

## Helping Recruit Emergency Personnel

On Monday of this week the Criminal Justice Committee held a public hearing on LD 760, *An Act to Assist Municipalities in Recruiting Emergency Services Personnel*. As sponsored by Rep. Christopher Recator of Thomaston, the bill would require municipalities to offer access to, but not pay for, health insurance to both municipal and contracted emergency services personnel (i.e., volunteer and contracted firefighters and rescue personnel) if health benefits are provided to other employees in the municipality. The intent of the bill's sponsor is to encourage volunteerism in the emergency services area by providing access to health benefits, while at the same time not burdening municipalities with the cost for providing the additional benefit.

Sanford fire chief, Raymond Parent, spoke in favor of the bill on behalf of the Maine Fire Chief's Association. Chief Parent believes that the bill is necessary to entice more volunteers to participate in the volunteer firefighter programs. As an example of the need for new volunteers, Chief Parent pointed out that Sanford has experienced significant decreases in the number of volunteer firefighters on the Sanford roster. At one time Sanford had 60 volunteer firefighters, but now there are only 15 volunteer firefighters serving the community.

MMA was the only other organization to provide testimony on LD 760. At its most recent Legislative Policy Committee, municipal offi-

cialists voted to oppose the bill for three reasons.

First, it is not clear why a state law is needed in order to provide additional inducements to municipal volunteers.

Second, municipalities were concerned that the provision in LD 760 effectively constituted a mandate because it would require municipalities to offer something that is generally not available, which is an insurance plan that is written to provide benefits to volunteer municipal employees. For example, to qualify for health benefits under MMA's Health Trust, an individual must be a municipal, non-contracted employee of a member municipality who works at least 20 hours per week. Currently, of the nearly 300 municipalities that

provide health benefits to their employees, 250 (85%) are members of the MMA Health Trust pool. If LD 760 were enacted, any of MMA's 250 participating municipalities that relied on volunteers to provide emergency services would be required to find an alternative insurance provider that would be willing to underwrite a policy covering volunteers.

Additionally, MMA raised the issue that contracted workers are not the responsibility of the municipality. Instead, they are the responsibility of the agency the town or city is contracting with. Although the printed bill proposed to cover contract workers, it was learned after the public hearing that access to cover-

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## 'Working Waterfront' Bill Finally Passes

Lawmakers this week gave final legislative approval to the proposed "working waterfront" constitutional amendment. The bill is LD 299, *Resolution, Proposing an Amendment to the Constitution of Maine to Permit the Legislature to Allow the Current Use Valuation of Waterfront Land Used for or That Supports Commercial Fishing Activities*.

Although the Legislature can propose constitutional amendments, only the voters can ultimately adopt those amendments. In order to be sent out to the voters, LD 299 had to receive at least two-thirds support in both the House and Senate. That "super major-

ity" standard was easily met with unanimous endorsement in both chambers.

The proposed constitutional amendment will be placed on a ballot for the November 8, 2005 state election. If adopted by the voters, LD 299 would allow the Legislature to adopt a "current use" assessing system for waterfront land that is used for commercial fishing activities or that supports commercial fishing activities similar to the treatment now available for farms, open space and forestland. The details of that system will not be developed by the Legislature unless and until the voters amend the constitution on November 8<sup>th</sup>.

# Hearing Held on Concept Bill for Business Incentives

The topic of too many vacant buildings in downtown areas was discussed this week by the Business, Research and Economic Development Committee (BRED). The legislation, LD 647, *An Act to Provide Incentives to Businesses that Relocate to Existing Buildings*, is a so-called concept draft filed by Senator Elizabeth Mitchell (Kennebec Cty.).

Bills which are filed as “concepts” do not include statutory changes. Instead, they identify a topic and a general idea. The Committee that reviews the bill is thereby granted a fair amount of flexibility in addressing the issue. In essence, the bill is a placeholder and the only real guidance is the title.

The challenge with concept drafts is in presenting testimony. How does one know whether to support or oppose the bill? That is, any bill which promotes the concept of reusing existing buildings in downtown areas would certainly interest the municipal community.

