

## All Things Marijuana

The Marijuana Legalization Act as adopted by the voters last November is scheduled to be fully implemented in eleven months. The personal use, possession and cultivation elements of the law are already in effect. What will not be green-lighted for nearly a year is anything to do with marijuana grown, transported, transferred, manufactured, tested or otherwise held or managed for commercial purposes.

The initiated law defines five types of retail marijuana establishments: cultivation operations, manufacturing facilities, testing facilities, retail stores (where marijuana can be sold but not consumed) and “social clubs” (where marijuana can be sold for on-premise consumption but not taken off premise).

The aptly named Marijuana Legalization Implementation Committee, a specially created group of 17 legislators, is charged with massaging the initiated law as may be appropriate or necessary, organizing the directions to the state agencies ultimately charged with promulgating the entire state regulatory system, and otherwise ensuring that the laws and rules are brushed into shape and ready for final legislative approval next January.

To spearhead the effort, the Committee held a wide-open public hearing on Tuesday this week to get a sense of the full breadth and specific nature of the issues it should be putting on the table for discussion, research and further investigation. The Committee has already talked about forming a number of subcommittees to drill down into specific topic areas. Even though the legislative session will end in June (presumably), this Committee will continue to work throughout 2017.

For five hours on Tuesday afternoon, with each of the 80-plus speakers limited to three minutes of testimony, the Committee got an earful.

### Themes

From the medical marijuana caregivers. Protect the medical marijuana program from a recreational marijuana override to ensure that patients continue to have access to this form of treatment.

From the law enforcement sector. With personal use now allowed, illicit distribution systems are in high gear. Delay will only allow the black market networks to grow and get more entrenched. Invest in the necessary law enforcement and develop a robust and effective regulatory system that is applied evenhandedly across all commercial marijuana operations, both medical and recreational.

From employers. Create clear guidelines to manage workplace safety issues related to impaired employees. Develop a quantification system to measure impairment. Qualify or give more explicit meaning to a sentence in the initiated law that reads: “A school, employer or landlord may not refuse to enroll or

employ or lease to or otherwise penalize a person 21 years of age or older solely for that person’s consuming marijuana outside of the school’s or employer’s or landlord’s premises.”

From medical marijuana dispensaries. Create a robust and effective regulatory system that covers all commercial marijuana operations, medical and recreational, with equal and evenhanded vigilance. Dispensaries, which are currently highly regulated, should be considered especially well situated to initiate the retail sale of recreational marijuana, perhaps even before the February 2018 start-up schedule in order to begin generating tax revenue to help fuel implementation. In terms of economic output, marijuana as an industry could rival other major harvested natural resources or crops in Maine, such as lobsters and potatoes.

From the Legalize Marijuana advocates. Thank you to the Committee for

*(continued on page 2)*

## “Stewardship” and Solid Waste Management

On Wednesday this week, the Environment and Natural Resources Committee held a public hearing on three bills, LDs 349, 375, and 385. Each bill proposes to initiate new take-back or “product stewardship” programs in Maine for mattresses, carpets, and batteries, respectively. The proposals would add to the stewardship programs that currently exist for mercury-added products (e.g., lamps, motor vehicle components, thermostats, etc.), electronic waste, architectural paint, and a voluntary program for rechargeable batteries.

As proposed, the Department of

Environmental Protection (DEP) would be required to establish a stewardship program, based on plans submitted by the manufacturers (called “operators”), for the collection and transportation of discarded mattresses, carpets and batteries. To underwrite the administrative costs of the stewardship programs, the operators of the plans would be authorized to add a DEP-approved fee to the final purchase price of the regulated product. The collection sites for the discarded products would be established on a voluntary basis, allowing retailers or wholesalers

*(continued on page 3)*

taking on the task. The implementation of recreational marijuana presents great opportunities in the areas of public health, jobs, economic development, governmental tax revenues, etc. Meddling with the medical marijuana program, however, should be considered “off the table”.

Not unanimously but from multiple perspectives and expressed in various ways. The 10% sales tax rate applying to retail marijuana is too low. It should be increased to a level of parity with the other states that have legalized recreational use of marijuana. The ideas for dedicating that revenue are without end.

From the municipalities. The City of Bangor was well represented at the public hearing. Director of Public Health, Patty Hamilton, urged the Committee to develop a strong public health component in the law and related rules because the initiated law falls far short in that area. There is a natural incentive in the promotion of intoxicating or potentially addictive products to encourage or indirectly support excessive use and Ms. Hamilton pointed out that it was critical to develop a public health strategy to counter underage and excessive consumption, through educational approaches and otherwise.

