

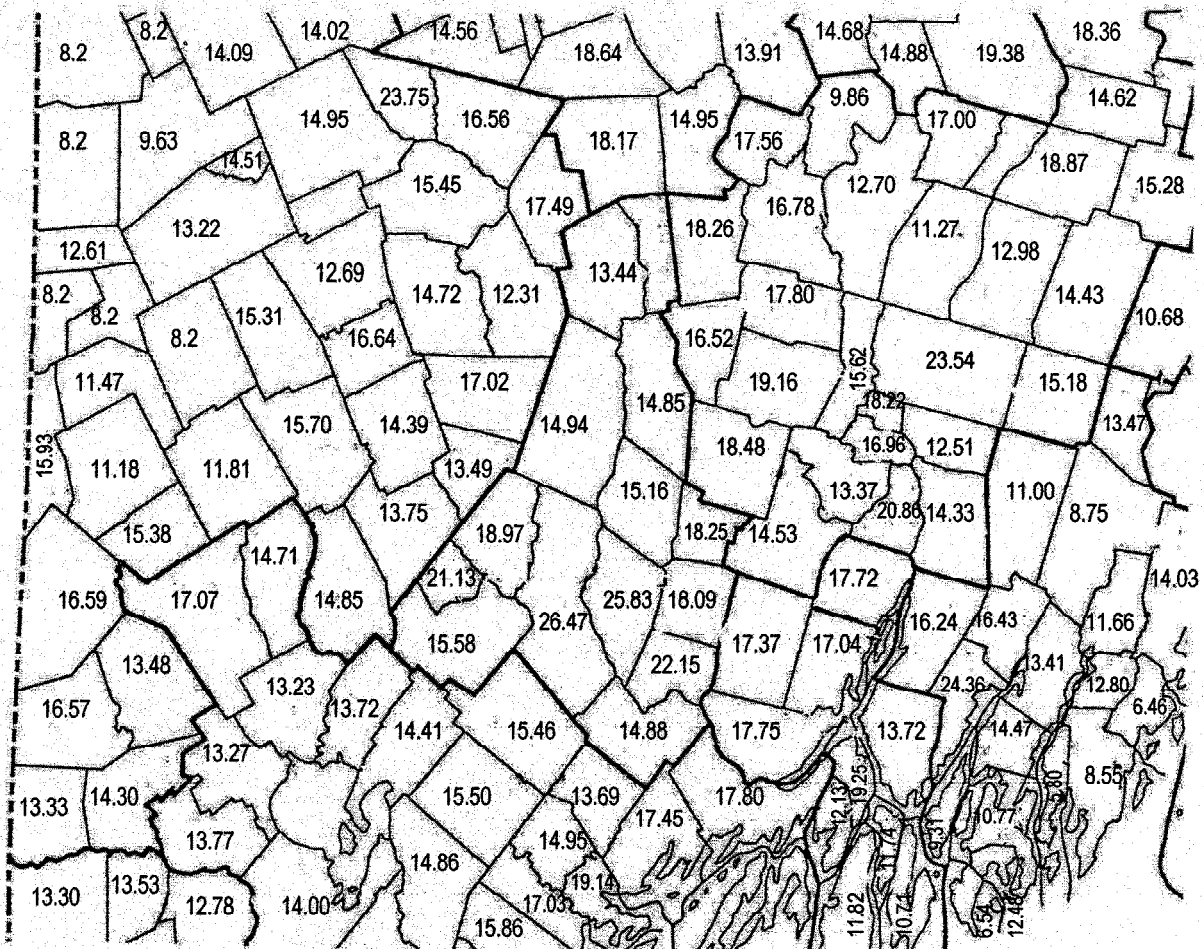
Legislative BULLETIN

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When is the Legislature Going To Deal With This?



This is a map of a section of the state. It happens to be south-central Maine from the Standish-Windham area to Fairfield, but it could just as well be any section of the organized part of the state. The municipalities are mapped, but they are identified only by their Year 2000 "full value" property tax rate.

What kind of sense does this map make? Why is it that the mill rates vary so dramatically, and what is the impact of having municipalities side-by-side or within quick commuting distance with mill rate differences of 8 mills, 10 mills, 12 mills?

