

## State School Funding for the Upcoming Year

**With no supplemental state budget to adjust the FY 2017 appropriation municipal officials need to press lawmakers on their alternative plan**

Many municipal officials currently knee-deep in the process of developing a proposed budget to present to their voters over the next few months are starting in the hole because of the projected school budget they will be expected to absorb.

The reason for this phenomenon, which is affecting hundreds of municipalities statewide, is that the Legislature's appropriation for the state share of K-12 education for the upcoming school year beginning on July 1 is flat-funded.

When the Legislature flat-funds the state's share of the K-12 education financial "partnership," there are often significantly negative consequences for any number of school systems. Those consequences depend on how the school systems' student count, valuation (relative to other school districts) and other related statistics intersect with the Essential Programs and Services (EPS) school funding model.

Next year's projected school subsidy distribution has been released by the Department of Education. The link to that document is <http://goo.gl/RRWeAI>. Any municipal budgeteer who is not familiar with the impact of that spreadsheet on their community should get his or her hands on it immediately. The municipal officials seeing deep red in those numbers are asking when the supplemental state budget will be processed by the Appropriations Committee and enacted. It is the "supplemental state budget" that normally establishes the state's contribution to K-12 education for the odd-numbered fiscal years.

The short answer is that it appears there won't be a supplemental state budget this year. The Governor isn't submitting one.

Supplemental appropriations to pay for legislative priorities will be submitted as single-subject bills and enacted, if at all, on a piecemeal basis. Without the process to supplement the General Purpose Aid for Local Schools (GPA) budget enacted last July, there is no opportunity to incorporate into that consideration the state's

current and newly projected revenue circumstances. Therefore, each of the piecemeal appropriation bills will have to pay for themselves within the terms and appropriations of the existing state budget.

Since there is no supplemental state budget that might include a positive adjust-

*(continued on page 2)*

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## Intimidating Petition Signers in the Polling Place

A new activity cropped up in at least a half-dozen, mostly urban polling places last Nov. 3. Individuals apparently opposed to one or more of the citizen initiatives being made available for voters' signatures began to conspicuously and very closely video-record the voters signing those petitions. In some case, the videographers asked for the voters' names and addresses and generally conducted themselves in such a way that those voters felt scrutinized for their actions.

Although on any given election day the television news stations will run ubiquitous stock footage of one active polling place or another, the focused and individualized video-recording of voters either marking their ballots or signing petitions is a new phenomenon. The municipal wardens supervising the elections and even the Secretary of State's Office were caught off-guard. As the election day unfolded, they had to feel their way through the existing statutes governing polling place activity in response to the complaints raised by voters subjected

to the up-close and very personalized photography.

On Monday this week, the Veterans and Legal Affairs Committee held a public hearing on a bill introduced by former Secretary of State and current State Senator Bill Diamond (Cumberland Cty.) designed to address the issue with relatively soft hands.

LD 1574, *An Act To Protect Maine Voters from Intimidating Videotaping at the Polls*, simply requires a minimum 15 foot buffer strip between a voter and person photographing the voter's activities with a video camera.

In addition to Senator Diamond, there were three supporters of LD 1574, the Deputy Secretary of State Julie Flynn, the Secretary of State Matt Dunlap, and MMA. No one testified in opposition.

Senator Diamond provided a brief history of the laws governing polling place activities and pointed out how they have evolved over time with the goal of ensuring order and prohibiting inappro-

*(continued on page 7)*

## School Funding (cont'd)

ment to the FY 2017 GPA appropriation, municipal officials should be talking to their legislators about creating a bill to do so. Other initiatives requiring state resources are lining up in the queue, and all of those bills will be competing for the same limited resources.

These conversations with your legislators should begin immediately.

Here are some facts to help with that discussion:

- When the two-year state budget is enacted in the late spring of each odd-numbered year, it has been common legislative practice for at least the last 30 years to simply flat-fund the school subsidy appropriation for the second year out. The decision is purposely delayed so that a more informed judgment can be made about the appropriate amount to allocate for K-12 education the following spring, when more fiscal data are available. That occurred last year. The school subsidy appropriation for the current, 2015-2016 school year was \$983.7 million. The state budget allocated the same amount for the 2016-2017 school year as well.

- Since 2005, when the Essential Programs and Services-based school funding system was first implemented, the average increase supplementally appropriated to adjust the GPA appropriation in each second legislative session represented an average 2% year-to-year increase. Following that average, the supplemental GPA appropriation for FY 2017 should be approximately \$20 million.

