

Redefining GPA and Recalibrating EPS

Question: What is the fraction which has GPA as the numerator and EPS as the denominator?

Answer: From now on, at least 55%.

Question: Does that mean the year-to-year unpredictability in the school subsidy appropriation is now fixed?

Answer: It all depends on what your definition of “is” is.

Not so long ago, school subsidy – or “General Purpose Aid to Education” (GPA) – was just that...the state’s financial contribution to the overall operations of Maine’s public elementary and secondary schools. Now, with a 2004 voter directive and the advent of a more-or-less enforceable obligation of the state to provide at least 55% of the cost of public education, both the Legislature’s concept and the legal definition of GPA is morphing. Every year and with every budget bill, the appropriations for various educational programs that have up until now been provided by the state independently of public school subsidy are being formally redefined as part of the school subsidy – or GPA – appropriation.

The math is fairly simple. The school subsidy appropriation from now on is supposed to be at least 55% of the total Essential Programs and Services allocation (EPS). As a matter of law, EPS is defined as “those educational resources that are identified in this chapter that enable all students to meet the standards in the 8 content standard subject areas of the system of learning results.” Therefore, to the extent certain state employees or a pre-existing state program might be fit into that definition, the Legislature is reorganizing the funding for those state employee positions or state programs as pre-paid contributions to the overall Essential Programs and Services

allocation. These redefinitions make it easier for the Legislature to meet its 55% obligation but are contributions to the 55% obligation that will not have any direct property tax benefits.

These redefinitions are now occurring on an annual basis in 20-A MRSA §15689-A, which is a section of the GPA law that authorizes the payment of certain “miscellaneous” costs.

In the FY 2008-2009 state budget bill enacted last year, there were four significant additions to the list of miscel-

laneous costs: (1) the cost of operating the Maine School of Science and Mathematics in Limestone; (2) the cost of operating the Baxter School for the Deaf; (3) the cost of the Jobs for Maine’s Graduates program; and (4) the cost of 4.6 full time equivalent positions in the Department of Education, with three of those state employee positions in the “Learning Through Technology” program and 1.6 state employees in the Management Information Services (MIS) program.

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Charter Commission Changes Crafted

On Wednesday this week, the State and Local Government Committee unanimously supported an amended version of LD 1968, *An Act to Clarify the Election of Municipal Charter Commission Members*. The bill, sponsored by Sen. Joe Brannigan of Cumberland County, amends the way charter commission members are elected and provides municipalities more flexibility in the process.

Under existing law, charter commission members must be elected either: 1) at the same election as the referendum calling for the creation of the charter commission; or 2) within 90 days of the referendum election. As proposed in LD 1968, the second option is amended to authorize a municipality to postpone the election of the charter commission members to the next scheduled regular or special municipal or state election. This change will enable municipalities to maximize resources by coordinating the election of charter commission members

with another regularly scheduled municipal or statewide election.

The bill also adds a third option to the way charter members are elected. Under existing law, charter members are elected either at large or by each voting ward within the community. As proposed in LD 1968, a third option is added to the list to allow for blended at-large and ward-based elections. As an example under this option, if a municipality elects four councilors by district and one councilor at-large, the municipality can choose to populate its charter commission with four of the elected charter commission members voted in at the ward level and one at-large.

The Committee amended the bill to fix a minor technical problem with the printed bill that would have mandated this new voting system rather than merely allow it as a third option. The Committee also added an emergency preamble making the changes immediately effective once signed into law by the Governor.

GPA (cont'd)

With that movement of an additional 1.6 state employees into the GPA account, the full number of state employees paid for under GPA in the Department's MIS Department as of last spring was 6.6 full time equivalent positions. It appears that as of last spring, at least 10 Department of Education employees overall were being covered under GPA, not counting any state employees in the Baxter School for the Deaf or Limestone School for Mathematics.

