

# MAINE STATE LEGISLATURE

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# **LEGISLATIVE RECORD**

OF THE

## ***One Hundred and Eleventh Legislature***

OF THE

**STATE OF MAINE**

### **Volume II**

**FIRST REGULAR SESSION**

**May 16, 1983 to June 24, 1983**

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**HOUSE**

Tuesday, June 21, 1983

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

Prayer by the Reverend Paul Cates of the East Vassalboro Friends' Meeting Church.

The journal of the previous session was read and approved.

**Messages and Documents**

State of Maine

One Hundred and Eleventh Legislature  
Committee on Election Laws

The Honorable John L. Martin

Speaker of the House

State House

Augusta Maine 04333

Dear Speaker Martin,

The Committee on Election Laws is pleased to report that it has completed all business placed before it by the First Regular Session of the 111th Legislature.

Total number of bills received	48
Unanimous reports	41
Leave to Withdraw	18
Ought Not to Pass	7
Ought to Pass	4
Ought to Pass as Amended	8
Ought to Pass in New Draft	4
Divided reports	6
Carry-over bills	1

Respectfully submitted,  
S/GREGORY G. NADEAU

House Chairman

The Communication was read and ordered placed on file.

The following Communication:

State of Maine

One Hundred and Eleventh Legislature  
Committee on State Government

June 20, 1983

The Honorable John L. Martin

Speaker of the House of Representatives

State House

Augusta, Maine 04333

Dear Speaker Martin,

The Joint Standing Committee on State Government is pleased to report it has completed all business placed before it by the First Regular Session of the 111th Maine Legislature.

Total number of bills received	79
Unanimous reports	67
Ought to Pass	12
Ought to Pass as Amended	9
Ought to Pass in New Draft	16
Ought Not to Pass	3
Leave to Withdraw	26
Refer to another Committee	1
Divided Reports	12

Sincerely,

S/DAN A. GWADOSKY

House Chairman

The Communication was read and ordered placed on file.

**Petitions, Bills and Resolves  
Requiring Reference**

Bill "An Act to Amend the Military Laws of the State of Maine" (H. P. 1337) (L. D. 1777) (Presented by Representative Hickey of Augusta) (Cosponsor: Senator Dow of Kennebec) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Committee on Aging, Retirement and Veterans was suggested.

Under suspension of the rules, the Bill was read twice, passed to be engrossed without reference to any committee and sent up for concurrence.

Bill "An Act to Validate the Procedure for Selection of Members of the Maine Real Estate Commission" (H. P. 1335) (L. D. 1775) (Presented by Representative Brannigan of Portland) (Submitted by the Department of Busi-

ness Regulation pursuant to Joint Rule 24)

Committee on Business Legislation was suggested.

Under suspension of the rules, the Bill was read twice, passed to be engrossed without reference to any committee and sent up for concurrence.

**Later Today Assigned**

Bill "An Act to Provide for the Use of Major Credit Cards at State Liquor Stores" (H. P. 1340) (L. D. 1780) (Presented by Speaker Martin of Eagle Lake) (Governor's Bill)

Committee on Business Legislation was suggested.

On motion of Mr. Diamond of Bangor, tabled pending reference and later today assigned.

Bill "An Act to Amend the Statutes Regarding Mental Health and Mental Retardation" (H. P. 1336) (L. D. 1776) (Presented by Representative Nelson of Portland) (Cosponsors: Representative Manning of Portland, Senators Bustin of Kennebec, and Gill of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Bill "An Act to Amend the Statutes Regarding Corrections" (H. P. 1339) (L. D. 1779) (Presented by Representative Manning of Portland) (Cosponsors: Senators Gill of Cumberland, Bustin of Kennebec, and Representative Nelson of Portland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Committee on Health and Institutional Services was suggested.

Under suspension of the rules, the Bills were read twice, passed to be engrossed without reference to any committee and sent up for concurrence.

**Orders**

On motion of Representative McSweeney of Old Orchard Beach, it was

ORDERED, that Representative Susan J. Pines of Limestone be excused June 15 and 16 due to illness;

AND BE IT FURTHER ORDERED, that Representative Robert E. Murray, Jr. of Bangor be excused June 22, 23 and 24 for personal reasons.

**House Reports of Committees****Ought to Pass in New Draft**

Representative Gwadosky from the Committee on State Government on Bill "An Act to Permit an Air National Guard Officer to be Eligible to Serve as Deputy Adjutant General" (H. P. 350) (L. D. 408) reporting "Ought to Pass" in New Draft (H. P. 1338) (L. D. 1778)

Report was read and accepted and the New Draft read once. Under suspension of the rules, the New Draft was read the second time, passed to be engrossed and sent up for concurrence.

**Ought to Pass in New Draft/New Title**

Representative Chonko from the Committee on Appropriations and Financial Affairs on Bill "An Act Making Additional Allocations for the Expenditures of State Government in Response to United States Emergency Jobs and Humanitarian Aid Programs for the Fiscal Years Ending June 30, 1983, 1984, and 1985" (Emergency) (H. P. 1289) (L. D. 1709) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Making Additional Allocations for the Expenditures of State Government in Response to United States Emergency Jobs and Humanitarian Aid Programs for the Fiscal Year Ending June 30, 1984" (Emergency) (H. P. 1333) (L. D. 1773)

Representative Carter from the Committee on Appropriations and Financial Affairs on Bill "An Act to Appropriate Sohio Oil Company Overcharge Funds to the Energy Resources Development Fund" (H. P. 1010) (L. D. 1335)

reporting "Ought to Pass" in New Draft/under New Title Bill "An Act to Appropriate Oil Company Overcharge Funds" (H. P. 1334) (L. D. 1774)

Reports were read and accepted and the New Drafts read once. Under suspension of the rules, the New Drafts were read the second time, passed to be engrossed and sent up for concurrence.

**Passed to Be Enacted  
Emergency Measure**

An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine (S. P. 622) (L. D. 1760)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 104 voted in favor of same and one against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**Emergency Measure  
Later Today Assigned**

An Act Relating to Involuntary Admission (H. P. 1321) (L. D. 1756) (H. "A" H-398)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Mrs. Nelson of Portland, tabled pending passage to be enacted and later today assigned.

**Emergency Measure**

An Act to Delay the Effective Date of the Property Tax Exemption for Naturally Occurring Metallic Minerals (S. P. 629) (L. D. 1769) (H. "A" H-406)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

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

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: This bill and L. D. 652 are companion bills which continue the process begun last year establishing a mining excise tax for Maine. Let me briefly explain the purpose of this bill in its relationship to L. D. 652.

You may recall that when L. D. 652 was brought to the floor approximately two weeks ago, I indicated that I had concerns about the bill which would cause me to vote against it when it came up for final enactment. My concern stemmed from the requirement that the Constitution imposes on the state to reimburse municipalities for revenue losses resulting from property tax exemptions.

The mining excise tax passed by the 110th Legislature created a property tax exemption for minerals which went into effect on March 1 of this year. When the mining excise tax was enacted last year, it was hoped that a constitutional amendment could be submitted to the voters last November to relieve the state of the mandatory obligation to reimburse for minerals. Unfortunately, time was not available last year to submit this and related amendments to the voters.

There was an agreement among all parties last year that the state should not be required to reimburse for the minerals exemption because of the numerous practical difficulties involved in valuing minerals in the ground but that the legislature should be free to reimburse for minerals if it was to so choose.

There was also agreement that the state should not be unreasonably exposed to a reimbursement obligation prior to the passage of these constitutional amendments.

Although it is extremely unlikely that a reimbursement claim will be made, I believe that the law should be clarified to ensure that the state is not at risk for any reimbursement payments this year.

We have had some difficulties in finding a way of assuring that the state would not be obligated to pay this reimbursement that was sa-

tisfactory to the committee, the administration and the mining industry, but we have been able to resolve those difficulties and the result was L. D. 926, and in its new draft, L. D. 1769.

This bill moves the date on which minerals will become exempt from property taxation to March 1, 1984, and requires that prior to the exemption becoming effective, the amendments have to be approved by the voters.

