

SEN. TROY D. JACKSON  
CHAIR

REP. SARA GIDEON  
VICE- CHAIR

EXECUTIVE DIRECTOR  
GRANT T. PENNOYER



129<sup>TH</sup> MAINE STATE LEGISLATURE  
LEGISLATIVE COUNCIL

SEN. NATHAN L. LIBBY  
SEN. ELOISE A. VITELLI  
SEN. DANA L. DOW  
SEN. JEFFREY L. TIMBERLAKE  
REP. MATTHEW W. MOONEN  
REP. RYAN M. FECTEAU  
REP. KATHLEEN R.J. DILLINGHAM  
REP. HAROLD TREY STEWART III

**129<sup>th</sup> Legislature  
Legislative Council**

**January 23, 2020**

**PRELIMINARY AGENDA**

<b><u>Page</u></b>	<b><u>Item</u></b>	<b><u>Action</u></b>
	<b>CALL TO ORDER</b>	
	<b>ROLL CALL</b>	
<b>1</b>	<b>SUMMARY OF THE DECEMBER 6, 2019 MEETING OF THE LEGISLATIVE COUNCIL</b>	<b>Decision</b>
	<b>REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS</b>	
<b>14</b>	<ul style="list-style-type: none"><li>• Executive Director's Report (Mr. Pennoyer)</li></ul>	<b>Information</b>
<b>15</b>	<ul style="list-style-type: none"><li>• Fiscal Report (Mr. Nolan)</li></ul>	<b>Information</b>
<b>19</b>	<ul style="list-style-type: none"><li>• Legislative Studies Report (Ms. Hylan Barr)</li></ul>	<b>Information</b>
	<b>REPORTS FROM COUNCIL COMMITTEES</b>	
	<ul style="list-style-type: none"><li>• Personnel Committee</li><li>• State House Facilities Committee No report</li></ul>	
	<b>OLD BUSINESS</b>	
<b>21</b>	<b>Item #1: Consideration of Tabled Bill Requests from October and December, 2019</b>	<b>Roll Call Vote</b>
<b>25</b>	<b>Item #2: Council Actions Taken by Ballot (No Action Required)</b>	<b>Information</b>
	<b>NEW BUSINESS</b>	
<b>26</b>	<b>Item #1: Consideration of After Deadline Bill Requests</b>	<b>Roll Call Vote</b>
<b>28</b>	<b>Item #2: Acceptance of the Fourteenth Annual Report of the Right to Know Advisory Committee (January 2020)</b>	<b>Acceptance</b>

<b>33</b>	Item #3:	Acceptance of the Commission to Study the Economic, Environmental and Energy Benefits of Energy Storage to the Maine Electricity Industry Report (December 2019)	<b>Acceptance</b>
<b>38</b>	Item #4:	Acceptance of the Blue Ribbon Commission to Study and Recommend Funding Solutions for the State's Transportation Systems Report (December 2019)	<b>Acceptance</b>
<b>42</b>	Item #5:	Acceptance of the Joint Standing Committee on Criminal Justice and Public Safety Study of the Stabilization of Funding for the County and Regional Jails Report (January 2020)	<b>Acceptance</b>
<b>52</b>	Item #6:	Acceptance of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act (January 2020)	<b>Acceptance</b>
<b>61</b>	Item #7:	Maine State Compensation Commission Final Report (January 2020)	<b>Information</b>

**ANNOUNCEMENTS AND REMARKS**

**ADJOURNMENT**

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**LEGISLATIVE COUNCIL  
MEETING SUMMARY  
December 19, 2019**

**CALL TO ORDER**

President Jackson called the December 19, 2019 meeting of the 129<sup>th</sup> Legislative Council to order at 2:09 pm in the Legislative Council Chamber.

