

May 11, 2017

LCRED committee votes to reinstate tip credit —

— Voices of servers help sway a majority of the committee

At its work session on Wednesday, May 10, 2017, a strong majority of the Joint Standing Committee on Labor, Commerce, Research and Economic Development (LCRED) voted to reinstate the “tip credit” used by restaurants with serving staff. Their action results in a dramatic turn-around that came about as a result of the minimum wage referendum passed this past November.

In a strong 11-2 bi-partisan majority vote, the committee approved **LD 673, *An Act to restore the Tip Credit to Maine’s Minimum Wage Law***, sponsored by Sen. Roger Katz (R-Kennebec). The bill will once again allow restaurant owners to take the “tip credit” on the wages of their wait staff. Under the tip credit, Maine restaurants currently pay half of the hourly minimum wage, or \$5.00 per hour. This is because wait staff receive the bulk of their remuneration through gratuities. On a busy night, wait staff can earn significant money through tips, but on any given night, that same worker could earn significantly less. Through the tip credit, if that server does not at least earn the state minimum wage of \$9.00 an hour, then the owner of the restaurant is responsible for making that worker’s wages whole. Until the passage of this fall’s ballot proposal, every state east of the Mississippi utilized the gratuity-based system. In fact, only seven other states in the country have done what initially passed in Maine — elimination of the tip credit.

The elimination of the tip credit was part of a multi-question ballot proposal

put before the voters to raise Maine’s minimum wage. The law, drafted by the Maine Peoples Alliance (MPA) and eventually ratified by the voters, will raise Maine’s minimum wage to \$12 an hour over a four-year period. It will also index the minimum wage tied to changes in the consumer price index (CPI) here after 2020 and eliminate the tip credit.

Almost immediately after the November elections, servers and Maine restaurants began a reach out to legislators, urging them to consider reinstating the tip credit. Restaurants recognized their very survival was in danger, as the loss of the tip credit would result in significant increases in the cost of doing business. Only part of those increased costs could be passed on to consumers in the form of higher menu prices. Legislators heard from many small restaurants that, unless something was done, they would be forced to close their doors.

But it was the voices of the servers working in those restaurants that truly resonated with lawmakers. Like restaurant owners, servers began to both reach out to legislators and organize their efforts to bring the tip credit back. Within months of the MPA proposal passing, they told any legislator that would listen, that the impact on their tips had been immediate and dramatic. Many indicated that because customers believed they were now making \$12 an hour, they were either reducing their tips or eliminating them outright – in some cases servers

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Tax Update...

Taxation committee reports out proposals on local option tax, 3% surcharge for education funding, and municipal assessing —

Three-percent Income Tax Surcharge...

On Thursday, May 11, the Taxation committee defeated several bills relating to the repeal of the 3% income tax surcharge and ended up voting on two of the bills. The committee voted unanimously to carry over to the next session **LD 571, *An Act to Eliminate the 3% Percent Surcharge on Certain Income and Provide an Alternative Funding Source for the Fund to Advance Public Kindergarten to Grade 12 Education***, sponsored by Sen. Dana Dow. The other bill, **LD 337, *An Act to Protect Jobs and the Maine Economy by Eliminating the 3% Income Tax Surcharge Imposed on Certain Mainers and the Fund to Advance Public Kindergarten to Grade 12 Education***, sponsored by Rep. Joel Stetkis, received a divided report along party lines.

Local Option Tax...

The Taxation committee held a work session on all three local option tax bills:

- **LD 1230, *An Act to Allow a Local Option Sales Tax on Meals and***

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About the Maine State Chamber of Commerce: Since 1889, the Maine State Chamber has been fighting to lower your cost of doing business. Through our Grassroots Action Network and OneVoice program, we work with a network of approximately 5,000 companies statewide who see the value in such a service and provide the financial support that keeps our access, advocacy, and assistance efforts going strong. As Maine's Chamber, we make sure that the business environment of the state continues to thrive. The Maine State Chamber of Commerce advocates on behalf of their interests before the legislature and regulatory agencies and through conferences, seminars, and affiliated programs.

LCRED acts on other minimum wage bills

— Other bills fail to win bipartisan support from the committee

While the discussions surrounding reinstating the "tip credit" dominated the work session of the LCRED committee on Wednesday, May 10, they weren't the only wage related bills considered and acted upon by the committee. In fact, the committee divided on three other bills designed to alter the minimum wage law passed by voters last November.