People who think that the mill rate differentials are a matter of choice...that the municipalities with mill rates of 20, 22, 24 or 27 are simply "choosing" to tax their residents at those punishing levels...are seriously deluded. The principle factors driving the escalating property tax rates are unfunded educational mandates, the state's reliance on the property tax to fund education, the state's narrow-base sales tax, and an insidious self-fulfilling dynamic whereby the high tax rates drive people and businesses away from the hub communities thus exacerbating the property tax burdens in those communities.

When is the Legislature going to deal with these issues? Read on. The answer may be never. (GH)

Committee Divided on Highway Fund Part II Budget

On Thursday, June 7th a majority of the Transportation Committee voted (9 to 3) to adopt a Highway Fund Part II budget that includes an \$8 increase on motor vehicle title fees, raising the cost from the current \$15 fee to \$23.

As adopted, the majority \$14.3 million "new programs" biennial highway budget includes funding for the Department of Administration and Financial Services (\$2.3 million); Department of Public Safety (\$3.1 million); Secretary of State (\$661,721); highway and bridge construction (\$10 million); a portion of the Urban/Rural Road Initiative not covered in the Part I budget (\$870,000); Island Town Refund (\$30,000) and funding for state and municipal sand/salt storage facilities (\$2.2 million). In addition to the motor vehicle title fee increase, \$4.8 million in salary and other savings will be used to balance the total Part II Highway Fund biennial budget at \$14.3 million.

The Committee's minority report includes a \$6 increase to the title fees, raising the cost from the current \$15 fee to \$21. As adopted, the minority \$12.6 million Part II highway fund budget parallels the majority report exactly except that the share allocated to the Public Safety division is slightly reduced and the MDOT share of the \$2.2 million allocated for sand-salt facilities would be stripped out, leaving just \$1.1

million to cover the necessary municipal reimbursements. Instead of appropriating \$1.1 million for the MDOT facilities, the minority budget will include language authorizing the Department of Transportation to use up to \$1.1 million in any unallocated surpluses to fund the construction of state sand/salt storage facilities.

From the municipal perspective, there are two important similarities between the majority and minority reports. First, both include \$1.1 million for the funding of municipal sand/salt storage facilities. According to the Department of Transportation, thirteen priority 1 municipalities (Alexander, Brownfield, Carthage, Cherryfield, Corinna, Corinth, Fayette, Jonesboro, Lowell, Princeton, Upton, Westport and Winter Harbor), two priority 2 municipalities (China and Leeds) and five priority 4 municipalities (Cornish, Hope, Otisfield, Warren and Whitefield) will receive funding for built and unbuilt sand/salt storage facilities.

Beyond the strong support shown by members of the Transportation Committee, in both the majority and minority reports, for honoring the

state's obligation to share in the cost of sand-salt facilities, two legislators not on the Committee also worked very hard to ensure that the state cost-share funds would be available to the affected municipalities: Senator John Nutting (Androscoggin Cty.) and Rep. Peter Rines (Wiscasset).

Beyond the financial issues, both the majority and the minority reports direct the Secretary of State and the Maine Municipal Association to study motor vehicle excise taxes. MMA believes an excise tax study will help members of the Legislature and state officials understand the importance of the excise tax to municipalities, and the study is designed to examine both the amount of excise and other related motor vehicle taxes and fees assessed and collected in the other New England states, as well as examining the impacts and uses of the excises tax in Maine communities.

MMA supports the majority report because it allocates \$2.2 million for both municipal and state sand/salt storage facilities. Municipal officials believe that the legislature should honor its commitments to both the municipalities and the Department of Transportation. Please contact your legislators today and ask them to support the majority report. Members of the House can be reached at 1-800-423-2900. Members of the Senate can be reached at 1-800-423-6900. (KD)

Legislative Bulletin

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Editorial Staff: Geoffrey Herman, Kate Dufour, Kirsten Hebert, and Laura Veilleux of the State & Federal Relations staff.

Highway Fund Part II Budget Majority/Minority Chart		
	Majority Report	Minority Report
Administration/Financial Services	2,346,927	2,346,927
Public Safety	3,063,507	2,472,508
Secretary of State	661,721	661,721
Highway and Bridge	10,004,315	10,004,315
Urban Rural Road Initiative	870,000	870,000
Island Town Refund	30,000	30,000
Sand Salt	2,200,000	1,100,000
Savings	(4,848,448)	(4,848,448)
Total	14,328,022	12,637,023

Legislative Council Rejects Opportunity for Tax Reform

From the municipal perspective, 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*) is far and away the most important study commission introduced to the Legislature this year.