**ROLL CALL**

Senators: President Jackson, Senator Libby, Senator Vitelli, Senator Dow and Senator Timberlake

Representatives: Speaker Gideon, Representative Moonen, Representative Fecteau, Representative Dillingham

Absent: Representative Stewart (Arrived Late)

Legislative Officers: Darek Grant, Secretary of the Senate  
Robert Hunt, Clerk of the House  
Grant T. Pennoyer, Executive Director of the Legislative Council  
Suzanne Gresser, Revisor of Statutes  
Dawna Lopatosky, Legislative Finance Director  
Jackie Little, Human Resources Director  
Chris Nolan, Director, Office of Fiscal and Program Review  
Marion Hylan Barr, Director, Office of Policy and Legal Analysis  
Nik Rende, Director, Office of Legislative Information Technology

President Jackson convened the meeting at 2:09 pm. with a quorum of members present.

President Jackson, Welcomed back Executive Director Grant Pennoyer.

Legislative Council Chair Jackson asked if there was any objection to taking items out of order. There was no objection. The Chair then moved to New Business.

## NEW BUSINESS

### Item #1: Consideration of After Deadline Bill Requests

The Legislative Council proceeded to consider and vote on twenty-nine (29) after deadline bill requests. The Legislative Council authorized eighteen (18) bills for introduction in the Second Regular Session, tabled three (3) bill requests and declined to authorize six (6) bill requests. Two (2) bill requests were withdrawn by the sponsor prior to the Legislative Council's vote. The Legislative Council's action on these after deadline bill requests is attached.

## OLD BUSINESS:

### Item #1: Council Actions Taken by Ballot:

Legislative Council Decisions:

Motion: That the Legislative Council approves the request from the Blue Ribbon Commission to Study and Recommend Funding Solutions for the State's Transportation Systems to hold a meeting on December 16<sup>th</sup> and to extend its reporting deadline beyond the deadline of December 15, 2019.

Motion by: President Jackson    Second by:    Speaker Gideon  
Date: December 6, 2019  
Vote: 10-0-0-0 Passed

Motion: That the Legislative Council approves the request from the Task Force on Changes to the Maine Indian Claims Settlement Implementing to extend the reporting deadline beyond December 15, 2019 and to hold its final meeting on December 18, 2019

Motion by: President Jackson    Second by:    Speaker Gideon  
Date: December 19, 2019  
Vote: 8-2-0-0 Passed (with Reps. Dillingham and Stewart opposed)

Motion: That the Legislative Council approves the request from the Blue Ribbon Commission to Study and Recommend Funding Solutions for the State's Transportation Systems to hold a meeting previously scheduled for December 16, 2019 on December 18, 2019 and to extend its reporting deadline to no later than December 31, 2019.

Motion by: President Jackson    Second by:    Speaker Gideon  
Date: December 16, 2019  
Vote: 10-0-0-0 Passed

**Item #2: Consideration of Tabled Bill Requests for Introduction in the Second Regular Session of the 129<sup>th</sup> Legislature – from October 23<sup>rd</sup> and December 6<sup>th</sup> Legislative Council Meeting**

The Legislative Council proceeded to authorize three (3) bills tabled from the December 6, 2019 Legislative Council Meeting. The Legislative Council’s action on the tabled bill requests is attached.

**REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES**

**Executive Director’s Report**

No Report

**Fiscal Report**

Chris Nolan, Director of the Office of Fiscal and Program Review, presented the following report.

1. General Fund Revenue Update (see attached)

**Total General Fund Revenue - FY 2020 (\$'s in Millions)**

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
November	\$278.1	\$291.3	\$13.2	4.7%	\$256.4	13.6%
FYTD	\$1,637.9	\$1,682.7	\$44.8	2.7%	\$1,594.9	5.5%

General Fund revenue was over budget by \$13.2 million (4.7%) for the month of November and by \$44.8 million (2.7%) for the fiscal year to date. These positive variances do not reflect the December 2019 revenue forecast, which increased budgeted General Fund revenue by \$52.7 million for FY 2020.

