

Maine Municipal Association

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TC Orientation Materials



July 23, 2014

Dear Municipal Officials:

Please find the enclosed publication, "2014 Municipal Priorities Paper," for your review and potential use. The publication was produced by our State & Federal Relations and Communication & Educational Services departments as part of MMA's ongoing effort to keep members and state leaders apprised of the major challenges facing municipalities.

This is a very important year, with a gubernatorial election and important legislative elections fast approaching. Municipalities face major challenges, such as: the ongoing raids of the 42-year-old Municipal Revenue Sharing fund; stalled funding of K-12 public education; concerns over Maine's roads and infrastructure; and, much more.

We hope that you find value in our Priorities Paper and that it is useful in talking to legislative candidates and constituents in your community. If you have questions about the report, feel free to contact Geoff Herman or me at: 1-800-452-8786 or via email at clockwood@memun.org or gherman@memun.org.

Thank you.

Sincerely,

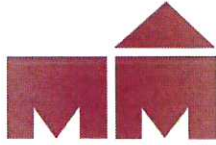
Christopher G. Lockwood
Executive Director



Maine Municipal Association

Municipal Priorities Paper

2014



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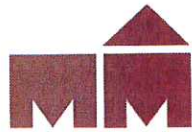
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Maine Municipal Association

Municipal Priorities Paper

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June 2014

A Brief Description of the Maine Municipal Association

Founded in 1936, the Maine Municipal Association (MMA) is a voluntary membership organization offering an array of professional services to municipalities and other local governmental entities in Maine. 487 of Maine's 492 towns and cities are currently members of the Association. MMA is a non-profit, non-partisan organization governed by a 12-member Executive Committee elected from its member municipalities. In 49 of the 50 states there is a municipal league with certain organizational similarities, but each league offers a unique array of services according to the particular interests of its municipal constituency.

MMA's services include advocacy, legal and personnel advisory services, group insurance self-funded programs, and a number of services under the "communication" umbrella including professional development and training for municipal officials, educational programming and information-sharing for the benefit of membership and the general public, and the publication of an extensive array of manuals, magazines and newsletters, data aggregations and public policy analyses.

With respect to MMA's advocacy services, the position of the Association on any legislative matter is entirely determined by a 70-member Legislative Policy Committee (LPC). The LPC is made up of two municipal officials from each of the 35 State Senate districts who are elected to serve on the LPC by the boards of selectmen and town and city councils in each district. Using a process that combines a traditional town meeting with some elements of the Legislature's own procedures, the LPC reviews and votes out a position on each bill of statewide municipal interest that is submitted to the Legislature. Those positions are transmitted to the Legislature by MMA's advocacy staff.

The Maine Municipal Association has a core belief that local government is a fundamental component – a keystone – of our democratic system of government. MMA is dedicated to assisting local governments, and the people who serve at the municipal level, in meeting the needs of their citizens and engaging as responsible partners in the intergovernmental system.



MMA website: www.memun.org

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COVER PHOTO: This photo was taken on June 7, 2014 at the Leeds Town Meeting, by Ben Thomas, MMA Website & Social Media Editor.

Introduction

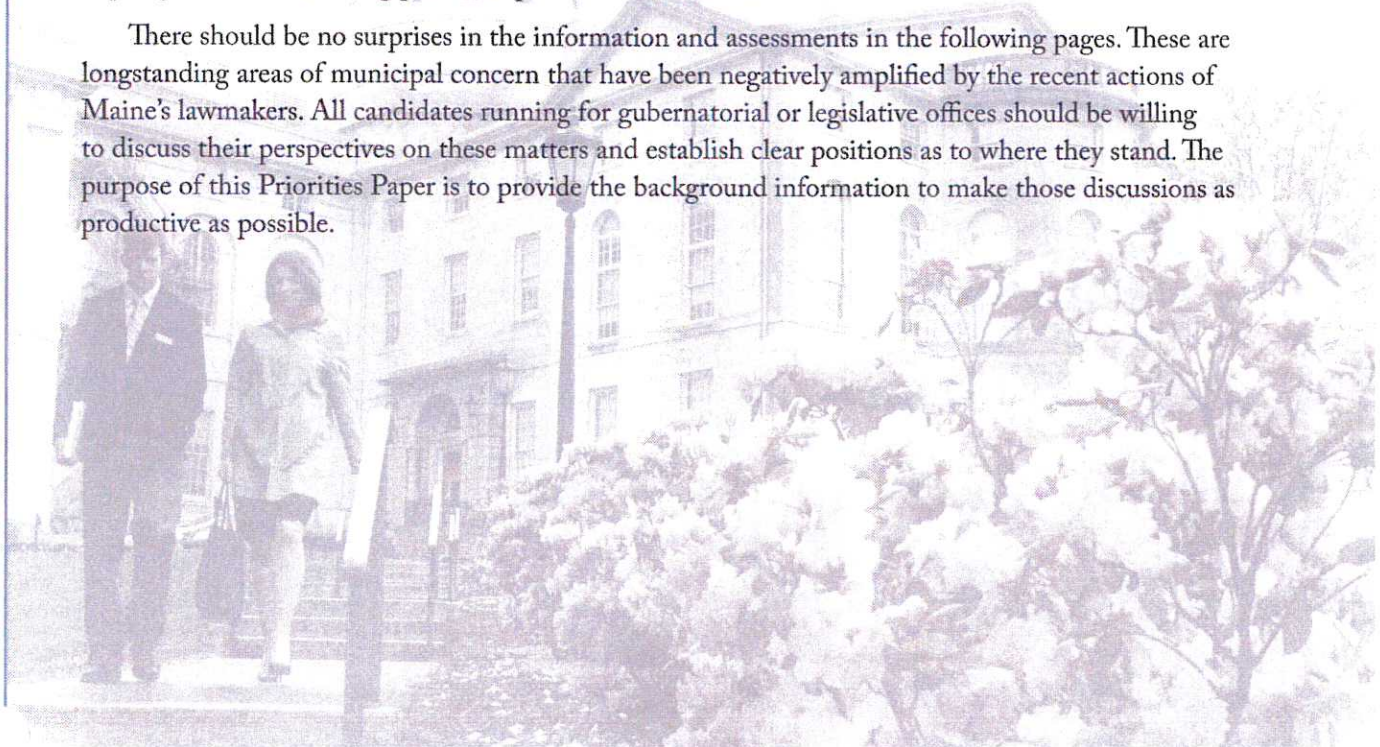
Actions taken by our state government over the last six years give municipal officials ample reason to wonder what's going on. Why are the policy makers in Augusta sharply reducing support for local government as well as relief programs for the state's homeowners and property taxpayers? What motivates such a significant shift in state priorities away from the towns and cities? How are those legislative decisions reshaping the nature of the relationship between the state and local governments? What does that new relationship portend for the future?

The 2014 Municipal Priorities Paper describes the various state governmental actions that have impacted our towns and cities in five general categories:

- Dishonored commitments
- Increased property tax burden
- Stalled progress on funding K-12 education
- Retreat from investments in transportation infrastructure
- Mandates, regionalism and municipal "consolidation"

Behind each of these bulleted categories are found the core programs that MMA's 70-member Legislative Policy Committee strove to protect over the 2013-2014 legislative biennium, but without great success. For municipal officials, the nature of the state-local relationship is developed around these well-established areas of public policy, which include specific programs such as municipal revenue sharing and the Legislature's overall maintenance and management of the state's tax code. The question Maine's municipal leaders are asking is whether the relationship between the state and its municipal governments is going to be one of strong partnership or mere coexistence?

There should be no surprises in the information and assessments in the following pages. These are longstanding areas of municipal concern that have been negatively amplified by the recent actions of Maine's lawmakers. All candidates running for gubernatorial or legislative offices should be willing to discuss their perspectives on these matters and establish clear positions as to where they stand. The purpose of this Priorities Paper is to provide the background information to make those discussions as productive as possible.



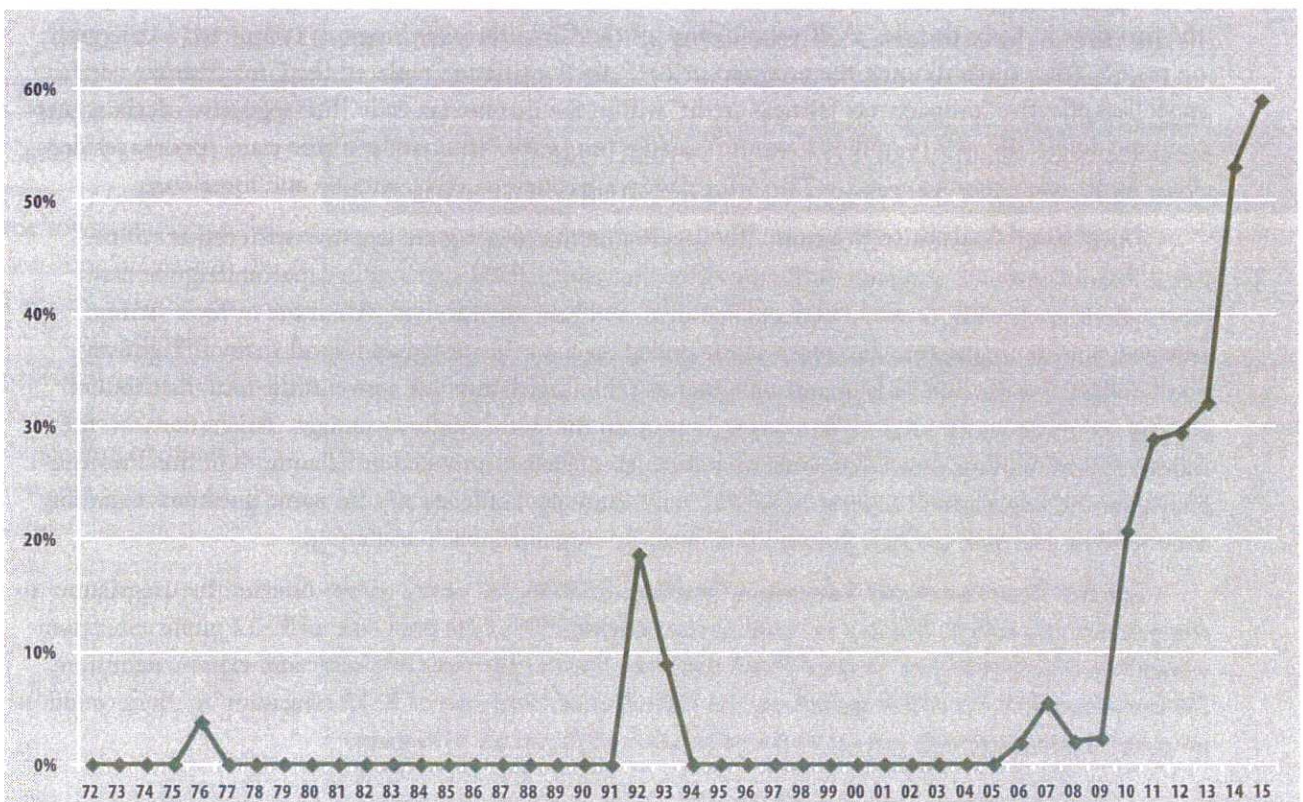


CHAPTER 1: Dishonoring Established Commitments

The 126th Legislature adjourned from its second regular session on May 2, 2014. In 2013, in its first session, the Legislature broke a number of longstanding agreements and arrangements with local government in an unprecedented way. With an increasingly cavalier attitude, the Administration and legislators are affirming by both their actions and words that no policies established in statute should be relied upon as dependable. Those who craft state policy, it would seem, are no longer interested in maintaining long-term commitments. All constituencies, including other levels of government, are well advised not to accept at face value any pledge, agreement or arrangement codified into state law. It is now so commonplace for the Legislature to shortchange statutory commitments, anyone naïve enough to enter into a partnership arrangement with the Legislature is deemed a fool who fully deserves the rude awakening that will most certainly be experienced a few years down the road, when the pledge is broken. It is hard to know which is worse, the breaches in trust or the new legislative approach that allows those breaches to occur. In either case, the Legislature doesn't operate in a vacuum. Its recent unwillingness to honor commitments will undoubtedly impair its ability to effectuate constructive, long-term change.

• **Revenue Sharing Program.** Appendix A provides a concise history of the municipal revenue sharing program, with tap roots reaching deeply into the state's longstanding policies on taxation, tax exemption and municipal mandates. Municipal officials can only hope that all candidates for office unfamiliar with the revenue sharing system will read Appendix A and become acquainted with the history, structure and design of the program.

Percent of Revenue Sharing Funds Redirected to State General Fund 1972-2015



Source: Office of Fiscal and Program Review; State Budget Documents.

Dishonoring Established Commitments

For the more immediate purpose, it is sufficient to observe that in its 42 year history, the municipal revenue sharing program has never been treated by the Administration and the Legislature with such a high level of disrespect. For several decades and up to just six years ago, taking money out of the revenue sharing program to pay for other state priorities would have been unthinkable. The older-school thinking among Maine's policy makers was that a program designed for the express purpose of sharing a state resource in recognition of shared obligations to provide governmental services is the equivalent of a contract and should never be broken. In contrast, under the new legislative thinking, the foundations of revenue sharing are forgotten, archaic, irrelevant. The Governor regularly characterizes the municipal revenue sharing program as "welfare" for the towns and cities. The accompanying graph (p. 3) reveals the history of the Legislature's compliance with the law that established the state's premier property tax relief program in 1972. As will be noted, after more than three decades of faithfully honoring the law, the Legislature has scuttled the agreement. Over 50% of the revenue sharing distribution was taken by the Legislature for other spending purposes during FY 2014. Not to be outdone, \$86 million will be lifted from the revenue sharing distribution during FY 2015, representing nearly 60% of the entire program.

- **Circuitbreaker Program.** The Circuitbreaker property tax relief and rent rebate program for low income Mainers was created in the mid-1980s, a decade after revenue sharing was established. The Circuitbreaker was created to complement the overall strategy to address the state's historical overreliance on the property tax to pay for governmental services. As noted above, the multiple purposes of the municipal revenue sharing program are described in Appendix A. The Circuitbreaker program complements that effort by providing targeted relief to the low income households that are most severely impacted by Maine's property tax burden. The Legislature abruptly terminated the Circuitbreaker in 2013, discontinuing the issuance of income-tested property tax and rent relief for low income Mainers for the first time in three decades. A 20-year history of the Circuitbreaker program is depicted in the graph on page 5. After discontinuing the program in 2013, the Legislature replaced the Circuitbreaker with a much less effective "property tax fairness credit" within the income tax code. This legislative decision nets the state budget about \$10 million a year in "savings" but pushes thousands of the state's poorer residents closer to the two consequences the Circuitbreaker was created to avert, eviction and foreclosure.

