

# Legislative BULLETIN

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## Tax Reform Plan Begins to Clarify

The Taxation Committee's comprehensive tax reform proposal is coming into focus. After a month of preliminary study and two weeks of work sessions – with all of those six weeks characterized by a distinctively high-quality deliberative process — the Committee has rough-polished a tax reform plan that is nearly ready for prime time. The Committee even scheduled an informal opportunity for public comment on the product of its labors for Friday this week.

At this stage, the Committee is quick to underscore the point that no final vote has been taken and everything is still on the table. The plan is a working draft that should not be construed as a finally endorsed recommendation.

The working draft is a revenue-neutral package that moves Maine's tax code from its reliance on the income and property value of Maine's residents and places a chunk of that burden more squarely on discretionary consumption of both Maine's residents and the state's guests. Based on a preliminary "incidence analysis" conducted by Maine Revenue Services, the bottom-line of the Committee's plan would reduce the annual tax burden on Maine's residents by \$174 million.

Here's a snapshot of the plan.

**Income Tax.** The centerpiece of the income tax change is a significant reduction of the highest marginal income tax rate and a simplification of the entire code whereby all exemptions, deductions and existing credits are repealed and replaced with a single, refundable credit system.

The income tax changes reduce state revenue by \$199 million a year.

**Details.** The current bracketed rate structure with the top rate at 8.5% is converted to a flat rate structure at 6%.

The standard and itemized deduc-

tions are eliminated.

The state Alternative Minimum Tax and Low Income Tax Credit are repealed.

Penalties for early withdrawal of retirement savings are repealed.

A refundable tax credit is created for all taxpayers equal to \$800 for single filers, \$1,600 for joint filers and \$1,200 for head-of-household filers. The credit

amount is increased by \$100 for each exemption. The credit amount is phased-out by 5% for each \$100 above an income threshold of \$40,000 for single filers, \$80,000 for joint filers and \$60,000 for head-of-household filers.

**Property Tax.** The centerpiece of

(continued on page 2)

### \$295 Million Bond Package to Go To Voters

A \$295 million bond package, divided into three separate presentations to the voters, was easily adopted by the Legislature this week. The legislative action put into motion preparations for a June 2007 vote on the first \$131 million installment devoted to transportation and wastewater/drinking water infrastructure needs.

The two-thirds supermajority requirements in both House and Senate to move bond proposals to the ballot box were effortlessly surpassed in order to adopt the Appropriations Committee's unanimous borrowing recommendation.

What follows is a breakdown of the three bond package installments according to the June 2007, November 2007 and June 2008 elections, sorted by category of expenditure.

Election Day	Bond Proposal	Bond Value (in millions)	Matching or Leveraged Funds (in millions)
June 2007	Transportation – Gen. Fund	\$12.975	\$79.525
	Transportation – High. Fund	\$100	\$181
	Wastewater/Drinking Water	\$18.3	\$49.5
	<b>Total</b>	<b>\$131.275</b>	<b>\$310.025</b>
Nov. 6, 2007	Higher Ed. renovations	\$40	
	School Revolving Loan Fund	\$1.5	
	New Century Program	\$2	
	Maine Technology Inst. (R&D)	\$50	\$50
	Eco. Dev. Loans	\$5	\$.1
	Land for Maine's Future	\$17	\$8.5
	Working Waterfront	\$3	\$3
	River-based revitalization	\$5	\$10
	Municipal Invest. Trust Fund	\$1.5	
	State Parks/Hist. Sites	\$7.5	
Agriculture Grants	\$1.5	\$.375	
<b>Total</b>	<b>\$134</b>	<b>\$71.975</b>	
June 2008	Transportation – Gen. Fund	\$10	\$18.1
	Transportation Infrastructure (including ferry and port improvements, airports, transit and bus, bicycle and trails and trails)	\$13.025	\$11.68*
	Other Infrastructure Bond (including Small Community Grant Program, hazardous Waste/municipal landfill and industrial landfill clean-up, etc.)	\$6.7	*Included in \$11.68 figure
<b>Total</b>	<b>\$29.725</b>	<b>\$29.78</b>	
<b>Grand Total</b>	<b>\$295</b>	<b>\$411.78</b>	

# Million Dollar Question

The Judiciary Committee is faced with two bills that deal with the issue of the statutory cap on damages pursuant to the Maine Tort Claims Act; LD 1348, *An Act to Amend the Maine Tort Claims Act* and LD 1349, *Resolve, To Waive the Tort Claims Limitation on Damages Relative to the Traumatic Brain Injury of Lucas Tolliver*. Both would raise the current 4400,000 limit on MTCA damages to \$1 million.

