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Lawmaker's Tax Reform Vision Takes Shape

On Monday this week, the House and Senate chairpersons of the Taxation Committee presented their starting-point tax reform proposal to move along legislative discussion on the subject from theory to specifics. Those specifics of the starting-point proposal are found in the sidebar to this article.

Touted as a "no new tax" tax reform proposal, the plan of the Committee chairs would shift the property tax burden among taxpayers, municipalities and various state programs without reducing the overall burden of property taxation in Maine or correcting by one penny the imbalance of tax revenue generation between property sales and income taxes.

On the downside for all municipalities, the proposal would eliminate the property tax homestead exemption and reduce municipal revenue sharing by 15%, according to the proposal's fiscal note.

Of extremely serious consequence for 50 of Maine's industrial and service center communities, the proposal would also eradicate 12% of the entire municipal tax base by repealing the tax on all commercial and industrial personal property. The repeal would be accomplished in a way that would circumvent the current legal obligation of the state to reimburse the municipalities for at least 50% of the tax revenue that is lost by the creation of a new exemption.

Adding the Homestead Exemption, revenue sharing and personal property tax cuts together, the municipalities would lose \$210 million of revenue

annually. All other factors being equal, property tax rates would increase by nearly 15%. A most peculiar foundation for a property tax relief plan, to be sure.

The "relief" side of the proposal comes in two forms. Property taxes for education purposes would be capped at 10 mills (full value), saving property taxpayers \$187 million, and the "Circuit Breaker" property tax and rent rebate program would be expanded to reach up into Maine's middle class to provide a state income tax credit for some share of a homeowner's property taxes or tenant's rent bill. The Circuit Breaker proposal would provide approximately \$50 million of additional tax rebates or credits a year.

The revenue losses and property tax relief equal each other out, leaving us (and the state's overall tax code) where we started.

Education Tax Cap. The 10 mill cap on property taxes for education requires some explanation. It begins with the adoption of the Essential Programs and Services (EPS) school funding foundation which has been researched and developed over the last six years by the Department of Educa-

tion, the State Board of Education, the Maine Education Policy Research Institute and the Legislature's Education Committee. In summary, EPS is designed to calculate the pool of financial resources that should be available to every school system in order to provide an adequate education to all students such that they can meet the performance expectations established by Maine's Learning Results system.

If a municipality can raise the EPS "allocation" at a mill rate less than 10 mills, it would not be required to raise any more revenue than it needs to meet the obligation...the state would pay the difference. At the same time, a municipality that could meet its EPS obligation at less than 10 mills would not be eligible to receive any financial support from the state. Also, a municipality could raise more than the total allocation identified by EPS as reasonable and necessary, but that additional local spending, beyond the EPS model, would be entirely on the town's nickel.

Currently, 107 municipalities have a mill rate for education that is less than 10 mills, about 380 municipalities have an education mill rate over 10 mills, and the average mill rate for education is 11.7 mills. According to an aggregate fiscal analysis provided by the Department of Education, the financial impact to the state if a property tax cap of 10 mills were established would

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State/Local Education Funding

	FY03 Current	FY04 Projected EPS				
		10 Mill Cap	9 Mill Cap	8 Mill Cap	7 Mill Cap	6 Mill Cap
State Share	714,543,588	919,501,816	987,798,427	1,061,515,581	1,138,888,969	1,217,750,297
Local Share	962,290,431	789,038,935	720,742,324	647,025,170	569,651,782	490,790,454
Total	1,676,834,019	1,708,540,751	1,708,540,751	1,708,540,751	1,708,540,751	1,708,540,751
State Share	43%	54%	58%	62%	67%	71%

TAX REFORM (cont'd)

be \$187 million. With such a cap in place, the state share of the cost of education would be increased from 43% to 54% of the EPS-designated total.

The town-by-town impact needs to be analyzed with care, however, because the EPS system is not yet in place. Some school systems are spending more on K-12 education than the EPS model would identify as reasonably necessary. Some are spending less. To accurately gauge the local impact, a careful comparison of any school system's actual spending and the level of school spending called for by the EPS model would be necessary. In some cases a lower mill rate effort for education would have to be increased. In other cases, a high mill rate for education would not be justified as entirely necessary by EPS. A workbook that allows local officials to calculate the EPS allocation for their school system is now available and described in detail in the May edition of the *Maine Townsman*.