In addition to moving the exemption date, a requirement that the owners of the minerals reimburse the state for any property tax exemption reimbursement claims is also included and it is additional protection for the state.

With these interim protections for the state in place, the constitutional amendments contained in L. D. 652 should be sent to the voters for their approval. These amendment will allow but not require reimbursement for minerals and also clarify the authority of the legislature to reimburse municipalities for more than the 50 percent of the property tax revenue losses resulting from the exemptions if the state wishes to do so.

The amendments will also remove minerals from the tree growth tax penalty, a change which is needed to assure that the state's tax laws do not entirely foreclose a possibility of developing a minerals industry by subjecting the minerals to potentially large penalties.

The amendments will allow for the full implementation of the mining excise tax. As many of you will recall, that tax places a property tax on minerals and mines with a far more efficient and fair form of taxation based on the value of the minerals when they are actually sold. The mining excise tax provides both a fair return to the state when its non-renewable mineral resources are mined and provides positive incentives towards a full development of the state's mineral potential.

Mining companies have not come to the state to ask for state aid or guarantees; they have only requested that a fair and rational form of taxation be established, and this is what we have done.

I join with the rest of the 110th Legislature's Taxation Committee in supporting the mining excise tax and I want to urge you to join me today in supporting the amendments contained in L. D. 652 and this bill to complete what I think will prove to be an important part of Maine's tax policies and a major boost to the economic development of the State of Maine.

The SPEAKER: The pending question is on passage to be enacted. This being an emergency measure, it requires a two-thirds vote of all the members elected to the House. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

106 voted in favor of same and none against, and accordingly the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Emergency Measure

An Act to Conform the Meaning of Approved Training in the Employment Security Law to Federal Definitions (H. P. 1331) (L. D. 1771)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from Belfast, Mr. Drinkwater.

Mr. DRINKWATER: Mr. Speaker, I would like to pose a question through the Chair. I would like to ask somebody in the House that might have the information just what this bill does.

The SPEAKER: The gentleman from Belfast, Mr. Drinkwater, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentlewoman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: In our state we have a program where individuals who are collecting unemployment compensation can participate

in approved training programs and still receive the unemployment compensation. We have a set of rules that the state and the officials in the Employment Security Commission have to follow in order to allow that to happen. Because of a change in the U. S. Public Law 97-300, it has been deemed that our Maine employment security law does not conform with the United States Public Law, and the result is that we could wind up with a loss of unemployment benefits and putting people out of these training programs.

What this legislation is doing, it is putting us in compliance with the federal law so that people can still participate and there won't be any loss of federal revenue for the program.

The SPEAKER: The pending question is on passage to be enacted. This being an emergency measure, it requires a two-thirds vote of all the members elected to the House. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

102 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Passed to Be Enacted

An Act Affecting the Organization of the Department of Business Regulation (S. P. 541) (L. D. 1580) (C. "A" S-197)

An Act to Provide Workers' Compensation Coverage to Emergency Medical Services' Persons (S. P. 563) (L. D. 1637) (C. "A" S-160)

An Act to Revise the General Assistance Laws (S. P. 626) (L. D. 1764) (S. "A" S-212)

An Act to License Home Health Care Services (S. P. 527) (L. D. 1550) (H. "A" H-403; S. "A" S-202; C. "A" S-180)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters acted upon requiring Senate concurrence were ordered sent forthwith.

#### Orders of the Day

The Chair laid before the House the first item of Unfinished Business:

RESOLUTION, Proposing Amendments to the Constitution of Maine to Change the Municipal Property Tax Loss Reimbursement Formula, to Change the Penalty for the Change of Use of Land Subject to Current Use Valuation and to Require a Two-thirds Vote for the Expenditure of Funds from the Mining Excise Tax Trust Fund (Constitutional Amendment) (H. P. 502) (L. D. 652) (H. "A" H-331 to C. "A" H-317)

Tabled — June 15, 1983 (Till Later Today) by Representative Higgins of Portland.

Pending — Final Passage.

The SPEAKER: The pending question is on final passage. This being a Constitutional Amendment, it requires a two-thirds vote of all the members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

113 voted in favor of same and 2 against, and accordingly the Resolution was finally passed, signed by the Speaker and sent to the Senate.

The Chair laid before the House the second item of Unfinished Business:

Bill "An Act Creating a Maine Milk Pool" (H. P. 1323) (L. D. 1754)

— In House, Bill and Accompanying Papers Indefinitely Postponed on June 14, 1983.

— In Senate, Passed to be Engrossed as amended by Senate Amendment "A" (S-210) in non-concurrence.

Tabled — June 16, 1983 (Till Later Today) by Representative Mitchell of Vassalboro.

Pending — Further Consideration.

On motion of Mr. Michael of Auburn, tabled pending further consideration and later today

assigned.

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

#### Divided Report

Majority Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-408) on Bill "An Act Providing for Administrative Changes in Maine Tax Laws" (H. P. 1054) (L. D. 1398)

Report was signed by the following members:

Senators:

WOOD of York  
TWITCHELL of Oxford  
TEAGUE of Somerset

— of the Senate.

Representatives:

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

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-409) on same Bill.

Report was signed by the following members:

Representatives:

BROWN of Bethel  
DAY of Westbrook  
INGRAHAM of Houlton  
MASTERMAN of Milo

— of the House.

Reports were read.

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

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: I move acceptance of the Majority "Ought to Pass" Report.

The SPEAKER: The gentleman from Portland, Mr. Higgins, moves that the House accept the majority "Ought to Pass" Report. The gentleman may proceed.

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: In the two reports before us there is only one difference. The bipartisan majority "Ought to Pass" Report seeks to clarify the authority of the Bureau of Taxation to continue a current and past practice involving a method of collecting the fair revenues owed the state through the corporate income tax.

Legislation banning apportionment in determining the tax liability of multi-national corporations doing business in Maine is nothing more than a massive tax. Subsidy for multi-national corporations. It will increase the tax burden on small businesses and individuals and will contribute to the state's fiscal crisis by denying Maine tax dollars to which it is rightfully entitled. This corporate giveaway, like the other corporate subsidies, could not come at a worse time. Not only is the state already spending millions of dollars as a result of its conformity to faster business depreciation, but Reagan Administration cuts in federal aid have fallen disproportionately on Maine and other northern industrial states. Every tax dollar not paid by a multi-national corporation because it is able to hide its Maine profits is a dollar paid for by either reduced state services or higher taxes on domestic businesses, wage earners and consumers.

The state already faces hard choices between tax increases and reduced public services. A ban on unitary apportionment will add to Maine's fiscal dilemma by crippling the state's ability to fairly and accurately tax some of the largest corporate taxpayers in the state.

Nowhere is the need for effective tax enforcement more evident than in the taxation of multi-state and multi-national corporations. Unlike the federal government, which can tax all the income of U. S. corporations, a state can constitutionally tax only the income originat-

ing in the state or attributable to activities within this state's boundaries. Thus, Maine must employ accounting techniques designed to determine what portion of a corporation's income represents its true in-state profits.

This process of apportioning income, determining how much of the corporate pie the state may slice for tax purposes, is critical to this state's ability to maintain a corporate tax that both generates an appropriate level of revenue and spreads the tax burden equally among corporations doing business in the state.

Although critical to the integrity and sovereignty of the taxing states, state taxation of income of multi-state and multi-national corporations often resembles a shell and pea game. Corporations operating across the state and international boundaries have every incentive to shift income between jurisdictions to exploit the disparate corporate tax rates. Purely in-state corporations cannot play this game. Only multi-jurisdictional corporations controlling a chain of unitary subsidiaries have both the incentive to shift profits and the requisite opportunity to do so.

There are six principal questions that I would like to address this afternoon.

First, what is the unitary method?

The unitary method focuses upon activities rather than geographic location or organizational structure. Thus, a single corporation may be engaged in several unitary businesses or a single unitary business may be conducted through several corporate entities.

The unitary method ascertains the nature of an enterprise by considering all of its activities rather than looking at each part separately. Picture, for example, a corporation with manufacturing plants in California and several sales offices in other states. If sales and manufacturing were treated separately, the manufacturing operation would show a loss while the sales offices would show profits; yet, it is obvious that two operations are inseparable parts of a single business.