- **Local Road Assistance Program.** The Legislature has never gone negative with respect to the Local Road Assistance program, until now. Over the years, LRAP, as it's called, has undergone many incarnations, each with its own name and acronym, and been distributed with more or fewer strings attached, but the Legislature has never before pulled back on the designated local share of Highway Fund dollars. For the first time in anyone's memory, the Legislature has now cut the local distribution of "gas tax" revenues by a full 10% in order to prop-up the state's highway budget. Much more on the transportation funding issues that concern municipal officials is provided in Chapter 4 of this Priorities Paper, but the Legislature's actions on LRAP make municipal officials ask the same questions regarding commitment and trust (or lack thereof) that apply to municipal revenue sharing.

- **Teacher Retirement and Education Funding.** In 2004, the state's voters directed the Legislature to comprehensively reform Maine's tax code so that at least 55% of the total cost of K-12 public education would be covered with state General Fund resources. For the purposes of clarity and express definition, the law adopted by the voters spelled out the definition of "total cost of K-12 education" so there would be no misunderstanding with respect to the calculation of the state's 55% share.

Dishonoring Established Commitments

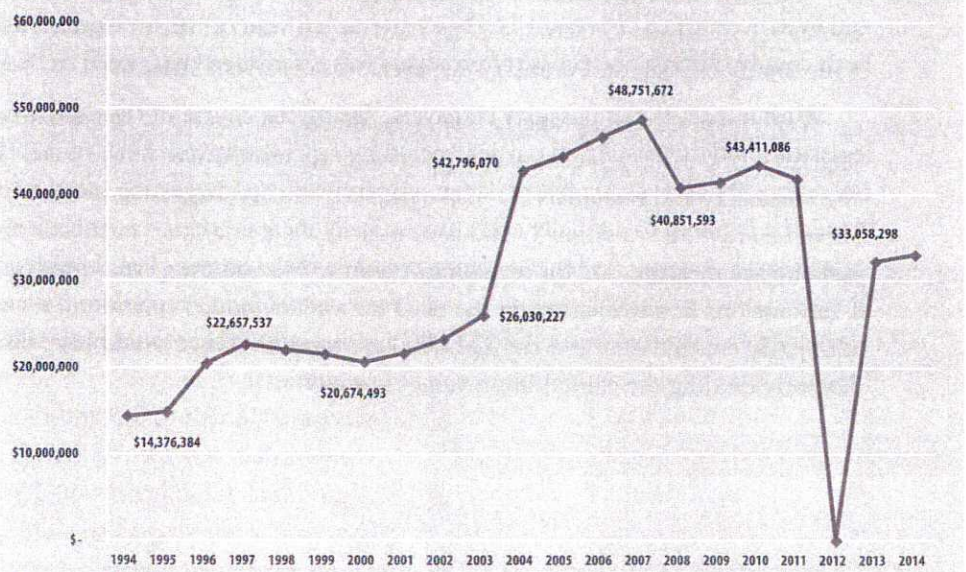
"Notwithstanding any other provision of law, the Legislature each year shall provide at least 55% of the cost of the total allocation for kindergarten to grade 12 education from General Fund revenue sources. For the purpose of this chapter, and until such time as the Legislature may implement an alternative school funding system, "total allocation" means the foundation allocation for a year, the debt service allocation for that year, the sum of all adjustments for that year and the total of the additional local appropriations for the prior year. In the event the Legislature implements an alternative school funding model that alters the meaning of the terms used in this Title or otherwise makes obsolete the system of allocations and local appropriations established by this Title, the term "total allocation" as it applies to the mandatory appropriation required by this section means the amount reasonably calculated as the equivalent of this definition." (From LD 1372, An Act to Enact the School Finance and Tax Reform Act of 2003)

There was nothing new at the time about this definition of the total cost of K-12 public education. It had been the accepted definition of "total cost" since the Legislature first established the 55% state share requirement in the mid-1980s.

In other words, in 1985 when the Legislature established for itself the goal of providing 55% of the total cost of K-12 education, and again in 2004, when the voters reaffirmed that goal by directing the Legislature to meet that commitment, the cost of the teacher retirement premium was not considered a defined component of the "total cost" as that term applied to the 55% standard. From the inception of the public employees retirement system in the 1940s, the premium for the school teachers was understood to be a financial obligation of the state. Disregarding that history, today's Legislature has redefined the "total cost" to include the teacher retirement premium.

In 2013, in addition to deeply cutting revenue sharing, terminating the Circuitbreaker program, and reducing Local Road Assistance, the Legislature shifted the "normal costs" of the teacher retirement premium from the state's General Fund to the property taxpayers in the towns and cities. A one-time increase to the General Purpose Aid for Local Schools was provided in FY 2014 to cover (more or less, depending on the school system's exposure to the school funding model) that shift in financial obligation for the first year. The transition is now complete. The normal cost of the teacher retirement premium has been completely moved over to the local level and

Circuitbreaker Benefit Distributed With Respect to Each (Calendar) Benefit Year 1994-2014



Source: Office of Fiscal and Program Review.

Dishonoring Established Commitments

included in the Essential Programs and Services school funding model. As a result, the state is exposed to only 45% of that cost instead of 100%, and Maine's property taxpayers are exposed to the difference.

10 years after the voters adopted *An Act to Enact the School Finance and Tax Reform Act of 2003*, there are very few remnants of the law remaining. 99% of that citizens' law, including the 55% requirement itself, is either chronically ignored by Maine's lawmakers or has been repealed outright.

• **A Unified Approach to Managing the State's Jail System.** In 2008 the Legislature enacted a law that combined the financing and management of the county jail system with the state's prison system and established a nine-member Board of Corrections (BOC) to oversee the newly unified corrections system. Of importance to the municipal community, which supported the 2008 legislation, were the commitments that the state was making to the county officials responsible for managing and providing jail services and the property taxpayers who funded those services. Through the enactment of the bill, the property taxpayers' exposure to future county jail expenditures was capped at the 2008 expenditure level of \$62 million and a commitment was made to the counties that future increases in jail related costs would be funded by state government. Over time, in exchange for the increased state authority over the management of jail operations, the obligation to fund the statewide unified system would shift from the local property taxpayers to the broad based state tax resources.

Over the last five years the unified system has experienced its share of ups and downs. In 2013 the Legislature created a special Commission and charged it with developing recommendations for improving the administration, operation and funding of the "unified" state/county corrections system. Due in large part to the Commission's effort, legislation was enacted in 2014 (PL 2013, c. 598) that not only strengthens the system, but honors the commitments made to the counties and property taxpayers by: (1) providing the BOC with the tools and authorities necessary to accomplish its charge; (2) specifying that the \$62 million in capped property tax contributions are to be used for operational purposes only; and (3) limiting increases in the jail budgets annually prepared by county officials and authorized by the BOC. The legislation increases the authority of the BOC and clarifies that the state is responsible for funding annual increases to jail operation budgets, not the property taxpayers.

Although the Legislature overwhelmingly supported the 2014 unified corrections system legislation, and even overturned Governor LePage's attempted veto of the measure, a fissure in the commitment to both county officials and property taxpayers was discovered that needs to be addressed.

With respect to the property taxpayers, during the course of the debate on the bill, several legislators and other affected parties, including representatives of the public labor unions, questioned the rationality and sustainability of the property tax cap, suggesting instead that the property taxpayers should be required to annually and automatically increase their contributions to the jail system by an inflationary measure. As for the commitment to the counties, even though a fundamental element of the Commission's report focused on the need for a state-funded capital improvement plan, the legislation ultimately enacted removed the \$225,000 appropriation that would have taken the first step toward honestly funding the capital improvement program.

CHAPTER 2: Increased Property Tax Burden

Maine relies on three major tax systems – income, sales and property – to generate the revenue used to provide state and local governmental services. All major tax systems have their strengths and weaknesses. Municipal officials have long held that the burden imposed on Mainers by each of the three taxes should be roughly equal – with each tax system generating approximately one-third of necessary governmental revenues. If balanced in that way, the weakness of any one tax system cannot predominate.

The income tax, although highly progressive, is also unstable as a revenue source because of its sensitivity to the economy. The sales tax, tied to consumption, is a system of taxation over which the individual consumer has the greatest control, but it is also highly sensitive to the economy and is perceived as a deterrent to business activity. The property tax, which is extremely stable as a revenue source across economic cycles, is the tax least related to the taxpayer's ability to pay, which is another way of saying it is the most regressive tax in the state's arsenal. On top of that, it is applied against the most treasured and valuable asset in the average Mainer's possession, the family home.

Municipal officials believe that there is a historic and chronic overreliance on the property tax in Maine to generate revenue for governmental services. They also believe recent legislative actions are exacerbating the problem.

The adoption of the sales tax in 1953, the state income tax in 1969, the municipal revenue sharing program in 1972 and the Circuitbreaker program in 1985 are all major legislative acts that laid the foundation for a more balanced tax code.

The adoption of the homestead property tax exemption in 1998 was also very helpful, except that many changes have been made to the homestead exemption since its enactment, all of which were to the program's disadvantage.

In the following decade, for the stated purpose of obtaining "property tax relief statewide in a manner that is sustained over time", the voters directed the Legislature to pay 55% of the cost of K-12 public education. For the first three years after that vote a good faith effort was made to "ramp up" to that 55% standard and during that short period, the tax burden was distributed with measurably greater equity. Unfortunately, the 'ramp-up' quickly became a 'ramp-down' and the Legislature is once again 10 full percentage points – nearly \$200 million a year – short of compliance.

Major Legislative Enactments Designed to Balance the State's Tax Code

Legislative Act or Referendum/Initiative Ratification	Year
Establish State Sales Tax	1953
Establish State Income Tax	1969
Establish Municipal Revenue Sharing	1972
Implement "Circuitbreaker" Property Tax Relief Program	1985
Establish goal for the State to pay for at least 55% of total cost of K-12 education (Legislature)	1985
Establish Homestead Property Tax Exemption	1998
Direct the Legislature to pay for at least 55% of total cost of K-12 education (Maine's voters)	2004

TABLE 1 – Tax Revenue Mix - 2013

	\$	% of Total
Sales	\$ 1,036,887,515	21%
Income	\$ 1,693,849,829	34%
Property	\$ 2,266,767,723	45%
Total	\$ 4,997,505,067	100%

Source: Office of Fiscal and Program Review; Maine Revenue Services.

Increased Property Tax Burden

Property taxes, sales taxes and income taxes generated \$4 billion in governmental revenue during FY 2013, the most recent year for which data is available (Table #1). During that year, the property tax generated 45% of that total, more than twice as much as the state's sales tax, which contributed just 21% of the aggregate. Despite being the state's most regressive tax, the property tax generated well over \$500 million more to support governmental services than the most progressive form of taxation in the state's arsenal, the income tax.

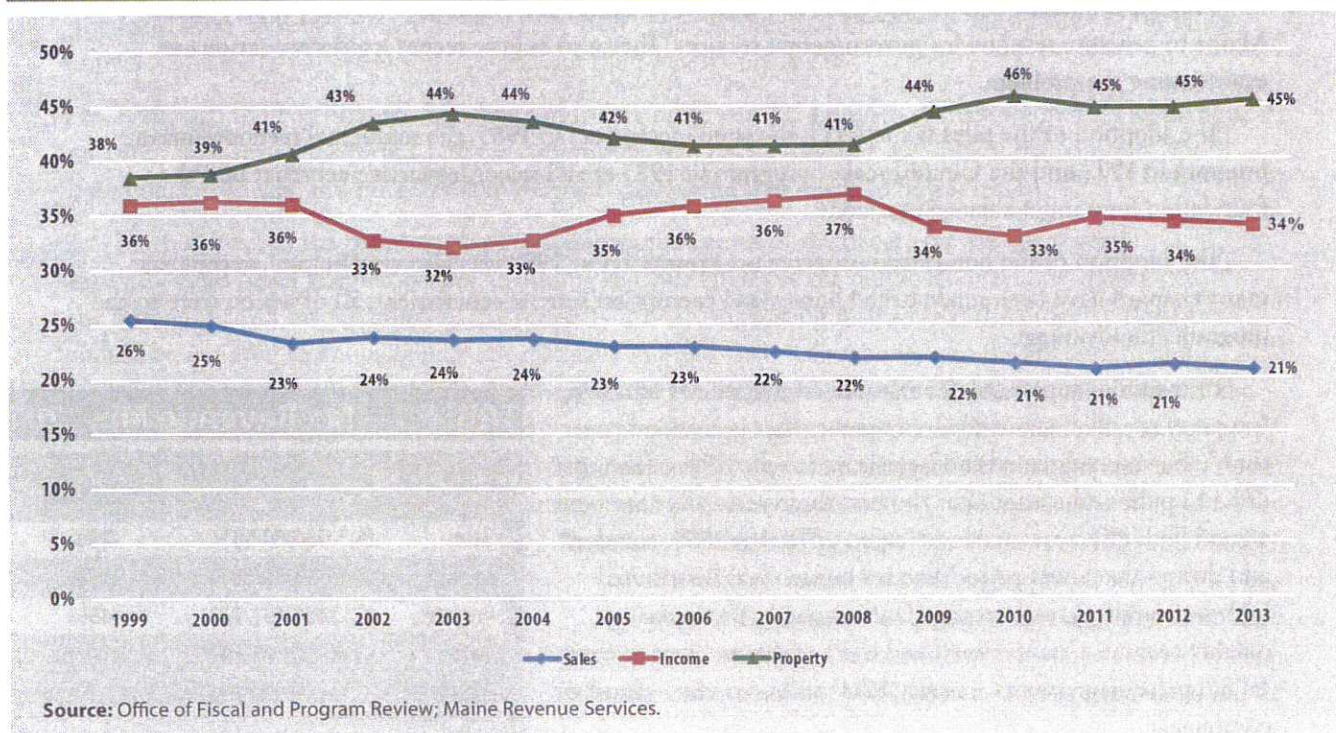
FY 2013 was certainly no anomaly with respect to these respective tax burdens. The accompanying graph (below) charts the mix of burden among the three major taxes since the late 1990's. The economic cycles over the last 20 years, and the Legislature's reactions to those cycles, are vividly depicted on this graph of tax burden.

The left hand edge of this graph describes the situation 15 years ago, immediately after the implementation of the homestead property tax exemption. Although the relative contribution of each system of taxation was not in perfect balance, 1999 marks a period of time where it was at its greatest point of equity in recent memory.

The economic recession precipitated by the burst of the "dot.com" bubble in 2001 resulted in the state retreating from its share of funding K-12 public education. A sharp increase in the property tax burden was the immediate and graphic result.

After the voters directed the Legislature to actually provide 55% of the cost of K-12 public education in 2004, a good-faith effort toward that goal was initiated. The 2006-2008 period reflects a narrowing of the difference in contribution between the property tax and the income tax as a result. At the same time, however, sales tax revenues continue to drop as a percentage of the overall mix, not in a precipitous way,

Tax Revenue Mix – 1999-2012



Increased Property Tax Burden

but steadily, constantly and without apparent regard to economic cycle.

