

## The Core Municipal Elements of the U.S. House's Stimulus Bill

Last week the U.S. House of Representatives enacted its version of the economic stimulus bill as HR 1, *American Recovery and Reinvestment Act of 2009*. The U.S. Senate is developing and voting on its version this week, and ultimately the two versions will have to be reconciled by a committee of conference before final enactment.

The purpose of this article is to describe the core municipal compo-

nents of the House version so that local government officials can get a sense of the scope and structure of the stimulus resources that may be available for their communities. It is very likely that the dollar values and some of the qualifying standards will change before final enactment. Don't get hung up on the details. The purpose of this article is to merely provide a beginning framework for planning purposes.

The chart below provides the gross federal appropriations, Maine's share of those appropriations, and the distribution schedule for some of the stimulus categories that bear most directly on local government. The remaining part of this article describes some of the qualifying or distributional standards as articulated in HR 1.

**Highways/Bridges.** Among many

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Program	House Appropriation	Distribution Schedule	Maine Share
Highways/Bridges	\$30 Billion	ASAP	\$138.7 million
Transit Capital Assistance Grants	\$12 Billion	ASAP	\$13.7 million
Clean Water State Revolving Fund	\$6 Billion	ASAP	\$45 million
Drinking Water State Revolving Fund	\$2 Billion	ASAP	\$19.3 million
CDBG (Regular program)	\$1 Billion	Awarded over next 18 months	\$4-\$5 million
Community Development: Neighborhood Stabilization	\$4.2 Billion	See program description (below)	\$19.6 million
Weatherization	\$6.2 Billion	In 2009	\$70 million
Energy Efficiency Block Grant	\$3.5 Billion	As grants are approved	Unknown
LIHEAP	\$1 Billion	Supplements 2009 distribution	\$13 million
<b>Education:</b>			
Title I	\$13 Billion	Split 50% July 2009 50% July 2010	\$48.7 million
Special Ed	\$13 Billion	Split \$6 b. July 2009 \$7 b. July 2010	\$60 million
School Retrofit	\$14 Billion	Committed by the schools over the biennium	\$75 million (\$52 million for K-12)
<b>State Fiscal Stabilization:</b>			
Stabilization: Education	\$79 Billion	Split over biennium	\$158 million
Stabilization: Non-Education		Split over biennium	\$101 million

## STIMULUS (cont'd)

other provisions and confusing cross references to other federal laws, the language regarding this appropriation requires 45% of the distribution to be "suballocated" by the receiving state to local governments and that the state's selection process must give priority to road or bridge projects that: (1) can award contracts within 90 days of the Act's effective date; (2) are part of a Statewide Transportation Impact Project; (3) are projected for completion within 3 years; and (4) are located in economically distressed areas. The Act also provides that the federal share can be 100% of the total project cost. There are a number of provisions governing how the appropriation must be redistributed to other states if less than 50% of the funds are not obligated within 90 days of the Act's effective date.

**Transit.** The appropriation for Transit Capital Assistance Grants is divided into an urban and rural category for each state. About \$6 million of Maine's total transit appropriation is generated by the rural formula, and \$7.7 million is generated by the urban formula. It is our understanding that the urban side of the appropriation will be potentially available to the state's four municipal bus systems (Greater Portland, South Portland, Lewiston and Bangor) as well as the Casco Bay Ferry. The rural side of the transit funds will be primarily available to all other ferry systems and to help purchase the smaller-scale busses that help people in the more rural areas of the state get to their medical appointments and social service agencies, etc.

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### Wastewater/Drinking Water.

Both wastewater and drinking water revolving loan appropriations include language that requires the recipient states to use 50% of the capitalization grant to provide assistance in the form of special subsidization. This special subsidization includes forgiveness of principal, negative interest loans, and straight-out grants to municipalities for projects that are included on the state's priority list. With respect to the wastewater facilities, 80% of those special assistance funds must be used for projects that benefit municipalities that meet affordability criteria and 20% for projects that are designed to meet either water or energy efficiency goals, mitigate stormwater runoff or are otherwise environmentally sensitive.

