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State of Maine
DEPARTMENT OF EDUCATIONAL
AND CULTURAL SERVICES
Augusta, Maine

November 30, 1977

To: James J. Vickerson, Jr.
Larry Pineo
Ray Cook
Omar Norton
Elwood Padham
Wayne Ross
Lucille Johnson
Perleston L. Pert, Jr. ✓

From: H. Sawin Millett, Jr., Commissioner

Re: Position Paper on Uniform Property Tax by Governor Longley

Attached is a copy of the Governor's position on the Uniform Property Tax Referendum Question. I am calling a meeting for 2:00 p.m. today in the Conference Room and would like each of you to attend.

pdg

P O S I T I O N P A P E R

UNIFORM PROPERTY TAX - EDUCATION FUNDING

THE DECEMBER 5th, 1977, REFERENDUM QUESTION

By Governor James B. Longley

INTRODUCTION

This will be an attempt by me, as Governor, to outline my concerns and evaluation of the proposed repeal of the Uniform Property Tax question to be decided on by the voters of Maine on December 5th.

First of all, I do not feel as Governor, that I want to use the office to tell people how to vote or attempt to pressure or unfairly influence how any individual citizen of Maine votes. Furthermore, I am simply sharing my conclusions and my position as a citizen as to how I personally intend to vote on this question, as one vote among many citizens of Maine.

Therefore, this position paper attempts to provide the following:

(1) A brief history and development of the questions surrounding the Uniform Property Tax and LD1994 as it relates to education funding in the State of Maine and the December 5th question of whether to repeal or retain the Uniform Property Tax. A "yes" vote is a vote to repeal the tax and a "no" vote is a vote to sustain the tax.

(2) My own personal conclusions and position. Please note once again I am not asking any one person in Maine to vote "my way" as I feel voting is a sacred right that belongs to the individual and as Governor, I do not want to abuse that right. Very candidly, I had hoped to enjoy the privilege of voting privately but I now recognize as Governor, that the people of Maine have the right to ask and have asked exactly how I am going to vote.

(3) While the ultimate solution to providing an alternative in the form of a new plan or amendments to the existing plan rests with the Legislature, I am submitting as part of the Governor's partnership effort, our alternatives which are designed to hopefully eliminate the divisiveness the present law has created. This paper will also share with the people of Maine my alternatives for legislative consideration whether the tax is repealed or sustained. These alternatives would be components in the form of amendments if repeal fails or a new plan if repeal succeeds. Hopefully, these alternatives would be embraced in part or in full by the Legislature in order to bridge the present divisiveness and hopefully bring the divided forces together subsequent to December 5th.

(I) IN RE: HISTORY AND PRESENT STATUS OF UNIFORM PROPERTY TAX (LD1994)

In 1973, the State of Maine adopted a law which has become known as LD1994. The adoption of this law represented a commitment on the part of the people of Maine towards a quality of education as well as an equality of educational opportunity for the youth of Maine. From that standpoint, I feel LD1994 and the concept it embodied has been a positive thrust for Maine and its people. As Governor, I have never questioned the good intentions or objective of those who originally advocated this concept and gained its adoption even though abuses of this law caused this administration to be confronted with a multi-million dollar education spending deficit. LD1994 has also repeatedly frustrated and plagued the Legislative and Executive Branches of government with uncertain legal and administrative headaches as well as substantial deficits and spending loopholes.

However, since the adoption of LD1994, many loopholes have been closed in the law and I think we have made repairs that would hopefully avoid future deficits. I feel the Legislature is to be commended for having closed the major loopholes for education overspenders even though serious spending and tax questions still remain.

Be that as it may, the intent of the concept and the refinements which have been made have failed to end the basic controversy that has divided the people of Maine in the specific areas of the quality of education our dollars are buying and the questionable assessment practices and tax equity surrounding the collection of those same dollars from the taxpayers of Maine.

In that regard, the December 5th referendum on whether the Uniform Property Tax should be repealed is an important milestone in Maine's efforts to continue to strive for quality education and to equalize educational opportunities. These are commitments and goals which this State cannot back away from but neither can the Governor and the Legislature ignore the fact that a large percentage of the population of the State of Maine is dissatisfied with the present system of funding as well as the quality of educational approach and product.

As a parent as well as citizen, I feel that the referendum question is appropriate and timely. It is time the people of Maine become more directly involved in the process and it is time that their sentiments were recorded and registered.