The severe economic recession that followed the burst of the housing bubble in 2008, along with the Legislature's various reactions, are responsible for the significant trumpeting effect at the right edge of this graph, where the disparities in tax revenue generation among the state's three major taxes become the widest. Without concerted action by the Administration and 127th Legislature in 2015, the trumpeting disparities in tax revenue generation will only become more pronounced. The Legislature's raid on municipal revenue sharing for FY 2015 is the largest in history by far and has just been implemented. The effect of this legislative decision on the state's property tax burden will be manifested by increased property tax bills and reduced municipal services for years to come.



CHAPTER 2

L.B. 3 - L.D. 1372

An Act To Enact the School Finance and Tax Reform Act of 2003

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA c. 606-C is enacted to read:

CHAPTER 606-C

SCHOOL FINANCE ACT OF 2003

§15681. Short title

This chapter may be known and cited as the "School Finance Act of 2003."

§15682. Mandated legislative appropriations for kindergarten to grade 12 education

Notwithstanding any other provision of law, the Legislature each year shall provide at least 55% of the cost of the total allocation for kindergarten to grade 12 education from General Fund revenue sources.

For the purpose of this chapter, and until such time as the Legislature may implement an alternative school funding system, "total allocation" means the foundation allocation for a year, the debt service allocation for that year, the sum of all adjustments for that year and the total of the additional local appropriations for the prior year. In the event the Legislature implements an alternative school funding model that alters the meaning of the terms used in this Title or otherwise makes obsolete the system of allocations and local appropriations established by this Title, the term "total allocation" as it applies to the mandatory appropriation required by this section means the amount reasonably calculated as the equivalent of this definition.

§15683. Mandated legislative appropriations for special education

Notwithstanding any other provision of law, the Legislature shall provide 100% of the state and local cost of providing all special education services mandated under federal or state law, rule or regulation.

For the purposes of the mandatory appropriation required by this section, the commissioner shall identify and provide in the commissioner's recommendation pursuant to section 15605 the total costs to the individual school administrative units associated with providing all special education services mandated under federal or state law, rule or regulation for the school year concluding on the previous June 30th. In addition to any appropriations required by section 15607, the Legislature shall appropriate and ensure the accurate distribution of the total amount identified by the commissioner, adjusted by the actual state and federal reimbursements for the costs of special education services mandated by federal or state law, rule or regulation and previously provided to the individual school administrative units for that same school year.

§15684. Fund for the Efficient Delivery of Educational Services

The Fund for the Efficient Delivery of Educational Services, referred to in this section as "the fund," is established.

Two percent of the funds annually appropriated pursuant to this chapter must be dedicated to the fund and distributed from the fund to those school administrative units and municipalities that can demonstrate significant and sustainable savings in the cost of delivering educational services through changes in governance, administrative structure or adopted policy that result in the creation of consolidated services or collaborative school, broad-based purchasing alliances, enhanced regional delivery of educational services or collaborative school, municipal service delivery or service support systems.

§15685. Entitlement

The State's school administrative units and municipalities are entitled to the appropriations required by this chapter.

Sec. 2. 30-A MRSA §5681, sub-§3, as amended by PL 1999, c. 731, Pt. U, §2, is further amended to read:

3. **Revenue-sharing funds.** To strengthen the state-municipal fiscal relationship pursuant to the findings and objectives of subsection 1, there is established the Local Government Fund. To provide additional support for municipalities experiencing a higher-than-average property tax burden, there is established the Disproportionate Tax Burden Fund. To assist those municipalities that collaborate with other municipalities, counties or state agencies to obtain savings in the cost of delivering local and regional governmental services there is established the Fund for the Efficient Delivery of Local and Regional Services.

Sec. 3. 30-A MRSA §5681, sub-§5-B is enacted to read:

5-B. **Fund for the Efficient Delivery of Local and Regional Services.** For the months beginning on or after July 1, 2004 and before the distributions required by subsections 4-A and 4-B, 2% of all receipts transferred each month pursuant to subsection 5 must be deposited in the Fund for the Efficient Delivery of Local and Regional Services, as established in subsection 3, and distributed to those municipalities that can demonstrate significant and sustainable savings in the cost of delivering local and regional governmental services through collaborative approaches to service delivery, enhanced regional delivery systems, the consolidation of administrative services, the creation of broad-based purchasing alliances or the execution of interlocal agreements.

Sec. 4. **Legislative duties.** In carrying out its duties under this Act, the Legislature and its joint standing committees shall act to provide substantial property tax relief statewide in a manner that is sustained over time, reduce unnecessary spending, provide tax reform, avoid adding to the overall tax burden of citizens of this State and coordinate those efforts among the school administrative units and local and regional governments.

1. **State tax revenue.** As soon as possible, but no later than March 1, 2004, the joint standing committee of the Legislature having jurisdiction over taxation matters shall report out revenue-neutral legislation designed in accordance with the intentions of this Act to generate the additional revenue necessary to provide adequate funding for public education from kindergarten to grade 12 pursuant to the Maine Revised Statutes, Title 20-A, chapter 606-C. The legislation may not defeat the intent of this Act by reducing, freezing, eliminating or otherwise restricting the state revenues, appropriations or reimbursement revenue sharing established in Title 30-A, chapter 223, subchapter 2; property tax homestead exemption reimbursement established in Title 30, chapter 105, subchapter 4-B; the County Jail Prisoner Support and Community Corrections Fund established in Title 34-A, section 1210-A; the tree growth tax reimbursement program established in Title 22, section 4311; and the Rural Road Initiative and general assistance reimbursement program established in Title 23, section 1803-B.

2. **Fund for the Efficient Delivery of Educational Services.** As soon as possible, but no later than March 1, 2004, the joint standing committee of the Legislature having jurisdiction over education matters shall report out legislation designed in accordance with the intentions of this Act to govern the design, implementation, management and oversight of the Fund for the Efficient Delivery of Educational Services established in the Maine Revised Statutes, Title 20-A, section 15684.

3. **Fund for the Efficient Delivery of Local and Regional Services.** As soon as possible, but no later than March 1, 2004, the joint standing committee of the Legislature having jurisdiction over state and local government matters shall report out legislation designed in accordance with the intentions of this Act to govern the design, implementation, management and oversight of the Fund for the Efficient Delivery of Local and Regional Services established in the Maine Revised Statutes, Title 30-A, section 5681, subsection 3.

4. **Tax burden management.** As soon as possible, but no later than March 1, 2004, the joint standing committees of the Legislature having jurisdiction over taxation matters and appropriations and financial affairs shall jointly develop and report out legislation that consists of a comprehensive plan that integrates the efforts of state, county and local governments and schools to reduce unnecessary spending, identifies cost savings in the delivery of governmental services and otherwise addresses the issue of the overall tax burden in this State.

The actual "55%" legislation adopted by Maine voters on June 8, 2004.

CHAPTER 3: Stalled Progress on Funding K-12 Education

As mentioned in Chapter 1, the School Finance and Tax Reform Act of 2003, as adopted by the voters as a citizens' initiative on June 8, 2004, has been all but repealed by the Maine State Legislature.

The centerpiece of that law was the directive that the Legislature provide at least 55% of the cost of K-12 public education from the state's General Fund. The 55% standard wasn't created out of thin air. It was first established by the Legislature itself in 1985 but subsequently ignored. Even after the state's voters reinforced the directive by their vote in 2004, the standard has been ignored.

The law directed the state to cover at an absolute minimum each school system's exposure to the special education programs required by federal and state law. That directive has been ignored.

Additionally, the law directed the Legislature to comprehensively reform the state's tax structure in order to meet its educational funding obligations. That directive has been ignored.

The law also created two systems designed to incentivize, at zero additional cost to the state, the regional delivery of both municipal and educational services, but both efficiency-incentive systems have been repealed.

Ten years later, the voters' law has been largely gutted and generally ignored. Only two tangible legacies remain.

"Tax burden management". In the context of (1) providing substantially more in the way of state financial support for K-12 education, and (2) implementing comprehensive tax reform, the voters' law directed the Legislature to implement a tax burden management system – tax or spending caps – that would apply evenhandedly to municipal, school, county and state government. Despite the fact that 55% state funding for the schools never materialized and despite the fact that the tax code was never comprehensively reformed, the tax burden management system, known colloquially as "LD 1", was implemented immediately and remains in place today.

Tracking 55%. The second legacy is a detailed tracking of the state's progress in achieving the 55% standard. Thanks to the meticulous work of the Department of Education and, in particular, the Department's Commissioner, Jim Rier, the state's annual compliance with the 55% standard since the voters' law was adopted is tracked with great accuracy. The graphic (p. 13), which is a tribute to Commissioner Rier's ability to convey tremendous amounts of information in a single, organized format, is reprinted here (on the next page).

There are many forces at work that make this graphic very "busy." Here is a short list of the elements within the school funding system that conspire to make this graph look impossibly complicated.

- The complexity of the school funding system, generally;
- The attempted "ramped-up" implementation of the 55% standard;
- The special federal dollars dedicated to education funding as part of the American Recovery and Reinvestment Act of 2009;
- The recent shift of the teachers' retirement "normal cost" premium from a state to a local obligation; and

The Question Supported by Maine's Voters on June 8, 2004:

"Do you Want the State to Pay 55% of the Cost of Public Education, which Includes All Special Education Costs, for the Purpose of Shifting Costs from the Property Tax to State Resources?"

Stalled Progress on Funding K-12 Education

- The Legislature’s unceasing attempts to redefine the cost of K-12 education to retroactively include the massive teacher retirement unfunded actuarial liabilities that the Legislature itself created.

Notwithstanding the complications, however, the most salient information is clearly presented here for all to see.

The principal horizontal line on this chart begins with the blue ovals with red centers in FY 06, showing a value of \$1.829 billion, and ending with the blue ovals with white centers in FY 15, showing a value of \$2.058 billion. That line depicts the total cost that should be expended statewide for K-12 public education as calculated by the Essential Programs and Services school funding model (EPS). The line is designated as the “100% of EPS Model Costs”. It is that line against which the 55% standard is judged.

The major piece of information conveyed visually by this graph is the area shaded in red, representing the property tax share, which is supposed to be smaller and not larger than the part of the graph that is shaded in the salmon color, representing the state’s General Fund share. As a matter of law since 2005, the local-share portion is supposed to take up no more than 45% of the graphic space up to the “100%-of-EPS” line, and the state-share is supposed to take up 55% of that space. If the visual display does not seem that compelling, think about the dollar implications. For FY 2015, the EPS model says that an adequate K-12 education can be provided to Maine’s 187,000 public school students for \$2,058,863,183. Of that total, the state is providing from its General Fund \$943,846,108, or 45.84%. If the 55% standard was being honored, the state share would be \$1,132,374,750, or over \$188 million more each year.

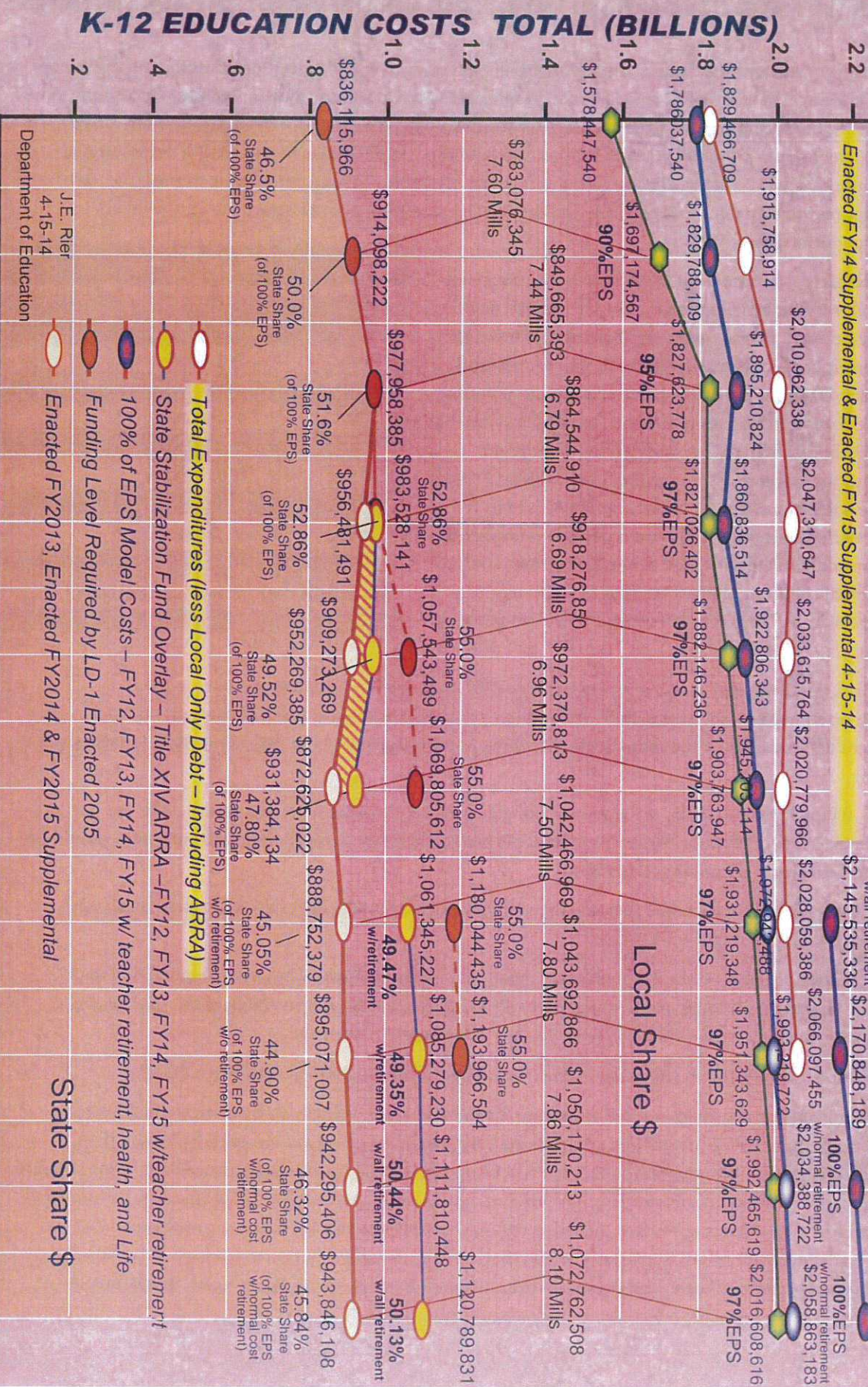
To give that number some context, \$188 million represents 200% of the value of the entire revenue sharing distribution plus the entire “property tax fairness credit” for 2015. Honoring the 55% school funding standard would undeniably rebalance the state’s tax code.