**CDBG - Regular Program.** These additional CDBG funds are appropriated to supplement the standard federal appropriation for the CDBG program, with the provision that priority is to be given to CDBG projects that can award contracts within 120 days from the date the funds are made available to the state. It appears, therefore, that the supplemental funds would be available to support the full slate of CDBG programs, such as housing assistance and home repair, public facilities and infrastructure (including wastewater treatment infrastructure), downtown revitalization, etc. According to the Maine Department of Economic and Community Development, the supplemental funds, if finally approved, would probably be used to address an existing backlog of municipal applications (for infrastructure) and pre-applications (for housing) that DECD has been unable to fund with existing appropriations. HR 1 provides that the recipient states do not have to develop an additional action plan and that the Secretary of Housing and Urban Development can waive any bureaucratic provision of statute or regulation in order to facilitate the timely implementation of the CDBG projects.

**CDBG - Neighborhood Stabilization.** "Neighborhood stabilization" is newly-created program by Congress in response to the home foreclosure problem that has reached extreme levels in some regions of the nation. Because

Maine is not experiencing an extreme home foreclosure problem, Maine's share of this appropriation is the minimum possible allocation of \$19.6 million. In preparation for this appropriation, the Maine Department of Economic and Community Development submitted a plan to the federal government on how those resources would be distributed and used. The plan is found on the DECD website. The thrust of this program is to acquire and rehabilitate foreclosed and abandoned properties and otherwise assist in those properties being transitioned back into new ownership. As a result of certain data analysis, the plan identifies approximately 20 municipalities, primarily in York, Cumberland, Androscoggin, Kennebec and Penobscot counties (largely in the so-called "entitlement community" regions) that are experiencing a disproportionate amount of property foreclosures.

**Weatherization.** This appropriation would be distributed and implemented in the same manner as existing weatherization funds; that is, through the state's Communication Action Program (CAP) agencies under the oversight of the Maine State Housing Authority. The program is primarily targeted to weatherizing the homes of lower-income residents who qualify for federal LIHEAP benefits.

**Energy Efficiency Block Grant.** This appropriation supplements previous appropriations to the Energy Efficiency Block Grant program created by Congress in 2007. The federal law that governs this program provides that eligible recipients of these grants are either a state, an Indian tribe, or one of the ten most populated cities in each state. These "eligible entities" may be provided federal grants to reduce fossil fuel emissions within their jurisdiction, reduce the total energy use, or improve energy efficiency in the transportation or business sector. 68% of all available grant funding is to be provided to local governments, 28% to the state governments, 2% to the Indian tribes and 2% to a competitive grant system. The funds provided under this program can be used for a very long list

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## **STIMULUS (cont'd)**

of energy conservation purposes including: (1) the development and implementation of an energy efficiency strategy; (2) conducting energy audits; (3) establishing financial incentives for energy efficiency improvements; (4) providing grants to non-profit organizations and governmental agencies to implement energy efficiency retrofits; (5) developing and implementing energy efficiency and conservation programs for buildings and facilities within the jurisdiction; (6) developing and implementing transportation efficiency programs; (7) replacing traffic signals and street lights with energy efficient systems; (8) installing alternative energy systems in governmental buildings, etc. The federal program appears to further require a state that receives a grant to sub-allocate 60% of the grant to local governments in the state that are not eligible to receive direct grants from the federal government, so some of these resources may also become available to municipalities that are not among the state's most populated.

**LIHEAP.** This appropriation is designed to supplement the standard LIHEAP appropriation for Maine, which typically allows for the distribution of about \$25 million in fuel assistance benefits to low income households (not counting the release of any emergency funds).

**Education - Title I.** This appropriation appears to be largely a pass-through directly to the school systems for the purpose of supplementing the federally-funded programs that provide enhanced services to economically disadvantaged students in the public school systems. "Title I" programs tend to be concentrated in the elementary and K-8 grade levels, and the nature of the enhanced educational programs often involves increases in teaching and support staff.

**Education - Special Education.** This appropriation is similar to the Title I appropriation in that it appears to be structured as a pass-through to the school systems to supplement their existing special education programs.

