

June, 2009

maine townsman

The Magazine of the Maine Municipal Association

SESSION ENDS...

\$44 MILLION CUT

REVENUE SHARING

\$78 MILLION CUT

SCHOOL FUNDING

HOMESTEAD EXEMPTION

PROPERTY TAX RELIEF REBATES

\$7 MILLION CUT

\$30 MILLION CUT

...GAME OVER?

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IN THIS ISSUE:

Session Overview • New Laws • Studies
Carry Over Bills • November Election

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recycled paper

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Session Overview

By Geoff Herman, Director of State
& Federal Relations, MMA

The theme of this legislative session, not surprisingly, was written in the ink of the economic downturn.

If you want to characterize the session, simply apply the terms “cut”, “reduce”, “deappropriate”, “transfer”, “freeze”, “eliminate” or “suspend” to all things governmental, such as state and local budgets, state and local programs, state and local employees and state-level financial support for public education and property tax relief programs.

If the intent was to make it clear that Maine’s lawmakers believe that state government should adjust to the economic reality by living within its means, that goal was achieved. While it is true that state government benefited from its share of federal “stimulus” dollars that helped soften the blow, particularly in the areas of public education and Medicaid-based services, the financial resources from Washington only went so far. For the cuts that still had to be made at the state level, Maine’s lawmakers were obviously cognizant of the economic pressures affecting their constituents, and state government was given no special exemption from negative impacts.

At the beginning of the session, both Governor Baldacci and key legislators made some strong claims about how they were going to balance the state budget during these tough economic times “without raising any broad-based taxes”. Unfortunately, when the Legislature makes sweeping cuts to many of the programs it supports, property taxes suffer from collateral damage. When the lawmakers take money dedicated to municipal revenue sharing to balance the state budget, or cut funding for such pro-

grams as Kindergarten-through-Grade 12 public education or the “Circuit Breaker” property tax and rent benefits, or jack down the value of the Homestead property tax exemption for Maine residents, an upward pressure is exerted on the state’s property tax burden.

In terms of quantity, an additional \$140 million of that upward pressure is going to be placed on the property tax burden in Maine over the next two

years as a result of the state budget. The magnitude of the reduction in state financial support is unprecedented. With over \$115 million worth of cuts to municipalities and school systems, and well over \$25 million of direct cuts to the property taxpayers themselves, municipal budgets will be characterized by austerity for several years to come, and reductions in municipal services and layoffs of municipal and school staff will continue. Ultimately, the

Financial Calculations on the Cover

The cover of this issue of the *Maine Townsman* quantifies four categories of negative financial impacts to local government and property taxpayers associated with the biennial state budget enacted by the Legislature in late May. All financial data are obtained from LD 353, the enacted state budget, and its fiscal note. Here is how those numbers were calculated:

Revenue Sharing. The \$44 million cut to municipal revenue sharing is the sum of an \$18.8 million “transfer” out of the Local Government Fund and into the state’s General Fund in FY 2010 and a similar \$25.3 million transfer in FY 2011.

Property Tax Relief Rebates. The \$30 million cut to property tax relief rebate programs is the sum of a \$17.4 million biennial cut in “Circuit Breaker” property tax and rent benefits and a \$12.6 million biennial cut to the Business Equipment Tax Reimbursement Program (BETR).

Homestead Exemption. The 23% reduction in the value of the Homestead Exemption program, from a \$13,000 to a \$10,000 exemption beginning on April 1, 2010 will “save” the state (and cost the homesteaders) \$6.9 million in FY 2011 (and each year thereafter).

School Funding. The calculation of a \$78 million cut to school funding is not based on the difference between actual state funding and the “55%” state funding level. Instead, it is based on the reductions in the state’s General Purpose Aid to Local Schools (GPA) relative to flat-funding levels. For the current 2009 Fiscal Year, the state level of support for GPA was \$956.5 million. According to the budget, the state’s GPA appropriation for FY 2010 is \$947.4 million (representing a \$9.1 million reduction) and the GPA appropriation for FY 2011 is \$887.4 million (representing a \$69 million reduction). If the gap to be measured was the difference between the actual state appropriations for GPA and the 55% funding level, the biennial difference between full funding and actual funding would be \$295 million; \$110 million in FY 2010 and \$185 million in FY 2011.



Last year's statewide building code law had some minor flaws. Yet, the adoption of the law had been hard fought and the collective nerves of both legislators and lobbyists were very sensitive on this issue. Nevertheless, Representative Jayne Crosby Giles (Belfast) agreed that the minor flaws needed to be addressed and agreed to steward a building code clean-up bill, LD 652. Adding to the challenge were requests from both the new Building Code Board and the Revisor's Office to use LD 652 as the vehicle to make even more changes to the statewide building code law. Rep. Giles accepted each new request with understanding and accommodation and was able to guide the legislation to enactment.

the budget will place on property taxes. Some even said they were sorry, but felt they had no choice.

A full description of the impact of the state budget on property taxes and local government is found in the *New Laws* article in this edition of the *Townsmen*, in the Appropriations Committee under LD 353.

Other Municipal Legislation. Without being able to prove any cause-and-effect, it appears that the magnitude of the state budget issues cooled down the environment where other highly-significant negative municipal legislation might grow. With a few exceptions, the legislative committees were very responsive to the municipal concerns, smoothed-out the sharply negative local impacts in the roughly-printed legislative proposals, and killed the highly-problematic bills outright.

A careful reading of the *New Laws*

local voters will decide the degree to which those state cuts will be absorbed by reduced local services or replaced with increased property taxes.

Inside the State House, as the state budget finally came into focus, some of these impacts began to be recognized. Toward the end of the session, the loud crowing about "not raising any broad-based taxes" became much more subdued. More than a few legislators, in fact, began to clearly identify the negative impacts

article in this edition of the *Townsmen* may uncover some other contenders, but what follows are a few examples of municipally-related legislation that stand out from under the shadow of the state budget.

Positive municipal legislation.

In the positive category, MMA's Legislative Policy Committee asked various legislative sponsors to advance eight separate legislative proposals in 2009. One bill was kicked out because it was a "competing measure" to the initiative to repeal the school consolidation law.



Changing the way things have always been isn't easy. But, Representative Anne Haskell (Portland) quickly agreed to sponsor LD 1242, which gives qualified municipalities the option to become "delegated" to provide the fire code reviews for commercial development that the Fire Marshal's Office has historically provided. Rep. Haskell skillfully guided this local option legislation to a unanimous committee report and final enactment.



Representative Patsy Crockett sponsored LD 715, which removed an outdated statutory barrier preventing many municipalities from agreeing to accept payments from citizens via credit cards. Rep. Crockett was able to explain that LD 715 both increases administrative efficiency for municipalities while allowing citizens the convenience of using credit cards if that is their preferred payment method.

Four of the Policy Committee's proposals were adopted by the Legislature nearly in whole cloth. Some progress was made on two additional fronts. A full description of the successful proposals advanced by the Association's Legislative Policy Committee are found in the following sections of the *New Laws* article in this edition of the *Townsmen*.

LD 652, Building Code Fix-up. Sponsored by Representative Jayne Giles (Belfast), LD 652 fixes-up the legislation enacted in 2008 creating a uniform and enforced statewide building and energy code. A description of LD 652 is found under the Business, Research and Economic Development section of the *New Laws* article.

LD 715, Credit Cards at the Town Office. Sponsored by Representative Patsy Crockett (Augusta), LD 715 modernizes outdated credit card law and opens up the opportunity for municipalities and other units of government to provide their customers with the opportunity to make payments with credit or debit cards if those customers are willing to pay the credit card company's "merchant fee". LD 715 is described under the Insurance and Financial Services section of the *New Laws* article.

LD 1126, Keeping GPA Honest. LD 1126 makes it much harder for various state-level expenditures associated with public education to be classified as "miscellaneous costs" and swept into the school subsidy appropriation as though they were financial grants to local schools. Sponsored by Senator David Trahan (Lincoln Cty.), the theory of LD 1126 is that the General Purpose Aid for Local Schools appropriation should be just that...school subsidy that is more-or-less directly provided to the state's public schools. LD 1126 is described under the Education section of the *New Laws* article.

LD 1242, Delegation of Municipal Review Authority.

LD 1242 was sponsored by Representative Anne Haskell (Portland). The bill allows qualified municipalities to be "delegated" certain development review authorities for major commercial development currently performed solely by the State Fire Marshal's



Senator David Trahan (Lincoln County) was characteristically passionate in his support as sponsor of LD 1126, a bill designed to make the General Purpose Aid to Local Schools appropriation more transparent and more true to its original purpose.

Office. The goal is to make the development approval more of a one-stop-shopping process where the capacity for a professional review of construction plans exists locally. LD 1242 is described in the Criminal Justice and Public Safety section of the *New Laws* article.

LD 1290 and LD 545, Tax Exempt Institutions. LD 1290 was sponsored by Senator Lisa Marraché (Kennebec County.). The bill would have modernized, rationalized and expanded the applicability of a poorly written statute that allows municipalities in very limited circumstances to apply service charges against tax exempt organizations to cover some of the costs of providing municipal services to those exempt institutions. Unfortunately, LD 1290 was killed by the Taxation Committee, but a fragment survived. LD 545 is a portion of the original version of LD 1290 that got spun off

as a separate bill and was sponsored by Senator Larry Bliss (Cumberland County). LD 545 repeals a unique property tax exemption enjoyed by hospitals that applies to real estate the hospitals may be leasing from commercial landlords. A description of LD 545 is found in the Taxation section of the *New Laws* article.

LD 808, Raiding the Local Government Efficiency Fund. LD 808 would have blocked the Legislature from continuing to raid the municipal revenue sharing dollars that were supposed to go into the Local Government Efficiency Fund. It also would have earmarked those revenue sharing dollars to the Municipal Investment Trust Fund (instead of the Local Government Efficiency Fund) which municipal officials believe would be less likely raided by the Legislature. Sponsored by Senator Margaret Craven (Androscoggin County), LD 808 was killed on the Special Appropriations Table, but one part of LD 808 was enacted as part of the two-year state budget (LD 353) and another element of the bill can be found in the economic development bond package that voters will be asked to ratify on primary day (June 8th) in 2010.

As to the first part, a provision in the state budget bill eliminates the provision of law that sets-aside 2% of municipal revenue sharing for the Local Government Efficiency Fund, effectively beginning two years from now in FY 2012. Until then, those revenue sharing funds will still be used to help balance the state's budget.

As to the part of LD 808 that would have capitalized the Municipal Investment Trust Fund, the economic development bond package as developed in LD 913 will provide \$3.5 million of funding for the new "Communities for Maine's Future" program, which is something of a hybrid formed by marrying the Municipal Investment Trust Fund with other existing programs that provide grants for downtown rehabilitation and historic preservation projects. A full description of the municipal and school impacts of LD 353 (the budget bill) and LD 913 (the bond package, including the Communities for Maine's



It is politically unpopular to question legislation pursued by public safety personnel. Yet, sometimes that legislation is flawed. Such was the case with LD 621 which provides to firefighters a cancer "presumption" in workers compensation law. Senator Peter Mills (Somerset County) and Representative Andre Cushing (Hampden) are members of the Labor Committee which reviewed the bill. These legislators dramatically improved LD 621 from its original form. Their efforts, both in committee and in their respective chambers, ensured that municipal concerns were not dismissed.

Future Program) is found in the Appropriations section of the *New Laws* article.

LD 1495, Tax Reform. In order to provide increased stability, modernity, equity and balance to the state's 50-year old tax code, municipal officials have been long-time advocates of comprehensive tax reform. LD 1495 is not the three-dimensional tax reform measure that municipal officials would have written, but even as a narrower type of "reform", LD 1495 would help balance the income tax against the sales tax, provide somewhat greater stability to state revenue along with fairly significant relief in tax burden to Maine residents. A full description of LD 1495 is found in the Taxation section of the *New Laws* article.

Negative municipal legislation. One would think that with all the cuts to local government in the state budget, lawmakers would be sensitive about passing laws that drive up local costs and local litigation expenses. Although many legislative committees either expressed that sensitivity or acted accordingly, it was not universal.

LD 621, Rebuttable Cancer Presumption for Firefighters. Sponsored by Senator Phil Bartlett (Cumberland Cty.), and strongly advocated by a phalanx of uniformed firefighters conspicuously stationed on the third floor of the State House, LD 621 creates a statutory presumption that a firefighter, volunteer or career, who is diagnosed with cancer contracted the cancer as a result of firefighting. With the creation

Anti-Smoking Ordinances Encouraged

This session, the Health and Human Services Committee unanimously voted against a bill (LD 155) proposing to prohibit smoking on public beaches and in public parks. The Committee killed the bill, in part, because under home rule authority municipalities are fully authorized to enact ordinances regulating smoking in public areas within their jurisdiction. As much as the members of the Committee believe smoking restrictions in public parks is an important issue, they also believe it should be addressed locally.

As a result, the Committee sent a letter to MMA asking the Association to encourage municipalities to enact smoking prohibition ordinances. The city of Portland has enacted an ordinance prohibiting smoking at or within 20 feet of city-owned or maintained beaches, playgrounds and athletic facilities (exempting specifically designated areas at Hadlock field). A copy of the ordinance can be found on the City's website at: <http://www.ci.portland.me.us/hhs/parksordinance.pdf>

Municipal officials interested in developing such an ordinance are welcome to contact MMA's legal staff for advice and guidance.

of the presumption, the municipality will now have to prove the cancer was caused by something other than the firefighter's workplace in those cases where the cause of cancer is uncertain. The municipalities articulated a long list of objections to the bill, all of which were ignored by the Legislature which strongly supported the measure in both the House and Senate and among both Republicans and Democrats. Members from both chambers and both parties, along with the firefighters themselves, repeatedly stated for the record that there would be "no municipal costs" associated with this legislation.

That strongly-stated claim by many members of the Labor Committee directly contradicts the fiscal note placed on the bill by the Legislature's non-partisan Office of Fiscal and Program Review, which reads as follows:

"State Mandates

Unit Affected: Municipality

Local Cost: Significant statewide

Required Activity

Shifting the burden of proof that a municipal firefighter or volunteer firefighter contracted certain types of cancer as a result of employment as a firefighter from the claimant to the employer and/or the employer's insurer may represent an indirect modification of a municipal activity.

The indirect modification of local activities in this bill may represent a State mandate pursuant to the Constitution of Maine. Unless General Fund appropriations are provided to fund at least 90% of the additional costs or a Mandate Preamble is amended to the bill and two-thirds of the members of each House vote to exempt this mandate from the funding requirement, municipalities may not be required to implement these changes.

Fiscal Detail and Notes

This legislation will increase costs to local governments in the form of both higher premiums for workers' compensation insurance and increased legal costs. The impact to individual municipalities can not be determined at this time and will depend on actual experience."

A full description of LD 621 is found in the Labor section of the New Laws article. MMA is currently carefully reviewing the relationship between LD 621 and the prohibition in Maine's Constitution against unfunded state mandates. [mf](#)

Unanticipated State Aid Reductions

The final round of budget cuts to state aid programs may have created a budgeting and tax commitment, and possibly an LD 1, dilemma for some of the March town meeting communities.

Where March town meeting voters appropriated specific amounts for state revenue sharing and local road assistance (URIP), those figures may now be inflated. While they were good-faith estimates at the time, these town meeting-approved appropriations may be higher amounts than the communities can now expect to receive in fiscal year 2010 (for current FY '10 Revenue Sharing estimates, go to the MMA website, www.memun.org)

What steps can a community take to reconcile earlier state revenue estimates and the approved municipal budget as they approach tax commitment time?

The answer to this question depends on the wording of the articles appropriating state funds, on how much flexibility town meeting may have given selectmen for the use of surplus funds, and on how conservative town officials were in estimating these state revenues.

If the town meeting article identified a specific revenue estimate and that is what the town meeting approved, it would be best for town officials to plan to use that estimate, even if it is more than the current estimate. Budgeting involves estimating revenues and expenditures, and the amounts received and spent are seldom exactly on target. Fortunately, most town officials are conservative with these revenue/expenditure estimates, and so many towns end their budget year with fund balances that are sufficient to cover small-scale revenue shortfalls. The magnitude and unexpectedness of the state revenue reductions this year and the volatility of excise tax collections make this a particularly worrisome budget year as municipal officials head to tax commitment time.

The amount of property taxes raised does not have the same elasticity as other revenues. Once taxes are committed, that commitment number will fix how much property taxes can legally be raised for the year to support the municipal budget. Uncollected property taxes may impact this local revenue source, but generally, what is committed by the municipality is the property tax portion of the municipal budget.

If you are going into the tax commitment process and discover that you are significantly overestimating non-property tax revenues, you have two basic choices. You could call a special town meeting and ask for legislative authority to increase the tax commitment or draw down surplus funds to cover the unanticipated loss of state revenues. Alternatively, you could stick with the existing revenue estimates, knowing they are more than what you can realistically count on, and limit some of the budgeted expenditures to keep the municipal budget in balance.

The wording of your annual town meeting articles for appropriating non-property tax revenues and giving selectmen authority to use surplus funds to reduce the tax commitment should be reviewed. You may want to check with MMA Legal Services to see how much flexibility the municipal officers have regarding the municipal budget and tax commitment before calling a special town meeting.

LD 1 may add more confusion to this municipal budget dilemma. If your town approved a municipal budget that was under your property tax levy limit, but now, after factoring in the state aid reductions you see the need to increase the property tax commitment, then you will need town meeting approval to go over the LD 1 limit. So, if you are calling a special town meeting to get approval for additional property taxes, first run the new numbers against your LD 1 limit. If this town meeting action would put you over the limit, you need to include articles on the special town meeting warrant to raise and appropriate additional property taxes and to get LD 1 override permission.



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Wednesday, August 5th - Application Deadline

Wednesday, August 26th - Application Approval

Thursday, October 7th - MMBB Sale Meeting

Thursday, October 29th - Closing/Bond Proceeds Available

If you would like to participate in or have any questions regarding the 2009 Fall Bond Issue, please contact Greg Connors at 1-800-821-1113, (207)622-9386 or gdc@mmbb.com.



NEW LAWS

Effective dates. Emergency legislation became effective on the date it was signed by the Governor unless otherwise noted. If the new law was an emergency measure, it is so-noted before the Public Law citation. Non-emergency legislation becomes effective 90 days after adjournment of the legislative session in which it was enacted. The effective date of non-emergency legislation enacted this session will be September 12, 2009. (*Note: Any legislation which was enacted by the Legislature but not yet signed by the Governor at the time this issue of the Townsman went to press was cited as PL 2009, c. xxx.*)

Mandate preamble. Legislation enacted with a “mandate preamble” contains the following language: “This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two-thirds of all of the members elected to each House have determined it necessary to enact this measure.” If the new law was enacted with a mandate preamble, it is so-noted along with the Public Law citation.

Agriculture, Conservation & Forestry

LD 517 – An Act To Clarify a Municipality’s Authority To Contract with an Animal Shelter for Services. (Sponsored by Rep. Cleary of Houlton.) **PL 2009, c. 177**

This Act clarifies that a municipality may appoint an employee of an animal shelter as an animal control officer (ACO) for the municipality provided the animal shelter employee is qualified as an ACO. The Act also clarifies that a municipality may contract with an animal shelter for animal control services other than providing animal sheltering services, but the contract cannot allow the shelter to provide ACO services to the municipality unless the shelter employee or employees have been appointed as that municipality’s ACO.

LD 914 – An Act To Broaden the Use of the Land for Maine’s Future Fund for Investments To Promote Public Access and Use of Conserved Lands and To Improve the Productivity of Conserved Farmlands. (Sponsored by Rep. Connor of Kennebunk.) **PL 2009, c. 178**

This Act expands the allowed uses of capital improvement funds under the Land For Maine’s Future program (LMFP) to permit those funds to be used to improve public access with respect to properties that are part of the same ownership or under the same management as adjoining properties conserved through the LMFP. The Act also allows those capital improvement funds to be used to fund the development of a business plan and capital improvements to farmland that is part of the same ownership or under the same management as adjoining farmland property conserved through the LMFP.

LD 1103 – An Act To Amend the Animal Welfare Laws. (Sponsored by Rep. Pieh of Bremen.) **PL 2009, c. 343**

This Act makes a number of changes to Maine’s animal welfare laws regarding the state and local management of dogs and kennels. Among those changes, the Act: (1) repeals the

section of law that requires the municipal officers to issue a warrant between February 1 and April 1 of each year to the Animal Control Officer or any law enforcement officer which would require the ACO or law enforcement officer to notify and summons the listed dog owners who failed to license their dogs; (2) repeals the related section of law that establishes a separate late licensing fee of \$25 for those dog owners identified on the warrant; (3) requires a municipal clerk to notify the Department of Agriculture of a newly appointed Animal Control Officer (ACO) or the creation of an ACO vacancy within 10 days of the appointment or vacancy; (4) adds additional standards regarding the construction of dog shelters that are used when tethering is the primary means of confinement for a dog to require a baffle to deflect wind or precipitation from getting into the dog house and to require the materials of the dog house to have a thermal rating of .9 or greater; and (5) authorizes the Commissioner of the Department of Agriculture to suspend or revoke the certification of a municipal Animal Control Officer when warranted according to certain procedures established in the state’s Administrative Procedures Act.

LD 1133 – An Act To Implement the Recommendation of the Commission To Study the Protection of Farms and Farmland. (Reported by Sen. Nutting for the Joint Standing Committee on Agriculture, Conservation & Forestry) **PL 2009, c. 356**

This Act implements a set of recommendations developed by a commission to study the protection of farmland. Among its provisions, the Act establishes a pilot program for the formation of agricultural districts and agriculture enhancement groups and requires eminent domain proceedings that may be exercised by the Bureau of Parks and Lands within the Department of Conservation to be reviewed by the Legislature’s Agriculture, Conservation and Forestry Committee prior to execution. Of direct municipal interest, this Act requires municipal planning boards to ensure that any subdivision plan under review has identified all “farmland” on the subdivision maps prepared in the application. The term “farmland” is defined in the Act as a parcel of land of 5 acres or more that is classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resource Conservation Service within the U.S. Department of Agriculture or is used or is capable of use without substantial modification for the production of agriculture products. The Act also directs the State Planning Office and the Department of Agriculture to review existing municipal farmland protection ordinances and provide examples of the farmland protection provisions to municipal and regional planning committees.

LD 1322 – An Act To Amend Provisions of the Submerged Lands Law. (Sponsored by Rep. Flood of Winthrop.) **Emergency Enacted; PL 2009, c. 316 (6/09/09)**

This emergency Act amends the laws governing the leasing out of submerged lands by the state to adjust the definition of “fair market rental value”, adjust the method by which submerged land rental rates are calculated, and provide for adjustments to rental rates based on adjustments made to the municipally-assessed valuation of property adjacent to the submerged lands.

Appropriations & Financial Affairs

LD 45 – An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2009. (Sponsored by Rep. Cain of Orono.) **Emergency Enacted; PL 2009, c. 1 (1/29/09)**

This Act is a supplemental state budget for Fiscal Year 2009 designed to close what at the time was a \$140 million gap between FY 09 General Fund revenues and expenditures. The Act incorporates the \$80 million “curtailment order” the Governor issued in mid-November, 2008. The biggest impact associated with that curtailment order on the local level, eclipsing any other, was a \$27 million reduction in the FY 09 distribution of school subsidy (General Purpose Aid to Local Schools, or GPA). The Act formalizes that curtailment but does not change it in any material way.

- For FY 09, the total state and local dollars the EPS school funding model calculated as necessary to provide an adequate public education was \$1.861 billion. In the last fiscal year for which complete data is available (FY 07) the actual total spending on K-12 education was \$2.092 billion.

- The state share of the full EPS allocation appropriated for FY 09 was \$983.5 million prior to the curtailment. That figure represents 52.8% of the full EPS allocation and 47% of the actual spending levels of 2 years ago.

- With the \$27 million reduction in school subsidy formalized by this Act, the total state appropriation for school subsidy drops to \$956.5 million, representing 51.4% of the full EPS allocation and 45.7% of the actual spending levels of 2 years ago.

- To effect the \$27 million reduction and organize its

distribution, the proposed supplemental budget implements a mid-year, after-the-fact increase in the required local share for each school system’s contribution, which proportionately reduces the state share each school system receives. Prior to the reduction, the required local share was the amount of money generated by 6.55 mills of equalized tax effort. To implement the reduction, the supplemental budget increases the required local share to 6.79 mills of effort.