Individual income tax revenue was over budget by \$0.9 million for the month and by \$16.7 million for the fiscal year to date. Individual income tax withholdings were over budget by \$4.9 million while refunds were under budget (more refunded than budgeted) for the month by \$2.5 million. Corporate income tax revenue was over budget by \$1.1 million for the month and by \$2.9 million for the fiscal year to date. Sales and use tax revenue (October sales) was over budget for the month by \$4.5 million and by \$18.8 million for the fiscal year to date. The Revenue Forecasting Committee had access to preliminary November data in preparing the December 2019 revenue forecast.

2. Highway Fund Revenue Update (see attached)

**Total Highway Fund Revenue - FY 2020 (\$'s in Millions)**

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
November	\$32.1	\$34.4	\$2.3	7.1%	\$33.5	2.8%
FYTD	\$151.8	\$156.5	\$4.7	3.1%	\$153.4	2.0%

Highway Fund revenue was over budget by \$2.3 million (7.1%) for the month of November and by \$4.7 million (3.1%) for the fiscal year to date. These positive variances do not reflect the December 2019 revenue forecast, which increased budgeted Highway Fund revenue by \$3.1 million for FY 2020.

Fuel taxes and motor vehicle registrations were both slightly under budget for the month. Other revenue was over budget for the month by \$2.4 million. Most of this variance was attributed to a transfer to the Highway Fund related to the municipal excise tax reimbursement program.

### 3. Cash Balances Update

The average balance in the cash pool for November was \$1,616.1 million, a decrease from October's average of \$1,666.5 million but above both last November's average balance and the ten-year average for the month. The average Highway Fund balance of \$0.9 million in November was down from October's average of \$12.1 million. This significantly reduced Highway Fund balance is the result of increased expenditures for construction season spending and delays in the availability of federal reimbursements.

### **Studies Report**

Marion Hylan Barr, Director, Office of Policy and Legal Analysis, submitted the written studies report found in the agenda packet.

### **REPORTS FROM COUNCIL COMMITTEES**

#### **Personnel Committee**

No Report

#### **State House Facilities Committee**

No Report

### **SUMMARY OF DECEMBER 19, 2019 MEETING OF LEGISLATIVE COUNCIL**

Motion: That the Meeting Summary for December 19, 2019 be accepted and placed on file.

Motion by Representative Fecteau. Second by Representative Stewart. Motion passed unanimous (10-0-0)

### **ANNOUNCEMENTS AND REMARKS**

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 3:41 pm

**Legislative Council  
Tabled Bill Requests  
From October 23, 2019 and December 6, 2019**

**SPONSOR: Rep. Kent Ackley**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2723	An Act To Allow Municipalities To Set Below-market Interest Rates for Senior Citizen Property Tax Deferral Programs	Tabled 12/06/19

**SPONSOR: Rep. Michael F. Brennan**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2847	An Act To Promote Justice for Victims of Sexual Abuse by Suspending the Statute of Limitations	Tabled 10/23/19

**SPONSOR: Sen. Ned Claxton**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2944	An Act To Minimize Potentially Objectionable License Plates	Tabled 12/06/19
2946	Resolve, Directing the Department of Education To Amend Its Certification Requirement Rules	Tabled 10/23/19

**SPONSOR: Sen. Scott Wynn Cyrway**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2610	An Act To Require Warning Labels Regarding the Danger of Psychosis from the Consumption of Marijuana Products	Tabled 12/06/19

**SPONSOR: Rep. Matthea Elisabeth Larsen Daughtry**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3058	An Act To Protect Independent Contractors from Sexual Harassment	Tabled 10/23/19
3065	An Act To Properly Fund Early Childhood Education and Postsecondary Grant Opportunities	Tabled 10/23/19
3066	An Act To Require Transparency in Postsecondary Institutions with Regard to Sexual Assaults	Tabled 10/23/19

**SPONSOR: Rep. John C. DeVeau**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2805	An Act To Provide Additional Supplemental Funding to the Veterans' Homelessness Prevention Coordination Program	Tabled 12/06/19

**SPONSOR: Rep. Justin J. Fecteau**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2849	An Act To Protect Students from Individuals Convicted of Sex Crimes	Tabled 10/23/19

