



Maine Municipal Association

2019

Federal Issues Paper



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Maine Municipal Association

OUR MISSION

The mission of the Maine Municipal Association is to provide professional services to local governments throughout Maine and to advocate for their common interests at the state and national levels.

OUR CORE BELIEFS

We believe in:

- Local government is the keystone of democracy.
- Representative, participatory, local government.
- The accessibility and accountability of municipal government officials.
- A commitment to honesty, civility, integrity and the highest ethical standards among public officials.
- The vital intergovernmental role of municipal governments in providing basic services essential to public safety and the functioning of our economy.
- Respect for the individuality of each local government and the diversity of its citizens.
- The value of collaboration as a means of strengthening cities and towns and providing needed services.

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The 2019 Federal Issues Paper is a publication of the Maine Municipal Association. The purpose of the paper is to highlight federal issues that are of concern to Maine municipal officials and to reflect the policy positions adopted by the MMA Executive Committee.

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Message from the MMA President

On behalf of the Maine Municipal Association’s (MMA) Executive Committee, I am pleased to present the 2019 Federal Issues Paper. In the pages that follow, you will read about the federal issues of importance to municipal officials and how the work of Maine’s Congressional delegation is impacting the state’s residents. I also want to take this opportunity to thank municipal leaders across the state for their dedication to their communities, as well as the members of our Congressional delegation for their leadership in Washington, D.C. Your devotion to public service and the people of Maine is most welcomed and appreciated.

Mary Sabins
MMA Executive Committee, President
Town Manager, Vassalboro

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Federal Issues Paper – 35 Years and Going

The Maine Municipal Association is pleased to present the 2019 Federal Issues Paper. This year marks the 35th anniversary of the publication, which has served as the informal agenda for annual meetings between municipal leaders and the members of Maine’s Congressional delegation.

The very first edition of the paper, published in 1985, presented the findings and recommendations of a task force of municipal officials directed to examine federal issues. At that time, local leaders called on Congress to reduce defense spending in order to protect funding for entitlement programs. In the papers published since 1985, there has been little change in the issues addressed. Infrastructure investments, environmental mandates, and special education funding have traditionally topped the priorities list. In 2010, 2011, 2016 and 2017, the document was jointly authored by the municipal advocacy staff from the New England states, as well as New York. In 2016, a new infrastructure issue - broadband expansion - was added to the mix of topics and has remained on the municipal leaders’ federal funding and policy priorities list ever since.

Similar to the reports published in the past, the 2019 paper provides an overview of how federal policies and programs impact Maine communities and residents. New to this year’s paper are two in-depth articles describing how certain federal policies impact municipal government. The first reviews the troubling and expanding use of federal regulation to preempt municipal regulatory authority. The second article draws attention to federal level actions that are shifting fiscal and enforcement responsibility over federal Clean Water Act requirements to state and local governments.

It warrants noting that as the 2019 Federal Issues Paper goes to print, the federal government has temporarily reopened its doors after an historic 35-day shutdown. Municipal officials from across the state appreciate the efforts of Maine’s Congressional delegation to ensure that federal government remains open and able to work with state and local partners to deliver important government services. The ability to put partisan politics aside and work collaboratively to find appropriate solutions sends the right message, not only to state and local leaders back home, but also to the generations that follow, who will be asked to fill our shoes.

Municipal officials from across the state appreciate the support received from Senator Susan Collins, Senator Angus King, Congresswoman Chellie Pingree and Congressman Bruce Poliquin in the past year and look forward to working with Congressman Jared Golden. We appreciate your accessibility and the attention your offices consistently extends to municipal officials who seek information or assistance on pending bills or developing policy issues. We encourage your offices to reach out to the Maine Municipal Association and its members as resources for information and assistance on issues affecting cities and towns.

Thank you for taking the time to read this paper and meet with municipal leaders. Your contributions and federal level advocacy efforts are valued.

Investment - Federal Programs at Work in Maine

U.S. Census Bureau¹ estimates show that Maine receives an average of \$2.8 billion in federal revenue each year, some of which is disbursed to municipalities via pass-through programs such as the Community Development Block Grant. An additional \$138 million in federal funding is distributed directly to qualifying local governments. The infusion of federal dollars is particularly important in Maine, because over 60 percent of all mandated and desired municipal government services are funded with property taxes. For example, without federal funding the costs associated with ensuring that residents have the means necessary to obtain basic necessities would be borne in large part by the already overburdened property taxpayers. Additionally, necessary improvements to infrastructure networks that support Maine's economic vitality, would be postponed. What follows are just a few examples of how federal level investments impact our state and communities.

Investing in Transportation. Under the Fixing America's Surface Transportation (FAST) Act, Maine receives \$195 million annually to supplement the state's multi-modal transportation network maintenance and improvement budget. The federal funds are used to make improvements to the 113 miles of national highway that run through Maine, as well as to improve state roads and fund much needed bridge repairs.