- According to the most recent report submitted to the Appropriations Committee by the Department of Administrative and Financial Services and posted online, state tax revenue collections have exceeded the projection upon which the two-year state budget was based by \$35 million, and a more recent revenue forecast is suggesting substantially more state revenues will be received over the FY 2016-17 biennium than forecast in May, 2015. In the traditional legislative process there would be a supplemental state budget proposal submitted by the Governor to the Legislature which would allow policymakers to evaluate legislative priorities in the context of these unanticipated state revenues. This has not occurred in 2016.

(continued on page 7)

| FY 2016 vs. FY 2017                                                                                                          |              |                                                                        |               |       |
|------------------------------------------------------------------------------------------------------------------------------|--------------|------------------------------------------------------------------------|---------------|-------|
| Top25 – Loss of State Aid by Dollar & % of Loss                                                                              |              |                                                                        |               |       |
|                                                                                                                              | FY2017       | FY2016                                                                 | Difference    | %Loss |
| Portland                                                                                                                     | \$14,216,820 | \$16,910,257                                                           | \$(2,693,438) | -16%  |
| Scarborough                                                                                                                  | \$3,087,698  | \$4,645,179                                                            | \$(1,557,481) | -28%  |
| Saco                                                                                                                         | \$10,810,229 | \$12,153,193                                                           | \$(1,342,964) | -11%  |
| RSU35-South Berwick                                                                                                          | \$11,621,409 | \$12,662,950                                                           | \$(1,041,542) | -8%   |
| Cape Elizabeth                                                                                                               | \$2,429,313  | \$3,403,683                                                            | \$(974,369)   | -29%  |
| RSU21-Kennebunk                                                                                                              | \$4,298,650  | \$5,174,206                                                            | \$(875,556)   | -16%  |
| Bangor                                                                                                                       | \$16,253,443 | \$16,997,872                                                           | \$(744,429)   | -4%   |
| RSU52-Turner                                                                                                                 | \$13,718,312 | \$14,363,041                                                           | \$(644,729)   | -4%   |
| RSU49-Fairfield                                                                                                              | \$14,497,902 | \$15,096,461                                                           | \$(598,560)   | -4%   |
| RSU59-Madison                                                                                                                | \$3,069,842  | \$3,656,395                                                            | \$(586,553)   | -15%  |
| RSU14-Windham                                                                                                                | \$15,178,172 | \$15,740,970                                                           | \$(562,798)   | -3%   |
| RSU2-Monmouth                                                                                                                | \$10,417,076 | \$10,946,018                                                           | \$(528,942)   | -5%   |
| RSU4-Guilford                                                                                                                | \$9,873,410  | \$10,396,452                                                           | \$(523,041)   | -5%   |
| RSU34-OldTown                                                                                                                | \$8,322,197  | \$8,821,729                                                            | \$(499,531)   | -5%   |
| RSU10-Rumford                                                                                                                | \$18,793,379 | \$19,291,193                                                           | \$(497,814)   | -3%   |
| Westbrook                                                                                                                    | \$14,165,942 | \$14,655,496                                                           | \$(489,554)   | -3%   |
| RSU57-Waterboro                                                                                                              | \$14,081,164 | \$14,561,582                                                           | \$(480,418)   | -3%   |
| Lisbon                                                                                                                       | \$8,579,686  | \$9,058,074                                                            | \$(478,388)   | -5%   |
| Orrington                                                                                                                    | \$2,614,887  | \$3,092,820                                                            | \$(477,932)   | -15%  |
| RSU75-Topsham                                                                                                                | \$14,606,912 | \$15,066,857                                                           | \$(459,945)   | -3%   |
| RSU54-Skowhegan                                                                                                              | \$18,190,739 | \$18,633,572                                                           | \$(442,833)   | -2%   |
| Woodland                                                                                                                     | \$769,192    | \$1,192,619                                                            | \$(423,427)   | -36%  |
| Auburn                                                                                                                       | \$20,949,365 | \$21,343,076                                                           | \$(393,712)   | -2%   |
| Calais                                                                                                                       | \$3,824,120  | \$4,184,540                                                            | \$(360,420)   | -8%   |
| RSU39-Caribou                                                                                                                | \$10,682,922 | \$11,040,475                                                           | \$(357,553)   | -3%   |
| <i>Source: DOE FY 2017 GPA for Local Schools (1/27/2016).<br/>Adjusted to discount pass-through debt service reductions.</i> |              |                                                                        |               |       |
| Regional School Units' Participating Municipalities                                                                          |              |                                                                        |               |       |
| RSU 2: Farmingdale, Hallowell, Monmouth, Dresden, Richmond                                                                   |              | RSU 39: Caribou, Limestone, Stockholm                                  |               |       |
| RSU 4: Litchfield, Sabattus, Wales                                                                                           |              | RSU 49: Albion, Benton, Clinton, Fairfield                             |               |       |
| RSU 10: Carthage, Buckfield, Byron, Canton, Dixfield, Hanover, Hartford, Mexico, Peru, Roxbury, Rumford, Sumner              |              | RSU 52: Green, Leeds, Turner                                           |               |       |
| RSU 14: Raymond, Windham                                                                                                     |              | RSU 54: Canaan, Cornville, Mercer, Norridgewock, Skowhegan, Smithfield |               |       |
| RSU 21: Arundel, Kennebunk, Kennebunkport                                                                                    |              | RSU 57: Alfred, Limerick, Lyman, Newfield, Shapleigh, Waterboro        |               |       |
| RSU 34: Alton, Bradley, Old Town                                                                                             |              | RSU 59: Madison                                                        |               |       |
| RSU 35: Eliot, South Berwick                                                                                                 |              | RSU 75: Harpswell, Bowdoin, Bowdoinham, Topsham                        |               |       |