- For the so-called low-receiving school districts, which would not be affected by the increase in required mill rate effort, the reduction in state subsidy is achieved by reducing the minimum subsidy level those systems receive from 50% of the school’s special education costs (as calculated by EPS) to 45%.

[Note: The \$27 million cut in state school funding in this legislation for FY 09 was ultimately restored by provisions in the two-year state budget (LD 353) through the allocation of federal “stimulus” dollars.]

LD 353 – An Act making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30 2009, June 30, 2010 and June 30, 2011. (Sponsored by Rep. Cain of Orono.) **Emergency Enacted; PL 2009, c. 213 (5/28/09)**

This Act is the state budget for FY 2010 and FY 2011. The Act also includes supplemental adjustments to the FY 2009 budget. The major elements of the budget Act that affect local government are:

- **\$44 million cut to Municipal Revenue Sharing.** The budget makes a number of changes, both technical and substantive, to the municipal revenue sharing program. On the technical side,

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the budget simplifies the calculation of the full revenue sharing allotment as well as the system of distributing revenue sharing according to the "Rev. I" and "Rev. II" distribution formulas. Those changes are revenue neutral.

The budget also repeals the 2% set-aside of revenue sharing that was purportedly dedicated to the Local Government Efficiency Fund but habitually taken instead by the Legislature and fed back into the state's General Fund.

The substantive change to revenue sharing in the budget is an \$18.8 million cut to the property tax relief program in FY 2010 and a \$25.2 million cut in FY 2011. \$18.8 million represents 15% of what would be distributed to the municipalities in FY 2010 if the Legislature did not interfere with the program, and \$25.2 million represents 19% of what would be distributed to the municipalities in FY 2011.

\$6.9 million cut to the Homestead Exemption in FY 2011; elimination of administrative cost reimbursements. The value of the Homestead exemption will be reduced 23%, from \$13,000 to \$10,000, beginning on April 1, 2010 and every year thereafter. Also, the budget repeals the requirement for the Legislature to reimburse municipalities for the mandate costs associated with the Homestead exemption administration.

\$17 million cut in Circuit Breaker benefits. For FY 2010 and FY 2011, all Circuit Breaker property tax and rent rebate benefits will be calculated as they are under current law, but then reduced by 20%.

\$12 million cut in Business Equipment Tax Reimbursements (BETR). Although not directly affecting municipal treasuries, the budget reduces all BETR reimbursements to qualifying businesses by 10% for each of the next two years.

\$1.2 million reduction in Tree Growth reimbursements. The budget deappropriates approximately \$600,000 from the Tree Growth reimbursement appropriation for each year of the biennium. The \$1.2 million cut over the two-year period repre-

sents a 10% reduction in Tree Growth reimbursement.

\$69 million cut to school subsidy in FY 2011. By backshifting the distribution of \$11 million in federal stimulus funds from FY 2011 to FY 2010, the budget delivers the same level of school subsidy (combined state-and-federal) for the upcoming fiscal year as was projected in late March when the "ED 281" subsidy projections were sent to each school system.

The deep cut in school subsidy is scheduled for the second year out. Working from a flat-funding baseline of \$956.5 million, which was the state share of school subsidy in the current fiscal year (not counting federal stimulus funds), the state share of school funding for FY 2011 in this budget is \$887.5 million, a \$69 million reduction. For those who try to keep track of the state share of school subsidy, the budgeted levels of state support for K-12 education are quickly dropping away from the never-achieved 55% level that the voters of Maine directed the Legislature to achieve five years ago. Even when buttressed with the federal stimulus funding allocated for K-12 education, the total state-plus-federal support for K-12 education for FY 2011 is projected to be just 48.5% of the total EPS allocation. The state share by itself is projected to be just 45.5% of the total EPS allocation.

Compared to actual state-and-local spending on K-12 education, as that sum has been defined for this purpose over the last 30 years, the state share in FY 2011 will probably represent something like 42% of the total, which represents the level of state support in 2002 when the initiative began to direct the state to fund K-12 education with state revenue at the long-established 55% level.

Budget issues other than direct financial cuts to local government.

Education. There are three other K-12 education issues in

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the proposed budget, two of which could have very far-reaching impacts on the property tax.

First, the budget creates an ongoing role for the Appropriations Committee to meet over the summer and fall and identify \$30 million in additional state savings by "streamlining" state government operations. A final addition to the charge given the Appropriations Committee was included at the very end of the budget development process. That charge requires the Committee to review: "...the portion, if any, of the employer's share of teacher retirement costs, including the normal cost component and the unfunded actuarial liability that is currently funded by the State to be included as part of the total state and local cost of essential programs and services and the portion to be funded through the Teacher Retirement program within the Department of Education."

Also, another part of the budget directs the State Treasurer to convene a working group to review the unfunded actuarial liabilities associated with the Retired Teachers Health Insurance program. The overview charge to the working group is to identify all the governmental obligations to report the health insurance liabilities according to the Governmental Accounting Standards Board Statements (or GASB) requirements. The working group is also charged with recommending one or more methods and timelines for actually addressing the billion dollar-plus unfunded actuarial liability that has been generated by this state-provided health insurance benefit to retired school teachers.

Finally, with regard to the system of financially penalizing school systems that failed to consolidate as required under the school consolidation law of 2007, the budget Act: (1) lifts the penalties for at least one year from those school systems whose voters approved a proposed reorganization plan even though the plan was rejected by the entire voting electorate; and (2) places the penalty revenue that is assessed against all other

school systems that failed to consolidate in a reserve account, to be held there until after the statewide vote on the initiative to repeal the school consolidation law and distributed in 2010 upon direction of the Legislature. (Also see LD 285, under the Education section, below, which defers the assessment penalty for one year. At the time this edition of the Townsman goes to print, it is not known if the Governor will sign or veto LD 285.)

Telecommunications Tax and the Telco Tax Study. Some forms of telecommunications property is taxed at the local level according to the local mill rates. Other types of similar property are taxed at the state level at a fixed statewide mill rate. The budget directs the Taxation Committee to review the way telecommunications property is being taxed in this state and other states and submit a report to the Legislature by January 15, 2010 that recommends changes to the tax law to "ensure equitable tax treatment of telecommunications providers in a revenue-neutral manner".

Code Enforcement Training. If as a result of reduced revenues the State Planning Office (SPO) does not have sufficient revenue to provide basic Code Enforcement Officer training programs, then the required CEO training programs will be suspended. During any period of time that the training programs are suspended, the SPO will keep of registry of active CEOs that meet certain standards of qualification, but the formal training and certification process will not be applied. The SPO will still have access to the dedicated plumbing fee revenue to train Local Plumbing Inspectors, as well as certain development-review revenues to train municipal building inspectors.

Water Quality Improvement Program. In order to help generate the revenue necessary to provide three additional clam flat inspectors at the state level, a number of increases to certain wastewater licensing fees are being advanced in this budget: (1) a surcharge of \$15 must be added to the regular,



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non-engineered septic system installation fee; (2) a \$75 surcharge must be added to the annual licensing fees for each of the four categories of “sanitary overboard discharge” systems; (3) a total of \$12,000 annually must be assessed against the municipal or district wastewater treatment facilities that have combined sewer overflow (CSO) systems that are determined to potentially impact shellfish harvesting areas (allocated on a 3-year-average-annual-flow basis); and (4) a total of \$25,000 must be assessed against wastewater treatment facilities that discharge a treated effluent that causes adjacent shellfish growing areas to be closed (allocated on a per-acre-of-closure basis).

Increases to Hunting/Trapping/Fishing/Boat Registration fees. Municipal clerks who act as agents of the state with respect to the issuance of hunting and fishing licenses and boat registrations should become familiar with the new schedule of licensing and boat registration fees, almost all of which are increased by \$4 or more in this budget.

LD 913 – An Act To Authorize Bond Issues for Ratification by the Voters for the November 2009 and June and November 2010 Elections. (Sponsored by Rep. Pingree of North Haven.) **PL 2009, c. 414**

This Act sends out to the voters a \$150 million bond package in three installments: a \$71.25 million borrowing proposal on the November 3, 2009 ballot, a \$68.75 million package on the June 8, 2010 ballot, and a \$10 million proposal to be placed on the statewide ballot in November 2011.

The November 2009 bond package includes a \$71.25 million transportation bond, including \$55 million for highways and bridges, \$4 million for railroads, \$8.65 million for ports ferries and water-related transportation, and 3.6 million for aviation-related infrastructure.

The June 2010 bond proposal includes a \$25 million economic development package, with: (1) the Department of Economic and Community Development overseeing the provision of \$8 million for the Brunswick Naval Air Station redevelopment, \$3.5 million for the “Communities for Maine’s Future”

program (see below), and \$3 million for research and development investments; (2) the Finance Authority of Maine overseeing the provision of \$5 million for the Small Enterprise Growth Fund, \$3 million for an economic recovery loan program, and \$1 million to provide grants for food processing and lumbering industries in the state; and (3) the Maine Historic Preservation Commission overseeing a \$1.5 million revolving loan program for the purpose of acquiring historic properties.

The June 2010 bond ballot also includes a \$10.25 million environmental bond, with \$3.4 million designated for the Drinking Water revolving loan program, \$3 million designated for the wastewater revolving loan program and an additional \$600,000 for a wastewater facility grant program, \$1 million for the small community grant (septic system abatement) program, \$1 million for agricultural facility pollution protection programs, and \$1.25 million for the uncontrolled sites/overboard discharge programs.

In addition, the June 2010 bond ballot includes a \$33.5 million capital improvement package, with \$12 million provided to the Public Utilities Commission to provide a weatherization program for low and middle income households and small businesses, \$9.5 million for University of Maine capital upgrades, \$5 million for capital upgrades at the Community College campuses, \$1 million for a capital upgrade at the Maine Maritime Academy campus, and \$6 million for a research and development investment with the goal of developing one or more ocean wind energy demonstration sites.

The November 2011 ballot will include a \$10 million bond proposal for the Land for Maine’s Future program (\$6.5 million), working farmland and working waterfront protection (\$3 million) and state park infrastructure (\$500,000).

With respect to the “Communities for Maine’s Future” program, which would be capitalized with \$3.5 million as part of the economic development bond, the Act establishes the program within the Department of Economic and Community Development and creates the 7-member “review panel” that would determine how the grant funds would be distributed.

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The membership of the review panel includes the Commissioner of DECD, the Director of the Maine Historic Preservation Commission, the Director of the State Planning Office, and four members of the public, each with experience in economic and community development, historic preservation, downtown revitalization or tourism promotion and development. The Act also prescribes the program's review process, the 11-point scoring system by which to evaluate any grant applications, and the 6 additional criteria that must be considered in the grant award process.

Business, Research & Economic Development

LD 11 – Resolve, To Encourage the Preservation of Dark Skies. (Sponsored by Rep. Schatz of Blue Hill.) **Resolves 2009, c. 22**

This Resolve directs the State Planning Office to review existing commercial outdoor lighting standards, make recommendations on standard language that will limit light pollution, and identify policy options for promoting outdoor lighting standards for commercial development. SPO's report must be submitted to the Legislature by January 15, 2010.

LD 271 – An Act to Encourage Economic Recovery and Employment Growth To Support Maine's Working Waterfronts. (Sponsored by Rep. MacDonald of Boothbay.) **Emergency Enacted; PL 2009, c. 21 (4/09/09)**

This emergency Act amends the law governing Pine Tree Development Zone tax incentives to allow a qualified Pine Tree Development Zone business whose primary purpose is to support the state's working waterfront industry that has suffered from a catastrophic occurrence to apply for an adjustment of the base level of employment for the purpose of determining the tax benefits. In order to be eligible for the adjustment, the business must: (1) be located on a working waterfront in a Pine Tree Development Zone; (2) have sustained at least a 5% loss of employed workers due to a catastrophic occurrence; and (3) have appropriate infrastructure and land use regulations in place. If those standards are met, the "base level of employment" may be adjusted to 25% of the average number of employees of that business over the three months immediately preceding the catastrophic occurrence.

LD 500 – An Act to Include as Authorized Project Costs the Construction or Improvement of Buildings Used by Municipalities for Purposes of Designating Municipal Development Districts. (Sponsored by Sen. Schneider of Penobscot Cty.) **PL 2009, c. 126**

This Act expands the allowable costs under a Tax Increment Financing agreement (TIF) to include the costs of constructing or improving facilities or buildings that are leased by the state or municipal governments and located in approved downtown TIF districts.

LD 652 – An Act To Clarify the Maine Uniform Building and Energy Code. (Sponsored by Rep. Giles of Belfast.) **PL 2009, c. 261**

This Act accomplishes three results. First, it extends by five months (from January 1, 2010 to June 1, 2010) the deadline for the Technical Building Codes and Standards Board to adopt the statewide building code. It also extends other related deadlines in the original statewide building code legislation by five months. Second, it incorporates several technical changes to the statewide building code law enacted last session that were crafted by the Revisor's office and originally included in LD 1477 (the annual "errors and inconsistencies" bill). Third it makes several amendments to the statewide building code law enacted last session including: (1) clarifying that municipalities

utilizing third-party inspectors as authorized by the law do not have to replicate the inspections done by the third party inspector; (2) clarifying that the municipality may entirely rely on the third-party inspection reports to issue an occupancy permit; (3) directing the Technical Building Codes and Standards Board to review issues regarding the third-party inspector system, including liability protection issues, to enhance the viability of the third-party enforcement option, and (4) defining a "building code" for purposes of the statewide building code law as not including fire and life safety codes.

LD 733 – Resolve, To Examine Environmental Effects of the Resource Recovery System. (Sponsored by Sen. Nass of York Cty.) **Resolves 2009, c. 130**

This Resolve directs a five member working group to oversee a two-year study to be performed by an independent private entity to review the focus on the environmental effects that Maine's recycling laws and programs have generated. Among other areas of focus, the review must include an assessment of: (1) current recycling rates; (2) the carbon footprints created by the beverage container recycling laws and municipal recycling programs; (3) barriers to comprehensive recycling; (4) the effect of educational programs on recycling rates; and (5) the potential roles of redemption centers as recycling technology advances. The members of the working group include the State Planning Office, the Department of Agriculture, the Department of Environmental Protection, the Department of Economic and Community Development and the Maine Municipal Association. The independent study and any expert consultants retained in this process must be funded privately from outside sources. The final report of the working group must be provided to the Legislature by January 15, 2012, with the first interim report provided by January 15, 2010 and the second interim report provided by January 15, 2011.

LD 1054 – An Act To Promote Economic Development in the Greater Portland Region. (Sponsored by Rep. Eberle of South Portland.) **P&SL 2009, c. 23**

This Act amends the charter of the Greater Portland Public Development Commission.

LD 1241 – Resolve, Directing the Department of Professional and Financial Regulation To Conduct a Sunrise Review Regarding the Proposal To License Certain Mechanical Trades. (Sponsored by Rep. Wright of Berwick.) **Resolves 2009, c. 74**

This Resolve directs the Department of Professional and Financial Regulation to conduct a so-called "sunrise review" regarding a proposal to license certain mechanical trades, such as sheet metal fabrication, pipefitting, refrigeration and air conditioning, and fire protection sprinkler installation.

LD 1473 – An Act To Reaffirm Maine's Commitment to Business by Amending the Pine Tree Development Zone Laws (Sponsored by Rep. Nancy Smith of Monmouth) **PL 2009, c. xxx**

This Act makes sweeping changes to the Pine Tree Zone Development Laws. Those changes include the following:

1. Beginning January 1, 2009 to December 31, 2009, it allows for all municipalities statewide to be considered "tier 1" locations, where qualified businesses may become eligible for Pine Tree Development Zone benefits for a period of 10 years.

2. Beginning January 1, 2010, it allows the following locations to be considered a "tier 1" location, where qualified businesses may become eligible for Pine Tree Development Zone benefits for a period of 10 years: (1) any municipality located in a county other than Cumberland County or York County; (2) a municipality located in Cumberland County or York County

with a municipal unemployment rate that is 15% higher than its labor market unemployment rate; (3) a municipality that has been designated by the Department of Economic and Community Development as a “participating municipality” in the Pine Tree Development Zone program as of December 31, 2008; and (4) property within a military redevelopment zone.

3. Beginning January 1, 2010, it allows any municipality that is contained in Cumberland County or York County that is not classified as a “tier 1” location to be classified as a “tier 2” location, where qualified businesses may become eligible for Pine Tree Development Zone benefits for a period of 5 years. After the 5 years, all Pine Tree Development Zone benefits expire, except for the expanded employment tax increment financing benefits (E-TIF), which must be recalculated at that time to reflect the standard rates provided under E-TIF law.

4. It expands the definition of “manufacturing” to include making, processing, converting or transforming raw materials, components or parts into finished goods or products for final use or consumption to meet customer expectations or specifications.

Criminal Justice & Public Safety

LD 385 – An Act To Ensure a Uniform Comprehensive State Policy Regarding Residency Restrictions for Sex Offenders. (Sponsored by Rep. Haskell of Portland) **PL 2009, c. 351**

This Act limits the authority of municipalities to adopt ordinances that restrict where a person convicted of certain sex offenses may live within a community in the following ways: (1) the ordinance can only apply to persons convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense; (2) the ordinance may not be premised on the person’s obligation to register as a sex offender; (3) the ordinance may restrict the location of residence only, and may not impose additional restrictions, requirements or fees; (4) the ordinance may prohibit residence by a sex offender up to a maximum distance of 750 feet surrounding the real property comprising a public or private school or municipally-owned property where children are the primary users; and (5) the ordinance may not be applied retroactively.

LD 401 – An Act Creating a Probationary Period for County Corrections Officials. (Sponsored by Rep. Magnan of Stockton Springs.) **PL 2009, c. 106**

This Act establishes a one-year probationary period for county corrections officers that runs from the date of hire. The effective date of the Act is established as October 1, 2009.

LD 550 – An Act To Protect Maine Residents from Home Fires and Carbon Monoxide. (Sponsored by Sen. Diamond of Cumberland Cty.) **PL 2009, c. 162**

This Act requires all newly-constructed single family and multi-unit apartment buildings and all single family and multi-unit apartment buildings acquired by sale or exchange after October 31, 2009 to have both smoke detectors and carbon monoxide detectors that meet certain specifications and are installed in certain locations within those residential units. The Act also directs the State Fire Marshal to dedicate \$100,000 for the purpose of purchasing carbon monoxide detectors to be distributed to the Maine State Housing Authority, community action agencies, local fire departments, associations representing realtors and other organizations interested in promoting the placement of carbon monoxide detectors in homes. Organizations interested in assisting with the distribution program must have the ability to properly install the detectors.

LD 631 – An Act To Amend the Laws Relating to the

Department of Corrections. (Sponsored by Rep. Burns of Whiting.) **PL 2009, c. 142**

This Act makes a number of changes to the laws governing prisoner probation, supervised community confinement and the authority and status of certain corrections officers. Among the several changes, this Act authorizes a police officer to make a warrantless arrest of a juvenile who violates a condition of release. The Act also authorizes police officers to arrest without a warrant other persons who violate conditions of supervision by the Department of Corrections.

LD 633 – An Act To Amend the Laws Pertaining to Refusing To Submit to Arrest or Detention. (Sponsored by Rep. Hanley of Gardiner.) **PL 2009, c. xxx**

This Act restructures the law governing the crime of refusing to submit to police arrest or detention by providing more detail regarding the behaviors triggering the criminal complaint, establishing different categories of the crime depending on the separate behaviors, and providing the legal defenses against the crime that may be offered.

LD 847 – An Act Authorizing Statewide Mutual Aid among First Responder Agencies. (Sponsored by Rep. Haskell of Portland.) **Emergency Enacted; PL 2009, c. 175 (5/19/09)**

This emergency Act adopts by reference a statewide mutual aid agreement that allows any local first responder to provide emergency, management, fire, law enforcement, emergency medical, public works and any other emergency service upon the request of any political subdivision in the state. The Act also allows any municipality to “opt out” of the statewide agreement by adopting an opt-out ordinance.

LD 1066 – Resolve, Directing the Board of Trustees of the Maine Criminal Justice Academy To Amend Its Minimum Standards for the Law Enforcement Use of Force Policy. (Sponsored by Rep. Pilon of Saco.) **Resolves 2009, c. 58**

This Resolve directs the Board of Trustees of the Maine Criminal Justice Academy to amend its use-of-force policy with respect to the procedures for agency review of deadly force incidents. At a minimum, the amended policy must require the convening of an “incident team” to review all incidents involving use of deadly force. The incident team must be appointed by the chief executive officer of the law enforcement agency and include among its membership one commissioned officer of the Maine State police and one member of the general public. The charge to the incident team is to review the use of deadly force and determine whether relevant policy was clearly understandable and effective to cover the particular situation and whether changes are necessary to incorporate improved procedures, practices or training protocols, or whether equipment or other resources should be modified.

LD 1157 – An Act To Improve the Use of Information Regarding Sex Offenders. (Sponsored by Sen. Gerzofsky of Cumberland Cty.) **PL 2009, c. 365**

This Act makes sweeping changes to the laws governing the Sex Offender Registration and Notification program. The focus of the Act is with respect to the obligation or lack of obligation for certain persons to register as a sex offender if the person was sentenced on or after January 1, 1982 and prior to June 30, 1992. Depending on the nature of the offense for which the person was convicted, the date the person was finally discharged from a correctional system for that offense, and the nature of any previous or subsequent convictions on that person’s record, certain registrants are made exempt from the obligation to register by this Act.

LD 1166 – An Act To Implement the Recommendations

of the Ad Hoc Task Force on the Use of Deadly Force by Law Enforcement Officers Against Individuals Suffering From Mental Illness. (Sponsored by Rep. Priest of Brunswick.) **PL 2009, c. xxx**

This Act implements several recommendations of a task force charged with studying the interaction of mentally ill people and law enforcement. Among the recommendations, this Act: (1) requires the Maine Criminal Justice Academy (MCJA) to develop minimum policy standards for mental illness and involuntary commitments; (2) requires law enforcement agencies to adopt the pertinent policies by January 1, 2011; (3) requires MCJA to provide training programs covering the involuntary commitment process; and (4) allows mental health workers to provide some otherwise confidential information to law enforcement personnel in limited circumstances.

LD 1224 – An Act Regarding the Operation of County Jails and the State Board of Corrections. (Sponsored by Rep. Crockett of Augusta.) **PL 2009, c. 391**

This Act implements a number of recommendations of the State Board of Corrections (BOC), which was created by the law enacted in 2008 creating a unified county-state corrections system. Among those recommendations, the Act: (1) establishes both the 6 month and 18-month option for counties to change their fiscal years from the traditional calendar year to the July 1-June 30 fiscal year; (2) authorizes the counties to establish corrections services reserve accounts with unencumbered surplus funds from corrections operations provided those reserve accounts are separated from non-correctional fund balances; (3) expressly authorizes the BOC to make recommendations regarding the corrections budget to the appropriate legislative committees; and (4) prohibits the construction of any new public or private correctional facility in the state unless a certificate of need for that construction has been issued by the Board of Corrections.

LD 1242 – An Act To Streamline the Regulatory Process for Commercial Building Construction Projects. (Sponsored by Rep. Haskell of Portland.) **Emergency Enacted; PL 2009, c. 364 (6/11/09)**

According to a set of procedures and certain standards of qualification, this emergency Act allows qualifying municipalities to be delegated the authority to review business development plans for the fire safety codes that under current law are only reviewable for that purpose by the State Fire Marshal's Office. A municipality with delegated review authority under this Act is authorized to review projects of public buildings that constitute a mercantile occupancy over 3,000 square feet, a hotel, a motel or a business occupancy of 2 or more stories.

LD 1391 – An Act To Amend the Laws Governing Emergency Management. (Sponsored by Sen. Gerzofsky of Cumberland Cty.) **PL 2009, c. 252**

This Act makes a number of maintenance-type amendments to the laws governing the Emergency Management Disaster Relief Fund including: (1) articulating the several allowable uses of the Fund including providing disaster relief to local governments for infrastructure repair and response when a federal disaster declaration is not received, and providing matching assistance to local governments in federally-declared disasters; and (2) allowing the Fund's maximum limit of \$3 million to grow by a CPI index each year, not to exceed 2%.