In addition, Maine benefitted from Senator Collins' work as chair of the Transportation Appropriations subcommittee. In 2018, the state was awarded \$26.6 million under the U.S. Department of Transportation's Better Utilizing Investments to Leverage Development (BUILD) Transportation grant². The program, designed to help fund infrastructure improvements and investments in rural parts of the country, will fund three projects in Maine.

- **Waterville Downtown Transit Corridor (\$7.4 million).** In 2015, the City of Waterville, working with downtown businesses, community groups and Colby College, conducted a six-month long planning process with the goal of identifying the investments needed to make the downtown area a commercial and cultural destination. The BUILD grant awarded to Waterville will fund 80 percent of the \$9.2 million project and will be used to convert two downtown streets from single to two-way traffic, improve intersections, and reconstruct sidewalks and major public spaces in an effort to promote accessibility and walkability throughout the downtown. The remainder of the project will be funded by the Maine Department of Transportation, Colby College, Waterville Creates, National Endowment of the Arts and fundraising efforts to be led by Colby College.

The city is deeply appreciative of the opportunity to put BUILD grant funds to work in downtown Waterville. Waterville is in the midst of a renaissance and the revitalization of our Main Street area is a huge component of that effort. These funds will improve traffic flow, make the downtown more of a destination and really make the downtown more pedestrian friendly. There are also funds to redesign Castonguay Square which is the most important public green space in the entire downtown district. Mike Roy, Waterville City Manager.

- **Maine Western Gateways Project (\$11.0 million).** The Maine Department of Transportation (MDOT) was awarded an \$11 million grant that will be used to make \$22 million worth of repairs and improvements to the roadway network running through Kingfield, Woodstock and Fryeburg. The purpose of the project is to increase safety and enhance economic development activities by improving access to western Maine.
- **Traffic Mobility Improvement Project (\$8.2 million).** MDOT will also receive a grant for the purpose of replacing, updating and enhancing more than 100 traffic signals statewide.

¹U.S. Census Bureau. <https://www.census.gov/data/datasets/2016/econ/local/public-use-datasets.html>

²U.S. Department of Transportation. <https://www.transportation.gov/BUILDgrants>

Investing in Broadband Expansion. It has been a decade since Maine began the work that led to the creation of the “Three Ring Binder,” named after the three loops of fiber-optic cable put in place with the support of over \$25 million in public funding and countless hours of effort on the part of state and federal officials and private stakeholders. The binder project was completed in 2012, and it is commonly likened today to a highway with too few on-or-off-ramps. For a variety of reasons, in many areas the binder represents an idling economic engine, waiting to be fueled with more “middle-mile” connections that will help it to drive Maine into the 21st Century.

High Speed Broadband access is vital to the large, small, and home-based businesses and telecommuters in Maine. This lack of broadband access in rural Maine makes economic development growth very difficult and puts the rural areas at a great disadvantage in attracting new businesses. Elaine Aloes, Solon Selectman

For this reason, municipal officials are encouraged by provisions in the Agriculture Improvement Act of 2018³, also known as the Farm Act, illustrating continuing federal level support for expanding broadband coverage. The increase in the annual appropriation from \$25 million to \$350 million is an example of this support. The funding increase, coupled with an increase in the minimum service definition under the U.S. Department of Agriculture’s (USDA) Broadband Grant and Loan Program to 25 Mbps download and 3Mbps upload, are positive steps in the right direction. The USDA’s \$600 million “ReConnect” loan and grant offering for the new rural broadband pilot program, pursuant to the March 2018 omnibus appropriations bill, also shows Congress’ seriousness.

However, there are two potential drawbacks that need to be addressed to enable Maine communities to compete with all other states for this funding.

First, the grant and loan program requires applicants to be able to supply retail broadband to customers. The most common municipal broadband model in Maine entails public-private partnerships where the municipality constructs the infrastructure and a private internet service provider supplies the retail broadband. It may be beneficial for Maine if this requirement could be relaxed so that municipalities might be eligible even if they are not the final provider of the retail service and want to use the federal funding to help construct the infrastructure. The Association would appreciate you keeping in mind the prospect of this language in any conversations with USDA officials.

Second, a provision of the Farm Bill gives broadband service providers 45 days to submit data showing that an applicant’s project would be “coterminous” with an existing private line. Because the loans are aimed at avoiding duplication, that information could disqualify an application. While avoiding duplication is a laudable goal, the Farm Bill exempts the service providers’ verification that they have transmission lines in the applicants’ location from the Freedom of Information Act (FOIA). This means that the federal government may not be able to share with the applicant the providers’ data justifying the rejection, eliminating any chance for pushing back on a providers’ claim if there is not in fact already service in a particular area. For this reason, MMA respectfully requests that a provision be added which either requires service providers’ attestations of existing lines to be made public or removes the FOIA exemption.

