

# Legislative BULLETIN

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## Legislature Poised to Complete its Work

The bond proposals and the “ new and expanded programs” state budget represent all the legislative decisions that are left to be made, and the rank-and-file legislators were given a long weekend off while the Appropriations Committee and legislative leadership worked on developing the official Committee recommendations on these big-money issues.

The intention is to have everything prepared for Monday morning so that the full Legislature can debate and enact a \$60 million “ new and expanded services” two-year state budget, decide on the \$120 million bond package (plus-or-minus) that will be sent to the voters in November, and adjourn for the year...presumably by the end of the week.

It has been painfully difficult over this last six months for the legislators to find the balancing point between the

demand for state services and the capacity of the taxpayers to pay for new programs. Because of the inherent difficulty in striking that balance and because of a host of other factors associated with the present political structure of the Legislature, the process of developing the biennial state budget this legislative session has been somewhat less than entirely coherent.

What follows is what we know about the “ Part II” state budget proposals that will be presented to the Legislature next week.

The “ Part I” , “ current services” biennial state budget that was finally enacted on May 25<sup>th</sup> appropriated \$5.2 billion over the next two years to keep state government operating at its present level.

**Consensus on “ need”** . In the process of developing the “ expanded services” budget, the Appropriations Committee in a unanimous manner has identified approximately \$47 million worth of expanded state programs that are considered necessary. These consensus program expansions run the gamut of state government from Corrections to Human Services to Mental Health to Judiciary to the Attorney Generals Office to Education. Some of these expansions are legally-required appropriations to honor state contracts, leverage federal revenues, and effect multi-year transitions such as the reorganization of the state prison system.

**GPA.** The most municipally-focused element of the consensus Part II budget is the GPA appropriation for the second year of the biennium. The Part I state budget provided \$703.5 million in education subsidy for the

first year of the biennium (FY 02), \$6.2 million of which was provided outside the distribution formula as a “ hold harmless” cushion. The Part I budget nearly flat-funded GPA for the second year of the biennium (FY 03) with an appropriation of \$704.8 million. At the time, promises were made that the Part II budget would contain at least a “ 3%” increase in GPA for FY 03. As a matter of consensus, the Appropriations Committee is recommending that an additional \$13.4 million be appropriated for GPA for FY 03, bringing the total FY 03 appropriation to \$718.2 million. \$718 million is a 2% increase over the FY 02 appropriation. It is, nonetheless, characterized by the Legislature as a 3% increase because the appropriations for the hold harmless cushion are not counted as the “ base” GPA appropriation.

After the “ must do” agreements and the education appropriation, the consensus breaks down. The House Republicans go in one direction, the majority budget proposal goes another.

**Majority budget.** The majority

*(continued on page 5)*



Senator Ken Gagnon, Waterville

### Final Bulletin

With the Legislature getting close to finishing its business, this will likely be the last *Legislative Bulletin* published during this session. Communications with the membership will be in the form of “action alerts” until the session concludes.

A wrap-up of this Legislative Session will be published in the July issue of the MAINE TOWNSMAN.

# Bond Proposals, Trimming Likely

The Appropriations Committee is scheduled to meet today to develop its recommendations on the bond package, which will then be presented to the full Legislature next week.

The size of the entire bond package recommended by the Governor is \$124 million this year, which probably sets the outer boundary of the final bond package endorsed by the Committee. In order to get a bond proposal before the voters, a two-thirds vote of support is required in both the House and the Senate.

15 separate bills proposing bond issues have been submitted to the Legislature this year. If all were approved, the bond issue for this year alone would be \$222 million, not counting duplicate proposals for the same purpose. The total list is as follows:

- LD 39 – \$9 million for school buses
- LD 342 – \$10 million for ADA construction in court facilities
- LD 1135 – \$5 million for testing/dumping of dredging spoils
- LD 1138 – \$8 million for homeowner energy conservation grants/loans
- LD 1166 – \$15 million for municipal parking garages
- LD 1319 – \$28 million for the school renovation revolving loan fund
- LD 1378 – \$65.2 million for capital construction at higher education facilities
- LD 1439 – \$7 million for technology

- labs at applied technology centers
- LD 1440 – \$7 million for speculation buildings for business expansion/relocation
- LD 1504 – \$61 million for transportation infrastructure
- LD 1582 – \$4.25 million for grants and loans to farmers for capital construction
- LD 1593 – \$20 million for affordable housing
- LD 1663 – \$17.2 million for environmental infrastructure
- LD 1707 – \$15 million for the school renovation revolving loan fund
- LD 1709 – \$26.5 million for higher education facilities and research and development

From among this list, the Governor's package is LD 1504, LD 1582, LD 1663, LD 1707, and LD 1709. The municipal priorities match the Governor's exactly, although MMA's Legislative Policy Committee took no particular position on the bond issue to help farmers build manure pits (LD 1582).