Also, as Governor, I have reached the conclusion that we need an uncompromised expression from the voters of Maine on this issue, an expression unclouded by influence to the maximum extent possible from prejudicial or self-serving elected or appointed officials. While I will tell the people of Maine how I will vote, I want to do so with the clear understanding that it is a personal feeling as to what I feel is the best avenue to follow, but I would rather see a record number of Maine citizens vote on December 5th than to simply have one or more citizens vote the way the Governor says he will vote.

I have felt from the start of this debate that I do not have the right, as Governor, to simply state a position for or against repeal. I feel I have a far greater responsibility to do everything possible to insure that the State of Maine and its government will listen to the voice of the people and that it will continue its commitment to a standard of equality of educational opportunity.

After almost three years of patchwork improvement and now again after weeks of study after seeking input from the Legislature and the people of Maine and after meeting over the Thanksgiving weekend with representatives of both the repeal and anti-repeal movements, we have developed an alternative which we will offer to the Maine Legislature regardless of whether the UPT is sustained or repealed.

I cannot, in good faith, offer this alternative as support for either repeal or retention of the tax. To ask the people of Maine to take a specific position based on what the Legislature might or might not do is simply not fair to the people of this State or to the Legislature.

I cannot promise the people of this State what the Legislature will do if the tax is repealed and neither can I predict what the Legislature will do if the tax is retained. Based on the input we received from individual lawmakers, I believe the Legislature will attempt to act in good faith. I feel that the Legislature will make a sincere attempt to approve an alternative if the tax is repealed and will attempt to further refine the existing law if the tax is retained. The people of Maine need and deserve this and I believe will accept nothing less than this partnership effort from their Legislature and Governor.

The feedback and comments we received from individual lawmakers were most helpful and helped us make decisions on which components we would include in an alternative. However, in the final analysis we decided that the fairest possible approach would be to develop an alternative that we could submit regardless of the voter decision on repeal.

The alternative we will offer is not presented as a perfect solution. Indeed, on a question which has such overriding philosophical differences, a perfect solution or a solution that will please everyone would be almost too much to expect. The alternative we have developed, however, does make a good faith attempt to answer the major objectives of those who feel the present law needs repeal or repair.

I would repeat, however, that I do not ask the people of Maine to vote a specific way on December 5th based on this alternative because, as Governor, I can only sign those laws and/or those amendments the Legislature sees fit to place on my desk.

(II) IN RE: MY OWN PERSONAL POSITION

I will personally vote to repeal the Uniform Property Tax. I will vote to repeal for the following reasons:

(1) I feel a vote to retain the tax will continue the controversy and divisiveness, whereas repeal, I believe, will be a positive step to bring Maine together and bridge the divisiveness that will otherwise continue.

(2) I think the Governor and the Legislature will be more likely to deal positively and constructively with the issue if we are forced to start anew with a minimum of pressure and influence from the education spending lobby.

(3) Most important, I feel that starting anew will focus attention on the entire question of local control and local responsibility. While those who oppose repeal say a vote to repeal the Uniform Property Tax, by itself, will not bring about local control, I feel it is a positive forward movement towards more local control. Admittedly, that issue is far too complex to be resolved by a simple "yes" or "no" vote on a single issue. However, repeal of the UPT and starting anew, should help bring the other issues and elements into focus so they can be dealt with by the Legislature. I refer to such issues as improved valuation of property, particularly industrial property, and the major issue of collective bargaining and the impact it is going to have on the entire education process in the coming years. It is going to be a shallow victory if the people feel they achieve local control by repealing the Uniform Property Tax, only to find that their spending for education is totally dependent on demands that are laid out at a negotiating table. The people of this State and the Legislature are going to have to make a clear, up-front decision as to the nature of collective bargaining in our schools.

They are going to have to resolve questions as to what aspects of education are subject to bargaining and the authority local school officials have regarding teachers and controlling programs. I feel this issue can be better spotlighted if the tax is repealed and we start fresh but wiser based on the lessons and painful experience we have had with LD1994. In fairness to citizens of Maine, this perhaps explains why the MTA is one of the leaders with both paid staff and dollars in opposing repeal of the tax.

(4) Repeal, I believe, also will help us to collectively focus on the question of who controls education spending and who makes the decisions. A repeal vote will say to the Legislature that the people of Maine intend to have more voice and local control in the future and that their voices should be given as least equal consideration to that of elected and appointed officials and other pressure groups who consistently advocate more education spending and dictates from Augusta.