Why is the unitary method necessary?

Unlike the Federal Government, which can tax all the income of a U. S. Corporation, the state can only tax the income which it originates or attributes to activities within its boundaries. Because of this limitation, the states have been particularly concerned with the problem of how to tax corporations with multi-state or multi-national business activities. The unitary method is the solution many states have adopted.

This solution has several virtues. It is simple in comparison with the untangling a host of intracorporate transactions and comparing them against an arm's-length transaction, that is one made in good faith. Tax scholars consider this to be a theoretically superior instrument of tax policy. Thirdly, it's an efficient means to determine income subject to tax. The alternative approach, separate accounting, fails to provide the states with a workable method for determining corporate income earned within their jurisdictions.

What are the tests of unity?

Court decisions have set up two basic tests to determine unity. One decision established a three-part test: unity of ownership — that is, the parent companies own over 50 percent of the subsidiary; unity of operation — this is, centralized staff functions such as purchasing, advertising and accounting and etc.; unity of use — the centralized executive force and centralized system of operation.

Another court decision established a test for contribution or dependency as factors for determining unity. Thus, a business operated across state boundaries and/or through separate entities is unitary if the parts contribute to or are dependent upon one another. Once unity is established, the income of a unitary business is apportioned by each state by a mathematical formula.

What is that apportionment formula?

Apportionment of income is accomplished through a formula which is based on three primary contributions to income—that is, payroll, property and sales. The formula works as follows:

The payroll in Maine is divided by the total payroll of the corporation, and you come up with the first factor, the percentage of payroll in Maine.

The second part is the property in Maine is divided by the total property of the corporation, and you come up with the percentage of property in Maine.

And thirdly, the sales in Maine are divided by the total sales to come up with the percentage of sales in Maine.

These three percentages, payroll, property, and sales, is divided by three, and this is the percentage of income attributable to Maine and the percentage of income that would be subject to the unitary tax.

What is a combined report?

A combined report is an extension of the apportionment formula to a single business involving several entities. It consolidates the results of all of the elements of a single business in a single statement to determine the total income of the business.

Lastly, are all multi-state and multi-national businesses operating in Maine considered to be unitary?

No, that is not the case at all. A business is unitary when the commonly owned enterprises operate as a single economic unit. For example, a corporation operating a fast food chain in one state and a taxi company in another would normally not be considered unitary; however, an integrated international petroleum company would be considered unitary.

One last question. What effect will this unitary method have on the business climate of Maine?

Recent studies show that state tax structure plays a very small role in corporate location decisions. The Advisory Commission on Intergovernmental Relations, which is made up of representatives of local, state and federal government entities, has studied this question and in their 1981 report entitled "Regional Growth," the ACIR noted that for most manufacturers labor costs can be many times larger than the state and local tax payments. Small wage differentials, therefore, are much more important than even a much greater tax differential in making corporate location decisions. The ACIR study concluded, "Regional differences in construction, energy and labor costs are generally too large to be outweighed by any differences in state or local taxes or fiscal incentives."

In closing, I would like to make three points: Twenty-three states have adopted the unitary method on a domestic basis. One state has been using it for over 40 years now, hardly a radical idea. Clearly, this is an accepted standard for the collection of fair share of taxes.

Secondly, the state of Maine has used the unitary method in the past and this legislation is simply to clarify the authority of the state. The department estimates that this method will not require any additional staff or further appropriation to implement.

Lastly, the unitary method truly measures the economic activity in the state rather than any artificially created accounting measures. This method will not collect revenues that are not legitimately due the state. In some instances, it may mean refunds from the state — but that is what tax equity is all about and that is what this bill is all about.

I hope you accept the Majority "Ought to Pass" Report.

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

Mr. ANDREWS: Mr. Speaker, Men and Women of the House: I think the chairman of

our Taxation Committee has stated the case quite well and I think he has explained quite accurately the basic concept behind this unitary method of taxation.

I would just like to review some of the basic points that he made and add a few of my own. Basically, ladies and gentlemen, this method of taxation recognizes the reality that big business today often means having branches and subsidiaries in other states. It recognizes further that these companies could play a shell game between the states to avoid taxes.

The unitary method has been developed to determine a corporation's fair share of a state's corporate income tax. The unitary method, again, is a formula to compare the business activity of the corporation as a unit. In other words, the idea is to look beyond the corporate structure to economic reality.

One of the ways that I understood and came to understand the unitary tax method was to look at the history of the development of this method in this country, and basically, it stemmed from the railroads. Of course, the railroads traveled through several states during the development of this country, and states decided at that time to tax railroads not on the value of the ties, track and spikes that happened to be in their state, but on the basis of the relationship between this property and the entire rail system so as to adequately reflect the value of that railroad system in the state.

Now, the courts agreed at that time and the states won the right to tax railroads on the basis of the proportion of track within their borders compared to the total value of the railroad.

I just found it absolutely extraordinary, and I think I should point this out, that in our discussions of this issue in our committee, upon our original discussion of this bill we had a unanimous vote that we should pass this bill including the unitary tax. Then something absolutely extraordinary happened. The business lobbyists who frequent our committee voiced a concern that Maine, in fact, if we adopted this method, could lose money from big business. I had to think twice about this and make sure that I actually heard what I heard, and it was hard for me and it is hard for me, ladies and gentlemen, to imagine big business of this state paying expensive lawyers to make sure that their businesses are paying enough taxes.

There is something going on here, and I think in this case I can put my finger on it. I've a strong suspicion that if this fair, common sense approach to taxation is applied to some of Maine's big multi-state corporations, we may discover that they are not paying their fair share and will no longer be able to hide their taxable income, perhaps, behind an out-of-state subsidiary.

However, it is true that adopting the unitary tax method may, indeed, decrease corporate tax revenues to the state of Maine. But those who signed the ought to pass report firmly believe that if our tax system on multi-state corporations is unfair, and corporations are now paying more than their fair share, then we shouldn't be collecting that extra revenue and we are willing to take the loss.

The converse is also true, and the point is that our corporate tax system should be fair to all, and that is exactly what the unitary method does. It makes corporate tax collections fair by basing taxes on real business activity within the state of Maine regardless of how many out-of-state subsidiaries a corporation happens to have.

I believe it is critical to point out in this debate that the unitary tax method is not uniformly opposed by the business community. The lion's share of opposition to this method of taxation comes from big business, make no mistake about it. Small business, those who don't have subsidiaries in other states, those businesses that employ the majority of Maine

working people, can't shift their income from state to state. They must pay their fair share based on their economic activity right where they are.

The National Federation of Independent Business has gone on record before the Colorado legislature as being firmly in support of the unitary method of taxation. They testified that without the unitary method, big multi-state businesses enjoy an unfair advantage over small businesses. I quote their testimony: "Through creative accounting, a good corporate accountant could reduce a multi-state's income tax liability to zero." That is unfair, it is unfair to small business, it is unfair to every worker in the state.

The National Farmer's Union has testified before the House Ways and Means Committee in the United States Congress opposing any federal restriction on the state's use of a unitary tax method. Independent studies have concluded, as my chairman has pointed out, that the good old argument that this method of taxation will discourage economic development is simply unfounded.

Ladies and gentlemen of the House, as you've heard, 23 states have adopted the unitary apportionment method of taxation. This truly is an idea whose time has come. I ask that you join the majority of the Taxation Committee in taking a stand for a proven method of taxation, that we think of the thousands of small businesses that can't afford to send their lobbyists to the halls of the state house, and that we approve a method of taxation that assures fairness for all, big business and small.

Thank you.

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mrs. Ingraham.

Mrs. INGRAHAM: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to point out to you a very real uncertainty. There is no fiscal note on this bill because nobody knows if it is going to raise dollars for the state of Maine or cost the state of Maine money. There are no administrative costs listed because we don't know how much it will cost to administer. I don't know if this is the time for this bill until we have more facts.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Day.