**School Retrofit.** The appropriation of \$14 billion for school modernization, renovation and repair is attached to the longest and most detailed distribution language in the entire stimulus bill. In fact, the appropriation essentially funds a new federal program called the "21st Century Green High-Performing Public School Facilities". The purpose of this new program is to provide grants to modernize, renovate and repair the nation's existing school systems. The gross allocation to the state is calculated on the basis of how certain federal educational funds were distributed to the states in (federal) FY 08. The state can keep 1% of the allocation for certain administrative tasks. The remainder is suballocated to the local school systems within 60 days of the effective date of the Act. The local school systems are required to bind 50% of the grant funds they are provided by contract or commitment within the first year of receiving them, and the remaining 50% of the grant funds must be committed within the second year. The grant funds can be used to repair or replace roofs, wiring, plumbing, sewage systems, lighting, heating or air conditioning systems, asbestos or PCB removal, mold control, all forms of code compliance (ADA, life safety, etc.), etc. The grant funds can also be used for laboratory and library renovations, educational technology upgrades, or renewable energy installations. The grant funds may not be used for regular maintenance costs, stadiums or athletic facilities, or to replace funding the schools would otherwise receive for these purposes.

**State Fiscal Stabilization.** In addition to stimulus funds for special education, the Title I programs and extensive school renovation, a general-support appropriation for public schools is provided under the "State Fiscal Stabilization Fund" category. This Fund is divided into two pots. Each governor is required to use at least 61% of the stabilization resources to support the K-12 public schools and higher education. Maine's share of the total Stabilization Fund category is \$259 million over a two-year period. 61% of that amount is \$158 million. Apparently,

approximately \$38 million of that sum would be dedicated to higher education and \$120 million over the next two-year period would be dedicated to increased K-12 school subsidy.

The general rule in the stimulus bill is to restore state support for public education to federal Fiscal Year 2008 level, which translated to the state's FY 2009 appropriation. The unanswered question is which FY 09 appropriation. The original FY 09 appropriation for General Purpose Aid to Local Schools was \$1.02 billion. In the spring of 2008, that was reduced by \$36 million to \$983.5 million. Through the governor's curtailment order in November 2008, as supported by the supplemental budget just enacted, the appropriation is now \$956.5 million.

The state's governors are allowed to use the remaining 39% of the Stabilization fund appropriation, amounting to \$100 million in Maine over the two-year period, for "public safety and other government services".

**Conclusion.** Hopefully this article provides some preliminary coherency to this massive piece of federal appropriation and gives municipal officials a heads-up as to the scope and nature of the resources that might become available in the very short term to stimulate economic activity in their communities.

It should be reiterated that the Senate version of the stimulus bill may be changing many of the details contained in this article, and the final reconciliation of the Senate version and the House version could create even more changes before final enactment.

In addition, there are dozens if not hundreds of elements of the massive legislation that have not been mentioned, including appropriations of smaller magnitude for the Community Oriented Policing Services program (COPS), watershed and flood protection programs, transportation security programs for ports, airports and bridges, public housing and Section 8 housing, significant additional federal support for the Medicaid program, significant changes to the federal tax code...the scope of the legislation is extraordinary.

Stay tuned for the final details.

# Ongoing Absentee Balloting Has Mandate Implications

On Wednesday of this week, the Legal and Veterans Affairs Committee held a public hearing on LD 150, *An Act to Allow Voters to Choose Ongoing Absentee Voter Status*. As proposed by Rep. Jon Hinck of Portland, the bill would allow voters to apply in writing to the municipal clerk for ongoing absentee balloting status.

All voters with the ongoing absentee balloting status would be automatically mailed a ballot for any state election. The ongoing absentee status could be terminated only if: 1) the voter made a request in writing to the clerk to terminate the status; 2) the voter died; 3) the voter canceled the registration record; 4) the voter was designated as inactive; or 5) the ballot was returned to the municipality as undeliverable. The bill as drafted does not cover municipal elections.

Several organizations, including representatives from the Secretary of State's office, Common Cause Maine, the Maine Civil Liberties Union and a handful of members of the public testified in support of the bill. The supporters of the bill generally felt that the legislation would help boost participation in statewide elections as well as assist voters unable to get to the polls, either due to a physical disability or work/family obligations, to continue to participate in the election process. Some proponents believe that this system could be particularly helpful in communities seeking to reduce the number of polling places.