In reaching a final and difficult decision to personally vote for repeal, I realized that the problem is not unlike having purchased an expensive automobile which one has had to take back to the garage time and time again for costly repairs. At some point, the owner must face the problem of whether to continue to attempt to pay for repairs, or whether it would be better to get a new automobile. I think we have reached that point in Maine regarding education funding.

I would emphasize again, that my personal decision and the alternative I will put forth are not an attempt to influence the voters of this State. They do represent what I feel is the most reasonable and fairest approach I can take as Governor in my partnership approach to the people of Maine and to the Legislature.

I am presenting my position because a great many people have asked or suggested I publicly express my position.

(III) IN RE: LEGISLATIVE RESPONSIBILITY AND MY EFFORTS AS GOVERNOR,
TOWARDS A PARTNERSHIP SOLUTION

(TO BE SUBMITTED WHETHER THE UNIFORM PROPERTY TAX IS REPEALED OR SUSTAINED)

While the alternative of a fresh start will be challenging, I believe it will eliminate the divisiveness that now plagues Maine under the UPT. By contrast, the alternative of once again trying to patch up a bad law and staying where we are, I feel, will both prolong and increase bitterness among cities and towns and the people of Maine. Therefore, I feel our specific components of a final alternative plan, if the voters elect to repeal; or by amendment, if sustained, will help bring Maine together.

In developing an alternative, we arrived at the conclusion that the major dissatisfaction with the present funding system has been the so-called "pay-in" provision. Therefore, we made the decision that any viable alternative designed to end the controversy and divisiveness must contain a provision to eliminate this concept. We have proposed this in the alternative we have developed but we have attempted to do so in a manner that would not inhibit the concept of equality of education opportunities.

Following are the basic components of the alternative which will be submitted as a replacement or as amendments, depending on whether the tax is repealed or retained:

1. ADDRESSING THE TAX BURDEN IN THE "PAY-IN" COMMUNITIES:

If the UPT is repealed, I will advocate an approach whereby no town will be required to raise more money from property taxes for education than that which they need to support their own educational program. If the UPT is retained, I will support legislation which will return most if not all of the revenues from the "pay-in" provision of the law back to the towns where these monies are collected. In both instances, I believe we can find sufficient revenues from existing or further economies in government to satisfactorily resolve this controversy or by drawing upon our present revenue balance or by imposing an excise tax on nuclear generating facilities. Such a tax would not increase the overall burden of Maine people because it would be assessed in part or in full in lieu of property taxes now assessed against such facilities.

2. CONTINUE TO SUPPORT A STATUTORY STATEMENT OF INTENT THAT THE STATE PROVIDE AT LEAST 50 PERCENT OF THE COST OF PUBLIC EDUCATION:

While I will recommend procedural changes in the manner with which legislative decisions are made each year on the level of education funding which is necessary, I will support a continuation of the State's present commitment to subsidize education from general fund revenues.

3. ASSURE THAT THE LOCAL SHARE OF EDUCATION COSTS IS RESPONSIVE TO EACH TOWN'S RELATIVE ABILITY TO RAISE PROPERTY TAX REVENUES:

I will support legislation which will identify a "local share" of education costs which takes into account the units' valuation base and their educational needs. If the UPT is retained, this local share will continue to be assessed by the State with the qualification that no unit need raise more than it votes to spend on education. If the tax is repealed, this local share will be a RECOMMENDED level of taxation subject to the approval of the local voters. If the local unit chooses to raise less than the recommended local share, then I will support

proration of the State share, but only when it can be shown that the local and/or state decision would not adversely affect the quality of education for the student.

4. INCREASE RELIANCE ON KNOWN DATA IN MAKING DECISIONS ON EDUCATIONAL FUNDING:

I will support legislation that will make educational funding recommendations based on known fiscal information rather than local estimates of spending, a situation which exists under present law. This approach will allow the Governor and the Legislature to make such decisions with greater accuracy and reliability. In addition, I will support legislation which eliminates present requirements and public misunderstanding whereby the Commissioner of Education is required by law to submit his own educational budget based on submissions by educational districts as contrasted with the Governor's budget submissions for education and all other departments. This legislation serves to divide and confuse the budgetary process and I feel, has led to larger educational spending and higher than necessary property taxes.