Mr. DAY: Mr. Speaker and Ladies and Gentlemen of the House: We've heard quite a good deal about this problem of unitary taxation with buzzwords like "functional integration and unitary of ownership" and so forth and so on, and it is something, as Representative Andrews said, that maybe its time has come and maybe it has not come. The federal government is concerned because states are having in-fighting with each other trying to determine if they can whipsaw businesses to get more of the so-called earnings in their state or not. Congress is very reluctant to outlaw unitary taxation methods because it infringes, of course, on the states' rights to set their own taxation.

If the argument goes on much longer, it probably will come to the point when Congress will have to stop the in-fighting between Georgia and California and Maine and so forth. One effect of the unitary taxation in California is that the Japanese companies have already notified California that they will put no more plants in California because of California's unitary taxation methods.

Other things that weren't brought out are, for instance, the chairman of taxation mentioned multi-national corporations and that is in the bill. We are going to have to develop our own experts in foreign exchange rates between companies that have plants here and in other countries. In terms of the railroad situation in our own country, that was easy because it was the same dollar, but if we get into companies, for instance, looking at Coca-Cola in South Portland and having to determine what their taxes are in yen or lira or kudos or a few

other of those things, I'm afraid that we are going to have a number of people who are going to have to be employed by the Bureau of Taxation, and as the Bureau of Taxation has said itself, we do not know whether it is a plus or a minus for Maine.

I think we are getting into something that is not needed. We do some of it now, but to get into the multi-national thing just does not strike me and many of our people as the proper thing to do in Maine because of the potential of discouraging people from coming into our state as opposed to the other states that may not have it.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Cashman.

Mr. CASHMAN: Mr. Speaker, Men and Women of the House: Just by way of response to several of the arguments presented by the previous two speakers. There is no fiscal note on this bill because, as the chairman of taxation pointed out, we are not certain whether this will mean an increase in revenue to the state of Maine or a decrease, but that is not the point of the argument here.

The argument is whether or not, as we address multi-state corporations presently, the system is fair. It is the determination of the majority of the people on the Taxation Committee that it is not fair, and that this unitary method of reporting is necessary to make it fair. As Mr. Andrews pointed out, currently only the larger corporations in this state can use this shell game and shift their profits around from state to state to avoid taxation. The smaller corporations in this state are paying their fair share. This system of reporting is meant to ensure that the larger corporations do the same, so whether it makes money or loses money for the state of Maine makes no difference to me, the question is fairness, and this is a fair bill.

The other argument made is that there is no administrative cost attached to this bill. Again, it should be pointed out that the state has already undertaken audits by use of unitary reporting in cases where the taxpayer has agreed to allow the state to do that. This isn't something that is completely foreign to us and completely unique nationwide. I don't believe that there is any need to attach an administrative cost on this because it's something that has already been done.

I think the central question of this whole issue, without losing sight of it, is fairness in reporting. That is all that this bill is meant to address.

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

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: To clarify a point that has been made, this bill is to clarify the authority of the Bureau of Taxation to continue a current practice, that is the unitary method of collection. In only applying to domestic U.S. corporations and only the United States operations, it is my understanding that an amendment will be offered at the second reading so that there is no ambiguity as to whether this would apply on a world-wide basis or not.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Cashman.

Mr. CASHMAN: I request a roll call?

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 in favor of a roll call 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 Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I think to say that this bill is complex, complicated, and not too very exciting would be an understatement, but it in-

trigues me as to why the House would want to take action on a piece of legislation that we don't know what the answer is. I mean, you can talk about fairness all you want, but in my opinion, if it's not broken, why attempt to fix it? If we don't know if it's going to raise revenue or if it's going to lose revenue to the state or break even, and we don't know whether we're going to have to hire anymore personnel or not, why do we want to get involved with it?

If fairness is the question, then I would ask the question to the House, what if it is fair to the tune of costing the state of Maine \$5 million in revenue? Are those same people who are now talking about this being fair going to stand up and say, "I think we ought to be fair and we ought to give \$5 million to the business community out there who were taking advantage of us, being totally unfair." It seems to me that they must have some inside information that they think this is going to raise money. If it is, we ought to hear it. If it is not going to raise money, then I don't think those same people are going to be espousing the same philosophy that we ought to be fair to everybody.

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

#### ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Brown, A.K.; Carrier, Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Chonko, Clark, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Diamond, Erwin, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Joyce, Kane, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Macomber, Manning, Martin, A.C.; Martin, H.C.; Matthews, Z.E.; Mayo, McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Nadeau, Norton, Paradis, P.E.; Perry, Pouliot, Racine, Reeves, P.; Ridley, Roberts, Rolde, Rotondi, Smith, C.B.; Soucy, Soule, Stevens, Tammaro, Thieriault, Thompson, Tuttle, Vose, The Speaker.

NAY—Anderson, Armstrong, Bell, Bonney, Bott, Brown, K.L.; Cahill, Callahan, Conary, Connors, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Kiesman, Lebowitz, Lewis, Livesay, MacBride, Masterman, Master-ton, Matthews, K.L.; Maybury, McPherson, Moholland, Murphy, E.M.; Murphy, T.W.; Nelson, Paradis, E.J.; Parent, Perkins, Pines, Reeves, J.W.; Roderick, Salsbury, Scarpino, Sherburne, Small, Smith, C.W.; Sproul, Stevenson, Stover, Strout, Swazey, Telow, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Brown, D.N.; Curtis, Jackson, Mahany, Murray, Paul, Randall, Richard, Seavey.

Yes, 84; No, 58; Absent, 9.

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

Thereupon, the Bill was read once. Committee Amendment "A" (H-408) was read by the Clerk and adopted and the Bill assigned for Second reading later in the day.

The Chair laid before the House the following matter:

Bill "An Act Creating a Maine Milk Pool" (H. P. 1323) (L. D. 1754) — In House, Indefinitely postponed; in Senate, passed to be engrossed as amended by Senate Amendment "A" (S-210) in non-concurrence. — which was tabled and later today assigned pending further consideration.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Vose.

Mr. VOSE: Mr. Speaker, I move that we recede.

Mr. SPEAKER: The gentleman from Eastport, Mr. Vose, moves that the House recede.

The Chair recognizes the gentleman from West Bath, Mr. Stover.

Mr. STOVER: I would ask for a roll call on the motion to recede.

Mr. SPEAKER: The gentleman from West Bath, Mr. Stover, requests a roll call. In order 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 in favor of a roll call 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 Chair recognizes the gentleman from Auburn, Mr. Michael.

Mr. MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: I hope that the House does recede so that we can then allow the gentleman from Eastport to offer his amendment.

The SPEAKER: The Chair recognizes the gentleman from Island Falls, Mr. Smith.

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I'm opposed to this bill today for the same reasons that I was last Thursday. I would hope you would defeat the motion before you so we may adhere.

As I pointed out, those on the Boston market can make it and should not be getting an increase. The consumers are the ones that should be considered. The consumers should be getting any cut taken by the Maine market producers. If you're concerned about the consumers, then you should give this some thought.

Milk is a surplus commodity, and by passing this bill, we would be increasing that production. It costs the taxpayers of this country and the state of Maine for the surpluses now produced. I believe the Reagan Administration is right in giving away those products that are in surplus to the needy and at the same time stop paying storage costs.

The word "fairness" keeps coming up, are we being fair to the consumer? No, we are not even thinking about them, not in this bill.

This bill would divide the farmers more than anything else. If this bill passes, I am sure you will see a long court battle on some of the questions this bill presents, also with this new amendment. For the chosen few, can they stand the test? Is it constitutional? I could not change my mind for special treatment. Is that what this is all about?

Representative George Carroll mentioned that the legislators did not understand the pooling and would not like to admit it. Well, I believe he is right, but the legislature understands fairness and can decide whether we are to encourage the increase in the surplus product or are we going to consider the consumers and return a portion of that overpayment to them.

If the Maine Milk Commission has justified the price paid to the Maine market producers and we take away from them, then why can't the Maine Milk Commission ask for an increase to replace that loss? That would mean an increase in the price of milk. We've heard all the farmers are up early in the morning to do their work, and how hard they work, none would deny this, but that is their chosen work. They are not forced to do that. There are those who are making a very good living and those that are just getting by. You cannot legislate that part of it.