One of the city’s attorneys, Paul Nicklas, testified to the importance of focusing on public safety issues, such as impaired driving, and the absolute need to develop tools for law enforcement to detect and objectively measure impairment and successfully prosecute excessive marijuana consumption in the context of driving dangerously. Mr. Nicklas also testified that the municipal costs that will be incurred in the appropriate management of

recreational marijuana consumption are not appropriately covered in the initiative, with only some minor application fees distributed to the municipalities and with the remainder of the fees and all the tax revenue directed to the state’s treasury.

MMA provided testimony which praised the initiative for its generous embrace of municipal home rule authority but also identified five sections of the initiative that should be amended to create a functioning and coherent interface between the state’s marijuana facility licensing system and the various local land use regulatory systems and local licensing systems that the towns and cities may adopt. Here are just a few examples of how the initiated law falls short in the area of “coherent state-local regulatory interface.”

Under the initiated law, when the state receives an application to license a retail marijuana establishment, it must send the application to the town or city where the facility would be located and within 14 days the municipality would have to respond to the state as to the application’s compliance with local ordinances. That procedure raises any number of questions, if not alarm bells.

*Who speaks for the municipality?* Generally, when state statute uses the term “municipality” in the context of taking an action or making a decision, the term refers to the municipality’s legislative body. The initiated law certainly can’t be contemplating making the municipal legislative body vote up or down on each licensing application.

*Land use compliance? Licensing compliance?* The initiated law would have a licensing application sent to the state previewed by the municipality for “compliance”. Is this preview intended for land use compliance or licensing compliance, or both? The initiative seems to merge into one and use interchangeably the two separate functions of: (1) permitting a type of land use development, and (2) licensing the operations of a certain activity.

*Fourteen days?* To receive, competently review, and determine with authority that a written application for a marijuana retail facility complies with all

municipal ordinances, and then return that information to the state licensing authority within 14 days, is entirely unrealistic.

*Effect of initially determining compliance.* It would be inappropriate for a municipality to opine on a written application for compliance with either a land use regulation or licensing requirement prior to the land use or licensing procedures being conducted at the local level. The determination of a complete application, the public hearing procedures and the face-to-face meetings with the applicant at the municipal level often provide necessary information pertinent to the final approval or disapproval decision.

*Municipal regulation limited to “town wide” zoning?* The section of initiated law dedicated to “municipal licensing authority” begins by authorizing municipal licensing pursuant to municipal zoning law. Zoning isn’t licensing, so that’s an initial problem. The related problem is that the reference to municipal zoning law could be interpreted as allowing only municipalities with full “town wide” zoning ordinances to regulate retail marijuana facilities. The possibility of such an interpretation needs to be closed off.

*“At least as restrictive?”* The initiated law in the “municipal licensing” section allows municipal regulation to be “at least as restrictive as state law.” That limitation would likely be interpreted as “no more restrictive than state law.” The problem with a “no more restrictive” standard in this case is that what the state is designed to regulate is much different than what the municipality will be regulating. The state law and regulation, for example, will likely not deal with the hours of operation, traffic management, set back standards, signage and lighting standards, etc. Prohibiting all municipal regulation thought to be more restrictive than state law could serve to nullify most municipal regulation because the state and local “regulatory fields” do not remotely intersect.

These are but a few examples of what needs to be amended in the initiated law, at least from the municipal perspective, before the state and local regulatory systems can be properly synchronized and the municipal home authority that is clearly part of the initiated law can be realized.

### **Legislative Bulletin**

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

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

**Editorial Staff:** Geoffrey Herman, Kate Dufour, Garrett Corbin and Laura Ellis of the State & Federal Relations staff.

## “Stewardship” and Solid Waste Management (cont’d)

of the products, municipalities, and solid waste management facilities to choose whether or not to hold these items until the operators collect them.

If enacted, Maine would join three other states that have established similar carpet and mattress stewardship programs (Rhode Island, Connecticut, and California), as well as eight other states that require producers of small sealed lead acid and nickel cadmium batteries to fund their battery stewardship programs (California, Minnesota, Iowa, Florida, Maryland, New Jersey, New York, and Vermont). Twenty-two additional states, including Maine, currently require recycling systems to be established for these types of batteries, yet do not require the manufacturers to cover the recycling collection and transportation costs.