LD 1349 only increases the limit for one individual, Lucas Tolliver, who suffered a serious injury allegedly caused in part by the State of Maine. LD 1348 raises the limit for everyone, and does so retroactively to October 2006 in an apparent effort to accommodate Mr. Tolliver's case.

The MTCA was enacted in the late 1970s as a response to a Court decision abrogating governmental immunity. The rationale for the MTCA was best summarized by one of its "Whereas" clauses. "*Whereas, exposure to unlimited liability may cause undue reluctance on the part of government entities to provide needed services, and increase governmental costs;*"

If unlimited governmental liability causes problems, how much liability is the appropriate amount? Current law caps damages at \$400,000. It was last increased in 1999. Municipal officials recognize that the figure of \$400,000 can not stay fixed forever. However, LD 1348 more than doubles the existing cap. This increase will have a direct impact on insurance rates paid by municipalities and carried by local property taxpayers.

The limit of \$400,000 provides full

compensation to the vast majority of claimants. However, the MTCA recognizes that in some cases the cap could cause an injustice and granted the Legislature the authority to act in these cases. Section 8105 of the MTCA allows a claimant to "*apply to the Legislature for special authorization to proceed within another specified limit.*"

In fact, that is what LD 1349 appears to do. If the Legislature feels Mr. Tolliver's case deserves treatment under the legislative remedy provision noted above, that is a decision for the Legislature to make.

On a completely unrelated bill, LD 618, *An Act to Increase the Amount Retained by Agents Who Issue Hunting and Fishing Licenses*, the Inland Fisheries and Wildlife Committee unanimously opposed raising the existing agent fees municipalities and others receive for processing hunting and fishing licenses. Most of the fees in the bill were established at in 1979 at \$1. Some of the fees, but not all, were subsequently increased in 1999. In this respect, these fees have nearly identical legislative histories to the MTCA damage limit that is the subject of LD 1038.

Just before the license fee bill was killed, a member of the Committee noted that the bill had merit but that now just wasn't the best time to raise costs on recreational hunters. In light of last year's vote on TABOR, it is certainly not the best time to raise insurance premiums paid by property taxpayers.

## TAX REFORM (cont'd)

the property tax relief component of the Committee's reform plan is a near-tripling of the Homestead property tax exemption from \$13,000 to \$38,000, which would be 50% reimbursed by the state. Municipalities would be given the choice to opt-out of the unreimbursed half of the homestead exemption. If the opt-out is taken, the homestead exemption would be \$19,000, fully reimbursed.

The property tax relief costs the state over \$55 million a year, but would act to relieve \$7 million in Circuit Breaker expenditures, making the net cost to the

state about \$48 million annually.

*Details.* The entire property tax component of the Committee's plan includes:

- Increase Homestead Exemption to \$38,000 (50% reimbursed) with an "opt-out" for the unreimbursed portion.
- Improve access to the Circuit Breaker program.
- Re-establish the Elderly Tax Deferral Program.

Still under discussion:

- Authorize local option sales tax with the requirement that the revenue must be used to reduce property taxes
- Trap growth in sales tax revenue and return that captured growth to the municipalities where the revenue originated

**Sales Tax.** The centerpiece of the sales tax component of the tax reform proposal is an expansion of the sales tax base to pay for the income and property tax relief. The sales tax expansion provides the state \$245 million by applying the general (5%) sales tax rate to the following:

- Non-staple snacks, soft drinks and candy
- Meals, lodging and car rental purchases by non-profits
- Vending machine sales
- Newspapers and magazines
- For-profit summer camps
- Telecommunication, cable and satellite t.v. services
- Transportation, delivery and common carrier services
- Personal care services
- Personal property services
- Installation, repair and maintenance services
- Amusement, entertainment and recreation services

(For each of the "services" included above, detailed lists are available that identify the actual services covered.)

The sales tax plan would also increase:

- the meals tax rate from 7% to 9%
- the lodging tax rate from 7% to 10%
- the short-term auto rental rate from 10% to 15%

Finally, the Committee plan would increase the Real Estate Transfer Tax rate by 1%, apply an excise tax on the distribution of soda and soft drinks, and increase the excise tax on beer and wine.