LD 1442 – An Act To Create the Advisory Committee on Bias-based Profiling by Law Enforcement Officers and Law Enforcement Agencies. (Sponsored by Sen. Bliss of Cumberland Cty.) **PL 2009, c. 353**

This Act creates a 16-member "Advisory Committee of Bias-

based Profiling by Law Enforcement Officers and Law Enforcement Agencies". The Committee is charged with reviewing law enforcement activities at all levels to: (1) determine whether bias-based profiling occurs in the state; (2) work with the Board of Trustees of the Maine Criminal Justice Academy (MCJA) on the development of a model policy on bias-based profiling and related training programs; (3) develop outreach and public awareness campaigns to educate the public about modern law enforcement practices and procedures; and (4) advise the Legislature on matters involving bias-based profiling. The 16 members include representatives of the state and county law enforcement communities, police labor organizations, the Attorney General's Office, the Board of Trustees of MCJA, civil rights organizations and the federally recognized Indian tribes.

Education & Cultural Affairs

LD 245 – An Act To Calculate the School Year by Number of Hours. (Sponsored by Sen. Sullivan of York Cty.) **Emergency Enacted; PL 2009, c. 87 (5/08/09)**

Current law requires all school systems to operate their schools for at least 180 days a year, with at least 175 of those days used for instruction. This emergency Act allows school systems to develop alternative calendars provided the equivalent number of hours of school operation and instruction are provided. To implement the alternative calendar, a school board must apply to the Department of Education, and the proposed alternative calendar can only be implemented for a limited period of time.

LD 285 – An Act to Amend the Laws Governing the Consolidation of School Administrative Units to Delay All Penalties for One Year. (Sponsored by Rep. Schatz of Blue Hill.) **Emergency Enacted; PL 2009, c. xxx (6/xx/09)**

This emergency Act delays for one year the imposition of financial penalties assessed against school systems that failed to consolidate into regional school systems by the 2009 deadline if required to do so. Instead of being assessed with respect to the school year beginning on July 1, 2009, the penalties would be assessed with respect to the school year beginning on July 1, 2010. [*Note: at the time this edition of the Townsman goes to print, it is not known if the Governor will sign or veto LD 285.*]

LD 467 – An Act To Exempt School Administrative District 12, School Union 37 and School Union 60 from the Laws Requiring School Administration Consolidation. (Sponsored by Sen. Mills of Somerset Cty.) **Emergency Enacted; P & SL 2009, c. 19 (6/02/09)**

This emergency Act exempts SAD 12 and the school systems in School Union 37 and School Union 60 from the school reorganization law.

LD 698 – An Act To Allow School Budget Validation Referenda To Be held on a Saturday. (Sponsored by Rep. Weaver of York.) **Emergency Enacted; PL 2009, c. 98 (5/08/09)**

This emergency Act amends the law governing the timing of the school budget validation referendum to allow a referendum vote to be held on a Saturday.

LD 806 – An Act To Authorize Fuel Cost Stabilization Funds To Be Established in School Administrative Units. (Sponsored by Sen. Alford of Cumberland Cty.) **PL 2009, c. 104**

This Act authorizes school systems to establish fuel cost stabilization accounts, determines the method for calculating those accounts in the circumstance of newly-reorganized school systems, and caps the amount of budgeted resources that can be dedicated to those accounts.

LD 857 – An Act To Validate Certain Proceedings Authorizing the Issuance of Bonds and Notes by School Administrative District No. 32. (Sponsored by Rep. Sutherland of Chapman.) **Emergency Enacted; P & SL 2009, c. 4 (4/13/09)**

This emergency Act corrects a defect in a bond for school construction approved by the State Board of Education for SAD 32 in Ashland.

LD 1049 – An Act To Encourage Cooperation among School Administrative Units. (Sponsored by Rep. Sutherland of Chapman.) **Emergency Enacted; PL 2009, c. 154 (5/18/09)**

This emergency Act allows for the creation of regional education cooperatives throughout the state. A regional education cooperative is made up of two or more participating school systems who agree, essentially through the mechanics of an interlocal agreement arrangement, to share in the costs of providing any or all of 14 specified educational functions or support services, such as alternative education, adult education, special education, pre-school education, shared purchasing, coordinated transportation, food service, etc. The Act requires that a governing board for each cooperative must be created on the basis of one representative for each school system participating in the cooperative.

LD 1126 – An Act To Limit the Scope of Miscellaneous Costs within the General Purpose Aid for Local Schools Appropriation. (Sponsored by Sen. Trahan of Lincoln Cty.) **PL 2009, c. 275**

This Act requires the Commissioner of the Department of Education to present the Administration's proposed funding levels for the so-called "adjustments" and "miscellaneous" components of the General Purpose Aid for Local Schools (GPA) appropriation in such a manner that each appropriation by line within those accounts must be separately identified, described as to its purpose, and compared to the appropriation for the same line or purpose in the most recently approved state budget. Any differences in those appropriations must be explained. As described in the Act's summary statement, the proposed appropriations "must be shown in a sufficiently detailed and transparent form and manner to permit the Legislature and the citizens of the State to identify the changes in proposed funding for the components of the Essential Programs and Services Funding Act...without the need for reference to other documents or explanations."

LD 1225 – Resolve, To Review the Adjustments in the School Funding Formula Related to School Administrative Units That Are Eligible for the Minimum State Share of Their Total Allocation. (Sponsored by Rep. Johnson of Greenville.) **Resolves 2009, c. 95**

This Resolve directs the Educational Research Institute within the University of Maine system to conduct a targeted research project to address the impacts of certain adjustments in the Essential Programs and Services school funding formula (EPS) on those school systems that are eligible for no more than the minimum state share of their total EPS allocation.

LD 1486 – Resolve, To Establish a Transition Adjustment for Fiscal Year 2009-10. (Sponsored by Rep. Webster of Freeport.) **Resolves 2009, c. 125**

This Resolve directs the Commissioner of Education to establish a "transition adjustment" that would act to increase the school subsidy provided to a municipality that experiences an increase of 14% or more in property fiscal capacity between the 2007 and the 2008 certified state valuations and that immediately experiences a decrease of 6% or more in property

fiscal capacity between the 2008 and the 2009 certified state valuations.

LD 1493 – An Act To Clarify the Rights of Bondholders in the Event a School Administrative Unit with Outstanding Bonds or Notes Is Dissolved or Is No Longer Authorized by Law. (Sponsored by Sen. Alford of Cumberland Cty.) **Emergency Enacted; PL 2009, c. xxx (6/18/09)**

This emergency Act provides an authority for the continuing assessment and collection of property taxes levied for the purpose of satisfying borrowing or bond commitments made by school administrative units in the event the legal existence of those school administrative units is extinguished either by an act of the Legislature or by the voters at referendum.

Health & Human Services

LD 119 – An Act to Amend the Laws Governing Public Water System Operation Fees. (Sponsored by Sen. Courtney of York Cty.) **PL 2009, c. 15**

This Act increases the annual base fee imposed by the Department of Health and Human Services on public water systems from \$50 to \$75. The Act also removes the statutory \$30,000 cap on the maximum fee that can be charged against any single water system.

LD 1165 – An Act To Improve Children's Safety in Public Swimming Pools. (Sponsored by Rep. Hunt of Buxton.) **PL 2009, c. 206**

Federal law requires all public swimming pools and public spas to be equipped with anti-entrapment devices, unblockable drains or safety vacuum release systems to prevent the entrapment of persons in the pool or spa. This Act requires the Maine Center for Disease Control and Prevention to enforce the provisions of that federal law provided federal funds are available to cover all costs associated with the enforcement activity.

LD 1259 – An Act To Increase Access to Nutrition Information. (Sponsored by Speaker Pingree of North Haven.) **PL 2009, c. 395**

This Act requires chain restaurants to post caloric information on their menus and menu boards. In addition to detailing the process for posting the required information, the Act also prohibits municipalities from adopting ordinances that regulate the dissemination of caloric or nutritional information or other required information placed on menus or menu boards by chain restaurants.

LD 1363 – An Act To Establish and Promote Statewide Collaboration and Coordination in Public Health Activities and To Enact a Universal Wellness Initiative. (Sponsored by Rep. Miller of Somerville) **PL 2009, c. 355**

This Act creates a statewide collaborative system designed to coordinate public health initiatives and promote a universal wellness initiative. The system involves the establishment of 8 geographical districts within the state where the coordinated efforts of the Healthy Maine Partnerships organization, the Maine Center for Disease Control and Prevention and other public health service organizations will be focused on improving the health of Maine's citizens. The Act identifies the role of municipal Health Officer in this process as providing a link between the Maine Center for Disease Control and Prevention and the Health Officer's municipality. The Act also provides a definition of "municipal health department", authorizes municipal health departments to be accredited by a federally recognized credentialing process, and allows municipal health departments to enter into data-sharing agreements with the Department of Health and Human Services as long as those

agreements protect the confidentiality and security of individually identifiable health information.

Inland, Fisheries & Wildlife

LD 124 – An Act to Remove the Game Sanctuary Status for Certain Lands in the Town of Orrington. (Sponsored by Rep. Rosen of Bucksport.) **PL 2009, c. 4**

This Act removes the game sanctuary status for certain lands in the Town of Orrington.

LD 415 – An Act to Regulate Swim Areas on Inland Waters. (Sponsored by Rep. Pendleton of Scarborough.) **PL 2009, c. 312**

This Act requires that a permit be obtained before any swim line is installed on a pond or lake to mark off a designated swimming area. The permit must be obtained from the Director of the Bureau of Parks and Lands. The qualified entities to receive such a permit are camping areas, recreational camps, governmental entities or governmentally-sponsored groups. The Act designates municipally-approved inland harbor masters, code enforcement officers and law enforcement officers as the authorities with primary responsibility for enforcing this permit requirement. *Because this Act effectively requires municipal officials to enforce the new law, it appears to meet the constitutional definition of a state mandate. Because the Act was not identified as a state mandate when enacted, municipalities may not be ultimately required to enforce this law (see 30-A MRSA §5685(4)).*

LD 823 – An Act To Increase Snowmobile Registration Fees. (Sponsored by Rep. Clark of Millinocket.) **PL 2009, c. 226**

This Act increases the resident snowmobile registration fee from \$35 to \$40 and dedicates the \$5 increase to the Department of Corrections, Bureau of Park and Lands' Snowmobile Trial Fund.

Insurance & Financial Services

LD 715 – An Act To Enable the Use of Credit Cards for Government Transactions. (Sponsored by Rep. Crockett of Augusta.) **PL 2009, c. 113**

This Act allows a county, municipality, quasi-municipal corporation and the Judicial Department to impose a surcharge for the use of a credit card or debit card to pay for taxes, fines and services provided the surcharge is disclosed to the consumer prior to payment and the amount does not exceed the administrative (e.g., "merchant fee") costs incurred by the collecting entity. The Act clarifies that a surcharge may be imposed for the use of a debit card if the governmental entity is charged a fee associated with debit card transactions. The Act further requires the governmental entity to disclose to the consumer that the consumer can avoid the surcharge by paying with cash or check rather than credit card.

LD 1418 – An Act to Preserve Home Ownership and Stabilize the Economy by Preventing Unnecessary Foreclosures (Sponsored by Rep. Treat of Kennebec Cty.) **Emergency Enacted; PL 2009, c. 402 (6/15/09)**

This emergency Act makes several amendments to the laws governing bank foreclosures, primarily for the purpose of providing greater opportunity for property owners to work through the courts to negotiate alternatives to foreclosure. Of municipal interest, this bill requires that within 3 days of recording a copy of the complaint or a clerk's certificate of the filing in the registry of deeds, the mortgagee (typically a bank) shall provide a copy of the complaint or clerk's certificate that prominently states the street address of the mortgaged premises and the book and page number of the mortgage to the assessor of the municipality in which the property is located. If the mortgaged property is manufactured housing, the notice must also be provided to the owner of any land leased by the mortgagor.

Judiciary

LD 300 – An Act To Increase Child Support Collection by Expanding the New Hire Reporting Requirements. (Sponsored by Sen. Simpson of Androscoggin Cty.) **PL 2009, c. 198**

This Act requires those employers who are required to provide certain information about newly-hired employees to the Department of Health and Human Services for the potential purpose of securing the employee's child support obligations to similarly report to the Department certain information about independent contractors when contractual agreements exceed \$2,500 in value. The Act clarifies that the term "independent contractor" does not include a "direct seller" as that term is defined in the federal Internal Revenue Code.

LD 324 – An Act To Allow Limited Information Sharing in Domestic Violence Cases. (Sponsored by Rep. Haskell of Portland.) **PL 2009, c. 181**

This Act allows advocates for persons subject to domestic violence to enter into written agreements with law enforcement agencies so that otherwise confidential investigative information in the possession of the law enforcement agency can be shared with those advocates for the purpose of planning for the safety of the domestic violence victim. The Act establishes several mandatory standards governing confidentiality issues that must be part of any such agreement.

LD 427 – An Act To Require School Bus Drivers and School Bus Attendants To Report Suspected Child Abuse. (Sponsored by Rep. Eaton of Sullivan.) **PL 2009, c. 41**

This Act requires school bus drivers and school bus attendants to report to the Department of Health and Human Services if they suspect child abuse or neglect has occurred or is likely to occur.

LD 640 – An Act To Ensure Public Access to Records Relating to Public Contracts for Personal Services. (Sponsored by Rep. Berry of Bowdoinham.) **PL 2009, c. 221**

This Act provides that as a condition of accepting a contract for services from state government the contractor must agree to treat all records regarding the contract related to the performance of personal services, such as the wages and benefits of employees performing the personal services work, as public information under Maine's Right to Know law to the same extent as if the work were performed directly by a department or agency of the State. The Act exempts any proprietary information from this public record status.



Sometimes the pursuit of equity and fairness is an uphill battle. LD 679 provides plaintiffs such as newspapers the opportunity to have their attorneys' fees paid by municipalities if they can establish a municipality acted in "bad faith" in withholding a requested public record. However, unlike previous legislation on this topic, municipalities are not given an equal opportunity to have the municipalities' (property taxpayer funded) attorneys' fees covered if the requestor is acting in bad faith. Representative Richard Sykes (Harrison) introduced an amendment to do just that, but the full Legislature rejected it. We thank Rep. Sykes for his pursuit of equity for municipalities.

LD 679 – An Act To Allow a Court To Award Attorney’s Fees in Successful Freedom of Access Appeals. (Sponsored by Sen. Hastings of Oxford Cty.) **PL 2009, c. 423**

This Act authorizes a court at its discretion to award attorneys fees and expenses to the person who successfully appeals from a decision by a governmental entity not to provide public records, or alleging that a governmental entity improperly held an executive session, under Maine’s “Right to Know” law if the plaintiff can establish that the government’s action was taken in bad faith. The amendment excludes Maine’s Indian tribes from the legislation, and the authority of the court to award attorney’s fees and litigation expenses would apply to appeals filed on or after January 1, 2010.

LD 797 – An Act To Fully Implement the Legislative Intent in Prohibiting Offensive Place Names. (Sponsored by Rep. Mitchell of the Penobscot Nation.) **PL 2009, c. 284**

This Act amends the law establishing “squaw” as an offensive name (and, therefore, generally prohibiting its use as a place name, in road signs, etc.) by also defining as an offensive name any derivation of “squaw” or “squa”, whether as a separate word or part of a word phrase.

LD 1108 – An Act To Amend the Statute of Limitations under the Maine Human Rights Act. (Sponsored by Rep. Dill of Cape Elizabeth) **PL 2009, c. 235**

This Act makes several changes to the various timeframes within which a complaint of unlawful employment discrimination may be adjudicated. Among those changes, the Act extends the period of time to file a complaint with the Human Rights Commission from 6 months to 300 days after the alleged act of unlawful discrimination.

LD 1199 – An Act To Implement the Recommendations of the Right To Know Advisory Committee. (Reported by Rep. Priest of Brunswick for the Joint Standing Committee on Judiciary.) **Emergency Enacted; PL 2009, c. 240 (6/02/09)**

This emergency Act makes a number of changes to Maine’s Right to Know law many of which are merely technical, non-substantive changes. Among the substantive changes, this Act provides that certain aquaculture seeding and harvesting plans in the possession of the Department of Marine Resources are confidential as “proprietary”, except that on request they can be provided to the municipalities adjacent to the aquaculture lease while remaining confidential documents. The Act also repeals the sunset provision on the law creating a “Public Access Division” and “Public Access Ombudsman” within the Attorney General’s Office. For the next two years, that division and the Ombudsman position is scheduled to be financed with federal funds.

LD 1307 – An Act To Provide Limited Immunity for Road Association Directors, Commissioners and Volunteers. (Sponsored by Rep. Duchesne of Hudson.) **PL 2009, c. 238**

This Act establishes an immunity from civil liability for the road commissioner or board member of a private road association, or the owner of a parcel of land under undertakes activities of a road association, with respect to any of the following activities: (1) the determination of repairs and maintenance; (2) the determination of materials to be furnished or the membership assessments; (3) the collection of assessments; and (4) the awarding of a road maintenance or repair contract. The protection provided by this Act is not available with respect to any violation of law.

LD 1377 – An Act To Amend the 1980 Maine Implementing Act To Authorize the Establishment of a Tribal Court for the Houlton Band of Maliseet Indians and Related Matters.

(Sponsored by Rep. Cleary of Houlton.) **PL 2009, c. 384**

Among its several provisions regarding the Houlton Band of Maliseet Indians as well as the Passamaquoddy Tribe and the Penobscot Nation, this Act authorizes any municipality in which the Houlton Band Trust Land is located to enter into an agreement with the Houlton Band to accept other funds or other things of value as a replacement for payments in lieu of taxes. It also allows the Houlton Band of Maliseet Indians to establish a tribal court with limited jurisdiction over specific issues.

LD 1475 – An Act To Correct Errors and Inconsistencies in the Laws of Maine. (Reported by Rep. Priest of Brunswick for the Revisor of Statutes) **Emergency Enacted; PL 2009, c. 415 (6/17/09)**

This Act is the annual “errors and inconsistencies” bill, which corrects dozens of drafting errors or statutory conflicts that are typically discovered after each legislative session. Of interest to municipal and school officials, this Act resolves conflicting amendments enacted last year to the law governing the wording of the ballot for school budget validation referendum votes. The conflicting enactments of 2008 established a uniform ballot question regardless of the school budget’s relationship with the Essential Programs and Services (EPS) allocation for that school system, and they also required special ballot language in those circumstances where the proposed school budget exceeded the EPS allocation. As resolved by this Act, the required ballot language is the same whether the school budget exceeds EPS or not: “Do you favor approving the (name of school system) budget for the upcoming school year that was adopted at the latest (name of school system) budget meeting?”

Labor

LD 84 – An Act To Ensure Fair Pay. (Sponsored by Sen. Simpson of Androscoggin Cty.) **PL 2009, c. 29**

This Act prohibits an employer from prohibiting any employee from disclosing the employee’s own wages or from inquiring about another employee’s wages if the purpose of the inquiry is to enforce wage discrimination policy.

LD 621 – An Act Allowing Workers’ Compensation Benefits for Firefighters Who Contract Cancer. (Sponsored by Sen. Bartlett of Cumberland.) **PL 2009, c. 408**

This Act creates a rebuttable presumption in Maine’s Workers’ Compensation law that a firefighter who contracts cancer contracted the disease as a result of employment as a firefighter with certain limitations and prerequisites.

The limitations are: (1) that the cancer must be one of ten specific cancers listed in the Act, (2) the firefighter must regularly engage in extinguishment of fires, (3) the firefighter must be employed for at least five years before the presumption attaches, (4) the firefighter must be diagnosed with the cancer either while employed as a firefighter or within ten years of retirement as a firefighter, and, (5) in all cases the firefighter must be less than 70 years old.

The prerequisites are: (1) the firefighter must have produced a medical test for evidence of the particular cancer for which the presumption is sought within 2 years of the effective date of this legislation demonstrating that the firefighter does



Representative Cynthia Dill (Cape Elizabeth) added her voice to those seeking to oppose or at least improve LD 621 in order to minimize the impact on Maine’s property taxpayers.

not have cancer, and, (2) the firefighter must provide an affidavit that (i) the particular cancer for which the presumption is sought is not “prevalent” among the firefighters’ immediate family (grandparents, parents and siblings), and, (ii) the firefighter has no other substantial lifetime exposure to carcinogens.

LD 829 – An Act To Clarify the Right of Public School Employees To Engage in Collective Bargaining. (Sponsored by Rep. Clark of Millinocket.) **Emergency Enacted; PL 2009, c. 107 (5/08/09)**

This emergency Act clarifies the collective bargaining rights and responsibilities of public employers and bargaining agents with respect to the negotiation and execution of labor contracts pertaining to newly-created Regional School Units. Among other clarifications, the Act provides that the pre-RSU school boards are responsible for negotiating labor contracts prior to the approval of a school administrative reorganization plan, and the RSU school boards otherwise have that responsibility prior to the operational date of the RSU. The Act also clarifies who will act as the bargaining agent prior to the operational date of the RSU.

LD 849 – An Act To Clarify the Application of the Public Works Minimum Wage Laws. (Sponsored by Rep. Tuttle of Sanford.) **PL 2009, c. xxx**

This Act expands the current requirement that a “prevailing wage” be paid in connection with state construction projects to construction projects involving certain public schools. As enacted, the Act only covers school construction projects by the state (e.g., the Baxter School) and not school construction put out to contract by local school administrative units. Curiously, the current law already covers the construction of “all buildings” put out to contract by the state and so specifically listing “public schools” in the law (as LD 849 does) would appear to result in no actual change to existing law.

LD 1292 – An Act To Provide More Transparency and Protection for Public Employees in the Laws Governing the Maine Public Employees Retirement System. (Sponsored by Sen. Mitchell of Kennebec Cty.) **PL 2009, c. 322**

This Act makes a number of amendments to the law governing the administration of the Maine Public Employees Retirement System (MEPERS), including clarification of evidentiary standards and other procedural matters governing disability claims, explication of MEPERS annual reporting requirements to the Legislature, and clarification of MEPERS responsibility to communicate clearly with all members with respect to the standards governing their benefit programs and the members’ rights and responsibilities under the system. Of particular pertinence to municipalities, the Act removes the existing requirement that disability benefits for firefighters claiming disability due to certain medical conditions may only be granted if the workers compensation system also granted workers’ compensation benefits for the ailment. The Act also clarifies that: (1) the employer is responsible for enrolling employees in the correct retirement system; (2) if an employee is enrolled in the incorrect retirement plan by the employer through no fault of the employee, the employee may not lose any retirement benefits; and (3) the state is not responsible for the employer contribution which may be due to the retirement system as a result of an employer’s incorrect enrollment of an employee when the employer is a school district, municipality or county.

LD 1454 – An Act To Provide Additional Unemployment Benefits and Make Statutory Revisions in Accordance with the American Recovery and Reinvestment Act of 2009. (Sponsored by Sen. Mitchell of Kennebec Cty.) **Emergency**

Enacted; PL 2009, c. 33 (4/16/09)

This emergency Act amends the laws governing the “good cause” reasons for leaving employment as that issue relates to receiving Unemployment Insurance benefits (UI) in order to conform that law to UI modernization requirements in the federal stimulus legislation, all for the purpose of ensuring that Maine fully qualifies for federal financial resources that have been made available to extend unemployment benefits for an additional 13 weeks beyond the normal point of benefit exhaustion. 100% of the cost of the extended benefits is covered by the federal resources, but not automatically for so-called “direct-reimbursement” employers, which include municipalities. For municipalities that do not participate as most businesses do by contributing on the front end to the Unemployment Trust Fund, and instead get billed by the Trust Fund for their UI exposure, the Act creates a special Fund to be administered by the Department of Administrative and Financial Services. The purpose of that special fund is to provide reimbursement for UI payments made by the municipality to cover the specially extended time period. When billed by the Trust Fund for the UI payments, the municipality will be notified of the amount associated with the extended benefits, and on the basis of that information may apply for the reimbursement. The Act provides that school systems are not eligible for reimbursement through this system.

LD 1496 – An Act To Protect Benefits for State Retirees. (Sponsored by Sen. Mitchell of Kennebec Cty.) **Emergency Enacted; PL 2009, c. 433 (6/17/09)**

This Emergency Act amends the law governing the way the Maine Public Employees Retirement System benefits are indexed annually for inflation so that the application of an annual index cannot be negative.

Legal & Veterans Affairs

LD 129 – Resolve, Directing the Secretary of State To Conduct a Pilot Program for Early Voting for the November 2009 Election. (Sponsored by Sen. Mitchell of Kennebec Cty.) **Resolves 2009, c. 24**

This Resolve directs the Secretary of State to administer a pilot program that allows selected municipalities to conduct early voting procedures at polling places up to ten days prior to election day on November 3, 2009. The Secretary is directed to submit a report by January 15, 2010 to the Legislature detailing the result of the pilot program.