Proponents of these bills testified throughout the morning and opponents explained their objections after lunch.

The lead sponsor of all three pieces of legislation, Senator Tom Saviello (Franklin Cty.), explained that residents and Maine’s environment will benefit from a convenient, free, statewide collection approach for discarding mattresses, carpets, and batteries, allowing them to be managed in a way that is consistent with Maine’s waste management hierarchy and which places all disposal options (e.g., reducing, reusing, recycling, composting, and waste-to-energy) above landfilling.

Eight entities testified in support of all or some of the bills, including MMA. In his testimony, Sen. Brownie Carson (Cumberland Cty.), who co-sponsored the three initiatives, stressed the importance not only of these stewardship programs, but also of incentivizing manufacturers to make products that are more easily recyclable and reusable in the first place. Senator Carson pointed to Guilford of Maine, a textile company located in Piscataquis County, as an example. Over one-half of that company’s products are made completely from recycled material and are recyclable at the end of their useful life, while 86% of their products contain at least some form of recycled content, most of which comes from recycled plastic and soda bottles.

Three waste management entities – Juniper Ridge Landfill (JRL), Re-Energy, and Penobscot Energy Recovery Company (PERC) – also testified in support, while EcoMaine supported the battery bill but testified neither for nor against the mattress and carpet bills. The three people who testified for PERC explained the particular value of carpets, which yield a high combustion bang for the buck.

In their testimony in favor of the bills, MMA, the Maine Resource Recovery Association (MRRRA), and JRL all stressed the cumbersome nature of handling mattresses and carpets at transfer stations, especially after they have been exposed to the elements. JRL explained that it has no interest in landfilling these items because they do not compact well. Carpets are particularly problematic at landfills, as they are often disposed in clumps or streams intertwined with other materials, and managing them is not only inefficient but it also adversely impacts the rest of their site.

MRRRA and MMA expressed appreciation for the voluntary aspect of the bill, helping avoid the burden of collection in communities without sufficient infrastructure or staff, while also creating a free disposal alternative to illegal dumping. The Maine Woodland Owners focused its testimony on the issue of illegal dumping, stating it is the primary reason landowners post their property against trespassing.

The Natural Resources Council of Maine (NRCM) supported the bill while voicing two concerns. First, that more education and outreach by the state to both consumers and manufacturers would be necessary to make these stewardship programs effective. Second, that funds should be earmarked to aid municipal transfer stations in the event they inadvertently become dumping grounds for these items even if they do not voluntarily elect to collect them.

Maine’s Department of Environmental Protection (DEP) opposed these bills, primarily out of concern that they promote incinerating items that might otherwise be reused or recycled, contrary to Maine’s recently revamped waste

hierarchy. The other key DEP concern was that Maine’s large geographic area and rural nature, coupled with a lack of minimum standards to control assessment costs, could make the program too expensive and burdensome for manufacturers and consumers. The Department expressed a belief that the stewardship programs which exist in other states may be more viable in those places given their higher population densities and lower transportation costs. Representative Robert Duchesne (Hudson), who serves on the Environment and Natural Resources Committee, responded by asking the Department to also consider costs to the taxpayers who might have to deal with environmental cleanup costs in the absence of these product stewardship programs.

Roughly half a dozen industry representatives joined the DEP in opposing the legislation. The Carpet America Recovery Effort (CARE) described its experiments in creating carpets out of recycled content. They testified there is a difficult economic reality when producing post-consumer carpets; they are cost-prohibitive for consumers without a subsidy. The Carpet and Rug Institute believes LD 375 will increase the cost of carpets in Maine, put the product at a competitive disadvantage to wood, linoleum, and other flooring materials, hurt jobs and reduce sales tax revenue. They explained how carpet is neither hazardous nor toxic, and that their industry has spent millions on research to keep carpets, which are not typically biodegradable, out of landfills. Their preference would be for non-legislative, market-driven solutions, like recycling.

Multiple opponents referenced what they perceived as a difficult experience with California’s carpet stewardship program, which has increased its assessments from five cents to 25 cents per square yard in its six years of existence.