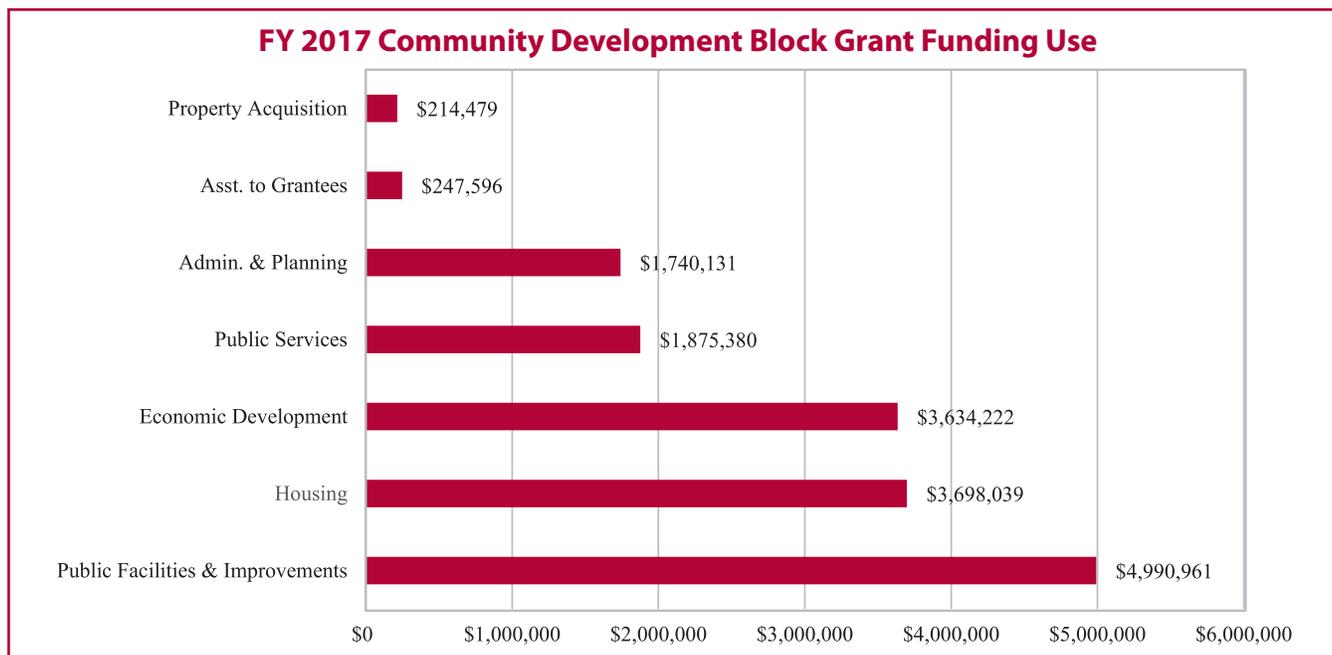
There does not appear to be a rebuttal recourse available to applicants, other than the government releasing that information voluntarily rather than via FOIA, which is probably unlikely as they could face legal action for releasing “proprietary” information.

Investing in Communities. Maine’s \$16.4 million federal allocation under the Community Development Block Grant (CDBG) program is divided between direct allocations made to “entitlement” communities and to the state for distribution to “non-entitlement” communities through a competitive grant process managed by the Maine Office of Community Development. The purpose of the program is to ensure that municipalities have habitable affordable housing, can provide services to meet the needs of its most vulnerable residents and invest in the programs necessary to create employment opportunities. As a means of underscoring the program’s purpose, at least 70 percent of a community’s or state’s allocation must be used on projects that benefit low and moderate-income persons.

³ Agriculture Improvement Act. <https://docs.house.gov/billsthisweek/20181210/CRPT-115hrpt1072.pdf>

In fiscal year 2017, the cities of Auburn, Bangor, Biddeford, Lewiston and Portland, as well as Cumberland County, qualified for entitlement status and received \$7.6 million in CDBG funding. An additional \$8.8 million was provided to the state and passed through to non-entitlement communities⁴.

Of the total allocation, 75 percent of the revenues were used on public facilities, housing and economic development. Specifically, nearly \$5 million of CDBG funding was used to fund public facilities and improvements, such as water and sewer systems, sidewalks and street improvements, youth centers, community centers and parks and recreational facilities. \$3.7 million was used to rehabilitate single-unit and multi-unit residential housing, mitigate lead related issues and make energy efficient improvements. An additional \$3.6 million was used for economic development purposes including land acquisition and disposition, habilitating commercial and industrial properties, and providing technical assistance to businesses and micro-enterprises. The remaining funds were used on public services (e.g., youth, child care, mental health and substance abuse services, employment training, food banks, etc.), general administration and planning, state technical assistance to municipalities who were awarded grants, and real property acquisition.



Investing in Low-Income Mainers. In 2017, the Maine State Housing Authority (MSHA) received \$355 million in federal aid, two-thirds of which was used to fund the state’s first time buyers and rental assistance programs^{5,6}. In addition, of the \$26.2 million in energy assistance funding MSHA received, \$23.3 million was used to fund the Low-Income Home Energy Assistance program (LI-HEAP), with the remaining \$2.8 million used to fund home weatherization initiatives. Based on the data generated by MSHA and Governor’s Energy Office, federal level investment and support for LI-HEAP enabled social service agencies across the state to purchase roughly nine million gallons of fuel oil for 38,873 low-income households.