However, the incentives that were identified in the bill did cause MMA’s Legislative Policy Committee to have concerns. The incentives the bill appeared to offer were all municipal — relaxing local zoning rules and reducing local property taxes. Had the state offered to relax its regulatory barriers or reduce its taxes as a way to spur development,

MMA’s policy committee would undoubtedly have supported the idea. Yet, as drafted, the bill was focused on altering locally governed issues.

The only testimony in support of the bill came from a representative of the real estate industry. She agreed that too many Maine towns had buildings in downtown areas with vacancies, particularly above the ground floor. The speaker noted that during a recent visit to Providence Rhode Island she was surprised by the terrific turnaround its downtown had experienced and that she was a little discouraged that more Maine towns’ hadn’t found a way to have a similar renaissance.

The sentiments expressed by the proponents were unobjectionable. What was missing in the testimony were ideas. No one disagrees that redeveloping downtown buildings is a wonderful thing. What has eluded many Maine towns are additional concrete steps they can take to achieve this goal. We need a better understanding of what helped Providence turn itself around (besides being the state capital, having a 14,000 seat civic center, 5 colleges with a total of 35,000 students, a population density 3 times that of Portland, and a total resident population greater than Bangor, Augusta, Lewiston, Auburn, Biddeford, Brunswick, Millinocket, Caribou and Fort Kent - combined.) In other words, it’s easier said than done.

However, the Committee hearing did seem to point in a potentially positive direction. The Committee and the proponents both identified LD 472, *An Act to Amend the State-wide Building Code*, as a potential starting point. That bill would make the ICC rehabilitation code the Maine model. “Rehab” codes have long been identified as a positive tool for the reuse of existing buildings. Many interested parties, in-

cluding MMA, have been discussing ways to move forward with a model rehab code. Adopting rehab codes themselves is easier said than done. There are many wrinkles that come with rehab codes that the Committee needs to be cognizant of and consider carefully. If the hearing on LD 647 did nothing more than to encourage the BRED Committee to spend some time on rehab codes, then it will have served a very useful purpose.

## EMERGENCY (cont'd)

age for contracted workers was not Rep. Rector’s intention.

The questions asked by the members of the Criminal Justice Committee focused around the underwriting policies of MMA’s Health Trust and volunteerism. Some members of the Committee questioned why MMA’s Health Trust wouldn’t rewrite its policies to provide health care benefits to volunteer municipal employees. The problem with this argument is that no matter how the Committee approaches the bill, it is still a mandate. Requiring municipalities to find insurance providers that are willing to underwrite health benefit policies covering municipal volunteers is a mandate. Requiring all the current insurance providers to write their coverage in a manner dictated by the Legislature is also a mandate, if not on municipalities than on insurance companies.

With respect to volunteerism, the Committee was interested in learning about any municipal discussions around the issue of declining volunteerism in municipal fire and rescue departments. If your community has developed any policies or special incentives for encouraging community participation in voluntary emergency services programs we would like to hear about it. Please contact Kate Dufour at [kdufour@memun.org](mailto:kdufour@memun.org) or 1-800-452-8786 to share your community’s approach on volunteerism.

The work session on LD 760 has been scheduled for March 18<sup>th</sup>.

### Legislative Bulletin

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## Q & A

# LD 1 Corner

**Q.** Last summer the voters approved a bond issue for several municipal projects, and the first debt service installments will be included in this year's budget. Are those debt service payments included within the municipal spending limit system established by LD 1?

**A.** Yes. Having said that, a more thorough discussion of the relationship between debt service payments and LD 1 is warranted.

As discussed in greater detail in previous editions of the *Legislative Bulletin*, the calculation of the municipality's "property tax levy limit" begins with the identification of the base-line "property tax levy", which we have been calling the core municipal commitment. That core municipal commitment is the current-year municipal commitment minus all school spending, the county assessment, Tax Increment Financing (or other special tax district) payments and the overlay. It is only those four categories of expenditures that are excluded from the "property tax levy limit" system. Debt service payments, therefore, are included within the limitation.