Many of the proponents claimed that the process would actually save municipalities money because the clerks would no longer be required to process applications each time a voter wanted to cast a ballot through the existing election-by-election absentee process. Although these claims were made, no data were offered to illustrate the actual dollar savings at the local level.

The Maine Municipal Association was the only organization to testify

against the bill. The municipal objections to the bill are two-fold.

First, municipal officials believe the proposal falls on the towns and cities as an unfunded mandate. As provided in existing state statutes, a mandate is defined as a required modification of municipal activity – either by law or regulation — that requires the expenditure of revenue. By requiring municipalities to provide a new service to voters that will increase the cost of conducting elections, the bill is a mandate.

In addition to the cost of mailing a larger number of ballots and managing the new system, municipal officials believe there will be cost associated with undeliverable ballots, especially in more populated communities that have larger numbers of rental properties. Because renters are a more transient population, concerns are raised that a significant number of ballots would be returned to the clerk as undeliverable, which is a waste of money. Depending on the size of the ballot, the cost for mailing the absentee ballot can range from a low of \$0.42 to a high of \$0.59 for an election including candidate, referendum initiative and bond ballots.

One member of the Legal and Veterans Affairs Committee questioned MMA's mandate argument by suggesting that the proposed absentee process was discretionary on the part of the voter and that savings of some kind would be achieved, thereby netting out the fiscal impacts to the municipalities.

However, that is not how the mandate law was designed to work. Although voters under the terms of the bill would have the right to choose to seek ongoing absentee status, the provision of the service is mandatory for municipalities. In addition, whether or not aggregate net savings – including savings to the voters - will be achieved does not negate the fact that providing the new service will have a financial impact on municipalities. Because of those fiscal impacts on the prop-

erty taxpayers, MMA believes that the bill meets the definition of a state mandate.

MMA also opposed the legislation on a philosophical basis. The municipal community is a strong supporter of a democratic process that encourages people to gather to cast votes for local, state and national leaders or when deciding matters of significant consequence. Municipal officials are concerned that by providing ongoing absentee voter status the tradition of convening for the election process and casting a ballot at the polls on election day will continue to be eroded.

Linda Cohen, Portland City clerk, provided "neither for nor against" testimony on behalf of the Maine Town and City Clerks' Association's (MTCCA) Legislative Committee. LD 150 was a tough bill for the clerks, as they take the issue of elections and voter participation seriously. According to Ms. Cohen, a survey of the clerks showed opposition to the bill by a 2 to 1 margin. However, Ms. Cohen stated that participation in the survey was not overwhelming.

The clerks opposed to the bill raised concerns with the cost of the proposal. These clerks are concerned with the increases in the cost of postage, as well as the cost associated with managing the system in areas of the state where voters often move resulting in the increase in the number of undeliverable ballots.

The clerks supporting the bill believe that the paperwork associated with the current absentee ballot process would decrease, as would the number of telephone calls from voters requesting absentee ballots. In addition, Ms. Cohen pointed out that not all voters know when an election has been scheduled, and this process would help to get the word out.

The clerks on both sides of the issue agree that the bill needs to be amended. Rather than requiring communities to establish a stand-alone ongoing absentee voter list, the bill needs to explicitly state that the ongoing absentee distinction of a voter should be included on the state's existing centralized voter list.

The Committee will discuss LD 150 in a work session scheduled for Wednesday, February 11<sup>th</sup> at 1:00 p.m.

# Legislation To Preserve 'Dark Skies'

In last week's Legislative Bulletin you read about a bill designed to create a right to utilize sunny days for clotheslines, solar collectors and other energy purposes. This week's article is about a bill to preserve starry nights.

The Business Research and Economic Development Committee took testimony on LD 11, Resolve, to Encourage the Preservation of Dark Skies. The sponsor of the bill, Rep. Jim Schatz (Blue Hill), indicated that his goal was to have the State Planning Office design model rules governing outdoor lighting standards for new commercial developments. The problem Rep. Schatz hopes to solve is "light pollution." Light pollution, he explained, is where too much or poorly designed outdoor lighting floods the skies with artificial light, blocking people from looking up at night and seeing a starry sky. Rep. Schatz testified that starry nights contribute to Maine's quality of place and that preserving these starry nights with better design standards is a policy he believes municipalities will share and, with encouragement and assistance, will voluntarily adopt.