With the supplemental budget proposed by Governor Baldacci and about to be reviewed by the Legislature, the state employee count within the GPA appropriation may double. That trend of expanding the definition of GPA continues in the following way:

- The cost of employing 4.4 additional Department of Education employees in the Management Information Services program would be covered under GPA, bringing the total number of state employees in that category to 11;
- The cost of employing 4 additional Department of Education employees in the Learning System program would be covered under GPA;
- The cost of employing three teacher positions currently funded within the Department of Corrections budget for juveniles imprisoned in the Long Creek Youth Development Center and Mountain View Youth Development Center would be awarded under GPA;

If all of this is enacted, it appears that the salaries and benefits of somewhere around 20 state employees will be covered under the General Purpose Aid to Education appropriation in addition to all funding of the Baxter School for the

Deaf, the Limestone School of Mathematics and the Jobs for Maine's Graduate Program.

All of this gives new meaning to the term General Purpose Aid. A "general purpose" implies a generalized subsidy, not pre-existing personal services lines in the state budget. Any way you cut it, the "GPA" of today is decidedly not the GPA of yesterday.

Recalibration of EPS. While the Legislature incrementally redefines GPA to include pre-existing state expenditures that were never before considered as "General Purpose Aid to Education" appropriations, the Governor's budget simultaneously includes changes to the Essential Programs and Services model in a way that demonstrates how easily the various component of EPS can be toggled by the Legislature to shift the practical meaning of the "55%" obligation.

The most controversial "togglng" of the EPS model in the proposed budget is the reduction of state support for low income students enrolled in the public schools. Under current law, EPS adjusts its general per-pupil support for each student by 15% for each student that meets certain low income guidelines. In the prepared budget, that per-pupil adjustment would be reduced to 10%.

We have asked the Department of Education but do not yet know the actual financial impacts of this change. Critics of this proposal tell us that the EPS allocation for school systems with high enrollments of low income students will be significant. The Department tells us that this 33% reduction to the low income student adjustment within the EPS model is supported by data that shows the 15%

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General Fund Expenditure History Compared to GPA FY 1990 – 2009

Fiscal Year	Total Expenditures	GPA	% of Expend.
1986	950,501,989	–	–
1987	1,045,190,655	–	–
1988	1,172,430,121	–	–
1989	1,384,757,750	–	–
1990	1,546,860,222	475,851,126	30.8%
1991	1,550,964,764	487,108,393	31.4%
1992	1,533,844,301	512,953,097	33.4%
1993	1,606,620,231	518,912,040	32.3%
1994	1,592,804,301	519,422,300	32.6%
1995	1,686,997,648	519,249,719	30.8%
1996	1,685,207,128	529,231,497	31.4%
1997	1,768,652,528	545,883,875	30.9%
1998	1,898,373,018	595,797,900	31.4%
1999	2,153,508,109	591,171,582	27.5%
2000	2,317,138,580	624,751,951	27.0%
2001	2,571,368,893	664,478,485	25.8%
2002	2,583,684,236	702,469,605	27.2%
2003	2,533,197,609	711,165,537	28.1%
2004	2,584,232,096	722,981,043	28.0%
2005	2,738,123,135	732,537,776	26.8%
2006	2,824,410,407	823,420,313	29.2%
2007	3,024,363,451	895,010,700	29.6%
2008	3,148,287,921	977,958,385	31.1%
2009	3,188,889,338	1,017,549,430	31.9%

Sources: State of Maine Annual Financial Reports/OFPR Compendia of Fiscal Information & Appropriations Summaries; Purposed FY 08-09 Supplemental Budget

Legislative Bulletin

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Local Control at Center of Informed Growth Act

On Wednesday this week, the State and Local Government Committee held a four-hour public hearing on LD 1962, *An Act to Amend the Informed Growth Act*. The bill, sponsored by Sen. David Hastings of Oxford County, would enable municipalities to “opt out” of the mandatory application of the Informed Growth Act (IGA) that was enacted by Legislature last year.

In a nutshell, the IGA requires that any single retail development over 75,000 square feet undergo an independent economic impact assessment, paid by the developer, to determine the economic impact the proposed development will have within the municipality and the region. Based on the information provided in the report, the municipality’s planning board makes a determination as to whether or not the proposed development will have an “undue adverse” economic impact on the community and the region.