That element of LD 1 can cause a problem for municipalities that are going to be entering into an extended period of new debt obligations. The base municipal commitment didn't encompass the new debt obligations, and so in a number of municipalities throughout the state the LD 1 limitation system creates an immediate challenge. The challenge is exacerbated by the fact that the debt obligations must be paid, and so they could muscle-out other core municipal programs if the formula-driven spending limit is going to be adhered to. It is correctly observed that when the voters approved the new debt obligations they had no reason to believe that the new debt payments might have to be honored at the expense of other municipal programs. That is what happens when

a spending limit system is enacted with zero lead time.

Your municipality has several options. First, the ability to both meet the debt obligations and live within the town's "property tax levy limit" should be evaluated. Second, the legislative body of the municipality – either the town meeting or town or city council – has the authority under LD 1 to either "exceed" or "increase" the property tax levy limit.

According to LD 1, there has to be an "extraordinary circumstance" in order to "exceed" the limit, and the list of potential "extraordinary circumstances" to exceed the limit does not include the circumstance of new debt service obligations.

On the other hand, if the purpose of the borrowing is to respond to an unfunded state or federal mandate (e.g., to build a required sand-salt shed or for infrastructure improvements to a wastewater facility), or if the purpose of the borrowing is to rebuild after a local fire or flood, those are reasons listed in LD 1 that justify a local legislature's decision to "exceed" the property tax levy limit.

It should be noted that the local decision to "exceed" the limit for an "extraordinary circumstance" is a one-time decision that only applies with respect to that budget year. Since the new debt service obligations will likely run for the next 10 or 15 years, the decision to "exceed" the limit could have to be revisited on an annual basis.

LD 1 also allows the town meeting or town or city council to "increase" the limit under its home rule authority. Increasing the limit serves to create a new, higher limit that will form the new base in the development of the property tax levy limit for next year. Since the new debt service obligations are long term, it could make more sense in your circumstance to ask the municipal legislative body to "increase" (rather than "ex-

ceed") the limit in order to establish a base commitment level that recognizes the new debt service that has already been authorized by the voters.

### **Non-state supported school debt.**

There is a related issue with regard to a type of debt service a town or city might be carrying and the relationship of that special type of debt with the applicable spending limit system. This special type of debt is for non-state-funded major capital school construction projects.

There are essentially two examples of this type of debt. In some cases, a community has decided to go ahead with a school construction project without going through the state approval process. In other cases, a community has gone through the state approval process but has elected to build a school that in some of its specifications goes beyond the design guidelines that the state recognizes as necessary. In the first example, the entire school construction project is non-state-funded. In the second example, a portion of the total debt service of the project is non-state-funded.

Under LD 1, the debt service obligations related to non-state-funded major capital school construction do not fall within the municipal spending limit system. They are considered school expenditures, approved by the school's legislative body under the terms of a specially-worded article, and therefore fall into the broad category of school spending rather than municipal spending.

Also under the terms of LD 1, these special debt service obligations do not fall under the school's spending limitation system. The school's spending limitation system is entirely controlled by the 100% EPS allocation that is identified for each school system in the state. If a proposed school budget exceeds that 100% EPS figure, then there has to be special voter approval of the "additional local appropriations" element of that proposed budget. Because of the way LD 1 was constructed, however, the non-state-funded debt service appropriations are not included in the "additional local appropriations" article. It is not clear whether that result was intended or not, but the appropriations related to non-state-funded school construction debt are orphaned from both the municipal and school spending limitation system.

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

### **Agriculture, Conservation & Forestry**

LD 861 – An Act To Amend the Arborist Licensing Law. (Sponsored by Rep. Lerman of Augusta; additional cosponsors.)

This bill would provide that all persons contracted by state, county or local government to cut or prune trees must be licensed arborists except during emergencies that result in public hardships. The bill would also require all employees of quasi-municipal entities or public utilities who perform tree cutting or pruning work to be licensed arborists.