The Retail Association of Maine opposed LDs 349 and 375 out of concern that brick and mortar retailers would have to abide by the law while online retailers would find a way to skirt the assessments. Representatives of medical

*(continued on page 5)*

# Judiciary Committee Hears Bill To Authorize Remote Arraignments

The Judiciary Committee held a public hearing on Thursday this week on a bill that would authorize criminal arraignments or hearings to be conducted remotely, utilizing audiovisual technology. LD 218, *An Act To Reduce Criminal Justice System Costs by Allowing Arraignments and Hearings in the Unified Criminal Docket To Be Held by Means of Audiovisual Telecommunications*, also requires recordings of these proceedings to be made and retained as part of the file in these cases. Two testified in support of this legislation, and two testified in opposition.

Senator Eric Brakey (Androscoggin Cty.) presented testimony on behalf of the Maine County Commissioners' Association (MCCA), which asked him to sponsor the legislation but was unable to participate in the hearing. Reading the MCCA's testimony, he explained their view that audiovisual arraignments save time and money by cutting down on the need for prisoner transportation between the county jails and courthouses. The MCCA testimony also stressed its deference to the courts to choose whether and when to use this technology, rather than mandating it.

Representative Barbara Cardone of Bangor, who sits on the Judiciary Committee, questioned the need for LD 218 given that courts already have this capacity. The sponsor, as well as MMA, who joined the County Commissioners' Association in its support, were only able to speculate that a statutory authorization might help remove potential doubts about the legal permissibility of remotely-conducted criminal arraignments and hearings, but could not speak for the MCCA.

MMA's testimony noted that its Legislative Policy Committee has long advocated for the incorporation of audiovisual communications technology in government proceedings when practicable given the growing incorporation of such technology into everyday life. In this instance, municipal officials support this proposal as a reasonable way of reducing prisoner transportation costs, which have been part of rising county jail costs. Given the sensitive balance of criminal

justice with civil liberties, MMA did ask the Committee to clarify that the required recordings be made public records in order to ensure continued public access to these proceedings.

The American Civil Liberties Union (ACLU) of Maine testified in opposition to LD 218. In its view, remotely conducted arraignments undermine the right to a fair trial of persons accused of crimes given the potentially de-humanizing effect of not adjudicating these cases face-to-face. The ACLU also expressed a concern that the right to counsel could be threatened in the event attorneys are not able to adequately access the jails to consult with and advocate for their clients. It did note the worthiness of the goal of reducing criminal justice system

costs, but preferred to achieve that goal through a reduction of the size of the system in general.

The ACLU was joined in its opposition by the Criminal Law Advisory Committee (CLAC), which advises the legislature on matters pertaining to the criminal code. CLAC expressed a separation-of-powers concern given that the judicial branch ordinarily has autonomy to decide which aspects of cases are made public and which aspects of court proceedings are recorded. They affirmed Rep. Cardone's assertion that courts already have this capacity, and expressed a belief that additional legislative authorization is unnecessary.

The work session on LD 218 has been scheduled for March 8 at 1 p.m.

## Update: Overweight Trucks on Posted Roads Animal bedding first, perishable products to follow

Last week's Legislative Bulletin included an article describing the public hearing for LD 208, *An Act To Add Vehicles Hauling Animal Bedding to Those Exempt from Posted Road Restrictions*. As printed, LD 208 creates a blanket exemption from the state's law governing the posting of roads in mud season for any vehicle hauling animal bedding.

Dairy farmers and the associations advocating for dairy farmers supported the bill, arguing that animal bedding is becoming harder to get, needs to be ordered and delivered on the spot, and just as bulk milk trucks can regularly travel over posted roads, animal bedding trucks should be allowed to do so as well.

The Department of Transportation (DOT) and the Maine Municipal Association opposed LD 208, arguing that the bill was unnecessary because animal bedding, like bulk milk and eight other "special commodities," is already given special treatment under the DOT posted road rules. Those same rules are very widely adopted at the local level. Specifically, trucks carrying these commodities are provided an 11,000-pound greater truck weight allowance than the

general posted road limitation to allow those farms access to the products notwithstanding the road posting. If even heavier trucks are needed, permits are given (at the state level for state roads and local level for local roads) so the overweight trucks exceeding the special exception allowance can gain access as necessary. Typically, those permits are conditioned in whatever way necessary to protect the structural integrity of the soft roads during mud season.

Offered as a compromise, Transportation Committee member Representative James Gillway asked how MMA's Legislative Policy Committee would react to an alternative proposal which would give trucks carrying animal bedding the same treatment as the current regulatory system gives to trucks carrying home heating fuels. Those overweight vehicles can be made subject to any special or additional standards a municipality may want to impose, but after they get a permit from the DOT they do not need to get a permit from the municipality to go over the local posted roads if they exceed the respective

*(continued on page 5)*

## Update: Overweight Trucks on Posted Roads (cont'd)

23,000 lbs. (for several axle trucks) or 34,000 lbs. (for two-axle trucks) weight standards.