# Tidbits

**One Last Try for OUI-Related Accountability.** On Tuesday this week, the Insurance and Financial Services Committee (IFS) issued a divided report on LD 944, *An Act Regarding Recovery of Emergency Response Costs Related to an OUI Offense*.

Sponsored by President Mike Thibodeau of Waldo County, LD 944 is a carryover bill from the last legislative session that seeks an amendment to Maine's operating under the influence laws. The general premise of LD 944, advanced in various drafts, is to provide municipalities with the authority necessary to recover the costs associated with the emergency rescue, fire and medical services provided when responding to motor vehicle accidents caused by person operating under the influence and convicted of doing so. (Additional information on LD 944 is found in the January 29, 2016 Legislative Bulletin.)

Untroubled by the fact that the Criminal Justice Committee, to which the bill was originally referred, voted "ought not to pass" on LD 944 in 2015, the majority report from the IFS Committee is to refer LD 944 to that Committee. As part of that referral, the eight members backing the majority report are requesting that the Criminal Justice Committee explore the feasibility of mandating courts to award restitution to municipalities to help cover emergency response costs.

The five-member minority report is a straight "ought not to pass."

**Homestead Calculation in 2017 and Beyond.** Municipal officials, especially tax assessors, will appreciate the Taxation Committee's unanimous vote in support of LD 1551, *An Act To Make Additional Technical Changes to Recently Enacted Tax Legislation*. The bill sponsored on behalf of the Maine Revenue Services by Committee co-chairs, Sen. Earle McCormick of Kennebec County and Rep. Adam Goode of Bangor, makes several housekeeping related changes to existing tax laws.

As described in the Feb. 5 edition of the Legislative Bulletin, included in LD 1551 is a proposal to simplify the calculation of state reimbursement under the Homestead Exemption program. Under existing statute, the change in reimburse-

ment calculation is scheduled to take effect when the value of the exemption granted to Maine resident homeowners increases from \$15,000 in property tax year 2016 to \$20,000, in 2017 and subsequent years.

The change supported by the Committee replaces the bifurcated reimbursement calculation, providing for 50% state reimbursement for the first \$10,000 of exempt value and 75% of the remaining \$10,000 of exemption value, with a flat 62.5% reimbursement rate.

If LD 1551 is adopted by the entire Legislature, in 2017 and subsequent property tax years, municipalities will receive reimbursement for 62.5% of lost property tax revenue associated with the implementation of the \$20,000 Homestead Exemption.

**Concealed Firearms Permits.** On Wednesday of this week, the Criminal Justice and Public Safety Committee voted near unanimously "ought not to pass" on LD 826, *An Act To Upgrade the Concealed Handgun Permit Law*. LD 826 would have made the Chief of the Maine State Police the sole authority to issue concealed weapons permits.

