

# Tax Committee Takes Revenue Sharing Issue Head On

**Majority: Soften the revenue sharing cut in the supplemental; Send a message re FY 2012  
Minority: No cuts to revenue sharing, but delay key element of income tax “conformity”**

On Tuesday this week the Taxation Committee held a work session on the tax-related elements of LD 100. LD 100 is the supplemental state budget submitted by Governor LePage that sweeps up \$111 million of unanticipated state revenue coming in this fiscal year, packages it with about \$14 million in additional General Fund savings, and appropriates those resources for various programs, the largest being a \$70 million reimbursement payment from the General Fund to Maine’s hospitals.

The municipal concern with LD 100 is the way it treats the municipal revenue sharing program. The details have been provided in the January 14<sup>th</sup> and January 21<sup>st</sup> *Legislative Bulletins*.

In summary, when the last supplemental state budget was enacted in March 2010, revenue analysts predicted that \$125.86 million would be available for municipal revenue sharing for this fiscal year (FY 2011). That figure represents 5% of the sales and income tax revenue accruing to the state, which according to a law that has been in place for decades is dedicated to property tax relief through the municipal revenue sharing program. At that time, the Legislature decided to take \$35.27 million of that amount (28%) to balance the state budget. Euphemistically called a “transfer” in budgetary parlance, raiding the municipal revenue sharing program is much more than that as far as municipal officials are concerned. It breaks trust with respect to a very important state-local agreement, it increases Maine’s property taxes and it runs contrary to a

long-established public policy regarding Maine’s tax structure and an over-reliance on the property tax.

It is important to remember that when the Legislature cut revenue sharing last year, in response to a specific request from the municipal community, a fixed amount of revenue sharing resources were given over to the state budget without otherwise changing the program. The \$35 million taken by the state was a fixed amount and guaranteed. The remaining \$90 million that was then projected for municipal revenue sharing was subject to the whims of the economy. If the economy became worse during the remainder of 2010, the municipal distribution would be less than \$90 million. If the economy improved, however, the revenue sharing distribution would improve. That was the agreement.

LD 100 breaks that agreement.

It turns out the economy did improve, at least a little, and revenue forecasters believe that about \$75 million more in state sales and income taxes will accrue to the state than initially forecasted. This boost in state revenue would add \$3.88 million more to the municipal revenue sharing distribution. LD 100 grabs that \$3.88 million for state budgeting purposes. In fact, if the economy performs even better than anticipated by the most recent revenue forecast so more than \$3.88 million would accrue to the revenue sharing account, LD 100 would sweep up those additional resources as well in order to support the state budget.

In fact, LD 100 is so effective in cap-

turing these new revenues, an additional \$1.1 million to the state’s rainy day fund (now called the Budget Stabilization Fund) becomes available for future state needs. Boosting the state’s rainy day fund by \$1.1 million at this point in time wouldn’t be possible, obviously, if LD 100 didn’t sweep out the municipal revenue sharing account.

Before developing its recommendation on revenue sharing, the Tax Committee reviewed the other substantive tax-related issue in LD 100, which is achieving complete “conformity” with the federal income tax code. The conformity issue is especially front-and-center as the federal code has been recently changed by three recent acts of Congress (*Small Business Jobs Act of 2010*, the health care reform legislation known as the *Patient Protection and Affordable Care Act*, and what is referred to as the final federal “stimulus” bill, the *Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010*). Creating conformity with various changes to the IRS code in those three laws will provide \$4.5 million in state-level income tax relief for Mainer’s this fiscal year. That creates a \$4.5 million hole in the state budget. It could be fairly argued that LD 100 helps fills that hole by moving revenue from the municipal revenue sharing program into the state budget.

**Tax Committee Discussion.** The job of the Taxation Committee is to review the elements of LD 100 that fall within its

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## Revenue Sharing (cont'd)

jurisdiction and make recommendations back to the Appropriations Committee, either to support the proposed changes or reject them. If a recommendation of the Tax panel creates a hole in the state budget, Committee members are expected to recommend how to fill that hole by making other changes in the programs over which it has jurisdiction. Last year, when the budget proposal was to take \$35 million out of municipal revenue sharing, the Taxation Committee rejected the proposal but couldn't come close to filling a hole of that magnitude even by shutting down all of Maine Revenue Services. At that time, the recommendation of the Democrats on the panel was to fill the hole by eliminating selected business-incentive tax breaks and the recommendation of the Republicans was to fill the hole by laying off \$35 million worth of state employees. Neither recommendation went very far, and the revenue sharing cut of \$35 million was enacted. Looking back to last year, it seemed as if much about that supplemental budget was a foregone conclusion. From the outside, at least, it looked as though everyone involved was just going through the motions, reading from scripts, adopting certain positions on cue.