**Highway Bond, Top Priority.** Top priority for MMA is the \$61 million bond for transportation purposes. Without the offsetting effect of this General Fund transportation bond, the \$40 million-plus deficit in the Highway Fund would have some significantly negative effects on state and local roads and bridges.

Within the last week, there has been a change made to the proposed transportation bond. The proposed bond, in conjunction with the Highway Fund budget, fully capitalized the state share of the projected spending on *minor collector road construction* for both FY 02 and FY 03. As municipal officials are well aware, a change in the way minor collector road reconstruction is prioritized and capitalized was enacted two years ago, and there is now a local-state financial partnership associated with rebuilding these state roads.

The proposed bond package has been changed in the last week to remove \$4 million earmarked for the state share of minor collector road construction for FY 03, and transfer that amount to the Railroad line. It has become public knowledge that rail acquisitions are possible considering the financial condition of the Bangor and Aroostook railroad. In an attempt to protect state interests and the economy of central and northern Maine, MDOT wants to put the \$4 million in a "stand-by" account so that the state will be in a position to protect the integrity of a contiguous rail infrastructure to transport goods such as paper and potatoes and otherwise protect international rail links. The FY 02 minor collector road program remains fully funded. The FY 03 projects haven't been specifically identified as of yet, and MDOT expresses a commitment to fully fund the minor collector road program in the next budget.

As always seems to be the case, the minor collector roads are always the first to get bumped.

**School Renovation.** The next municipal priority is a bond issue for the school renovation revolving loan fund. Implemented by the Legislature in 1997, the school renovation grant and loan program is an extraordinarily important public policy initiative that provides state financial participation in the repair and renovation of our existing school infrastructure. Until this initiative was put into place, the state only participated financially in new school construction, creating predictable results. The Legislature has thus far appropriated slightly over \$70 million to this program, toward a \$100 million goal. This \$100 million in state funds is designed to match \$100 million in local effort. Until now, that financial assistance has been devoted to life safety, ADA and environmentally necessary renovations. With another bond issue to further capitalize the Fund, important "learning space" renovations can begin to become eligible for state financial participation as well.

**The Environment and the Municipal Infrastructure Trust Fund.**

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## Legislative Bulletin

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# Opportunity for Comprehensive Tax Reform Still Alive

Last week's *Legislative Bulletin* reported that the Legislature's 10-member leadership council failed to support LD 970, *Resolve, Establishing an Education Funding Reform Committee to Make Recommendations to Reduce the State's Reliance on the Property Tax as a Funding Source for Education*.

If it could get past the Legislative Council and finally enacted, LD 970 would create a special Committee of 14 legislators for the purpose of developing a comprehensive tax reform recommendation. The primary guidelines LD 970 gives to the tax reform panel would be to modernize the state's tax code and significantly reduce the state's reliance on the property tax to pay for K-12 education.

On Tuesday this week the Legislative Council reconvened for the purpose of finishing its review and disposition of the 68 "study commissions" that have been passed by the Legislature but need to be finally approved by the Council before final enactment.

Along with numerous other reconsideration actions on study commissions that were voted down the week before, the Council indicated it could support LD 970 as long as the bill is amended so that the charge to the tax reform panel would be modified in several ways. Specifically:

- As developed by the Taxation Committee, LD 970 calls for \$43,000 in legislative funding to support the 14-member committee of legislators, an extended meeting schedule and additional resources to provide regional public hearings on the subject and bring in information from other states.

*The Legislative Council has tentatively moved to support LD 970 with a budget of \$22,500.*

- As developed by the Taxation Committee, LD 970 provides specific guidelines to the tax reform panel. For example, the bill asks the reform committee to consider a Michigan-style cap on the mill rate that can be assessed

against the property of Maine residents or businesses for education. LD 970 also establishes as a specific goal a reduction in the volatility of the state tax system, which currently produces the boom-or-bust cycle of surplus state revenues in a strong economy and sharp drop-offs in state operating revenues when the economy slows down.