5. PLACE EDUCATION FUNDING DECISIONS IN THE SAME TIMING SEQUENCE AS EXISTS FOR ALL STATE PROGRAM BUDGETS:

I will endorse a budgeting approach which will assure that all decisions which are made on education funding are made in terms of the total State budget. This approach will better allow the Governor and the Legislature to consider all spending priorities and related tax policy issues with a full view of the total fiscal picture, rather than the present system which focuses early legislative attention on education spending in isolation. I believe this change, within itself, will serve as a cost control mechanism and will also minimize the influence of lobbying groups on the education budget.

6. ELIMINATE STATE-IMPOSED CEILINGS ON EDUCATION SPENDING:

I will recommend that local voters, and not the State, make the decision as to what local level of education spending is necessary and appropriate. I question whether the State can, or should, make this decision intelligently and I will advocate returning this authority to the local voters. At the same time, I will recommend that legislation be approved that will make clear that above average spending for education in those towns that can afford to do so will not automatically require future State reimbursement.

7. INCREASE INCENTIVES FOR LOCAL EFFICIENCY:

By contrast with present law which incorporates an "incentive to spend," I will support an approach that rewards local control by providing greater fiscal responsibility to their educational spending budgets. I believe that it is important for local school boards and the citizens whom they represent to have greater incentives for efficiencies and economies in educational spending. I will therefore support an approach which will allow local units to apply budgetary balances each year toward meeting their local share of educational costs in the succeeding year.

8. INCREASE OPPORTUNITIES FOR LOCAL VOTER PARTICIPATION IN MATTERS OF LOCAL EDUCATIONAL POLICY:

In a prior legislative session, we advocated and the Legislature approved a law which gave local citizens authority to require consideration of budgets on a line item basis. I believe that local voters need more and simpler opportunities to express themselves on educational matters of local concern. In that regard, I will propose legislation which will require public hearings on the school budget prior to its adoption by the school board and will suggest simpler procedures by which local citizens may initiate line item budget approval.

9. ASSURE THAT THE STATE'S FINANCIAL COMMITMENT TO REIMBURSE A PORTION OF DEBT SERVICE PROJECTS, SCHOOL BUS PURCHASES, ETC., IS NOT IGNORED:

Regardless of whether the UPT is repealed or retained, I feel that it is very important that the State not ignore commitments made by previous legislatures to assist local units in the financing of expensive capital projects, I will therefore support legislation which will clarify these commitments and assure that they are not ignored in the future.

10. CONTINUE TO RECOGNIZE THE DIVERSITY OF LOCAL CONDITIONS BY SUPPORTING PROGRAMS WHICH ALLOW FOR GEOGRAPHIC ISOLATION, UNUSUAL ENROLLMENT INCREASES AND LOW VALUATIONS IN SPECIFIC COMMUNITIES:

Because of the diverse geographic, economic and population characteristics of Maine towns, I will support a continuation of programs which recognize geographic isolation, unusual enrollment increases, low valuations as well as the need for equalized "leeway" support for towns with unique conditions and a limited property valuation base.

I have not included considerations of collective bargaining statutes and the need for improved assessment techniques as specific components in the alternative. However, I fully support consideration of both areas and feel, in fact, that these are issues of such importance that they should be spotlighted separately for the Legislature and the people of Maine.

I believe the foregoing in full or in part, represents viable alternatives as the Governor's partnership offer to the Legislature of a better plan if the voters elect to repeal the present property tax law or as amendments to the existing law if the voters reject the tax repeal question.

During the past few days, I have become even more sensitive to misleading information and misintepretation of data and intent. In that regard, I have become aware of the fact that the initiated petition contains language regarding the State's General Fund obligation contained in the present law. Specifically, the petition refers to the State providing "at least 50% of the cost of operation of the public schools from General Fund revenue sources" while the present law is interpreted to carry an intent that the State fund at least 50% of the "basic education appropriation" which is defined to be "an amount sufficient to meet the level of actual education costs in the year immediately prior to the year of allocation."

Because I was concerned that the repeal supporters may desire that the State fund education costs at a different level than presently exists, I asked the repeal leaders to give me their position as to their funding intent. I have been assured that these people intended that the State's share of education costs continue as defined in the present law.

Finally, as Governor, I plead and urge as many citizens of Maine as possible to vote on December 5th.