Time will tell, but it seems different this year. Tuesday's revenue sharing discussion by Taxation Committee members – freshmen and veteran lawmakers alike – appeared genuine, thoughtful, respectful and authentic.

Rep. Bruce Bickford (Auburn) started the discussion and set the tone of the Committee's debate. He declared that he could only support the way LD 100 further takes from the revenue sharing program if that

cut truly represents the end of the line and a very strong message is sent out by the Taxation Committee that revenue sharing must be left to operate as it is designed going into the next biennium, without any cuts or raids in FY 2012.

Rep. Seth Berry (Bowdoinham) agreed with the sentiment, but didn't think that strong messages from the Taxation Committee would necessarily impact future legislative decision-making. No matter how genuinely felt or forcefully expressed, strong messages provide no guarantee.

Rep. Paul Bennett (Kennebunk) pointed out that the municipal revenue sharing program is designed to recognize the stake that municipalities have in the economy by creating a direct connection, but the recognition and connection are shattered when the Legislature raids or negatively manipulates the program.

The Committee's Senate Chair, David Trahan (Lincoln Cty.), said that even though the latest tweak to the revenue sharing program in LD 100 did not have a huge financial impact (\$3.85 million), especially compared to the legislative raid of last year (over \$35 million), he believed the Legislature should allow the program to operate as it was designed by rejecting the additional cut in LD 100. For one thing, Sen. Trahan said that lawmakers could hardly boast about giving taxpayers \$4.5 million in income tax relief by creating "full conformity" with the federal tax code if, at the same time, nearly \$4 million was being sucked out of the property tax relief program. He also pointed out that if it wasn't for the proposed cut to revenue sharing, the state's Budget Stabilization Fund would not be enjoying a \$1.1 million increase.

Rep. David Burns (Alfred) said that the raids of the revenue sharing program were becoming an annual legislative ritual, as though lawmakers have forgotten that Maine's property taxpayers are picking up that tab.

Rep. Elsie Flemings (Bar Harbor) agreed with the general position of all previous speakers, but was searching for a clean way of covering the \$3.88 million hole in the budget created by Committee's rejection of the revenue sharing cut.

Rep. Ryan Harmon (Palermo) suggested that cutting back on state spending might be an option, and indicated that

establishing a trust-based relationship between the state and all the entities to which the state makes commitments, including the towns in his district, is one of his priorities.

The Committee's House Chair, Gary Knight (Livermore Falls), agreed with the call not to further cut the revenue sharing program, indicating that he has voted against the state budgets for several years primarily because of the way they shifted financial obligations to the local level.

Sen. Dick Woodbury (Cumberland Cty.) identified the state's practice of establishing financial commitments as a broad underlying issue that needs to be addressed. The practice of the Legislature to make commitments to the schools, state employees, school teachers, municipalities, hospitals, etc. has led to a significant overextension of state financial capacity.

At the end of Tuesday's discussion, the Tax Committee members voted unanimously to reject the proposed cut to revenue sharing in LD 100. As was the case last year, there was a party line split over how to fill the \$3.88 million hole that recommendation would create in the budget.

The Republicans voted to fill the hole with revenue in the Budget Stabilization Fund, noting that the rainy day fund has grown in size during times of deep cuts to municipal revenue sharing.

The Democrats agreed that the \$1.1 million increase to the Budget Stabilization found in LD 100 should be applied, instead, to municipal revenue sharing, but they did not want to tap any deeper into the state's rainy day fund. Instead, they voted to not go along with one of the two-dozen provisions in the income tax conformity package they were reviewing. That provision removes certain limits on the degree to which income tax filers can itemize deductions. A delay on this element of conformity would primarily impact taxpayers with incomes at or above \$170,000. If "conformity" on that issue is delayed a year, the state budget would have the revenue necessary to leave the revenue sharing program alone.

Sen. Woodbury, an Independent, took an independent approach. His fill-the-hole recommendation to the Appropriations Committee was to explain that the "hole" is in itself a phantom. His message from

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## LEGISLATIVE HEARINGS

### *Monday, February 7*

**Criminal Justice & Public Safety**  
**Rm. 436, State House, 10:00 a.m.**  
**Tel: 287-1122**

LD 83 – An Act To Legalize the Sale, Possession and Use of Fireworks.