In fact, it's the most important study commission that has come forward in the last decade!

Sponsored by Rep. Barney McGowan (Pittsfield), LD 970 would establish a 14-member committee of legislators, half Democrats/half Republicans, that would be responsible for developing a comprehensive package of tax reform legislation designed to modernize and improve the state's tax code in a number of ways, to include reducing the state's over-reliance on the property tax to fund K-12 education.

Procedurally, LD 970 would have that tax reform package presented to lawmakers in January, 2002 and the Legislature could either reject the package or send it out to the voters for a referendum vote in November, 2002. In other words, the entire package would have to be approved by the Maine electorate directly.

Because LD 970 creates a study

commission made up of legislators, there is a cost associated with its enactment. The 14 legislators are entitled to their per-diem expenses for the meetings that would be required over the summer and fall, and resources would be required to cover the services provided by staff analysts and other legislative personnel. Because of the scope of this particular "study" (reforming the state's tax code) and the number of meetings involved, the fiscal note on LD 970 exceeds \$40,000.

The 10-member Legislative Council, made up of House and Senate leadership (see sidebar), is given the authority to ultimately approve or withhold the funding for study commissions. On Wednesday this week, the

Council met to decide which of the 68 study commissions that have been passed by the Legislature will be given funding and finally enacted into law.

When LD 970 came to the top of the list, the motion to support the funding of this critically important study was rejected on a 4-4 party line vote, with the Democrats on the Council supporting the study and the Republicans opposing it.

There may be an opportunity for the Council's decision to be reconsidered. If you think the property tax is being relied on too heavily for the purpose of paying for K-12 education...if you believe the narrow and highly-exempted sales tax code deserves review...please contact a member of the Legislative Council and ask for this honest shot at tax reform to be given a chance. Ask legislative leadership to find the funding for LD 970. (GH)

Highway Access Rules Amended

In April, 2000 the 119th Legislature enacted amendments to the law governing the permitting requirements for entrances and driveway cuts made on state highways. Pursuant to that enactment, the Department of Transportation (MDOT) was authorized to develop both routine technical and major substantive rules that would govern the design, location and construction of highway entrances and driveways located on state roads.

Current law defines all rules created by state agencies as either "routine technical" rules or "major substantive" rules. Routine technical rules are for the most part rules that will have little impact on entities other than the agency developing the rule. For example routine technical rules might include the development of forms to be used by an agency.

Major substantive rules, on the other hand, are those rules that are anticipated to impact or significantly increase the cost of doing business, cause reductions in property values, reduce government benefits or services,

or impose state mandates on local and county governments. The most significant difference between routine technical and major substantive rules is that the Legislature must officially adopt, through legislative action, major substantive rules. Procedurally, the department actually promulgates the major substantive rule by submitting the proposed rule to the public hearing and comment process. After taking the public comments into consideration, the department may amend and then provisionally adopt the rule. At that point, the "major substantive rule" is submitted to the Legislature, which is authorized to finally adopt, modify or reject the promulgated rule.

In order to fulfill the tasks created by the enactment of the access management law last session, the Department of Transportation submitted to the Transportation Committee LD 1774, *Resolve, Regarding Legislative Review of Chapter 299: Highway Driveway and Entrance Rules, Part A and B a Major Substantive Rule of the*

(continued on page 4)

Legislative Council for 2001

Rep. Mike Saxl (Portland)

Rep. Pat Colwell (Gardiner)

Rep. Bill Norbert (Portland)

Rep. Joe Bruno (Raymond)

Rep. Bill Schneider (Durham)

Sen. Rick Bennett (Oxford Cty)

Sen. Mary Small (Sagadahoc Cty)

Sen. Paul Davis (Piscataquis Cty)

Sen. Bev Daggett (Kennebec Cty)

Sen. Sharon Treat (Kennebec Cty)

Education Mandates vs. Legislative "Intent" to Pay

The municipalities have been here before, staring down the barrel of education reform law loaded with costly new mandates while the Legislature (or Congress) boldly declares its "intention" to cover some or all of the additional mandated costs.

Federal special education law of the 1970s may be the mother of all unfunded federal mandates, replete with a stated Congressional "intention" to pay for at least 40% of the new mandated costs — an intention Congress has never come close to honoring.