The economic impact of a proposed development is not a traditional component of land use regulatory criteria and will likely trigger constitution-based challenges should a developer be denied an otherwise legal land use development on the sole basis of economic impact. This gives municipalities a reason for concern. A local planning board’s administrative responsibility to fairly and equitably apply local ordinances can not be taken lightly. Unfortunately, many of the proponents of IGA seem to believe that the affected municipalities’ decision-making authority will only be facilitated and in no way compromised by IGA. On the basis of the public hearing, it appears that many of the proponents of IGA believe that municipalities can simply accept or reject the consultant’s report on economic impact...that the required economic impact analysis is purely informational.

While the ability to accept, reject or to shelve a report are all viable options for a legislative body, such as a legislative committee or a town meeting, it is not so for an administrative body, such as

the planning board. Planning boards are held to a different standard as their decisions can be appealed to the courts. When determining if a local board made an error in rendering a decision on a proposed development, the court must decide whether the board “abused its discretion, committed an error of law, or made findings not supported by substantial evidence in the records.” If the independent consultant’s report required by IGA is the only analysis available to the planning board, then the planning board will have a hard time acting inconsistently with the report. A planning board cannot simply dismiss the information provided, as has been suggested by the proponents of the IGA.

From the municipal perspective, LD 1962 provides a middle ground between the advocates of the IGA and those opposed to state interference in local affairs. As proposed, municipalities would be required to utilize the IGA process as a default. Only with the consent of the local legislative body could a community opt out of the provisions of IGA. The bill requires local decision makers to study the benefits of IGA and determine whether or not to continue to follow the policy. LD 1962 requires action of the part of the municipalities. Municipalities are not simply let off the IGA hook. It is for that reason municipal officials believe the bill is a good compromise between the proponents’ mandatory approach to IGA and the opponents’ voluntary approach.

That being said, municipal officials object to the two-step process used in LD 1962 to authorize a municipality to opt out of IGA. As proposed, the decision of the legislative body (i.e., town meeting or town or city council) to opt out would need to be ratified at referendum. Municipal officials do not understand why the follow up referendum is necessary, and they are concerned that if LD 1962 is enacted with the referendum provision, an objectionable precedent will be set and future legislation will regularly require redundant follow-up validation of

the legislative body’s decision-making process. The precedent in the bill is of particular concern to the extent it discourages participation in town meetings and city council hearings, where information is available to be discussed and debated. For that reason, at the public hearing on LD 1962 MMA requested that the bill be amended to exclude the redundant referendum requirement.

In addition to MMA, twenty other interested parties provided testimony on the bill. The general theme of the both the proponents and opponents of LD 1962 was the promotion of local control. The proponents of the bill believe that enabling municipalities to opt out of IGA enhances local control by allowing the local legislative body to determine how best to address the impact of large retail business within their communities. The opponents of the bill believe that the existing law provides an adequate balance between the need to think regionally and act locally.

Legislative Response to LD 1962.

Seven legislators provided testimony on LD 1962. Sen. Hastings, the bill’s sponsor, kicked off the public hearing by stating that the intent of the bill was to improve the IGA. Sen. Hastings expressed concerns that as enacted the bill created roadblocks to future development in Maine and as a result the enacted “informed growth act” had the unintended consequence of being the “no growth act”. Sen. Hastings believes that the state’s role is to assist communities, but the final decision regarding local development proposals should rest with the community.

Representative Glenn Cummings of Portland, Speaker of the House, led the legislative opposition to LD 1962. Rep. Cummings passionately asked the members of the State and Local Government Committee not to, in his view, weaken the IGA. He urged the Committee to stick to its guns and reminded the members that last session they had asked all the tough questions, considered all of the options (including the opt-in and proposed opt-out alternatives), and rejected the options as unnecessary. Rep. Cummings described the bill as an insult to all of the Committee’s work last year.