*The Legislative Council favors a much less specific charge to the tax reform committee. The panel would simply be tasked with recommending more sources of state revenue for K-12 education so as to reduce the state's reliance on the property tax and more equitably balance the three major lines in Maine's Tax System, the property tax, the sales tax, and the personal income tax.*

- As developed by the Taxation Committee, LD 970 calls for the tax reform committee's recommendation to be presented to the Legislature in January, 2002 and establishes a "legislative intent" that the entire package be sent out to the voters for approval or rejection by the full electorate in a November, 2002 referendum.

*The Legislative Council would like the reform panel's recommendation to come back to the Legislature in the 2002 legislative session with a normal legislative authority to reject, modify, or adopt the package, with a choice to send it out to referendum.*

- As developed by the Taxation Committee, LD 970 calls for a 14-member panel of legislators, 7 Republicans and 7 Democrats, with at least 3 members from the Education Committee, 3 members from the appropriations Committee and the remaining membership from the Taxation Committee.

*The Legislative Council would like the language governing appointments to be less prescriptive. Beyond the even split between parties, the Council would like the bill to defer the choice of which legislators are appointed to serve to the presiding officers of the House*

*and Senate.*

- As developed by the Taxation Committee, LD 970 focuses on reviewing the tax revenue sources of education funding but suggests a review of the distribution formula in light of significant shifts away from the property tax to fund the schools.

*The Legislative Council would like the tax panel to focus exclusively on sources of funding. In a roughly coordinated manner, the Education Committee is scheduled to continue its development of the "Essential Programs and Services" funding model, and the hope would be that the two studies work in a coordinated manner, with the Education Committee retaining jurisdiction over any distribution formula recommendations.*

With all of these modifications in place, it is likely that the less-targeted, more generalized tax reform study commission envisioned by LD 970 will be finally authorized by the Legislature. (GH)

## **BOND (cont'd)**

Also of high priority, from MMA's perspective, is the \$17.2 million environmental bond. These bond proceeds would be used for loans and grants for wastewater treatment facility and public drinking water facility upgrades, the "Small Community Program" which provides grants for the repair of failed septic systems in the rural communities, landfill remediation, and tire stockpile abatement. This is a traditional bond issue, elements of which leverage significant amounts of federal revenue to provide low-interest loans for the sewer and water facility upgrades.

An extremely important but highly vulnerable element of the environmental bond proposal is that \$2 million of the bond proceeds would be placed into the Municipal Investment Trust Fund for the first time in the Fund's eight-year history. The Municipal Investment Trust Fund is designed to be the place municipalities could go to obtain the non-property tax resources they need to finance growth-management related infrastructure projects.

*(continued on page 5)*

## Municipal Bills on Appropriations Table

LD 8 – An Act to Provide Complimentary Hunting and Fishing Licenses to Resident Active Military Personnel. **In the budget.**

LD 13 – An Act to Amend the Definition of Agricultural Land for Taxation at its Current Use. **ONTP**

LD 26 – An Act to Expand Eligibility for the Veterans' Property Tax Exemption. **ONTP**

LD 28 – Resolve, to Extend the Commission to Study Equity in the Distribution of Gas Tax Revenue Attributable to Snowmobiles, All-terrain Vehicles and Water Craft. **STUDY**

LD 120 – An Act to Increase the Homestead Property Tax Exemption from \$7,000 to \$10,000. **ONTP**

LD 152 – An Act to Require the State to Pay Medicare Costs for Retired Employees, Retired Teachers and Retirees in Participating Local Districts. **ONTP**

LD 209 – An Act to Increase the Amount Transferred through State-municipal Revenue Sharing. **Status is unclear.**

LD 259 – An Act to Offer Reciprocity Concerning Concealed Firearms Permits. **In the budget.**

LD 260 – An Act to Provide Funds to Purchase Thermal Imaging Cameras. **In the budget.**

LD 268 – An Act Regarding Veterans. **In the budget at reduced level, without property tax changes.**

LD 321 – An Act to Strengthen Maine's Economic Development Incentive Laws. **STUDY**