School Finance & Tax Reform Act of 2003: Legislative Scorecard

Citizens’ Directive	Legislative/ Administrative Response
1. Fund at least 55% of K-12 education from State’s General Fund	Ignored
2. Cover special education mandates for all school systems at a minimum	Ignored
3. Implement incentive systems for the regional delivery of both municipal and educational services, designed to impose no additional costs to State Government	Repealed
4. Comprehensively modernize and reform of Maine’s tax code	Ignored
5. Establish tax burden management system, colloquially known as “LD 1”	Implemented
6. Track state’s progress (and lack of progress) in achieving the 55% standard	Accomplished

Education Funding Law Implementation

State / Local Share of Education Costs



FY07 FY08 FY09 FY10 FY11 FY12 FY13 FY14 FY15

Department of Education

J.E. Rier
4-15-14

State Share \$

Local Share \$

Total Expenditures (less Local Only Debt - Including ARRA)

State Stabilization Fund Overlay - Title XIV ARRA - FY12, FY13, FY14, FY15 w/teacher retirement

100% of EPS Model Costs - FY12, FY13, FY14, FY15 w/teacher retirement, health, and Life

Funding Level Required by LD-1 Enacted 2005

Enacted FY2013, Enacted FY2014 & FY2015 Supplemental

Enacted FY14 Supplemental & Enacted FY15 Supplemental 4-15-14

CHAPTER 4: Retreat From Investments in Transportation Infrastructure

Taking into account the double whammy of high motor vehicle fuel prices and the emergence of more fuel efficient cars and trucks, it is not surprising that fuel tax revenues continue to decline. According to the data found in the Revenue Forecasting Committee's March 2014 report and presented in *Chart 1*, fuel tax revenues will decrease by \$25 million between the FY 2007-08 and the FY 2014-15 biennia. Fuel tax revenues have historically accounted for nearly 70% of the resources available to fund the state's transportation programs and services. The decline in these revenues poses a direct threat to Maine's transportation infrastructure.

For tangible evidence supporting that claim, one need only travel over the heavily posted, pothole-riddled and badly heaved road network weaving through the state's towns and cities. Municipal officials are well aware that revenue shortfalls are impeding much needed investments in the roads and bridges under the state's jurisdiction. What is troubling is that state policy makers do not seem to reciprocate any recognition of the financial hardships that the municipalities are experiencing. Initiatives to resolve the state's funding shortfalls are not focused on identifying a more sustainable and adequate statewide revenue source. The preferred solution, unfortunately, is how to shift additional road-maintenance burdens onto the property taxpayers.

In 2013 the Department of Transportation (DOT) advanced an initiative to take for state transportation purposes an estimated \$4 million per year in the excise tax revenue assessed on truck tractors and retained by the municipalities. Three reasons were given by the Administration to justify the taking.

1. Municipalities, unlike the state, are not obligated by a constitutional or statutory law to use motor vehicle-related taxes for highway repaired purposes. Therefore, a portion of those revenues should be dedicated for state roads and bridges.
2. Since truck tractors spend a vast majority of time on state roads, the excise taxes paid on those vehicles should accrue to the state.
3. Partnerships between the state and municipalities should be a two-way street. Since DOT has long shared its revenues, to the tune of nearly \$25 million each year in state aid for local roads, municipalities should be willing to share their revenues with the state.

Municipal officials found those arguments somewhat misleading and generally troubling.

First, suggesting that there is a more appropriate use for motor vehicle excise tax revenue illustrates a lack of knowledge about the history, structure and purpose of the local tax resource. Since the time automobiles began traveling over Maine roads a century ago, a local tax has been assessed on them to help finance local governmental services. For purposes of equity from community-to-community, the property tax, which is levied according to each municipality's tax rate, was converted to a motor vehicle excise tax, utilizing statewide mill rates. Regardless of whether it is a personal property tax assessed at the locally-established mill rate or at the excise tax rate set in state statute, taxes on motor vehicles are historically linked to the property tax, which is the municipalities' only tax source. It is in recognition of this history

Chart 1 – Fuel Tax Revenue

	Annual	Biennial
2007	\$ 226,824,018	
2008	\$ 225,235,339	\$ 452,059,357
2009	\$ 216,215,544	
2010	\$ 219,190,706	\$ 435,406,250
2011	\$ 217,033,892	
2012	\$ 219,463,118	\$ 436,497,010
2013	\$ 214,539,829	
2014	\$ 211,814,977	\$ 426,354,806

Source: Office of Fiscal and Program Review

Retreat From Investments in Transportation Infrastructure

that the state's Constitution does not compel a dedicated use of what was originally a component of the general property tax base.

It is also the case that the motor vehicle excise tax is no windfall; that is, municipal spending on local and state roads is greater than all excise tax revenue and state aid receipts combined. Based on the information provided in MMA's 2012 Fiscal Survey, municipalities collect \$181 million in motor vehicle excise taxes, \$21 million in local road assistance and raise an additional \$17 million in property taxes to spend \$219 million in road and bridge related improvements. Although a few communities from time to time may collect more in motor vehicle excise taxes and state aid resources than their local roads may require, that is clearly not the norm. Taking local resources to pay for state transportation budgets will have the direct effect of diminishing local road maintenance or increasing property taxes, or both.

The Administration's second argument to support this taking discredits the important economic role local roads play in the statewide transportation network. Some types of large vehicles, like 18 wheelers, spend more time traveling state roads than local roads, but others (gravel and cement trucks, logging trucks, large fuel delivery vehicles, etc.) likely spend more time on local roads than state. It is also the case that the local roads are less ruggedly designed and efficiently laid-out as the numbered state roads, so the heavy trucks cause disproportionately greater damage.

Third, the Administration implies that local governments provide no support for statewide transportation infrastructure. A prime example of the way in which municipalities and the state share the burden of maintaining Maine's transportation network is through maintenance of the "state aid" system. Under this program, municipalities are generally responsible for maintaining 7,500 lane miles of the state's minor and major collector roads during the winter months, with the state responsible for providing the summer maintenance to those roads. Municipalities spend approximately \$26 million each year to maintain these roads during the winter months. In the more densely settled areas of urban communities, municipalities have year-round maintenance responsibilities over state aid roads.

Beyond the statutory obligations, it is not uncommon for municipalities across the state to extend the partnership beyond the obligations established in law. Property taxpayers in Scarborough, for example, have invested \$5 million in 10 state road projects. In the Town of Hermon, the property taxpayers invested \$1.2 million in a state road project, for which the debt payment is \$250,000/year.

Finally, the Administration's arguments fail to acknowledge that municipalities also struggle to generate the revenues necessary to maintain roads and bridges. As shown in Chart 2, municipalities have recently experienced decreases in the amount of revenue generated by their two major sources of road revenue; the motor vehicle excise taxes and the shared state resources provided under the Local Road Assistance Program (LRAP). Between 2007 and 2013, the amount of state aid available to be distributed under LRAP has undergone a natural decrease from \$26 million annually to \$24 million. During that same time period, motor vehicle excise tax collections decreased from \$208 million to \$197 million.

Although the Administration's attempt to raid

Chart 2 – Municipal Road Funds

	State Aid (LRAP)	Motor Vehicle Excise Tax
2007	\$ 26,091,053	\$ 207,896,606
2008	\$ 25,827,695	\$ 202,614,038
2009	\$ 24,707,371	\$ 193,706,152
2010	\$ 27,798,321	\$ 187,694,840
2011	\$ 23,434,666	\$ 178,068,192
2012	\$ 24,029,944	\$ 186,382,523
2013	\$ 23,771,264	\$ 197,116,955

Source: Office of Fiscal and Program Review and Maine Revenue Services.

Retreat From Investments in Transportation Infrastructure

locally generated excise tax revenues was unsuccessful, the same bottom-line result was accomplished in a different way, with full legislative approval. Policy makers in Augusta succeeded in decreasing the historical municipal share of Highway Fund revenue.

Since LRAP was redesigned in 2000, the amount of Highway Fund resources available to distribute to municipalities was set at 10% of the Department's budget. As a result, during good times the municipal share increased and during economic downturns, the municipal share took a hit. It is designed as a sharing arrangement, similar to the municipal revenue sharing compact. Although municipalities were already absorbing their share of a downward economy, the changes enacted by the Legislature in 2013 shifted additional burdens onto the property tax by reducing the local share of the state's transportation related budget to 9%. As a result, beginning in FY 2015 the municipal share of the state's Highway Fund revenues was reduced by \$2 million annually. Municipal officials might hope that this "solution" was just a onetime raid, but it was written into Maine law as a permanent cut.

Despite all that has transpired over the past four years, there is evidence that municipal officials remain willing to partner with the state in efforts to address this common statewide problem.

One example of a more localized partnering effort is currently underway in the communities located along Route 15 from Orrington to Stonington. Officials from these towns have created a coalition focused on working with the business community, state policy makers and the Department of Transportation to see how best to make needed improvements to this economically vital road.

As another example, some members of the Legislature's Transportation Committee have been voluntarily meeting outside of the regular session schedule to develop funding solutions. In efforts to find a commonly accepted solution, this informal working group has invited interested parties to partake in the process. Appendix B is a recent column authored by two legislators involved in that ad hoc working group.

It is clear to municipal officials that the core problem is the antiquated system of financing the state's capital improvement program for transportation infrastructure, which is yielding diminishing returns. The communities and the state must work together in partnership to find ways to properly fund state and local road maintenance and repair programs.



CHAPTER 5: Mandates, Regionalism and Municipal “Consolidation”

The first four chapters of this Municipal Priorities Paper have focused on financial decisions made by the past two Administrations and previous three State Legislatures that have negatively impacted Maine’s towns, cities and property taxpayers. Cutting funding for local government is one way policy makers in Augusta react to diminished state resources, but there are others. Unfunded state mandates achieve the same goal of implementing state-supported policies at no cost to the state. In difficult economic times lawmakers also tend to rationalize their decisions by criticizing the local governments that are getting cuts in state assistance for their alleged inefficiency and increasing the political rhetoric calling for enhanced municipal “consolidation.”

Mandates

The recent municipal experience with unfunded mandates gets a solidly mixed review. Over two decades have passed since the state Constitution was amended by the voters to make the enactment or promulgation of an unfunded state mandate illegal and unenforceable unless a supermajority of lawmakers in both the House and Senate knowingly and expressly support enacting the mandate without funding (Maine Constitution, Article IX, Section 21, implemented at 30-A MRSA, Section 5685).

Municipal leaders are convinced that the relationship between the state and its local governments would be under a significantly greater strain today if the unfunded mandate section of the Constitution had not been adopted. Just in terms of how many mandates get enacted each year, the municipal experience with the limitation on unfunded state mandates has trended positively, with almost every Legislature since the Constitution was amended enacting fewer mandates than its predecessor. The 125th Legislature passed 15 new municipal mandates in 2011-2012; the 126th Legislature passed 11 new mandates in 2013-2014. Viewed solely in terms of sheer numbers, the Legislature has been cautious about using its two-thirds voting authority to knowingly pass unfunded mandates onto the municipalities.

A reduction in the sheer number of mandates enacted, however, does not necessarily indicate a legislative resolve to end the practice of shifting significant costs of implementing new state policies onto the communities and the property taxpayers. In addition to seriously cutting the distribution of municipal revenue sharing and other property tax relief programs, the two Legislatures that have convened since the last gubernatorial election have given strong consideration to many burdensome state mandates, explored ways to work around the Constitution procedurally, and enacted a few whoppers. What follows are examples in each category, along with the lessons the municipalities learned along the way.

Mandates given strong consideration. Perhaps the Legislature should not be criticized for merely exploring the enactment of a state mandate when the effort is ultimately unsuccessful, but there are dozens of examples in this category. Lawmakers, it seems, are rather quick to submit legislation that imposes additional duties on local governments. There are lessons learned by the municipal community even in these failed attempts.

**Maine State Constitution: Article IX, Section 21
(Ratified by Maine’s Voters November 1992)**

Section 21. State mandates. For the purpose of more fairly apportioning the cost of government and providing local property tax relief, the State may not require a local unit of government to expand or modify that unit’s activities so as to necessitate additional expenditures from local revenues unless the State provides annually 90% of the funding for these expenditures from State funds not previously appropriated to that local unit of government. Legislation implementing this section or requiring a specific expenditure as an exception to this requirement may be enacted upon the vote of 2/3 of all members elected to each House. This section must be liberally construed.

Mandates, Regionalism and Municipal “Consolidation”

In 2013, for example, a bill receiving strong legislative support would have expanded the state’s Workers’ Compensation policy to provide municipal firefighters and emergency medical services personnel with a presumption that any injury suffered subsequent to the issuance of an emergency call or tone was a “work related” injury, even if the injury occurred in the firefighter’s own home (LD 235). The municipalities are already reeling under the last “rebuttable presumption” inserted into Workers’ Compensation law in 2009 (the firefighters’ cancer presumption, see below). Like the 2009 legislation, this new bill would effectively target municipal employees and generally exclude any state first-responders from enjoying the benefits of this special presumption.

Municipal lesson: Legislators are attracted to legislation supported by our “first responders” as long as there is no financial exposure to the state.

Another example is the bill that would require municipalities to enter into open-ended contractual relationships with the private company that manages the state’s underground facilities protection system, known as “Dig Safe” (LD 965). The municipalities were entirely unconvinced that there was a problem with municipal underground infrastructure (water and wastewater systems) that needed to be “solved” by this forced membership with Dig Safe, but they were willing to explore putting reasonable right-of-way management protocols into statute provided the municipal authority to completely manage the municipal right of way was not weakened. The bill was not enacted.

Municipal lesson: There is more than one way to enact a mandate without funding. Require municipal membership in a private organization and let the mandates be imposed by the private entity rather than the state.

Working around the Constitution. Doing an end-run around the Constitution is a most significant concern. The primary example of end-running the anti-mandate law is a bill enacted in 2009 that amended Workers’ Compensation law to provide a presumption that any firefighter contracting certain forms of cancer was experiencing a work-related injury, making the municipality prove that the cancer was not work-related (LD 621, PL 2009, chapter 408). The non-partisan legislative agency responsible for identifying proposed legislation meeting the mandate definition, the Office of Fiscal and Program Review (OFPR), concluded that LD 621 was a state mandate, but legislative leadership caused the bill to be presented to the full Legislature without the necessary mandate “preamble” attached to the bill. Required by statute, the mandate preamble gives lawmakers formal notice that the bill would have significant municipal fiscal impacts. By refusing to acknowledge that the bill was a mandate, the law is now on the books, the implementation of the law is in a state of complete confusion, and the financial exposure to the affected municipalities and the entire municipal Workers’ Compensation program is quickly mounting, as predicted.