LD 150 – Resolve, Directing the Secretary of State To Conduct a Pilot Program for Ongoing Absentee Voter Status. (Sponsored by Rep. Hinck of Portland.) **Resolves 2009, c. 94**

This Resolve directs the Secretary of State to conduct a pilot program for “ongoing absentee voter status”. Under the pilot program created by this Resolve, the Secretary of State must select one or more municipalities that are willing and able to participate in the pilot program, and the program must continue for at least three statewide elections of November 2009, June 2010 and November 2010. The “ongoing absentee voter status” program would allow any voter in a participating municipality to apply for treatment as an ongoing absentee voter, in which case an absentee ballot will be automatically mailed to the voter. The Secretary of State is directed to design the forms and procedures necessary to conduct the pilot program, including the procedures for voters to request ongoing absentee voter status, as well as any conditions that would cause a person’s ongoing absentee voter status to be terminated prior to the end of the pilot program. The Secretary must submit a report about the pilot program and any recommended legisla-

tion to the Legislature by February 15, 2011.

LD 235 – An Act To Provide Fiscal Information for Citizen Initiatives. (Sponsored by Rep. Cain of Orono.) **PL 2009, c. 341**

This Act changes the deadline for the Legislature's Office and Fiscal and Program Review (OFPR) to identify the financial impacts of any statewide petitioned initiative so that the petitions will identify those projected fiscal impacts at the time of signature gathering. The Act also requires that the fiscal information regarding constitutional amendments, statewide referendums and petitioned initiatives that go out to the voters be included in the explanatory information that is included on the ballots or presented in the voting booth.

LD 758 – An Act To Allow Municipalities and Counties To Require Bartender Training for Liquor Licenses. (Sponsored by Rep. Harlow of Portland.) **PL 2009, c. 81**

This Act provides that the State Bureau of Liquor Licensing and Enforcement may deny an on-premise liquor license if the individuals serving the alcoholic beverages have not received training through a program certified by the Bureau and the municipality or county where the establishment is located has adopted the server training requirement by local ordinance.

LD 831 – An Act To Enhance Fund-raising Opportunities by Certain Nonprofit Organizations. (Sponsored by Rep. Fitts of Pittsfield.) **PL 2009, c. 386**

This Act provides that certain charitable organizations that are otherwise eligible to conduct games of chance to raise revenue may conduct those games of chance without a license provided they: (1) expect to collect no more than \$15,000 in gross game-of-chance revenue in the calendar year; (2) collected no more than \$15,000 in gross game-of-chance revenue in the previous calendar year; and (3) will obtain no more than \$10,000 in gross game-of-chance revenue in any single game-of-chance event. The organizations allowed to conduct these unlicensed games of chance must still register with the Maine State Police and pay a registration fee of \$30.

LD 1169 – An Act To Amend the Election Laws. (Sponsored by Rep. Trinward of Waterville.) **PL 2009, c. 253**

This Act makes a number of changes to election law. Among the changes most pertinent to municipal government, this Act: (1) defines the terms "declared write-in candidate" and "undeclared write-in candidate" and amends the term "write-in candidate"; (2) clarifies the application of the various factors the municipal registrar uses to determine if a person is an eligible voter; (3) specifies the various types of documentation that may be used by a voter to verify his or her identity; (4) allows citizens of the U.S. who have never lived in the U.S. to register to vote in the municipality where their parent is a qualified elector; (5) expands the amount of time the registrar must attend the municipal partisan caucuses before the caucus begins from 30 minutes to one hour during a presidential election year; (6) requires the municipal officers presiding over an appeal brought by a voter whose registration is canceled by the registrar to issue their appeal decision in writing, which must include information regarding the route of appeal; (7) repeals the requirement that votes for write-in candidates for the office of U.S. President or Vice President must include the candidate's municipality of residence; and (8) prohibits the use of stickers to identify write-in candidates.

LD 1170 – Resolve, Directing the Secretary of State To Report on the Accuracy of Election Results. (Sponsored by Rep. Trinward of Waterville.) **Resolves 2009, c. 55**

This Resolve directs the Secretary of State to examine the results of at least 20 recent election recounts and compare the

recounted results with the original vote totals. The Secretary must submit the results of the examination to the Legislature by February 15, 2010, along with any recommendations to establish a formal system for comparing election night vote tallies to recount vote tallies for the purpose of providing ongoing information to the Legislature regarding the accuracy of election results.

LD 1346 – An Act To Amend the Laws Governing Games of Chance. (Sponsored by Rep. Briggs of Mexico.) **PL 2009, c. 224**

This Act expands the number of players in a legally sanctioned Texas hold 'em card game from 40 players to 50 players.

LD 1484 – An Act Regarding the Central Voter Registration System. (Reported by Rep. Trinward of Waterville for the Joint Standing Committee on Legal and Veterans Affairs.) **PL 2009, c. 370**

This Act provides that the Secretary of State, in addition to the municipal registrar of voters, has the authority to cancel voter registration records in the central voter registration system when it is determined that the records are duplicates or that the voter has registered to vote in another voting jurisdiction. The Act also expressly allows the Secretary of State to conduct system-wide maintenance of the central voter registration system.

Maine's Energy Future

LD 556 – Resolve, Relating to Federal Stimulus Funds for Energy Programs. (Reported by Rep. Martin of Eagle Lake.) **Emergency Passed; Resolves, 2009, c. 1 (2/27/09)**

This emergency Resolve requires a legislative review and pre-approval of spending by state agencies of funds from the federal stimulus legislation designated for energy-related purposes, including weatherization, fuel assistance, conservation, energy system conversion, energy transmission and distribution, etc.

LD 1236 – Resolve, Regarding Legislative Review of the Proposed Plan Dated March 19, 2009 Submitted by the Maine State Housing Authority for the Use of Federal Energy Stimulus Funds. (Reported by Rep. Martin of Eagle Lake.) **Emergency Passed; Resolves 2009, c. 45 (5/15/09)**

This emergency Resolve approves the proposed plan for the use of federal energy stimulus funds submitted by the Maine State Housing Authority.

LD 1485 – An Act Regarding Maine's Energy Future. (Reported by Report A from the Joint Select Committee on Maine's Energy Future.) **Emergency Passed; PL 2009, c. 372 (6/12/2009)**

This emergency Act repeals existing energy efficiency and renewable energy programs and expansively reorganizes them under the oversight of a single, consolidated quasi-state entity known as the Efficiency Maine Trust (EM Trust). The EM Trust is governed by a 9-member board consisting of the director of the Governor's Office of Energy Independence and Security, the director of the Maine State Housing Authority and seven members appointed by the Governor representing industry, business and residential energy consumer groups. Among other duties, the EM Trust must: adopt a triennial energy efficiency plan designed to weatherize 100% of all Maine residences and 50% of businesses by 2030; reduce "peak-load" energy consumption by 100 megawatts by 2020; reduce the state's consumption of liquid fossil fuel by 30% by 2030; achieve electricity and natural gas savings of at least 30% and heating fuel savings of 20% by 2020; save residential and commercial heating consumers not less than \$3 for every \$1 of program funds invested by 2020;

and reduce greenhouse gas emissions to 10% below the state's 1990 level by 2020. The EM Trust has several other duties related to coordination, independent analyses and bonding. The existing programs to be governed by the EM Trust include: (1) the Regional Greenhouse Gas Initiative; (2) electric efficiency and conservation; (3) natural gas conservation; (4) solar and wind energy rebate program; (5) other federal programs; and (6) the small business energy efficiency revolving loan fund.

The total revenues available to the EM Trust are approximately \$54 million, including almost \$6 million in federal "stimulus" funds and \$891,000 from a new assessment of up to 3% on certain gas utilities' revenues. All other revenues are existing revenues that have been reallocated from the reorganized energy-related programs.

This Act also creates the Maine Energy Housing and Economic Recovery Program within the Maine State Housing Authority. A centerpiece of this program is the issuance of up to \$30 million per year (for a total of no more than \$200 million) in revenue bonds. Allocation of the bond funds must be as follows: no less than 30% must be used for the construction or rehabilitation of affordable housing for seniors, no less than 30% must be used for the construction or rehabilitation of affordable housing for all ages, no less than 10% must be used for the construction or rehabilitation of affordable housing for persons with special needs, and no less than 10% must be used for replacement of manufactured housing units that do not meet code. The dedicated revenue for the bond financing is a portion of the real estate transfer tax.

This Act also deals with the so-called "energy corridor" issue. It provides that the first \$50 million in revenues received by the state for the use of state transportation corridors that may be leased for the purposes of energy facilities (such as pipe lines or wires) must be dedicated to the EM Trust purposes. The bill also calls for a study of the corridor leasing issue to be completed no later than December, 2009 by a commission comprised of 3 members of the Senate, 5 from the House and 5 appointees by the Governor. This section prohibits the state from leasing its corridor assets until the Legislature expressly approves a proposed leasing arrangement or 90-days following adjournment of the Second Regular Session of the 124th Legislature (i.e., July 2010) except that preliminary permitting activities by state agencies may begin. Also, the Act largely exempts from this prohibition projects for which an application for a "certificate of public convenience or necessity" was submitted by April 1, 2009. It also exempts from the prohibition any projects that are receiving federal stimulus funding.

This Act also directs the Department of Labor, the Maine State Housing Authority and the Public Utilities Commission to pursue the establishment of "green" workforce development programs.

Marine Resources

LD 32 – An Act To Clarify the Disposition of Fines from Maine's Soft-shelled Clam Laws. (Sponsored by Rep. Richardson of Warren) **PL 2009, c. 24**

This Act clarifies that fines issued for a violation of a municipal shellfish conservation ordinance must be paid to the municipality in which the violation occurred.

Natural Resources

LD 348 – An Act To Facilitate the Removal of Dams That Pose a Hazard to Public Safety and the Installation and Repair of Fishways. (Sponsored by Sen. Damon of Hancock.) **PL 2009, c. 75**

This Act removes the requirement that a permit be obtained from the Department of Environmental Protection under the

Natural Resources Protection Act with respect to several circumstances, including any activity associated with the release of water from a dam when ordered by the DEP. Also removed from NRPA permitting requirements is any activity associated with the breach or removal of any dam when ordered by the Commissioner of the Department of Defense, Veterans and Emergency Management.

LD 460 – Resolve, To Evaluate Climate Change Adaptation Options for the State. (Sponsored by Sen. Simpson of Androscoggin Cty.) **Resolves 2009, c. 16**

This Resolve directs the Department of Environmental Protection to convene a stakeholder group made up of representatives of the business community, non-governmental organizations and state government to study the impacts of climate change on, among other systems, built infrastructure including coastal and inland flooding effects on roads and facilities, the heat effects in urban centers, beach scouring, water supplies and drinking water, emergency response systems, etc. The Department is directed to report the findings and recommendations of the stakeholders group back to the Legislature by February 27, 2010.

LD 476 – An Act To Amend Certain Laws Administered by the Department of Environmental Protection. (Sponsored by Sen. Goodall of Sagadahoc Cty.) **PL 2009, c. 121**

This Act makes a number of technical and minor substantive changes to the laws governing underground and above ground oil storage tanks. Among those changes, the Act requires the owner of an underground or above ground oil storage tank to immediately clean up the discharge whether or not the discharge is known to have reached groundwater sources. The Act also allows money to be disbursed from the Ground Water Oil Clean-up Fund for that purpose. These amendments clarify current law which can apparently be interpreted to obligate an immediate clean-up of a discharge only if it is a proven discharge to groundwater.

LD 536 – An Act To Enhance Maine's Electronic Waste Recycling Law. (Sponsored by Rep. Hinck of Portland.) **PL 2009, c. 397**

This Act makes several changes to the law governing the separation, collection, consolidation and recycling of certain electronic wastes, which currently include television sets and computer monitors. With respect to the separation and collection functions often performed at the municipal level, the Act adds desktop printers and video game consoles to the list of items that must be included in the state collection and recycling system. (See, also, LD 1156.)

LD 722 – Resolve, Directing a Review of the Manage-



Representative Bob Duchesne (Hudson) was the House chair of the Natural Resources Committee during a very challenging time. Throughout the session Rep. Duchesne was very cognizant of municipal issues and always gave them a central place in Committee discussions. Municipal issues faced by the Committee this session included the regulation of large-scale groundwater extraction, sweeping site law changes, penalizing municipalities for CSO events, incorporating climate change impacts into land use permitting decisions and, as always, waste management. While the Committee did not agree with MMA's position on every bill, Rep. Duchesne's fair-handed inclusion of municipal concerns was greatly appreciated.

ment of Risks Associated with Surface Uses on Public Water Supplies. (Sponsored by Rep. Pieh of Bremen.) **Resolves 2009, c. 32**

This Resolve directs the drinking water program of the Department of Health and Human Services to review the management of risks associated with surface uses on lakes and ponds that are public water supplies. The review is directed to involve the participation of state agencies that manage access to surface water sources, and the users of those water sources. The drinking water program is further directed to submit a report of its review, along with any recommended legislation, to the Legislature by January 5, 2010.

LD 760 – An Act To Improve Landfill Capacity. (Sponsored by Rep. Duchesne of Hudson.) **PL 2009, c.412**

This Act amends the state's solid waste management laws in two ways. The Act: (1) expedites the authority of the Department of Environmental Protection (DEP) to enforce a requirement that all solid waste processing facilities that generate residue requiring disposal recycle all waste at least at the 50% level and otherwise to the maximum extent practicable; and, (2) directs the State Planning Office to conduct a review and assessment of the state's solid waste management policy as it applies to the funding, management and operation of the state-owned landfill, and also whether the statutory restriction on the expansion of commercial solid waste disposal facilities should be relaxed to allow a current facility (that is not under an order or agreement to close) to expand onto any contiguous property that the landfill operator owns or acquires.

LD 973, An Act to Provide for the Safe Collection and Recycling of Mercury –containing Lighting. (Sponsored by Rep. Berry of Bowdoinham.) **PL 2009, c. 272**

This Act makes several changes to the current system of recycling mercury-containing (e.g., compact fluorescent) light bulbs, and gives rule-making authority and reporting assignments to the Department of Environmental Protection with the goal of limiting mercury content and monitoring the efficacy of private-sector recycling programs. Of particular municipal interest, the Act requires manufacturers of these products to establish by January 1, 2011 a "take-back" recycling program similar to that which is in place for computers and TV monitors.

LD 1010 – Resolve, To Require the Department of Environmental Protection to Review Emerging Technologies and the Laws Regarding Incinerators. (Sponsored by Rep. Connor of Kennebunk.) **Resolves 2009, c. 57**

This Resolve directs the Department of Environmental Protection (DEP), with the assistance of a task force to be convened by the DEP, to review whether waste-to-energy facilities that use emerging technologies that provide environmental and energy benefits should be excluded from the statutory ban on the establishment of new commercial incinerators. The DEP must submit its report and any recommendations to the Legislature by January 5, 2010.

LD 1156 – An Act To Amend the Laws Governing the Recycling of Televisions. (Sponsored by Sen. Simpson of Androscoggin Cty.) **PL 2009, c. 231**

This Act amends the electronic waste recycling law as it applies to televisions. It reapporitions the manner by which manufacturers are responsible for the costs associated with recycling televisions so that assessments are based on the manufacturer's market share of television sales nationally. The Act also directs the Department of Environmental Protection (DEP) to conduct a review of the costs of the state's household electronic waste recycling program and of manufacturer-responsibility programs in other states. The DEP review includes the convening of a working group with membership including the

manufacturers of the various categories of electronic devices subject to recycling, an environmental advocacy organization, an electronic waste recycling or consolidation business, a state-wide municipal association and other interested parties. The DEP report must be submitted to the Legislature by January 15, 2010. (See, also, LD 536.)

LD 1171 – An Act To Amend the Laws Governing Outdoor Wood Boilers. (Sponsored by Rep. Duchesne of Hudson.) **PL 2009, c. 209**

This Act makes a number of changes to the laws governing outdoor wood boilers. Among those changes, the Act: (1) amends the definition of "outdoor wood boiler" to include outdoor wood furnaces that heat buildings with hot air; (2) exempts from certain property-line set back requirements those outdoor wood boilers that meet the "technology-forcing" emission standard of 0.06 pounds of particulate emission per million BTU output, provided the chimney stack height standard is met; and (3) directs the Department of Environmental Protection to adopt rules that allow a person who upgrades or replaces a nuisance outdoor wood boiler when money is not available from the Outdoor Wood Boiler Fund to be eligible for reimbursement from the Fund when money is available.

LD 1268 – An Act To Update the Site Location of Development Laws. (Sponsored by Rep. Duchesne of Hudson.) **PL 2009, c. 293**

This Act makes several minor, technical changes to the state's Site Location of Development Act. Of municipal interest, the Act requires a review of the municipal "delegation" provisions by directing the Department of Environmental Protection to review the provisions of law that allow qualified municipalities to substitute the requirements of the local ordinances and review procedure for the Site Location review in the areas of stormwater management law and general Site Location law, and develop any recommendations with regard to the current "delegation" provisions. The DEP is required to submit its report and any recommendations to the Legislature by January 15, 2010.

LD 1269 – An Act To Clarify the Laws Regarding Significant Groundwater Wells. (Sponsored by Rep. Hill of York.) **PL 2009, c. 295**

This Act makes several clarifications with respect to the definition of the term "significant groundwater well" as that term is used under the state's Natural Resources Protection Act to determine what type of wells need to be permitted by the Department of Environmental Protection. Among those amendments, the Act clarifies that public water system wells are not "significant groundwater wells" unless the public water system (or any structurally independent part of the public water system) is used solely to bottle water for sale.

LD 1310 – Resolve, Relating to a Review of International Trade Agreements and the Management of Groundwater Resources. (Sponsored by Rep. Webster of Freeport.) **Emergency Passed; Resolves 2009, c. 132 (06/15/09)**

This emergency Resolve directs the Water Resources Planning Committee of the Land and Water Resources Council to conduct an examination of the potential legal impacts of international trade agreements on the ability of the state to manage its groundwater resources, including but not limited to the potential consequences of permitting foreign companies to extract groundwater. The examination is directed to include a study of the property rights related to the ownership of groundwater and the various legal doctrines relating to the use of groundwater including the "absolute dominion" rule and the "reasonable use" rule. The report of the Water Resources Planning Committee must be submitted to the Legislature by

January 1, 2010.

LD 1311 – An Act To Enable Municipal Assistance for Purposes of Protecting or Restoring Public Waters. (Sponsored by Rep. Duchesne of Hudson.) **PL 2009, c. 225**

This Act allows a municipality to expend resources and provide services to repair a private road, private way or bridge provided a number of criteria are met, including: (1) the private way is in the watershed of a Great Pond which is listed by the Department of Environmental Protection (DEP) as a body of water most at risk or impaired; (2) the municipality or DEP determines the private road, way or bridge is contributing to the degradation of the waterbody's water quality; (3) the repair complies with certain best management practices; and (4) the road or bridge is maintained by a properly-formed road association.

LD 1333 – An Act To Ensure that Replacement Culverts Permit Fish Passage. (Sponsored by Rep. Pingree of North Haven.) **PL 2009, c. xxx**

This Act amends the provisions of the state's Natural Resources Protection Act regarding the installation of stream crossing and road culverts to require new and replacement culverts to be installed in a manner to achieve "natural stream flow". The Act also directs the Department of Environmental Protection to amend its rules in such a way to require municipalities to achieve natural stream flow when installing road culverts. The rulemaking is "major substantive" and is to be completed by January 1, 2011.

LD 1476 – An Act Regarding the Transfer of Licenses for Energy Recovery Facilities. (Sponsored by Sen. Hobbins of York Cty.) **PL 2009, c. 380**

This Act requires that a "due diligence review period" of no more than 180 days be provided a host community before the Department of Environmental Protection may approve a transfer of ownership proposed for a solid waste facility that incinerates municipal solid waste or special waste if the transfer would occur during the stated term of any waste handling contract between the solid waste facility and the host community. Solid waste facilities owned by a regional association are exempt from the "due diligence" requirement, as are transfers of ownership to the host municipality where the facility is located. The DEP approval is also predicated on the Board of Environmental Protection approving the transfer of the facility's license, and the Board is required to hold a public hearing on the transfer application within or in the vicinity of the municipality where the facility is located after the due diligence review period has expired.

State & Local Government

LD 34 – An Act to Clarify the Election of Municipal Charter Commission Members. (Sponsored by Rep. Hayes of Buckfield.) **Emergency Enacted; PL 2009, c. 52 (04/29/09)**

Under previous law, a municipality had 200 days from the referendum day when the voters elected to establish a charter commission to elect the charter commission members. This emergency Act removes that deadline. The Act includes a retroactivity clause to ensure its immediate applicability.

LD 113 – An Act Regarding Construction and Excavation near Burial Sites. (Sponsored by Rep. Casavant of Biddeford.) **Emergency Enacted; PL 2009, c. 310 (06/09/09)**

This emergency Act amends the law governing construction activities near known burial sites. The Act reorganizes the existing statute on that subject, which generally prohibits construction within 25 feet of an established cemetery, and adds an additional paragraph that allows for the construction of a

private sewer line connection to a public sewer system within the 25-foot setback if six conditions are met: (1) there is no practical alternative to connecting to the public sewer line; (2) there is no practical alternative to excavating within 25 feet of the cemetery boundary; (3) the construction is kept at the maximum possible distance from the cemetery; (4) the construction is approved by the municipal officers where the cemetery is located and the Department of Health and Human Services; (5) public notice is provided by the affected municipality that allows two weeks for members of the public to submit testimony prior to any approval, construction or excavation; and (6) no construction equipment is placed on any part of the cemetery or within 10 feet of the cemetery. This special provision of law governing construction within the 25 foot setback is scheduled to be repealed on June 30, 2010.

LD 130 – An Act to Allow a Municipality Greater Flexibility To Disburse State Fees. (Sponsored by Sen. Perry of Penobscot Cty.) **PL 2009, c. 6**

This Act allows the municipal officers to adopt a written policy that permits the fee revenue collected by the municipality on behalf of the state to be disbursed back to the state on a warrant signed by one or more of the municipal officers. There is similar authority under current law with respect to payroll warrants and the school warrants. The policy must be filed with the municipal clerk and the municipal treasurer and renewed annually by a vote of the municipal officers.

LD 142 – An Act to Revise the Boundary between the City of Waterville and the Town of Oakland. (Sponsored by Rep. Nutting of Oakland.) **P & SL 2009, c. 2**

This Act amends the boundary between the City of Waterville and the Town of Oakland.

LD 209 – An Act to Abolish the Intergovernmental Advisory Commission. (Sponsored by Rep. Hayes of Buckfield.) **PL 2009, c. 30**

This Act abolishes the Intergovernmental Advisory Commission (IAC). The IAC was a 19-member panel created by legislation enacted in 2004 and made up of legislators and representatives of state, county, regional and local governments. The IAC was charged by statute with "working on ways to improve communication, cooperation and efficiencies within all three branches of government and provide state assistance to encourage regionalization and cost-effective service delivery."

LD 331 – An Act to Clarify the Duties of Municipal Treasurers, Clerks and Tax Collectors. (Sponsored by Rep. Tilton of Harrington.) **PL 2009, c. 193**

This Act prohibits municipal clerks, treasurers and tax collectors from co-mingling municipal or government revenue with any personal resources.

LD 448 – An Act to Modify the Informed Growth Act. (Sponsored by Rep. Beaudette of Biddeford.) **PL 2009, c. 260**

The state's Informed Growth Act (IGA) was enacted in 2007 and governs the land use review and approval process for large-



Representative Terry Hayes (Buckfield) is well known for her straightforward style and ability to call a spade a spade. After several attempts to revitalize the Intergovernmental Advisory Commission (IAC), Rep. Hayes concluded that there was no legislative support for the commission's work and submitted legislation which successfully abolished the IAC.



After three years of intense battles over the enactment of the Informed Growth Act, Representative Steve Beaudette (Biddeford) was successful in negotiating an amendment to the law that provides municipalities some level of local control over the application and management of the law.

demands on municipal services, public subsidies, utility impacts, etc. The Act requires the person who prepares the independent report to be a "qualified preparer" as identified by the State Planning Office. The Act also requires the independent study to be presented at a public hearing that is conducted in a manner consistent with the public hearing required by the IGA, which, in addition to normal public notice requirements, requires written notice of the hearing to be provided to the municipal officers in all abutting municipalities. In summary, the Act allows the municipality to be exempt from the specific standards of the IGA provided it has adopted an ordinance that establishes a similar process. The Act appears to allow flexibility with respect to both the depth of information gathered in the independent review process as well as the degree to which the results of the independent review control the outcome of the review process.