For the benefit of the Taxation Committee, the Department of Education provided a statewide aggregate impact analysis of establishing various property tax rate caps for education, working all the way down from the 10 mill cap to a 6 mill cap. (see chart on page 1)

As shown in the chart, the financial impact to the state of the declining mill rate caps for education is almost pure straight-line mathematics. Starting with a financial shift of education burden from the property tax to the state for education purposes of \$187 million

at the 10 mill cap, every subsequent 1 mill reduction to that mill rate cap shifts approximately \$70 to \$75 million of burden from the property tax to the state and increases the percentage of state participation in the total cost of education by 4 percentage points at each increment.

In addition to the financial implications, the proposal to cap the property tax mill rate for education purposes creates an opportunity for a complete overhaul of the school funding distribution system. In essence, it would separate the issues of taxpayer equity and student equity with respect to educational funding. These two "equities" are always the public policy goals of a school funding formula. Currently, those two equity goals which are rolled up together in the underfunded and poorly understood General Purpose Aid school funding formula

Under the proposal to cap property taxes for education, the state school subsidy distribution system would be radically simplified. The community would raise up to the level of the property tax cap for education (e.g., 10 mills), and the state would provide the difference between that amount of revenue and the amount identified as reasonably necessary under the EPS system. The so-called "fiscal capacity" elements of the current funding distribution system, which judge how much a municipality should contribute to education on the basis of its value and the median household income of its residents, would be no longer necessary. The *taxpayer equity* public policy goal would be accomplished with the mill rate cap for education. The *student equity* public policy goal would be accomplished by the Essential Programs and Services funding model.

In his presentation to the Taxation Committee of the various financial impacts of a property tax cap for education system, the Department of Education's Jim Rier said that the department felt that there was merit in the continued development of the cap-for-education model. According to Rier, Department of Education analysts who were familiarizing themselves with the Taxation Committee's proposal in this area were surprised at their own con-

clusions that something as simple as the cap for education model could actually work!

Circuit Breaker Expansion. The other relief component of the Taxation Committee proposal is a very significant expansion of the Circuit Breaker property tax and rent rebate program so that households earning as much as \$75,000 a year with property tax bills that exceed 3% of the household income could receive either a direct check rebate from the state for a share of their property taxes or an income tax credit that would subtract that excessive property tax burden from the bottom line of their state income tax obligation. The proposal is essentially the Circuit Breaker expansion recommended by the Tax Reform Commission convened by former Speaker of the House Mike Saxl which met during the summer and fall of 2002 and ultimately produced its own tax reform recommendation. The Saxl Commission's fiscal analysis of the Circuit Breaker changes indicated that they would increase the state cost of the Circuit Breaker program from the current \$23 million a year to approximately \$75 million a year.

Proponents of the recommended Circuit Breaker expansion promote the targeted nature of this type of property tax relief which sends direct checks in the mail or direct income tax benefits to individual property tax payers based on a measure of their ability to pay. Legislators who are less inclined to jump on this recommendation suggest that it's going in the wrong direction because it masks the excessive property tax burden and serious structural tax code problems. In addition, they fear that the annual appropriation by the Legislature for this program will tend to fluctuate over time depending on the state's unpredictable fiscal capacity.

On that score, critics of the tax reform proposal as it has been developed thus far focus on the principles of tax reform that the plan fails to address. It doesn't provide significant property tax relief statewide. It doesn't address the imbalance of tax revenue generated among the state's major taxes. And it doesn't address the volatility of state tax revenues.

Legislative Bulletin

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Proposal of the Tax Chairs

Sen. Steve Stanley and Rep. Dave Lemoine

TAX REFORM that Strengthens Schools, Relieves the Property Tax Burden, Promotes Economic Development and Adds No New State Taxes.

This proposal provides comprehensive long-term tax relief by:

1. Stabilized School Costs.

- a. Adopt Essential Programs and Services (EPS) model. (\$1.7 billion total/yr education spending in Maine.) This sets a benchmark for adequate school support. Benchmark will change over time to preserve Maine's quality schools.
- b. Expect each town to contribute 10 mills for education. The State will pay the difference between 10 mills and EPS amount and communities may choose to pay more than 10 mills if they wish. NOTE: This element costs \$187 million/yr and represents 54% of the aggregate K-12 education spending in Maine. There is a \$72 million savings in the second year as opposed to the current cost-driven funding approach.
- c. State pays 100% of special education costs. This costs an additional \$60 million/yr. Special Education eligibilities should become standardized from community to community.