CDBG funds are a federal investment resource that further community neighborhood redevelopment strategies. Whether through the support of social services, housing, infrastructure, or economic development investment, CDBG funds provide additional match to projects that are either risky or lack adequate funding and serve low and moderate income neighborhoods or individuals in need. Targeting particular issues that neighborhoods have identified, CDBG funds link community engagement to investment in neighborhood stability. James Bennett, Biddeford City Manager

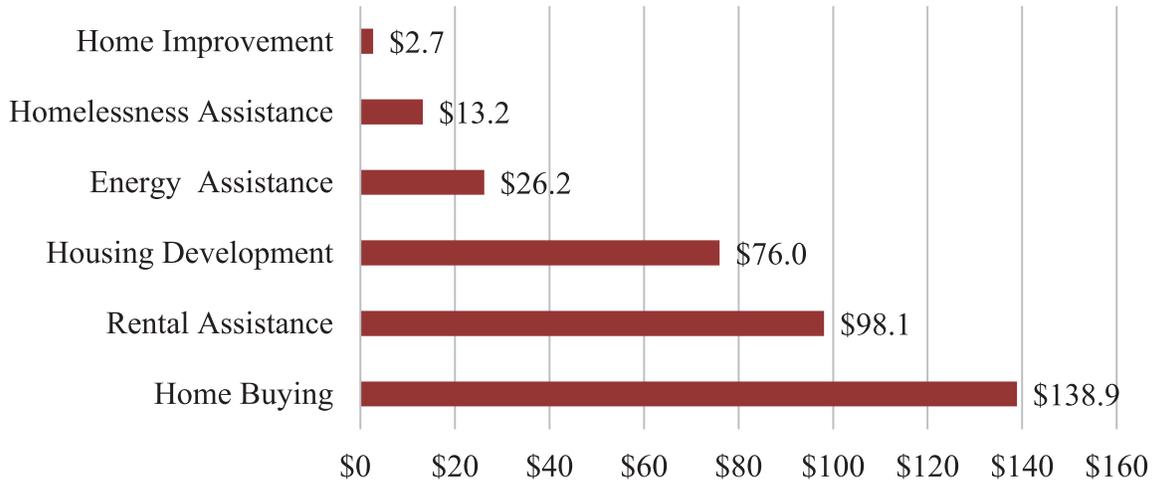
⁴U.S. Department of Housing and Urban Development. https://www.hudexchange.info/programs/cdbg/cdbg-expenditure-reports/?filter_Year=2016&filter_State=ME&filter_Granttee=&program=CDBG&group=Expend

⁵Maine State Housing Authority. <http://www.mainehousing.org/>

⁶U.S. Department of Health and Human Services, LIHEAP Funding Clearinghouse. <https://liheapch.acf.hhs.gov/Funding/funding.htm>

The Home Energy Assistance Program provides critical, short-term financial assistance to the most vulnerable in our communities. Over 38,000 Maine households receive assistance with paying their fuel bills each heating season. In many cases, this assistance is the difference between heating and eating or other vital necessities. This is especially true during the peak winter heating season when temperatures dip to near freezing levels. Denise Lord, Senior Director of Communications and Planning, MSHA

2017 Maine State Housing – Use of Federal Dollars (in millions)



Conclusion. For all the programs outlined above and the many other federal programs that positively impact the lives of Maine residents, businesses and visitors, the simple “ask” is that Maine’s Congressional delegation continue to support and provide funding for these programs. We thank the members of the delegation for their consistent and long-standing support for transportation programs, broadband expansion, and the CDBG program – all important investments in Maine communities and citizens. We urge your continued support and protection of these programs.

Federal Preemption: The Local Policy Work-Around

Municipal officials do their best to work under the auspices of whichever laws and regulations apply to them, federal or state. At the same time, local officials must also make sure they address the interests and concerns of their residents. As a 1986 report of the Maine State Legislature put it, “municipal government is the level of government closest to the people and most immediately responsive to their needs. It is manifest that the people need and deserve the authority to act to meet demands occasioned in the community.”⁷

The continuing balancing act between the duties and responsibilities of federal, state, and local governments has been centered in Maine’s long-standing home rule tradition. The legal concept of home rule, enshrined in Maine’s Constitution, has generally been respected at the state level. Efforts in recent years to limit or entirely preempt local autonomy have not been taken lightly nor, typically, have they been successful. For good reason, attempts made in Maine to roll back decades-old ordinances regulating pesticides, or prohibit local public-private partnerships aimed at expanding broadband internet access, have not even made it out of committee.

One of the few exceptions was enacted in 2015, prohibiting municipalities from enacting any ordinance, regulation or procedure governing the operation of ridesharing or “transportation network companies” such as Uber and Lyft. This policy was enacted via an amendment offered late in the legislative session, and it would probably not have made it through an ordinary notice and hearing process. The preemption has now come to be second-guessed if not regretted outright by some of the lawmakers who supported it at the time, and efforts are being made to walk it back.