As it turns out, the practice of deliberately removing the required notice that a particular bill represents a state mandate is not a unique or particularly rare event. In a listing of the educational mandates enacted since the Constitutional provision was approved by the voters, a number of mandates identified by OFPR have been enacted by the Legislature without a mandate preamble, thereby creating a law that is not supported by the state’s Constitution but is nonetheless “on the books”. Some of those mandates are relatively innocuous, others are not. To circumvent the mandate preamble triggered by that evaluation, the performance-based graduation requirement was amended to kick-in only if the Department of Education provided annual grants to the school systems in the amount of 1/10 of 1% of the school’s “allocation” as calculated by the Essential Programs and Services school funding

Mandates, Regionalism and Municipal “Consolidation”

model. In other words, it became a “contingent” mandate which allowed the legislation to pass without being recognized for the obligations it passes down to the schools. Implementing performance-based graduation requirements imposes large-scale, structural revisions on all the schools’ instructional, testing and remedial systems. A revision of that scope requires extensive, multi-year planning which is not going to kick-on and kick-off each year on the contingency of a state grant. Funding a change of this magnitude on a contingency basis is not the appropriate way to do business.

The legislative practice of end-running the Constitution should be absolutely terminated.

Municipal lesson: Beware of the Legislature’s third option, which is to ignore legislative staff, enact the mandate without acknowledging it as such, and let the chips fall where they may.

Whoppers. The biggest unfunded mandates deliberately enacted by the Legislature in recent years include:

LD 274, enacted in 2013, which placed extensive new cemetery management obligations on all local governments to maintain veterans’ graves. Even though the bill was presented to the Legislature in such a way that the municipal costs were very high (identified by OFPR as “significant”), and even though the bill created new municipal obligations even for the graves of non-veterans located in cemeteries that municipalities do not own, all but one State Representative in the House voted the bill into law, as did every State Senator. Thankfully, this legislation was revisited in 2014 and the unreasonable elements of the new law were repealed.

Municipal lesson: When a favored constituency is behind a proposed mandate, watch out! The municipal concerns become irrelevant.

LD 1509, the state budget enacted in 2013, laid down an extensive new assessing mandate on all municipalities that host major industrial or commercial properties. Very expensive “appraisal reports” were required by Part O in that budget for all major industrial or commercial properties. If these reports are not produced, the municipality would forfeit state funding and access to certain state programs. As is the case with many mandates tucked into larger budget bills, the mandate implications of Part O were given zero legislative consideration during the enactment process, drowned out by all the other extremely negative municipal consequences of that budget. Because the municipal mandates in Part O came in a package that included some mandates on the large industrial or commercial property taxpayers as well, the big businesses complained and most of Part O was subsequently repealed in 2014.

Municipal lesson: State budget bills mask the impact of all the municipal mandates they contain.

Glimpses of recognition. Although there is a fundamental tendency for larger units of government to impose obligations on smaller units of government, there are certainly signs that the Maine Legislature is sensitive to the mandate issue.

As discussed above, the “whopper” mandates enacted in 2013 were substantially corrected in 2014. Another very promising sign came in the biennial budget’s establishment of a special Mandate Working Group to study municipal mandates passed down to the towns and cities. This year’s supplemental state budget incorporates several of the Working Group’s recommendations, particularly with respect to some of the most archaic mandates on the books. The supplemental budget also establishes the State-Local Intergovernmental Working Group. This working group includes the Commissioner of the Department of Administrative and Financial Services, the various commissioners of state agencies that

Mandates, Regionalism and Municipal “Consolidation”

are involved with the enforcement of state mandates, and a half dozen municipal officials experienced in the administration of local government. The purpose of the Working Group is to establish a two-way communication system between the state agencies responsible for oversight of municipally performed state-mandated activities and the municipalities that perform the mandated activities. The goal is to facilitate more efficient and cost-effective approaches to the implementation and administration of mandated activities.

The supplemental budget also directs the State and Local Government Committee to report out legislation in 2015 regarding the remaining dozen recommendations that were advanced in the Working Group’s final 2013 report but not included in this supplemental budget. If the Legislature is truly committed to addressing the problem of unfunded state mandates, it will implement the recommendations of the Working Group that remain on the table.

Regionalization, Collaboration, “Consolidation”

As noted above, the political rhetoric in Augusta calling for municipal “consolidation” increases in direct proportion to the degree lawmakers slash funding for local government. When the Legislature transfers enormous sums of money out of the revenue sharing distribution and other property tax relief programs in order to prop-up the state budget, and then exclaims how the municipalities need to learn how to “tighten their belts,” the irony is almost comical.

What those politicians don’t seem to know or care to recognize is that Maine municipal leaders are strong supporters of regional approaches to service delivery and aggressively participate with their neighboring municipalities, non-profit entities and the private sector whenever those approaches to service delivery make sense. When the evidence reveals that a collaborative approach to service delivery will in fact result in reduced costs or more efficient or effective delivery of municipal services, the collaborative approach is embraced.

To educate lawmakers on this part of the municipal experience, MMA conducted a municipal survey in 2011 and assembled the Municipal Collaboration Report detailing the many examples of successful and innovative collaborative endeavors at the local level. The report contains hundreds of examples of the collaborative service delivery models being employed by municipalities across the state, all of which existed prior to the 125th and 126th Legislatures’ unprecedented cuts to revenue sharing.

From the municipal perspective, the on-going public discussion regarding increased use of regionalization must recognize some very important governance principles, including: sense of community, citizen access to decision-making and maintenance of quality of services. The people of Maine put great value in direct government, local decision-making, volunteerism, community pride, civic duty, town meeting, strong public access and citizen control. Municipal leaders share those values quite naturally and believe the quest for efficiencies through regionalization and consolidation will only be successful if great care is taken to recognize those values in the dialogue and to harness the strengths of municipal governments when undertaking the design of alternative service delivery systems.

The Real Deal: Municipal Spending Levels in Maine vs. Other Rural States

“A good deal is made about how many towns we have (just under 500) and how expensive they are, or at least seem to be to local taxpayers. The numbers, though, tell a more complicated story. If you took schools out of local budgets, which represent 71% of local budgets, the remaining 29% of spending – on public works, public safety and municipal services – matches up well with other local governments across the country. In fact, Maine town services cost 33% less than towns in other rural states.” (“Reinventing Maine Government”, Alan Caron and David Osbourne, 2010, emphasis added)

Mandates, Regionalism and Municipal “Consolidation”

The Maine Municipal Association supports discussions of regionalization that include the following components:

- **Fact-Based Analysis** - It is imperative that the regionalization discussion be conducted in a fact-based environment of collaboration, objectivity, and shared analysis. There are many interests with a stake in regionalization/consolidation. Municipal government, state government, county government and other regional quasi-governmental entities, business interests, advocacy groups, and most importantly, Maine’s citizens, all have a keen interest in discussing regionalization issues. The system analysis and alternative designs must be conducted and developed with input and technical assistance from all interested parties and not driven by pre-existing perceptions.

- **Service-Delivery Focus** - The most productive analysis, from the municipal perspective, should focus on specific, individual services - a comparative review of how services are currently delivered that outlines the financial and non-financial impacts if services were delivered by a different level of government, by a regional service provider, or under an inter-local agreement. Important factors to consider in any service delivery analysis include: (1) analysis should precede policy; (2) cost savings should be documented; (3) service quality should be maintained or improved; (4) citizen access to decision making should be preserved; and (5) volunteerism should not be replaced or discouraged.

- **Grass Roots Approach** - Implementation of effective regionalization efforts will occur when the municipalities themselves decide that cooperation with other municipal, county or other government agencies makes sense.

- **Incentives & Assistance** - Financial assistance will be important to conduct objective analyses and to retain well-qualified facilitators to assist in the review and discussion of potential regionalization efforts. Additionally, financial incentives will serve to promote these efforts as well as assist with potential transitional cost issues.

It was on the basis of this approach that the “Local Government Efficiency Fund” was written into MMA’s “Question 1A” citizen initiative that was adopted by the voters in June 2004. That Fund, which was to be capitalized by existing and not additional revenue sharing dollars, would have served to encourage and nurture service delivery systems on the regional level. Unfortunately, the Local Government Efficiency Fund was abused by the Legislature from the moment it was enacted into law, and has now been repealed.

Municipal Expenditures in Maine vs. Municipal Expenditures in All States and “Peer” States

Net Expenditures (as a percent of total state income)	Local Government Expenditures in:			Maine local spending as a percentage of all states and peer states spending	
	Maine	All States Average	Peer States Average	National	Peers
Police Protection	0.49%	0.73%	0.60%	-32.9%	-18.3%
Fire Protection	0.23%	0.29%	0.21%	-20.7%	+9.5%
Parks & Recreation	0.15%	0.34%	0.31%	-55.9%	-51.6%
Sewerage	0.29%	0.35%	0.27%	-17.1%	+7.4%
Solid Waste	0.28%	0.22%	0.19%	+27.3%	+47.4%
Libraries	0.07%	0.09%	0.09%	-22.2%	-22.2%

Source: Data compiled from “Maine’s State and Local Government Payroll and Expenditure” (Dr. Philip Trostel, University of Maine, 2006). The data assembled by Dr. Trostel, only a portion of which are excerpted here, served as the foundation for the Brookings Institution’s 2006 report, *Charting Maine’s Future*.

Municipalities Constantly Explore Sensible Collaboration: Typical News Headlines During 2014 Legislative Session

Knox County towns mull regional services

Bangor Daily News | 1/8/14

Biddeford sets inter-local pact talks

Sun Chronicle via Keep ME Current News | 1/9/14

Edgecomb Selectmen Consider Sharing Code Enforcement Services

The Lincoln County News | 1/29/14

Falmouth considers outsourcing assessing

The Forecaster | 1/29/14

Calais, Baileyville leaders seek regional economic development effort

Bangor Daily News | 1/31/14

Franklin County fire departments consider collaboration

Morning Sentinel | 3/25/14

Benton formally joins Fairfield to create Fairfield-Benton Fire Rescue

Morning Sentinel | 4/21/14

Whitefield Selectmen Sign Up For County-Wide Animal Control Services

The Lincoln County News | 4/23/14

Howland, Lincoln leaders looking to start joint sharing agreement of services, save money together

Bangor Daily News, 5/6/14

APPENDIX A: A Concise History of Municipal Revenue Sharing

Origins. The municipal revenue sharing program was enacted into law 42 years ago, in 1972 (PL 1971, chap. 478). Major enactments at that time were based on legislative “findings.” The Legislature’s original findings that supported the creation of a revenue sharing program are still found, word for word, in current statute.

“Findings and Purpose. The Legislature finds that:

- A. The principal problem of financing municipal services is the burden on the property tax; and
- B. To stabilize the municipal property tax burden and to aid in financing all municipal services, it is necessary to provide funds from the broad-based taxes of State Government....

.....To strengthen the state-municipal fiscal relationship pursuant to (these) findings and objectives....there is created the Local Government Fund.” (30-A MRSA, Section 5681, Sections 1 and 3)

Backdrop. Just three years before the enactment of municipal revenue sharing, the income tax was first established in Maine and the state’s income tax revenue stream was becoming established.

Also, revenue sharing was by no means the only major public policy initiative enacted in 1972 with significant impacts for municipal government.

The Shoreland Zoning Act was also put into law in 1972, requiring municipalities to administer the land use regulation system in all shoreland areas.

The “current use” taxation system was also established in 1972, requiring municipal assessors to manage all Tree Growth, Farmland and Open Space enrollments. “Current use” taxation reduces municipal tax revenue associated with all three enrollments.

Just one year later, in 1973, another major transformation of the state’s tax policy was enacted under the title “*An Act Reforming the Administration of the Property Tax and Replacing the Tax on Inventories with an Increased Corporate Income Tax.*” (PL 1973, chap. 592). The repeal of the “inventory tax” eliminated a line of municipal tax revenue generated by commercial entities and shifted that tax jurisdiction directly to the state.

In short, the municipal revenue sharing program was established in the context of three driving forces:

- **Progressive taxation.** The state was deliberately moving toward a greater reliance on the more progressive system of income taxation and away from the high reliance on the regressive property tax.
- **Unfunded state mandates.** The Legislature was enacting very significant municipal mandates and recognized that those obligations should be supported financially, in recognition of the state-municipal “partnership.”
- **Property tax exemptions.** A component of the property tax base upon which local government relied – commercial inventory – was made exempt from municipal taxation and replaced with a state corporate income tax.

The revenue sharing program was a way to structurally replace that lost municipal tax revenue, provide some generalized financial assistance associated with unfunded state mandates, and use a fraction of the state’s “broad based” and more progressive tax revenues to blunt the regressivity of the property tax.

Purpose: Required Use. From its inception to today, the municipal use of revenue sharing has been prescribed by law for a single purpose, which is to reduce the property tax rate. That prescribed use was written into the original law and is now found in a separate tax statute (36 MRSA, Section 714). After all

A Concise History of Municipal Revenue Sharing

budgetary actions of the town meeting or town or city council, and after the “true and perfect” assessing lists have been completed and the value of all taxable property has been determined, the municipal assessors must identify the value of municipal revenue sharing the town or city is scheduled to receive and then subtract that value from the aggregate value of all appropriations. This results in a lower property tax rate. Revenue sharing is a property tax relief program for all taxpayers in the community.

Structure. After its first transition year in 1972-1973, the municipal revenue sharing program became a true sharing program. As a sharing system, a fixed percentage of all state sales and income tax revenue is dedicated by statute to the “Local Government Fund” in such a way that it doesn’t even get deposited into the state’s General Fund. The design of a true revenue sharing program has two characteristics.

First, the revenue sharing account (the Local Government Fund) is capitalized “above the line” and does not have to compete with other appropriations made by the Legislature in the process of enacting a state budget. As a matter of design, this establishes a base level of assurance and predictability for the local government recipients.

Second, because it is a strict percentage of all state sales and income tax revenue, revenue sharing distributions rise or fall naturally, in accordance with the rise and fall of state revenues. Unlike a fixed appropriation, the revenue sharing distribution falls during difficult economic times. Because of this “natural decline” during tough times, municipalities argue that additional legislative raids on revenue sharing funds, cutting even deeper than the natural decline, are uncalled for.

Capitalizing the Local Government Fund. When first enacted, the Local Government Fund was capitalized with 4% of all state sales and income tax revenue. In 1983, the Legislature increased that rate to 4.75% and then to 5.1% in 1985. Coincidence or not, these increases occurred simultaneously with a major reform of public education, which imposed significant new educational mandates on local government.

In 2000, the Legislature created a revenue sharing supplement, nicknamed “Rev II” that takes a share of total revenue sharing resources and distributes them to municipalities with disproportionately high property tax rates. When “Rev II” was created, the Legislature increased the rate of sales and income taxes going to the Local Government Fund from 5.1% to 5.2% to cover the new supplementary distribution. Although that increase was technically in the law books for several years, that higher rate was never implemented and eventually repealed. In 2009, the sharing percentage was established at a flat 5% in the context of a revenue sharing “simplification” effort worked on collaboratively between the Appropriations Committee and MMA.

Distribution. The original revenue sharing distribution formula still applies for 80% of all revenue sharing. Now nicknamed “Rev I,” the distribution formula is simple. Each municipality’s share of the monthly distribution is a factor determined by multiplying the municipal population by its “full value” property tax rate.