**SPONSOR: Sen. Geoff Gratwick**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2691	An Act To Restrict the Use of Chlorpyrifos in Farming	Tabled 10/23/19
2692	An Act To Codify Rules Regarding Firearms in Child Care Facilities, Nursery Schools and the Facilities of Home-based Child Care Providers	Tabled 10/23/19 <b>TITLE REVISED</b>

**SPONSOR: Rep. Sheldon M. Hanington**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2658	An Act To Impose Penalties for the Failure of Municipalities To Keep the Grave Sites of Veterans in Public Burying Grounds in Good Condition and Repair	Tabled 10/23/19

**SPONSOR: Rep. Henry Ingwersen**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2884	Resolve, Directing the Department of Environmental Protection To Investigate Potential Sources of High-level Per- and Polyfluoroalkyl Substances Contamination of Land and Drinking Water	Tabled 10/23/19

**SPONSOR: Pres. Troy Dale Jackson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2657	An Act To Allow Day Students at the Maine School of Science and Mathematics	Tabled 10/23/19
2713	An Act To Provide Tax Credits for Employers Who Employ Qualified Apprentices	Tabled 10/23/19
2714	An Act To Ensure Equitable Pricing for Fuel Delivered to Energy Markets	Tabled 10/23/19



2737 An Act To Ensure Access to Affordable Prescription Drugs Tabled 10/23/19

2985 Resolve, To Establish Guidelines for the Creation of Offshore Wind Projects That Include the Protection of Fisheries and Wildlife and the Creation of High-quality Local Jobs Tabled 10/23/19

**SPONSOR: Sen. Lisa Keim**

LR # Title Action  
2760 An Act To Provide MaineCare to Disabled Veterans Tabled 10/23/19

**SPONSOR: Rep. MaryAnne Kinney**

LR # Title Action  
2625 An Act To Protect the People of Maine from Drug Overdoses Tabled 10/23/19

**SPONSOR: Rep. Scott Landry**

LR # Title Action  
3060 An Act Relating to Energy Storage Tabled 10/23/19

**SPONSOR: Sen. Nate Libby**

LR # Title Action  
2855 Resolve, To Ensure Appropriate Case Management under the Behavioral Health Home Program and for Adults with Human Immunodeficiency Virus Infection Tabled 10/23/19

**SPONSOR: Rep. Jay McCreight**

LR # Title Action  
2968 An Act To Maintain and Enhance the Behavioral Health Workforce in Maine Tabled 10/23/19

**SPONSOR: Sen. Dave Miramant**

LR # Title Action  
2718 An Act To Amend the Laws Governing Aquaculture Leases Tabled 10/23/19

**SPONSOR: Sen. Marianne Moore**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2746	An Act To Clarify the Rights of Parties in Certain Foreclosure Actions	Tabled 12/06/19

**SPONSOR: Rep. Tina Riley**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3079	An Act To Promote Renewable Energy Resources	Tabled 10/23/19 PASSED 12/19/19

**SPONSOR: Rep. Stephen Sullivan Stanley**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2808	An Act To Remove the Tax Cap on County Jail Funding	Tabled 10/23/19

**SPONSOR: Rep. Scott W. Strom**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2709	An Act To Prohibit the Collection of Campaign Contributions within a Voting Place	Tabled 10/23/19

**SPONSOR: Rep. Rachel Talbot Ross**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2603	An Act To Enact the Maine Fair Chance Employment Act	Tabled 10/23/19 PASSED 12/19/19

**SPONSOR: Rep. Nathan J. Wadsworth**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2966	An Act To Provide Funding to the Maine Quality Centers within the Maine Community College System	Tabled 10/23/19
2967	An Act To Support Maine's Workforce Initiatives within the Maine Community College System	Tabled 10/23/19

**SPONSOR: Rep. Charlotte May Warren**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2854	An Act To Reclassify Certain Offenses To Increase the Efficiency of the Criminal Justice System	Tabled 10/23/19 PASSED 12/19/19

