

Legislative **BULLETIN**

A PUBLICATION OF MAINE MUNICIPAL ASSOCIATION

Vol. XXIX No. 11

March 16, 2007

Phase III of Tax Reform – The Feast

The first phase was when the Tax Committee developed its principles and protocols for its tax reform efforts. The table was being set.

The second phase was the Committee's "open mike" sessions where everyone was invited to weigh-in with broad conceptual ideas for reform. The Committee was seated at the table and looking over the menu.

All this week the Taxation Committee has been gorging itself on proposed legislation, cutting up and devouring one bill after another in all-day or ex-

tended half-day public hearing sessions. This week's bills repealed revenue sharing, expanded the homestead exemption, authorized local option taxation, sharply cut motor vehicle excise taxes, and implemented comprehensive tax reform. One after another, presented individually or in clusters, each bill got its public hearing and then got swallowed into the maw of the Committee's tax reform effort.

Within the next couple of weeks the Committee is scheduled to disgorge its final product.

What that will look like is anybody's guess, but the background discussion seems focused on significantly expanding the sales tax base for the primary purpose of lowering the income tax rate. The property tax discussion seems more limited now than it was a few months ago. Some adjustments, perhaps, to the administration of the Circuit Breaker program and maybe funding a higher portion of the Homestead Exemption. Although there has been a lot of talk in the State House these days about the prop-

(continued on page 2)

School Consolidation: The Dieter's Fable

A focus of the Education and Appropriations Committees has been understanding the potential savings that might result from the various education reform plans. The Governor proclaimed that his forced consolidation plan (state elimination of all existing school boards and school administrative units and state creation of 26 school boards and school administrative units) would create \$240 million in "savings" over 3 years. This week, Dr. David Silvernail of the Muskie School of Public Service updated this estimate to \$342 million in savings over three years.

There is a problem in the semantics of this estimate that it is based upon the Dieter's Fable.

If you drop from 150 lbs in 2006 to 145 lbs in 2007, you've lost 5 lbs. If you hold your weight steady through 2008 at 145 lbs, have you then lost 10 lbs or is your weight loss still only 5 lbs? According to the Dieter's Fable, you are allowed to cumulatively add 5 pounds as "lost" for every year you maintain your weight at 145 lbs. So, after 10 years, if you have maintained your weight at 145 lbs, you can claim to have lost 50 pounds! This self-deception might be comforting, but your jeans won't fit any differently.

The \$342 million savings estimate assumes that there is a one-year saving of \$114 million multiplied by 3 years. That's it. So, the savings could be recast as \$540 million over 5 years, or \$1.1 billion over ten years.

This math is misleading to the public because when the public hears "savings" they expect tax relief.

Let's assume that in year one there is \$114 million in savings. Let's further assume that the full \$114 million is passed through as tax relief in that year. In year two, the lower spending level is maintained. There is no additional savings to be passed through; same for year three and every year thereafter. So, the public should not be given the impression that there is potentially \$342 million in cost savings/ tax relief from the Governor's plan. The savings being claimed are \$114 million.

Additionally, roughly one-half of that presumed \$114 million figure is savings for the state and the other half is savings for municipalities (and their property taxpayers). Therefore, the maximum potential property tax savings statewide if the forced consolidation plan passes and it realizes its newly revised savings estimate is \$66 million. The total property tax commitment in Maine is approximately \$2 billion.

Municipalities believe that local government, including education units, can deliver services more efficiently than they do today. Through greater efficiency, some savings and tax relief is possible. However, the realistic potential for savings from increased efficiency and the quantity of that savings must be presented to the public carefully and accurately.

TAX REFORM (cont'd)

erty tax relief associated with regionalizing the administration of the public school systems, nearly everyone acknowledges that the savings from school regionalization, when accurately calculated, won't appear for at least a year or two down the road.

There is not enough space in this issue of the *Legislative Bulletin* to describe all the municipally-related tax bills that were presented to the Committee this week, along with all the arguments presented for and against each. What follows is a sampling.

Capped valuation. Last session it was "LD2". This session it is LD 276, and it is the centerpiece of Governor Baldacci's property tax relief plan. LD 276 is a proposed constitutional amendment that would require municipalities to freeze the current valuation of the land belonging to Maine's primary residents. Whether that freeze would be absolute or adjusted by the rate of inflation would be left up to the Legislature. The frozen valuations would rebound to market value when the property is sold, and LD 276 calls for a penalty to be applied at the point of sale that would parallel the minimum 'five-year-back-taxes' penalty that applies to Tree Growth, Farmland and Open Space withdrawals. LD 276 also requires the municipality's state valuation to be unaffected by the frozen valuation system, so municipalities would keep two assessing books for all primary residents' property. The "just value" book would be for state valuation purposes, and the "capped value" book would be for the purposes of local taxation.