The only change to the basic distribution formula is the so-called “Rev II” distribution, enacted in 2000, which takes 20% of the Local Government Fund and distributes those resources on the basis of a slightly different factor. Under Rev II, the municipality’s population is multiplied by its full value mill rate minus 10 mills. By subtracting 10 mills from each municipality’s full value mill rate, the Rev II distribution is targeted to those towns and cities with property tax rates well over the state average.

A Concise History of Municipal Revenue Sharing

Honoring the Revenue Sharing program: Legislature's History. The Legislature is above the law, and so even though the program was designed to keep revenue sharing out of the annual appropriations process, the Legislature can ignore that policy if it chooses to. As revealed by the distribution data (see page ___), the Maine Legislature treated the municipal revenue sharing program with perfect respect for most of its 41 year history. For the first 34 years of the program's history, there was only one significant legislative raid on the revenue sharing program during the 1992-1993 period. It is only over the last eight years of the program's existence that the Legislature has been taking revenue sharing funds to pay for state spending priorities as an ever-growing matter of course. The practice has taken on an expanding aggressiveness in the past four years. Governor LePage's proposal in 2013 to eliminate the program entirely represents the culmination of the state's ever-growing appetite for these formerly "shared" resources.

Sidebar: The Tawdry History of the "Local Government Efficiency Fund." No report on the municipal revenue sharing program in Maine can ignore the unfortunate history of the "Fund for the Efficient Delivery of Local and Regional Services."

In 2004 the voters of Maine adopted citizen-initiated legislation with the title "*The School Funding and Tax Reform Act of 2003*". In summary, that Act directed the state to provide 55% of the cost of K-12 public education from General Fund resources and comprehensively reform the state's tax code in order to accomplish that result. It should be noted that the citizens' initiative expressly prohibited the Legislature from raiding the revenue sharing program in order to meet its 55% obligation, which is just one of many elements the voter-adopted law that the Legislature has either ignored or repealed.

Another element of that enactment created the Local Government Efficiency Fund. The purpose of that fund was to set aside 2% of the total revenue sharing distribution and make those resources available to municipalities or multi-municipal applicants that were proposing to develop potentially cost-effective regional service delivery systems but could use some start-up capital to make the transition to the new system. As adopted by the voters, the Local Government Efficiency Fund was not seeking any additional resources for the revenue sharing program. Instead, it was dedicating 2% of the existing distribution – approximately \$2 million annually – for the purpose of exploring the regional service delivery efficiencies that lawmakers often claim are abundantly available.

The Legislature's treatment of the Local Government Efficiency Fund can only be described as abusive. Generally speaking, for the five years the program was allowed to marginally exist before it was repealed, the Legislature allowed the 2% of municipal revenue sharing to be set aside into the Local Government Efficiency Fund, and then it simply swept those revenues back into the state's General Fund to balance the state budget.

When reviewing the Legislature's treatment of the municipal revenue sharing program over its 40 year history, it would appear that these undisguised legislative raids on the Local Government Efficiency Fund were what whetted the Legislature's appetite for dipping into this property tax relief resource for state budgeting purposes.

Conclusion. The only proper way to conclude any history of Maine's municipal revenue sharing program is to reiterate the "findings" that the Legislature made 42 years ago which formed the foundation of this piece of tax policy that goes to the core of the state-local intergovernmental relationship. The question to be asked is whether these findings are still as accurate, appropriate and relevant today as they were four decades ago. Very few municipal officials would argue otherwise.

Legislative Transfers Out of Revenue Sharing (1972 - 2015)

	Calculated Revenue Sharing Distribution	Legislative Raid	Actual Revenue Sharing Distribution	Raid as % of Calculated Revenue Sharing Distribution	% Actual Distribution
1972	2,900,000		2,900,000	0%	100%
1973	3,700,000		3,700,000	0%	100%
1974	6,200,000		6,200,000	0%	100%
1975	8,000,000		8,000,000	0%	100%
1976	9,870,130	370,130	9,500,000	4%	96%
1977	9,900,000		9,900,000	0%	100%
1978	12,700,000		12,700,000	0%	100%
1979	14,100,000		14,100,000	0%	100%
1980	15,609,880		15,609,880	0%	100%
1981	17,934,892		17,934,892	0%	100%
1982	19,654,260		19,654,260	0%	100%
1983	21,547,832		21,547,832	0%	100%
1984	27,579,003		27,579,003	0%	100%
1985	35,658,816		35,658,816	0%	100%
1986	41,399,922		41,399,922	0%	100%
1987	49,636,300		49,636,300	0%	100%
1988	56,920,102		56,920,102	0%	100%
1989	63,757,298		63,757,298	0%	100%
1990	60,826,462		60,826,462	0%	100%
1991	62,254,009		62,254,009	0%	100%
1992	64,939,137	12,100,000	52,839,137	19%	81%
1993	67,128,500	6,000,000	61,128,500	9%	91%
1994	66,325,845		66,325,845	0%	100%
1995	69,896,500		69,896,500	0%	100%
1996	72,704,600		72,704,600	0%	100%
1997	77,696,000		77,696,000	0%	100%
1998	89,490,000		89,490,000	0%	100%
1999	96,174,000		96,174,000	0%	100%
2000	107,116,000		107,116,000	0%	100%
2001	109,481,753		109,481,753	0%	100%
2002	100,610,139		100,610,139	0%	100%
2003	102,311,399		102,311,399	0%	100%
2004	110,663,051		110,663,051	0%	100%
2005	117,609,820		117,609,820	0%	100%
2006	123,722,881	2,335,918	121,386,963	2%	98%
2007	128,330,756	6,951,935	121,378,821	5%	95%
2008	135,819,468	2,695,409	133,124,059	2%	98%
2009	123,748,797	2,789,719	120,959,078	2%	98%
2010	122,873,014	25,400,000	97,473,014	21%	79%
2011	130,880,200	37,724,748	93,155,452	29%	71%
2012	137,225,178	40,350,000	96,875,178	29%	71%
2013	138,109,890	44,270,000	93,839,890	32%	68%
2014*	138,306,246	73,306,246	65,000,000	53%	47%
2015*	145,949,391	85,949,391	60,000,000	59%	41%

*Legislative raids enacted in 2013 State Budget (PL 2013, chap. 368).

A Concise History of Municipal Revenue Sharing

"The Legislature finds that:

- A. The principal problem of financing municipal services is the burden on the property tax; and*
- B. To stabilize the municipal property tax burden and to aid in financing all municipal services, it is necessary to provide funds from the broad-based taxes of State Government...*

To strengthen the state-municipal fiscal relationship pursuant to (these) findings and objectives....there is created the Local Government Fund."



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Population and Employment in Maine 2010-2040

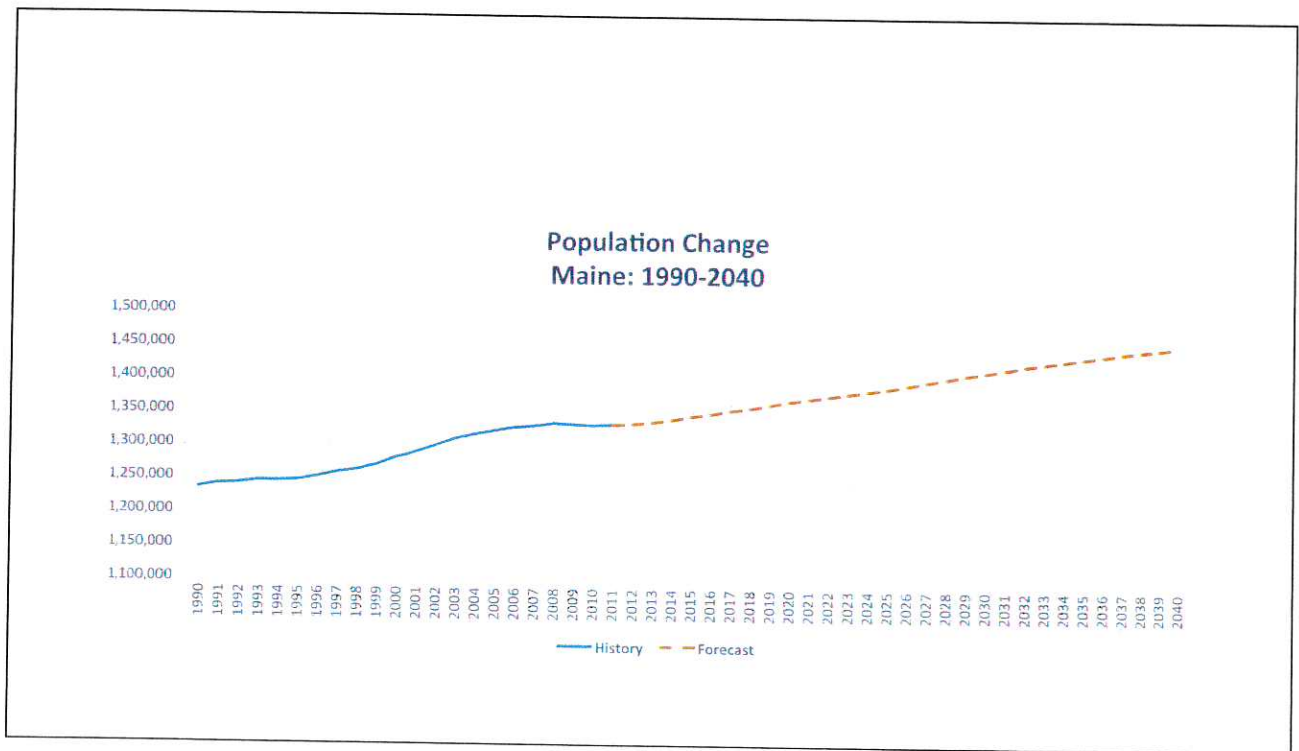
Charles S. Colgan

Director

Maine Center for Business & Economic Research

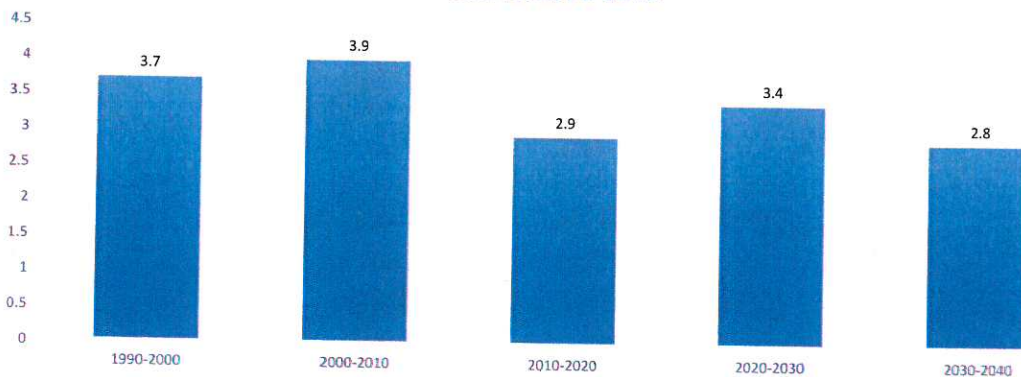
Muskie School of Public Service

University of Southern Maine



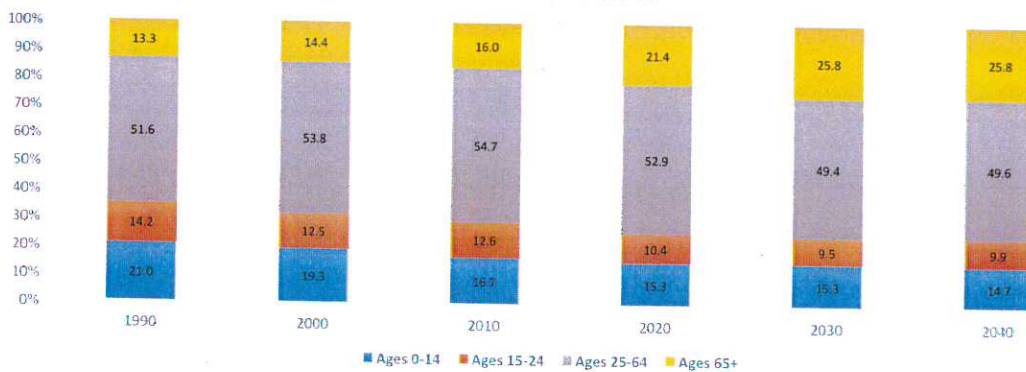
Overall population growth slows dramatically this decade but will pick up in the 2020s in this forecast.

Growth Rate by Decade
Maine: 1990-2040

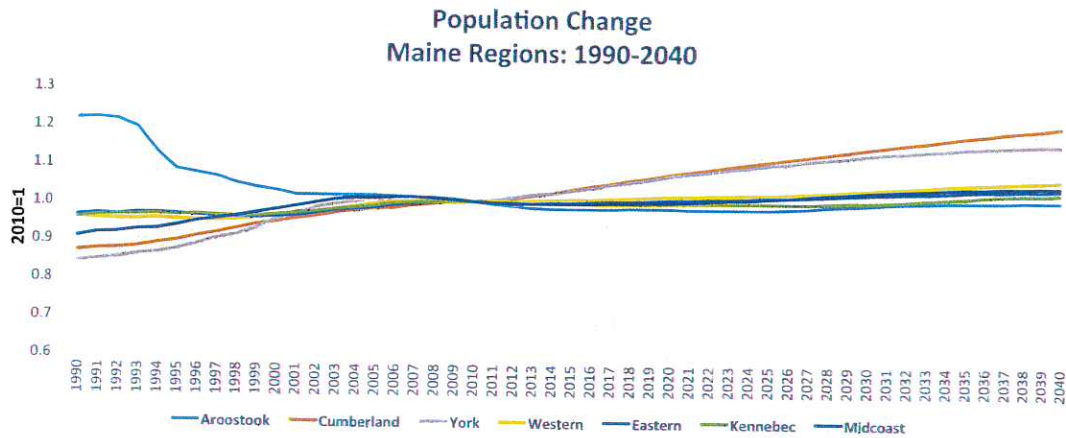


What does it really mean to be the “oldest state in the nation”?