Maine's educational reform of 1985 has proven to be the next generation mandate, enacted along with the stated "intention" of the Maine Legislature to provide at least 55% of the cost of K-12 education — another unfulfilled "intention". The state contributes about 45% of the funds need to fuel the \$1.5 billion public school rocketship, a shortfall in state funding (and a burden on the property tax) of about \$150 million a year.

The newborn educational mandate is in front of the Legislature right now. LD 1760, *An Act to Implement Maine's System of Learning Results*, would pepper Maine's educational statutes with Learning Results mandates.

- All schools will have to prepare and implement comprehensive education plans "aligned with the system of learning results".
- All schools will have to prepare a plan for training all personnel in "alignment with the system of learning results".
- Mandatory elementary and secondary school curricula will be expanded to conform to Learning Results.
- Every school will be required to develop and implement a local assessment system to measure student achievement of the Learning Results system.
- Every school must prepare a plan

to begin implementing three as-of-yet unmandated Learning Results "content areas", career preparation, foreign language and the visual and performing arts.

The list of mandates in LD 1760 goes on, but the state's financial contribution to this string of new requirements is tenuous at best.

If history is any lesson, the state's contribution will be light. LD 1760 ends with the following hollow words for its "fiscal note".

"It is the intent of the Legislature to provide adequate funding from the state in order to finance the requirements of (Learning Results). The state funding requirements to implement this Act must be addressed by the Joint Standing Committee on Education and Cultural Affairs during the Second Regular Session of the 120th Legislature as the Legislature considers the transition of the school funding formula to a formula based on the essential programs and services model."

On Monday this week the House took up LD 1760 for a preliminary vote. There was much discussion during the debate about how LD 1760 was an unfunded mandate that would force increased burden on the property tax, and how the legislative and congressional "intentions" to pay have not been fulfilled and are costing property taxpayers over \$200 million a year.

After taking in the debate, the House voted 102-39 to adopt LD 1760, giving the bill enough votes in the House to fully enact the mandate with no obligation for the state to pay a penny toward its costs. The bill is currently before the Senate awaiting its preliminary votes.

The culture of the Legislature makes it a crime against education to chant discordantly with respect to the Learning Results mantra, in the same way as a concern voiced in a town meeting about spiking school costs is immediately characterized as "anti-

education". The central municipal concern with LD 1760, however, is not the bill's goal of measuring educational results, which is admirable. The concern lies, instead, with the method of paying for this mandate. Legislative and congressional "intentions" to pay for educational mandates have not been honored, and the costs are ultimately, and increasingly, borne by the property taxpayers.

Based on its lack of resistance to this proposal, it is fair to say that the entire school lobby, including the Maine School Management Association, Maine Superintendents Association, Maine Principals Association, Maine School Boards Association, and the Maine Education Association (the teachers union), is generally supportive of this unfunded mandate.

Contact your legislators and ask them not to give LD 1760 the two-thirds vote that will force the property tax to pay for the next wave of unfunded education mandates. (GH)

ACCESS RULES (cont'd)

Department of Transportation. As proposed by the Department, the entrance and driveway rules require the Department to review applications for entrance or driveway permits on state arterial roads. The rules establish standards, such as the applicability of the rules, sight distances, corner clearance, setbacks, draining standards, etc. that an applicant must meet in order to receive the DOT permit. The rules also create a reconsideration process that allows an aggrieved party to request reconsideration of the DOT's decision within 30 days of the denial or grant of the permit. As proposed the rules also included a penalty of up to \$100 a day for violations of the rules.

Exercising their authority to amend these major substantive rules, the Committee unanimously voted that LD 1774 "ought to pass as amended". As amended by the Committee the bill: 1) limits applicability of the noncompact arterial provisions to those arterials with a posted speed limited of 40 miles per hour or more; 2) clarifies that en-

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Municipal Bills on Appropriations Table

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

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

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

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.

LD 29 – An Act to Implement the Recommendations of the Task Force to Reduce the Burden of Home Heating Costs on Low-income Households.

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

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

LD 209 – An Act to Increase the Amount Transferred through State-

municipal Revenue Sharing.

LD 259 – An Act to Offer Reciprocity Concerning Concealed Firearms Permits.

LD 260 – An Act to Provide Funds to Purchase Thermal Imaging Cameras.