**SPONSOR: Sen. David Woodsome**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2684	An Act To Provide Veterans with Educational Benefits	Tabled 10/23/19
2686	An Act To Ensure Maine Cable Service Franchises Are Nonexclusive	Tabled 12/06/19
2704	An Act To Establish Common Law Marriage in Maine	Tabled 12/06/19
2873	An Act To Remove Barriers to Entry to the Profession of Dental Therapy and Expand Access for the Underserved Dental Patient Population	Tabled 12/06/19

**129th Maine State Legislature  
Legislative Council  
Requests to Introduce Legislation  
Second Regular Session**

**AFTER DEADLINE BILL REQUESTS**

**SPONSOR:**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3105	Resolve, Authorizing Certain Land Transactions by the Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands	PASSED

**SPONSOR: Rep. Seth A. Berry**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3103	An Act To Stabilize Water Utility Funding and Reduce Financial Burdens Created by Regulation	PASSED
3104	An Act To Make Changes in the So-called Dig Safe Law	WITHDRAWN
3110	An Act To Require an Internet Service Provider To Provide a Pro Rata Credit When Service Is Cancelled by a Subscriber	PASSED

**SPONSOR: Rep. Anne Carney**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3112	An Act To Allow Crematories Using Chemical Dissolution Processes in Facilities Other Than Cemeteries	FAILED
3113	An Act To Allow a Maine Company To Operate an Alkaline Hydrolysis Crematorium on a Parcel of Land of Less than 20 Acres	FAILED
3125	An Act To Ensure Proper Closure of Oil Terminal Facilities	PASSED

**SPONSOR: Sen. Michael E. Carpenter**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3134	An Act To Establish the Central Aroostook County Emergency Medical Services Authority	PASSED

**SPONSOR: Sen. Scott Wynn Cyrway**

<u>LR#</u>	<u>Title</u>	
3106	An Act To Amend the Law Governing Contracts for Pharmacy Services	TABLED
3111	An Act To Establish a Court Surcharge Fund To Support Professional Corrections Programs and Community Safety Initiatives throughout the State	FAILED
3114	An Act To Establish Requirements Governing the Disposition of Human Fetal Tissue	FAILED

**SPONSOR: Sen. Susan Deschambault**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3121	An Act To Prohibit the Use of Cellphones in Schools by Students in Grades 9 and under	TABLED

**SPONSOR: Spkr. Sara Gideon**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3108	An Act To Permit the Expansion of the Municipal Membership of the Greater Portland Transit District	PASSED
3128	An Act To Save Lives by Capping the Out-of-pocket Cost of Certain Medications	PASSED

**SPONSOR: Sen. Geoff Gratwick**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3102	An Act To Improve School Safety	TABLED

**SPONSOR: Sen. Erin Herbig**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3133	An Act Regarding the Experience Requirement for Accountants Working in the Office of the State Auditor Who Are Seeking Licensure as Certified Public Accountants	PASSED
3127	An Act Regarding Net Energy Billing Limits	PASSED

**SPONSOR: Sen. Lisa Keim**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3109	An Act To Make March Maine's Childhood Cancer Awareness Month	PASSED

**SPONSOR: Sen. Nate Libby**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3116	An Act Regarding Rest Breaks for Employees Not Covered by Collective Bargaining Agreements	FAILED

**SPONSOR: Rep. Jay McCreight**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3130	An Act To Change Decibel Level Limits for Airboats	PASSED

**SPONSOR: Sen. Rebecca Millett**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3126	An Act To Remove from the Calculation of the Cost of Education the Maine Public Employees Retirement System State Employee and Teacher Plan Unfunded Actuarial Liability	PASSED

**SPONSOR: Sen. Marianne Moore**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3118	An Act Regarding Mobile Billboards	TABLED

**SPONSOR: Rep. Sean Paulhus**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3120	An Act To Require Automated External Defibrillators in Large Stores	FAILED

**SPONSOR: Rep. Tina Riley**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3117	An Act To Require That Parking Lots for State Agencies Meet the Standards Set Forth in the Federal Americans with Disabilities Act	PASSED

**SPONSOR: Rep. Rachel Talbot Ross**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3119	An Act To Establish a Criminal Records Review Committee	PASSED