Following Rep. Schatz's testimony, was the State Planning Office (SPO) speaking in support of the bill. SPO's testimony contributed to a confusion that was first caused by some inconsistent wording in LD 11. The title of the bill and Rep. Schatz's testimony pointed to the development of model rules that will be available for municipalities to voluntarily adopt. However, the summary of the bill speaks of giving SPO the authority to adopt a single, statewide lighting standard for commercial property that would, presumably, replace all existing lighting standards (or at least those less stringent) that have been developed by municipalities over the past several decades. SPO's testimony seemed to strongly support the summary's interpretation of the Resolve which gives SPO the authority to replace municipal lighting standards with standards developed by SPO.

Next in support of the bill was a resident of Portland, Marsha Sheils, who

is the volunteer Section Leader of an organization called the International Dark Sky Association. As the name would suggest, the mission of this organization is the promotion of reduced or low-impact outdoor lighting. Ms. Sheils made it quite clear that she supports the theory that "Mandates from the State Planning Office will ensure that shielded lights are used in new commercial projects." Ms. Sheils went further and promoted a significant amendment which would mandate that all municipal streetlights also be "dark skies" approved.

Also testifying in favor of the bill was a planner employed by a regional planning organization and a representative of an environmental advocacy organization.

The Maine Municipal Association testified in opposition to the bill. To the extent the bill means what Rep. Schatz intends, information for municipalities to voluntarily consider, municipal officials were appreciative. In fact, the State Planning Office, in connection with the Hancock County Planning Commission created a Technical Assistance Bulletin on the topic entitled: Promoting Quality Outdoor Lighting in Your Community. This 14-page manual explains the issue and the principles associated with designing "dark skies" lighting. In addition, the Hancock County Planning Commission also produced a 9-page model ordinance that municipalities may adopt. Municipalities felt that the state, in connection with local planning agencies, had already produced good work on this topic and that no further state resources were needed for this issue.

To the extent the bill means what the State Planning Office and the International Dark Skies Association intends, a single, statewide rule that preempts locally developed and adopted lighting ordinances, municipal officials were strongly against the bill. Municipalities are aware of the dark skies philosophy and some, like those on Mount Desert Island, have already made a conscious decision to adopt ordinances that promote that agenda.

Also, while most municipalities can not be characterized as part of the dark skies movement, many nonetheless have very well developed lighting ordinances that are designed to minimize lighting impacts from new development.

Furthermore, "Dark skies" lighting has many components. The primary issue is the lighting fixture itself. Dark skies rules require shields or hoods over an outdoor fixtures that would block the light from being projected upward. Local review ordinances do have requirements such as this.

However, dark skies has other components, including controlling the amount of light at a property boundary with an abutter. For example, the model SPO ordinance prohibits lighting that exceeds 1.0 foot-candles at the property line with a commercial abutter; if a development abuts residential property, the limit is not more than 0.3 foot-candles. (A foot-candle is a unit measurement of light.)

Also speaking in opposition was Curtis Picard, the Executive Director of the Maine Merchant's Association. The Maine Merchant's Association indicated that it supports minimizing lighting impacts from development, but that its members prefer working with local planning boards because each project has its own design challenges and opportunities. Mr. Picard also relayed a story where a Maine retailer had used down-cast lighting and 4 crooks subsequently climbed up onto an unlit roof, disabled the security system and stole thousands of dollars worth of merchandise.

The Committee was interested in three primary issues: whether dark skies fixtures conserved any energy, whether the fixtures cost the developer more money, and whether there were any safety concerns from reduced lighting.

Municipal officials appreciate state efforts to provide municipalities with information and tools. However, on issues with a predominantly local impact, such as lighting standards for commercial developers, municipal officials believe local decision-makers are best situated to craft the appropriate rules.