LD 680 – An Act To Hold Municipal Officers Harmless for a Determination That a Town Way or Public Easement Is Considered Abandoned. (Sponsored by Sen. Hastings of Oxford Cty.) **PL 2009, c. 59.**

This Act establishes that a decision by the municipal officers regarding the status of a road that may have been abandoned for maintenance is a "quasi-judicial act", which provides the municipal officers protection from liability under Maine's Tort Claim Act.

LD 739 – An Act To Provide That the Assessor and Treasurer Are Incompatible Municipal Offices. (Sponsored by Sen. Mills of Somerset Cty.) **PL 2009, c. 57**

This Act establishes the positions of municipal treasurer and municipal assessor, whether elected or appointed, as "incompatible offices" that cannot be simultaneously held by the same person.

LD 905 – Resolve, Regarding the Sale of Certain Real Property in the City of Hallowell. (Sponsored by Rep. Treat of Hallowell.) **Resolves 2009, c. 102**

This Resolve directs the Department of Administrative and Financial Services to incorporate provisions regarding property to be retained for certain uses by the City in the purchase-and-

scale retail development. This Act exempts a municipality from a number of the specific elements of the IGA if the municipality has adopted an ordinance that includes requirements for determining the development's impact on the community. In order to claim the exemption, the Act requires the local ordinance to: (1) require an independent study of the community economic impacts associated with big-box development; (2) include the specific standards to be utilized when determining if the development's impact is detrimental to the municipality; and (3) require the development review authority to consider the findings of the independent study among all the evidence it considers when reviewing the proposal. The Act authorizes the independent study to assemble and include several types of information, including data on job creation, retail wages, sales revenue reinvested in the community, municipal revenues generated by the development, the additional de-

sale or transfer agreements governing the sale and transfer of some state property located in the City of Hallowell.

LD 1029 – An Act to Authorize Municipalities To Protect the Habitability of Rental Housing during Heating Fuel Emergencies. (Sponsored by Rep. Casavant of Biddeford.) **PL 2009, c. 135**

This Act authorizes municipalities, after providing notice to a landlord, to provide for the delivery of heating fuel to rental housing units that are facing an imminent threat of becoming uninhabitable because of a lack of heating fuel. The Act also provides the procedure that must be followed in order for the municipality to place a lien on the rental housing property to recover the cost of heating crisis intervention.

LD 1100 – An Act To Preserve Government Documents. (Sponsored by Sen. Alfond of Cumberland Cty.) **PL 2009, c. 366**

This Act transfers jurisdiction of campaign finance reports regarding candidates for municipal office in a town or city with a population of 15,000 or more from municipal election clerks to the Commission on Governmental Ethics and Election Practices.

LD 1119 – An Act To Clarify the Municipal Jurisdiction of a Portion of Saco Bay. (Sponsored by Rep. Hogan of Old Orchard Beach.) **P & SL 2009, c. 24**

This Act establishes the boundary between Saco and Old Orchard Beach to extend three miles seaward from the current easterly boundary of Old Orchard Beach, although the boundary changes, if any, do not become legally effective until Old Orchard Beach adopts zoning standards related to marina development that are at least as stringent as Saco's. The Act also encourages the two municipalities to create a working group including citizens from both communities, as well as invitees from the State Planning Office and Department of Marine Resource, to examine regulatory jurisdictions, parameters for future development in Saco Bay, uniform environmental regulations for Saco Bay and the feasibility of establishing a more permanent oversight group.

LD 1145 – Resolution, Proposing an Amendment to the Constitution of Maine To Amend the Time Frame for Towns To Certify Citizen Initiative Signatures. (Sponsored by Rep. Strang Burgess of Cumberland.) **Resolves 2009, c. xx**

This Resolution sends to the voters a proposed constitutional amendment that would increase the amount of time municipal election officials are provided to certify the signatures on statewide citizen initiatives. Specifically, the state constitution would be amended to: (1) clarify that the term "day" as it is used in establishing the various timeframes means a business day and not a Saturday, Sunday or legal holiday; (2) change the deadline for people's veto petitions to be submitted to local officials for certification from 5 days before the deadline to submit the certified petitions to the Secretary of State to 3 days before that deadline, but not change the existing obligation for local officials to review and certify those signatures within a two-day period; (3) change the deadline for citizen initiative petitions to be submitted to local officials for certification from 10 days before the deadline to submit the certified petitions to the Secretary of State to 12 days before that deadline; (4) increase from 5 to 10 the number of days local officials have to certify citizen initiative signatures; and (5) add 10 days to the current deadline for petitioners to submit the locally-certified citizen initiative petitions to the Secretary of State.

LD 1172 – An Act To Allow a Municipality To Grant a Variance for the Construction of a Parking Structure for a Person with a Permanent Disability. (Sponsored by Rep.

Casavant of Biddeford.) **PL 2009, c. 342**

This Act authorizes a municipality to adopt a land use ordinance that authorizes the granting of a variance for the placement of a garage to house an automobile with disability license plates to serve a disabled household member where the garage could not be constructed absent the variance. The Act limits the size of the garage authorized by such a variance to no more than two times the length and two times the width of the vehicle that needs to be parked.

LD 1313 – Resolve, Directing the State Planning Office To Prepare a Reorganization Plan. (Sponsored by Rep. Joy of Crystal.) **Resolves 2009, c. 89**

This Resolve directs the State Planning Office to prepare a reorganization plan that establishes the Office as a non-regulatory agency that performs planning services for state agencies and has responsibilities regarding the state landfill. The reorganization plan must be submitted to the Legislature by February 1, 2010.

Taxation

LD 35 – Resolve, Directing the State Tax Assessor To Work with Local Law Enforcement Agencies To Improve Tax Collection and Enforcement along the Border of the State. (Sponsored by Rep. Wheeler of Kittery.) **Resolves 2009, c. 27**

This Resolve directs the State Tax Assessor to work with municipal and county officials and local law enforcement agencies that are located near Maine's borders with New Hampshire in an effort to identify Maine residents who register their motor vehicles or watercraft in another state to avoid paying excise, sales and/or income taxes in Maine. Maine Revenue Services is further directed to file a report with the Legislature that describes its efforts and tax collection successes by January 15, 2011.

LD 51 – An Act To Allow Military Personnel Living in Maine To Benefit under the Maine Resident Homestead Property Tax Exemption. (Sponsored by Rep. Mazurek of Rockland.) **Emergency Enacted; PL 2009, c. 418 (6/17/09) (mandate)**



LD 545, which takes away a very unique property tax exemption provided only to hospitals and no other charitable institution, was not an easy bill to sponsor. Senator Larry Bliss (Cumberland County) agreed to sponsor the bill at the request of the municipal community, truly believed the specialized exemption was unwarranted, and didn't flinch.

Beginning on April 1, 2008, but with a practical implementation date of April 1, 2010, this emergency Act provides the property tax homestead exemption to a person on active duty serving in the armed forces who is permanently stationed at a military or naval post, station or base in Maine, even if that person is a permanent resident of another state. A person seeking the homestead exemption under the terms of the Act must present certification from the commander of the military base that verifies the person is permanently stationed at that post. This expanded element of the homestead exemption does not apply to members of the National Guard or the Armed Forces Reserves.

LD 277 – An Act To Clarify the Income-producing Requirement for Land in the Farm and Open Space Tax Program. (Sponsored

by Sen. Gooley of Franklin Cty.) **PL 2009, c. 114**

This Act makes a relatively minor change to the income standards of eligibility to enroll property in the farmland current use tax program by requiring the agricultural products that are either sold or produced for home consumption to satisfy the so-called "\$2,000 gross income" standard are actually defined as agricultural products under Maine law and are not, for example, fire wood. The list of statutorily-defined agricultural products is found at 7 MRSA §152(2).

LD 539 – An Act To Amend the Laws Governing the Allowable Use of Tax Increment Financing Funds. (Sponsored by Rep. Clark of Millinocket.) **PL 2009, c. 85**

This Act amends the law governing the allowable program costs under a Tax Increment Financing (TIF) agreement to include costs related to the planning, design, construction, maintenance, grooming and improvements of new or existing recreational trails outside of the TIF district but within the borders of the municipality, provided the Department of Economic Community Development finds the proposed trail project has significant potential to promote economic development.

LD 545 – An Act To Amend the Tax Exemption Regarding Leased Property. (Sponsored by Sen. Bliss of Cumberland.) **PL 2009, c. 425**

Under current law, both the real and personal property that is leased by a hospital is exempt from property taxation. This Act removes the exemption for real property that is leased by a hospital. The repeal of that exemption goes into effect for property tax years beginning on or after April 1, 2012.

LD 740 – An Act To Validate the Property Tax Commitments in the Towns That are Members of Community School District No. 9. (Sponsored by Sen. Sherman of Aroostook Cty.) **Emergency Enacted; P & SL 2009, c. 6 (4/16/09)**

This emergency Act validates the property tax commitments executed by six municipalities in Community School District #9 which were executed in 2008 without complete knowledge of the CSD assessment because the final adoption of the CSD budget was seriously delayed by the so-called "school budget validation referendum" process.

LD 1154 – Resolve, To Require a Study of Economic Development Incentives in the Unorganized Territory. (Sponsored by Sen. Nass of York Cty.) **Resolves 2009, c. 71**

This Resolve directs the Department of Economic and Community Development (DECD) and the State Tax Assessor to convene a study group to review the role of economic development incentives, such as Tax Increment Financing, in the unorganized territories. Among other charges the Resolve directs the study group to: (1) review the legal issues surrounding TIF financing in the UT and the legally acceptable methods of identifying special benefits from property tax incentives in that jurisdiction; (2) consider the role of TIFs in shifting the property tax burden throughout the UT; and (3) evaluate the potential for alternative tax mechanisms, such as a wind power excise tax, to provide support for economic development infrastructure. DECD and the State Tax Assessor must report the findings and recommendations of the study to the Legislature by January 15, 2010.

LD 1235 – An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2009-10 and To Make Other Changes Related to the Municipal Cost Components. (Reported by Rep. Watson of Bath for the Department of Audit.) **Emergency Enacted; PL 2009, c. 303 (6/08/09)**

This emergency Act establishes the municipal cost com-

ponents (i.e., the property taxes) for state and county services provided to the unorganized territory at \$20.66 million.

LD 1390 – Resolve, Directing the State Tax Assessor To Adjust the State Valuation of the Town of Topsham. (Sponsored by Sen. Goodall of Sagadahoc Cty.) **Emergency Passed; Resolves 2009, c. 116 (6/09/09)**

This emergency Resolve adjusts the Town of Topsham's 2009 valuation.

LD 1392 – An Act To Promote Economic Development and Reduce Reliance on Automobiles through Transit-oriented Tax Increment Financing Districts. (Sponsored by Sen. Bliss of Cumberland Cty.) **PL 2009, c. 314**

This Act expands the allowed program costs within a Tax Increment Financing agreement (TIF) to include the costs supporting a "transit-oriented development area" or "transit-oriented development corridor". As used in the Act, the term "transit" refers to transportation systems in which people are conveyed by means other than their own vehicles, such as by bus, street cars, light rail and rail systems, and the term "transit facility" means a place providing access to such transit services as bus stops, bus stations, ferry landings, train stations, shuttle terminals, and bus rapid transit stops. A "transit-oriented development area" is defined as an area within ¼ mile from a transit facility, and a "transit-oriented development corridor" is defined as a strip of land of any length and up to 500 feet on either side of a roadway serving as a principal transit route. The Act identifies the eligible transit-oriented development district capital costs as well as certain limited but eligible ongoing costs associated with adding to an existing transit system or creating a new transit service, including transit operator salaries, transit vehicle fuel and transit vehicle parts replacements.

LD 1495 – An Act To Implement Tax Relief and Tax Reform (Sponsored by Rep. Watson of Bath.) **PL 2009, c. 382**

This Act implements a semi-comprehensive tax reform package that does the following:

Expands the sales tax base and increases two sales tax rates. In combination these changes generate an additional \$80-\$85 million a year for the state. At the same time, the Act reduces the income tax rate by two percentage points for all filers with incomes below \$250,000 from 8.5% to 6.5%, and for all filers with incomes over \$250,000 from 8.5% to 6.85%, which reduces state tax revenue by \$80- \$85 million a year. Almost all of the following changes go into effect on January 1, 2010. The increase to the sales tax rate on short term automobile rentals, from 10% to 12.5%, goes into effect on October 1, 2009.

Sales tax changes. The Act expands the base of the general (5%) sales tax by applying that rate to a variety of services that have previously been excluded from the sales tax, such as "amusement, entertainment and recreation" services (fees or tickets to enter or participate in such activities as miniature golf, water parks, exhibition shows, circuses, comedic performances, etc., but not fees charged for golf courses, bowling alleys, swimming pools, skating rinks, ski lifts, gymnasiums, tennis courts, or on the proceeds of arcade games), "installation, repair or maintenance" services (labor costs to repair all types of household personal property, shoes, jewelry, clothing, lawn and garden equipment, labor on car repair, etc.), "personal property" services (laundry, car washing, pet services, interior decoration, non-business-related storage and warehousing, etc.); and certain transportation services (limousine and courier services, but not general taxicab services).

The Act also increases the meals and lodging tax from 7% to 8.5%, and the sales tax on short-term auto rentals from 10% to 12.5%.

Income tax changes. As indicated, the \$80-\$85 million

generated by the sales tax changes is offset by reducing the income tax rate from 8.5% to 6.5% for tax filers with incomes below \$250,000.

The 6.5% rate might at first appear as a "flat tax" because 6.5% of the household's federally adjusted gross income (AGI) becomes the starting point in every individual income tax calculation. In conjunction with the single tax rate, however, a system of tax credits replace the current system of both standard and itemized deductions, so that Maine resident taxpayers can subtract the value of the credits they qualify for from the 6.5%-based tax obligation. These tax credits phase out as household income increases. The level of income where credit phase-out begins depends on the structure of the filing household. For example, the basic "household credit" for individuals filing joint returns would be \$1,200. That credit would phase out at the rate of \$1.50 for every \$100 of household income that exceeds \$55,000.

The Act also makes the Earned Income Tax Credit that may be available under the state's current tax code a "refundable" credit up to \$125 for a single filer and up to \$150 for taxpayers filing married joint returns.

Circuit Breaker changes. The Act also amends the Circuit Breaker property tax and rent program. "Circuit Breaker" provides financial rebates to qualifying applicants if it is determined that their property taxes or a portion of their annual rent payments exceed 4% of their income. The goal of this element of the Act is to merge the Circuit Breaker application process with the state income tax filing process.

The specific changes to the Circuit Breaker program in the Act are:

1. Current law defines the Circuit Breaker "homestead" as the principal residence and the first 10 acres of land. This Act does away with the 10-acre limitation, so all the property taxes on the homestead property count toward eligibility regardless of how large the house lot upon which the residence is located.
2. Current law requires certain types of real-life income to be added back into the base amount of Maine "adjusted gross income" before the calculation of eligibility for Circuit Breaker benefits. This Act eliminates some of those "add backs", including: (a) all income earned by minor dependents in the household; (b) all inheritance income; and (c) the following forms of non-taxable "add-back" income if the aggregate annual income from these sources does not exceed \$5,000: life insurance proceeds; jury duty payments, alimony payments, prizes and awards, and lawsuit awards. These categories of income would be sheltered from the Circuit Breaker eligibility determination.
3. As for the timing of Circuit Breaker application and timing of distribution:

With respect to the application period beginning on August 1 this year (dealing with eligibility during calendar year 2008), there is no change to current law. The application should be filed between August 1, 2009 and May 31, 2010.

With respect to the application period beginning August 1, 2010 (dealing with eligibility during calendar year 2009), the application period is shortened to the August 1, 2010 – November 15, 2010 time period.

On January 1, 2011, the application year begins with respect to calendar year 2010 eligibility.

The administrative costs associated with the Act are approximately \$1 million a year, largely for the purpose of hiring 11 employees for Maine Revenue Services to administer the income tax changes, Circuit Breaker changes and sales tax changes associated with the legislation. Maine Revenue Services has previously projected an increase in the ongoing annual costs of the Circuit Breaker program associated with more

people applying for benefits at approximately \$6 million a year, which would not occur within the upcoming biennium and the costs of which are not reflected in the fiscal note for the Act.

Transportation

LD 6 – An Act To Establish a Distracted Driver Law. (Sponsored by Sen. Diamond of Cumberland Cty.) PL 2009, c. xxx

This Act: (1) defines the act of “operating a motor vehicle while distracted”; (2) establishes the “failure to maintain control of a motor vehicle” as a traffic infraction; and (3) defines “failure to maintain control of a motor vehicle” as either driving to endanger or being involved in a reportable motor vehicle accident while operating a motor vehicle while distracted.

LD 60 – Resolve, To Rename the Father Curran Bridge in Augusta. (Sponsored by Rep. Crockett of Augusta.) Resolves 2009, c. 4

This Resolve changes the name of the Father Curran Bridge in August to the Calumet Bridge at Old Fort Western.

LD 61 – An Act to Make Supplemental Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of the Laws Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2009. (Sponsored by Rep. Mazurek of Rockland.) Emergency Enacted; PL 2009, c. 7 (03/17/09)

This emergency Act implements the Highway Fund supplemental budget for the current year (FY 2009). Among other Highway Fund reductions, it reduces the amount of local road assistance funding provided under the Urban/Rural Initiative Program (URIP) by \$730,000, which represents the local share of the projected revenue shortfall to the Highway Fund. The Act also clarifies that the municipal officers can authorize the road commissioner to exceed the public works appropriation by no more than 15% for the purpose of repairing and maintaining public ways. Previous law provided for the ability to exceed the appropriations for repairs only.

LD 110 – An Act To Allow School Buses To Travel at the Posted Speed Limit on the Interstate and the Maine Turnpike. (Sponsored by Rep. Cray of Palmyra.) PL 2009, c. 9

This Act allows school buses to travel at the posted speed limit on interstate highways.

LD 126 – An Act To Amend Certain Laws Affecting Transportation. (Sponsored by Rep. Hogan of Old Orchard Beach.) PL 2009, c. 315

This Act makes several technical amendments to Maine’s transportation laws. Among the amendments, the Act modernizes and expands the language governing the relative obligations of the Department of Transportation and abutters to state or state-aid roads regarding initial and subsequent driveway culvert installation. The substantive addition to this section of law clarifies that when DOT determines a driveway culvert replacement is not required for an existing driveway, entrance or approach located within the highway limits, the abutter rather than the Department is responsible for the cost of any replacement.

LD 152 – An Act Relating to Autocycles. (Sponsored by Rep. Connor of Kennebunk.) PL 2009, c. 55

This Act defines the “autocycle” as an enclosed motorcycle having no more than three wheels in contact with the ground, establishes the equipment standards that must be met in order to be registered and allowed on roads, and establishes the

licensure standards and road restrictions that apply to the operations of an autocycle. The provisions of the Act are repealed 90-days after the adjournment of the 1st Regular Session of the 125th Legislature in 2011. No later than February 1, 2011, the Secretary of State, in conjunction with the Commissioner of Transportation and Chief of the State Police, is directed to report on the status of the registration and use of autocycles on public ways to the Transportation Committee. The Act also authorizes the Transportation Committee to submit legislation regarding autocycles in 2011.

LD 333 – An Act Making Unified Highway Fund and Other Funds Allocations for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2009, June 30, 2010 and June 30, 2011. (Sponsored by Rep. Mazurek of Rockland.) Emergency Enacted; PL 2009, c. 413 (06/16/09)

This emergency Act is the supplemental Highway Fund budget for FY 2009 and the Highway Fund budget for the FY 2010-2011 biennium. Among other elements of the Highway Fund budget, this Act includes an appropriation of \$200,000 to provide funding in FY 2010 to the communities of Bath and Trenton to reimburse the state’s share of the cost of building sand/salt sheds. The Act also includes a *Highway System Simplification Study* proposed by the Department of Transportation. The study charges a working group with the task of examining the current road classification system to determine if the division of maintenance and repair responsibilities over state and local roads needs to be “simplified” in order to improve customer service and investment decisions. The study group is also charged with determining the best construction standards for roadways across the state. The members of the study group include the Department, Maine Municipal Association, Maine Public Works Association, Maine Better Transportation Association, Associated General Contractors and the American Council of Engineering Companies. The results of the study must be presented to the members of the Transportation Committee by January 15, 2010. *Although as originally printed, this legislation would have cut \$5 million from the local road assistance (URIP) program in FY 2011, that \$5 million reduction is not part of the legislation as finally enacted.*

LD 436 – An Act To Include Trucks in the Definition of “Low-speed Vehicle”. (Sponsored by Theriault of Madawaska.) PL 2009, c. 42

This Act amends the definition of “low-speed vehicle” to include all motor vehicles, trucks as well as automobiles, that are no more than 3,000 pounds in unloaded weight and capable of speeds of at least 20 but no more than 25 miles per hour.

LD 437 – An Act To Require a Person under 18 Years of Age To Wear a Helmet While on a Motorcycle. (Sponsored by Rep. Cain of Orono.) PL 2009, c. 50

This Act increases the age which an operator or rider on a motorcycle must wear a helmet from 15 years to 18 years of age.

LD 452 – An Act to Include the Town of Falmouth as



Representative William Browne (Vassalboro) was instrumental in negotiating an amendment to the Highway Fund budget (LD 333) that fully funds the local road assistance program in FY 2011 with fuel tax revenue.

a Member of the Greater Portland Transit District. (Sponsored by Rep. Nelson of Falmouth.) **Emergency Enacted; PL 2009, c. 18 (04/03/09)**

This emergency Act includes Falmouth as a member of the Greater Portland Transit District.

LD 513 – An Act to Update the Casco Bay Island Transit District Enabling Law. (Sponsored by Rep. Harlow of Portland.) **P & SL 2009, c. 3**

This Act amends the charter of the Casco Bay Island Transit District.

LD 736 – Resolve, Directing the Department of Transportation To Secure Funding to Complete the Aroostook North-South Highway Project. (Sponsored by Sen. Jackson of Aroostook Cty.) **Resolves 2009, c. xx**

This Resolve directs the Department of Transportation to secure funding through all available options, including federal funding through the American Recovery and Reinvestment Act, for all projects listed in PL 2007, chapter 470, §B-2 as “significant new capacity projects of all modes” as well as “extraordinary bridge replacement, removal or rehabilitation projects”. The Resolve expressly identifies the completion of the Aroostook North-South Highway project, beginning with segments in Caribou and Presque Isle, as one of the projects to be funded in this manner.

LD 846 – Resolve, Directing the Department of Transportation To Study Ways To Reduce Energy Use and Promote Efficiency along Major Transportation Corridors. (Sponsored by Rep. Piotti of Unity.) **Resolves 2009, c. 42**

This Resolve directs the Maine Department of Transportation to conduct a study with the primary goal of determining how existing rules and laws might be changed to meet the objective of reducing vehicle miles traveled, maintaining arterial functions, reinforcing land use patterns, facilitating transit development and otherwise saving energy. The DOT study is to be conducted in collaboration with various state agencies, regional councils of government, regional planning commissions, metropolitan planning organizations and the Maine Municipal Association.

LD 862 – An Act To Improve the Health of Maine Citizens and Safety of Pedestrians. (Sponsored by Rep. Harlow of Portland.) **PL 2009, c. 91**

This Act parallels a law enacted in 2008 regarding motor vehicles passing bicyclists by requiring the operator of a motor vehicle to provide at least 3 feet of passing space to a pedestrian.

LD 874 – An Act To Amend the Laws Governing Axle Weights. (Sponsored by Rep. Thomas of Ripley.) **PL 2009, c. xxx**

This Act reduces the fine for operating an overweight truck on the roadways by 50% for a truck that exceeds the axle weight limits by less than 5,000 lbs. but does not exceed the maximum gross vehicle weight limit. For trucks traveling on the Interstate Highway System, the reduction of the fine does not apply unless they are within the section of Interstate 95 designated as the Maine Turnpike.