Since the passage of the Maine People's Alliance (MPA) minimum wage proposal in November, lawmakers from both parties have heard from many small businesses about the immediate and future economic consequences that currently are happening, or will happen, as a result of a steadily climbing minimum wage in Maine. As a result of the referendum question, Maine's minimum wage will increase to \$12 an hour over a four-year period, and will be indexed tied to changes in the consumer price index (CPI) here beginning in 2020.

While some have indicated that the "people have spoken" and that the new law shouldn't be amended, in truth, there exists plenty of precedence for legislative action on laws that result from referendums. In fact, nearly 70% of past referendums have been altered by incoming legislatures.

As a result a number of bills concerning the new minimum wage law were submitted this session. We have already discussed the situation with the "tip credit" bill on page 1. However, three other bills in committee were voted on recently and will soon be heading to the full legislature for debate:

- **LD 778, *An Act to Eliminate the Indexing of Minimum Wage to Inflation***, sponsored by Rep. Havell, R-Farmington: This bill would eliminate the requirement that Maine's minimum wage be indexed to the CPI beginning after 2020. [Vote: 7 ONTP; 6 OTP-AM]
- **LD 831, *An Act to Base the Minimum Wage in Maine to a New***

England State Average, sponsored by Sen. Dow, R-Lincoln: This bill would prohibit Maine's minimum wage to be set at a level higher than the New England average. This would make Maine's current minimum wage \$9.20 an hour. [Vote: 7 ONTP; 6 OTP-AM]

- **LD 991, *Act to Establish a Minimum Wage for Minors***, sponsored by Sen. Cyrway, R-Kennebec: this bill would set a lower minimum wage – 75% of the established statewide minimum wage – for anyone under the age of 18. [Vote: 7 ONTP; 6 OTP-AM]

Given the partisan votes on each of these bills, it appears unlikely that any other minimum wage related bills, except for the tip credit, are likely to pass. Given the tremendous pressures many small businesses face since the most recent increase in the minimum wage, this is unfortunate. While the Southern portion of our state can more readily manage wage-and-hour increases, the more rural parts of Maine are in fact already struggling – even at \$9 an hour. We have heard repeatedly from our small business members and from local and regional chambers of commerce across the state, that when the minimum wage exceeds \$10 an hour, it will be the breaking point for those employers on the cusp. That for many small employers, true economic disaster will follow.

It appears right now, that there are enough legislators that want to push off any decisions regarding further amending our minimum wage law. Whether that means next year or next session, the answer is unclear. In the meantime, we will be following and supporting the efforts of legislators this session to amend last fall's referendum question. For further information or questions, please contact Peter Gore by calling (207) 623 4568, ext. 107, or by emailing pgore@mainechamber.org. □

Maine State Chamber encourages committee to “stay the course” on proficiency-based learning, upgraded Maine Learning Results, and aligned standards

EDITOR’S NOTE: *The following testimony was delivered by Ben Gilman on behalf of the Maine State Chamber of Commerce and ReadyNation in opposition to LD 1578, An Act Regarding Education Standards for Maine Students, at a public hearing held on Wednesday, May 11, 2017, before the Joint Standing Committee on Education and Cultural Affairs. We have reprinted it here for your review.*

If you have any questions, please contact Ben Gilman by calling (207) 623-4568, ext. 108, or by emailing bgilman@mainechamber.org.

Chairman Langley, Chairman Kornfield, distinguished members of the Education and Cultural Affairs committee: I am Ben Gilman, senior government affairs specialist at the Maine State Chamber of Commerce, and a member of the business organization, ReadyNation. I am pleased to be with you today to speak in opposition to LD 1578.

I know this committee spent a great deal of time not only this year, but also during the 127th Legislature as well, hearing and working numerous bills addressing proficiency-based learning, standards, and aligned assessments. I appreciate your attention and thoughtfulness on these complex, intertwined issues. My testimony on behalf of Maine’s business community is going to be very consistent with the business community’s position on these issues during the course of these most recent sessions.

As I have said before to this committee and others, Maine’s business community is incredibly invested in our state’s PreK-12 public education system. Business is, after all, the number one consumer of our public education system.