2. Fair Distributions of Property Tax Burdens.

- a. Expand existing law that allows the local option of charging nonprofits for the actual cost to the municipality of providing services to the property. (This is already in statute, but is very limited. See M.R.S.A. s. 652(1)(L) at <http://janus.state.me.us/legis/statutes/36/title36sec652.html>)
- b. Create a Community Land Bank program, similar to the Maine Land Bank proposal that allows communities the option of decreasing the taxable valuation on owner occupied homestead property.
- c. Retain Veterans Exemption.

3. Exporting our Tax Burden.

- a. Allow municipalities the local option of a one-cent tax for meals and lodging sales. These funds must be used for the municipal side of a town ledger and cannot be used for education.

4. Using State Revenues to Subsidize Municipal Operations.

- a. Continue the existing Revenue Sharing Formula.
- b. Retains Municipal Sales, Use and Gas Tax Exemptions.
- c. Continues Road Subsidies, etc.

5. Promotes Investment and Economic Development.

- a. Eliminate the Personal Property Tax on Business Equipment through Amendment to the Constitution.

6. Provides Targeted Property Tax Relief to Those who need it Most.

- a. Continue Circuit Breaker Program.
- b. Move Circuit Breaker to Income Tax Form.
- c. Expand Circuit Breaker with State Surpluses as available.
- d. Reduce Adjusted Gross Income Threshold from 4% to 3%.
- e. Reimburse 100% of tax above 3%.
- f. Increase Maximum Rebate from \$1,000 to \$5,000.
- g. Increase Eligibility for Single Filers from \$25,000 to \$45,000.
- h. Increase Eligibility for Joint Filers from \$40,000 to \$75,000.
- i. Increase Renter's Eligibility from 18% to 25%.
- j. Expand funding from current \$23 m/yr to \$71 m/yr.

7. Pays for these Changes by:

a. BETR Savings	\$ 62 m
b. Discontinuing homestead exemption	\$ 35 m
c. No subsidy for towns that pay less than 10 mills	\$137 m
d. Reduce Rev. Sharing to 5.0%	\$ 15 m
Total	\$249m

Coordinated Move Toward Uniform Shoreland Timber Standards

The Agriculture, Conservation and Forestry Committee unanimously passed an amended version of LD 245, *An Act to Promote Planning to Protect the State's Waters*. The bill has the potential to be a 'reverse mandate' because it would allow local communities to give responsibility for regulation of timber harvesting in shoreland areas over to the state.

The idea of statewide standards for timber harvesting has been studied for several years. In 1997, the 118th Legislature began the process and each successive legislature moved it forward, culminating in the February, 2003 Report of the Department of Conservation's Maine Forest Service (MFS). That report is available on the MFS website and LD 245 implements its recommendations.

Statewide standards were being studied because, "A statewide, single agency enforced standard is reasonable, more equitable to all of the state's forest landowners, and encourages understanding and compliance by the regulated community." The specific goals of the statewide standard outlined in the 2003 report were: Reduction of inconsistencies from jurisdiction to jurisdiction; make the regulations less prescriptive; make the regulations more results oriented and ensure balance with existing environment, land use and forest protection laws.

Several municipal representatives provided valuable input and feedback to the MFS during the course of the development of the statewide standards that were ultimately presented to the Legislature. Two key recommendations in the report which benefit municipalities are: (i) the state's enforcement of these standards if the municipalities choose to give-up their current jurisdiction, and, (ii) the preservation of true local control.

New Standards

Currently, most towns have adopted the Department of Environmental Protection's "Chapter 1000"

harvesting rules in connection with their shoreland zoning ordinances. The proposed rules are similar in many respects to the current rules. One of the main goals of the new rules is to harmonize those rules with LURC's rules for the unorganized territories. In many areas the proposed statewide standards are the same as the existing Chapter 1000 rules. For example, the current prohibition on sediment discharge remains in place as does the conditional exemption of forested wetlands as long as NRPA standards are met.

However, some of the more significant changes are:

- U.S. Geological Survey "stream ordering" will be used as the dividing line between regulatory standards and there will be increased protections for smaller streams;
- More flexibility will be added to the "shade retention" requirements by providing for two additional standards to the existing "40%" rule, one of which is an "outcome based approach" opportunity for shoreland timber harvesters that municipalities will want to carefully review.