LD 268 – An Act Regarding Veterans.

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

LD 335 – An Act to Change the Snowmobile Registration Laws.

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

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

LD 623 – An Act to Require Election Law Training to Voter Registrars and Clerks.

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

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

LD 919 – An Act to Provide for Variance Notification in the Shoreland Zoning Law.

(continued on page 6)

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).

Appropriations & Financial Affairs

LD 60 – An Act to Require Full Funding of the State's Share of General Purpose Aid. (Sponsored by Rep. Baker of Bangor) (final ONTP)

LD 660 – An Act to Amend the Laws Governing a Conflict of Interest for a School Board Member. (Sponsored by Sen. Nutting of Androscoggin County) (final ONTP)

Education & Cultural Affairs

LD 1548 – An Act to Amend the School Funding Formula by Adding a Hold-harmless Provision. (Sponsored by Rep. Glynn of South Portland) (final ONTP)

Labor

LD 461 – An Act to Amend the Laws Governing Wage and Benefit Records Kept by Contractors Working on Public Works Projects. (Sponsored by Sen. Edmonds of Cumberland County) (final ONTP)

LD 1719 – An Act Regarding Dismissal of Municipal Employees for Cause. (Sponsored by Sen. Douglass of Androscoggin County) (final ONTP)

Legal & Veterans Affairs

LD 1337 – An Act to Hold Petition Circulators to the Same Standards as Political Candidates. (Sponsored by Rep. LaVerdiere of Wilton) (final ONTP)

IN THE HOPPER

Taxation

LD 1822 – An Act to Amend the Business Equipment Tax Reimbursement Program. (Reported by Rep. Green of Monmouth)

This bill would amend the laws governing the Business Equipment Tax Reimbursement Program (BETR) by requiring a business that leases equipment to a lessee to reimburse the lessee the property tax reimbursement that the lessor receives through the BETR Program if the lessee has paid the property taxes. This bill would also discontinue BETR reimbursement to a business for the taxes that are paid on property located at a facility that has permanently ceased all productive operations and the owner of the property is not actively trying to sell the facility. The bill also requires Maine Revenue Services to make informational material available to business to advertise the BETR Program, and to make that same material available to the municipalities for distribution.

LD 1824 – An Act Related to the Suspension of Property Tax Abatement Appeals When the Taxpayer is Delinquent in Paying Taxes. (Reported by Rep. Green of Monmouth)

This bill would amend the law governing the property tax abatement appeal process for high value properties worth over \$500,000. Current law requires the property owner to remain current with the property tax obligation during the appeal process or the appeal process shall be suspended. The State Board of Property Tax Review recently interpreted that law to only apply to the property tax year for which an appeal had been filed (1999), therefore allowing a lengthy appeal process to continue even though the property taxpayer (a paper mill) was delinquent on the property tax obligation for the year 2000 taxes. This bill clarifies that the property taxpayer must remain current with both the property taxes for the year under appeal and subsequent tax years.

APPROPRIATIONS (cont'd)

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

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

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.

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

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

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

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

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

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

LD 1465 – An Act to Provide a Death Benefit to the Survivors of a Law En-

forcement Officer, Firefighter or Emergency Medical Services Person Killed in the Line of Duty.

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

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.

LD 1632 – Resolve, Directing the Maine Science and Technology Foundation to Determine the Technological, Economic and Public Policy Challenges and Opportunities for the Deployment of Broadband Information Technology Infrastructure to all Parts of the State.

LD 1679 – An Act to Increase the Penalties for Animal Cruelty.

LD 1684 – An Act to Ensure Adequate Funding for School Construction Costs.

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

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

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

LD 1795 – Resolve, Authorizing the Commissioner of Administrative and Financial Services to Convey by Sale

or Lease to the Warren Sanitary District the State's Interest in Certain Real Property in the Town of Warren in Connection with the Construction of the Maine State Prison at Warren.

ACCESS RULES (cont'd)

trance mitigation provisions apply only when the Department determines that public safety is impacted; 3) revises the forestry and farm permit-by-rule provision; 4) clarifies limits on the number of entrances per lot; 5) simplifies the corner clearance provisions; 6) simplifies the shared access provisions by allowing the property owner to provide a sworn statement of his/her attempts to negotiate with neighbors to share an entrance; 7) strikes the emergency preamble; and 8) adds a fiscal note. (KD)