There was very little discussion prior to the vote once it became clear that the two concealed weapons permit licensing authorities in the state, the municipalities and the State Police, oppose the bill. The State Police had backed LD 826 last year prior to the enactment of the bill which removed Maine's longstanding requirement for concealed weapons permits. That law, PL 2015, chapter 327, also decreased the State Police staff who had previously been responsible for issuing these permits. With the change in staffing also came a change of heart with respect to LD 826. If the full legislature follows the lead of the majority of the Committee, the current municipal authority to issue concealed weapons permits will remain unchanged.

**2016 LD 1 Worksheet Available.** The so-called "LD 1" municipal property tax levy limit worksheet is now posted in the Legislative/Advocacy corner of MMA's website. The worksheet is provided to assist communities with calculating the limit. It is for your records and does not need to be returned to MMA or a state agency.

Since the enactment of the levy limit law in 2005, the State Planning Office,

until it was abolished, and now the Office of Policy and Management (OPM), has generated and posted that form on its website.

We have learned that due to other workload priorities, OPM will no longer generate the LD 1 calculation worksheet. The state agency will continue to annually calculate and post the "income growth factor," however. That factor is used in combination with the locally calculated property growth factor in the process of computing the levy limit. For 2016, the income growth factor is 2.67%.

If you have any questions about this worksheet or the process for calculating the LD 1 levy limit, please contact Kate Dufour at [kdufour@memun.org](mailto:kdufour@memun.org) or 1-800-452-8786.

**2015 Fiscal Survey Landing in a Mail Box Near You.** By now, municipal officials from Maine's 491 cities, towns and plantations have received their 2015 Fiscal Survey packet. Included in that packet is the survey overview, instructions and form, all of which are posted on the Legislative/Advocacy section of MMA's website.

From the perspective of MMA staff, the ready availability of the information in the Fiscal Survey benefits Maine's towns and cities by providing accurate information regarding municipal government to Maine's lawmakers, general public, press, academics and the entire municipal community. For that reason, municipal officials are urged to participate in this year's process by submitting a completed survey to MMA by the March 21, 2016 deadline.

If you have any questions about the survey, please contact Kate at the email address or telephone number listed above.

## Legislative Bulletin

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

# Marijuana Initiative Draws Mixed Municipal Positions

The Jan. 29 edition of the Legislative Bulletin included an article outlining the positions MMA's Legislative Policy Committee (LPC) established for three of the citizen initiatives that will be on the statewide ballot on Nov. 8, 2016, including measures dealing with "ranked choice" voting, background checks for gun sales, and raising income tax rates for wealthier filers in order to supplement state funding for K-12 education.

Yet another citizen initiative has been submitted by the deadline which deals with a subject matter that also intersects with municipal government, particularly in the area of law enforcement and land use regulation. This latest initiative would regulate but generally legalize the possession, use, cultivation, sale, manufacture and transportation of marijuana for personal (a.k.a. "recreational") use.

At this stage the initiative will be converted into a bill to be presented to the Legislature like any other. Because various elements of the legislation have municipal connections, MMA's 70-member LPC was asked to formulate the Association's position on "The Marijuana Legalization Act." It turns out MMA's position is all over the place.

**What the initiative does.** *An Act To Legalize Marijuana* authorizes the cultivation, processing, manufacture, and retail sale and distribution of marijuana. The Department of Agriculture, Conservation and Forestry is designated as the state agency to administer, oversee and regulate the marijuana legalization system. The initiative establishes the legality of any person 21 years of age or older to purchase, use, possess or transport up to 2.5 ounces of prepared marijuana, and to cultivate up to six flowering plants of marijuana for personal use. The initiative imposes a sales tax of 10% on the value of the retail sale of marijuana and marijuana products.

Among its details, the initiative provides:

- Licensing qualifications, licensing fees and the system of licensure for the five types of marijuana establishments
  - marijuana cultivation facility,

- retail marijuana testing facility,
- retail marijuana products manufacturing facility,
- retail marijuana store, and
- retail marijuana social club
- Certain limitations on the overall quantity of marijuana cultivation, by square foot or acreage; and
- Marijuana facility record keeping requirements.

With respect to local government, the initiative:

- Authorizes municipalities to regulate the number of retail marijuana stores and the location and operation of retail marijuana establishments and retail marijuana social clubs within its jurisdiction. The initiative provides that a municipality may even prohibit the location and operation of marijuana establishments and marijuana social clubs within the municipality's jurisdiction.

- For municipalities that do not choose to completely prohibit their operations, the initiative authorizes municipalities to regulate the location and operation of retail marijuana establishments pursuant to municipal zoning and land use regulatory authority, and to impose a local licensing system that is separate from the state licensing system as part of any local restrictions on the time, place, manner and number of marijuana businesses.