Overall, the changes to the actual standards will probably be viewed as minor. As always, municipalities will have the option of retaining or imposing stricter standards. However, in those cases, the municipality will also have to retain enforcement responsibility.

State Enforcement

A key aspect of the bill is for Maine Forest Service to assume responsibility for enforcement of the proposed statewide standards. The 2003 report noted that enforcement of the existing harvesting standards varies from town to town. By placing enforcement solely under the control of the MFS, consistency is likely to increase. Consistent enforcement, along with a single standard, will make it much easier for the regulated community to know what is expected of it. This should lead to increased compliance – which is the

ultimate goal.

True Local Control Preserved

One of the biggest concerns for the MFS and the Committee was balancing respect for local control with the need for a "critical mass" of municipalities to be covered by the proposed statewide standard. A critical mass of municipalities is needed for two reasons. As described above, the strategy of the bill is to increase compliance by making it easier for the regulated community to comply. However, if very few communities are covered by the new standard and MFS enforcement, then the regulated community will still be faced with the inefficiencies of dealing with many rules and many enforcement entities.

Second, there will be a cost to the state as it assumes responsibility for enforcement. For state enforcement to be economically feasible, many municipalities must participate. It won't make fiscal sense to set up the state infrastructure for a few scattered communities, especially if the overall objective of increased compliance has been compromised.

In order to achieve this critical mass, the very unpopular step of mandating the statewide standard, repealing all existing municipal ordinances on the subject, and stripping towns of enforcement was contemplated. The only remnants of 'local control' preserved under this scenario was for towns to "opt-out" of the state standards / state enforcement program by rejecting the statewide standard and re-adopting their ordinances that had been voided. The Natural Resources Council of Maine, despite the agreement between the MMA and MFS that this was a poor policy avenue, pushed for this model before the Committee.

However, many, including Rep. Ken Fletcher (Winslow), emphasized that the process of developing the new standards had been done cooperatively over many years and that the implementation of the standards should continue on the same path. Furthermore, a previous Legislature that had ordered the MFS to the study of the issue specifically directed the MFS to make recommendations that preserved the right

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Health Care Reform

A Joint Select Committee on Health Care Reform held a marathon public hearing on Thursday, May 15 to hear testimony on Governor Baldacci's comprehensive health care reform package, L.D. 1611, "An Act to Provide Affordable Health Insurance to Small Businesses and Individuals and To Control Health Care Costs." Nearly every speaker at the hearing applauded the Governor for crafting a bold proposal to reach universal access to health care within four years, to address escalating health insurance costs and to improve the quality of health care. Support was expressed for most of LD 1611's provisions. The most direct opposition to some of the bill's provisions aimed at controlling health care provider costs and insurance premiums came from representatives of hospitals, physicians and insurance carriers.

LD 1611 is a lengthy bill that resulted from months of work by the new Governor's Office of Health Policy and Finance and its Health Action Team. The cornerstone of the bill is the creation of Dirigo Health, a public agency that will offer, through private insurance carriers, health coverage to small employers, self-employed persons and individuals without access to employer coverage. Dirigo Health will offer premium subsidies on a sliding scale to individuals with household incomes up to 300% of the federal poverty level. Dirigo Health will finance its operations and subsidies through a new 4.1% health insurance premium assessment to be paid by insurance companies, an infusion of federal Medicaid match money and the required premium contributions from employers and their employees. Representatives of insurance companies and brokers expressed concerns about Dirigo Health's funding mechanism and some small business representatives questioned the affordability of the proposed benefit plan. A number of self-employed and uninsured individuals supported the Dirigo Health concept.

LD 1611 contains a number of pro-

visions designed to address rising costs. Those include the creation of a state health plan to better expend and allocate health care resources, the strengthening of the Certificate of Need (CON) process for hospital and doctor equipment and building expenditures, the disclosure of health care provider prices, the simplification of administrative functions and the call for voluntary limits to control the growth of insurance premiums and provider costs. Several hospital representatives and the Maine Hospital Association expressed their concerns about the "devastating" impact that some of these provisions, as currently drafted, would have on small, rural hospitals. Physicians and the Maine Medical Association also voiced concerns about potential cost shifting from an expansion of Medicaid coverage, and bringing doctors under the CON process.