### Legislative Bulletin

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# Definition of “Disability”

In early 2006, the Maine Supreme Judicial Court overturned 20 years of precedent regarding the proper interpretation of the Maine Human Rights Act definition of “disability.” LD 1027, *An Act to Clarify the Definition of “Physical or Mental Disability” in the Maine Human Rights Act* would restore the prior understanding of the disability law.

Maine’s anti-discrimination law, known as the Maine Human Rights Act (MHRA) prohibits discrimination against those with “disabilities” as defined in the Act. The MHRA also gives to the Maine Human Rights Commission (Commission) the obligation to adopt rules and procedures that carry out the purposes of the Act.

A recent Maine Law Court case, *Whitney v. Wal-Mart*, held that the definition of disability in the Commission Rule was more stringent than the wording of the MHRA. The Court accordingly struck down the Rule.

The basic issue is whether a disability must “substantially limit” an individual’s activities in order to qualify for MHRA protection. The Commission Rule included this requirement in its definition of disability since 1986. The Federal Americans with Disabilities Act (ADA) also includes the “substantially limits” requirement, as do approximately 45 other states. For twenty years, Maine and local Federal courts had been holding that the scope of the MHRA, the Commission Rule and the federal ADA were essentially the same.

By a 4-3 decision, with Chief Justice Saufley in the dissent, the Maine Law Court held that the MHRA does not require a “substantially limits” test. As is often the case with Law Court decisions, the intent of the Legislature was a key issue in the case. The majority held that the intent of the Legislature can be unambiguously seen in the wording of the Act.

The minority disagreed. Justice Levy observed that the MHRA definition of disability, “*Is not a model of legislative clarity. It consists of a single, seventy-seven word run-on sentence that contains thirteen commas and employs*

*the disjunctive ‘or’ eight times.”*

The dissent went on to state: *To read [MHRA] as broadly as the Court does renders that section virtually unlimited in scope, and makes it applicable to even the most minor of disabilities . . . . The Legislature is unlikely to have intended that the statute makes our courts accessible on the grounds of disability discrimination when alleged ailments are so very minor or trivial.”*

Finally the dissent noted that since the Rule was revised in 1986 “*the Legislature has not clarified or altered in any way the definition of physical disability in [the Act] to indicate that [the Rule] is not a correct interpretation of the statute. I would conclude that the Legislature has acquiesced to the [Rule].”*

In late 2006, the Commission rewrote its rule in an effort to bring it in alignment with the *Whitney* majority’s view of the MHRA. This as-yet untested rule attempts to address the fear that the MHRA is now virtually unlimited in scope. It does so by putting an exclusionary provision in the rule that prohibits claims based upon ailments that are “both transitory and minor.” The Rule went on to list common colds or bruises as examples of ailments that are not disabilities.

Several Maine attorneys commented to the Commission that while the intent of this new Rule is reasonable, the courts might yet strike down the Rule because it appears to be more stringent than the MHRA, which does not have the “transitory and minor” qualifier.

From a less legal perspective, it’s notable that the Commission felt it necessary to put an exclusionary provision in the new Rule. This “minor and transitory” exclusionary language was not contained in the former Rule (in fact, the Rule needs another 144 words to define “minor”). The MHR Commission is apparently agreeing with the dissent that the Court’s interpretation of the MHRA means the new definition of disability is “*virtually unlimited in scope*”. Why else would the Commission feel the need to exclude the minor and transitory dis-

abilities?

The only stable and sure solution can come from the Legislature and that is what LD 1027 would provide.

Municipalities employ thousands of workers. The *Whitney* decision brings unnecessary instability to human resources offices across the state. Maine property taxpayers should not have to pay more in litigation costs just to figure out the new interpretation of the Act.

Certainly the Legislature is free to affirmatively adopt a statute that is broader than both federal law and the past twenty years of practice in Maine. MMA can only hope that the Legislature would undertake its usual process before undertaking this significant step, such as requesting a study or convening a stakeholder group. Until the legislative groundwork for such a change has been made, Maine’s municipalities would urge the Legislature to adopt LD 1027 and restore stability to the system.

## Constructing Legislation

The Business, Research and Economic Development Committee (BRED) took testimony this week on two topics which have been around for a long time: statewide building codes and contractor licensing. The two primary bills were LD 677, *Resolve, Directing the Development of a Building Code and Building Code Implementation Plan* and LD 1038, *An Act to License Home Building and Improvement Contractors*.