Tax Committee Chair Senator Joe

Legislative Bulletin

A weekly publication of the Maine Municipal Association throughout sessions of the Maine State Legislature.

Subscriptions to the *Bulletin* are available at a rate of \$20 per calendar year. Inquiries regarding subscriptions or opinions expressed in this publication should be addressed to: *Legislative Bulletin*, Maine Municipal Association, 60 Community Drive, Augusta, ME 04330. Tel: 623-8428. Website: www.memun.org

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

Perry (Bangor) is the sponsor of LD 276 and he suggested the bill should be adopted because it accomplishes a similar result as the unreimbursed property tax homestead exemption, which Sen. Perry believes was beneficial to many municipalities. Martha Freeman, the Director of the State Planning Office, spoke in favor of the bill in general terms on behalf of the Baldacci administration. A couple of people from the general public spoke in favor of LD 276 but suggested it be modified to something like a full-tilt "Proposition 13", where all property values, regardless of ownership are absolutely frozen without inflation adjustments until the time of sale, and the penalty for selling your property would be a percent of the sale price.

The Maine State Chamber of Commerce and MMA provided testimony in opposition to LD 276. MMA's testimony focused on the shift in property tax burden LD 276 would cause between residents and all other property taxpayers, including businesses, apartment owners, farmers, foresters, camp owners, etc. Even more to the point, and what is often lost in the description of LD 276, is that it will shift the property tax burden from some Maine residents to other Maine residents, specifically: (1) those residents who tend to live on property that is not experiencing significant increases in value; (2) camp owners; (3) newcomers to Maine who want to establish themselves here as residents; and (4) current residents who for whatever reason decide to sell their home and buy another, perhaps a young family moving up or older homeowners downsizing.

Revenue Sharing. Another bill sponsored by Sen. Perry, LD 600, would repeal the municipal revenue sharing program and direct that revenue into a massive \$40,000 or \$50,000 Homestead property tax exemption (and even twice that value if just 50% of the exemption is reimbursed). Other than Senator Perry, no one testified in support of the bill and MMA testified in opposition.

Sen. Perry's support for the bill was essentially the same as his support for LD 276 and the 50% unreimbursed homestead exemption enacted as part of LD 1. Shifting the property tax burden away from homeowners and onto other property taxpayers is his preferred method of

providing property tax relief.

MMA opposed the bill for several reasons. Municipal officials are less inclined to support shifting burden from one class of property taxpayers to another when the "others" are local businesses, apartment owners, the owners of open land, etc. A very large homestead exemption begins removing many residents' property tax obligations altogether, which never was the goal of the Homestead. The revenue sharing program has a 35-year history of relative stability with the purpose of reducing the property tax burden for all. The Homestead exemption has been changed by the Legislature in two significant and not entirely positive ways in just the last four years, and municipal officials have no sense of stability in that program.

Motor vehicle excise taxes. There is no shortage of bills this session to cut municipal excise tax revenue, you can take your pick as to how. LD 79, sponsored by Representative John McDonough of Scarborough, would eliminate the tax for all new cars' first-year registration, cutting excise tax revenue to the municipalities by over \$40 million a year.

LD 459, sponsored by Rep. Troy Jackson of Allagash, would subtract \$3,000 from each motor vehicle's list price, which is the base value against which the declining excise tax rates are applied. It is not clear whether LD 459 is supposed to kick-in all at once and be applied to all registrations, or applied only in a going-forward manner and therefore phased-in over time. Either way, it gets to the same place which is a cut in annual municipal tax revenue of over \$30 million a year when fully implemented.

Although there was some discussion among the Committee members about the property tax increases that would be the result of these major excise tax breaks, the general consensus among the proponents was that a shift onto the property tax might be a good thing because it would inspire the municipality to be more frugal. Another "dynamic" argument was that municipal excise tax revenue losses would actually be replaced with increased excise tax revenue because more people would buy new

(continued on page 3)

cars.

