you have worked very hard to try to find a solution, and I am suggesting now that the time has come to recognize that there is no solution that works any better than outright repeal. Then, when we get this issue behind us, we can put our shoulders to the wheel and deal with indexing as a concept, which we all are planning to do, and deal with those very real problems which are going to be coming up.

So, I urge you, all of you who have had problems with outright repeal, and many of you in the campaign, before the referendum issue passed, went out and said, oh no, don't vote for this, it has this \$32 million retroactivity price tag in it, don't vote for it. And when some people who supported the measure said don't worry about that, we'll take care of it when we get to Augusta, if it's a problem we'll repeal it, some of those same people now are suggesting that we can't do that. And I guess I'm saying that now that we have seen the problem and we have seen the proposed solutions, sometimes we have to back down and say, no matter what I said at that point, I can't find a better answer, so therefore I am willing to vote for repeal, standing up and being counted and living up to what the mandate of the people was. So I urge you to move forward, not take a risk on jeopardizing our credit rating, dispose of this bill and vote for the one piece of legislation that appears to have a consensus of this body.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I do have to commend the gentlelady from Vassalboro, Mrs. Mitchell. We have worked over the last few days in an attempt to reach some sort of a consensus—I refrain from using the word 'compromise' in this case—but at the same time I am not convinced that this legislature, in its infinite wisdom, and I have been through some pretty tough times both in leadership and sitting where you are out there now, when all was lost and yet it really wasn't—I submit to you that we really have not explored all the variable alternatives. You can say that, you can say that

and say there is only one alternative left, and I can see the writing on the wall and have for about a week now, that that may be the position we are in, but I don't happen to believe it.

If you want to talk about reaching a consensus, one would have to admit that my party is at an extreme disadvantage in reaching a consensus in this House. It is going to be difficult for 59 people to get to 101, so I don't lay any credence to the fact that the only consensus here is the one being presented by the majority party. If I had 92, I could probably get 92 supporting my proposal, but I don't, so that doesn't make one proposal more right than another.

I have to make one other statement as far as the credibility of the bond rating argument goes. I just have to say this, that if this legislature this afternoon voted for a \$32 million increase for aid to families with dependent children, or \$32 million for some other program that this legislature wanted, we would hear no cries whatsoever about unfunded liabilities or damaging our bond rating, there would be no talk of that whatsoever, so let's throw that out the window, let's just talk about the issue of how do you implement what the people of this state said they wanted.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker, Ladies and Gentlemen of the House: I agree with the gentleman from Scarborough that we do, indeed, have an obligation to the people of Maine, we have several obligations. He has addressed what he feels is the most important obligation that this legislature will be taking up at least in the next few weeks and that, of course, is implementing the law that was passed on November 2. We do have an obligation to implement that law, and we have to do so as responsibly as possible.

We also have an obligation to act as responsibly as possible in everything that we do in this body, and as a result of the set of checks and balances that we have in place, we have that ability and we are implementing that through the various alternatives and options that have been proposed during the past few weeks and those that we have dealt with today.

My concern is a great one. I am very concerned about the jeopardy that we place our state's credit rating in as a result of the acceptance of this proposal. I understand the gentleman from Scarborough feels that it is not a problem and it is one that he feels we can deal with in a responsible manner, but I don't really think it is for a number of reasons. We have got to keep in mind that a commitment that we make to ourselves, an obligation that we have saying that down the road we will take care of a problem or fund this or that proposal does not necessarily mean that we will actually do it. The way the system works now, any bill, spending bill, that requires financing or any money or any appropriation by this body and the other body has to sit on the Appropriations Table. Nothing that we do, nothing that we pass will go anywhere until it sits and is cleared from that table at the end of the session.

To say that we have a financial plan, as was indicated by the gentleman in reference to his letter from Standard and Poor's, is not necessarily so. Passing this proposal does not necessarily make it part of our plan until we finalize the budget later on down the road.

His statement that it is not a problem is one that distresses me. It is like buying a house, as I see it. If you go to look at a house and you notice a crack in the foundation and the person showing the house says, well, that's not a problem, that crack has been there a while and we don't anticipate it is going to cause us any difficulty, nonetheless, you are going to consider that when you decide whether or not to put your money down on that house. It is the same way with investors who are looking at Maine as being a sound credit risk or a sound investment risk. Sure, maybe we in our minds have it

settled that we will take care of that liability notwithstanding any of the problems that we see down the future with financing coming from Washington or our own stability here in Maine, but it is something that they, who are putting their money in, will be looking at to determine whether or not we are indeed a sound financial investment.

As a result, we could find the people investing in Maine straying away from Maine as an investment and going other places. I think that is a serious consideration and it is one that I think we all would agree is something that nobody in their right mind would do as far as investment is concerned if they had another option that may be more stable or attractive.

Stability is the most important thing that these investors look at in investing in these bonds. In this situation, if they see a substantial unfunded liability such as being proposed in this bill, they may turn elsewhere. I think it is something that we have to recognize, and if we are indeed going to meet that obligation to the people of Maine, to act responsibly in dealing with this problem, it is something that we have to look at and in this case reject.