### Building Code

LD 677 directs the State Planning Office to propose a plan that addresses various perceived problems in Maine’s current building code scheme. Those problems include: (i) the lack of a uniform, state-wide building code, (ii) the lack of a rehabilitation code which hampers downtown redevelopment and historic preservation, (iii) inconsistencies between the Maine Model Building Code (the 2003 ICC code) and other state-level codes, particularly the Fire Marshal’s Life-Safety code, and, (iv) the

*(continued on page 6)*

## LEGISLATIVE HEARINGS

*Monday, April 9*

### **Health & Human Services**

**Room 209, Cross State Office Building, 9:00 a.m.**

**Tel: 287-1317**

**LD 1661 – Resolve, To Support Community Planning for the Aging of the Population.**

### **Legal & Veterans Affairs**

**Room 437, State House, 10:00 a.m.**

**Tel: 287-1310**

LD 1397 – An Act To Allow Nonprofit Organizations and Indian Tribes To Sponsor Texas Hold ‘Em Tournaments

LD 1422 – An Act To Allow Nonprofit Organizations To Operate Certain Games of Chance without a License.

LD 701 – An Act To Authorize the Operation of Slot Machines on Indian Island in Old Town.

*1:00 p.m.*

LD 1497 – An Act To Improve Local Control over Bars.

LD 1232 – An Act To Limit the Duration of the Placement of Campaign Signs.

*Tuesday, April 10*

### **Education & Cultural Affairs**

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

**Tel: 287-3125**

LD 44 – An Act To Require Changes in the Essential Programs and Services Funding Formula Concerning Labor Market Areas.

LD 338 – An Act Regarding the Labor Market Adjustments for Teacher Salary Costs Under Essential Programs and Services Funding.

LD 404 – An Act To Limit Regional Adjustments to Teacher Salaries.

LD 448 – An Act To Improve Equality in School Funding.

LD 614 – An Act To Modify the Essential Programs and Services Formula To Aid Rural School Districts.

LD 1368 – An Act To Revise the Essential Programs and Services Funding Formula To Increase Equity in School Funding.

LD 1506 – An Act To Reform Maine’s School Funding.

### **Inland Fisheries & Wildlife**

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

**Tel: 287-1338**

LD 1496 – An Act To Restrict the Time during Which an Airmobile May Be Operated.

### **Natural Resources**

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

**Tel: 287-4149**

LD 1477 – An Act Concerning the Natural Resources Protection Laws and Related Provisions.

LD 1014 – An Act To Ensure Reasonable and Equitable Land Use Opportunities near Shorebird, Wading Bird and Waterfowl Habitat.

LD 326 – An Act To Enhance Implementation of the Significant Wildlife Habitat Rules.

LD 258 – An Act To Amend the Laws Governing Setbacks under the Natural Resource Protection Laws.

LD 1319 – An Act Relating to Previously Approved Small Coastal

Subdivisions.

### **Utilities & Energy**

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

**Tel: 287-4143**

LD 593 – Resolve, To Establish a Second Public Safety Answering Point for Kennebec County.

LD 1621 – An Act To Ensure the Reliability of Communications Equipment in Certain Buildings.

LD 1303 – An Act To Establish the Columbia Falls Village Water District.

LD 1382 – An Act To Create a Utility District in Edgecomb.

LD 1656 – An Act To Amend the Fryeburg Water District Charter.

LD 1573 – An Act To Encourage and Facilitate Regional Utility Districts.

*Wednesday, April 11*

### **Criminal Justice & Public Safety**

**Rm. 436, State House, 1:00 p.m.**

**Tel: 287-1122**

LD 1728 – An Act To Strengthen the Authority of Concealed Weapons Permits and Define the Term “Crossbow” in Maine Law.

### **Education & Cultural Affairs**

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

**Tel: 287-3125**

LD 967 – Resolve, Regarding Legislative Review of Chapter 007: Implementation of the Essential Programs and Services Funding Model, a Major Substantive Rule of the Department of Education.

LD 346 – An Act To Increase State Funding of Public Education.

LD 482 – Resolve, To Conduct an Objective and Independent Review of Essential Programs and Services.

LD 1041 – An Act To Improve the Essential Programs and Services Funding Formula.