Our students, our teachers, and the entire system deserve our investment. We appreciate all the hard work our public schools and learning communities are doing to graduate students that are well-prepared for college and the workplace. Change is hard – we know that – but change is needed to keep up with the changes in the workplaces of Maine, and the work and economies of not only Maine, but all 50 states and the international marketplace.

The business community knows that there is more important work to be done

to prepare today’s students for tomorrow’s workforce. To that end, we encourage this committee to stay the course on education reforms enacted in the past six years and reject this proposal, and others that might come before you this session, attempting to repeal or weaken proficiency-based education, meaningful standards, and aligned assessments.

Academic standards provide a set of clear expectations as to what students should know, understand, and be able to explain as they progress through each K-12 grade level.

As you know, since 1997, Maine has had the Maine Learning Results as its state standards for eight content areas, and through the course of 20 years, has periodically updated them to ensure they are aligned with the evolving expectations of colleges and careers in the 21st century. The Maine Learning Results were most recently updated in 2011 to include Common Core as the standards for English language arts and math, better preparing our students for success in college, career, and civic life by creating deeper, more rigorous, and clearer expectations for learning. I believe this is the fourth time Maine Learning Results has been updated during the past two decades. Just like industry – education needs to refresh and keep up with needed changes and improvements.

The updated standards, adopted after a public process in 2011 and implemented in the 2013-2014 school year, emphasize more complex content and concepts and the development of needed real-world skills like problem-solving, collaboration,

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Taxation committee defeats bill to create excise tax on wind power

On Thursday, May 11, the Joint Standing Committee on Taxation held a work session on **LD 1549, An Act to Create a Tax on the Production of Electricity from Wind Resources**, sponsored by Rep. Paul Stearns. The Committee voted unanimously to defeat the bill. At the May 9 public hearing, Linda Caprara testified on behalf of the Maine State Chamber in opposition to the bill.

The bill would create an excise tax of \$1 per megawatt hour on wind producers for the *privilege* of using wind power to produce electricity from wind sources beginning January 1, 2018. The Maine State Chamber opposes the bill for a variety of different reasons.

First, the state should not single out one source of energy to tax. Caprara noted that this is unfair and inconsistent with the Maine State Chamber’s position of encouraging the use of all energy sources, such as natural gas, nuclear, renewables, fossil fuels, etc. She said the state needs more energy sources, not less, and should be encouraging the use of renewable energy options.

Second, Caprara said, that the state should not be making energy more expensive, but rather, look for ways to reduce the cost of energy as energy has been cited as being a major cost for businesses in this state.

Third, she testified that during the recession, in the energy sector, more than \$1 billion of investments were made by the renewable energy industry, at a time when the state needed investment the most. Caprara said that we should continue to encourage this type of investment, not discourage it.

If you have any questions, please do not hesitate to contact Linda Caprara by calling (207) 623-4568, ext. 106, or by emailing lcaprara@mainechamber.org. □

Reinstating Tip Credit... (Continued from Page 1...)

indicated a 20% drop in income. They recognized that they made significantly more money under the tip credit system, and they wanted it reinstated.

Working with the Maine Restaurant Association (MRA), the Maine State Chamber joined a coalition of business associations, and the newly-formed, highly-motivated Restaurant Workers of Maine (RWM), which consisted of more than 4,000 members, most of them servers, to support Sen. Katz's LD 673, and its House companion legislation, **LD 702, An Act to Restore the Tip Credit to Maine Employees**, sponsored by Rep. Stacey Guerin (R-Glenburn). Both bills were part of a 15-hour marathon public hearing the LCRED committee undertook on an array of minimum wage related bills in early April. At that hearing, thanks to the RWM and the MRA, more than 200 servers and restaurant owners turned out to testify and support the idea

of returning the tip credit to Maine law.