LD 1017 – An Act To Fight Sprawl and Ensure That Public Lands Are Equitably Distributed. (Sponsored by Rep. Joy of Crystal; additional cosponsors.)

This bill would require the Land for Maine Futures Bond to make an annual report to the Legislature of expenditures made and acreage acquired. The bill would also require that a majority of Land for Maine Future purchases over the next two years must be made in the eight counties in Maine that are below the state median in percentage of public lands.

### **Education & Cultural Affairs**

LD 618 – An Act To Promote Parental Responsibility When Minors Make Use of Public Libraries. (Sponsored by Rep. Hotham of Dixfield; additional cosponsors.)

This bill would require public libraries to release confidential records of a minor's use of books and other materials when that information is requested by the minor's parents or guardian.

LD 1031 – Resolution, Proposing an Amendment to the Constitution of Maine Regarding the Funding of Local Schools. (Sponsored by Rep. Vaughan of Durham.)

This resolution would send out to the voters a proposed constitutional amendment that would strike the current language that requires the Legislature to require the municipalities to pay for the cost of K-12 education entirely at municipal expense.

LD 1061 – An Act To Improve the Recruitment of Teachers. (Sponsored by Sen. Mills of Somerset County.)

This bill would set the minimum salary of public school teachers and the minimum salary of public school teachers with masters degrees. The minimum salary for teachers would be 1.5 times the federal poverty level for a household of three. For teachers with a masters degree, the minimum salary would be that base salary plus \$2,000.

LD 1138 – An Act To Reduce School Construction Costs. (Sponsored by Rep. Glynn of South Portland.)

This bill would require the State Board of Education to adopt rules to define what constitutes small, medium and large schools, and establish a standard school construction plan for each size school for each level of education (elementary, middle and high school). The

bill would further require that all new school construction proposals must be selected from the standard construction design.

### **Health & Human Services**

LD 768 – An Act Regarding General Assistance under Special Circumstances. (Sponsored by Rep. Glynn of South Portland.)

This bill would provide that when a social services agency (presumably other than the municipality itself) has provided temporary housing for a person, the municipality of responsibility for the ongoing needs of that person through the General Assistance program would parallel the responsibilities that apply when a municipality itself provides temporary housing for a person in another municipality. If the social service agency relocates a person to a hotel, motel or similar facility, the General Assistance responsibility would rest with the municipality of the person's immediate prior residence for a period of 30 days. If the relocation is to a shelter, the municipality of immediate prior residence is responsible for up to six months.

LD 1036 – An Act To Amend the Laws Governing the Burial or Cremation of Certain Persons. (Sponsored by Sen. Mayo of Sagadahoc Cty; additional cosponsors.)

This bill would amend the law governing the General Assistance program as it pertains to funding burials or cremations. Current law allows for GA administrators to take up to 10 days to make a decision on a request for GA burial benefits. GA law also provides that grandparents, parents, children, grandchildren and siblings of the deceased are financially liable for the costs of basic burial or cremation before the municipality is liable through the GA program. This bill would reduce the decision-making timeframe to 2 days, and limit the list of financially liable relatives to parents and children of the deceased.

### **Legal & Veterans Affairs**

LD 1173 – Resolve, Directing the Secretary of State To Design a Process for Early Voting. (Sponsored by Sen. Diamond of Cumberland Cty; additional cosponsors.)

This resolve would direct the Secretary of State to design an "early voting" process whereby municipalities would be allowed to permit voting at a polling place up to two weeks prior to an election day. The Secretary of State would be required to report back to the Legislature on the proposed design of the early voting process by December 1, 2005.

### **Natural Resources**

LD 526 – An Act To Phase Out the Recycling Assistance Fee. (Sponsored by Rep. McKenney of Cumberland; additional cosponsors.)

This bill would phase out the \$1 recycling fee that is currently imposed on the retail sale of any automobile tire over a four-year period, repealing the recycling fee entirely as of January 1, 2010.