Tax reform. Three bills were given public hearings this week that directly propose comprehensive tax reform. Two were “concept drafts” that are enthusiastic in spirit but weak on detail. The detailed comprehensive tax reform bill is LD 850, sponsored by Rep. Thom Watson of Bath. LD 850 would significantly expand the sales tax base by repealing many of the existing exemptions and increase the tax rates on short term car rentals, meals and lodging services, beer and wine excise taxes, and the real estate transfer tax on high-priced homes. The bill would use that new revenue to reduce the top income tax rate, increase the Earned Income Tax Credit, achieve conformity with the federal income tax code, expand the size of the maximum benefit under the Circuit Breaker program from \$2,000 to \$3,000, fully fund the Homestead Exemption, and block the property tax lien foreclosure of any home owned by a person over the age of 65, allowing the lien to merely accrue and be satisfied at the point of sale or transfer.

Several groups spoke in support of LD 850, including the Maine Center for Economic Policy, the Maine Women’s Lobby, the Maine Children’s Alliance, the Maine Association of Interdependent Neighborhoods, the Maine Professional Firefighters Association, and AARP.

And reminiscent of the “tax reform” public hearings held almost every legislative session over the past two decades, a long line of opponents stepped up to the podium to oppose LD 850, including a representative of fitness centers, the Maine State Chamber of Commerce, the Maine Grocer’s Association, the Pine Tree Vending Association, the Maine Innkeepers Association, the Maine Restaurants Association, the Maine Pulp and Paper Association, the Maine Veterinary Association, the Maine Association of Realtors, and soft drink beverage distributors.

Local Option Taxation. Local option tax bills were the subject of Thursday’s public hearings. Two samples from the half-dozen offerings in that category were LD 762, sponsored by Representative Hannah Pingree of North Haven, and LD 158 sponsored by Rep. George Hogan of Old Orchard Beach.

Rep. Pingree’s bill would authorize municipalities to adopt by referendum a local option real estate transfer tax of up to 1% on the sale of any property in the municipality with a sale price over \$500,000. The money generated by the locally-imposed tax must be used to provide affordable housing in the municipality. A long string of affordable housing advocates, island advocates and island residents testified in support of LD 762, stressing the urgency of giving small coastal and island communities a shot at addressing what is otherwise the insurmountable challenge of creating affordable housing in the waterfront environment. MMA also testified in support of LD 762 as a specialty tool designed to address the specific and accelerating problem where some of Maine’s island and rural coastal communities are being transformed from working communities to exclusive summer enclaves.

The Maine Association of Realtors provided the only testimony in opposition to LD 762, suggesting that the local imposition of a 1% real estate transfer tax could lead to NIMBYism, sprawl, a pitting of towns against each other, and an unfair assessment against out-of-staters who shouldn’t have to bear the whole burden of housing affordability.

Rep. Hogan’s bill, LD 158, would authorize a local option meals and lodg-

ing tax with 100% of the collected revenue dedicated to property tax relief. Rep. Hogan, Rep. Pat Blanchette (Bangor), and Rep. Sean Faircloth (Bangor) all testified in support of LD 158. OOB’s town manager Jim Thomas also testified in support and provided a great deal of hard information demonstrating the extra expenses borne by the Beach’s property taxpayers to provide services to a large non-resident population, particularly from May to September.

MMA also testified in support of LD 158. 34 states authorize local option sales taxation to mitigate local property tax burden. A local option meals and lodging tax is not a tool that many municipalities would utilize, but for some of the tourist towns and service center municipalities that provide public services to a significantly larger population than their property tax base can support, a local or regional option tax can provide needed property tax relief and more equitably share the burden. By clearly defining the local option revenue as falling within the LD 1 spending limit, which the proponents of LD 158 fully support, concerns about how the local option revenues would be put to use should be entirely laid to rest.

The innkeepers and other representatives of tourism opposed LD 158.

State Takes Over Greater Share of Telco Personal Property Tax

Maine Revenue Services (MRS) issued a letter this week to all municipal tax assessors to let them know that the state will be assessing the state’s property tax on a greater share of the personal property of cable television providers than in the past. The lower end of the estimate is that approximately \$1 million of tax revenue will shift from the municipalities to the state as a result of the MRS plan this upcoming year, and the prognosis is that municipalities will be losing all of this tax base over the next few years as technology pushes all fiber-and-wire property into the state’s jurisdiction.

The effective date of this MRS communication is immediately; that is, the

effect of the MRS memo will exempt the tax status of the affected personal property as of the April 1 that is now just 15 days away.

The precise question that needs to be immediately addressed is exactly which property is being exempted at the local level and made taxable at the state level because of this memo. How much property tax base is the MRS memo going to cause your town or city to lose this upcoming year?