The Governor's health care bill also includes the establishment of a Maine Quality Forum as an agency that will promote evidenced-based and best practices medicine, measure and compare provider performance and report to consumers. Through an Executive Order, the Governor will create a Public Purchasing Steering Group to continue collaborative work on joint purchasing initiatives among public purchasers and to explore potential new cooperative efforts to purchase quality health care services. The Governor's plan does not call for the creation of a single, public health insurance pool. The Maine Municipal Association will have a seat on the Steering Group along with the Maine State Employees, Maine Education Association, Maine Medicaid, University of Maine System, Maine School Management and two other public sector appointees by the Governor.

Extensive information on the Governor's health care package is available at www.state.me.us/governor/baldacci/healthpolicy/index.html. Municipal officials may also contact Steve Gove or Anne Wright at MMA (1-

800-452-8786) with questions about LD 1611 or other components of the Governor's plan. The MMA Legislative Policy Committee has not addressed LD 1611, but the Maine Municipal Employees Health Trust (MMEHT), a group self-insured health plan covering over 9,500 local government employees and retirees, has provided the Joint Select Committee with comments on the Governor's proposal. The MMEHT, administered by MMA, supports most of LD 1611's health care cost containment and quality provisions and urges the Joint Committee to take the time it needs to assess the financial implications of the comprehensive proposal.

The Joint Select Committee on Health Care Reform is comprised of legislators from the Appropriations Committee, Health and Human Services Committee and Insurance and Financial Services Committee. The Committee of nine Democrats and six Republicans is co-chaired by Senator Michael Brennan (Cumberland Cty) and Representative Christopher O'Neil (Saco). The Committee will be conducting several work sessions on LD 1611 this week.

TIMBER (cont'd)

of a municipality to "opt-in" to the statewide standards. Consequently, the Committee ultimately adopted an "opt-in" program where municipalities are not obligated to join the new statewide program, but may if they so choose. The adopted system is much more true to the principle of local control.

Next Steps

Over the Summer, the MFS, MMA and others will be preparing an informational packet for municipalities to review. The packet will explain what the new standards are, the anticipated enforcement provisions and the legislative and administrative steps a town must take to participate in the program. Towns should anticipate voting on this issue in during the 2004 town meeting season.

This bill provides municipalities with the option of giving work to the state. It not only does the right thing, it does it in the right way.

Home Rule Issue Divides Senate and House

If a razor-thin majority of the state Senate can hold on, the authority of municipalities to apply noise ordinances in the regulation of shooting ranges will be protected. LD 719, *An Act to Protect and Encourage Firearms Shooting Ranges Throughout the State*, sponsored by Rep. Matt Dunlap (Old Town), proposes to grant all existing and new shooting ranges an exemption from adhering to municipal noise ordinances. Under existing statutes (Title 30-A, Section 3011 (2)) firearms shooting ranges and gun clubs that exist prior to the enactment of a municipal noise control ordinance are exempt from adhering to the limits in the noise ordinance. That is, preexisting shooting ranges and gun clubs are already grandfathered from adhering to newly adopted noise ordinances. LD 719 expands that grandfathered exemption to an outright exemption for all future shooting ranges. Shooting ranges can be as noisy as they want to be, and no noise regulation can interfere with their establishment regardless of the incompatibility of the land use.

The Sportsmans Alliance of Maine is lobbying to get LD 719 enacted.

On Wednesday of this week the Senate narrowly defeated (17-16) passage of LD 719. However on Thursday, the House voted 72-44 in favor of the bill. The bill is now again before the Senate. At this point the Senate can act in one of two ways: 1) the Senate can concur with the House and support passage of the bill or 2) the Senate can insist that LD 719 "ought not to pass". For your information, below is a list of the Senators who voted to support local authority to regulate this land use activity just like any other land use activity. We urge you to contact these members of the Senate and thank them for their vote and contact the Senators not on this list to discuss your concerns with the bill.

Senators Voting Against LD 917

and for reasonable home rule regulation

President Beverly Daggett (Kennebec Cty.)
Sen. Michael Brennan (Cumberland Cty.)
Sen. Lynn Bromley (Cumberland Cty.)
Sen. Mary Cathcart (Penobscot Cty.)
Sen. Dennis Damon (Hancock Cty.)
Sen. Neria Douglass (Androscoggin Cty.)
Sen. Beth Edmonds (Cumberland Cty.)
Sen. Kenneth Gagnon (Kennebec Cty.)
Sen. Christopher Hall (Lincoln Cty.)
Sen. Pamela Hatch (Somerset Cty.)
Sen. Kenneth Lemont (York Cty.)
Sen. Peggy Pendleton (Cumberland Cty.)
Sen. Margaret Rotundo (Androscoggin Cty.)
Sen. Tom Sawyer (Penobscot Cty.)
Sen. Ethan Strimling (Cumberland Cty.)
Sen. Sharon Treat (Kennebec Cty.)
Sen. Karl Turner (Cumberland Cty.)