Thanks to a continuing grassroots push on the part of the RWM, it became clear that a bi-partisan majority of legislators in both bodies existed to reinstate the tip credit. And at the work session last Wednesday, May 3, legislators from both sides of the aisle, came together to craft a compromise. As drafted, the amended bill clarifies a number of provisions to the tip credit law. First, it clarifies that wages must be measured on the basis of a seven-day work week for the purposes of the tip credit. Second, it clarifies that a restaurant owner may not deduct any amount from the server for tips charged to a credit card, including any service charges. Third and lastly, it requires the owner to give a more formal notice to the employee that they are operating under a tip credit arrangement. It was also decided by majority vote to add an emergency preamble to the bill, meaning that if the bill gets the necessary two-thirds vote in both bodies, it would become law upon the signature of Governor Paul LePage, rather than 90 days after adjournment. In

light of the upcoming summer tourist season, committee members thought this was particularly important.

The final outcome of LD 673 remains unclear, but hopeful. Without the passage of LD 673, the situation with regard to the restaurant and tourism industry and the servers who work there truly looked dire. Legislators from both sides of the aisle recognized this, and the strong bi-partisan vote in the LCRED committee – a committee that routinely splits along party lines on bills – reflects their concern. Whether there are enough votes in the House and the Senate to pass this bill as an emergency enactor remain unclear. The RWM, the MRA, and the Maine State Chamber will continue to urge all lawmakers to support the amended bill and get the word out to the public and out-of-state tourists in time for a summer season that includes generous tipping.

We will continue to follow the progress of LD 673 closely. For questions or additional information, please contact Peter Gore by calling (207) 623 4568, ext. 107, or by emailing pgore@mainechamber.org. □

Tax Update... (Continued from Page 1...)

Lodging, sponsored by Rep. Brian Hubbell;

- **LD 1265, An Act to Allow the Creation of Local Option Sales Tax by Referendum**, sponsored by Sen. Justin Chenette; and,
- **LD 1522, An Act to Authorize a Local Option Sales Tax**, sponsored by Rep. Michael Sylvester.

The Maine State Chamber opposed all three bills at the May 4 public hearing. The committee voted “ought to pass as amended” on LD 1522, with members of both parties voting for and against the motion. As originally drafted, LD 1522 would have allowed a municipality to impose a local option sales tax by referendum at any given rate; the bill was amended to cap the rate at 2%. LD 1230 would have allowed the municipality to impose a local option sales tax up to 1% on meals and lodging.

LD 1265 would have allowed a municipality to impose a local option sales tax of up to 1% by referendum.

While all three bills approach the issue of imposing local option taxes differently, the issue remains the same. The Maine State Chamber has long opposed local option sales taxes.

Municipal Assessing...

The Taxation committee voted to carryover **LD 1479, An Act to Modernize and Improve Maine's Property Tax System**, sponsored by Rep. Stephen Stanley. The Maine State Chamber testified in support of the bill on the basis that it would strengthen the overall valuation and appeals process for industrial property. The bill would improve Maine's property tax valuation and appeals process by preventing over-valuation of manufacturing and industrial property and would also make changes to the appeals process to make it more fair and reasonable.

The bill would require Maine Revenue Services to value large industrial property over \$10 million in valuation.

The bill also deals with the number of information requests and the number of appeals a taxpayer *must* go through in order to appeal their property tax valuations. This bill limits the number of questions that can be asked during an appeals process to 30 (which conforms to the limits in the Maine Rules of Civil Procedure) and strikes the language that provides that the taxpayer loses its appeal rights if it fails to respond. In addition, the bill shortens the appeals process to three levels of appeals, as opposed to the current five levels, and gives the taxpayer the option to bypass the State Board of Property Tax Appeals altogether and appeal directly to Superior Court, which has the legal expertise to deal with appeals. Also, the bill would require that a business or industry representative with a taxation, finance, or valuation background be added to the state board.

If you have any questions on any of these tax issues, please contact Linda Caprara by calling (207) 623-4568 ext. 106, or by emailing lcaprara@mainechamber.org. □

KEEP MAINE COMPETITIVE



The Maine State Chamber is part of the *Keep Maine Competitive* coalition, a group of business and trade associations working to strengthen Maine's economy. Our key focus this session is repealing the 3% income tax surcharge imposed by last fall's referendum (Q2). While the coalition supports more funding for education, this significant tax increase is the wrong solution and will have a chilling effect on Maine's economy.

For more information, please like *Keep Maine Competitive* on Facebook.

To support the coalition's work, please visit <https://donorbox.org/keepmainecompetitive>.

ENCOURAGE YOUR LEGISLATOR

TO REPEAL THE 3% SURTAX ~

DON'T DEVASTATE MAINE'S FUTURE!