It turns out that this ridesharing preemption was proposed in states nationwide, and in Congress. It also turns out that more and more preemptions of local control are being sought by all sorts of private-sector interests.

While this trend is not altogether surprising, it is concerning. Home rule is a legal cornerstone, too important to be undermined under-the-radar via vaguely worded preemptions buried in complex pieces of legislation or last minute amendment.

Fortunately, bills preempting local control have fared about as well in Washington as they have in Augusta. Unfortunately, preemptive efforts are now finding refuge before executive branch agencies, namely the Federal Communications Commission (FCC). The following are examples of what MMA views as two recent successes in Congress, and two significant missteps at the FCC.

The Farm Bill. Last fall, a serious concern grew in the municipal community regarding a specific provision incorporated into the final version of H.R. 2, the Agriculture Improvement Act or “Farm Bill” enacted by the House of Representatives in 2018. Section 9101 of the House Farm Bill proposed revoking the longstanding ability of political subdivisions of states to enact regulations of pesticides that are more restrictive than state or federal regulations.

This preemption of local control, inserted late in the process without the benefit of a public hearing, flew in the face of Maine’s strong home rule tradition. At least 30 municipalities across all corners of the state, from Allagash to Wells, have adopted pesticide-related ordinances over the past 40 years in an effort to protect the health of their citizens as well as the resources important to their local economies – namely, coastal marine environments and inland forests.

The Town of Harpswell appreciates the efforts of our Congressional delegation to support provisions in the farm bill that maintained a municipality’s ability to tailor its pesticide ordinance to fit unique local situations. The use of harmful pesticides could put Harpswell’s marine environment and economy, which are inextricably connected, at risk.
Richard Daniel, Chair, Harpswell Select Board

⁷“Report of the Joint Standing Committee On Local and County Government On The Revision of Title 30”, Maine Office of Policy and Legal Analysis, December, 1986.

Similar attempts to nullify pesticide regulation ordinances have been rejected by the Maine Legislature in recent years. The Association commends Maine's Congressional delegation, and especially Congresswoman Pingree, for efforts to ensure Section 9101 of the House version of the Act was rejected in the final reconciliation bill. For home rule to be meaningful, state and federal lawmakers must continue to stand up for the authority of Maine's towns and cities to craft thoughtfully tailored regulations addressing unique matters of importance to local public health, safety and welfare.

The STREAMLINE Act. Another preemption of local oversight authority found its way into S. 3157, the "Streamlining The Rapid Evolution And Modernization of Leading-edge Infrastructure Necessary to Enhance Small Cell Deployment Act," also titled by its acronym, the "STREAMLINE Small Cell Deployment Act."

As described in our 2018 Federal Issues Paper, the Association has advanced and strongly supports efforts to expand the availability of broadband internet throughout our state. Although pitched as a means of spreading internet access to areas in need, the STREAMLINE Act would not have delivered a realistic method of accomplishing that aim. On the contrary, the bill chiefly restricted local governments' ability to thoughtfully manage an expected wave of deployments of what are known as "small cell" wireless antennae in the coming months and years.

Without any real world justification in terms of actual examples from Maine's towns or cities, the bill proposed to override local planning review processes by imposing unworkable timeframes before projects are deemed automatically approved, or subject to approval by the Federal Communications Commission in the event of municipal denials. Because of their limited transmission range, these wireless facilities will not likely be poised to address service issues in Maine's rural areas. To the extent they do address access needs, small cells will be welcomed, not impeded, by town and city officials.

Your consideration of the municipal objection to legislative efforts to preempt home rule regulation of new and uncertain utility facilities was greatly appreciated. Regrettably, even after Congress opted not to restrict local small cell review authority, the Federal Communications Commission (FCC) stepped in and did.

FCC Small Cell Ruling. In late September 2018, the FCC issued a declaratory ruling backed by the telecommunications industry and opposed by local governments nationwide, establishing 60 to 90 day limits on the processing of applications and \$270-\$500 limits on application and annual right of way fees, while also limiting aesthetic review requirements.

Lowering the fees and limiting oversight is expected to cause cellular service providers to focus on attaching their small cell antennas to municipal utility poles and buildings in an effort to avoid the significantly higher cost of attaching to private utility poles and commercial buildings. Municipal officials in Maine are concerned about their ability to properly protect public property and public safety in light of what the wireless industry predicts will be a massive proliferation of these antennae.

Despite the name, small cell antennae may be as large and weighty as a personal refrigerator and incorporate significant ancillary equipment. Small cells, being of such a different mass and volume than ordinary power, phone, cable, or internet lines, run the risk of overwhelming existing poles. Their deployment could require poles to be replaced with taller poles that are larger in diameter, or the installation of many new poles. Given the limited cellular reach of these devices, they are only expected to be deployed in population-dense areas, where finding the space necessary to accommodate the placement of larger and additional poles could be challenging.