MMA's Policy Committee took up the request to consider the alternative proposal when it convened on Feb. 23. After thorough review at that meeting, the Policy Committee voted not to support Rep. Gillway's alternative proposal for the following reasons, which were conveyed to the Committee.

- Municipal officials recognize the inconvenience associated with the posted road requirements but believe they have a well-functioning working relationship with the trucking community and are able to establish mutually agreeable accommodations for absolutely necessary transport in all cases.

- The special exception already provided by DOT rule and local ordinances for trucks carrying animal bedding is sufficient. This special exception allows two-axle trucks with a 34,000 lb. gross vehicle weight limit to traverse posted roads at any time without a permit. What is being requested by LD 208 is a special exception on top of a special exception.

- The overweight permit requirements, at both the state and municipal level, are extremely flexible. At the local level, once notified of a compelling need to move an overweight truck over the posted roads, there is typically a review of the road segments subject to potential damage, the timing needs of the truckers to move the product, and the timing and road temperature conditions required by the municipality. With this information, the conditions of the permit are worked out and the permission is provided, and to the extent appropriate, not just for a single trip but for the entire mud season, pursuant to the conditions established.

- The language in current law allowing overweight home heating fuel trucks to traverse posted roads without

a permit, but allowing in exchange alternative municipal standards that do not involve any element of permitting, is not very meaningful. The most significant element of this entire road protection system is municipal notification regarding: (1) the nature of the overweight vehicle, (2) the roads to be traversed, and (3) the timing of the travel. In other words, some level of notification regarding when the road is going to be traveled over is absolutely necessary, which is the core element of the posted road permitting system.

- Finally, where does the challenge to municipal permitting authority end? If home heating fuel trucks are not required to get permits for traversing soft roads, and now trucks carrying animal bedding are not required to get permits for traversing soft roads, why should any of the other "special commodities" listed in DOT rule and local ordinances be required to get permits? The Legislature should not remove from the municipal tool box the mechanism towns and cities need to protect what in most cases is the towns' most valuable and important capital infrastructure.

On Tuesday this week, the Transportation Committee conducted a thorough work session on LD 208. The Department of Transportation provided very helpful additional information regarding the flexibility of the DOT permitting system for state roads, the way the Department calibrates the permitted weights over the 34,000 lb. special allowance for products like animal bedding depending on the number of axles and tire widths of the trucks, and the reasons why the structure of "unbuilt" roads (of which municipalities have a great number) makes them so vulnerable to excessive damage during mud season.

The Committee's vote on LD 208 was 7-4 "ought not to pass," with the

minority legislators supporting Rep. Gillway's proposal. Specifically, the minority report would allow trucks carrying wood products-based animal bedding (not sand), that are heavier than the existing special allowance given to such trucks of 34,000 lbs. gross vehicle weight, to traverse the municipal posted roads without needing a permit from the municipality. The municipality would be allowed to impose additional standards, but those standards could not involve or resemble a permitting system.

As an ironic follow-up, on Thursday this week, the Committee held a public hearing on LD 371, *An Act To Allow a Truck Carrying Perishable Products To Operate on a Posted Road without a Permit*. This bill, similar to LD 208, completely exempts trucks carrying perishable products from any state or local posted road restrictions.

The slope gets slipperier and slipperier.

## "Stewardship" and Solid Waste Management (cont'd)

device manufacturers, many of which utilize the types of batteries addressed in LD 385, asked for an exclusion from the legislation, as is the case in some other states' battery recycling laws. As they explained, the preeminent focus for medical devices is on patient needs, and existing medical protocols address battery reuse and disposal.

The Environment and Natural Resources Committee is now poised to begin the process of sorting out all of the information and feedback it received during Wednesday's public hearing and deciding the fates of LDs 349, 375 and 385. The Committee's work session on LDs 349 and 385 have been scheduled for March 8, and the LD 375 work session for March 29.

## LEGISLATIVE HEARINGS

Note: You should check your newspapers for Legal Notices as there may be changes in the hearing schedule. Weekly schedules for hearing schedules and work sessions can be found at: <http://legislature.maine.gov/Calendar/#PHWS/>.