LD 951 – An Act Relating to the TransCap Trust Fund. (Sponsored by Rep. Mazurek of Rockland.) **Emergency Enacted; PL 2009, c. 451 (06/16/09)**

This emergency Act adds standards to the terms of any grants or loans issued to municipalities and the Department of Transportation under by the TransCap Trust Fund, which is capitalized with 7.5% of the net revenue generated by the state’s excise tax on motor fuels. Specifically, the Act requires that any grants issued from the TransCap Trust Fund must be

used for capital projects with a useful life of at least 10 years and that bond proceeds may be used only for capital projects that have anticipated useful life that at least matches the term of the bond.

LD 1094 – Resolve, To Study Safety Measures Relating to Open Trenches and Excavations. (Sponsored by Rep. Connor of Kennebunk.) **Resolves 2009, c. 70**

This Resolve directs the Department of Transportation, in conjunction with the Department of Safety, to establish a working group to study safety measures related to open trenches and excavations. In addition to the two departments, the working group must include the Department of Labor, the Public Utilities Commission, the Maine Turnpike Authority, the Maine Better Transportation Association, the Maine Municipal Association, the Associated General Contractors of Maine, and other interested parties. In addition to the general review, the Resolve directs the working group to study the trench safety law recently enacted in Massachusetts. The report of the working group must be submitted to the Legislature by February 2010.

LD 1131 – An Act To Clarify the Law Regarding the Passing of School Buses by Bicyclists. (Sponsored by Sen. Nutting of Androscoggin Cty.) **PL 2009, c. 212**

This Act applies to the operation of bicycles the same rules generally prohibiting motor vehicles from passing school buses when their red lights are flashing.

LD 1234 – An Act to Regulate the Use of Traffic Surveillance Cameras. (Sponsored by Rep. Cebra of Naples.) **PL 2009, c. 223**

This Act prohibits the municipal or state use of a traffic surveillance camera to prove or enforce a violation of the motor vehicle laws.

LD 1315 – An Act To Amend the Private Way Laws with Regard to Road Associations. (Sponsored by Rep. Duchesne of Hudson.) **PL 2009, c. 239**

This Act authorizes voters of any town or village corporation to authorize the municipal officers (or the assessors of a village corporation) to use highway equipment on public roads, private ways or privately-owned bridges when the municipal officers consider it advisable for fire and police protection or for the purpose of restoring a great pond. In order to put public equipment on private roads in the circumstance of lake water quality protection, certain standards must be met, including: (1) the private road must be within the watershed of the great pond; (2) the great pond must be identified by the Department of Environmental Protection (DEP) as “most at risk”, listed as impaired by the DEP in an assessment report submitted to the U.S. Environmental Protection Agency, or identified as having threats to water quality according to a watershed assessment protocol accepted by the DEP; (3) either the DEP or the municipality must determine that the private road is contributing to the degradation of water quality; (4) the road work must comply with best management practices required by the DEP; and (5) the private road must be maintained by a road association.

Utilities & Energy

LD 44 – An Act To Require Transmission Lines To Be Placed Underground near Certain Facilities. (Sponsored by Rep. Valentino of Saco.) **PL 2009, c. 309**

This Act establishes certain types of information that must be considered by the Public Utilities Commission when reviewing the proposed installation of an electric transmission line capable of operating at 69 kilovolts or more, including: (1) a description of the effect of the proposed transmission line on public health and safety, historic, recreational and environmen-

tal values, and the proximity of the proposed transmission line to inhabited dwellings; (2) the justification for adoption of the route selected, including comparison with alternative routes; and (3) the results of an investigation of alternatives to construction of the proposed transmission line including energy conservation, distributed generation or load management.

LD 73 – An Act To Protect the Right To Use Solar Energy. (Sponsored by Rep. Hinck of Portland.) **PL 2009, c. 273**

This Act prohibits various “legal instruments”, including municipal ordinances that “directly regulate” the installation or use of solar energy devices , from prohibiting a person from installing or using a solar energy device on residential property owned by the person or a solar energy device or solar clothes drying device (e.g., a clothesline or clothes drying rack) on residential property owned, leased or rented by the person. Notwithstanding the general prohibition, the Act allows restrictions on the installation of solar energy or solar clothes drying devices to protect public health and safety, buildings from damage, historic or aesthetic values, and shorelands under the state’s shoreland zoning provisions.

LD 131 – An Act To Amend the Charter of the Athens Standard Water District. (Sponsored by Sen. Mills of Somerset Cty.) **P & SL 2009, c. 1**

This Act amends the charter of the Athens Standard Water District.

LD 200 – An Act To Amend the Charter of the Caribou Utilities District. (Sponsored by Rep. Edgcomb of Caribou) **P & SL 2009, c. 8**

This Act amends the charter of the Caribou Utilities District.

LD 238 – An Act Regarding Consumer-owned Water Utilities and Contracts for Water Extraction and for the Sale of Water. (Sponsored by Rep. Legg of Kennebunk.) **PL 2009, c. 37**

This Act defines the term “large-scale extraction of water” and the “large-scale transportation of water”, and requires certain public notice and public hearing procedures before any consumer-owned water utility may enter into a contract with another entity that involves a large-scale extraction or transportation of water. Specifically, the water utility must hold a public hearing regarding the proposed contract at least 30 days before the contract is executed. At least 30 days before the scheduled public hearing, the water utility must provide written notice of the public hearing to its customers, the general public (newspaper notice), the Public Utilities Commission, the Public Advocate, and the municipality or municipalities where the source of water is located, and the proposed contract must be made publicly available.

LD 264 – An Act to Amend the Surcharge for the E-9-1-1 System. (Sponsored by Rep. Cleary of Houlton.) **Emergency Enacted; PL 2009, c. 416 (effective 7/01/09)**

This emergency Act increases what is currently a 30-cent a month surcharge on all landline telephone lines and monthly prepaid wireless services dedicated to providing infrastructure support to the Public Safety Answering Points (PSAPs) in the state. Between July 1, 2009 and June 30, 2010, the increase would be from 30 cents to 37 cents. Beginning on July 1, 2010, the increase would be to 52 cents. The bill also directs the Legislature’s Utilities Committee to review the E-911 surcharge revenue history and projections, the E-911 fund expenditure history and projections, unexpended amounts in the E-911 fund, and opportunities to reduce expenditures related to the configuration of PSAPs. The Utilities Committee is also authorized to report out legislation during the 2010 legislative

session related to this review.

LD 275 – An Act To Amend the Charter of the Limestone Water and Sewer District. (Sponsored by Rep. Martin of Eagle Lake.) **Emergency Enacted; P & SL 2009, c. 5 (4/16/09)**

This emergency Act amends the charter of the Limestone Water and Sewer District.

LD 555 – An Act To Promote Public Safety Answering Point Efficiency. (Sponsored by Rep. Fletcher of Winslow.) **PL 2009, c. 219**

This Act gives several directives to the Emergency Services Communication Bureau with regard to the Bureau’s duties to review, analyze and report on the operations of the state’s Public Safety Answering Points (PSAPs). Among those directives, the Act requires the Bureau to: (1) make certain findings prior to implementing a reduction in the number of PSAPs in the state, including a finding regarding the need for the reduction based on a cost-benefit analysis, taking into account impacts on ratepayers, the affected municipalities and the state; (2) include in its annual January report to the Legislature a review of the performance of each PSAP in the state during the previous calendar year; and (3) submit a special report to the Legislature by February 1, 2010 on the optimum configuration of PSAPs in the state, taking into account such factors as total system needs, forecasted costs, optimum staffing levels, the implementation of the optimum configuration of PSAPs state-wide (“including the regulation of changes to PSAP locations initiated by municipalities”) taking into consideration the cost implications for municipalities and the state, and the benefits and consequences of expanding the E-911 telephone surcharge to fund all PSAP costs (including operation and maintenance expenses currently funded through county assessments or state PSAP per-capita fees).

LD 650 – An Act To Create a Funding Structure for Suitable Investment in Public Water and Wastewater Infrastructure in the State. (Sponsored by Rep. Berry of Bowdoinham.) **PL 2009, c. 377**

This Act creates three funds for the purpose of managing the state and federal resources that are made available for drinking water and wastewater infrastructure investments: (1) the Maine Drinking Water Fund to be administered by the Department of Health and Human Services with respect to drinking water infrastructure; (2) the Maine Clean Water Fund to be administered by the Department of Environmental Protection with respect to wastewater facility infrastructure; and (3) the State Water and Wastewater Infrastructure Fund to be administered by the Maine Bond Bank. The State Water and Wastewater Infrastructure Fund is not initially capitalized by this Act, but certain authorities are created and the Fund is otherwise designed to provide the state match for federal funds and to then distribute the funds that it receives to the Drinking Water Fund and the Clean Water Fund.

This Act also directs the Department of Health and Human Services and the Department of Environmental Protection to convene a stakeholder group to review and make recommendations regarding funding needs and sources for the State Water and Wastewater Infrastructure Fund, taking into account the intent to use that fund as a state match for federal funds and to transfer funds from that fund to the Maine Drinking Water Fund and the Maine Clean Water Fund. The amendment requires the departments to report the results of the stakeholder group to the Joint Standing Committee on Utilities and Energy no later than February 1, 2010.

LD 850 – An Act To Ensure Local Broadband Coverage. (Sponsored by Rep. Pingree of North Haven.) **Emergency**

Enacted; PL 2009, c. 63 (4/30/09)

This emergency Act requires the ConnectME Authority to give priority to grant proposals to finance the build-out of broadband infrastructure which extend access to broadband service to a higher percentage of an unserved area within a municipality or region. The criteria used to determine the degree an area is lacking service must include the percentage of households with access to broadband service within a municipality or other appropriate geographic area.

LD 883 – An Act To Amend the Charter of the Tenants Harbor Standard Water District. (Sponsored by Sen. Recor of Knox Cty.) **Emergency Enacted; P & SL 2009, c. 15 (5/08/09)**

This emergency Act amends the charter of the Tenants Harbor Standard Water District.

LD 935 – Resolve, Regarding Building Energy Efficiency and Carbon Performance Ratings. (Sponsored by Sen. Goodall of Sagadahoc Cty.) **Emergency Enacted; Emergency Passed; Resolves 2009, c. 134 (6/16/09)**

This emergency Resolve directs the Public Utilities Commission (PUC) to convene a stakeholder group for the purpose of developing a system to rate buildings for their energy efficiency and carbon performance. The PUC is further directed to include the energy rating system in the Commission's professional education and training programs and encourage real estate professionals and large-scale property owners, such as municipalities, to both use and promote the voluntary use of the energy rating system. The Resolve requires the Public Utilities Commission to develop a report on its efforts and provide that report, along with any further recommendations, to the Legislature by February 1, 2010.

LD 953 – An Act To Amend the Charter of the Winterport Water District. (Sponsored by Rep. Thibodeau of Winterport.) **Emergency Enacted; P & SL 2009, c. 11 (4/17/09)**

This emergency Act amends the charter of the Winterport Water District.

LD 994 – An Act To Amend the Charter of the Milo Water District. (Sponsored by Sen. Smith of Piscataquis Cty.) **P & SL 2009, c. 10**

This Act amends the charter of the Milo Water District.

LD 1075 – An Act To Establish the Community-based Renewable Energy Pilot Program. (Sponsored by Rep. MacDonald of Boothbay.) **PL 2009, c. 329**

This Act establishes a "community-based renewable energy" pilot program that provides certain incentives for "qualifying local owners" to install renewable-resource electricity generating systems, which include wind power installations, solar arrays and installations, generators fueled by landfill gas, biomass generators who fuel includes anaerobic digestion of agricultural products, byproducts or waste, but does not include a generator fueled by municipal solid waste in conjunction with recycling. "Qualifying local owners" is defined to include individual residents of the state, political subdivisions (i.e., counties, municipalities, quasi-municipal entities or districts, school administrative units, regional councils of government, institutions of higher education, etc.), the state government or state agencies, federally-recognized Indian tribes, Maine-based non-profit organizations, and business corporations with a majority of Maine-based ownership. The pilot program is scheduled to operate until December 2015, and during that time there are certain limits to the amount of electricity generation that can occur within the scope of the incentive program both on a total statewide level (50 megawatts), within the jurisdiction

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of single investor-owned transmission and distribution utilities (25 megawatts), and with respect to individual participants (10 megawatts). The focus of this pilot program, however, is clearly on smaller generating installations. In order for any project to be considered for the program, a resolution of support for the project must be adopted by the municipal legislative body of the town or city where the electricity-generating facility is proposed to be located.

LD 1176 – An Act To Revise the Charter of the Portland Water District. (Sponsored by Rep. Haskell of Portland.) **P & SL 2009, c. 18**

This Act amends the charter of the Portland Water District.

LD 1317 – An Act To Amend the Charter of the Addison Point Water District. (Sponsored by Rep. Tilton of Harrington.) **Emergency Enacted; P & SL 2009, c. 21 (6/02/09)**

This emergency Act amends the charter of the Addison Point Water District.

LD 1318 – An Act To Create the Hancock Pond Water District. (Sponsored by Rep. Curtis of Madison.) **Emergency Enacted; P & SL 2009, c. 20 (6/02/09)**

This emergency Act creates the Hancock Pond Water District in the towns of Madison and Anson.

LD 1334 – An Act To Ensure Continued Access to Emergency Information in the State by Allowing Governments To Build Federally Licensed Television Translators. (Sponsored by Sen. Hobbins of York Cty.) **PL 2009, c. 117**

This Act permits municipalities and counties to receive federal funds for the construction and operation of broadband television translator stations.

LD 1348 – Resolve, To Provide Grants to Public Educational and Municipal Entities for Feasibility Studies of Renewable Energy Projects. (Sponsored by Rep. Adams of Portland.) **Emergency Passed; Resolves 2009, c. 65 (5/22/09)**

This emergency Resolve directs the Public Utilities Commission (PUC) to apply for federal funds under the American Recovery and Reinvestment Act of 2009 to provide grants to public educational and municipal entities to conduct feasibility studies for the installation and operation of cost-effective renewable energy projects on public property. The Resolve defines “public educational and municipal entities” to include the University of Maine System, the Maine Maritime Academy, the Maine Community College Systems, counties, municipalities, quasi-municipal corporations or districts and school administrative units. The Resolve also directs the PUC to prioritize the distribution of those grants to public educational and municipal entities that fund at least 10% of the feasibility study with their own revenue or volunteer, in-kind contributions.

LD 1349 – An Act To Streamline Ratemaking for consumer-owned Water Utilities. (Sponsored by Rep. Blanchard of Old Town.) **PL 2009, c. 237**

This Act allows a consumer-owned water utility that has a negative net income in two consecutive fiscal years to file for a limited rate increase under a streamlined process. For utilities with total annual revenues of \$750,000 or more, the maximum rate increase under the streamlined process is 2%. For utilities with total annual revenues between \$250,000 and \$750,000, the maximum rate increase under the streamlined process is 3.5%. For utilities with total annual revenues of less than \$250,000, the maximum rate increase under the streamlined process is 5%. The process to get approval for the rate increase under the streamlined system includes: (1) filing with the Public Utilities Commission documentation demonstrating the two years of

negative net income; (2) holding a public hearing regarding the proposed rate increase, which requires specific notification procedures; (3) holding a public meeting sometime after the public hearing where the rate increase is adopted, with formal minutes being kept; (4) filing the rate increase with the PUC; and (5) establishing the effective date of the rate increase, which must be within 1-9 months of the date the rate increase is filed with the PUC.

LD 1369 – An Act To Amend the Charter of the Clinton Water District. (Sponsored by Rep. Fitts of Pittsfield.) **P & SL 2009, c. 22**

This Act amends the charter of the Clinton Water District.

LD 1494 – An Act To Amend the Charter of the Limestone Water and Sewer District. (Sponsored by Rep. Martin of Eagle Lake.) **P & SL 2009, c. 26**

This Act amends the charter of the Limestone Water and Sewer District. [m](#)

Thank You



Thanks to the generosity of Representative Sheryl Briggs (Mexico) and Senator Earle McCormick (Kennebec County), MMA’s weekly *Legislative Bulletin* is distributed in both the House and the Senate. From time to time the *Bulletin* has been known to describe or explain State House activities in a way that some legislators don’t agree with, and so, in the interests of openly sharing information and points of view, we especially appreciate the willingness of Rep. Briggs and Sen. McCormick to provide for its distribution.

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3. Compiling and developing information relevant to the education and technical assistance needs of Maine's solid waste and recovery programs;
4. promoting market development and cooperative marketing opportunities.

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Studies, Commissions, Task Forces, Working Groups & Pilot Programs

By Jeffrey Austin, Legislative Advocate, MMA

The Legislature adjourned on June 13th. Although media reports indicate that the Legislature may be called in this fall to address anticipated budget shortfalls, the Legislature is not currently scheduled to reconvene until January 6, 2010. However, as is customary, the Legislature has requested that certain work will be conducted in the interim six months – or beyond. For the bills that have been “carried over” into the 2010 session, that work may be informally requested by the Legislature. For other issues, it is not uncommon for the Legislature to formally establish a working group to do the work.

What follows is a list of the municipally significant study groups and pilot programs authorized this session by the 124th Legislature.

Membership on these working groups varies. In some cases, the study participants are only members of the Legislature. In other cases, a state agency is directed to work with an unspecified list of interested parties to accomplish the assigned task. In still other cases, the order, law or resolve that created the study group explicitly identifies the non-legislators who will participate in the study. In those types of studies, it is not uncommon for a “statewide organization representing municipalities”, for example, to be asked to recommend a municipal candidate for membership. Regardless of membership makeup, all study meetings are open to the public and interested municipal officials are urged to attend.

Any municipal official interested in serving on or learning more about any of these studies is encouraged to contact Jeffrey Austin at 1-800-452-8786 or jaustin@memun.org. A complete description of the following enactments is found in the New Laws article (page 11).

BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT

LD 11 - Resolve, To Encourage the Preservation of Dark Skies. (Sponsored by Rep. Schatz of Blue Hill.) **Resolves 2009, c. 22.**

This Resolve directs the State Planning Office to review existing commercial outdoor lighting standards, make recommendations on standard language that will limit light pollution, and identify policy options for promoting outdoor lighting standards for commercial development. SPO’s report must be submitted to the Legislature by January 15, 2010.

LD 652 - An Act To Clarify the Maine Uniform Building and Energy Code. (Sponsored by Rep. Giles of Belfast.) **PL 2009, c. 261**

Buried in this clean-up bill of the statewide building code law adopted in 2008 is a charge to the Technical Building Codes and Standards Board to review issues regarding the third-party inspector system, including liability protection issues, to enhance the viability of the third-party enforcement option. The report-back date for that review is December 1, 2010.

LD 733 - Resolve, To Examine Environmental Effects of the Resource Recovery System. (Sponsored by Sen. Nass of York County.) **Resolves 2009, c. 130**

This Resolve directs a five member working group to oversee a two-year study to be performed by an independent private entity that is focused on the environmental effects that Maine’s recycling laws and programs have generated. Among other areas of focus, the review must include an assessment of: (1) current recycling rates; (2) the carbon footprints created by the beverage container recycling laws and municipal

recycling programs; (3) barriers to comprehensive recycling; (4) the effect of educational programs on recycling rates; and (5) the potential roles of redemption centers as recycling technology advances. The members of the working group include the State Planning Office, the Department of Agriculture, the Department of Environmental Protection, the Department of Economic and Community Development and the Maine Municipal Association. The independent study and any expert consultants retained in this process must be funded privately from outside sources. The final report of the working group must be provided to the Legislature by January 15, 2012, with the first interim report provided by January 15, 2010 and the second interim report provided by January 15, 2011.

NATURAL RESOURCES

LD 460 - Resolve, To Evaluate Climate Change Adaptation Options for the State. (Sponsored by Sen. Simpson of Androscoggin County.) **Resolves 2009, c. 16**

This Resolve directs the Department of Environmental Protection to convene a stakeholder group made up of representatives of the business community, non-governmental organizations and state government to study the impacts of climate change on, among other systems, built infrastructure including coastal and inland flooding effects on roads and facilities, the heat effects in urban centers, beach scouring, water supplies and drinking water, emergency response systems, etc. The Department is directed to report the findings and recommendations of the stakeholders group back to the Legislature by February 27, 2010.

LD 722 - Resolve, Directing a Review

of the Management of Risks Associated with Surface Uses on Public Water Supplies. (Sponsored by Rep. Pieh of Bremen.) **Resolves 2009, c. 32**

This Resolve directs the Drinking Water Program within the Department of Health and Human Services to review the management of risks associated with surface uses on lakes and ponds that are public water supplies. The review is directed to involve the participation of state agencies that manage access to surface water sources as well as the users of those water sources. The Drinking Water Program must submit a report of its review, along with any recommended legislation, to the Legislature by January 5, 2010.

LD 760 – An Act To Improve Landfill Capacity. (Sponsored by Rep. Duchesne of Hudson.) **PL 2009, c. 412**

Among other changes to the solid waste laws, this Act directs the State Planning Office to conduct a review and assessment of the state's solid waste management policy as it applies to the funding, management and operation of the state-owned landfill, and also whether the statutory restriction on the expansion of commercial solid waste disposal facilities should be relaxed to allow a current facility (that is not under an order or agreement to close) to expand onto any contiguous property that the landfill operator owns or acquires.

LD 1010 - Resolve, To Require the Department of Environmental Protection to Review Emerging Technologies and the Laws Regarding Incinerators. (Sponsored by Rep. Connor of Kennebunk.) **Resolves 2009, c. 57**

This Resolve directs the Department of Environmental Protection (DEP), with the assistance of a task force to be convened by the DEP, to review whether waste-to-energy facilities using emerging technologies that provide environmental and energy benefits should be excluded from the statutory ban on the establishment of new commercial incinerators. The DEP must submit its report and any recommendations to the Legislature by January 5, 2010.

LD 1156 - An Act To Amend the Laws Governing the Recycling of Televisions. (Sponsored by Sen. Simpson of Androscoggin County.) **PL 2009, c. 231**

This Act amends the electronic waste recycling law as it applies to televisions. It reapportions the manner by which manufacturers are responsible

for the costs associated with recycling televisions so that assessments are based on the manufacturer's market share of television sales nationally. The Act also directs the Department of Environmental Protection (DEP) to conduct a review of the costs of the state's household electronic waste recycling program and of manufacturer-responsibility programs in other states. The DEP review includes the convening of a working group with membership including the manufacturers of the various categories of electronic devices subject to recycling, an environmental advocacy organization, an electronic waste recycling or consolidation business, a statewide municipal association and other interested parties. The DEP report must be submitted to the Legislature by January 15, 2010.

LD 1268 - An Act To Update the Site Location of Development Laws. (Sponsored by Rep. Duchesne of Hudson.) **PL 2009, c. 293**

This Act makes several minor, technical changes to the state's Site Location of Development Act. Of municipal interest, the Act requires a review of the municipal "delegation" provisions by directing the Department of Environmental Protection to review the provisions of law that allow qualified municipalities to substitute the requirements of the local ordinances and review procedure for the Site Location review in the areas of stormwater management law and general Site Location law, and develop any recommendations in regard to the current "delegation" provisions. The DEP is required to submit its report and any recommendations to the Legislature by January 15, 2010.

LD 1310 - Resolve, Relating to a Review of International Trade Agreements and the Management of Groundwater Resources. (Sponsored by Rep. Webster of Freeport.) **Emergency Passed; Resolves 2009, c. 132 (6/15/09)**

This emergency Resolve directs the Water Resources Planning Committee of the Land and Water Resources Council to conduct an examination of the potential legal impacts of international trade agreements on the ability of the state to manage its groundwater resources, including but not limited to the potential consequences of permitting foreign companies to extract groundwater. The examination is directed to include a study of the property rights re-

lated to the ownership of groundwater and the various legal doctrines relating to the use of groundwater including the "absolute dominion" rule and the "reasonable use" rule. The report of the Water Resources Planning Committee must be submitted to the Legislature by January 1, 2010.

LD 1333 - An Act To Ensure that Replacement Culverts Permit Fish Passage. (Sponsored by Rep. Pingree of North Haven.) **PL 2009, c. xxx**

This Act is the Climate and Energy Planning Act of 2009. This Act requires the Department of Environmental Protection to amend its rules in such a way to require municipalities to achieve natural stream flow when installing road culverts. The rulemaking is "major substantive" and is to be completed by January 1, 2011.