A preemption of ordinary local development review processes and minimization of local fee authority that is coupled with the likely outcome of a mandate on local resources to shoulder the burden of an expansion of private utilities' facilities in the public right of way is unwelcome at this time, especially given the lack of evidence to date of municipal interference with this industry in Maine. If this FCC ruling is not nullified in court, we believe that it ought to be by Congress.

The spread of small cell technology throughout the country will present numerous challenges to the ability of local governments to manage the public right of way in an appropriate and publicly acceptable manner. The recent action of the FCC to preempt local authority may make our ability to manage this public space even more difficult and will potentially impose costly mandates on local government. While we support the spread of improved telecommunications, we are concerned that federal preemption does not take into account local circumstances that are best addressed between local governments and the providers of local services. In my experience, one size does not generally fit all. Ed Barrett, City Administrator, City of Lewiston

FCC Cable Franchise Rule. On Sept. 25, 2018, the FCC published a draft rule which would allow cable entities' in-kind contributions to count as part of its franchise fee contribution, and would eliminate local authority over non-cable services provided using cable systems.

Specifically, the FCC proposed that any in-kind cable obligations other than capital costs for public, educational, and governmental access (PEG) channels and cable build-out requirements included in franchises should be considered a "franchise fee component," counting the value of those obligations toward the 5 percent gross revenue cap on franchise fees. The value of channel capacity for PEG stations, complementary connections to school or government buildings, and electronic program guides could be included.

The expected result is the discontinuance of franchise fee payments by cable companies to local governments, and the override of local regulation of broadband services provided by cable companies. The draft rule could also lead to different federal regulatory schemes regarding local regulation of equipment in the right of way, depending on whether the infrastructure is owned and operated by a telephone company, a wireless company, or a cable company.

At the time of this paper's drafting, the FCC had not finally acted on its proposed rule. With franchises forming a foundational pillar of the Federal Cable Communications Policy Act of 1984, franchise fees are a critical component of the entire national structure of cable regulation. They support important public education programming and compensate communities for access to the public right of way. Adopting this rule as proposed would raise the serious separation-of-powers question of whether effectively diminishing major provisions of statute is within the authority delegated by Congress to the FCC.

Conclusion. Although the pesticide preemption got a little too close to passing, the Association is deeply appreciative of federal lawmakers' efforts to remove that provision from the Farm Bill just before its final enactment. The defeat of the STREAMLINE Act is also appreciated. Municipal officials will continue to call the attention of Maine's Congressional delegation to proposals in Washington, D.C. that undermine Maine's constitutionally protected home rule and negatively impact the provision of important local oversight services on behalf of the public. We appreciate Maine's Congressional delegation's recognition of the importance of home rule and municipal officials' concerns about federal preemption. We ask for your continued opposition to measures that preempt local authority and decision making.

Mandate: A Shift in Responsibility for Clean Water

The enforcement of regulations necessary to meet the country's clean air and water standards are mandates that municipalities have addressed for decades. In fact, an October 1969 article in the Association's monthly magazine, the *Maine Townsman*, highlighted the lack of financial support from state and federal sources that continue today.

In a good faith response to the federal Water Pollution Control Act (1948), Water Quality Act (1965) and Clean Water Restoration Act (1966), states set enforcement targets with the expectation that local level investments would be funded. However, by 1969, appropriations for clean water programs had receded by 30 percent of the total federal funding originally authorized.⁸ Fifty years later, federal spending levels have only increased an average of 3.77 percent annually, to \$7.95 billion in fiscal year 2019, to combat some of the largest water quality challenges.

Fiscal Burden. Wastewater collection and disposal, stormwater treatment, sediment and erosion control, drinking water provisions, industrial discharges, and the National Pollutant Discharge Elimination System permit program pre-treatment requirements form the bulk of the clean water activities carried out by municipalities. In some cases, the prescriptive nature of the regulatory burdens handed down to communities are ill-suited to deliver the desired outcomes, costly to implement, and lack the latitude necessary to introduce innovative community-based solutions to environmental challenges.