## LEGISLATIVE HEARINGS

*NOTE: You should check your newspapers for Legal Notices as there may be changes in the hearing schedule. Weekly schedules and supplements are available at the Senate Office at the State House and the Legislature's web site at <http://www.state.me.us/legis/senate/Documents/hearing/ANPHFrame.htm>. If you wish to have updates to the Hearing Schedules e-mailed directly to you, sign up on the ANPH homepage listed above. Work Session schedules and hearing updates are available at the Legislative Information page at <http://www.state.me.us/legis/>.*

### **Monday, February 9**

#### **Appropriations & Financial Affairs Room 228, State House Tel: 287-1316**

LD 353 - An Act making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2010 and June 30, 2011. (Governor's Proposed Biennial Budget)

**9:00 a.m.** With the Joint Standing Committee on State & Local Government

Review includes the proposal to charge a fee for CEO training.

**1:00 p.m.** With the State Department of Administrative and Financial Services

Review includes the proposed changes to the Local Government Efficiency Fund.

#### **Education & Cultural Affairs Room 202, Cross State Office Building, 10:00 a.m. Tel: 287-3125**

LD 245 - An Act To Calculate the School Year by Number of Hours.

#### **Labor Room 220, Cross State Office Building, 1:00 p.m. Tel: 287-1333**

LD 26 - An Act to Allow the Spouse of a Retired Public Employee a Second Chance To Be Enrolled under the Retiree's Insurance Plan.

LD 125 - Resolve, To Establish the Blue Ribbon Commission To Study the Functions and Operations of the Maine Public Employees Retirement System.

### **Tuesday, February 10**

#### **Appropriations & Financial Affairs Room 228, State House, 1:00 p.m. Tel: 287-1316**

With the Joint Standing Committee on Judiciary

LD 353 - (Governor's Proposed Biennial Budget)

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

LD 124 - An Act To Remove Game Sanctuary Status for Certain Lands in the Town of Orrington.

#### **Natural Resources Room 214, Cross State Office Building, 1:00 p.m. Tel: 287-4149**

LD 207 - An Act Concerning Regulation of Borrow Pit Excavations.

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

LD 275 - An Act To Amend the Charter of the Limestone Water and Sewer District.

LD 200 - An Act To Amend the Charter of the Caribou Utilities District.

LD 55 - An Act To Prohibit the Commercial Sale of Water by a Water District.

LD 238 - An Act Regarding Consumer-owned Water Utilities and Contracts for Water Extraction and for the Sale of Water.

### **Wednesday, February 11**

#### **Appropriations & Financial Affairs Room 228, State House, 9:00 a.m. Tel: 287-1316**

With the Joint Standing Committee on Criminal Justice & Public Safety

LD 353 - (Governor's Proposed Biennial Budget)

#### **Health & Human Services Room 209, Cross State Office Building, 9:00 a.m. Tel: 287-1317**

LD 155 - An Act To Ban Smoking on Public Beaches and in Public Parks.

#### **Marine Resources Room 214, Cross State Office Building, 1:00 p.m. Tel: 287-1337**

LD 32 - An Act To Clarify the Disposition of Fines from Maine's Soft-shelled Clam Laws.

#### **State & Local Government Room 216, Cross State Office Building, 10:00 p.m. Tel: 287-1330**

LD 34 - An Act To Clarify the Election of Municipal Charter Commission Members.

### **Thursday, February 12**

#### **Appropriations & Financial Affairs Room 228, State House, 1:00 p.m. Tel: 287-1316**

With the Joint Standing Committee on Criminal Justice & Public Safety

LD 353 - (Governor's Proposed Biennial Budget)

#### **Natural Resources Room 214, Cross State Office Building, 1:00 p.m. Tel: 287-4149**

LD 208 - An Act To Require a Municipality That Abuts a Body of Water To Contribute to the Cost of Upkeep of Municipally Owned Dams on That Body of Water.

LD 229 - An Act To Promote Clean Waters in the State.

### **Friday, February 13**

#### **Transportation Room 126, State House, 10:00 a.m. Tel: 287-4148**

LD 6 - An Act To Establish a Distracted Driver Law.

LD 8 - An Act To Deter Road Rage.

LD 40 - An Act To Prohibit Certain Uses of Cellular Telephones and Handheld Electronic Devices while Operating a Motor Vehicle.

LD 41 - An Act To Prohibit the Use of a Handheld Cellular Telephone While Operating a Motor Vehicle.

LD 112 - An Act To Prohibit the Use of Handheld Cellular Telephones while Driving.