LD 123 – An Act To Assist Seasonal Entertainment Facilities with Public Safety Requirements.

LD 124 – An Act To Eliminate Certain Restrictions on the Installation of Chimneys and Equipment.

LD 264 – An Act Regarding Residential Chimney Lining.

**State & Local Government**  
**Room 216, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-1330**

LD 86 – An Act To Provide Certainty to Business and Development.

### *Tuesday, February 8*

**Transportation**  
**Room 126, State House, 1:00 p.m.**  
**Tel: 287-4148**

LD 96 – An Act To Reduce Noise and Emissions Associated with Trains.

### *Wednesday, February 9*

**Labor, Commerce, Research & Economic Development**  
**Room 220, Cross State Office Building, 10:00 a.m.**  
**Tel: 287-1333**

LD 136 – An Act To Amend the Unemployment Compensation Law Regarding Denial of Benefits for Refusing To Accept Work.

**State & Local Government**  
**Room 216, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-1330**

LD 69 – An Act To Restore the Historical Boundary between Harpswell and Brunswick

### *Thursday, February 10*

**Agriculture, Conservation & Forestry**  
**Room 206, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-1312**

LD 89 – An Act Regarding Repeated Animal Trespass.

LD 99 – An Act To Allow the Use of Public Funds for the Repair and Maintenance of Private Roads and Bridges and To Ensure Public Access to the Seboomook Lake Region.

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

LD 84 – An Act To Improve the Sewer District Rate Collection Procedures.

### *Friday, February 11*

**Criminal Justice & Public Safety**  
**Rm. 436, State House, 10:00 a.m.**  
**Tel: 287-1122**

LD 91 – An Act Relating to Disorderly Conduct in the Vicinity of a Funeral.

## IN THE HOPPER

### **Education & Cultural Affairs**

LD 236 – An Act To Require High School Students To Register To Vote as a Requirement for Graduation. (Sponsored by Rep. Bolduc of Auburn.)

This bill requires all high school students to register to vote as a condition of graduation.

LD 250 – An Act To Permit Tuition Subsidies by Municipalities. (Sponsored by Rep. Volk of Scarborough; additional cosponsors.)

This bill allows municipalities to provide subsidies from their general funds as reimbursement to parents of school children going to private schools that are precluded from receiving tuition funding from the state, such as schools with a religious orientation.

### **Environment & Natural Resources**

LD 219 – An Act To Amend the Laws Governing Shoreland Zoning. (Sponsored by Sen. Snowe-Mello of Androscoggin; additional cosponsors.)

This bill reduces the width of land that is subject to the shoreland zoning land use controls from 250 feet to 75 from the high water line or upland edge of any body of water, river or wetland. The legislation would not affect any existing municipal ordinances, except for allowing those ordinances to be amended accordingly.

LD 245 – An Act To Amend the Laws Governing Waste Processing. (Sponsored by Rep. Celli of Brewer; additional cosponsor.)

This bill requires all licensed solid waste disposal facilities in the state to accept only solid waste generated in the state. The bill also clarifies that waste initially generated outside the state and only transported to a location within the state prior to being transported for disposal is not waste generated within the state.

LD 261 – An Act To Eliminate Combined Sewer Overflows in Maine Waters. (Emergency) (Sponsored by Rep. Olsen of Phippsburg;

additional cosponsors.)

This bill prohibits the Department of Environmental Protection from licensing any combined sewer overflow systems.

LD 281 – An Act To Create a 5-year Statute of Limitations for Environmental Violations. (Sponsored by Sen. Snowe-Mello of Androscoggin Cty; additional cosponsors.)

This bill requires enforcement actions for violations of environmental laws to be brought by the Department of Environmental Protection or the Attorney General within 5 years of the date of the violation.

### **Health & Human Services**

LD 258 – An Act Relating to Vital Records. (Sponsored by Rep. Sanderson of Chelsea; additional cosponsors.)

A law was enacted during the last legislative session that restricted general access to certain vital records (e.g., birth, marriage and death certificates) unless the person requesting the record was a spouse, domestic partner, descendent, parent, geneologist or lawyer for the person who was the subject of the record, or the records were over 100 years old. This bill significantly loosens those restrictions.