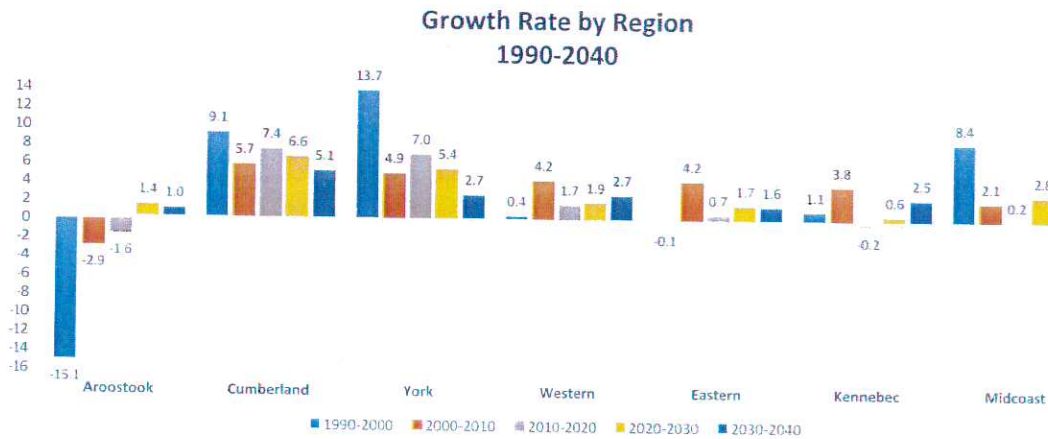
Age Structure
Maine: 1990-2040



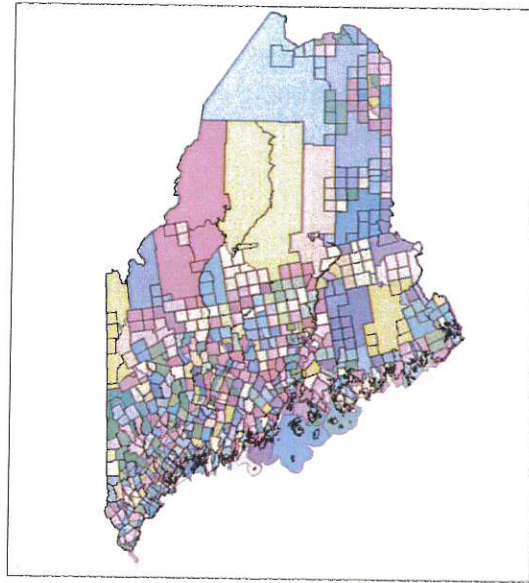
Southern Maine will clearly diverge from the rest of Maine



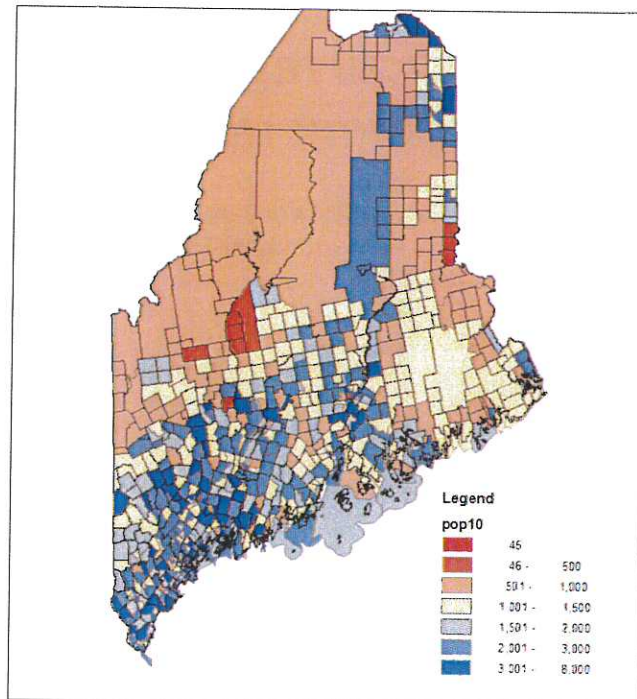
In this forecast, all regions grow after 2020, but at very different rates



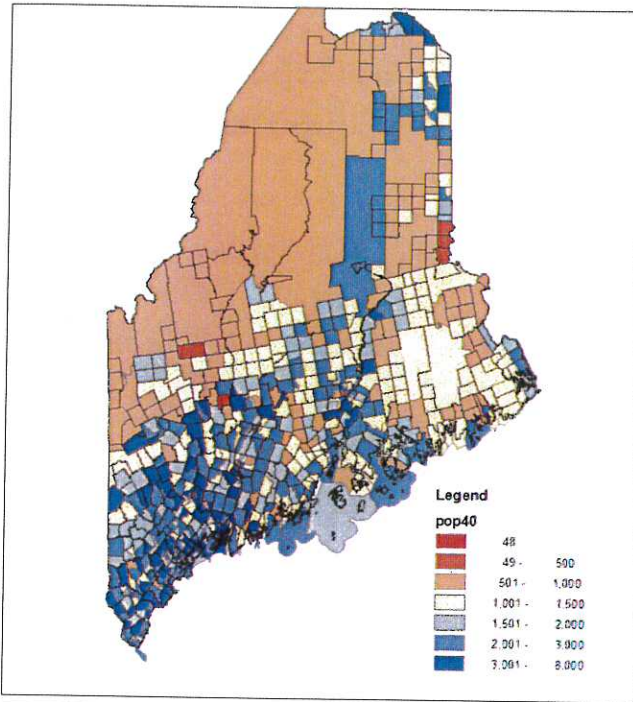
Forecasting Transportation Analysis Zones



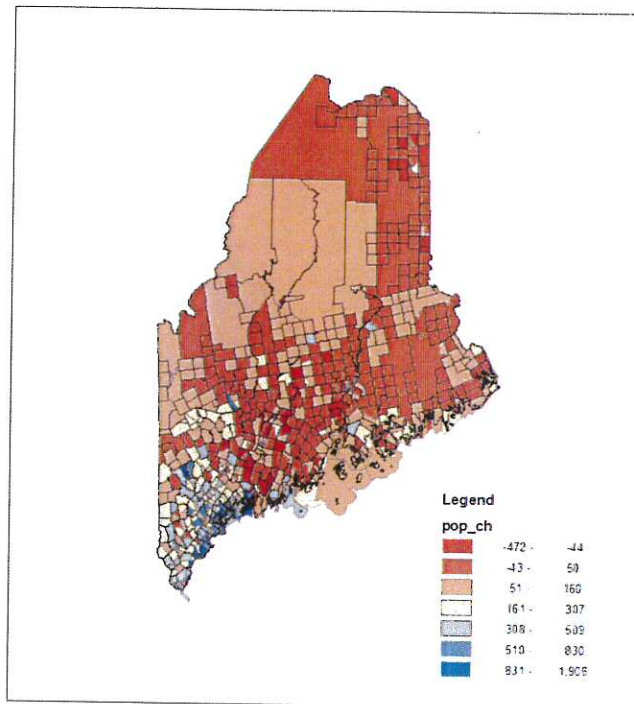
Population
in 2010 by
TAZ



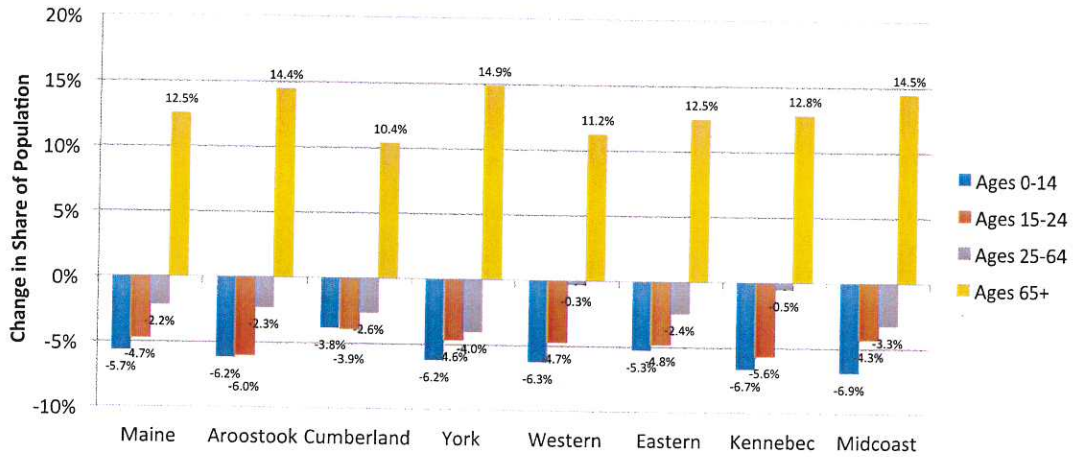
Population in 2040 by TAZ: Intra-Regional Movement plus change



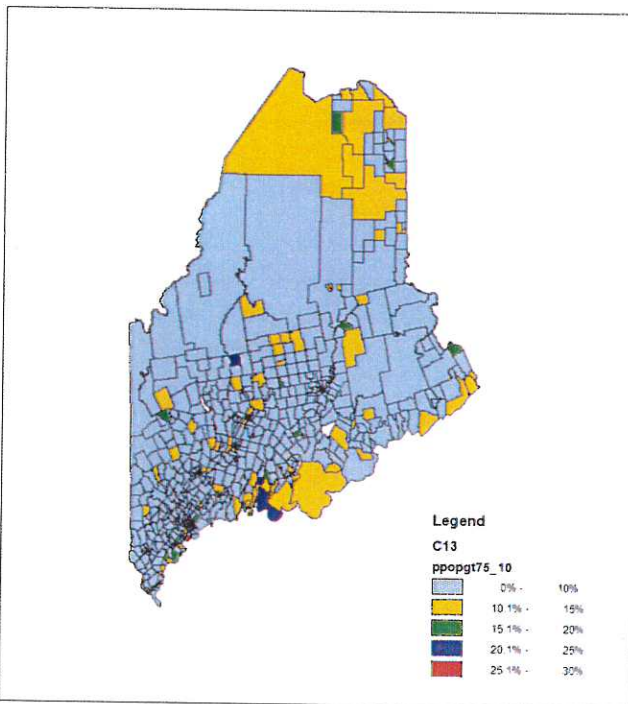
Population in 2040 by TAZ: Intra-Regional Movement plus change



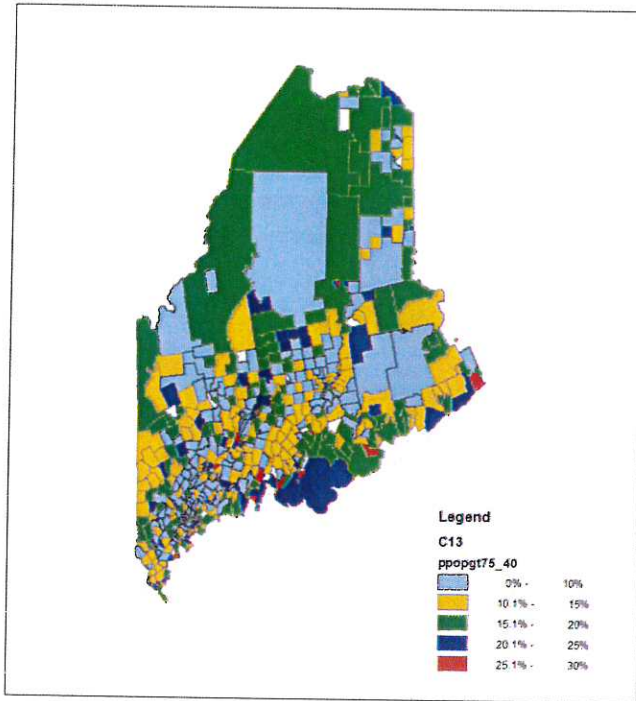
Aroostook, York, and the Midcoast will be the oldest.
Cumberland's young population will decline the least



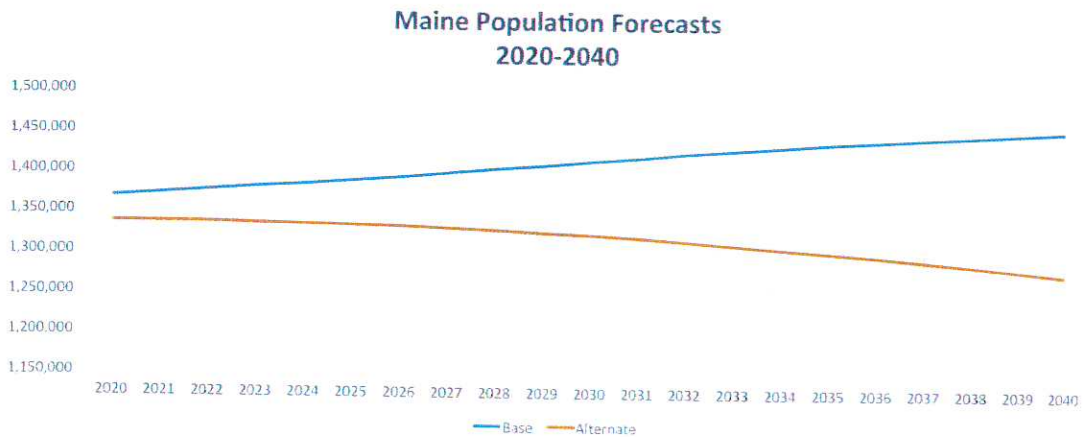
Few areas have large proportions of their population over 75 today.



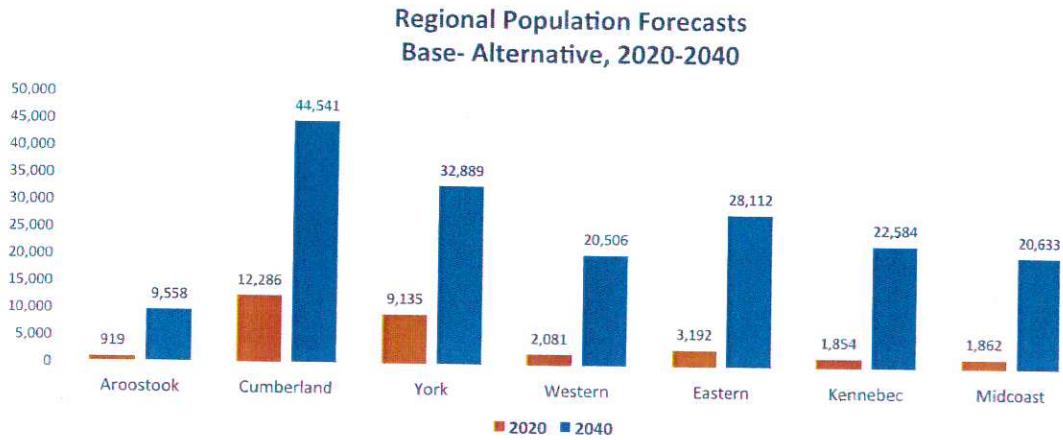
Areas with large proportions of the older old (>75) spread through inland and coastal areas