TAXATION

LD 1154 - Resolve, To Require a Study of Economic Development Incentives in the Unorganized Territory. (Sponsored by Sen. Nass of York County.) **Resolves 2009, c. 71**

This Resolve directs the Department of Economic and Community Development (DECD) and the State Tax Assessor to convene a study group to review the role of economic development incentives, such as Tax Increment Financing, in the unorganized territories. Among other charges the Resolve directs the study group to: (1) review the legal issues surrounding TIF financing in the UT and the legally acceptable methods of identifying special benefits from property tax incentives in that jurisdiction; (2) consider the role of TIFs in shifting the property tax burden throughout the UT; and (3) evaluate the potential for alternative tax mechanisms, such as a wind power excise tax, to provide support for economic development infrastructure. DECD and the State Tax Assessor must report the findings and recommendations of the study to the Legislature by January 15, 2010.

TRANSPORTATION

LD 333 - An Act Making Unified Highway Fund and Other Funds Allocations for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2009, June 30, 2010 and June 30, 2011. (Sponsored by Rep. Mazurek of

Rockland.) **Emergency Enacted; PL 2009, c. 413 (6/16/09)**

This emergency Act is the Highway Fund budget for the FY 2009-2010 biennium. Among its many provisions, the Act directs the Department of Transportation (DOT) to conduct a *Highway System Simplification Study*. The study must be accomplished by a working group charged with the task of examining the current road classification system to determine if the division of maintenance and repair responsibilities over state and local roads needs to be "simplified" in order to improve customer service and investment decisions. The study group is also charged with determining the best construction standards for roadways across the state. The members of the study group include DOT, Maine Municipal Association, Maine Public Works Association, Maine Better Transportation Association, Associated General Contractors and the American Council of Engineering Companies. The results of the study must be presented to the members of the Transportation Committee by January 15, 2010.

LD 846 – Resolve, Directing the Department of Transportation To Study Ways To Reduce Energy Use and Promote Efficiency along Major Transportation Corridors. (Sponsored by Rep. Piotti of Unity.) **Resolves 2009, c. 42**

This Resolve directs the Maine Department of Transportation to conduct a study with the primary goal of determining how existing rules and laws might be changed to meet the objective of reducing vehicle miles traveled, maintaining arterial functions, reinforcing land use patterns, facilitating transit development and otherwise saving energy. The DOT study is to be conducted in collaboration with various state agencies, regional councils of government, regional planning commissions, metropolitan planning organizations and the Maine Municipal Association.

LD 1094 - Resolve, To Study Safety Measures Relating to Open Trenches and Excavations. (Sponsored by Rep. Connor of Kennebunk) **Resolves 2009, c. 70**

This Resolve directs the Department of Transportation, in conjunction with the Department of Safety, to establish a working group to study safety measures related to open trenches and excavations. In addition to the two departments, the working group must

include the Department of Labor, the Public Utilities Commission, the Maine Turnpike Authority, the Maine Better Transportation Association, the Maine Municipal Association, the Associated General Contractors of Maine, and other interested parties. In addition to the general review, the resolve directs the working group to study the trench safety law recently enacted in Massachusetts. The report of the working group must be submitted to the Legislature by February 2010.

UTILITIES & ENERGY

LD 555 - An Act To Promote Public Safety Answering Point Efficiency. (Sponsored by Rep. Fletcher of Winslow.) **PL 2009, c. 219**

This Act gives several directives to the Emergency Services Communication Bureau with regard to the Bureau's duties to review, analyze and report on the operations of the state's Public Safety Answering Points (PSAPs). Among those directives, the Act requires the Bureau to submit a special report to the Legislature by February 1, 2010 on the optimum configuration of PSAPs in the state, taking into account such factors as total system needs, forecasted costs, optimum staffing levels, the implementation of the optimum configuration of PSAPs statewide ("including the regulation of changes to PSAP locations initiated by municipalities") taking into consideration the cost implica-

tions for municipalities and the state, and the benefits and consequences of expanding the E-911 telephone surcharge to fund all PSAP costs, including operation and maintenance expenses currently funded through county assessments or state PSAP per-capita fees.

LD 650 – An Act To Create a Funding Structure for Suitable Investment in Public Water and Wastewater Infrastructure in the State. (Sponsored by Rep. Berry of Bowdoinham.) **PL 2009, c. 377**

Among other results, this Act directs the Department of Health and Human Services and the Department of Environmental Protection to convene a stakeholder group to review and make recommendations regarding funding needs and sources for the newly-created State Water and Wastewater Infrastructure Fund, taking into account the intent to use that fund as a state match for federal funds and to transfer funds from that Fund to the Maine Drinking Water Fund and the Maine Clean Water Fund. The amendment requires the departments to report the results of the stakeholder group to the Joint Standing Committee on Utilities and Energy no later than February 1, 2010.

LD 935 - Resolve, Regarding Building Energy Efficiency and Carbon Performance Ratings. (Sponsored by Sen. Goodall of Sagadahoc County.) **Emergency Passed; Resolves 2009, c. 134 (6/16/09)**

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This emergency Resolve directs the Public Utilities Commission (PUC) to convene a stakeholder group for the purpose of developing a system to rate buildings for their energy efficiency and carbon performance. The PUC is further directed to include the energy rating system in the Commission's professional education and training programs and encourage real estate professionals and large-scale property owners, such as municipalities, to both use and promote the voluntary use of the energy rating system. The Resolve requires the Public Utilities Commission to develop a report on its efforts and provide that report, along with any further recommendations, to the Legislature by February 1, 2010.

PILOT PROJECTS

In addition to studies and working groups, the Legislature has also authorized a couple of state agencies to conduct pilot programs in which municipalities may want to participate.

LD 129 – Resolve, Directing the Secretary of State To Conduct a Pilot Program for Early Voting for the November 2009 Election. (Sponsored by Sen. Mitchell of Kennebec Cty.) **Resolves 2009, c. 24**

This Resolve directs the Secretary of State to administer a pilot program that allows selected municipalities to conduct early voting procedures at polling places up to ten days prior to election day on November 3, 2009. The Secretary is directed to submit a report by January 15, 2010 to the Legislature detailing the result of the pilot program.

LD 150 - Resolve, Directing the Secretary of State To Conduct a Pilot Program for Ongoing Absentee Voter Status. (Sponsored by Rep. Hinck of Portland.) **Resolves 2009, c. 94**

This Resolve directs the Secretary of State to conduct a pilot program for "ongoing absentee voter status". Under the pilot program created by this Resolve, the Secretary of State must select one or more municipalities that are willing and able to participate in the pilot program, and the program must continue for at least three statewide elections of November 2009, June 2010 and November 2010. The "ongoing absentee voter status" program would allow any voter in a participating municipality to apply for treatment as an ongoing absentee voter, in which case an absentee ballot will be automatically

mailed to the voter. The Secretary of State is directed to design the forms and procedures necessary to conduct the pilot program, including the procedures for voters to request ongoing absentee voter status, as well as any conditions that would cause a person's ongoing absentee voter status to be terminated prior to the end of the pilot program. The Secretary must submit a report about the pilot program and any recommended legislation to the Legislature by February 15, 2011.

LD 1075 - An Act To Establish the Community-based Renewable Energy Pilot Program. (Sponsored by Rep. MacDonald of Boothbay.) **PL 2009, c. 329**

This Act establishes a "community-based renewable energy" pilot program that provides certain incentives for "qualifying local owners" to install renewable-resource electricity generating systems, which include wind power installations, solar arrays and installations, generators fueled by landfill gas, biomass generators fueled by products created through the anaerobic digestion of agricultural products, byproducts or waste (but does not include a generator fueled by municipal solid

waste in conjunction with recycling). "Qualifying local owners" is defined to include individual residents of the state, political subdivisions (i.e., counties, municipalities, quasi-municipal entities or districts, school administrative units, regional councils of government, institutions of higher education, etc.), the state government or state agencies, federally-recognized Indian tribes, Maine-based non-profit organizations, and business corporations with a majority of Maine-based ownership. The pilot program is scheduled to operate until December 2015, and during that time there are certain limits to the amount of electricity generation that can occur within the scope of the incentive program both on a total statewide level (50 megawatts), within the jurisdiction of single investor-owned transmission and distribution utilities (25 megawatts), and with respect to individual participants (10 megawatts). The focus of this pilot program, however, is clearly on smaller generating installations. In order for any project to be considered for the program, a resolution of support for the project must be adopted by the municipal legislative body of the town or city where the electricity-generating facility is proposed to be located. [\[m\]](#)

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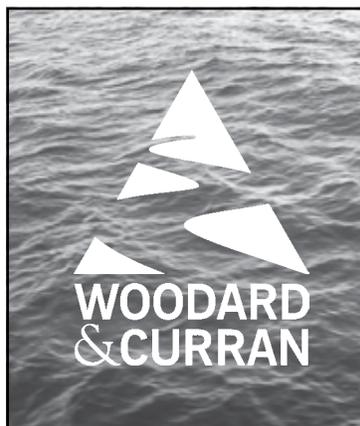
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Carry Over Bills

By Jeffrey Austin, Legislative Advocate, MMA

It is not uncommon during the first regular session for legislative committees to vote to carry over bills into the second session. The carry over process provides the committees and interested parties with the time necessary to improve proposed legislation, create compromises, further study the issues addressed in the bill, or just kill the bill at a later date.

Of the 450-plus bills tracked by MMA this session, 32 were carried over into the 2010 Legislative session. What follows is a description of the bills for which a final outcome has been placed on hold for one more year. The bills have been divided into two categories. The first category includes the detailed descriptions of the carry over bills MMA will be monitoring closely over the next few months and into the January 2010 legislative session. The second category includes the titles for the remaining carry over bills, a description of these bills can be found on MMA's website at: http://www.memun.org/public/MMA/svc/SFR/LD/LD_fr.htm.

Many of the bills are being carried over due to Maine's "competing measure" doctrine. There are four referendum questions on the ballot in November. Generally speaking, the Legislature is prevented from enacting legislation on the topics covered by the referendum questions if that legislation would be a "competing measure" to the referendum question. Many of the bills on this list are being carried over because they deal with the referenda issues of school consolidation, excise taxes and government spending/taxing limits.

Here are the carry over bills of special municipal interest.

BUSINESS, RESEARCH & ECONOMIC DEVELOPMENT

LD 272 – An Act To License Home Building and Improvement Contractors. (Sponsored by Rep. MacDonald of Boothbay.)

This bill creates the Maine Home Contractor Licensing Act, which establishes a 9-member Maine Home Contractor Licensing Board to oversee the licensing of general contractors and trades people who perform framing, roofing, siding, insulating, window work or chimney masonry on residential dwellings. The Board includes two public members, five home contractors, one engineer or architect, one representative of the fire service, and one municipal code enforcement officer.

LD 1389 – An Act to Create State and Regional Quality of Place Investment Strategies for High-value Jobs, Products and Services in Maine. (Governor's Bill) (Sponsored by Sen. Damon of Hancock Cty.)

This bill creates the 11-member Maine Quality of Place Council which is charged with overseeing a new ini-

tiative to inventory, through Maine's regional planning agencies, regional and statewide "quality of place" assets. "Quality of place" assets include natural resource, landscape, downtown, historical, cultural, recreational, educational, transportation and renewable resource assets. The bill also charges the Maine Quality of Place Council with developing a "quality of place" investment strategy. The bill also establishes the Maine Quality of Place Investment Fund, to be capitalized with bond revenue approved by the voters for that purpose. When capitalized, regional planning agencies and other applicants could apply for grants for projects that would conform to or support the quality of place investment strategy.

EDUCATION & CULTURAL AFFAIRS

LD 570 – An Act To Improve the Laws Governing the consolidation of School Administrative Units. (Sponsored by Rep. Finch of Fairfield)

This "concept draft" bill proposes to enact measures designed to improve

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the laws governing the consolidation of school administrative units. [This bill is viewed as the vehicle to deal with the impact of the referendum question to repeal the school consolidation law. If the referendum passes, this bill will effectuate that repeal; if the referendum fails, this bill will “fix” aspects of the consolidation law which are unpopular.]

LABOR

LD 934 – An Act To Clarify Public Sector Employee Fair Choice in Collective Bargaining. (Sponsored by Sen. Jackson of Aroostook County.)

This bill repeals the right of a public employer to request an election to determine whether there exists majority support for unionization within a proposed new bargaining unit, and replaces the employer’s right to request an election with a process to determine a neutral party to conduct a confidential inspection of the evidence presented by the proposed bargaining unit demonstrating majority support for unionization.

LEGAL & VETERANS AFFAIRS

LD 1437 – An Act To Permit Video Gaming for Money Conducted by Non-profit Organizations. (Sponsored by Sen. Craven of Androscoggin County.)

This bill allows operation of video gaming terminals by nonprofit organizations that are exempt from federal taxation under several subsections of Section 501 of the Internal Revenue Code. In order for an applicant to be provided a license by the Chief of the State Police, an application must first be approved by the municipal officers of the municipality where the video gaming activity is being proposed. The bill specifies the procedure for providing public notice of the application and a public hearing regarding the applicant’s proposal. The bill also dedicates 1% of the net terminal income derived from the licensed video gaming activity to the municipal revenue sharing fund.

NATURAL RESOURCES

LD 891 - An Act To Amend the Site Location of Development Laws To Include Consideration of Greenhouse Gas Emissions (Sponsored by Sen. Seth Goodall of Sagadahoc County).

This bill adds a new standard to the laws governing site location of

development to allow the Department of Environmental Protection to review and consider the greenhouse gas emissions likely to occur as a result of the project. The bill also provides a related provision concerning mitigation. [While MMA did not track this bill as drafted, it is being carried over for purposes of allowing DEP and interested parties to work further on certain green house gas monitoring issues that were raised but not ultimately enacted in a similar bill (LD 1333). These municipally-related issues might include requiring a greenhouse gas analysis before permitting local government construction projects, requiring municipal comprehensive plans to include greenhouse gas goals or standards, and/or requiring transportation projects to include bicycle or pedestrian elements, etc.]

TAXATION

LD 588 – An Act To Amend the Excise Tax on Motor Vehicles To Reflect Depreciation. (Sponsored by Rep. Pilon of Saco.)

This bill amends the motor vehicle excise tax rate structure by fixing the mill rate at 20 mills for each year of registration and declining the applicable taxable base as follows: 95% of the Manufacturers Suggested Retail Price in the first year, 90% in the second year, 85% in the third year, 70% in the fourth year, 50% in the fifth year, and 15% for the sixth and succeeding years. [Like LD 570 in the field of education, this bill may be given consideration by the Legislature if the voters reject the excise tax initiative.]



Representative Kathy Chase (Wells) is a member of the Taxation Committee and provides extremely valuable information to that Committee based on her experience as a municipal assessor in Wells. Rep. Chase has also been asked by the Tax Committee to oversee a between-session working group regarding the issue of “Revenue Sharing II” recipients (see LD 662).

LD 662 – An Act To Phase Out the Distribution of the Disproportionate Tax Burden Fund

under the State-municipal Revenue Sharing Program over a 5-year Period. (Sponsored by Rep. Shaw of Standish.)

This “concept draft” bill proposes to phase out the so-called “Revenue Sharing II” distribution system over a 5-year period, thereby returning in FY 2015 to the uniform revenue sharing distribution system that was in place prior to the creation of the Rev II system in 2000. [The concept in this printed bill is not being advanced, but the Taxation Committee has given direction to a working group to determine if the standards by which municipalities are identified as eligible to receive distributions through the Revenue Sharing II system should be tightened up.]

LD 839 – An Act To Authorize an Alternative Calculation of the Property Growth Factor for Municipalities with Exempt Personal Property. (Sponsored by Rep. Gilbert of Jay.)

This bill authorizes a municipality that has a significant amount of personal property in its tax base to include the value of newly installed personal property in the numerator and the denominator of the calculation of that municipality’s growth factor under the LD 1 property tax levy limit system even though the newly installed personal property is exempt from taxation. [This bill is an example of legislation caught up in the competing measure doctrine due to the TABOR II referendum.]

LD 1121 – An Act To Protect Elderly Residents from Losing Their Homes Due to Taxes or Foreclosure. (Sponsored by Rep. Chase of Wells.)

This bill reinstates the Elderly Tax Deferral Program of the 1980’s which was discontinued in 1993. Under this Senior Tax Deferral Program, any homesteaders who are 65 years of age or older could apply to the State Tax Assessor for the property tax deferral option whereby the state would pay that household’s property taxes to the municipality and place a non-foreclosing lien to capture the value of all payments plus 6% interest, to be collected at the time the property is sold or transferred.

UTILITIES & ENERGY

LD 1350 – An Act To Establish the Maine Transmission Mitigation Trust Fund. (Emergency) (Sponsored by Rep. Martin of Eagle Lake.)

This bill creates the Maine Transmission Mitigation Trust, which manages the Maine Transmission Mitigation Trust Fund. The revenue from the imposition of a new state excise tax of \$4.25 per megawatt hour on certain high-voltage electric transmission property is deposited in the trust fund. The trustees of the trust shall distribute 20% of the trust fund, up to \$10,000,000 annually, to municipalities that have submitted winning bids for projects to install underground utility infrastructure. The remainder of the trust fund must be paid to Maine electricity ratepayers in proportion to each customer's purchases of electricity transmitted over the state's transmission and distribution utilities.

SAMPLING OF OTHER CARRYOVERS

LD 71 – An Act To Raise the Property Tax Exemption for Veterans (Sponsored by Rep. Joan Nass of Acton.)

LD 91 – An Act To Fund the Maine Downtown Center. (Sponsored by Rep. Watson of Bath.)

LD 125 – Resolve, To Establish the Blue Ribbon Commission To Study the Functions and Operations of the Maine Public Employees Retirement System. (Sponsored by Rep. Tuttle of Sanford.)

LD 160 – An Act To Require the Department of Education To Provide an Accounting of School Subsidy Based on Individual Members in a Regional School Unit or Alternative Organizational Structure. (Sponsored by Rep. Schatz of Blue Hill.)

LD 192 – An Act To Index the State Minimum Wage to Inflation. (Sponsored by Rep. Tuttle of Sanford)

LD 195 – An Act To Base the Excise Tax on Vehicles on a Percentage of the Manufacturer's Suggested Retail Price. (Sponsored by Rep. Knight of Livermore Falls.)

LD 403 – An Act To Increase the Minimum Wage. (Sponsored by Rep. Tuttle of Sanford.)

LD 445 – An Act To Improve Tribal-State Relations. (Sponsored by Rep. Priest of Brunswick)

LD 551 – An Act To Improve the Essential Programs and Services Funding Formula. (Sponsored by Rep.

Finch of Fairfield)

LD 568 – An Act To Amend the Sex Offender Registration Laws. (Emergency) (Sponsored by Rep. Sykes of Harrison.)

LD 757 – An Act To Improve the Transparency of Certain Hospitals. (Sponsored by Rep. Goode of Bangor.)

LD 788 – An Act To Aid Municipalities and the Unorganized Territory in the Reduction of Property Taxes. (Sponsored by Rep. Chase of Wells.)

LD 931 – An Act To Expand the Economic Development Benefit of Tax Increment Financing in Counties That Include Unorganized Territories. (Sponsored by Sen. Raye of Washington County.)

LD 993 – An Act To Implement the Recommendations of the Commission To Study the Protection of Farms and Farmland Pertaining to Taxation. (Sponsored by Sen. Nutting of Androscoggin County)

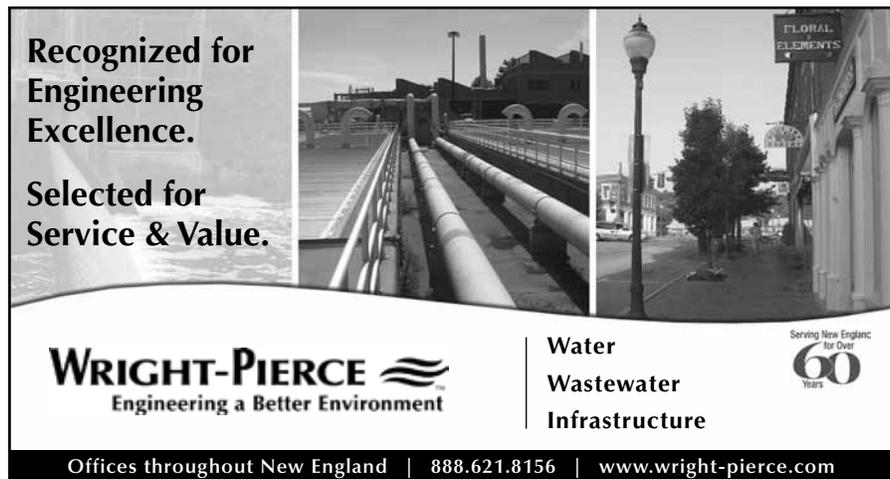
LD 1238 – An Act Concerning the National Animal Identification System. (Sponsored by Rep. Hamper of Oxford.)

LD 1253 – An Act To Establish a Local Option Sales Tax. (Sponsored by Rep. Crockett of Augusta.)

LD 1273 – An Act To Simplify the Application for Benefits under the Circuitbreaker Program. (Sponsored by Rep. Stuckey of Portland.)

LD 1345 – Resolution, Proposing an Amendment to the Constitution of Maine To Increase the Required Number of Signatures for a Direct Initiative or a People's Veto and To Limit a Direct Initiative to One Subject. (Sponsored by Rep. Campbell of Newfield.)

LD 1360 – An Act To Allow Law Enforcement and Family Members To Petition the District Court To Initiate Assisted Outpatient Treatment. (Sponsored by Sen. Nutting of Androscoggin County.) 



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November 3, 2009

A Little Something for Everyone

By Kate Dufour, Legislative Advocate, MMA

November elections in those off-years without federal, state or county candidates on the ballot generally generate lower voter turnout rates. In November 2007, only 27% of registered voters participated in the referendum election, but the 2008 presidential election brought 74% of Maine's voters to the polls. Looking back at ten years' worth of election data, voter participation has averaged about 38% in referendum-only elections, while the average rate of participation at elections with both candidates and referendum issues on the ballot has hovered around 65%.

This year may be different. By presenting the voters with a diverse slate of issues on November 3rd, Maine may be able to improve upon these traditionally low voter turnout rates. There appears to be something for everyone on the 2009 referendum ballot, including a bond package, a number of citizen initiatives, two constitutional amendments and, potentially, a people's veto.

NOVEMBER 3, 2009 BALLOT

Bonds. One of the final acts of the Legislature was the approval of the \$150 million bond package, which if enacted by the voters would leverage nearly \$230 million in federal and other-source revenues. LD 913, *An Act To Authorize Bond Issues for Ratification by the Voters for the November 2009 and June and November 2010 Elections*,

includes funding for transportation, economic development, environmental protection, capital improvements and land conservation. The voters will be asked to approve different elements of the bond package over the next three statewide elections, in November 2009, June 2010 and November 2010. A full description of LD 913 is found in the Appropriations section of the New Laws article. What follows is a description of the transportation bond that will be presented to the voters in November.

• **\$71.25 Million Transportation Bond.** \$55 million of the bond proceeds are dedicated to the Department of Transportation's highway and bridge program. Additional bond revenue would be used for capital investments in: ports (\$5.75 million); railroads (\$4 million); aviation/airports (\$2.6 million); ferries (\$1 million); the Gulf of Maine Research Institute (\$1.5 million); the LifeFlight Foundation (\$1 million); and the second phase of the Mount Desert Island Explorer program (\$400,000). This bond is matched with \$148 million in federal and other funds. (Note: The original transportation bond was slated to include \$5 million for the local road assistance program, known as URIP (Urban/Rural Initiative Program), to offset the Legislature's proposed FY 2011

\$5 million cut to URIP. That will no longer be necessary because the \$5 million in URIP funding was restored as part of the enacted Highway Fund budget bill (LD 333).)

Constitutional Amendment. Voters will be asked to determine the fate of a constitutional amendment proposing to increase the number of days municipal election officials have to verify signatures on citizen initiative petitions. If approved by the voters, municipal election officials would have 10, rather than 5 days, to certify the signatures on statewide citizen initiatives. A complete description of LD 1145 is found under the State and Local section of the *New Laws* article.

Citizen Initiatives. Voters will be asked to cast votes on four citizen-initiated proposals, three of which have a direct impact on municipalities. One proposal reduces excise tax revenue collections. Another initiative amends spending limits in the form of TABOR II, and a third repeals the school consolidation law. A fourth initiative proposes to legalize the medical use of marijuana (LD 975).