LD 1324 – An Act To Restore Income as a Factor in the Determination of Fiscal Capacity in the School Funding Formula.

LD 1366 – An Act To Limit the Loss a School Administrative Unit Could Receive under the School Funding Formula.

### **Taxation**

**Room 127, State House, 1:00 p.m.**

**Tel: 287-1552**

LD 1486 – An Act To Clarify the Property Tax Exemption for Family Burial Grounds.

LD 1338 – An Act Concerning the Taxation of Property Owned by Certain Nonprofit Organizations.

LD 1100 – An Act To Support Continued Viability of Affordable Housing.

LD 1069 – An Act To Provide a Property Tax Exemption for Nonprofit Technology Centers.

LD 1648 – An Act To Exempt Housing Owned by Nonprofit Organizations for People with Disabilities from the Municipal Service Fee Laws.

LD 1578 – An Act To Encourage Municipal Cooperation.

LD 1554 – An Act To Assist Snowmobile Clubs with Local Property Taxes.

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### Education & Cultural Affairs

LD 1506 – An Act To Reform Maine’s School Funding. (Sponsored by Sen. Nutting of Androscoggin County.)

This bill repeals the Essential Programs and Services school funding allocation model and creates a new school funding formula whereby all school systems would have to raise 8 mills of effort to support their schools and the state would provide the difference. School systems able to fund their budgets on less than 8 mills of effort would receive no state funding.

### Legal & Veterans Affairs

LD 1497 – An Act To Improve Local Control over Bars. (Sponsored by Sen. Strimling of Cumberland County.)

This bill authorizes a municipality to adopt an ordinance that controls the closing time of establishments that sell alcohol for on-premises consumption.

### Natural Resources

LD 935 – An Act To Continue To Ensure the Long-term Capacity of Municipal Landfills. (Sponsored by Rep. Makas of Lewiston; additional cosponsors.)

By previous law, publicly-owned solid waste disposal facilities were exempt from the definition of “commercial solid waste disposal facility” provided they were not accepting out-of-state waste. That exemption expired on January 1, 2007. This bill revives and continues the exemption.

LD 1313 – An Act To Amend the Solid Waste Management Laws. (Sponsored by Sen. Martin of Aroostook Cty; additional cosponsors.)

This bill amends the laws governing the state-level oversight of solid waste management in Maine. The bill creates a 14-member Solid Waste Management Advisory Council charged with reviewing six areas of solid waste management laws including: (1) siting a state-owned solid waste disposal facility; (2) host community benefits; (3) the development of commercial solid waste facilities; (4) the development of regional disposal facilities; (5) the expansion of beneficial reuse and recycling; and (6) the rule of municipal zoning in regard to the siting, expansion and operation of solid waste disposal facilities. The membership of the Council includes two members from municipal government.

LD 1319 – An Act Relating to Previously Approved

Small Coastal Subdivisions. (Sponsored by Rep. Hinck of Portland.)

This bill creates a set of standards regarding the allowable setback and buffer requirements for building a structure in a subdivision that falls within an area designated as a waterfowl, wading bird or shorebird feeding area. The special standards apply provided the subdivision had been approved prior to June 8, 2006 and included fewer than 10 lots.

LD 1596 – Resolve, Directing the Department of Environmental Protection To Study Construction and Demolition Debris Recycling. (Sponsored by Rep. Duchesne of Hudson; additional cosponsors.)

This resolve directs the Department of Environmental Protection to study the quantity of recyclable material that can be removed from construction and demolition debris (CDD) at a recycling facility, and to further develop the minimum standards for waste reduction and resource recovery that a recycling facility would have to meet in order to deposit the residual waste after a CDD resource recovery operation at a state-owned waste facility.

### Taxation

LD 1486 – An Act To Clarify the Property Tax Exemption for Family Burial Grounds. (Sponsored by Rep. Mills of Farmington.)

This bill creates a property tax exemption for all family burying grounds of ¼ of an acre or less.

LD 1578 – An Act To Encourage Municipal Cooperation. (Sponsored by Rep. Mills of Farmington.)

This bill exempts from property taxation the property of municipalities that is located in other municipalities and the property of regional councils formed by two or more municipalities.

LD 1648 – An Act To Exempt Housing Owned by Nonprofit Organizations for People with Disabilities from the Municipal Service Fee Laws. (Sponsored by Rep. Wagner of Lewiston; additional cosponsors.)