Keep Maine Competitive coalition's primary focus this session the repeal of the 3% income tax surcharge imposed by last fall's referendum question. While the coalition, and Maine's business community, supports more funding for education, this funding mechanism needs to be replaced. A significant tax increase is the wrong solution and will have a devastating effect on Maine's economy.



THE TIME FOR ACTION IS NOW!

In the coming weeks, legislative leaders will vote to accept Maine's next biennial budget. It is imperative that you contact to your legislator and urge them to remove the 3% surtax and find an alternative funding source for education. With your help, we will repeal the surtax that hurts Maine's economy and support a strong K-12 education system

Please contact your legislator and urge them to repeal the 3% surtax. It's easy and fast ~ just visit www.bipac.net/maine today!

- Encourage legislators to remove the very economically-damaging 3% income tax surcharge imposed by referendum Question 2 last fall.
- Request that legislators support an increase to education funding through the budget process.
- Under current law, Maine now has the second highest income tax rate in the country at 10.15%.
- Numerous business owners have expressed their intent to move their operations elsewhere to escape this unreasonable tax.
- Repeal of the 3% tax will ensure Maine businesses stay here and continue to create jobs here.
- It's imperative that we save Maine's economy and don't make our state any more of an outlier than it already is.
- Education funding is crucial to economic development, but we must also have a competitive business climate to provide jobs for our graduates.
- The business community supports a strong K-12 education system that is invested in closing educational gaps, directing funds to proven practices that benefit the state's most at-risk students, and ensuring a career and college ready workforce for our future.

Proficiency-based Learning... (Continued from Page 3...)

critical thinking, and communication. These skills are imperative for Maine students to succeed and our state to thrive. I hear every day from Maine employers about the need for these skills in the current and future workforces. The strengthened standards set a high bar for all Maine students, no matter their school. How Maine educators go about helping students meet and exceed those standards – including curriculum, required reading or school operations – remains *entirely* a local decision.

Shared standards with other states are not new to Maine. Since 2009, Maine has had its standards in common with New Hampshire, Rhode Island, and Vermont, when these states began using the same NECAP assessment.

We owe it to each and every Maine student to get the very best education available, no matter where they live and attend school – be it Rep. Maker's home town of Calais, Chair Kornfield's hometown of Bangor, or my hometown of Gorham. Every Maine student should have the best possible chance for college or career success.

Producing better-rounded and more highly-skilled graduates will also keep businesses investing in our state, and potentially attract more businesses to Maine. When our students succeed, Maine businesses succeed, and our state's economy and competitiveness greatly benefit.

I will once again share with you a guest editorial from the *Bangor Daily News* written by Washington County business leader Susan Corbett last session. Susan Corbett is the CEO of Axiom Technologies, a member of the Maine State Chamber, ReadyNation and Educate Maine, and the founder of the Axiom Education and Training Center, which is teaching both IT skills and remedial course work to mostly Washington County adult learners. I will echo her plea to you and all legislators on the issues of proficiency-based learning, upgraded Maine Learning Results, and aligned standards: **Stay the course.**

What example would we set for Maine students if – just when the task gets hard and some people don't like the outcomes – we quit? Thank you. □

Public Hearings

Public hearings are open to everyone. This public hearing schedule is subject to change. Questions may be directed to the Secretary of the Senate's Office at (207) 287-1540. For the most current schedule, please visit <http://legislature.maine.gov/lia/committee-membership/9089/> or contact the committee clerk.

TUESDAY, MAY 16, 2017

Taxation

1:00 p.m.; State House, Room 127

LD 1565, An Act To Ensure the Effectiveness of Tax Increment Financing (Rep. Ward of Dedham) □

Nominations sought for Governor's Environmental Excellence Awards —

The Maine Department of Environmental Protection and Governor Paul R. LePage encourage entities that have gone above and beyond required regulations by implementing innovative practices that have meaningful environmental and economic benefits to apply for the State's environmental excellence awards. This is an opportunity for businesses, nonprofits, and public entities to be recognized for their extraordinary work to improve and protect Maine's natural resources.