• **Excise Tax.** Of most significance to municipalities is LD 974, *An Act To Decrease the Automobile Excise Tax and Promote Energy Efficiency*. This proposal cuts \$84 million out of the approximately \$235 million annually used by municipalities to repair local roads and bridges by reducing the excise tax rates assessed on automobiles less than six years old.

For the newest cars (4 years old or newer), the rates are cut between 50% and 70%. For vehicles in their 5th year, the rate is cut by just under 40%. There would be no reduction in excise taxes for any motor vehicle older than 5 years. Approximately 68% of all registered motor vehicles in Maine



Thanks to the efforts of Representative Doug Thomas (Ripley), the integrity of the local road assistance program (Urban/Rural Initiative Program – URIP) has been preserved. Although the Transportation Committee had originally proposed by a margin of 12 to 1 to cut \$5 million out of the FY 2011 URIP appropriation (and use bond revenue as a replacement assuming the voters approve the transportation bond), Rep. Thomas successfully spearheaded an effort to overturn that decision. Due to those efforts, over the next two years URIP will be fully funded with fuel tax revenue.

Year of Registration	Current Mill Rate	Initiative Mill Rate	Mill Rate Reduction	% Reduction
1	24.0	12.0	12.0	50
2	17.5	8.0	9.5	54
3	13.5	4.0	9.5	70
4	10.0	4.0	6.0	60
5	6.5	4.0	2.5	38
6+	4.0	4.0	0	0

are older than 5 years. The excise tax assessed would be reduced as shown in the table above.

The initiative would also exempt from excise taxes for the first three years all hybrid vehicles, fuel cell vehicles, hydrogen-fueled vehicles and vehicles getting 40 mpg or better. The purchase of these vehicles would also be totally exempted from the state sales tax.

• **TABOR II.** LD 976, *An Act To Provide Tax Relief*, is the 2009 rendition of the Taxpayer Bill of Rights (TABOR) legislation. This new proposal predominately focuses its spending limitation impacts on state government. As proposed, TABOR II makes changes to the existing spending limit law, commonly referred to as "LD 1" that since 2005 has imposed spending limits on Maine's state, county, and municipal governments and all school systems. TABOR II repeals the LD 1 spending limit system as it applies to state government and replaces it with a structurally different system. TABOR II modifies the LD 1 spending limit system as it applies to municipalities and counties without totally replacing it.

Generally, the TABOR II changes would place additional limits on the authority of: (1) the voters at town meeting; (2) the representative town or city councils; (3) the boards of county commissioners and the county budget advisory committees, and (4) the Maine Legislature to adopt budgets or enact tax changes that exceed certain limits established by formula in the TABOR II initiative, replacing those authorities now given to direct and representative governments with mandatory referendum voting requirements. TABOR II also applies the state spending limit system to the state's Highway Fund and Special Revenue Funds, requires state-wide referendum voting to approve inflation-indexed increases to the state's "gas tax", repeals and replaces the state's LD 1-based spending allowance

with another formulaic limit, and recalibrates the state spending limit base-lines in the General Fund, the Highway Fund and each Special Revenue Fund to their respective FY 2010 levels. Because of the economic recession, the FY 2010 General Fund and Highway Fund baseline levels are projected to be set at historically low levels.

• **School Consolidation.** The final citizen initiative of municipal interest on the 2009 referendum ballot is LD 977, *An Act To Repeal the School District Consolidation Laws*. This initiative repeals the school consolidation law adopted by the Legislature in 2007 and restores all law regarding school organization and budget voting procedures that were in place in January 2007.

More information on the three municipally relevant citizen initiatives can be found on MMA's website (www.memun.org).

People's Veto. Through the people's veto process, an effort to repeal the Legislature's enactment of LD

1020, *An Act To End Discrimination in Civil Marriage and Affirm Religious Freedom*, is currently under way. As enacted, LD 1020 allows same sex couples to marry.

In order for this people's veto to be included on the November 3, 2009 ballot, the petition circulators must submit the required 55,087 valid signatures in time to allow, by September 4th, the Secretary of State to verify submitted signatures and the Governor to proclaim that enough valid signatures have been received. Although there isn't a fixed timeframe set in law, at a minimum the Secretary of State's Office needs 30 days to verify the signatures. Based on that time requirement, it would appear that the signatures would need to be submitted to the Secretary in late July or early August in order for the people's veto to be included on the November ballot.

If the initiators submit enough valid signatures after the July/August deadline, but before September 12, which is 90 days after the adjournment of the Legislature, the initiative will be included on the June 8, 2010 ballot. The enacted law does not go into effect until the voters have decided the issue at the November 2009 or June 2010 election. If the initiators fail to submit the requisite number of valid signatures by the September 12 deadline, however, the law becomes effective on that date. 

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People

Former Newcastle Selectman **Neil Campbell**, who has worked for the past 15 years as the town's code enforcement officer, resigned in May and was replaced by **Stanley Waltz**, the town's substitute CEO. Campbell served as selectman for 20 years before taking the code enforcement job. He plans to continue working as CEO for the towns of Damariscotta and Jefferson.

Gardiner councilors voted unanimously in May to hire **Richard "Rick" Cody** as fire chief. Cody had worked as interim chief since the retirement of Fire Chief **Mark Kimball** in February.

Gardiner Public Library Director **Anne Davis** has been named interim manager, replacing **Jeffrey Kobrock**, who resigned effective May 29. In addition to her library and information services work, Davis is the city's technology coordinator. She has served as interim manager in the past and has worked for the municipality in many roles over nearly 20 years. Kobrock could not reach agreement with the city council on a new job contract.

Jack Roberts, South Portland director of public welfare, has retired. A past president of the Maine Welfare Directors Association, Roberts had a long and distinguished municipal career spanning over 35 years in South Portland. Throughout his career, Roberts has been active in a number of social service and civic organizations.

Former Rumford Town Manager **James Doar**, 31, has been hired as Bethel town manager effective June 15. Doar replaces **Scott Cole**, whose contract was not renewed after serving in the position since 1999. Doar worked previously in the states of Florida and New York before taking the Rumford job in 2007. A northern Maine native, Doar did not seek a contract extension in Rumford and worked for the paper mill NewPage in Rumford until accepting the position in nearby Bethel.

Farmington Selectman **Steve Bunker** has been named "Trainer of the Year" by the Association of Public-Safety Communications Officials (APCO) International. Bunker works for state's Emergency Services Communications Bureau. Bunker's award and five others will be presented at APCO Internation-

al's 75th Annual Conference on August 17 in Las Vegas, Nevada.

Yarmouth officials have welcomed **Vanessa Farr** as the town's new director of planning and development. Farr, who replaces **Dawn Emerson**, worked most recently as a planner for the town of Somerset, Massachusetts.

The Bucksport Town Council named Detective Sgt. **Sean Geagan** the town's new police chief last month, after the 20-year department veteran worked as acting chief since last December. Geagan was among 30 candidates for the job and was one of four finalists selected by a search committee for an interview. Geagan, who was promoted to detective in 2001, replaces **Douglas Gray**, who has retired.

North Yarmouth selectmen have named **Deborah Grover** interim administrative assistant until they find a permanent replacement for **Scott Tilton**, who left June 5 to start a new job in the state of Washington. Grover, presently town office manager, has worked for the town for 26 years. She did not apply for the AA job. Selectmen have selected five candidates to interview.

Former Bar Harbor planner **Kris Hultgren** started his duties as Brunswick town planner in late May, replacing **James Fortune**, who resigned earlier in the year. Hultgren, 32, said he was attracted to the job for two main reasons: the town's proximity to the city of Portland, and the challenges he will confront with the impending closure of the Brunswick Naval Air Station.

Francis Hunt has been named the new harbor master for the town of Boothbay Harbor, replacing **Michael DeSisto**, who resigned in March. Hunt,

of Massachusetts, has been a summer resident of the harbor community. Hunt is a former U.S. Coast Guard lieutenant commander and Navy veteran.

Former Kittery Councilor **Stephen Huntress** is recovering from injuries after being beaten and found unconscious on a street in nearby Portsmouth, New Hampshire. Two U.S. Navy men have been charged with the assault. Huntress, 48, sustained a skull fracture, among other serious injuries, and doctors are still unsure about permanent brain damage.

Albion selectmen have named **Rick Lawrence** as the town's first administrative assistant. A Benton resident, Lawrence will work one day a week to help selectmen keep up with their duties.

Biddeford firefighter **Roger LeMay** retired last month after 37 years with the department. He was driven home in a fire truck and was feted by his peers on his final day of work.

East Millinocket Assistant Fire Chief **John Miner** resigned his appointed post in early June, but will remain a full-time firefighter in the department. Miner has worked for the department for nearly 30 years.

Mark Winer resigned as Union town manager for personal reasons effective June 5, after 11 months on the job. State Senator **Christine Savage** will serve as interim town manager while selectmen seek a replacement. Savage, a Union resident, has filled in as manager previously and is a former manager of the town of Warren.

Milo acting police chief, **Sgt. Terry Smith**, resigned in May to accept a police job in Maryland, where his family lives. [\[m\]](#)

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News *From Around the State and City Hall*

Biddeford: The city council voted 5-4 last month against having the city take over the operations of the local wastewater treatment plant, which has been operated by a private company for the past 20 years. A consultant estimated the city could save \$150,000 a year by taking over the plant. The council will hold another workshop on the issue later this year and take a second vote, according to city officials.

Bremen: The Bremen Conservation Commission has been awarded the 2009 Sterling P. Dow Award by the Maine Association of Conservation Commissions (MEACC) as the outstanding conservation commission of the year. The award was presented at the MEACC annual meeting on May 2.

Fort Kent: The town has received what is believed to be the largest federal Disaster Recovery grant ever awarded to a Maine community. The Aroostook County community of about 4,000 will receive \$1.5 million from a total available to the state of \$2.2 million. The money will help the town rebuild housing and infrastructure destroyed by record floods last year.

In early June, the U.S. Secretary of Agriculture announced that Fort Kent would get \$3.1 million in stimulus money toward the cost of upgrading the town's water and sewer systems, construction of a new pump station on higher ground, and repairing 3,000 feet of cracked water mains.

Two other Maine towns receiving grants under the rural water improvement program are Boothbay Harbor, which will receive \$2.6 million, and Randolph, which won a \$750,000 grant.

Greenville: Town meeting voters last month agreed to pay almost \$30,000 to help keep snowmobile trails groomed in an effort to retain its winter tourism visits. The people who have been grooming trails told the town meeting they can no longer pay the shortfall between the cost of grooming and donations from area businesses. The volunteers who take care of trails throughout the Greenville area said they paid more than \$60,000 last winter of their own money and could no longer afford it.

Kennebunk: The tri-community water district trustees, by a unanimous vote,

made their position clear in late May that they had no interest in any further discussion of a contract that would allow Nestle Waters North America, owner of Poland Spring, one of the nation's best-selling water brands, to draw water from district facilities. Although the trustees from Kennebunk, Kennebunkport and Wells had indefinitely tabled contract discussions at a previous meeting, they felt it was important to further clarify their position on the matter.

Milbridge: Residents are considering changing their municipal government from a town manager and three selectmen to an administrative assistant and a five-member board of selectmen. Some residents have asked for more information and the question, prompted by citizen petition, is expected to be sent to voters for a November decision.

Oakland: Residents voted 120-47 during town meeting in May in favor of spending up to \$7.9 million for capital improvements that would allow the town to hook into neighboring Waterville's city sewerage district. Town officials said they budgeted for the worst case, and predicted the cost would be closer to \$5.5 million.

Old Orchard Beach: The town council

is considering changing a local ordinance and start banning chemical-free parties for teenagers at places where alcohol is served. Proponents say there have been complaints about allowing 13- to 20-year-olds in a bar atmosphere. Opponents of the ban say the parties are seasonal, well controlled and are among the few entertainment options for teens.

Saco: Thornton Academy students participated in Project Citizen in May, a national civics program designed to get more young people involved in their communities and local governments, including identifying a problem and proposing policy changes to solve it.

Trenton: Town meeting voters decided in May to wait a year before voting on whether to reverse their decision of last November to increase the board of selectmen from three to five members. The delay avoided the situation where residents were asked to both fill two new selectmen seats and decide whether to return to a three-person board.

Waldoboro: Selectmen in May reviewed a previous budget proposal and voted to reduce the weekly working hours for five municipal employees from 40 to 32. 



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Municipal Bulletin Board

PRESCRIPTION DISCOUNTS TO RESIDENTS

A program introduced by the National League of Cities (NLC) in November 2008 is helping municipalities around the country provide a benefit to their residents faced with the high cost of prescription drugs.

The NLC Prescription Discount Card program is designed to enable a participating municipalities to help residents who are without health insurance, a traditional pharmacy benefit plan or have prescriptions not covered by insurance by providing an average of 20 to 25 percent off the full retail cost of prescription medication.

There are currently more than 200 municipalities participating in the program nationwide, from St. Agatha, Maine (pop: 802) to San Jose, Calif. (pop: 900,000+).

There is no direct cost to participate in the program. However, membership in the National League of Cities is required. NLC offers several "introductory" membership plans featuring one or two year discounts of 15 percent or 35 percent, respectively.

The program is administered for NLC by CVS Caremark and includes nearly 60,000 participating pharmacies nationwide, including all major chains and most local pharmacies.

Each month, after the program is implemented, participating cities receive a report from NLC on the use of the discount card so the city can see the direct impact of the program on helping its residents.

The role of the city is to promote the program through the local media and to make the prescription discount cards available at locations throughout the city to those residents who might benefit from the program. The city is provided with a quantity of customized prescription discount cards with the city name and logo at no cost, along with sample marketing materials to promote the program.

For more information on the NLC Prescription Discount Card Program, contact Marc Shapiro at 202.626.3019 or shapiro@nlc.org or visit the NLC website: www.nlc.org/prescriptioncard

For NLC membership information,

contact Mae Davis, 202.626.3150 or mdavis@nlc.org.

BLEAK STATE BUDGETS

Even if the national recession ends this year as many predict, state budgets will likely be in the red for the next two years, with budget gaps topping \$230 billion as tax collections of sales, personal and corporate income lag, two new reports show.

More than half the states reported that revenues from every major tax source, through April, were below last year's collections, the National Conference of State Legislatures said in a report released June 3.

Some of the revenue drops are eye-popping. For April, which is the significant month for personal income tax collections, NCSL found that collections were more than 40 percent below the prior year's level in Connecticut, Massachusetts and North Carolina, 43 percent in Michigan and 44 percent in Arizona.

With company profits down and recession-weary Americans buying less, revenues fell well below expectations in 38 states in 2009, the National Association of State Budget Officers and National Governors Association said in their latest joint report released June 4. NASBO Executive Director Scott D. Pattison said the revenues were below "even the most pessimistic forecasts."

Coping with the shortfalls, half of the states cut funding to schools, health care for the poor and correction programs to close \$46 billion in budget gaps in 2009, NASBO and NGA said.

Even with the billions of federal stimulus dollars flowing to states, all but nine had budget gaps for fiscal 2009,

and 37 are reporting shortfalls for the new budget that begins July 1 for most states, according to the NASBO report that puts total state deficits at \$230 billion between fiscal 2009 and 2011.

NCSL estimates that states will confront deficits totaling \$236 billion from fiscal 2008 through 2010 with at least \$45 billion looming in 2011. "The national recession is pummeling state revenues," NCSL said in its report.

The state fiscal reports come as Federal Reserve Chairman Ben Bernanke sounded cautiously optimistic that the U.S. recession would end this year in his testimony before Congress June 3. "We continue to expect overall economic activity to bottom out, and then to turn up later this year," he said in his [remarks](#).

But state fiscal conditions historically lag behind national economic recovery. The year after a recession ends is typically when state budgets are hit hardest. That's because by then, Medicaid rolls have swelled as more individuals become unemployed and lose their health insurance.

To balance their 2009 budgets, states targeted certain programs: 26 states reduced funds for elementary schools, 31 cut higher education, 22 cut public assistance, 25 cut both Medicaid and corrections, 15 cut transportation and 25 cut personnel, NASBO and NGA said.

Looking to the 2010 budget year that begins July 1 for all but four states, 27 states proposed cutting elementary school funding, 28 cut higher education, 23 cut public assistance, 25 targeted both Medicaid and corrections, 19 cut transportation and 28 cut personnel, according to NASBO and NGA. (By Pamela M. Prah, Staff Writer, *Stateline.org*, published June 4, 2009) [ml](#)



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Legal

COURT ORDERS SELECTMEN TO SIGN SCHOOL WARRANTS

A superior court has ordered selectmen in two Washington County towns to countersign warrants issued by the school district for a referendum election on closing elementary schools in the two towns. The selectmen had refused for over a year to sign the warrants because they felt the closings were not in the towns' best interests and the public had not been given an adequate opportunity to comment.

By law, a school district referendum is initiated by a warrant prepared and signed by the school directors; the warrant must be countersigned by the municipal officers in the municipality where the warrant is posted. The selectmen in this case apparently did not appreciate that this is a "ministerial" act – one that is required of them and which they have no discretion to refuse. In fact, this is only one of several instances involving school districts where municipal officials are required by law to act.

The method of calling the annual school budget validation referendum in a district is the very same – the school directors prepare and sign the warrant, which the municipal officers must then countersign (see, e.g., 20-A M.R.S.A. §§ 1486, 1502).

And when the municipal officers are notified by the regional school unit (RSU) directors of what municipally owned school property and assets they consider necessary for the RSU, the municipal officers must make the transfer notwithstanding any other charter provision (see 20-A M.R.S.A. § 1462). No other legal authority, including from the municipality's legislative body, is required.

Finally, when the school directors issue their warrants to the assessors of each member municipality for the municipality's share of the district's annual costs, the assessors must include the district assessment in the municipality's tax commitment (see, e.g., 20-A M.R.S.A. § 1489). In turn, the municipal treasurer must pay to the district, in monthly installments, the amount of the tax assessed against the municipality.

In each of these cases, municipal officials play an important but ministerial role – they must act as directed by law. They have no discretion not to, and if they refuse, they are subject to court order and, potentially, sanctions as well. (By R.P.F.)

NO LOCAL HEALTH OFFICER?

Question: What's our recourse if we can't find anyone willing to be our health officer?

Answer: It's hardly surprising to us that many municipalities have difficulty finding and retaining a local health officer (LHO). The professional qualifications were raised recently, and compensation is usually nominal. Nevertheless, every municipality is required to have one (see 22 M.R.S.A. § 451), and besides, LHOs can play an important role in protecting public health.

The LHO is appointed by the municipal officers (or by the town manager if there is one) for a three-year term and until a successor is appointed. The Department of Health and Human Services (DHHS) must be notified within 10 days of the LHO's name, age and address and the dates of the appointment and the beginning of the term.

The LHO must be qualified by education, training or experience in the field of public health as determined by DHHS standards. An LHO who is not

qualified on appointment must meet DHHS standards within six months of appointment. A person who has a direct or indirect pecuniary (financial) interest in a corporation or other entity over which the LHO has general supervision may not be appointed as LHO.

If you're having trouble finding and keeping an LHO, remember that the LHO need not be a resident of the municipality. In fact, the law expressly allows an LHO to be employed by more than one municipality, so we suggest that neighboring or nearby communities "share" an LHO (who still must be appointed in each municipality, however). In addition, the law allows the LHO's office to be combined with a town or school physician, if available. Retired health professionals are also often good candidates for LHO.

In the absence or incapacity of the LHO, the chair of the municipal officers must perform the duties until the regular LHO returns or a new LHO is appointed. Under the manager plan of government, this responsibility falls to the manager.

For much more on local health officers, including a detailed description of powers and duties and a link to DHHS' *Local Health Officers Manual*, see MMA's "Information Packet" on this subject, available on our website at www.mcmun.org. (By R.P.F.)

Municipal Calendar

JULY 4 — Independence Day — A legal holiday (4 MRSA §1051).

ON OR BEFORE JULY 15 — Monthly/Quarterly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, DHS #11, Augusta, ME 04333 (22 MRSA §4311).

ON OR BEFORE JULY 31 — Every employer required to deduct and withhold tax for each calendar quarter shall file a withholding return and remit payment as

prescribed by the State Tax Assessor (36 MRSA §5253).

BETWEEN MAY 1 AND OCTOBER 1 — Municipal officers may initiate process to close certain ways during winter months (23 MRSA §2953). For further information, see the MMA Municipal Roads Manual.

BY JULY 31 — Supply certification to the Maine Department of Transportation that Rural Road and Urban Compact Initiative Program funds will be used consistent with the requirements of the law (23 MRSA §1804).

PARTISAN ADVOCACY – WHAT OFFICIALS CAN & CANNOT DO

Local government is directly affected by three citizen initiatives coming up for a vote this fall, and local officials may want to become involved in the debate. The three initiatives are the motor vehicle excise tax, TABOR II, and school consolidation. (The excise tax initiative would cut motor vehicle excise taxes by almost half; the TABOR II initiative would impose strict new spending limits on state and local governments; the school consolidation initiative would repeal the school consolidation laws.)

Based on an Attorney General's opinion issued in 2004 in connection with the "Palesky" tax cap initiative, here's our summary of what local officials can and cannot legally do during the upcoming referendum campaign:

Can do: Disseminate information. Officials can provide factual information to the public about both the possible and the probable impacts of the initiatives. In fact, the Attorney General suggested officials may have a *duty* to inform their constituents of these impacts. An appropriate statement might begin, "If adopted, this initiative is expected to have the following impacts..."

Can do: Utilize public resources to disseminate information. Officials can spend public funds, if available, and use public resources, such as the municipality's website and meeting facilities, to disseminate factual information to the public about the initiatives.

Can do: State your position. Officials can, both individually and collectively, state how *they* view the initiatives and intend to vote on them. This is legitimate information-sharing, not advocacy. The difference is between explaining how *you* intend to vote and urging *others* how to vote. An appropriate statement or resolution might begin, "I/We sup-

port (or oppose) this initiative for the following reasons..." However, even though stating *your* position is perfectly permissible, doing so at public expense or, for employees, while on the job should be avoided.

Can do: Make public facilities available to all. If public facilities such as meeting rooms are available for non-municipal functions, officials can make those facilities available to both supporters and opponents of the initiatives, on equal terms. Also, if officials want to use public resources to sponsor a debate, where both sides are invited to advocate for their position, they can do so.

Cannot do: Partisan advocacy, except on your own dime and on your own time. Partisan advocacy, as noted above, is urging *others* how to vote, and unlike disseminating information or stating *your* position, partisan advocacy is not permissible unless privately funded and done on an official's own time. Within these parameters, however, officials are free to be as partisan as they want to be.

Cannot do: Utilize public resources for partisan activity. Officials cannot spend public funds or use public resources for partisan advocacy without express approval of the municipal legislative body. Even with that approval, there is some doubt whether expending public funds for purely partisan purposes is constitutional. Therefore, we recommend that municipalities not contribute directly to political action committees (PACs) or otherwise directly support clearly partisan activity with public resources.

Cannot do: Campaign or influence voters within 250' of voting place. Most officials are aware that campaigning or attempting to influence voters is prohibited within 250' of the voting place on election day. This includes disseminating information and stating *your* position as well as partisan advocacy. But the same rule also applies during the 30

days prior to the election, when voters may cast absentee ballots at the clerk's office. Thus, no activities or materials that may influence a voter are permitted within 250' of the clerk's office during the month before the election as well as on election day.

For the full text of the Attorney General's opinion, go to <http://www.memun.org/public/news/roleReferendum.pdf>.

For more information about the three citizen initiatives, go to <http://www.memun.org/public/MMA/svc/SFR/initiatives/default.htm>. (By R.P.F.)

'RED FLAGS' DEADLINE DELAYED UNTIL 08/01/09

The deadline for compliance with the new Federal Trade Commission (FTC) "Red Flags" rule has been delayed until August 1, 2009 (the original deadline was May 1, 2009).

The Red Flags rule requires entities that regularly permit deferred payments for goods or services ("creditors") to adopt an identity-theft prevention and detection program. As we noted here earlier this year, *municipal utilities such as water and sewer departments are subject to the new Red Flags rule.*

The FTC has a website dedicated to the Red Flags rule at www.ftc.gov/redflagsrule. The website includes a compliance guide for creditors. The FTC is also developing a compliance template for creditors with a low risk of identity theft, for example, those that do not maintain sensitive customer information or know their customers personally. For low-risk creditors, the FTC has said a streamlined program will be sufficient.

Municipal utilities should be working with their local attorneys now to ensure compliance with the Red Flags rule by the new August 1st deadline. (By R.P.F.) 

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