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GROWTH (cont'd)

As part of his testimony, Rep. Cummings also strongly criticized the way the people of the City of Augusta have developed the Capital City. Focusing on the most recent large-scale retail developments occurring in Augusta as the “destruction of hundreds of acres of land replaced with dozens of cement block buildings”, Speaker Cummings described the IGA as a tool to help guide the people of Augusta who, on the basis of his testimony, are in serious need of land use regulatory assistance.

Rep. Cummings’ vocal criticism of the City of Augusta’s development policies did not sit well with Augusta’s legislative delegation, which turned out to support the proposed legislation. Representatives Patsy Crocket and Kim Silsby and Senator Libby Mitchell were all on hand to support the bill and to defend the Capital City.

Rep. Crocket defended the decisions of the people of Augusta by stating that every time she looked at the developments, she saw jobs. Not only the retail sales jobs created by the new businesses, but also the trickle-down jobs created as a result of the development, such as construction, trash collection, etc. Rep. Crocket expressed faith in the capacity of the people of Augusta to decide for themselves what they want for their community and how to safeguard the public interest in the entire process. Rep. Crocket believes that the opt-out provision found LD 1962 provides people the choice they deserve.

In her testimony, Sen. Mitchell asked that the Committee not to get distracted from the intent of the legislation. She asked the Committee not to focus solely on the City of Augusta’s debates over development, but to look at the community’s efforts to improve the downtown and its waterfront, while simultaneously managing to keep the city’s property tax burden down. She believes that LD 1962 represents an opportunity to finally get the IGA process properly balanced.

Public Response to LD 1962. The business and municipal communities, including the Maine Merchants Association and Lewiston Assistant Administrator, Phil Nadeau, provided testimony

in favor of the bill. The testimony of these representatives generally focused on the need for economic development in the state and the perception the IGA process instills in potential developers that there exists an additional roadblock to attracting businesses to Maine. Phil Nadeau also expressed his opposition to the use of the referendum process for validating the decision of the local legislative body to opt out of IGA.

An attorney, Curt Webber, also provided testimony in favor of the bill and raised several constitutional concerns. Mr. Webber is concerned that the IGA as enacted last year violates the federal commerce clause by giving preference in the review process to existing business over new development. Mr. Webber also believes the task of assessing the economic impact of a business is extremely burdensome on the local planning board. Attorney Webber offered an amendment to the bill to simply authorize the council or selectboard – rather than the municipality’s legislative body – to make the decision to opt out of IGA.

The central argument of the opponents to LD 1962 was that IGA created an appropriate balance between the need for regionalization and local control. The opponents argue that the IGA process both requires a community to explore the regional impacts of a proposed large-scale development and maintains local control because the final decision over the project still freely rests with the community, at least in their understanding of the regulatory review standards. This argument, however, seems to imply that a planning board can simply reject the information IGA requires it to receive without any legal ramifications.

Of particular interest was the testimony provide by Stacy Mitchell on behalf of the “Institute for Local Self-Reliance”. According to Ms. Mitchell, one of the reasons the IGA is important to municipalities is that municipal leaders are not always aware of the cost of development. At times, municipal officials are surprised that the development actually increased the cost of government, particularly in the form of new roads and increases in public safety spending. Ms. Mitchell believes the IGA study would provide municipal officials with the needed cost information. In addition,

Ms. Mitchell believes that allowing communities to opt out of IGA will have a domino effect of encouraging neighboring communities to opt out of IGA, thereby effectively repealing the Act.

Selectwoman Michelle Jones of Topsham also provided testimony in opposition to LD 1962, expressing concerns that the amendment to the IGA would undermine the benefits of the law. Selectwoman Jones believes that the IGA will provide the objective and independent information municipal staff, citizens and others need to make decisions.

A work session on LD 1962 has been scheduled for Wednesday, February 6th.

GPA (cont'd)

adjustment over-represents the real financial impacts of educating low income students.