Let's consider the consumer and have the Maine Milk Commission come with a formula that will keep the two markets closer in price. That is what has created the problem — not that the Boston market can't make it. I hope you will vote to keep this bill in the position that we voted in this body last Tuesday. Can

you really vote for something you do not believe in? I can't.

I had phone calls from one of my producers on the Boston market reminding me of seven votes if I voted right. Well, I'm voting for what I believe in, and if this means the end of my service here, so be it. I would hope you would vote to defeat the motion so that we may keep our position.

The committee report, I remind you, was 8 no; 4 yes.

The SPEAKER: The Chair recognizes the gentleman from Washburn, Mr. Crouse.

Mr. CROUSE: Mr. Speaker, Men and Women of the House: I just want to point out a few items that I mentioned the other day. It is a very important bill for a lot of people in the state of Maine. Now a third amendment is being proposed to this bill, a third amendment that affects a portion of the state of Maine.

We are considering people's lives here. Some people are going to be affected ten to twelve thousand dollars a year as far as their income or loss of income. Why can a state go in and do that to our people of the state of Maine, to the dairy farmers of the state that have put a lot of work into their farms and have become very much a part of the state, and for the state then to go in and say, "We would like \$10,000 of your income." Our people back home now are so confused about what is going on with this particular bill with a third amendment now being proposed, that they are not sure which way they are going. And you've got to take this to heart today and you've got to look at this bill and say "Can we rush this bill through today with all these particular ideas, new amendments, new ideas on what is going to happen to the dairy farmer of the state of Maine?" I don't think we can do that. It's a big concept, it's a complex issue, and something that deserves a lot of study. I don't think that we're going to be able to put this through and have people very happy with us here at the state legislature. I think we have to be very concerned how we are voting today on this bill, and I hope you vote to defeat this bill today.

The SPEAKER: The pending question is on the motion to recede. All those in favor will vote yes; those opposed will vote no.

The Chair recognizes the gentleman from East Millinocket, Mr. Michaud.

Mr. MICHAUD: Mr. Speaker, I would like to pair my vote with the gentleman from Easton, Mr. Mahany. If he were here, he would be voting yea; if I were voting, I would be voting nay.

#### ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Brown, A.K.; Carroll, D.P.; Carroll, G.A.; Carter, Clark, Conary, Connolly, Cote, Crowley, Daggett, Diamond, Dillenback, Erwin, Gauvreau, Greenlaw, Gwadodsky, Hall, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Joyce, Kane, Kelleher, Kelly, Ketover, Kilcoyne, Lehoux, Lisnik, MacEachern, Macomber, Manning, Martin, H.C.; Matthews, Z.E.; Mayo, McCollister, McGowan, McSweeney, Melendy, Michael, Mitchell, E.H.; Mitchell, J.; Nadeau, Nelson, Norton, Paradis, P.E.; Perry, Pouliot, Racine, Reeves, J.W.; Roberts, Rolde, Rotondi, Soucy, Strout, Swazey, Tammara, Telow, Thompson, Tuttle, Vose, Zirkilton, The Speaker.

NAY—Anderson, Armstrong, Bell, Bonney, Bott, Brown, K.L.; Cahill, Callahan, Carrier, Cashman, Chonko, Connors, Cooper, Cox, Crouse, Davis, Day, Dexter, Drinkwater, Dudley, Foster, Handy, Hayden, Higgins, L.M.; Holloway, Ingraham, Kiesman, LaPlante, Lebowitz, Lewis, Livesay, Locke, MacBride, Martin, A.C.; Masterman, Masterton, Matthews, K.L.; Maybury, McHenry, McPherson, Moholland, Murphy, E.M.; Murphy, T.W.; Paradis, E.J.; Parent, Perkins, Pines, Randall, Reeves, P.; Richard, Ridley, Roderick, Salisbury, Scarpino, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soule, Sproul, Stevens, Stevenson, Stover, The-

riault, Walker, Webster, Wentworth, Weymouth, Willey.

ABSENT—Brown, D.N.; Curtis, Jackson, Murray, Paul, Seavey.

PAIRED—Mahany-Michaud.

Yes, 74; No, 69; Absent, 6; Paired, 2.

The SPEAKER: Seventy-four having voted in the affirmative and sixty-nine in the negative, with six being absent and two paired, the motion does prevail.

Thereupon, the Bill was read once.

Senate Amendment "A" (S-210) was read by the Clerk.

Mr. Vose of Eastport offered House Amendment "A" to Senate Amendment "A" and moved its adoption.

House Amendment "A" to Senate Amendment "A" (H-410) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Vose.

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: Originally, I had thought that I was going to indefinitely postpone Senate Amendment "A" because I felt that Washington County and Aroostook County were getting preferential treatment, and I felt that we were all swimming in the water and all of a sudden we got in the boat and started rowing away from everyone. I just simply couldn't live with that, therefore, I had proposed an amendment to the bill we kill Senate Amendment "A".

However, the House Amendment is in fact to the Senate Amendment, which literally does what I wanted it to do anyway.

This is exactly what it does — it removes the provision that Washington and Aroostook Counties be eliminated from the pool — and that is Senate Amendment "A". It puts Washington County and Aroostook County back in the pool, recognizing the uniqueness of our position and our geographic location and the cost which we have to bear where we are producing milk. The actual price that I have received on that, as opposed to the original two-pool system, the cost in Washington County and Aroostook County, those that are in the Grant market, was a loss of 41 cents per hundredweight. That does not count the 7 cents additional in the promotional part of it — that's a loss of seven cents. But none of the farmers — at least my farmers — have indicated they had opposition to that provision.

Now, this particular amendment that I have, once again I reiterate, puts Washington and Aroostook Counties back into the pool and adjusts the rates that we would lose, or the money that we would lose, down to 15 cents per hundredweight. My reason for entering with this amendment here is that I believe, I am beginning to believe more and more, and I do believe now, that somewhere down the line, very shortly, if not this year, maybe next year or the year after, this pool is inevitable. And I think it does, once it is created, I believe we're finally united, or at least the farmers are finally united in one common effort, and I do recognize that some are going to get hurt, including some of my farmers, but I have talked to the person that I have mentioned before, Dana Cox of Edmunds, and he has said that he has spoken to the farmers of Washington County and all but one supports the idea that we should join forces then and recognize this pool as inevitable.

I'm really afraid that somewhere down the line, if we don't go along at this particular point in time with this pool, that we're going to get hurt a good deal more, particularly my farmers. And I must represent my farmers because those are the fellows down there that elected me.

I hope that you will support this amendment, allow us to be part of the pool if this bill passes, so I would urge you to vote for this amendment.

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, I would like to pose a question to the sponsor of this amendment. Since my district is within 30 miles of the so-called line that they are going to draw on the division of Medway Township, Range 7, I would ask him if he would be in favor if I were to draw up an amendment that would say that my district would be reduced — instead of paying him one-half, if he would be willing to go along with 40 per cent from my district?

The SPEAKER: The gentleman from Corinth, Mr. Strout, has posed a question. The Chair recognizes the gentleman from Eastport, Mr. Vose.

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I would ask Representative Strout to proceed to write up his amendment and when I receive it on this desk, I'll look it over very carefully and let him know at that time.

Thereupon House Amendment "A" to Senate Amendment "A" was adopted.

Senate Amendment "A" as amended by House Amendment "A" thereto was adopted.

Under suspension of the rules, the Bill was given its Second Reading.

The SPEAKER: The pending question is on passage to be engrossed as amended in non-concurrence.

The Chair recognizes the gentlewoman from Woolwich, Mrs. Cahill.

Mrs. CAHILL: Mr. Speaker, I request the yeas and nays.

Mr. 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 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.

Mr. SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Dillenback.

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to delay this thing any longer, but being a sponsor of this bill, this is the first time I have stood on the floor and said anything about it. I am very concerned because I felt that over the period of time that we've been debating this bill, a compromise would work out between the farmers. I have both sides in my community, and I'm an old dairy farmer myself, so I feel very, very upset about this bill.