At issue is a long-standing Maine law that says that “two-way, interactive” telecommunications personal property falls under the state’s property tax juris-

(continued on page 8)

Land Use Enforcement Near Cemeteries

On Monday this week, the State and Local Government Committee held a public hearing on LD 523, *An Act to Provide for Enforcement of Land Use Limitations Relating to Cemeteries*.

Of municipal interest, the bill requires local code enforcement officers (CEO) to enforce the state's setback requirements for construction and excavations occurring near known burial sites.

Under the existing law (Title 13, section 1371-A), municipal code enforcement officers are required to protect *undocumented burial* sites from nearby construction and excavation damage. That same law is silent on who is responsible for addressing construction and excavation activity around *known* burial sites. This omission has raised questions about who is responsible, the state or municipalities, for enforcing this state law. While municipal officials acknowledge that the change proposed in LD 523 shifts additional responsibilities to local CEOs, it makes sense to municipal officials to hold the same code professionals responsible for addressing construction and excavation activity around both the known and undocumented burial sites. For that reason, MMA provided testimony in favor of LD 523.

At the public hearing, Marilyn Burgess representing the Maine Old Cemetery Association and Peter Ogden, Director of the Bureau of Veterans' Services, testified in opposition to the bill. Both believe that the underlying problem associated with construction and excavation activity around documented and undocumented cemeteries is the poor quality of Maine's code enforcement officers.

Ms. Burgess suggested that the state take over the task of regulating activity around burial sites because it is too important a function to leave in the hands of the municipalities. According to Ms. Burgess, the state took over the collection and retention of birth records, for example, because municipalities could not provide the service. Peter Ogden, representing the Department of Defense,

Veterans and Emergency Management, simply asserted that towns aren't doing their jobs and that better enforcement of

laws at the local level is necessary.

The work session on LD 523 is scheduled for March 21st.

LPC to Focus on Bonds

MMA's Legislative Policy Committee will be reviewing the bond proposals at its meeting next week. Municipal officials are encouraged to contact their local LPC representatives to express their capital investment priorities.

The table below summarizes all submitted bond proposals as of press time according to their major categories and aggregated proposed values.

Many of these bond proposals, obviously, are redundant. The purpose of lining them up in this manner is to provide a rough sense of both priority and proportion from the aggregated legislative perspective. Bonds must be approved by a two-thirds vote of both the House and Senate and then ratified by the voters. Accordingly, any bond package must have fairly broad bipartisan support.

The State Treasurer has been monitoring Maine's bonding profile according to the so-called 5% rule for many years. This uncodified rule suggests that the state's total debt service payments should never exceed 5% of the state's General Fund revenues. For the past few years, the state's debt service has been below this threshold so there is some room for a borrowing package.

According to the Treasurer's Fiscal Year 2006 report issued in September, there was between \$150-300 million in additional available borrowing capacity under the 5% rule. This range reflects varying assumptions such as spending rates, interest rates, revenue forecasts, bond ratings, amortization structures and other variables. Because no bond proposals were presented to the voters in 2006, the range in borrowing capacity under the 5% rule is even greater today.

MMA's Legislative Policy Committee voted to make LD 804 (*An Act to Ensure Responsible Government Spending, Investment and Educational Efficiency*) part of the Association's legislative package in 2007. This bill is the so-called "coalition bill" (supported by MMA, the Maine Education Association, the Maine State Chamber of Commerce, the Maine Hospital Association, and the Maine Service Center Coalition) that addresses government finance issues such as spending limits, education reform, the state's unfunded actuarial liability and the state's debt limit. LD 804 would codify the 5% rule in statute in order to give the public some comfort that the state's borrowing is undertaken within the range of prudent limits.

	Proposals(LD #)	Aggregate Amount
Transportation	60, 188, 417	\$123 Million
Environmental	1256, 1395, 1448	\$55 Million
Public Infrastructure	426, 427, 445, 747, 1019	\$45 Million
Land for Maine's Future	357, 450, 746, 863	\$230 Million
Affordable Housing	777	\$20 Million
Research and Development	335, 538, 806, 858	\$393 Million
Specific Local Projects	292, 718, 801, 803, 1191, 1222	\$32.5 Million +
Higher Education	304, 315, 594, 612, 942	\$139 Million
Other (telecommunications, general economic development, global warming, arts and culture, etc.)	218, 247, 376, 432, 440, 573, 1237, 1323, 1344, 1402	\$258 Million
Total	41 Proposals	\$1.3 Billion

Appropriations & Financial Affairs

LD 1199 – An Act To Resolve Unfunded State Mandates. (Sponsored by Sen. Hobbins of York Cty; additional cosponsors.)