GPA both yesterday and today. As discussed above, the GPA appropriation covers state-government expenditures today, both in terms of state employees and state programs, that never fell under GPA in the past. For all of that, the state’s financial support for public education is the current “bad boy” within some political circles and mainstream press editorial boards for putting pressure on the state budget and “crowding out” social services expenditures. The actual historical perspective is provided in a chart accompanying this article. Reviewed in any historical perspective, that politically convenient explanation is not the case. 10 years ago, at the end of a seven-year cycle of essentially flat funding the GPA appropriation, GPA was 31.4% of all state General Fund appropriations. 15 years ago, GPA was 33% of all state General Fund appropriations. According to available state data, GPA – after the recent “ramp-up” to 55% – is now re-approaching 31% of all General Fund expenditures, after a 10-year dip that bottomed-out in 2005. And this re-approach to historical levels includes all the redefinitions of “General Purpose Aid” described above.

Notwithstanding the rhetoric of the main stream press and certain political corners, nothing is getting “crowded out” by GPA from any historical perspective.

Building Consensus

The State Planning Office (SPO) has released the Administration's building code proposal. This is a slightly revised proposal compared to one that was released in December and circulated by MMA to municipalities.

A committee of state officials led by the State Planning Office and including the State Fire Marshal, Department of Economic and Community Development, the Maine Historic Preservation Committee, and the Department of Professional and Financial Regulation was directed by the Legislature last session to review the issue of building codes and other related topics and report back this January. The report is available on SPO's website (<http://www.maine.gov/spo/resolve46buildingcodes/index.php>).

The goal of the Administration and others, particularly architects and developers, is to have a uniform building code in Maine. Maine currently has a state-wide electrical code, plumbing code, elevator code, energy code and life-safety/fire protection code. By comparison, building codes are adopted at the municipal level.

Approximately 80-90 municipalities have adopted building codes. These municipal codes are frequently different (in some respects) from one another. Thus, building professionals are frustrated by having to navigate different regulatory environments from town to town. Easing the regulatory burden on the construction industry is the primary policy rationale for a uniform, statewide building code.

In a bit of irony, 400 municipalities have no code and so in that sense, Maine is fairly uniform already. Furthermore, you can't lighten the building code regulatory burden any more in these 400 towns. In fact, imposing a statewide code in these 400 towns will be a dramatic increase in the regulatory burden for construction.

In 2005, in an effort to spur building code uniformity, the Legislature restricted home rule authority by enacting a law which prohibits a municipality from adopting any code other than the 2003 version of the International Code

Council (ICC) building code. The restriction was not that onerous on municipalities since most other organizations who offered building codes (such as BOCA) no longer exist. So, for communities that would like a building code there is little choice remaining among code products anyway.

At the time, this model of legislation was praised as a compromise. It represented a way to "funnel" municipalities into uniformity without taking the aggressive and often contentious step of mandating municipalities to change their codes.

Unfortunately, the Administration is abandoning this compromise with its new proposal. The administration's new building code proposal has 6 major elements:

- Repeal of all existing local building codes and replacement with state building codes;
- Mandate that all municipalities with populations above 2,000 enforce the state building code;
- Create a new state employee position of code trainer and mandate that all code enforcement officers be "certified"
- Create a state-level "technical building codes board" to administer the code;
- Establish an as-yet unsettled funding mechanism to provide the approximately \$300,000 per year the state will need to operate the board and the training position; and,
- Promise future work on the identification of shortcomings in the existing state codes and state code laws.

Noticeably absent from the SPO report is any estimate of savings from this proposal. Although the Administration often makes cost saving estimates related to its school consolidation and county jail takeover proposals, there is no similar estimate of savings here with respect to this efficiency proposal. While the proposal looks to increase local regulatory obligations, particularly among the smaller municipalities, there is nothing in the report that attempts to redirect private-sector savings to the consumer.