The thing that bothers me is that prior to the Milk Commission vote that we had on the Maine Milk Commission, everybody was in favor of getting together to do something. But the minute the Maine Milk Commission was voted in, that dissipated — the compromises haven't come through and things have not worked out. My major concern right now is, if you don't pass this bill, we're going into the federal market, and that \$3 million that we are enjoying for the Maine producers is going to be distributed through many states.

I am not happy with the bill, I am not happy with taking money away from somebody else and I had hoped for the compromise. The compromise hasn't come to us, and I don't know what will happen, but I guess I am going to vote for this bill.

The SPEAKER: The Chair recognizes the gentleman from West Bath, Mr. Stover.

Mr. STOVER: Mr. Speaker, Ladies and Gentlemen of the House: To me, one of the big factors in why I'm opposing this particular bill is the fact that I feel it nullifies the wishes of the majority of the electorate as expressed in their referendum vote last November. They voted to keep the Maine Milk Commission in tact, and by so doing they said, we are willing to pay an extra 6 cents a quart for our milk over what we would pay if we were in Topsfield, Massachusetts, and, incidentally the farm owner gets two cents of that, but they said they're willing

to do that so the farmers that produced their milk that they drank would have a little better way of life, that is all they said. Now, I think this is a back-door approach and we're defeating again the wishes of the people. That's the reason why I'm voting no, and I urge you to do the same.

The SPEAKER: The pending question is on passage to be engrossed as amended. All those in favor will vote yes; those opposed will vote no.

The Chair recognizes the gentleman from East Millinocket, Mr. Michaud.

Mr. MICHAUD: Mr. Speaker, I would like to pair my vote with the gentleman from Easton, Mr. Mahany. If he were here, he would be voting yea; if I were voting, I would be voting nay.

#### ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Carrier, Carroll, G.A.; Carter, Cashman, Clark, Connolly, Cote, Crowley, Daggett, Diamond, Dillenback, Erwin, Gauvreau, Greenlaw, Gwadsky, Hall, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Joyce, Kane, Kelleher, Kelly, Ketover, Kilcoyne, Lehoux, Lisnik, MacEachern, Macomber, Manning, Martin, H.C.; Matthews, Z.E.; Mayo, McCollier, McGowan, McSweeney, Melendy, Michael, Mitchell, E.H.; Mitchell, J.; Nadeau, Nelson, Norton, Paradis, P.E.; Perry, Pouliot, Racine, Reeves, J.W.; Roberts, Rolde, Rotondi, Soucy, Swazey, Telow, Theriault, Thompson, Tuttle, Vose, Zirkilton, The Speaker.

NAY—Anderson, Armstrong, Bell, Bonney, Bott, Brown, A.K.; Brown, K.L.; Cahill, Callahan, Carroll, D.P.; Chonko, Conary, Connors, Cooper, Cox, Crouse, Davis, Day, Dexter, Drinkwater, Dudley, Foster, Handy, Hayden, Higgins, L.M.; Holloway, Ingraham, Kiesman, LaPlante, Lebowitz, Lewis, Livesay, Locke, MacBride, Martin, A.C.; Masterman, Masterston, Matthews, K.L.; Maybury, McHenry, McPherson, Moholland, Murphy, E.M.; Murphy, T.W.; Paradis, E.J.; Parent, Perkins, Pines, Randall, Reeves, P.; Richard, Ridley, Roderick, Salisbury, Scarpino, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soule, Sproul, Stevens, Stevenson, Stover, Strout, Tammaro, Walker, Webster, Wentworth, Weymouth, Willey.

ABSENT—Brown, D.N.; Curtis, Jackson, Murray, Paul, Seavey.

PAIRED—Mahany-Michaud.

Yes, 72; No, 71; Absent, 6; Paired, 2.

The SPEAKER: Seventy-two having voted in the affirmative and seventy-one in the negative, with six being absent and two paired, the motion does prevail.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the third matter of Unfinished Business:

An Act to Establish County Budget Committees (S. P. 592) (L. D. 1710) (H. "A" H-352 to H. "A" H-329; H. "B" H-330)

— In House, Bill and Accompanying Papers Indefinitely Postponed on June 15, 1983.

— In Senate, Passed to Enacted in non-concurrence.

Tabled — June 16, 1983 (Till Later Today) by Representative Bost of Orono.

Pending — Motion of same gentleman to Recede.

Thereupon, the House voted to recede.

Ms. Benoit of South Portland offered House Amendment "L" and move its adoption.

House Amendment "L" (H-407) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentlewoman from So. Portland, Ms. Benoit.

Ms. BENOIT: Mr. Speaker, Men and Women of the House: This amendment that I am proposing today addresses a concern that I had with the proposed county reform bill as it came out of the committee. My concern was that the county commissioners have literally no say in the budget process. That, to me, is philosophi-

cally not consistent with how I see government acting. I believe the county commissioners should have some say in the budget. They are all elected and I assume they are elected to be involved in the county budget. Therefore, this amendment simply says that the county commissioners will have a veto power over the finalized budget. However, if they were to veto a proposed county budget, a two-thirds vote of the county budget committee could override that veto and it would become law. That is all it does.

Thereupon, House Amendment "L" was adopted.

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

Mr. KELLEHER: Mr. Speaker, I move that the House reconsider its action whereby House Amendment "L" was adopted.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I think the hammer is coming down just a little too fast. I think we are here to vote. I think before you even have a chance to look around, wham, down comes the hammer. It happened last week, it is not going to happen as far as I am concerned, because if that is going to keep on going, there is no use for us to sit here at all.

I do hope that the motion to reconsider does prevail. I want to speak on this bauble.

The SPEAKER: The Chair recognizes the gentleman from Belfast, Mr. Drinkwater.

Mr. DRINKWATER: Mr. Speaker, I would request a division.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that the House reconsider its action whereby House Amendment "L" was adopted. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

80 having voted in the affirmative and 9 in the negative, the motion did prevail.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: House Amendment "L" is a good amendment. I voted to reconsider, I went along with you people because I wanted to debate that it was a good amendment. What it does is, it gives the county commissioners the veto power and it also gives a balance to the budget committee where two-thirds of those present and voting could override the budget. It also gives the small communities one vote, just the same as it does to the large communities. We can all vote for the budget committee members, each municipality will vote the same, be it large or small, they will be able to vote for three members on the budget committee. So we will not have the weighted vote we had on the first or actual bill. Each municipality will have the right to vote, so I think it will be fair for the small towns as well as the big.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to talk to you about county commissioners for a couple of seconds and restricting myself to my county. My district is 6-2 in Lewiston. My county commissioner just bought himself a mansion in Auburn, that is where he lives now, and he contends he is within the law by staying there and representing me on the county commissioners from there.

Any Governor wants veto power on anything they can get, it has been like that since the Republican and Democratic Parties have been formed. Back when we started out here, the county commission, and at the time the man who now lives in Auburn who represents me and was elected out of my district, I signed his petition, he has told that there was a new law, that we didn't have to pay for the Food Stamps anymore. The chairman of our delegation

voted for that bill with the gentleman who now resides in Auburn and used to reside in Lewiston. Unfortunately, I became ill and when I came back I saw that the budget was finished, it was a good budget; however, the \$100,000 that we owed for Food Stamps was in the budget for a very simple reason, to force us into a good surplus so they could spend this and that and the other thing and they proved it two weeks ago, I am not going to tell the story because it is too long, I am just going to ask you to believe me.

I got the delegation together and I heard through the grapevine in the county building that it didn't make much difference anyway, because they just accrued a surplus by not having to have that \$100,000 for Food Stamps. I then amended my own bill by saying that it was to be used for no other reason but to give the money back to the people of the county. That stopped him dead cold.