This bill requires the Commissioner of the Department of Administrative and Financial Services to maintain a list of all unfunded state mandates and periodically cause legislation to be submitted that would propose repealing the specifically identified unfunded state mandates.

Business, Research & Economic Development

LD 1188 – An Act Regarding Local Plumbing Inspectors. (Sponsored by Sen. Perry of Penobscot County.)

This bill prohibits a local plumbing inspector (LPI) from issuing a permit with respect to any plumbing project that the LPI or the LPI's employer, employee, agent or representative might work on.

Education & Cultural Affairs

LD 947 – Resolve, To Prepare Students for Success in the Twenty-first Century. (Sponsored by Sen. Rotundo of Androscoggin Cty; additional cosponsors.)

This bill includes several initiatives related to public and post-secondary education, including the establishment of an 11-member Bipartisan School Redistricting Panel charged with redrawing the boundaries of the state's school administrative units so that each unit serves between 3,000 and 4,000 students. The bill also mandates that each school unit must provide each high school student with a wireless laptop device for that student's year-round take-home use.

LD 1025 – An Act To Reform Essential Programs and Services. (Sponsored by Sen. Mills of Somerset County.)

This bill directs the Department of Education to: (1) develop and make easily accessible a clear description of the cost components of the Essential Programs and Services school funding model; and (2) develop a method that allows each component of any school's budget to be compared to the related component of that school's EPS-designed budget. The bill also requires each school administrative unit to provide an opportunity for the voters to vote separately on each major EPS-related component of the school's budget.

LD 1175 – An Act to Apply Municipal Nepotism Policies to Municipal School Units. (Sponsored by Rep. Blanchette of Bangor; additional cosponsors.)

This bill requires that municipalities with an ordinance, charter, code or personnel policy that governs nepotism relating to employment of a family member of a municipal officer apply that policy for school board members of a municipal school system.

Health & Human Services

LD 980 – An Act To Amend the Laws Governing the Burial or Cremation of Certain Persons. (Sponsored by Rep. Crosthwaite of Ellsworth; additional cosponsors.)

This bill removes the obligation of siblings from the string of relatives who are potentially financially responsible for the costs of burying or cremating an indigent person before the town is financially responsible for the burial under the General Assistance program.

LD 1179 – An Act To Provide Regional Coordination and Planning for Public Health Programs and Activities. (Sponsored by Rep. Barstow of Gorham.)

This bill authorizes the county commissioners in eight single-county or multi-county regions to establish regional public health coordinating councils. Each council includes a county commissioner, a county sheriff, a member of the emergency management agency,

a municipal officer, representatives of health-related organizations, and a designee of the Maine Center for Disease Control. The council is responsible for conducting a health needs assessment of the region, a comprehensive public health plan, and provide annual reports in January of each year.

Insurance & Financial Services

LD 911 – An Act To Provide Health Care Insurance to Volunteer Public Safety Personnel. (Sponsored by Rep. Burns of Berwick; additional cosponsors.)

This bill makes volunteer firefighters or local government emergency services and police personnel eligible for health care coverage through the Dirigo Health program. The bill also requires Dirigo Health to pay a subsidy for 100% of the cost of coverage.

Judiciary

LD 960 – An Act To Base Value in Eminent Domain Takings of Businesses on Going Concern Value. (Sponsored by Rep. Giles of Belfast; additional cosponsors.)

This bill requires that businesses be reimbursed for their "going concern" value in addition to any other compensation the business may be entitled to when the business property is taken by eminent domain.

LD 1027 – An Act To Clarify the Definition of "Physical or Mental Disability" in the Maine Human Rights Act. (Sponsored by Sen. Mills of Somerset County.)

This bill amends the definition of "physical or mental disability" in the Maine Human Rights Act to make that definition consistent with the definition in federal law.

LD 1348 – An Act To Amend the Maine Tort Claims Act. (Sponsored by Sen. Hobbins of York Cty; additional cosponsor.)

This bill increases the limitation on damages under the Maine Tort Claims Act from \$400,000 to \$1,000,000, and makes the change retroactive to October 10, 2006.

LD 1372 – An Act To Increase Caps on Damages in Actions under the Maine Human Rights Act. (Sponsored by Rep. Mills of Farmington.)

This bill increases the compensatory damage caps provided in the Maine Human Rights Act from \$200,000 to \$300,000 for employers with 200-500 employees and from \$300,000 to \$500,000 for employers with over 500 employees.