The policy goal of building code

uniformity is understandable. Many working groups and outside observers have commented on the problems of having a "patchwork" of building codes. Most recently, the Brookings Institution's report on Maine reviewed this issue in-depth and had a series of coherent and balanced recommendations. For some reason, the Administration has chosen to deviate significantly from these recommendations in many ways. In short, Brookings recommended that the state streamline and improve state-level code issues and then move to incentivize and facilitate the adoption of the model code at the local level. It recommended a partnership with state and local government on this issue. Municipalities could likely support such an approach.

The SPO proposal unfortunately appears to go in a different direction. SPO will give a briefing on the report to the Business Research and Economic Development Committee on January 31st. If the BRED Committee reports out legislation based on the report, MMA's policy committee will review it and develop its position.

Scrap Theft

The Business Research and Economic Development Committee (BRED) took testimony Thursday on LD 2124, *An Act To Prevent the Theft of Certain Metals*, which is sponsored by Rep. Seth Berry (Bowdoinham). As the title indicates, the purpose of the bill is to try and address a growing problem of metal theft. The metal being stolen runs from scrap metal from various automobile recycling operations to new copper wire being stolen from utilities to new copper piping being stolen from homes under construction.

At the hearing, the sponsor provided an amended version of the bill. The amended version removed a new municipal permitting process which had been a part of the printed bill.

The Institute of Scrap Recycling Industries (ISRI) is a trade association that represents companies that process, broker, and consume scrap commodities. On ISRI's website is a page devoted to

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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.)

Business, Research & Economic Development

LD 2159 – An Act To Advance the Maine Economy. (Sponsored by Sen. Mitchell of Kennebec Cty; additional cosponsors.)

Among other changes to and appropriations for state-based economic development programs, this bill creates a new “Maine Expansion Fund”. The purpose of the Fund is to provide grants to municipalities of up to \$200,000 for the purpose of acquiring or renovating facilities, investing in public infrastructure, purchasing capital machinery or equipment, or worker training programs. The grant must be fully matched by the municipality wither in-kind or through tax incentives, public infrastructure investments or contributing municipal grants. The program is administered by a 5-member Advisory Board including the Commissioner of the Department of Economic and Community Development and four business and business expansion experts appointed by the Governor. The bill appropriates \$500,000 in FY09 for this program.

Health & Human Services

LD 2166 – Resolve, Regarding Legislative Review of Portions of Chapter 294: Rules Governing the Qualifications for Local Health Officers, a Major Substantive Rule of the Department of Health and Human Services, Maine Center for Disease Control and Prevention. (Emergency) (Sponsored by Rep. Perry of Calais for the Dept. of Health and Human Services.)

This resolve provides for legislative review of Chapter 294 of the Department of Health and Human Services' rules governing the required qualifications of Local Health Officers (LHO), as provisionally adopted by DHHS. The provisionally-adopted rules: 1) require LHOs to complete one Center for Disease Control (CDC) provided six-hour training course every three years; 2) require training sessions to be held annually in each of the DHHS's eight districts; 3) require the training sessions to be provided free of charge to participating LHOs; 4) authorize, on a case-by-case basis, the CDC to grant an exemption from the training standards to an individual that has education, training, experience or a familiarity with the responsibilities of LHOs; and 5) Provide a 6-month period after appointment for a LHO to meet the training requirements.

Legal & Veterans Affairs

LD 2130 – An Act To Implement the Recommendation of the Legislative Youth Advisory Council To Allow Youth To Preregister To Vote upon Reaching 16 Years of Age. (Reported by Rep. Farrington of Gorham for the Legislative Youth Advisory Council)

This bill allows a person who has reached 16 years of age who meets all citizenship and residency requirements to pre-register to vote by submitting an application to the Secretary of State. The Secretary is directed by this bill to supply the application forms to all municipal registrars.

Natural Resources

LD 1983 – An Act To Protect Public Safety, Provide for the Prudent Use of Landfill Capacity and Save Taxpayers Money. (Sponsored by Sen. Schneider of Penobscot County; additional cosponsors.)