Here is what I think should happen as far as county government is concerned. I have been chairman of my delegation maybe eight times. We never had any hassles, we got along and things went along smoothly but obviously now problems have developed in several counties. Here is what I think ought to happen — there are some counties that don't want county government, my county happens to be one of them. Cumberland County happens to be another county, there's more than one. There are some counties that want county government because that is their only way to get patrolling, that is the only way they get any service. They need it because it would be extremely expensive for the towns if they didn't have such a thing as far as committees are concerned and who serves on them, that is no concern of mine, although I think every town ought to have somewhere along the line some representation and say in what they ought to do in the budget. What we ought to do is this — find out by having the delegations meet, find out how they feel about county government. Those counties that want county government would say yes; those counties that don't want it would say no. Then we would go and have 16 ballots or one ballot with 16 counties on it — do you want county government? Yes or No. There is the answer right there. It would settle the whole thing, it would finalize the whole thing and we would know exactly where we are.

I don't want to hurt anybody who feels that he might have a summer home or lives somewhere where he would like to have some sort of patrolling, some sort of support somewhere, I want no part of that. By the same token, we at home pay over \$400,000, we pay almost double what the whole county pays for county taxes. I don't think that is fair to my people. I didn't come up here to heap taxes like that on them but that is what is happening. It is climbing all the time, all the time, all the time.

York County developed problems this year. There were counties this year that never had any problems and their problems developed. That is the way to handle the situation.

I move the indefinite postponement of this amendment and I ask for a roll call.

The SPEAKER: The gentleman from Lewiston, Mr. JALBERT, moves the indefinite postponement of House Amendment "L".

The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you do not indefinitely postpone House Amendment "L." Once House Amendment "L" is adopted, if the House so wishes, we will then move indefinite postponement of "A" to "A" and "A" and "B", all three amendments, so we will have a bill with one amendment. We are all the way up to "L" and you know what has been happening; let's adopt it and let's indefinitely postpone the other three amendments on the bill and enact the bill.

The SPEAKER: The Chair recognizes the gentleman from Belfast, Mr. Drinkwater.

Mr. DRINKWATER: Mr. Speaker, Members of the House: Very briefly, I only plan to rise once today and will take care of everything in this one shot.

I hope that you do vote for this amendment, although it wouldn't be my first choice, but I made up my mind that I wanted to go out of here this time with some change in the method of handling the budget at the county level; therefore, I hope you do accept this amendment. Let's put it on here, let's kill off any amendments we don't need, pass the thing and get onto something else. What we will have at that point in time, we will have a change in the method of the budget in the counties.

I don't plan on rising again. This is the way I feel and I have spoken every time that this came up and everyone knows how I feel so it is no use in doing it over again. I just hope you can go along with us and help us to pass this amendment.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: County government has had its problems over the years and it certainly has some problems in our respective counties on the viability of it, but I think you would be compounding it more by encouraging the support of this particular amendment. It is filing number "L" and I think the "L" ought to stand for "ludicrous." We all know that it is difficult dealing with our county budgets; some years it has been easy in my county and other times it has been not so easy but, nevertheless, the public is well protected by all of us representing our various towns who do have input on our county budgets.

This is not a good idea and it is obvious by Mr. Drinkwater's remarks that he is not happy with it but he would like to buy something before we leave here. I think for the sake of county government, the wisest thing we could do is not adopt this amendment, any other amendment, or even pass the bill.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, I would like to pose a question through the Chair. My question is about the part of the amendment that deals with representation — I heard the gentleman from Madawaska, Mr. McHenry, say, if I understood him correctly, that now the voting would be done with each community having one vote and my question on that is, how does that square against the constitutional requirement of one man, one vote which would now be open to challenge?

The SPEAKER: The gentleman from York, Mr. Rolde, has posed a question through the Chair to anyone who may care to respond.

The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: The question has already been asked to the Attorney General and he told us that we did not have to provide a weighted vote. We had done so to help the larger communities but the larger communities just don't want to go along, so why should we not help the smaller communities? That is the honest answer.

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 in favor of a roll call 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 Chair recognizes the gentleman from Lewiston, Mr. JALBERT.

Mr. JALBERT: Mr. Speaker, I want to ask a question through the Chair.

I just wrote a note to Mr. Drinkwater. What happens if this amendment passes and is killed over across and we wind up with "A" and "B" — what happens then? What happens to the opposition in your situation then? I want no part and I don't sit in on budgets, I know what I want, I write down on a piece of paper what I want upstairs in one of the rooms and that is it. When you decide on that, let me know. I look over what they have done and I vote. I am not going to waste my time up here. I just as soon see the people in the counties, your county and other counties and I welcome a committee made up of individuals from the different towns but I can't buy anything like this when I know what is going on in my community. I was speaking merely to help you, believe me.

The SPEAKER: The Chair recognizes the gentleman from Belfast, Mr. Drinkwater.

Mr. DRINKWATER: Mr. Speaker, Members of the House: The answer to the gentleman's question from Androscoggin — the selectmen and the municipal officials in my county have voiced many times that they didn't feel they had a part in the budget process. I think I have done everything to indicate to them that I wanted to do something so they would have more part. I have been for budget committees and you name it, anything that has come up here, that would keep county government back at that level, I have been for it. I guess I feel quite comfortable going back to Belfast tonight, if this is defeated, because I have done everything I could. I hope that it is not defeated and that we go back and have something but if I have to go back, certainly the municipal officials in Waldo County already know, at least from the way my telephone has been ringing, that I have been trying to do exactly what they indicated they wanted.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Lewiston, Mr. JALBERT, that House Amendment "L" be indefinitely postponed.

The Chair recognizes the gentlewoman from Bethel, Miss Brown.

Miss BROWN: Mr. Speaker, I request leave of the House to pair my vote with the gentleman from Waldo County, Mr. Curtis. If Mr. Curtis were present and voting he would be voting no; I would be voting yes.

The SPEAKER: The pending question is on the motion of the gentleman from Lewiston, Mr. JALBERT, that House Amendment "L" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Bell, Brannigan, Brodeur, Callahan, Carroll, G.A.; Carter, Chonko, Clark, Conary, Conners, Connolly, Cote, Crouse, Dudley, Erwin, Gauvreau, Hall, Handy, Hickey, Higgins, H.C.; Hobbins, Holloway, Ingraham, Jacques, JALBERT, Joseph, Joyce, Kelleher, Ketover, Kilcoyne, Lehoux, Lewis, Lisnik, MacBride, MacEachern, Martin, H.C.; Matthews, Z.E.; Maybury, Mayo, McCollister, McGowan, McPherson, McSweeney, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, E.M.; Murphy, T.W.; Nadeau, Norton, Paradis, P.E.; Perkins, Perry, Pines, Pouliot, Racine, Reeves, J.W.; Reeves, P.; Ridley, Rolde, Sherburne, Smith, C.W.; Soule, Sproul, Stover, Strout, Tammara, Telow, Theriault, Tuttle, Vose, Wentworth, Weymouth, Willey.

NAY—Anderson, Armstrong, Beaulieu, Benoit, Bonney, Bost, Bott, Brown, A.K.; Carrier, Carroll, D.P.; Cooper, Cox, Crowley, Daggett, Davis, Day, Dexter, Diamond, Dillenback, Drinkwater, Foster, Greenlaw, Gwadosky, Hayden, Higgins, L.M.; Kane, Kelly, Kiesman, LaPlante, Lebowitz, Livesay, Locke, Macomber, Manning, Martin, A.C.; Masterman, Masterton, Matthews, K.L.; McHenry, Melendy, Nelson, Paradis, E.J.; Parent, Randall, Richard, Roberts, Roderick, Rotondi, Salsbury, Scarpino, Small, Smith, C.B.; Soucy, Stevens, Stevenson, Swazey, Thompson, Walker, Webster.

ABSENT—Brown, D.N.; Cahill, Cashman, Jackson, Mahany, Murray, Paul, Seavey, Zirkilton, The Speaker.

PAIRED—Brown, K.L.—Curtis.

Yes, 80; No, 59; Absent, 10; Paired, 2.

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

Mr. Carter of Winslow offered House Amendment "K" and move its adoption.

House Amendment "K" (H-405) was read by the Clerk.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I have sat here and debated and debated and debated county government. I have heard many good ideas and what I have incorporated in House Amendment "K" I think tries to incorporate what everybody is trying to accomplish in the House.