Legal & Veterans Affairs

LD 1362 – An Act To Amend the Laws Governing Municipal Elections. (Sponsored by Sen. Martin of Aroostook County.)

This bill repeals the existing laws governing the procedures for conducting a recount of a municipal election and replaces it with the process used for conducting the recount of a statewide election, where the Secretary of State oversees the process and municipal employees and elected municipal officials are prohibited from participating in the ballot recount process.

Natural Resources

LD 968 – Resolve, Regarding Legislative Review of Portions of Chapter 587: In-stream Flow and Water Level Standards, a Major Substantive Rule of the Department of Environmental Protection. (Emergency) (Sponsored by Rep. Koffman of Bar Harbor for the Department of Environmental Protection.)

This bill adopts DEP Rule Ch. 587, which regulates the

quantity of water that may be withdrawn from surface water bodies by users including public water suppliers.

LD 1353 – Resolve, To Provide a Comprehensive Assessment of Progress Made To Eliminate Combined Sewer Overflow into the State’s Waterways. (Sponsored by Sen. Benoit of Sagadahoc Cty; additional cosponsors.)

This resolve directs the Governor to appoint an independent expert panel to draft a report assessing the status of efforts to eliminate combined sewer overflow in the state.

State & Local Government

LD 1021 – Resolve, To Lower the cost of State Government. (Emergency) (Sponsored by Sen. Nutting of Androscoggin Cty; additional cosponsors.)

This emergency resolve creates the 11-member Commission to Lower the Cost of State Government which is charged with undertaking a comprehensive analysis of state government with the goals of consolidating functions and eliminating duplication and inefficiencies in the administrative and supervisory positions, and achieving a state government spending reduction of \$30 million. The membership includes 6 legislators, a representative of low-income Mainers, a representative of the Maine Development Foundation, 2 representatives of the business community and one member of the public.

LD 1122 – An Act To Prohibit a Person from Serving as Both Municipal Tax Collector and Treasurer. (Sponsored by Sen. Mills of Somerset County.)

This bill provides that a person may not serve simultaneously as tax collector and treasurer of a municipality.

LD 1264 – An Act To Resolve Differences in the Laws Regarding Public Shade Trees. (Sponsored by Rep. Wagner of Lewiston; additional cosponsors.)

This bill declares all trees in any public right of way to be “public shade trees” and establishes protocols that need to be followed before a municipality, property owner or utility can plant, trim, cut down or remove any public shade tree.

Taxation

LD 945 – An Act To Require the State’s Share of Local Aid to Education To Be Used for Property Tax Relief. (Sponsored by Sen. Turner of Cumberland; additional cosponsors.)

This bill requires that 90% of any increased state aid to education must be used to reduce the municipal property tax. This bill also requires that the only way to exceed the school spending limits is by a referendum vote initiated by a petition signed by at least 10% of the number of registered voters who voted in the previous gubernatorial election in the political jurisdiction.

LD 961 – An Act To Authorize an Alternative Calculation of the Property Growth Factor for Industrial Municipalities. (Sponsored by Rep. Theriault of Madawaska; additional cosponsors.)

This bill allows municipalities with significant amounts of personal property in the property tax base to calculate their LD 1 property tax growth factor on the basis of either the previous year’s assessing information (current law) or the average of the previous two year’s data. The alternative is proposed in order to address the potential year-to-year volatility in property growth.

LD 1001 – An Act To Eliminate the Property Tax on Business Equipment Owned by Small Retailers. (Sponsored by Sen. Courtney of York Cty; additional cosponsors.)

This bill extends the property tax exemption for business personal property to all retail sales facilities in the state that do not exceed 20,000 square feet in size.

LD 1100 – An Act To Support Continued Viability of Affordable Housing. (Sponsored by Sen. Schneider of Penobscot Cty; additional cosponsors.)

This bill provides a property tax exemption for low-income housing facilities that qualify for the low-income housing tax credit under the federal tax code. The scope of the exemption is the extent to which the just value of the low-income housing facility is attributed in any way to the federal low income rental housing tax credit.

LD 1155 – An Act to Include Fuel Economy when Calculating the Excise Tax on Motor Vehicles. (Sponsored by Rep. Babbidge of Kennebunk; additional cosponsors.)

This bill establishes a new base upon which to apply the various motor vehicle excise tax rates. A certain percentage of the new base would be made up of the Manufacturers’ Suggested Retail Price and the rest of the new base would be made up of the motor vehicle’s fuel economy rating.