- Provides that the location of a state-licensed retail marijuana establishment must also receive municipal approval.

- Whether a municipality chooses to regulate marijuana establishments or not, the initiative provides that when the state licensing authority receives an original or renewal license application for a marijuana establishment, 50% of the licensing fee must be sent to the host municipality. In turn, the municipality must inform the state licensing authority within 14 days whether the application complies with local land use ordinances and other local restrictions.

**The LPC Position.** On any legislative proposal presented to it, MMA's Policy Committee is presented with four possible positions to take: support, oppose, neither for nor against, or no position.

The neither-for-nor-against position suggests either some indifference as to the outcome of the legislation or an even division on opinion, but recognizes the measure carries clear municipally related impacts. The position of no position, on the other hand, suggests MMA stay out of the room entirely.

Neither for nor against. 39% of the LPC members voting said MMA should take a "neither for nor against" approach to the initiative, and an additional 8% of the vote went to the no-position category. Many of the comments supporting these positions take the "let the voters decide" point of view. Among these LPC voters, the observations regarding the impacts of legalization in other states, like Colorado, suggested the results carried both positive and negative impacts. Some of the municipally-related information about the proposal that garnered commentary is a general appreciation for the way this initiative deals with the "home rule authority" issues. Under the terms of the initiative, the local legislative body would have a direct say in whether or not the various marijuana establishments would be authorized to locate within the municipal jurisdiction and, if so, how they would be regulated. According to members of the LPC, the language of this initiative is much clearer on the subject of municipal regulatory authority than the existing statutes governing medical marijuana facilities.

Opposed. The next highest plurality vote – 36% of voting LPC members – was to oppose the initiative for a wide array of reasons, including the belief that the legalization experiment, most notably in Colorado, has failed, and that as a matter of public policy, the state should not be legalizing something that is illegal at the federal level. Concerns were also expressed about the message legalization would send to Maine's young people, and whether legalization should go forward before the state's driving-under-the-influence laws are amended for marijuana-related impairment.

Support. About 18% of the Policy

*(continued on page 8)*

# 4 Key Elements of Equitable Current Use Programs

Two weeks ago, the Legislative Bulletin included an article regarding changes taking place in New Jersey with respect to that state's approach to the property tax exemption for certain "charitable" institutions. On a somewhat related note, the Lincoln Institute of Land Policy recently published a results of a nationwide study entitled *Use-Value Assessment of Rural Lands—Time for Reform?*<sup>1</sup> The report, co-authored by John Anderson and Richard England, provides an evaluation of the effectiveness of "current use" farmland tax policies adopted in states across the country. Current use policies allow certain types of properties, traditionally farmland, forestland and open space, to be taxed on the basis of how the property is used, rather than on its "best and highest" use. For example, assessing and taxing a hay field abutting a shopping mall as farmland rather than developable commercial property.

The resulting effect of current use programs is the creation of lower property tax exposure for the qualifying landowners and an incrementally increased property tax exposure for all other property owners.

While the current use benefits provided to qualifying landowners are designed to implement important public policy goals (e.g., protecting open space, sustaining the farming industry, and ensuring access to harvestable forestland, etc.), the Lincoln Institute study suggests it is not entirely clear if those shouldering the increased tax burdens are reaping the intended rewards.

**Lincoln Institute Report – Four Key Elements.** To that end and through the study of farmland current use policies adopted in several states, Maine to Oregon to Hawaii to Louisiana, the authors were able to pinpoint four elements key to the development of equitable current use policies. The key elements advanced by the study are focused on creating a nexus between the benefits provided to the property owner and the intended outcomes for the entire community, as well as building greater accountability into current use programs. Those four elements include: (1) eligibility standards; (2) land value

assessment methods based on facts; (3) establishment of penalties for program violations or withdrawal; and (4) focus on "greater good" end goals.

• *Eligibility Standards.* An effective and fair current use assessment program must include well defined eligibility standards. Those standards can include minimum acreage limits or income generation expectations. In addition, participants should be required to periodically reaffirm eligibility.

• *Factually Based Assessment Methodology.* The process for calculating the assessed value of the property must be based on an articulable and fair formula, rather than on arbitrary or biased methods. Reliance on assessment models, rather than providing reduced assessments on a case-by-case basis, helps to ensure that all property taxpayers are treated as fairly as possible.