This amendment is very simple. It has a cost for a local referendum for 16 individual counties; it has three questions and you will find them on Page 14. The first questions asks — shall there be established for the county, whatever county it is, a county budget committee whose duty shall be to approve the county budget? Question number two, shall a charter commission be established for the purpose of revising the county charter or establishing a new county charter? Question three, shall county government be abolished and its function and duties reassigned to appropriate state and municipal departments and agencies? This incorporates everything that we are trying to do. Some counties, as you have heard debated earlier, would like to retain their form of government; others would not. In the true sense of the spirit of compromise, I offer this amendment and I hope that you will vote to adopt it and when the vote is taken, Mr. Speaker, I ask for a division.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, I would like to pose a question to the Chair. Is this Amendment germane to 1710?

The SPEAKER: The Chair would rule in the affirmative.

The Chair recognizes the gentleman from Wilton, Mr. Armstrong.

Mr. ARMSTRONG: Mr. Speaker, I have several problems with the questions in this bill that Representative Carter wishes to put out to referendum. On page 14, he read the questions. Line 20 says, "Shall county government be abolished and its functions and duties reassigned to appropriate state and municipal departments and agencies?" This is a little bit like my asking you if you would like a cup of coffee, where you may assume that it isn't going to cost you anything and you would say yes. At some price, you might reject the cup of coffee; at 10 cents you would buy it and think it was a good buy, at 30 cents you would buy it, at 50 cents you might buy it, but if that cup of coffee was going to cost you considerably more than you are used to paying for a cup of coffee, you would reject it.

I think it is a little bit unfair to put a question out to referendum, to the people of the State of Maine, without putting a price tag on it. The only reason I say that is because having been on Local and County Government, we were involved in all kinds of bills in the past years to upgrade sheriffs' salaries, and it was ridiculous to learn that most of the sheriffs, who are also jailers in the State of Maine, at that point in time were making less money than State Troopers.

My big problem with abolishing county government, if that is the will of the electorate, I have no problem but my big problem is the cost factor. I assume that everything that the county employees are doing, the deputy sheriffs, the register of deeds, the deputy register of deeds and the people that work in the courthouse and so on and so forth, I assume

that these are all legitimate functions. If they are and the state takes over this, I believe there will be a considerable price tag on it, so I couldn't vote on this amendment if we are putting something out to referendum, the people, unless we were going to be right up front and say "are you in favor of abolishing county government and turning the functions of the sheriff's department over to the state police and the cost involved in suddenly paying the deputy sheriffs, troopers' salaries, either that or you are going to have an awful lot of unemployed county officials if you don't have a price tag in here of picking up state employees."

I think if we are going to put anything out to referendum, and I am not sure that this hasn't been done in some other form, I think we have got to be fair to the people and say, do you want to abolish county government and turn their functions over to the states agencies at a cost of a million, five million, twenty million, fifty million or whatever the cost is for the state employees to man the duties and posts around the county. Without a price tag, it is hardly fair to ask anybody, do you wish to abolish any level of government. It is only fair to let the people know what they are voting on and what it is going to cost them this year and what it is going to cost them next year.

I urge you to vote against Amendment "K" as it stands before us.

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

Mr. MCCOLLISTER: Mr. Speaker, I would like to direct a question to the sponsor of the amendment. If we abolish a county, what do we call the members of the other body, how do we identify them?

The SPEAKER: The gentleman from Canton, Mr. McCollister, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Skowhegan, Mr. Walker.

Mr. WALKER: Mr. Speaker, I would like to pose a parliamentary inquiry about the third item that would be out to referendum—since that was previously a bill considered by our Local and County Government Committee and received a unanimous "ought not to pass," is that properly before this body?

The SPEAKER: This matter is tabled pending a ruling from the Chair.

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

#### Consent Calendar

##### First Day

(S. P. 630) (L. D. 1772) Bill "An Act to Assure Consideration of On-Side Impacts of Major Developments Under the Site Location Law" (Emergency) — Committee on Energy and Natural Resources reporting "Ought to Pass"

There being no objections, under suspension of the rules the above item was given Consent Calendar, Second Day, notification, passed to be engrossed in concurrence.

By unanimous consent, ordered sent forthwith to Engrossing.

#### Passed to Be Engrossed

Bill "An Act Providing for Administrative Changes in Maine Tax Laws" (H. P. 1054) (L. D. 1398) (C. "A" H-408)

Was reported by the Committee on Bills in the Second Reading and read the second time.

On motion of Mr. Higgins of Portland, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentleman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-412) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was passed to be engrossed as

amended and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

#### (Off Record Remarks)

On motion of Mr. Diamond of Bangor, the following matter was removed from the Unassigned Table:

Bill "An Act to Provide for Reapportionment of County Commissioner Districts" (Emergency) (H. P. 1307) (L. D. 1736)

Tabled—June 7, 1983 by Representative Diamond of Bangor.

Pending—Passage to be Engrossed.

On motion of Mr. Diamond of Bangor, under suspension of the rules, the House reconsidered its action whereby the Bill was given its second reading.

On further motion of the same gentleman, under suspension of the rules, the House reconsidered its action whereby the Committee Report was accepted.

On further motion of the same gentleman, Bill "An Act to Provide for Reapportionment of County Commissioner Districts" (H. P. 689) (L. D. 869) was substituted for the Report.

Under suspension of the rules, the Bill was read twice.

Mr. Diamond of Bangor offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-411) was read by the Clerk.

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

Mr. DIAMOND: Mr. Speaker and Members of the House: Very briefly, this amendment deals with a bill that was before the Local and County Government Committee dealing with the reapportionment of county commissioner districts. There were a number of problems with it that the committee addressed. In the new draft that came out there were some problems that were created that would have made it impossible, really, for the county commissioner to run elections as they have been conducting them.

What this amendment does, it states in the Statement of Fact that it deals with the process by which county commissioners run for re-election when their districts are reapportioned. It would involve the staggering of terms and in some cases would create a term of office for a county commissioner that may be only two years, something that the committee is very much aware of and something that is totally unavoidable, but in working it out with the committee and members of the staff, this amendment seems to address the concerns that were presented to the committee and to others, so I hope you will go along with its adoption.

Thereupon, House Amendment "A" was adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

On motion of Mrs. Mitchell of Vassalboro, the following matter was removed from the Unassigned Table:

JOINT RESOLUTION relative to Day Care (S. P. 540) — In Senate, adopted as amended by Senate Amendment "A" (S-105)

Tabled—May 10, 1983 by Representative Mitchell of Vassalboro.

Pending—Adoption of Senate Amendment "A" (S-105)

Thereupon, Senate Amendment "A" was adopted.

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

Mrs. MITCHELL: Mr. Speaker, Men and Women of the House: I now move the indefinite postponement of this Joint Resolution.

I have spoken with the sponsors of this resolution. This particular study is being addressed by several other groups and agencies and it is no longer necessary. So I would encourage

your support for indefinite postponement.

Thereupon, the Joint Resolution was indefinitely postponed in non-concurrence and sent up for concurrence.

On motion of Mr. Higgins of Portland, under suspension of the rules, presented the following Joint Order: (H. P. 1341)

ORDERED, the Senate concurring, that Bill "An Act to Amend the Law Relating to Tax Increment Financing" H. P. 1039, L. D. 1364, be recalled from the Governor's Desk to the House.

The Order was read.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: Perhaps the good gentleman from Portland could explain to the House why we need to bring this bill back from the Governor's Desk after having debated it at some length and having had many roll calls on the issue.

The SPEAKER: The gentleman from Scarborough, Mr. Higgins, has posed a question through the Chair to the gentleman from Portland, Mr. Higgins, who may answer if he so desires, and the Chair recognizes that gentleman.

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: It is my understanding that there are several concerns with the effect that this will have on the school subsidy index and county taxes, and we have been asked to readress these concerns.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: Having now been told the rest of the story, that being that the Governor intends to veto this piece of legislation if we don't recall it, I would heartily endorse the gentleman's motion.

Thereupon, the Order received passage and was sent up for concurrence.

By unanimous consent, all matters acted upon requiring Senate concurrence were ordered sent forthwith.

On motion of Mr. Ridley of Shapleigh,

Adjourned until nine o'clock tomorrow morning.