I appreciate what the gentleman has done, I appreciate what he and his assistant in the other party have been doing as far as working for a solution to this problem. Unfortunately, I feel that this is the wrong way to go. I feel that overall, if we are going to be up front with the people of Maine, the best solution is the next option, and that would be repeal of retroactivity. In this instance, I hope that you will reject the gentleman's proposal so we can move on to other matters.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mr. Higgins, that the Majority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Brown, Gorham, Carroll, Gray, Carroll, Limerick; Carter, Cashman, Chonko, Clark, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Diamond, Erwin, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, Portland; Hobbins, Ingraham, Jacques, Jalbert, Joseph, Joyce, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, Brunswick, Martin, Van Buren, Matthews, Caribou; Matthews, Winslow; Mayo, McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Mitchell, Vassalboro; Mitchell, Freeport, Moholland, Murray, Nadeau, Norton, Paradis, Augusta, Paul, Perry, Pouliot, Racine, Reeves, Pittston, Richard, Ridley, Roberts, Rolde, Rotondi, Smith, Island Falls; Soucy, Soule, Stevens, Swazey, Tammara, Theriault, Thompson, Tuttle, Vose, The Speaker.

NAY—Anderson, Armstrong, Bell, Bonney, Bott, Brown, Livermore Falls; Brown, Bethel, Cahill, Callahan, Conary, Connors, Curtis, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Greenlaw, Higgins, Scarborough; Holway, Jackson, Kiesman, Lebowitz, Lewis, Livesay, MacBride, Masterman, Masterton, Maybury, McPherson, Michaud, Murphy, Paradis, Old Town; Parent, Perkins, Pines, Randall, Reeves, Newport; Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, Mars Hill; Sproul, Stevenson, Stover, Strout, Studley, Telow, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Carrier, Dudley, Kane, Nelson.

Yes, 89; No, 58; Absent 4.

The SPEAKER: Eighty-nine having voted in the affirmative and fifty-eight in the negative, with four being absent, the motion does prevail.

By unanimous consent, ordered sent forthwith to the Senate.

By unanimous consent, all matters acted upon were ordered sent forthwith to the Senate.

On motion of Mr. Carroll of Limerick, Recessed until the sound of the gong.

After Recess 5:25 p.m.

The House was called to order by the Speaker.

The following paper from the Senate appearing on Supplement No. 6 was taken up out of order by unanimous consent:

Divided Report

Majority Report of the Committee on Taxation reporting "Ought to Pass" on Bill "An Act to Remove the Retroactive Provisions of the Income Tax Indexing Law" (Emergency) (S. P. 34) (L. D. 96)

Report was signed by the following members: Senators:

WOOD of York
TWITCHELL of Oxford

— of the Senate.

Representatives:

HIGGINS of Portland
McCOLLISTER of Canton
KILCOYNE of Gardiner
KANE of South Portland
INGRAHAM of Houlton
ANDREWS of Portland
CASHMAN of Old Town

— of the House.

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

Report was signed by the following members: Senator:

TEAGUE of Somerset

— of the Senate.

Representatives:

MASTERMAN of Milo
DAY of Westbrook
BROWN of Bethel

— of the House.

Came from the Senate with the Majority "Ought to Pass" Report read and accepted and the Bill passed to be engrossed.

Reports were read.

Mr. Higgins of Portland moved that the Majority "Ought to Pass" Report be accepted in concurrence.

Whereupon, Mrs. Mitchell of Vassalboro requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mr. Higgins, that the Majority "Ought to Pass" Report be accepted in concurrence. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Anderson, Andrews, Baker, Beaulieu, Benoit, Bost, Bott, Brannigan, Brodeur, Brown, Gorham; Carroll, Gray, Carroll, Limerick; Carter, Cashman, Chonko, Clark, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Diamond, Erwin, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, Portland; Hobbins, Ingraham, Jacques, Jalbert, Joseph, Joyce, Kelleher,

Kerry, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, Brunswick; Martin, Van Buren; Matthews, Caribou; Matthews, Winslow; Mayo, McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, Vassalboro; Mitchell, Freeport; Moholland, Murray, Nadeau, Norton, Paradis, Augusta; Paul, Perry, Pouliot, Racine, Reeves, Pittston; Richard, Ridley, Roberts, Rolde, Rotondi, Smith, Island Falls, Soucy, Soule, Stevens, Swazey, Tammaro, Telow, Theriault, Thompson, Tuttle, Vose, The Speaker.

NAY—Armstrong, Bell, Bonney, Brown, Livermore Falls; Brown, Bethel, Cahill, Callahan, Conary, Connors, Curtis, Davis, Day, Dexter, Dillenback, Drinkwater Foster, Greenlaw, Higgins, Scarborough; Holloway, Jackson, Kisman, Lebowitz, Lewis, Livesay, MacBride, Masterman, Masterton, Maybury, McPherson, Murphy, Paradis, Old Town; Parent, Perkins, Pines, Randall, Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, Mars Hill; Sproul, Stevenson, Stover, Strout, Studley, Walker, Webster, Wentworth, Weymouth, Willey, Zirnkilton.

ABSENT—Carrier, Dudley, Kane, Ketover, Nelson, Reeves, Newport.

Yes, 92; No, 53; Absent, 6.

The SPEAKER: Ninety-two having voted in the affirmative and fifty-three in the negative, with six being absent, the motion does prevail.

Thereupon, the Bill was read once.

Under suspension of the rules, the Bill was read the second time and passed to be engrossed in concurrence.

By unanimous consent, ordered sent forthwith to Engrossing.

On motion of Mr. Hickey of Augusta,

Adjourned until two o'clock tomorrow afternoon.