• *Program Penalties.* Current use program beneficiaries must be held accountable for abiding by program rules. Failure to do so serves only to weaken the program and to shift additional burdens onto other fully assessed property owners. In addition, the penalties must present an actual deterrent, rather than being merely managed as a cost of doing businesses.

• *Achieving Stated Goals.* Finally, farmland current use programs must be designed to achieve goals that subsequently benefit all property taxpayers. The goals need to be articulated, recorded and periodically reviewed to ensure that the program is heading in the intended direction.

Maine's Farmland Current Use Program by Comparison. The Maine laws guiding the implementation of the constitutionally created farmland current use policy were originally enacted in 1971. After a few years of implementation, Maine Revenue Services' 1977 edition of the Municipal Valuation Return (MVR) reported that 62,806 acres of farmland were enrolled in the program. In the 2014 edition of the MVR, it is reported that 303,487 acres of farmland were enrolled. In nearly four decades, the acres of land enrolled in the farmland program has increased by 383%. Table 1 on page 6 shows the program's growth for selected

years between 1976 and 2014. According to U.S. Census, there are approximately one million acres of farmland in Maine.

Obviously, Maine's agricultural landowners find some value in the program. Furthermore, when comparing the elements of Maine's law with the key elements recommended in the Lincoln Institute's report, it appears that the policy has been built on a strong foundation. However, Maine's policy it is not without its cracks.

• *Maine's Eligibility Standards.* Maine law requires to program applicants meet both size and income generation standards. The parcel of land enrolled in the program must contain at least five contiguous acres. "Gross income" of at least \$2,000 per year from sales of agricultural products must be generated in either one of the two or three of the five calendar years from date of admittance into the program. The law further provides that "gross income" includes the value of agricultural products grown for home consumption, which is a practically unenforceable standard. As a condition of ongoing eligibility, participants in the program must file a statement of the "gross income" every five years.

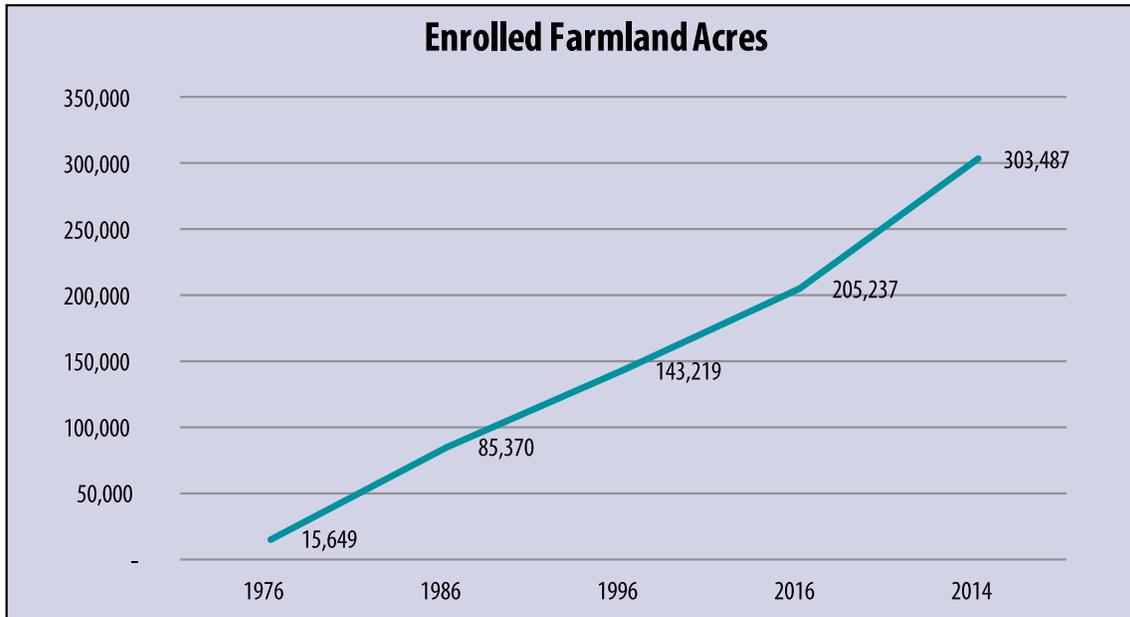
According to the data provided in the Lincoln Institute's study, Maine is among the twenty states that have adopted minimum acreage standards. The minimum acreage requirements presented in the report ranged from a low of three acres in Louisiana and Maryland to a high of 160 acres in Montana. Maine's low-end 5 acre minimum mirrors that required in Massachusetts and Rhode Island. However, Maine's standard is low when compared to New Hampshire's 10-acre minimum and Vermont's 25-acre minimum.