This bill establishes a 50,000 lb. weight limit for any truck delivering solid waste to a solid waste disposal facility, solid waste facility, solid waste landfill or waste facility that is owned by the state and has been expanded or built out after a certain date in 2008. The bill also directs the State Planning Office and the Department of Environmental Protection to analyze the state's solid waste disposal capacity needs.

LD 2046 – An Act Concerning Certain Excavations. (Sponsored by Rep. Flood of Winthrop; additional cosponsors.)

This bill amends the Natural Resources Protection Act as it relates to gravel pits and similar mining activities to: (1) clarify that the mining activities that pre-existed the recently-enacted protection areas for waterfowl wading habitat were not prohibited by that enactment; and (2) authorize the Department of Environmental Protection to permit mining excavations to occur in required buffer strip areas which cannot occur under current law.

LD 2160 – An Act To Protect Shellfish Waters and Shellfish Resources from Coastal Pollution. (Sponsored by Rep. Webster of Freeport; additional cosponsors.)

This bill requires a person selling property in fresh water shoreland areas to provide a statement to the buyer attesting to whether the subsurface wastewater disposal system on the property has malfunctioned or not over the last 180-day period. With respect to coastal shoreland areas, the seller must either provide the buyer with a certification of inspection of the wastewater system by a licensed inspector within the last three years, along with the results of that inspection, or a statement regarding the impossibility of inspecting the wastewater system, in which case an inspection within one year of the transfer is required.

This bill also authorizes either the Department of Environmental Protection or the Department of Marine Resources to initiate a process within defined shoreland areas that would require local plumbing inspectors (LPI) to physically inspect 10% of all wastewater systems within the defined shoreland area each year and issue abatement orders as may be warranted.

Transportation

LD 2165 – Resolve, Regarding Legislative Review of Portions of Chapter 103: Sensible Transportation Policy Act, a Major Substantive Rule of the Department of Transportation. (Emergency) (Reported by Rep. Marley of Portland for the Department of Transportation)

This resolve provides for the legislative review of Chapter 103 of the Department of Transportation's (DOT) rules regarding the Sensible Transportation Policy Act, as provisionally adopted by DOT. In 2002, the Legislature directed DOT to work with the State Planning Office to develop this rule in an effort to more closely link land use planning and transportation planning. The municipal portion of the law is Subchapter III. This subchapter is in similar form to the SPO's comprehensive planning rule in that it lays out the DOT's expectations with respect to various land use and transportation planning “policies”, “goals” and “strategies” that municipalities will need to adopt in order to: (i) receive a consistency finding with respect to the transportation portion of a comprehensive plan; and (ii) receive either bonus points when applying for various transportation funds or to access certain incentive funds at all. In addition to the rule, the DOT has developed a Handbook to assist municipal

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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, January 28

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

LR 3345 (No LD number yet) – An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2007 and June 30, 2008.

With the Joint Standing Committee on Transportation

10:00 a.m. With the Joint Standing Committee on Marine Resources

1:00 p.m. With the Joint Standing Committee on State & Local Government

4:00 p.m. With the Legislative Council

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

LD 2029 – An Act To Reduce Property Taxes, Eliminate Duplication and Streamline Government by Unifying the State Prisons and County Jails.

LD 2080 – An Act To Better Coordinate and Reduce the Cost of the Delivery of State and County Correctional Services.

LR 3451 – (No LD number yet) An Act to Unify the County Jails and the State Corrections System. (Governor's Bill)

Tuesday, January 29

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

LR 3345 (No LD number yet) – Governor's Supplemental Budget

With the Joint Standing Committee on Judiciary

3:00 p.m. With the Joint Standing Committee on Insurance & Financial Services

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

LD 2102 – An Act To Allow Road Associations To Determine Assessments According to Majority Vote Cast at a Duly Held Meeting.