LD 577 – An Act To Amend the Law Governing Rate of Growth Ordinances. (Sponsored by Sen. Bromley of Cumberland Cty; additional cosponsors.)

This "concept draft" bill proposes to amend the current law governing municipal rate-of-growth ordinances to: (1) require the municipality to demonstrate the need for a growth cap prior to adopting a rate-of-growth ordinance; (2) establish a three-year sunset for any rate-of-growth ordinance; and (3) require that growth

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## LEGISLATIVE HEARINGS

*NOTE: The following schedule calls for a number of public hearings on bills that have not been printed as of yet. Those bills are referenced below by their "LR" number or as having "no LD". If the bill has not been printed, it is impossible for the general public to know the bill's content. We have included below those bond issue hearings that may have an impact on municipal government on the basis of their title.*

### **Monday, March 14**

**Agriculture, Conservation & Forestry**  
**Room 206, Cross State Office Building, 9:00 a.m.**  
**Tel: 287-1312**

LD 959 – Resolve, Directing the Department of Conservation, Bureau of Parks and Lands To Develop a Plan To Create a Regional Recreation Center in the Town of Blue Hill. (Sponsored by Rep. Schatz of Blue Hill; additional cosponsors.)

LD 934 – Resolve, To Transfer Ownership of Certain Public Reserved Lands to the Town of Allagash. (Sponsored by Rep. Jackson of Fort Kent; additional cosponsors.)

LD 1017 – An Act To Fight Sprawl and Ensure That Public Lands Are Equitably Distributed. (Sponsored by Rep. Joy of Crystal; additional cosponsors.)

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

LD 1018 – An Act To Require a Criminal Background Check for the Initial Licensure of Emergency Medical Services Personnel. (Sponsored by Rep. Sykes of Harrison; additional cosponsors.)

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

LD 696 – An Act To Amend the Requirements for Publishing Municipal Legal Notices. (Sponsored by Sen. Nass of York County.)

### **Tuesday, March 15**

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

LD 693 – An Act To Increase Public Safety through the Enhancement of Law Enforcement for the Houlton Band of Maliseet Indians. (Sponsored by Sen. Clukey of Aroostook Cty; additional cosponsors.) (By Request.)

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

LD 365 – An Act To Provide the Veterans' Property Tax Exemption to All Veterans. (Sponsored by Sen. Savage of York Cty; additional cosponsors.)

LD 626 – An Act To Require the Net Proceeds from the Sale of a Foreclosed Property To Be Returned to the Former Owner. (Sponsored by Rep. Twomey of Biddeford; additional cosponsors.)

LD 746 – An Act to Exempt Tax on Leased Property Used by Maine's Public Higher Education Institutions. (Sponsored by Sen. Perry of Penobscot Cty; additional cosponsors.)

LD 571 – An Act To Allow a Trade-in Credit in the Calculation of

the Automobile Excise Tax. (Sponsored by Sen. Cowger of Kennebec Cty; additional cosponsors.)

LD 709 – An Act Promoting Excise Tax Fairness by Allowing Refunds for Excise Taxes Paid on Vehicles. (Sponsored by Rep. Shields of Auburn; additional cosponsors.)

LD 736 – An Act To Provide Property Tax Relief to County Taxpayers. (Sponsored by Rep. Lindell of Frankfort; additional cosponsors.)

LD 751 – An Act Concerning Counties' Share of the Real Estate Transfer Tax. (Sponsored by Sen. Damon of Hancock Cty; additional cosponsor.)

LD 828 – An Act To Have Counties Retain All the Proceeds from the Real Estate Transfer Tax. (Sponsored by Rep. Pinkham of Lexington Township; additional cosponsors.)

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

LD 735 – An Act To Clarify Registration for Noncommercial Trucks and Registration Requirements for Nonresidents. (Sponsored by Rep. Saviello of Wilton; additional cosponsors.)

### **Wednesday, March 16**

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

LD 861 – An Act To Amend the Arborist Licensing Law. (Sponsored by Rep. Lerman of Augusta; additional cosponsors.)