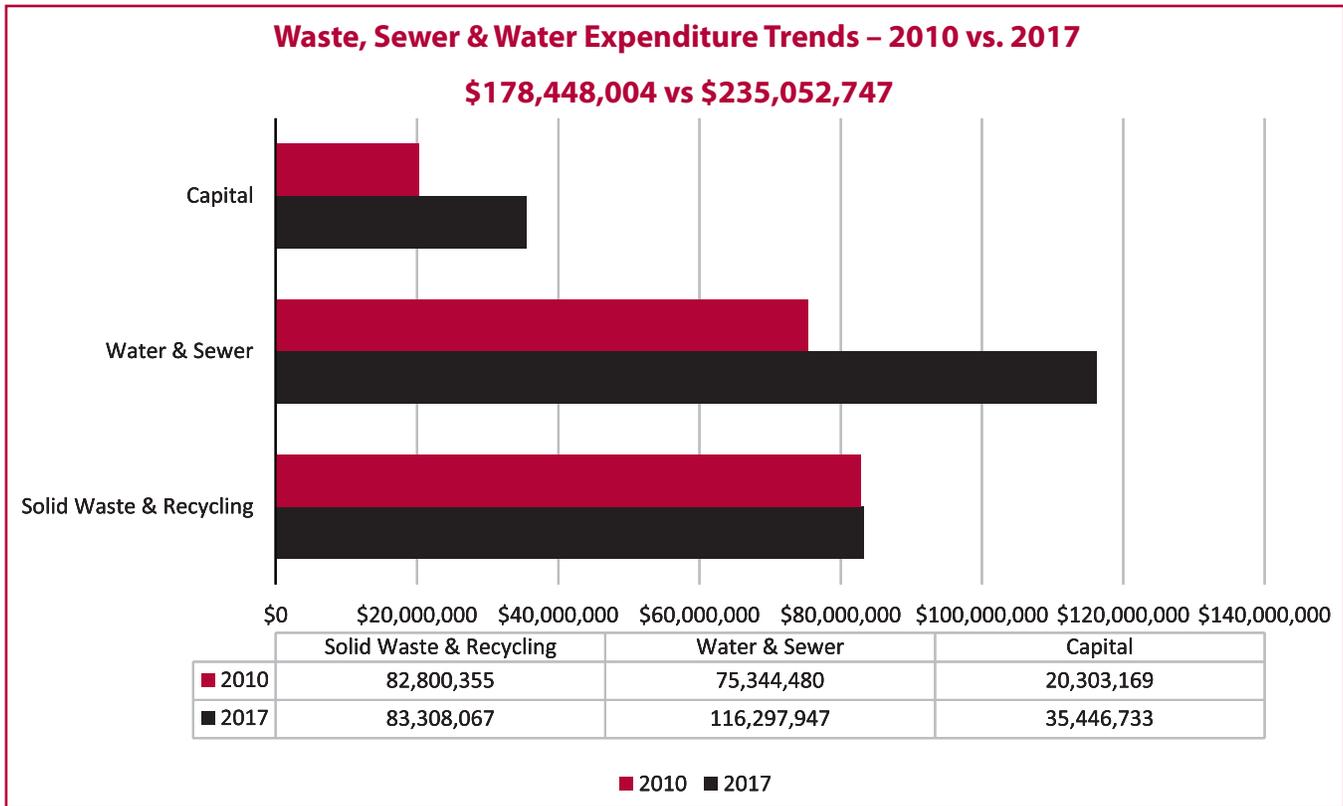
The current approach of assigning responsibility to municipal partners to solve and protect communities from systemic environmental challenges means the measures designed to protect entire ecosystems are being viewed through the lens of municipal boundaries and funded primarily by the property taxpayers in those communities. Requiring the few to fund the mechanisms necessary to protect water bodies from the damage caused by all strikes municipal officials as unfair. The obligation to protect our environment should be borne primarily by federal and state governments. At the very least, the funds necessary to implement the programs at the local level should be fully funded with state and federal resources.

When important environmental regulations are handed down by the federal government, they should be supported with funds for implementing this policy. The question becomes out of which pocket do we pay for this: the property tax payer on a fixed income or a fraction of everyone's federal income tax? A previously mandated requirement of Saco (and other communities with similar histories), was to separate combined sewer/stormwater overflow. While good for protecting our waterways, it has a huge financial implication. Saco chose to impose locally assessed impact fees on new businesses that considered locating in Saco in order to pay for it. This practice, while helpful in keeping water rates low for all customers, has become a barrier for economic development. Had the federal government provided the resources to cover the cost of this mandate, Saco may have had a stronger and more diverse mix of businesses to support the local tax base. Good policy should be supported financially at the policy decision level. Kevin Sutherland, Saco City Administrator