"Our job creators grow the economy and help steward Maine's natural resources," said Governor LePage. "The Governor's Awards on Environmental Excellence recognize leaders who take innovative approaches to protect our natural resources and strengthen our economy. My administration was proud to have re-launched these awards to support the entities that not only move our economy forward, but also ensure that our natural resources are here for the enjoyment of future generations."

Nominations are now open for the Governor's Awards for Environmental Excellence, which will honor entities that go beyond standard techniques or regulatory requirements to creatively meet environmental challenges or opportunities. The five award categories include: small, medium and large businesses; local, state, federal or tribal entities; and, nonprofit organizations.

"Our natural resources are the State of Maine's greatest asset, and I believe the state's economy can improve while maintaining our environment," said Commissioner Mercer. "The Environmental Excellence Awards celebrate and encourage those Maine businesses, non-profits and public entities who have successfully balanced both."

Award applicants will be asked to explain how their recent project or program was innovative, collaborative and resulted in measurable and meaningful environmental and economic benefits. Completed application forms are due to the department by **Friday, June 23, 2017.**

For more information about the Maine Department of Environmental Protection's Governor's Awards for Environmental Excellence or to download an application, please visit <http://www.maine.gov/dep/govaward> or contact David Madore, director of communications, education and outreach, by calling (207) 287-5842 or by emailing david.madore@maine.gov. □

Digest of New Legislation

Maine Chamber staff have studied each of these recently printed bills to assess potential impact on business trends. If you have concerns regarding any bill, please communicate those concerns to a member of our governmental services staff at (207) 623-4568.

LABOR...

LD 1566, An Act To Enact the Maine Fair Chance Employment Act. (Rep. Talbot Ross, D-Portland) *Joint Standing Committee on Labor, Commerce, Research, and Economic Development.* This bill enacts the Maine Fair Chance Employment Act and adds restrictions to the use of criminal history information in the context of employment decisions by private employers and the State and its political subdivisions and of licensing decisions by licensing agencies. It prohibits an employer from asking an applicant for employment to disclose information concerning the applicant's criminal history, or considering such information, until after the applicant has received a conditional offer of employment. It restricts the way a private employer, or the State and its political subdivisions, may use criminal history information in the course of making employment decisions and adds similar restrictions to the existing restrictions applicable to licensing agencies' consideration of criminal history information. It also makes certain criminal history information in the possession of the State and its political subdivisions confidential and makes all criminal background check information obtained by the State in connection with an employment decision confidential.

LD 1587, An Act To Provide Economic Security to Maine Families through the

Creation of a Paid Family Medical Leave System. (Rep. Herbig, D-Belfast) *Joint Standing Committee on Labor, Commerce, Research, and Economic Development.* This bill creates a paid family medical leave program, patterned after the unpaid family medical leave program existing in current law but requiring a contribution from an eligible employee, or a self-employed person on a voluntary basis, of no more than 0.5% of the employee's or self-employed person's wages or earnings. The program requires employers to deduct the contributions from employee paychecks and for the employers and self-employed persons to submit contributions to the Department of Labor, Bureau of Unemployment Compensation, which is charged with administering the program. The program pays benefits of up to 66% of an employee's wages or self-employed person's earnings capped at the same maximum amount as unemployment benefits for leave taken by the employee or self-employed person for various family-related medical issues. This bill makes participation optional for employers that employ fewer than 15 employees. This bill also directs the Department of Labor to develop an implementation plan dealing with staffing, technology, start-up expense, rulemaking and scheduling to begin the program on its effective date of October 1, 2019. □

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MAINE
S T A T E
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**2017 REGIONAL
BUSINESS BREAKFAST
MEETINGS**

from 7:30 a.m. to 9:00 a.m.

- Portland Region:** Thursday, June 15; UNE Portland Campus
- Lewiston/Auburn Region:** Thursday, June 22; Hilton Garden Inn, Auburn
- Bangor Region:** Wednesday, June 28; Hilton Garden Inn, Bangor
- Northern Maine Region:** Thurs., June 29; University of Maine, Presque Isle

Maine State Chamber's annual **Regional Business Breakfasts** bring "the Chamber to your region," enabling us to hear first-hand about the concerns of each region's local businesses, as well as providing an opportunity to present the latest public policy information that employers there need to know. *Space is limited and "first come, first served."* **Please RSVP** to Rita Stoddard by emailing rstoddard@mainechamber.org.