Wednesday, January 30

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

LR 3345 (No LD number yet) – Governor's Supplemental Budget

With the Joint Standing Committee on Utilities & Energy

10:00 a.m. With the Joint Standing Committee on Agriculture, Conservation & Forestry

1:00 p.m. With the Joint Standing Committee on Taxation

3:00 p.m. With the Joint Standing Committee on Inland Fisheries & Wildlife

Immediately following: With the Joint Standing Committees on Agriculture, Conservation & Forestry; Inland Fisheries & Wildlife; Marine Resources; and Natural Resources. **Re: Parts YY-1 & YY-2**

Legal & Veterans Affairs
Room 437, State House, 10:00 a.m.
Tel: 287-1310

LD 2110 – An Act To Amend the Election Laws.

Thursday, January 31

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

LR 3345 (No LD number yet) – Governor's Supplemental Budget

With the Joint Standing Committee on Labor

3:00 p.m. With the Joint Standing Committee on Legal and Veterans Affairs

4:00 p.m. With the Joint Standing Committee on Business, Research & Economic Development

Health & Human Services
Room 209, Cross State Office Building, 1:00 p.m.
Tel: 287-1317

LD 2084 – An Act To Protect Vulnerable Children by Allowing the Use of Emergency Medication.

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

LD 2017 – An Act To Provide for Enforcement of the Office Paper Recycling Program.

LD 2016 – An Act To Safeguard Imperiled or Critically Imperiled Natural Communities within Protected Natural Resources.

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

LD 2133 – An Act To Establish Consistent Consumer Protections for Cable and Video Programming Customers.

Friday, February 1

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

LR 3345 (No LD number yet) – Governor's Supplemental Budget

With the Joint Standing Committee on Health & Human Services

1:00 p.m. With the Joint Standing Committee on Health & Human Services

SCRAP (cont'd)

the issue of scrap theft. It states:

Metals theft has become an overwhelming problem across the country. Its impact on the scrap recycling industry is significant. Recyclers have become both the victims of theft and the target for legislative efforts to solve the theft problem.

The ISRI website lists what it believes are good and bad legislative ideas. LD 2124 appears to be consistent with ISRI's general recommendations. ISRI emphasizes recordkeeping. One of ISRI's ideas, which is not in the bill but should be considered by the BRED Committee, is keeping a record of the license plates of any seller. A license plate is much easier to track than an individual. They also recommend encouraging purchasers to not pay in cash – pay with a check or other method. Another idea, where feasible, is to establish enhanced video monitoring systems.

ISRI discourages other types of legislative solutions. They dislike so-called “tag and hold” provisions which require scrap recyclers to segregate and retain property for a certain time period before reselling it. They also oppose measures that require every single transaction to be reported to the police. Neither of these provisions appears in LD 2124.

Stateline.org, which tracks the 50 state legislatures, reports that at least 20 states passed laws in the past year dealing with scrap recycling and theft.

Municipal officials who reviewed the printed bill at MMA's Legislative Policy Committee meeting last week were very supportive of the legislation's goal – to reduce scrap

metal theft. Given the amendments offered by Rep. Berry, municipal officials would likely support LD 2124 in its amended form.

MMA's policy committee encourages the Legislature to confront the issue and adopt reasonable and effective measures to reduce metal theft.

HOPPER (cont'd)

officials as they attempt to navigate the requirements of the rule.

Utilities & Energy

LD 2133 – An Act To Establish Consistent Consumer Protections for Cable and Video Programming Customers. (Emergency) (Sponsored by Rep. Bliss of South Portland; additional cosponsors.)

This bill makes several changes to the laws regarding cable TV services. First, it clarifies that the laws govern video services offered by any entity, not just traditional cable companies. Second, it grants a municipality the right to receive attorney's fees if it successfully defends its statutory rights in court. Third, it directs the Public Utilities Commission (PUC) to adopt a model franchise agreement for use by municipalities. Fourth, it makes changes to the statutes governing required notices to subscribers regarding changes in billing practices and service options. Fifth it expands the privacy rights of subscribers. Sixth, it restores a previous obligation on cable/video providers to submit a copy of all franchise agreements with the Secretary of State. Sixth, it allows the PUC to establish consumer protection standards relative to service options, billing, installation and repair, privacy, complaint resolution and credits for service interruption.