### Monday, March 6

**Appropriations & Financial Affairs**  
**Room 228, State House, 3:00 p.m.**  
**Tel: 287-1316**

LD 390 – Governor’s proposed biennial budget (in conjunction with the Joint Standing Committee on Energy, Utilities & Technology)

**Office of Broadband Development (Part W).** This element of the proposed budget would create the Office of Broadband Development within the Department of Economic and Community Development to replace the ConnectME Authority. The Office would be charged with expanding broadband services to unserved and underserved communities.

**Marine Resources**  
**Room 206, Cross State Office Building, 10:00 a.m.**  
**Tel: 287-1337**

LD 622 – An Act To Ensure Appropriate Training for Harbor Masters.

**State & Local Government**  
**Room 214, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-1330**

LD 540 – An Act To Help Municipalities Prepare for Sea Level Rise.  
LD 591 – An Act To Allow Municipalities To Adopt Bus Traffic Ordinances.

**Taxation**  
**Room 127, State House, 1:00 p.m.**  
**Tel: 287-1552**

LD 116 – An Act To Increase Funding for Multimodal Transportation.  
LD 493 – An Act To Tax the Extraction of Water for Certain Commercial Purposes and Fund Water Quality Programs.  
LD 541 – An Act Regarding the Commercial Forestry Excise Tax.

### Tuesday, March 7

**Agriculture, Conservation & Forestry**  
**Room 214, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-1312**

LD 430 – An Act To Amend the Exemption for Highway Contractors and Subcontractors under the Arborist Licensing Laws.  
LD 549 – An Act To Recognize Preexisting Land Uses.

**Appropriations & Financial Affairs**  
**Room 228, State House, 3:00 p.m.**  
**Tel: 287-1316**

LD 390 – Governor’s proposed biennial budget (in conjunction with the Joint Standing Committee on Taxation)  
Repeal of State’s “LD1” Reporting Obligation (Part GG). This initiative would repeal the Governor’s Office of Policy and Management’s (OPM) charge to annually track municipal, county and school administrative unit progress with the so-called “LD 1” tax burden reduction-goals.

**Energy, Utilities & Technology**  
**Room 211, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-4143**

LD 406 – An Act To Amend the Law Regarding Joint Use of Certain Utility and Telecommunications Infrastructure.  
LD 474 – An Act To Allow a Public Safety Answering Point To Be Reimbursed for Training Costs.

**Judiciary**  
**Room 438, State House, 1:00 p.m.**  
**Tel: 287-1327**

LD 70 – An Act To Allow Municipal Governing Boards of 3 Members To Perform Official Duties via Technology.  
LD 146 – An Act To Protect the Confidentiality of Local Government Employees’ Private Information.  
LD 196 – An Act To Protect Personal Information of Participants in a Community Well-being Check Program.

**Labor, Commerce, Research & Economic Development**  
**Room 208, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-1331**

LD 163 – An Act To Strengthen the Enforcement of Maine’s Labor Laws.  
LD 372 – An Act To Protect Public Health through Septic Tank Inspections.  
LD 441 – An Act To Require Certification under the United States Environmental Protection Agency’s Lead Renovation, Repair and Painting Rule.  
LD 559 – An Act To Standardize the Law Concerning Property Transfers and To Protect Water Quality.

### Wednesday, March 8

**Education & Cultural Affairs**  
**Room 202, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-3125**

LD 334 – An Act To Clarify the Uses of the Fund To Advance Public Kindergarten to Grade 12 Education.  
LD 397 – An Act To Ensure the 3 Percent Tax on Incomes over \$200,000 Is Distributed Proportionately Based on Student Counts.

**Environment & Natural Resources**  
**Room 216, Cross State Office Building, 10:00 a.m.**  
**Tel: 287-4149**

LD 469 – An Act To Establish a Generally Applicable Regulatory Standard To Address Impacts of Sea Level Change and Increased Storm Surges.

**State & Local Government**  
**Room 214, Cross State Office Building, 9:00 a.m.**  
**Tel: 287-1330**

LD 432 – An Act To Designate a Maine Community Litter Cleanup Day.

**Veterans & Legal Affairs**  
**Room 437, State House, 9:30 a.m.**  
**Tel: 287-1310**

LD 568 – An Act To Require Candidates To Be Listed as Unenrolled If Not Registered with a Recognized Party.