LD 261 - An Act To Increase Safety in Construction Zones.

LD 48 - Resolve, To Delay the Sustainability of the Highway Fund.

## 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).)*

### Appropriations & Financial Affairs

LD 279 - An Act To Amend the Laws Governing the Fund for the Efficient Delivery of Local and Regional Services. (Sponsored by Rep. Hayes of Buckfield; additional cosponsor.)

This bill amends the law governing the Local Government Efficiency Fund in two ways. First, the bill dedicates 1% instead of 2% of all revenue sharing funds to the Local Government Efficiency Fund (i.e., approximately \$1.3 million a year rather than \$2.6 million). Second, the bill strikes the language that raids all but \$500,000 of the Local Government Efficiency Fund each year and diverts that additional money back to the General Fund.

### Criminal Justice & Public Safety

LD 385 - An Act To Ensure a Uniform Comprehensive State Policy Regarding Residency Restrictions for Sex Offenders. (Sponsored by Rep. Haskell of Portland; additional cosponsors.)

This bill prohibits a municipality from adopting an ordinance that restricts where registered sex offenders may live.

### Education & Cultural Affairs

LD 285 - An Act To Amend the Laws Governing the Consolidation of School Administrative Units to Delay All Penalties for 2 Years. (Sponsored by Rep. Schatz of Blue Hill; additional cosponsors.)

This bill delays any penalties imposed on school systems for failing to consolidate for a two-year period, so that the penalties would not be applied until July 1, 2011.

LD 364 - An Act To Eliminate Schools' Responsibility for Transportation of Preschool Students. (Sponsored by Sen. Weston of Waldo County; additional cosponsors.)

This bill repeals a mandate enacted during the last legislative session that requires each school system to provide transportation to public preschool students.

### Health & Human Services

LD 321 - An Act To Impose a State Residency Requirement for Eligibility for General Assistance. (Sponsored by Rep. Knight of Livermore Falls; additional cosponsors.)

This bill requires a person to be a resident of Maine for at least 90 days before being eligible to receive General Assistance.

### Inland Fisheries & Wildlife

LD 289 - An Act To Require Boating Safety Education. (Sponsored by Rep. Watson of Bath; additional cosponsors.)

This bill requires all operators of motor boats to complete and pass a boating safety course according to a 6-year phased-in schedule based on the age of the motor boat operator. According to the bill, motor boat operators will be required to show proof of compliance to any law enforcement officer, and failure to comply results initially in a civil violation that graduates to a Class E crime upon multiple violations.

LD 340 - An Act To Provide Greater Access to ATVs by Lowering the Minimum Operating Age. (Sponsored by Sen. Jackson of Aroostook County; additional cosponsors.)

This bill lowers the age limit for operating an ATV without being accompanied by an adult from 16 years of age to 14 years of age.

### Judiciary

LD 372 - An Act To Authorize the Administration of Epinephrine Autoinjectors and Asthma Inhalers in Emergencies. (Sponsored by Rep. Valentino of Saco; additional cosponsors.)

This bill provides immunity from liability to governmental entities that are responsible for administering or providing an epinephrine auto-injector or asthma inhaler to an individual in an emergency medical situation.

### Legal & Veterans Affairs

LD 350 - Resolution, Proposing an Amendment to the Constitution of Maine Regarding Early Voting. (Sponsored by Sen. Mitchell of Kennebec; additional cosponsors.)

This resolution sends out to the voters a proposed constitutional amendment to allow the Legislature to authorize a process that allows qualified voters to vote at polling places in or outside their election districts during the 10-day period immediately preceding an election.

### State & Local Government

LD 331 - An Act To Clarify the Duties of Municipal Treasurers, Clerks and Tax Collectors. (Sponsored by Rep. Tilton of Harrington; additional cosponsors.)

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

### Taxation

LD 277 - An Act To Eliminate the Income-producing Requirement for Land in the Farm and Open Space Tax Program. (Sponsored by Sen. Gooley of Franklin County; additional cosponsors.)

This bill entirely eliminates any income-production requirements in order to enroll property into the Farmland "current use" tax program.

LD 313 - An Act To Add a Fuel Oil Benefit to the Circuitbreaker Program. (Sponsored by Rep. Tuttle of Sanford; additional cosponsors.)