LD 349 – An Act Concerning the Transportation of Juvenile Offenders. **ONTP**

LD 481 – An Act to Modify the Dam Repair and Reconstruction Fund. **In the budget.**

LD 833 – An Act to Amend the Sex Offender Registration and Notification Act of 1999. **In the budget.**

LD 881 – Resolve, Requiring the Joint Standing Committee on Transportation to Study Passenger and Freight Rail Opportunities in the State. **ONTP**

LD 937 – An Act to Improve Washington County's Economy by Promoting Natural, Historical and Cultural Tourism. **ONTP**

LD 949 – An Act to Fairly Distribute the Payment of Real Estate Transfer Taxes. **ONTP**

LD 970 – Resolve, Establishing an Education Funding Reform Committee to Make Recommendations to Reduce the State's Reliance on the Property Tax as a Funding Source for Education. **In the budget at \$22,000.**

LD 1048 – An Act to Establish the Maine Firefighter Training Fund. **ONTP**

LD 1049 – An Act to Appropriate Funds for the Capital Riverfront Improvement District. **In the budget.**

LD 1168 – An Act Concerning the Sentencing of Persons to County Jails. **In the budget.**

LD 1176 – An Act to Require the State to Purchase the Initial Flags That are Required for Veterans' Grave Sites. **ONTP**

LD 1255 – An Act to Expand Retirement Benefits for State Employees and Teachers Returning to Service. **ONTP**

LD 1264 – Resolve, to Establish a Task Force to Refine the Governance and Funding of the Education Research Institute. **STUDY**

LD 1383 – An Act to Provide Additional Funding for the Geographic Isolation Adjustment. **In the budget.**

LD 1465 – An Act to Provide a Death Benefit to the Survivors of a Law Enforcement Officer, Firefighter or Emergency Medical Services Person Killed in the Line of Duty. **In with no funding.**

LD 1487 – Resolve, to Establish the Blue Ribbon Commission to Review Special Education Laws. **STUDY**

LD 1489 – Resolve, to Create a Task Force to Make Recommendations Regarding Loss of Commercial Fishing Waterfront Access and Other Economic Development Issues Affecting Commercial Fishing. **STUDY**

LD 1684 – An Act to Ensure Adequate Funding for School Construction Costs. **In the budget.**

*(continued on page 5)*

### LD Post-Mortem

The following bills have been reported out of their respective committees with unanimous "Ought Not to Pass" reports, which all but guarantees a final rejection by the full Legislature, or have been finally rejected by the full Legislature (final ONTP).

#### *Judiciary*

LD 1599 – An Act to Clarify the Maine Human Rights Act Concerning Responsibility for Employment Discrimination. (Sponsored by Rep. Schneider of Durham) (final ONTP)

#### *Labor*

LD 380 – An Act to Restore an Injured Employee's Right to Sue an Employer for Damages. (Sponsored by Rep. Pineau of Jay) (final ONTP)

LD 1527 – An Act to Provide Parity of Representation in Workers' Compensation Claims. (Sponsored by Rep. Hutton of Bowdoinham) (final ONTP)

#### *Legal & Veterans Affairs*

LD 1058 – Resolution, Proposing an Amendment to the Constitution of Maine to Revoke Voting Rights of Convicted Felons while in Prison. (Sponsored by Pres. Pro Tem Bennett of Oxford County) (final ONTP)

#### *Natural Resources*

LD 919 – An Act to Provide for Variance Notification in the Shoreland Zoning Law. (Sponsored by Rep. Koffman of Bar Harbor) (final ONTP)

#### *Utilities & Energy*

LD 1333 – An Act to Permit consumer-owned Water Utilities to Exercise Local Control Regarding Matters within the Jurisdiction of the Public Utilities Commission. (Sponsored by Rep. Savage of Buxton) (final ONTP)

## TABLE (cont'd)

LD 1747 – An Act Regarding School Funding Based on Essential Programs and Services. In the budget.

LD 1760 – An Act to Implement Maine's System of Learning Results. OTP (without mandate preamble)

LD 1762 – An Act to Address Maine's School Facilities Needs. In the budget.