### Thursday, March 9

**Inland Fisheries & Wildlife**  
**Room 206, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-1338**

LD 191 – An Act To Authorize 3-day All-terrain Vehicle Registration Reciprocity with the Provinces of New Brunswick and Quebec.  
LD 277 – An Act Regarding the Use of Helmets by Minors Riding in an All-terrain Vehicle with an Adult.  
LD 631 – An Act To Require an Operator of an All-terrain Vehicle Driven on Certain Roads To Have a Driver’s License and Liability Insurance.

## IN THE HOPPER

(The bill summaries are written by MMA staff and are not necessarily the bill's summary statement or an excerpt from that summary statement. During the course of the legislative session, many more bills of municipal interest will be printed than there is space in the *Legislative Bulletin* to describe. Our attempt is to provide a description of what would appear to be the bills of most significance to local government, but we would advise municipal officials to also review the comprehensive list of LDs of municipal interest that can be found on MMA's website, [www.memun.org](http://www.memun.org).)

### Agriculture, Conservation & Forestry

LD 725 – An Act To Recognize Local Control Regarding Food and Water Systems. (Sponsored by Sen. Jackson of Aroostook Cty; additional cosponsors.)

This bill defines the term “local food system” to mean a community food system within a municipality that integrates food production, processing, consumption, direct producer-to-consumer exchanges and other traditional foodways to enhance the environmental, economic, social and nutritional health and well-being of the municipality and its residents. The bill also cites municipal home rule authority to expressly authorize a municipal government to regulate local food systems by ordinance as well as the transport of water for commercial purposes beyond the boundaries of the municipality.

### Education & Cultural Affairs

LD 737 – An Act To Allow Public Schools To Reserve Funds Designated for Operating Costs. (Sponsored by Rep. Stearns of Guilford; additional cosponsors.)

This bill authorizes school administrative districts to establish a reserve fund to cover up to three months' of operating costs, including salary and benefits. The reserve funds would be exempt from the statute that limits the size of lapsed unexpended balances carried over from one school budget year to the next to no more than 3% of the previous fiscal year's school budget.

LD 809 – An Act To Address Student Hunger with a “Breakfast after the Bell” Program. (Sponsored by Sen. Maker of Washington Cty; additional cosponsors.)

This bill requires all school administrative units in which at least 50% of the students qualify for a free or reduced lunch to either operate an alternative breakfast delivery service that provides breakfast after the start of the school day or, in the alternative, have the school board hold a public hearing and ultimately vote not to operate such a program because it would not be financially or logistically viable. The bill appropriates \$500,000 for each year of the biennium to fund the program.

LD 818 – An Act To Improve the Quality of Teachers. (Sponsored by Sen. Millett of Cumberland Cty; additional cosponsors.)

This bill amends the laws governing public education in a number of ways designed to improve the quality of teachers, such as by requiring school teachers seeking certification to meet certain grade point averages in their college-level teacher preparation course work and by requiring the educational institutions that provide educator training programs to successfully graduate prospective teachers as those grade point level standards or above. The bill also establishes a minimum teacher salary of \$40,000 beginning after June 30, 2018, directing the necessary incremental salary increases to be covered by the Essential Programs and Services school funding distribution to those school systems that are currently not providing that level of salary to some school teachers.

### Environment & Natural Resources

LD 805 – An Act To Streamline the Municipal Review Process When Dividing a Structure into 3 or More Dwelling Units and To Amend the Process for Recording Subdivision Variances. (Sponsored by Sen. Libby of Androscoggin Cty; additional cosponsors.)

Under current law, a municipality is essentially preempted by state law from adopting a definition of “subdivision” that differs from the statutory definition, except a municipality is expressly allowed to expand the definition to include in its definition, and in the subdivision review process, the division of a structure into three

or more units for commercial or industrial uses. This bill repeals that municipal authority. The bill also adds a new exemption to the definition, which is the division of a new or existing structure into 3 or more dwelling units however the division is accomplished (by sale, lease, development or otherwise) if the project is also subject to municipal site plan review pursuant to the law that delegates to qualifying municipalities the authority to perform state-level Site Location Act review for major development projects. Also under current law, when a variance is granted with respect to a subdivision application, the variance must be recorded in the registry of deeds within 90 days of the final subdivision approval or the variance is void. This bill retains the requirement that the variance must be recorded to be valid, but repeals the 90 day requirement that voids an issued variance.

### Judiciary

LD 772 – An Act To Ensure Transparency in Public Union Negotiations. (Sponsored by Rep. Wadsworth of Hiram; additional cosponsors.)