The fact that Maine's eligibility standard includes an "agricultural products sale requirement" is also flagged in the Lincoln Institute's report. Maine joins Rhode Island and Massachusetts on the list of states with sales requirement. In Rhode Island the expectation is at least \$2,500 of farm income during one of the last two years. In Massachusetts, program participants must generate at least \$500 of farming related income each year.

*Maine's Assessment Practices.* Maine  
(continued on page 6)

<sup>1</sup> Anderson, John E. and Richard W. England. 2015. *Use-Value Assessment of Rural Lands – Time for Reform.* Cambridge, MA: Lincoln Institute of Land Policy.

**Table 1: Growth in Farmland Program Enrollment  
Select Years (1976-2014)**



Source: Maine Revenue Services – Municipal Valuation Return Reports

**Table 2: Guidelines & Ranges of Agricultural Valuation**

| Land Classification        | Per Acre Recommended Assessment | Per Acre Range of Assessment |         |
|----------------------------|---------------------------------|------------------------------|---------|
|                            |                                 | Low                          | High    |
| Pastureland                | \$325                           | \$100                        | \$525   |
| Cropland                   | \$400                           | \$150                        | \$60    |
| Blueberry                  | \$400                           | \$200                        | \$800   |
| Horticultural - Edible     | \$450                           | \$350                        | \$650   |
| Horticultural - Ornamental | \$550                           | \$425                        | \$850   |
| Orchard - Full Size        | \$450                           | \$350                        | \$800   |
| Orchard - Dwarf            | \$650                           | \$450                        | \$1,150 |

Source: Maine Revenue Services – Farmland Tax Law Bulletin No. 20

farmland current use values are assessed by type of land (e.g., pastureland, cropland, blueberry, edible and ornamental horticulture and orchard etc.) according to the guidelines developed by the Department of Agriculture, Conservation and Forestry and the Maine Revenue Services. While the state guidelines establish a per acre rate, local assessors are authorized to make the necessary adjustments to those

rates to reflect regional differences. Table 2 above compares the statewide per acre rates in each category with their low and high ranges.

The Lincoln Institute study appears to prefer a strict income-approach to value to justify assessment schedules, so Maine’s flexible land value based methodology might be subject to criticism on that score. However, in a state with great regional

variation in both agricultural crops and soil suitability, the generation of accurate and regionally sensitive income-based models would be a daunting task

*Maine’s Program Penalties.* The penalty for withdrawing from the Maine’s farmland program is the amount of taxes that would have been paid over the past five years, plus interest. The value of the

*(continued on page 7)*

## School Funding (cont'd)

• The recent history of the state-local school funding process, since the Essential Programs and Services school funding system was implemented in 2005, shows a steady and alarming increase in the required local mill rate to support K-12 education. The required local mill rate “expectation” of 8.44 mills, which is now projected for the upcoming school year, will set a new record. The 10 year history of that mill rate escalation is as follows:

| Fiscal Year      | Mill Rate Expectation |
|------------------|-----------------------|
| 2007             | 7.60                  |
| 2008             | 7.44                  |
| 2009             | 6.79                  |
| 2010             | 6.69                  |
| 2011             | 6.96                  |
| 2012             | 7.50                  |
| 2013             | 7.80                  |
| 2014             | 7.86                  |
| 2015             | 8.10                  |
| 2016             | 8.23                  |
| 2017 (projected) | 8.44                  |

• In 2004, the voters of Maine directed the Legislature to provide necessary funding to cover 55% of the cost of K-12 education. The Legislature has never honored that directive. For the current year, the state share of the cost of K-12 education is 47.54%. If the state contribution for the 2016-2017 school year remains flat-funded from the previous school year, and the total “EPS allocation” grows incrementally, the state share of K-12 education will go in the wrong direction.

Even in the absence of a supplemental state budget, Maine’s lawmakers are going to be enacting their spending priorities over the next several weeks, probably in a piecemeal fashion. Municipal officials concerned that the appropriation for the state share of K-12 education will be completely flat-funded from the previous year should be contacting their legislators immediately and urging them to place school funding in the short list of spending priorities that should be considered in 2016.