Three other bills of municipal interest made their way between the House and Senate this week. These bills seek to make changes to the laws addressing the personnel policies for "at-will" employees, the tax lien foreclosure process, and retroactive local citizen initiatives.

LD 389, *An Act to Amend the Laws Governing Municipal Citizen Initiatives and Referenda* (sponsored by Rep. Edward Suslovic of Portland). As amended by the members of the State and Local Government Committee, this bill would prohibit citizen petitions that would initiate ordinance or bylaw changes that have retroactive impacts if the municipality uses a permitting process that includes at least one advertised public hearing. The version of the bill supported by the members of the House would exempt from that same prohibition on retroactive redress any citizen initiated ordinance or bylaw regulating the disposal of sludge and septage. In other words, even if the sludge permitting procedure involves a public hearing, retroactively effective citizen petitions would be allowed. On Thursday, the House voted to support LD 389 by a margin of 81 to 48. The bill is now before the Senate.

LD 937, *An Act To Require the Net Proceeds from the Sale of a Foreclosed Property To Be Returned to the Former Owner* (sponsored by Rep. Joanne Twomey of Biddeford). Five members of the Taxation Committee supported an amended version of LD 937. The majority report is "ought-not-to-pass". The proposed amendment would require municipalities to sell tax-acquired property through a competitive bidding process and return to the former owner any funds remaining after making all authorized "deductions". Municipalities would be authorized to retain: 1) a penalty of up to 25% of the difference between the sales price of the tax-acquired property and the back taxes owed to the municipality; 2) all owed back taxes, including interest; 3) fees for recording and discharging the lien; 4) fees incurred for sending notice of tax liens placed on time-share units; 5) any court costs; and 6) all expenses incurred in selling the property. If after making all authorized deductions any "excess" funds remained, municipalities would be required to mail, via certified mail, to the former owner's last known address, a notice of the excess funds within 30 days of the sale of the property. The notice to the former owner would have to include an itemized statement showing the sales price of the property and the value of the deductions made, as well as directions for redeeming the excess revenues, including the municipal clerk's office hours. The municipality would be required to hold the excess funds in escrow for three years. If the former owner or owner's legal representative failed to personally claim the excess funds within the three-year period, the funds would be returned to the State Treasury. This week both the House and Senate voted to commit the bill back to the Taxation Committee in order to allow the members of the minority report to make changes to the proposal. It is expected that LD 937 will be back before the members of the House sometime next week.

LD 1117, *An Act Regarding Wrongful Discharge* (sponsored by Rep. Deborah Hutton of Bowdoinham).

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EPS Model Unveiled

On Wednesday this week, the Department of Education unveiled its EPS education-funding model at a public hearing on LR 2124, *An Act to Implement School Funding Based on Essential Programs and Services*. LR 2124 would enact the much-anticipated Essential Programs and Services (EPS) education-funding model. The proposed EPS funding model identifies the funds necessary to educate students rather than merely relying on previous expenditure levels and whatever state revenue may be available. Simply put, the EPS funding model would require a rationally-based calculation of what it costs to educate each Maine student and require the state over five years (FY 06-FY 10) to incrementally increase its share until the state is paying 50% of the aggregate statewide cost of an EPS education.

The calculation used to determine how much it costs to educate a Maine student is based on the existing Learning Results program. Learning Results require that each student successfully perform in eight program areas which include: English, career preparation, health and physical education, math, languages, science and technology, social services and visual and performing arts. The per pupil calculations under the EPS model also take into consideration the cost of educating specialized student populations including limited English proficiency and economically disadvantaged students.

Proponents of the bill included the chair of the State Board of Education, commissioner of the Department of Education and school board member Jack McKee of Kingfield. The proponents support LR 2124 because it brings equity and adequacy to the school funding formula by calculating a per pupil spending limit that is based on the cost of providing the education necessary to meet the Learning Results standards. Proponents also believe that the EPS model is an important element

of the tax reform debate, because the EPS model provides the information necessary to determine how much revenue each school administrative district must raise to ensure an adequate and equitable education for all students in all areas of the state and to determine what share of that cost should be borne by the local property taxpayers.