This bill adds to the list of “public proceedings” under Maine's Freedom of Access Act all collective bargaining meetings between a public employer and a collective bargaining unit.

LD 815 – An Act To Allow a Council of Governments To Provide Municipal Services to Small Towns under the Maine Tort Claims Act. (Sponsored by Sen.

Whittemore of Somerset Cty; additional cosponsors.)

This bill expressly authorizes a Council of Governments (COG) to enter into a contract with a municipality to provide municipal services to that municipality. The bill also amends the Maine Tort Claims Act to include in the definition of “political subdivision” a COG when performing those municipal services pursuant to a contract.

### Labor, Commerce, Research & Economic Development

LD 777 – An Act To Establish a Conditional Presumption of Compensability for Corrections Employees in Cases of Impairment from Hypertension or Heart Disease. (Sponsored by Rep. Tucker of Brunswick.)

This bill creates another “rebuttable presumption” under Maine's Workers' Compensation law, in this case for correction officers employed by the state or county governments. The bill provides that there is a rebuttable presumption that a corrections officer who contracts heart disease or hypertension has contracted those medical problems in the course of his or her employment as a corrections officer.

### State & Local Government

LD 823 – An Act To Promote Transparency with Respect to Surveillance Technology. (Sponsored by Sen. Bellows of Kennebec Cty; additional cosponsors.)

This bill requires a state entity (defined to include municipalities, counties, all law enforcement agencies, etc. as “instrumentalities” of the state) to hold a public hearing and ultimately obtain legislative approval prior to: (1) seeking funding or in-kind support to acquire surveillance technology, (2) sharing or borrowing surveillance technology, (3) using surveillance technology for a purpose or in a manner not previously approved by the Legislature, or (4) issuing requests for proposals or entering into an agreement with another entity to acquire, share, borrow or otherwise use surveillance technology. The bill includes the public notice and content requirements of the public hearing and describes

*(continued on page 8)*

## HOPPER (cont.)

the nature of the state legislative approval required.

### Taxation

LD 727 – An Act To Protect the Tax Base of Municipalities by Removing the Property Tax Exemption for Land Held for Conservation or Public Access Purposes. (Sponsored by Rep. Stetkis of Canaan; additional cosponsors.)

This bill amends the law governing the definition of a “benevolent and charitable corporation”, the property of which is entirely exempt from taxation, to exclude holding land primarily for conservation purposes or public access purposes.

LD 741 – An Act To Provide Equity in Education Funding. (Sponsored by Rep. Stearns of Guilford; additional cosponsors.)

This bill repeals the subsection of school funding law that provides “minimum receiver” school systems with an adjustment of a certain percentage of the school’s special education costs and authorizes, instead, the municipalities of those minimum receiver school system to adopt, by referendum approval of their voters, a local option sales tax of up to 1% of the sales tax base. If approved by the voters, the sales taxes would be collected in the same manner as the state sales tax, distributed by the State Tax Assessor to each participating municipality, with the revenue being dedicated to funding K-12 education and reducing property taxes.

### Transportation

LD 788 – An Act To Require Motor Vehicles To Be Registered on a Biennial Basis. (Sponsored by Rep. Cebra of Naples; additional

cosponsors.)

This bill changes the annual registration requirement and fee for automobiles, pickup trucks and sport utility vehicles to a biennial registration requirement, with a fee of \$50.

### Veterans & Legal Affairs

LD 796 – Resolution, Proposing an Amendment to the Constitution of Maine Regarding Referendum Questions for Statewide Ballots. (Sponsored by Rep. Stewart of Presque Isle; additional cosponsors.)

This resolution sends out to the voters a proposed amendment to the state’s Constitution that requires that the minimum 10% signature tally currently required (of the number of votes for Governor in the most recent gubernatorial election) be applied to each of the 16 counties, and that each signature must be of a person registered to vote in each respective county.

LD 813 – An Act To Amend the Laws Governing the Political Party Representation of Election Clerks. (Sponsored by Sen. Gratwick of Penobscot Cty; additional cosponsors.)

This bill amends the political party considerations that need to be made with respect to the appointment of election clerks by the municipal officers. Under current law, the election clerks need to be equally balanced between the major political parties, without one political party being over or under represented by more than one clerk. This bill requires the selection to be based on 33% from one major party, 33% from another major party, with 34% being selected without regard to party enrollment.