LD 1298 – An Act To Amend the Definition of “Working Waterfront Land” To Include Land Used for Marine Trades. (Sponsored by Rep. Miramant of Camden; additional cosponsors.)

This bill expands the types of property eligible for the “working waterfront” property tax benefit currently available for land used to provide access to or support commercial fishing activities. This bill would expand the eligibility to all commercial activities that are considered water-dependent.

LD 1338 – An Act Concerning the Taxation of Property Owned by Certain Nonprofit Organizations. (Sponsored by Rep. Fletcher of Winslow; additional cosponsor.)

This bill expands the property tax exemption that applies to fraternal organizations by exempting the parts of these buildings that are rented out for purposes unrelated to their meetings or ceremonial functions provided that the income generated from the rental is used exclusively for the organization’s charitable functions.

LD 1413 – An Act To Set Fees for Services for Tax-exempt Property in Municipalities. (Sponsored by Rep. Blanchette of Bangor; additional cosponsors.)

This bill would allow municipalities to assess fees to cover the cost of municipal services, except for education or welfare, against nongovernmental tax exempt entities that would have a taxable value of more than \$10 million if they were not tax exempt.

Transportation

LD 972 – An Act To Delay the Fiscal Sustainability of the Highway Fund. (Sponsored by Rep. Marley of Portland.)

As required by the law that created the semi-automatic annual inflationary increase to the motor fuel excise tax (“gas tax indexing”), this bill delays the implementation of the implementation of that adjustment for one year, until 2009.

LD 1018 – An Act To Require That a State Road Be in Good Condition before Being Turned over to a Municipality. (Sponsored by Sen. Edmonds of Cumberland Cty; additional cosponsors.)

This bill requires that the Department of Transportation (DOT) has prepared and implemented a capital and maintenance plan that ensures a road meets a certain set of quality standards before that road is discontinued as a state or state-aid highway by DOT and turned over to a municipality.

LD 1329 – An Act To Allow Municipalities To Set Speed Limits on Certain Roads. (Sponsored by Rep. Browne of Vassalboro; additional cosponsors.)

This bill allows municipalities to set the speed limits, within certain prescribed ranges, on all town ways.

LEGISLATIVE HEARINGS

Monday, March 19th

Legal & Veterans Affairs

Room 437, State House, 1:00 p.m.

Tel: 287-1310

LD 892 – An Act To Authorize Nonprofit Organizations to Conduct Tournament Games.

LD 890 – An Act To Allow the Awarding of Prize Money from Gambling Machines Run by Nonprofit Organizations.

Tuesday, March 20th

Education & Cultural Affairs

Room 202, Cross State Office Building, 1:00 p.m.

Tel: 287-3125

LD 1186 – An Act To Establish Educational Excellence for the Towns of Corinna, Etna, Dixmont, Hartland, Newport, Palmyra, Plymouth and St. Albans.

LD 1025 – An Act To Reform Essential Programs and Services.

LD 1195 – An Act to Establish a Uniform Chart of Municipal Accounts.

Inland Fisheries & Wildlife

Room 206, Cross State Office Building, 1:00 p.m.

Tel: 287-1338

LD 15 – An Act Imposing a Horsepower Restriction for Boat Motors on Muddy Pond.

LD 152 – An Act To Restrict the Use of Personal Watercraft on Crescent Lake and Tenney River in Raymond.

LD 799 – An Act To Prohibit the Use of Motorized Watercraft on Lily Pond in Deer Isle.

LD 539 – An Act To Ban Personal Watercraft on East Carry Pond, Middle Carry Pond and West Carry Pond.

LD 888 – An Act To Clarify the Definition of “Personal Watercraft”.

Natural Resources

Room 214, Cross State Office Building, 1:00 p.m.

Tel: 287-4149

LD 895 – An Act Concerning Blasting near Residential Areas.

LD 774 – An Act To Coordinate the Implementation of the In-stream Flow and Water Level Rules among the Department of Environmental Protection, the Drinking Water Program of the Department of Health and Human Services and the Public Utilities Commission.

LD 968 – Resolve, Regarding Legislative Review of Portions of Chapter 587: In-stream Flow and Water Level Standards, a Major Substantive Rule of the Department of Environmental Protection.

LD 1359 – An Act To Ensure the Availability of Existing Drinking Water Sources of Supply.

Transportation

Room 126, State House, 1:00 p.m.

Tel: 287-4148

LD 266 – An Act To Fully Fund the Project To Replace the Route 302 Bridge in Naples.