## Polling Intimidation (cont'd)

appropriate influence while at the same time preserving the polling place function as a public place of open political expression. He placed LD 1574 in that continuum of evolutionary adjustment, in response to the new activity initiated last November. It was his observation that with a potentially record-breaking election turnout coming up next November, with almost a half-dozen petitions potentially on the table for voters’ signatures, the activity is likely to escalate...potentially to the point where people, as a counter measure, could start video-recording the people video-recording the voters. LD 1574 was introduced so that the laws could get in front of the activity and manage it with some uniformity.

Secretary Dunlap and Deputy Secretary Flynn concurred. They described the proposal as reasonable and modest in nature and addressed potential arguments that might be offered in opposition. The Secretary’s Office, for example, does not believe the act of video-recording a person’s polling place activities rises to the level of “protected political speech,” but even with that, LD 1574 merely manages the activity without prohibiting it, by establishing a uniform standard to ensure order and non-interference within the voting area. The potential argument that video-recording signature gathering efforts was necessary to ensure the integrity of the process was also discounted.

In a nearly unanimous vote, MMA’s 70-member Legislative Policy Committee also endorsed LD 1574. If anything, the municipal officials guiding the Association’s legislative policy positions might support an even stronger measure in the belief that no voter should be made to feel embarrassed or overtly scrutinized or uncomfortable merely for exercising their right to publicly participate in the election process. Although it is true that voters could choose to vote by absentee ballot if the atmosphere in the polling places becomes too intimidating, that should never be the case. Because LD 1574 puts some express authority into statute to manage this newfound activity, it gained the strong support of the municipal community.

## Current Use Programs (cont'd)

“discounted” taxes paid over that five-year period is subtracted from the total due to the municipality.

Simply requiring a property owner to pay the taxes that would have otherwise been assessed is difficult to perceive as a “penalty.” The soft penalty seems to enable farmland owners, if they are so inclined, to hedge their bets and defer payment of a substantial portion of taxes until ready to sell or develop the property. However, according to the information published in the Lincoln Institute’s report, punishment by payment of back taxes is a nationwide norm. Twenty-five states across the country require the payment of back taxes as a condition of withdrawal, whether the decision to leave the program is by choice or the result of a program violation. The number of years for which back taxes are owed range from three to ten, with five years of owed back taxes being most popular among the states featured in the report.

*Maine’s Goal Achievement.* The ability to show that Maine farms are prospering and that valuable agricultural land is being preserved is difficult to determine. The inability to easily demonstrate that the current use program is achieving established goals points to a significant shortfall in Maine’s program.

On paper, Maine’s farmland current use policy includes the assessment practices, penalties and eligibility criteria identified as essential in the Lincoln Institute’s report. However, absent a periodic review of the program and outcomes, it is difficult to determine whether the program is working. Are the eligibility standards restrictive enough to ensure that only those truly interested in farming are provided the tax assessment benefit? Are the penalties enough of a deterrent to make potential applicants give serious thought to enrolling? Is the assessment methodology appropriate and fair?

These are all important questions that should be posed and answered on a regular basis. As is the case with the property tax exemption for “charitable” corporations, good public policy requires ongoing assessment and maintenance of current use programs to ensure that all property taxpayers are being treated equitably.

## LEGISLATIVE HEARINGS

*Note: You should check your newspapers for Legal Notices as there may be changes in the hearing schedule. For the Legislative Events Calendar, see the Legislature's web site at <http://www.mainelegislature.org/legis/calendar/>. If you wish to look up schedules by Committee, go to <http://www.mainelegislature.org/legis/bills/phwkSched.html>.*

### ***Monday, February 15 - Holiday***

### ***Wednesday, February 17***

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

LD 1578 – An Act To Update Maine's Solid Waste Management Laws.

### ***Thursday, February 18***

**Judiciary  
Room 438, State House, 2:00 p.m.  
Tel: 287-1327**

LD 1488 – An Act To Establish the Law Enforcement Assisted Diversion Program in Maine.

## ***Marijuana (cont'd)***

Committee members who voted on this question suggested MMA support the initiative, advancing several arguments and observations.

- Previous approaches to the use of marijuana, spanning at least 70 years, have not worked.
- Marijuana use appears less damaging than alcohol use, from the menace-to-society perspective.
- The tax resources generated through legalization would not be insignificant.
- And, the implementation of medical marijuana has demonstrated a beneficial side to the substance and relaxed worries about its potential dangers.