Representatives from the Maine Superintendents Association, Portland public school district and Maine School Board Association provided testimony “neither for nor against” LR 2124. For the most part, those testifying “neither

for nor against” LR 2124 support the concept of the EPS education funding model. However, they did express a need for the spreadsheets detailing the financial impacts of the EPS funding model. Those testifying in the “neither for nor against” category also expressed their dissatisfaction with the elements of the bill that incrementally increase, over a five year period, the state’s share of the EPS program to 50%. Their position was that the state should achieve a minimum 50% share of the EPS program in less than five years.

A detail description of the EPS funding model will be provided in the May 2003 edition of the *Maine Townsman*.

The Education Committee will be holding a work session on LR 2124 on Monday, May 19th.

Stormwater Brewing

Following the Natural Resources Committee’s directive in LD 1570, *An Act Concerning Storm Water Management*, the Department of Environmental Protection (DEP) convened a stakeholders meeting to discuss two pressing matters related to stormwater management. The meeting was led by Don Witherall and David Ladd of the DEP’s water quality bureau and attended by more than 30 individuals.

The first matter facing the DEP is its obligation to create two stormwater discharge permits mandated by the EPA’s National Pollutant Discharge Elimination System rules. The DEP’s program (the Maine Pollutant Discharge Elimination System – MEPDES) has been in the works for several years and will be completed shortly. The program actually became effective March 10, 2003 by operation of federal law and the DEP is anxious to finalize its permits.

One permit is for general discharge related to construction (Maine Construction General Permit or MCGP) and the second permit is for discharge from ‘small’ municipal separate storm water systems (MSSS or MS4s). The second

permit is the one that will be required for the 28 Maine municipalities covered by the federal law.

The second, closely related, matter facing the DEP is LD 1570’s mandate to review the state’s existing stormwater discharge laws with respect to streams. These laws, found in Chapter 500 and 502 of the DEP’s rules, in many ways overlap the federal issue.

Second Round of Meetings

A group of stakeholders met several times last year to discuss stormwater issues. The DEP’s goal with this set of meetings is to resolve the difficult issues that were not resolved last time. The DEP has generated a rough list of what those difficult issues are. First and foremost on this list is the manner by which the DEP will identify the statutorily classified “at risk” and “sensitive and threatened” streams. Construction activity becomes more heavily regulated near a stream that is identified as either “at risk” or “sensitive and threatened.” Consequently, the DEP’s identification process for

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STORMWATER (cont'd)

streams is very important.

Last year, the DEP proposed and then withdrew for further review, a modeling system that essentially measured the level of development within a stream's watershed. If development exceeded a certain threshold (7% was a figure contemplated) the stream is deemed "at risk" and thereby subject to regulation.

Other remaining issues are the actual quality standards for discharges to both "at risk" and "impaired" streams. DEP would like to review its current "TSS 80% rule" which requires that 80% of total suspended solids be filtered before discharge.

Lastly, the DEP faces a series of policy issues such as:

- Whether discharge standards should be imposed on existing devel-

opment and not just new development,

- Whether the stormwater management structure will contribute to sprawl,
- Whether stormwater utility districts should be established, and,
- Ongoing maintenance responsibilities.

The development of these standards and criteria is sure to be no less contentious this year than last year. However, the issues are headed for a decision.

HOME RULE (cont'd)

The amended version of LD 1117 would require that when an employer provides a personnel policy to its employees, the employer must include as part of the personnel policies for all "at-will" employees a "clean and conspicuous" statement that the employee is an "at-will" employee. If the employer fails to meet that notification require-

ment, the employer cannot terminate an employee according to the employer's right to terminate "at will" employees without the "for cause" procedures that certain governmental and unionized employees enjoy. Instead, the employer would be required to use the procedures and standards of termination, if any, provided in the personnel policy. The bill has been tabled in the Senate.

Since several of these issues are still unresolved, we urge you to take the time over the weekend to contact your State Representative and State Senators and ask them to support your positions on these bills. Your phone calls and messages are important to the members of the Legislature. During the work week, members of the House of Representatives can be reached at 1-800-423-2900 and members of the Senate can be reached at 1-800-423-6900.