LD 1775 – Resolve, to Create a Study Commission to Develop a Comprehensive Plan to Reduce Toxic Emissions and Expand Plastics Recycling. STUDY

## BUDGET (cont'd)

budget identifies an additional \$10 million of identified state agency need, beyond the consensus items. And to lubricate the budget enactment process, the majority budget allocates an additional \$10 million of spending to the four partisan caucuses in the Legislature (the House Democrats, the House Republicans, the Senate Democrats and the Senate Republicans), so that each caucus can add approximately \$2.5 million of new programs (or, theoretically, tax reduction) to the budget bill. The marketplace from which the four caucuses can make their priority purchases is the Special Appropriations Table, which is loaded up with \$200 million worth of spending ideas that have been all but enacted by the Legislature and await final funding. Mechanically, the spending priorities of each caucus would be provided by pulling their favorite bills off the Table and placing them directly in the budget.

What is not known with any precision as this edition of the *Legislative Bulletin* goes to press are the items of caucus priorities that will be inserted in the Part II budget. A current tally sheet on the tabled bills of municipal interest is provided on page 4, along with our understanding of the each bill's status.

**Tax increases.** The majority report will propose to pay for the new and expanded programs with two state tax increases. The per-pack excise tax on cigarettes would be increased by

about 25 cents (to approximately \$1.00 per pack) to raise \$35 million over the biennium. The meals tax that applies in restaurants that do not serve alcohol would be increased from 5% to 7% to match the meals tax rate that applies in the alcohol-serving restaurants. The meals tax increase, if implemented in September of this year, raises \$25 million over the biennium.

**Minority budget.** One significant expenditure difference between the House Republicans' minority budget and the majority report is that the minority budget would add an additional \$7 million to the FY 03 GPA appropriation to log in a true 3% increase from FY 02 to FY 03, or a 4% increase depending on how you count the numbers.

The minority report would pay for all the new and expanded programs without raising taxes. Instead, the minority report calls for a 1% across-the-board reduction in state agency budgets, the utilization of projected "lapsed balance" state revenues, closing all state operated liquor stores, and drawing down funds from the Fund for a Healthy Maine, which is capitalized with the state's tobacco settlement funds.

**Property tax relief?** All session long the municipalities have been asking for some targeted property tax relief to mitigate the heavy property tax burden that falls on the shoulders of certain types of communities in Maine. The proposal is code-named Revenue Sharing II, and it sits on the Appropriations Table in the form of LD 209, *An Act to Increase the Amount Transferred through State Revenue Sharing*, sponsored by Senator Ken Gagnon (Kennebec Cty.), the Senate Chair of the Taxation Committee. At this writing, it is unclear whether the Revenue Sharing II proposal is in or out of the Part II state budget.

As a former councilor in the City of Waterville, Senator Gagnon completely understands the very damaging impact property tax rates in the 20-27 mill range have on real people, fixed-income constituents, small businesses and the economy of the entire state. Along with a core group of supporting legislators, Senator Gagnon has put out a maximum effort to convince the

Legislature that a strong state is dependent on the strength of its hub communities, and that the strength of those communities is being threatened by the loss in general population, increase in special needs population, loss of tax base, expansion of exempt property, and the ever increasing costs of providing services to larger regions.

What, if anything, the Legislature decides to do for property tax relief in the Part II state budget remains to be seen. We should know by week's end. In the meantime, this year's property tax rates are being reluctantly fixed by town meetings and councils across the state. Sizable increases, in the half-mill to 2-mill range are not uncommon, as the municipalities try to accommodate increases in energy and paving costs, spiking health insurance rates, and increasing school budgets.

If the state budget were enacted in September, after the next wave of tax bills is sent out by the municipalities and property tax sticker-shock lies over the land, perhaps the Legislature would be more sensitive to the property tax burden in Maine. (GH)

## BOND (cont'd)

From parking garages to GIS tax mapping systems, from building rehabilitation to water and sewer extensions, from industrial park infrastructure to affordable housing initiatives...the Trust Fund is a true and effective growth management tool. Without a strong municipal push, however, it will likely be clipped out of the bond package early on as the first sacrificial lamb.

**Research and Development.** Another high priority bond issue from MMA's perspective is the \$26.5 million bond for higher education facilities and research and development. Although perhaps not of direct municipal impact, the municipal officers and officials on MMA's Legislative Policy Committee believe that the key to unlock the state's full economic development potential lies in a strong university system, with increased support for public-private research and development efforts and the spin-off economic activities that those efforts generate. (GH)