This bill expands eligibility for the Circuit Breaker property tax and rent rebate program. Under current law, an applicant is eligible if his or her property taxes for the homestead property (or the presumptive property tax component of his or her rent) exceeds 4% of household income. Under this bill, an applicant is eligible if the property taxes plus 50% of the households heating fuel costs exceed 4% of household income.

LD 332 - An Act To Amend the Penalty for Withdrawal of Land from the Maine Tree Growth Tax Law Program. (Sponsored by Rep. Weaver of York; additional cosponsors.)

This bill limits any Tree Growth withdrawal penalty to the amount of taxes that would have been paid had the property not been enrolled in the Tree Growth program.

LD 349 - An Act To Authorize Arbitration of Property Tax Valuation Disputes. (Sponsored by Sen. Smith of Piscataquis County; additional cosponsors.)

This bill allows any property owner seeking a property tax abatement and dissatisfied with a decision of a municipality's Board

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of Assessment Review to take that decision to binding arbitration. The bill details the qualifications of the arbiter, the procedure by which the arbitrator must chosen, the apportionment of costs to pay for the arbiter, the procedures of the actual arbitration, the unique standards of analysis that the arbiter must consider (a market period of between three and six months), and the limited circumstances by which the arbiter's decision can be overturned (corruption, fraud, or misconduct).

LD 360 - An Act To Notify a Lienholder before Property Is Withdrawn from Assessment under the Maine Tree Growth Tax Law. (Sponsored by Sen. Schneider of Penobscot County; additional cosponsors.)

Current law requires the municipal assessor to give a landowner with property enrolled in the Tree Growth tax program 60-day written notice before the property is withdrawn from the Tree Growth program for failure to file an updated forest management plan. This bill expands the notice mandate by requiring the assessor to similarly provide notice to any person who has a recorded lien on the property and allow the lienholder to file notice of a forest management plan in place of the property owner within 30 days after the expiration of the 60-day notice period.

LD 381 - An Act To Base the Motor Vehicle Excise Tax on the Documented Actual Sale Price Rather than the Maker's List Price. (Sponsored by Rep. MacDonald of Boothbay; additional cosponsor.)

This bill changes the method of computing the motor vehicle excise tax by requiring the various rates to be applied against the purchase price of the vehicle rather than the manufacturers suggested retail price.

### **Transportation**

LD 333 - An Act Making Unified Highway Fund and Other Funds Allocations for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal

Years Ending June 30, 2010 and June 30, 2011. (Emergency) (Governor's Bill) (Sponsored by Rep. Mazurek of Rockland; additional cosponsors.)

This bill is the Highway Fund budget for the FY 2009-2010 biennium. Among other elements of the Highway Fund budget, this bill cuts \$5 million from the Local Road Assistance allocation (URIP) in FY 2010, reducing that appropriation from \$24.8 million to \$19.8 million and breaking the arrangement that was established when the URIP program was created that it would be funded at the level of 10.4% of the MDOT Highway Fund budget for roads and bridges.

LD 382 - An Act To Clarify the Meaning of Prudent Speed. (Sponsored by Rep. Fitts of Pittsfield.)

This bill requires a law enforcement officer who is summoning a person for "imprudent speed" to record on the summons the reason the officer considered the driver's speed imprudent and what maximum speed the officer would consider prudent.

### **Utilities & Energy**

LD 334 - An Act To Clarify the So-called Dig Safe Law. (Sponsored by Rep. Sykes of Harrison.)

This "concept draft" bill proposes to clarify the so-called Dig Safe law to assist property owners and others in recognizing appropriate dig safe conditions.

LD 396 - An Act Regarding Installation of Solar Energy Systems under the Solar and Wind Energy Rebate Program. (Sponsored by Sen. Nutting of Androscoggin County.)

This bill allows a property owner to qualify for a certain alternative energy installation rebate to cover some of the cost of installing a solar photovoltaic system or a solar thermal system if the owner-installed system is inspected by the municipal electrical inspector, in the first instance, or the municipal plumbing inspector for solar thermal systems. Current law requires the certification to be accomplished by third-parties certified by a North American board of certified energy practitioners.