### **Thursday, March 17**

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

LD 564 – An Act To Amend the Laws Governing the Student Code of Conduct. (Sponsored by Rep. Grose of Woolwich; additional cosponsors.)

LD 618 – An Act To Promote Parental Responsibility When Minors Make Use of Public Libraries. (Sponsored by Rep. Hotham of Dixfield; additional cosponsors.)

LD 578 – An Act To Amend the Charter of the Portland Public Library. (Sponsored by Sen. Strimling of Cumberland Cty; additional cosponsors.)

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

LD 752 – An Act Regarding Equipment Used in Food Preparation under the BETR Program. (Sponsored by Sen. Gagnon of Kennebec Cty; additional cosponsors.)

LD 791 – An Act Concerning the Taxation of Buildings in Which Nonprofit Organizations Are Housed. (Sponsored by Sen. Martin of Aroostook Cty; additional cosponsors.)

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

LD 712 – An Act To Reimburse the Town of St. Agatha and Other Towns in Category II for Costs Incurred in Erecting a Salt and Gravel Storage Shed as Mandated by the State. (Sponsored by Rep. Paradis of Frenchville; additional cosponsors.)

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## HEARINGS (cont'd)

*Friday, March 18*

### **Natural Resources**

**Room 214, Cross State Office Building, 9:30 a.m.**

**Tel: 287-4149**

LD 526 – An Act To Phase Out the Recycling Assistance Fee. (Sponsored by Rep. McKenney of Cumberland; additional cosponsors.)

### **State & Local Government**

**Room 216, Cross State Office Building, 9:00 a.m.**

**Tel: 287-1330**

LD 379 – An Act To Raise the Marriage Fees. (Sponsored by Rep. O'Brien of Lewiston; additional cosponsors.)

LD 473 – An Act To Increase Vital Records Fees. (Sponsored by Rep. Lewin of Eliot; additional cosponsors.)

LD 488 – An Act To Clarify City Election Procedures. (Emergency) (Sponsored by Rep. Adams of Portland.)

### **Transportation**

**Room 126, State House, 9:00 a.m.**

**Tel: 287-4148**

LD 529 – An Act To Allow Vehicles Owned by Sanitary or Sewer Districts To Use Municipal License Plates. (Sponsored by Sen. Savage of Knox County.)

LD 360 – An Act To Create a Retired Firefighter License Plate. (Sponsored by Rep. Jackson of Ft. Kent; additional cosponsors.)

**1:00 p.m.**

LD 510 – An Act Concerning Dismantling of Railroad Track. (Sponsored by Speaker Richardson of Brunswick; additional

cosponsors.)

LD 153 – An Act To Require Enforcement of the Low-emission Vehicle Program. (Sponsored by Sen. Cowger of Kennebec Cty; additional cosponsors.)

## HOPPER (cont'd)

areas identified in an approved comprehensive plan be exempt from the growth cap.

### **State & Local Government**

LD 379 – An Act To Raise the Marriage Fees. (Sponsored by Rep. O'Brien of Lewiston; additional cosponsors.)

This bill would increase the fee for recording marriage intentions from \$20 to \$30.

LD 473 – An Act To Increase Vital Records Fees. (Sponsored by Rep. Lewin of Eliot; additional cosponsors.)

This bill would increase the statutory fee for a birth, marriage or death certificate from \$7 to \$10, the fee for additional copies from \$3 to \$5, and the fee for burial permits from \$4 to \$5.

LD 488 – An Act To Clarify City Election Procedures. (Emergency) (Sponsored by Rep. Adams of Portland.)

This bill would establish the election warrant requirements in Title 21-A as the required method of calling for an election in a city unless the municipal charter provides otherwise.

### **Taxation**

LD 752 – An Act Regarding Equipment Used in Food Preparation under the BETR Program. (Sponsored by Sen. Gagnon of Kennebec Cty; additional cosponsors.)

This bill would add equipment used in the preparation of food to the definition of personal property that qualifies for reimbursement under the Business Equipment Tax Reimbursement program (BETR).