This bill would exempt from taxation any property owned by a nonprofit organization that provides residential rental housing to persons with physical or mental disabilities. This bill also prohibits a fee-for-service charge in lieu of taxes from being applied against such property.

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## HEARINGS (cont'd)

### Thursday, April 12

#### Education & Cultural Affairs

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

Tel: 287-3125

LD 1634 – An Act To Reduce School Construction Costs.

### Friday, April 13

#### Natural Resources

Room 214, Cross State Office Building, 9:00 a.m.

Tel: 287-4149

LD 810 – An Act To Improve Solid Waste Management.

LD 935 – An Act To Continue To Ensure the Long-term Capacity of Municipal Landfills.

LD 1191 – An Act To Authorize a Local Bond Issue for Solid Waste, Storm and Drainage Issues and Transfer Stations.

LD 1196 – An Act To Protect Host Communities’ Sovereign Rights.

LD 1204 – Resolve, To Impose a Moratorium on the Acceptance or Processing of an Application To Increase or Revise Licensing of New or Existing Incineration Facilities.

LD 1313 – An Act To Amend the Solid Waste Management Laws.

LD 1431 – An Act To Provide for the Protection of Communities That Host a Solid Waste Disposal Facility or Incineration Facility.

LD 1596 – Resolve, Directing the Department of Environmental Protection To Study Construction and Demolition Debris Recycling.

#### Transportation

Room 126, State House, 9:00 a.m.

Tel: 287-4148

LD 1329 – An Act To Allow Municipalities To Set Speed Limits on Certain Roads.

LD 1399 – Resolve, To Ensure the Safety of Roads with High Volumes of Traffic.

## CONSTRUCTING (cont'd)

lack of a state-level code administrator to help make rulings and provide information about code updates.

Supporters of the Resolve included the State Planning Office, members of the historic preservation community, and associations focused on sprawl, development, construction and architecture. There was no opposition.

In addition, the issues raised by LD 851, *An Act To Facilitate the Upgrading and Preservation of Existing Building Structures* were moved into the Resolve. Those issues included a close look at the Life-Safety Code and the extent to which it creates undue barriers to the renovation of older buildings.

MMA also supported the Resolve. In its testimony, MMA requested that the Committee support a comprehensive look at building code issues. A comprehensive look does not just focus on the lack of uniformity among municipal codes, it also addresses the lack of uniformity among state-adopted codes. A comprehensive look recognizes the distinction between municipalities with codes that are different from the Maine Model Code and those municipalities that have no code.

A comprehensive look would also

confront the issue of licensing contractors. It would seem silly to enact a mandatory, state-wide building code that is designed to protect consumers and the general public safety while not requiring the individuals who actually build our structures to meet some standard.

In the past 10 years the BRED committee has received at least three separate reports on the issue of building codes. So the hope is that a lot of the background work has been done and the challenge is that a group can come to some agreement on these tough issues.

### Contractor Licensing

LD 1038 is a refiled version of LD 1551 from last session. This legislation would require builders to be licensed. Supporters included the Attorney General, 4 legislators and the Home Builders and Remodelers Association. Opponents included a legislator and the Mid-Coast Builders Alliance.

While there are criticisms of the bill focused on many of the licensing details, the primary objection is that adopting a licensing regime without a statewide building code is putting the cart before the horse.

LD 1038, like its predecessor, attempts to reach a compromise on that issue. It specifically delays adoption of

the licensing program until the Maine Model Building Code is the predominant Code used in Maine.

The BRED Committee faces a challenge to arrive at a creative solution. Many of the complaints BRED has heard in the past about construction have nothing to do with code-related issues. Oftentimes the consumer complaint is business related. For example, a contractor who takes a down-payment for a job and then never shows-up to do the work. This type of activity is not regulated by a building code. The bill's sponsor, Representative Jon Hinck (Portland), recounted how a contractor he had recently hired ordered a window that didn't fit and that the reason it didn't fit is that the builder measured the wrong wall.

The Committee may wind up considering a program other than licensing. Licensing typically focuses on the vocational aspect of a trade and not the business aspects of the trade. Consequently the Committee may need to focus on business practices and delay action on regulating the trade practices until the building code issue is resolved.

MMA encouraged the Committee to fold this issue into the LD 677 Resolve because contractor licensing is a key component of a truly comprehensive plan.