LD 545 – Resolve, To Name the Bridge on Route 201 in Jackman over the Moose River the Veterans Memorial Bridge.

LD 669 – Resolve, To Direct the Department of Transportation to Make Improvements to U.S. Route 2-A.

LD 830 – An Act to Permit the Use of Pictorial Graphics and

Photographs on Changeable Signs.

Utilities & Energy

Room 211, Cross State Office Building, 1:00 p.m.

Tel: 287-4143

LD 878 – An Act To Amend the Charter of the Harrison Water District.

LD 941 – An Act To Amend the Charter of the Long Pond Water District.

LD 993 – An Act To Amend the Charter of the Long Pond Water District.

Wednesday, March 21st

Judiciary

Room 438, State House, 1:00 p.m.

Tel: 287-1327

LD 681 – An Act Concerning the Examination of Persons in Protective Custody.

LD 86 – An Act To Require the Collection of Information on Vehicle Accidents on Private Property.

LD 254 – An Act To Restrict Takings under Eminent Domain.

LD 960 – An Act To Base Value in Eminent Domain Takings of Businesses on Going Concern Value.

Labor

Room 220, Cross State Office Building, 1:00 p.m.

Tel: 287-1333

LD 591 – An Act Regarding Occupational Safety and Health Training for Workers on State-funded Construction Projects.

Thursday, March 22nd

Education & Cultural Affairs

Room 202, Cross State Office Building, 1:00 p.m.

Tel: 287-3125

LD 343 – An Act Regarding School Transportation.

LD 1175 – An Act to Apply Municipal Nepotism Policies to Municipal School Units.

Inland Fisheries & Wildlife

Room 206, Cross State Office Building, 1:00 p.m.

Tel: 287-1338

LD 99 – An Act To Allow an All-terrain Vehicle to Operate on Snow without Being Registered as a Snowmobile.

LD 167 – An Act To Allow Military Personnel Stationed in Maine To Register All-terrain Vehicles As Residents.

Utilities & Energy

Room 211, Cross State Office Building, 1:00 p.m.

Tel: 287-4143

LD 409 – Resolve, To Study Alternative Fuel Use by Schools and Public Buildings.

Friday, March 23rd

Criminal Justice & Public Safety

Rm. 436, State House, 9:00 a.m.

Tel: 287-1122

LD 362 – An Act To Effect the Seizure and Disposal of Contraband Fireworks.

LD 886 – An Act To Clarify Certain Laws Related to Fire Safety.

TELCO (cont'd)

diction and all one-way, non-interactive telco-type property falls under the municipalities' tax jurisdiction. Not that long ago, the dividing line was clear. Telephone wires, poles and equipment were taxed by the state, and the wires and associated personal property of cable television companies fell under the town's taxing authority.

Technology now allows all providers of wire-based telco services to provide a full-range of products, including two-way, interactive data services (Internet) and voice services (telephone). The way Maine law is constructed, as soon as a company – regardless of the service it predominantly provides – is able to also provide an “interactive” service, all of that company's taxable personal property falls under the state's tax jurisdiction.

A point of confusion with respect to the MRS letter needs to be clarified. The

letter suggests that all of the personal property of a cable television company that provides high-speed Internet services as well as television services will now fall under the state's taxing jurisdiction. Another theory is that the provision of voice service (telephone) is necessary before the state's tax jurisdiction takes over. Although cable television may have the general capacity to provide telephone services, it is not yet actually providing that service in many towns throughout the state. Under this alternative theory, until the cable television company provides “voice” services in your municipality, its personal property remains in the municipal tax jurisdiction.

Whichever theory prevails will change the fiscal impact of the MRS quite significantly for the upcoming tax year. Without a change to the law, however, the shift in tax revenue from the municipalities to the state will occur over the next couple of years anyway.

If there ever was an issue that is ripe for a “tax reform” discussion, it is this. Why the state retains a property tax jurisdiction over the personal property of telecommunications providers has always been a mystery. The vast majority of that property falls within municipal rights of ways, and because of their proximity to the property, the municipalities possess a better ability to actively discover and assess the taxable property. The state's method of discovery is essentially a self declaration.

In any event, there is a clear revenue shift built into the intersection of some old tax law and new telecommunications technology. Starting immediately, the tax revenue will be moving away from the municipalities and toward the state. We should be able to provide a more detailed definition to exactly what types of telecommunication personal property you will have to take off your April 1 tax rolls in next week's edition of the *Legislative Bulletin*.