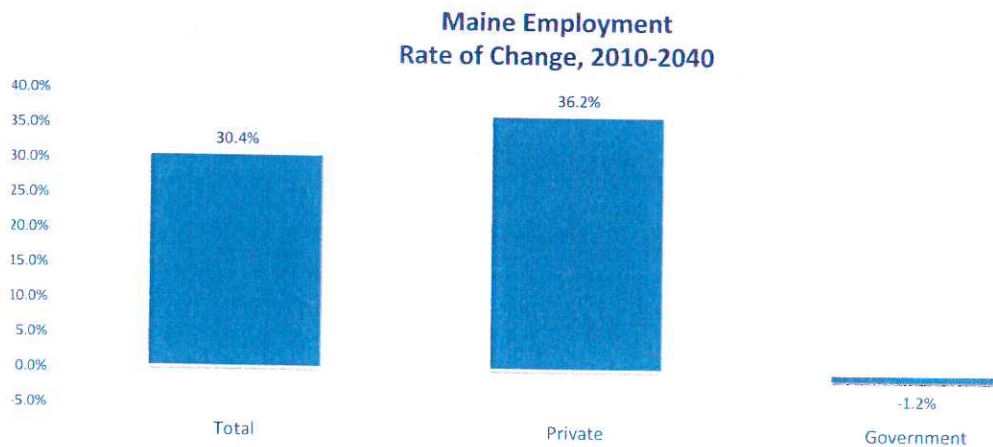
What if the future looks like the last



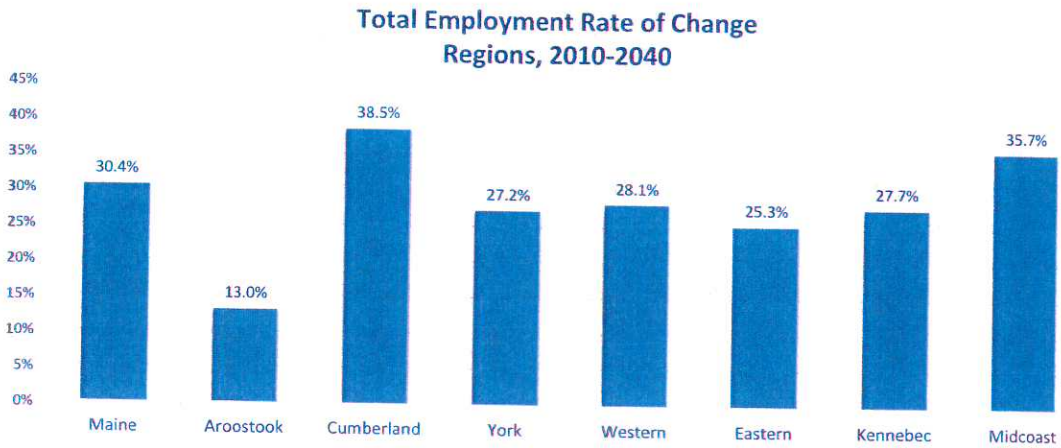
Without migration, Maine's population in 2040 is smaller by 148,000 people



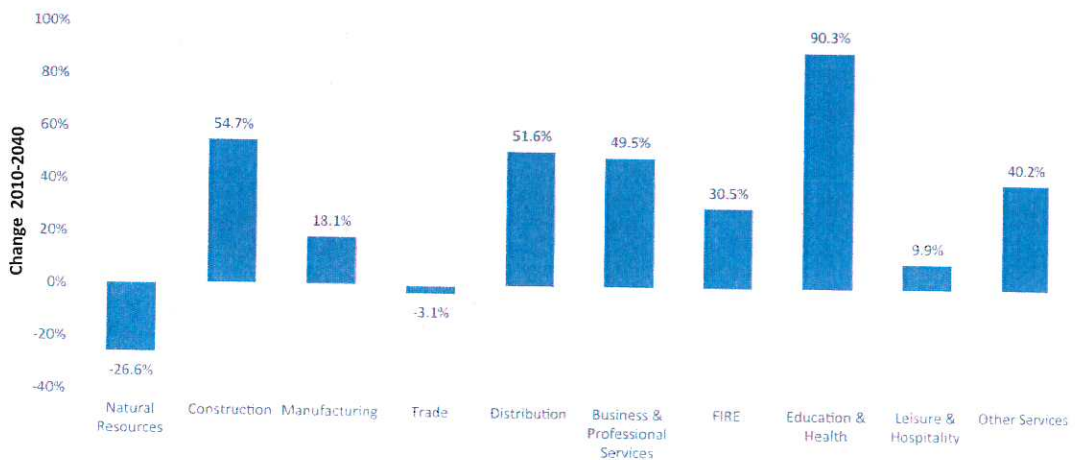
One of the biggest changes will be a decline in the government sector- primarily education



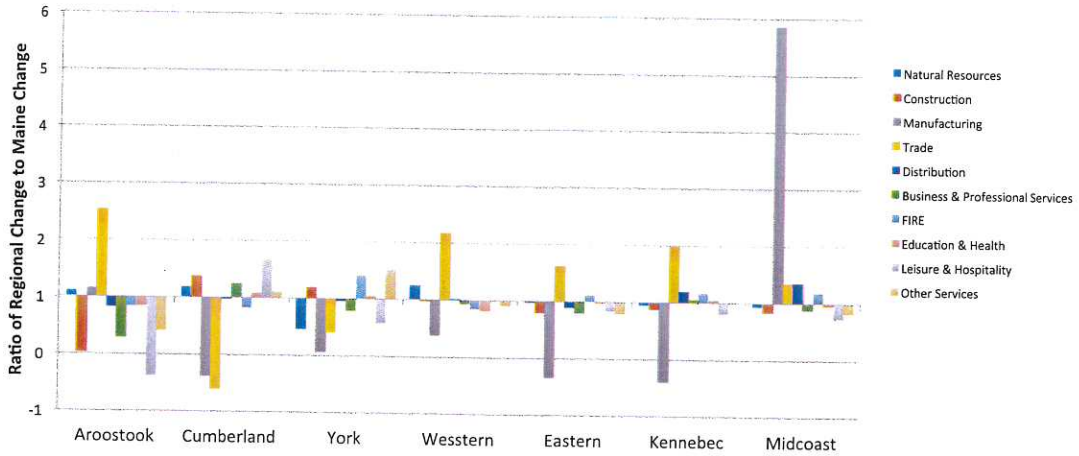
Cumberland county and the Midcoast (BIW) lead in employment growth



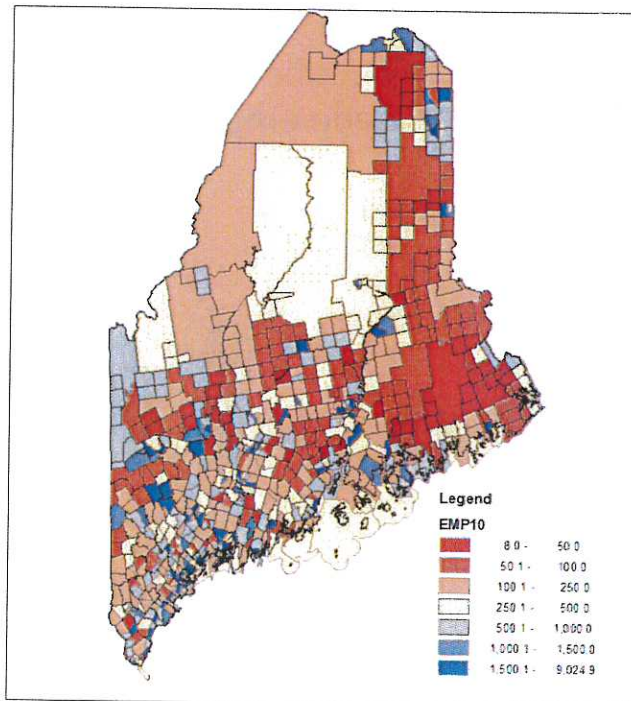
Urban Centered Service Jobs will lead employment growth.
The decline in Retail Trade employment will be a major change.



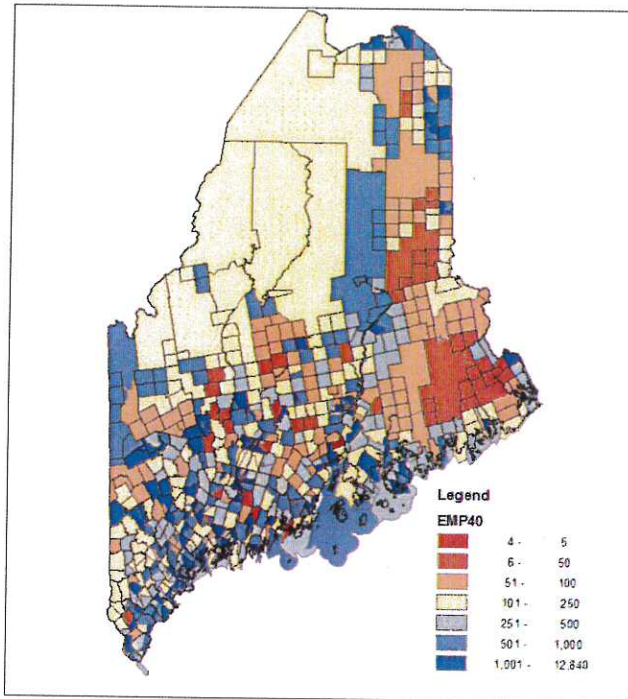
Aroostook will decline more in retail and Cumberland less than the state. If BIW stays constant, the Midcoast gets a big advantage in manufacturing.



Employment in 2010 is concentrated in the urban areas



Employment will spread somewhat over the next thirty years if population spreads.



Conclusions

- If Maine is able to track the national economy, employment growth will be modest but in all regions.
- Population growth will be significant only in Cumberland and York counties. Other regions will see populations largely unchanged to 2040
- The urban-suburban-rural dynamic will intensify, but this forecast allows for some migration-led growth
- Everything depends on migration. Without more people, Maine steadily declines, even though some employment growth may still occur.
- Older populations will come to dominate inland and some coastal regions. By the 2030s, many communities will be one third or more people over 75

The Future of Local Government in Maine: Economic and Community Development

Prepared for Maine Municipal Association Annual Conference
October 1 2014

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Context

- Economic, workforce, and technology trends placing new demands on local government for economic and community development
- Change is occurring at rapidly advancing pace rendering traditional approaches obsolete
- State fiscal policies and practices have significantly decreased the ability of local governments to fund needed programs, services, and infrastructure

Economic Trends

- Small is the new Big – less demand for large space
- Resurgence of manufacturing – requires advanced technologies and skills
- Health, personal and businesses services continue on the rise – must make these “good jobs”
- Amazon effect – changing retail and logistics
- Global, national and local connected economies
- Growth tied to regional innovation/R&D assets

Technology Trends

- Gigabit demand –delivering a gig of speed is the new goal. Demand being driven by:
 - Mobile consumerism, governance, etc...
 - Cloud based services
 - Big data
 - 3-D printing and related manufacturing technologies
 - User content provision – uploading data, videos, audio, etc...
 - Tele-health
 - Entrepreneurs and small businesses
- Demand for redundancy, reliability, and choice/competition

Workforce Trends

- Growth of the independent workers
- Workforce is regional/not local
- Diversity – immigration – movement from problem to be dealt with to economic opportunity
- No one answer - all of these are important:
 - Service jobs
 - Middle skills jobs
 - High tech
 - Technical and soft skills
- Lifelong blended learning – traditional as well as non-tradition higher education

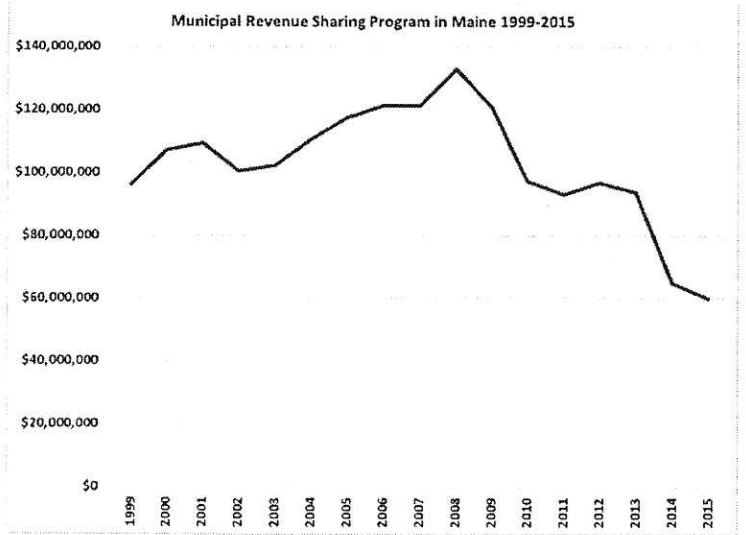
Placed Based Economic Development

- Geography still matters: access to workers/talent, access to market, housing, transportation and logistics, and digital infrastructure & culture
- High quality, diverse amenities - attract and retain workforce
- Buy local, regional sourcing, local and regional branding
- Sustainability and resiliency

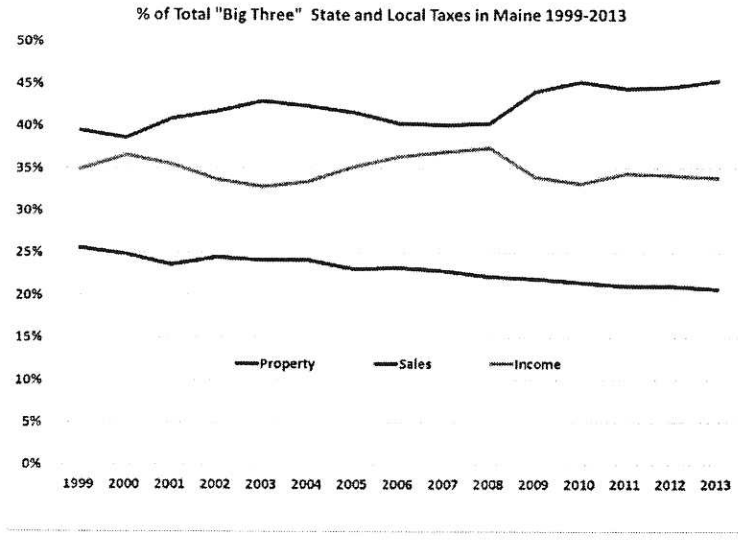
Financing Trends

- Continued pressure on state and local budgets means less public funds to support economic and community development
- Growing skepticism of tax credits and incentives
- Property tax continues to grow among state/local “Big 3” Taxes – sales, income, and property
- Municipal Revenue Sharing has decreased dramatically contributing to the growth of property taxes
- Property tax increasingly turned to for funding K-12 education

Municipal Revenue Sharing has Decreased Dramatically



Property Tax continues to Grow Among State/Local "Big 3"



Financing Trends

- Property taxes not capturing economic growth of the new economy.
 - Internet/digital economy
 - Independent economy – individuals working for themselves, for companies out of state, or as independent contractors
 - Requiring less land, smaller buildings, and even no land or buildings – and therefore resulting in less property taxes

So, What Can Local Government Do To Survive and Thrive?

- Function within networks that are able to distribute roles and responsibilities to those best able to act – leverage assets - you can't do it alone!
- Invest in digital information, processes, and intelligence – work smarter with less
- Adaptability – develop comfort with an unknown future by focusing less on long-term plans and more on building capacity to adapt

So, What Can Local Government Do To Survive And Thrive?

- Diversify funding sources including:
 - Public/private/non-profit partnerships
 - Operating campaigns
 - Crowdfunding
- Continue to organize and lobby for tax/revenue reform!