### **Inland Fisheries & Wildlife**

LD 289 – An Act To Amend the Laws Governing Municipal Recreational Vehicle Registration Agent Fees. (Sponsored by Rep. Casavant of Biddeford; additional cosponsors.)

This bill increases the watercraft, snowmobile and ATV registration service fees that are collected by the registering municipalities from \$1 to \$3 for renewals and from \$2 to \$4 for initial registrations.

### **Judiciary**

LD 115 – An Act To Amend the Laws Governing Child Support

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## Revenue Sharing (cont'd)

the Taxation Committee would be that there is not as much tax revenue to fund the supplemental state spending as originally understood because the revenue sharing resources have been previously dedicated to property tax relief.

**Thursday's decision.** Two days later, on Thursday this week, the landscape had somewhat changed. Taxation Committee members had heard from some members of the Appropriations Committee that buying down the revenue sharing piece with the Budget Stabilization Fund was unacceptable. After a certain amount of back-room caucusing, the final recommendation from the majority Republicans on the Tax Committee, with Senator Woodbury joining, was as follows:

Reduce the scope of the proposed additional cut municipal revenue sharing by \$1.1 million, from \$3.875 million to \$2.775 million; and

Eliminate the "sweep provision" in LD 100, which would capture any unanticipated, unprojected increases that may accrue to the revenue sharing system and divert them to the state budget.

As a minority report, the Democrats on the Taxation Committee are sticking with their recommendation from earlier in the week. That recommendation would completely restore the revenue sharing program to its pre-LD 100 status. In order to finance that restoration, the Democrat's proposal would block the \$1.1 million transfer to the Budget Stabilization Fund and not go along with the element of income tax "conformity"

that removes certain limits on the degree to which income tax filers can itemize deductions. In response to the minority report, the Republicans appear adamant that it's full conformity or bust.

The issue is now entirely in the lap of the Appropriations Committee, which is scheduled to be reporting out its supplemental budget recommendation to the full Legislature within the next few days.

## IN THE HOPPER (cont'd)

Enforcement. (Sponsored by Rep. Casavant of Biddeford; additional cosponsors.)

This bill establishes that child support orders, liens or attachments, etc., have priority over any other order, lien or attachment, including municipal tax liens.

### Taxation

LD 229 – An Act To Protect Homeowners Concerning Property Liens. (Sponsored by Rep. Casavant of Biddeford; additional cosponsors.)

This bill requires the municipal treasurer to notify by certified mail any delinquent property taxpayer who has a tax lien on his or her property whenever a third party pays any portion of the tax, interest or costs during the time the lien is on the property.

LD 238 – An Act To Limit the Vehicle Excise Tax Exemption Provided to Benevolent and Charitable Institutions and To Repeal the Exemption Provided to Literary and Scientific Institutions. (Sponsored by Rep. Celli of Brewer; additional cosponsor.)

This bill repeals the excise tax exemption provided to the motor vehicles owned by "literary and scientific institutions". This bill also limits the motor vehicle excise tax exemption provided to "charitable" corporations to just those vehicles that are used solely for the institution's purposes and primarily for transporting or delivering tangible goods to persons who are eligible to receive charitable services.

LD 297 – An Act To Allow Treasurers To Process Tax Lien Discharge and Sanitary District Sewer Lien Documents Using Facsimile Signatures. (Sponsored by Rep. Casavant of Biddeford; additional cosponsors.)

This bill allows municipal treasurers and sanitary district and sewer department treasurers to use facsimile signatures in filing and processing tax lien documents and the lien documentation necessary to process sanitary district and sewer department liens.

LD 305 – Resolution, Proposing an Amendment to the constitution of Maine To Allow Land and Buildings To Be Assessed Differently. (Sponsored by Rep. Chipman of Portland; additional cosponsors.)

This resolution sends out to the voters a proposed amendment to Maine's Constitution that would change the provision that requires all real and personal property to be "apportioned and assessed" equally, according to its "just value". The amendment would continue to apply the "just value" standard for all taxable property, but it would authorize land to be taxed at a different rate than buildings.

### Transportation

LD 288 – An Act To Amend the Laws Governing Municipal Motor Vehicle Registration and License Agent Fees. (Sponsored by Rep. Casavant of Biddeford; additional cosponsors.)

This bill increases the component of motor vehicle registration fees that are retained by the registering municipality from \$3 to \$5 for renewal registrations and from \$4 to \$6 for initial registrations.