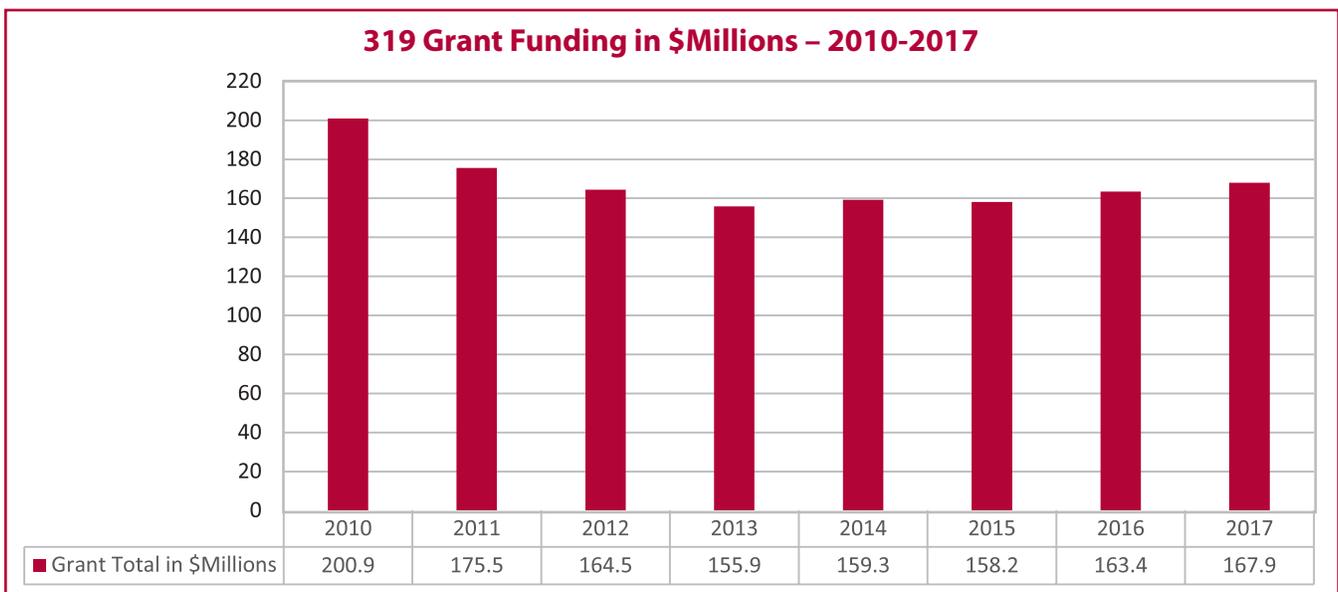
The result of the current paradigm is municipalities continuing to be expected to enforce federal and state environmental regulations and therefore relying on environmental expert contractors to meet the laws' scientific and data collection requirements with little to no data or financial support from state and federal agencies. Pretreatment or restoration scenarios can be untested or costly to implement, impaired water research creates ambiguity on how to address bacterial impairments where sources are not clear or come from private property, and watershed-wide impaired water research is limited and in many cases non-existent. In addition, one of the core Municipal Separate Storm Sewer System (MS4) clean water requirements, the "total maximum daily load," lacks the statewide science to define achievable best management practices. This lack of clarity makes municipal oversight challenging and costly.

⁸ "Clean Waters by the Year 2015?" *Maine Townsman*, Maine Municipal Association, October 1969 p.5

Between 2015 and 2017, municipalities experienced a 30 percent increase in expenditures necessary to address clean water, urban runoff and waste management. Between 2010 and 2017 this increase was 54 percent. There is no dedicated “Clean Water” fund to support these efforts and Clean Water State Revolving Funds are rarely used for stormwater projects. Rather, they are reserved for combined sewer overflow abatement. Addressing aging infrastructure remains the primary strain on municipal clean water budgets.



During that same period, the 319 Grant Program, which provides funding for state level administration of the MS4 program, lost 16 percent of federal funding support with the lowest level occurring in 2013 when the last MS4 permit was renewed in Maine. Peak funding for the program occurred in 2003 at \$238.5 million, 30 percent above the 2017 funding level. This program is vital to help municipalities with financial assistance, project support, and data collection.



In 2017, the Environmental Protection Agency awarded the Maine Department of Environmental Protection (MEDEP) nearly \$2 million in section 319 Clean Water Act Funds. Nearly \$903,000 of that allocation was issued to municipalities, soil and water conservation districts and watershed groups for implementation projects. The program's eligibility standards require that a minimum of 40 percent of the project be funded by the municipality or other funding sources. A total of 13 projects were funded last year. \$994,000 in remaining funds went to fund eight staff members at MEDEP and provide other indirect support for the program.⁹

Conclusion. The charge of protecting the state's and the nation's environmental resources must be a shared responsibility. We thank Maine's Congressional delegation for its commitment to environmental protection and support for the critical role local governments play. The state's municipal leaders appreciate the work of both Senator Collins and Senator King to ensure that Maine was awarded \$23.5 million for the Clean Water and Drinking Water State Revolving Fund last year.

As members of the delegation are faced with future environmental protection and funding bills, we respectfully ask you to consider the following:

Key stakeholders should be called on to identify problems, develop solutions, find adequate and fairly apportioned financial resources, identify which level of government is best suited to implement effective solutions and provide adequate funding and technical assistance to those asked to deliver and enforce the solutions. The current practice of shifting enforcement and financial burden from one level of government to another level of government is far too costly and rarely results in the implementation of sustainable solutions that protect and improve our environment.

A Final Note...

While there is no way to fund or mandate civility in government, leading by example has its impact.

As governmental leaders, we need to strongly encourage community engagement and citizen participation at all levels. This practice will increase the level of awareness, develop a greater understanding of the issues, advocate ideas and promote solutions. Perhaps the simplest way to do this is to respect others opinions, respect transparency, respect open communication or simply just respect civility. Melissa Doane, Bradley Town Manager

Municipal leaders appreciate the many times members of Maine's Congressional delegation have taken the high road rather than engage in verbal battles for the single purpose of being right or getting the last word. Your ongoing commitment to civility and support of appropriate public discourse does not go unnoticed by municipal officials.

⁹Nonpoint Source Management Program 2017 Annual Report, Maine Department of Environmental Protection, May 2018 available here: <https://www.maine.gov/dep/water/grants/319-documents/reports/2017/2017%20NPS%20Report%20Final.pdf>



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