**SPONSOR: Sen. Jeff Timberlake**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3107	An Act To Ensure Fairness for Public School Athletes with Disabilities	WITHDRAWN

**SPONSOR: Sen. David Woodsome**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3115	An Act Regarding the Sale of Information by the Secretary of State	PASSED

#### JOINT RESOLUTIONS

**SPONSOR: Rep. John Andrews**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2908	JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO PROVIDE ACCESS TO BANKING AND INSURANCE SERVICES TO LEGAL CANNABIS AND CANNABIS-RELATED BUSINESSES	PASSED

**SPONSOR: Pres. Troy Dale Jackson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3123	JOINT RESOLUTION MEMORIALIZING THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION REGARDING THE SAFETY OF MAINE'S LOBSTER INDUSTRY	PASSED

#### Table of Results

Total number of bills accepted: 17

Total number of bills tabled: 4

Total number of bills withdrawn: 2

Total number of bills declined: 6

Total number of bills considered: 29

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## Executive Director's Report January 23, 2020

### 1. MELD Replacement Project

Despite best efforts by our contractor, the Revisor's Office and Legislative Information Technology, the implementation of the new bill production system has been delayed by some system bugs that need to be resolved before the Revisor's Office is able to fully transitioning to the new system to produce bills and amendments. In the meantime, they have been producing bills and amendments using MELD, the old bill production system. We are still hopeful that the remaining system bugs will be worked out soon so that we may fully transition to the new system and convert those bills and amendments that were developed in MELD into the new system so that we may take full advantage of the features of the new system that includes a more efficient and accurate statute update process that was used to update the statutes after the 1<sup>st</sup> Regular Session.

### 2. Benefits Fair

Representatives from Employee Health & Benefits, Maine Public Employees Retirement System, WellStarME (Health Screening), and representatives of the Deferred Compensation Plans will be in the Hall of Flags on the morning of Tuesday, February 4, for a Benefits Fair. The WellStarME staff will also be scheduling appointments for Health Screenings to help meet the requirements of the 2020 Health Credit Premium Program.



# Fiscal Briefing

January 23, 2020

*Prepared by the Office of Fiscal & Program Review*

## 1. General Fund Revenue Update (see attached)

**Total General Fund Revenue - FY 2020 (\$'s in Millions)**

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
December	\$291.4	\$296.3	\$4.9	1.7%	\$309.3	-4.2%
FYTD	\$1,973.3	\$1,979.1	\$5.8	0.3%	\$1,904.2	3.9%

General Fund revenue was over budget by \$4.9 million (1.7%) for the month of December and by \$5.8 million (0.3%) for the fiscal year to date. These positive variances now reflect the December 2019 revenue forecast, which increased budgeted General Fund revenue by \$52.7 million for FY 2020.

Individual income tax revenue was under budget by \$4.9 million for the month and by \$4.9 million for the fiscal year to date. Individual income tax withholdings were under budget by \$10.3 million while refunds were over budget (less refunded than budgeted) for the month by \$4.4 million. The withholding tax revenue may be a timing variance between December and January which will be reviewed in more detail next month. Corporate income tax revenue was over budget by \$0.3 million for the month and by \$0.3 million for the fiscal year to date. Sales and use tax revenue (November sales) was over budget for the month by \$5.5 million and by \$1.2 million for the fiscal year to date.

## 2. Highway Fund Revenue Update (see attached)

**Total Highway Fund Revenue - FY 2020 (\$'s in Millions)**

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
December	\$23.6	\$24.7	\$1.1	4.6%	\$24.1	2.5%
FYTD	\$180.3	\$181.2	\$0.9	0.5%	\$177.5	2.1%

Highway Fund revenue was over budget by \$1.1 million (4.6%) for the month of December and by \$0.9 million (0.5%) for the fiscal year to date. These positive variances now reflect the December 2019 revenue forecast, which increased budgeted Highway Fund revenue by \$3.1 million for FY 2020.

Fuel taxes were under budget by \$0.3 million for the month while motor vehicle registrations and fees were over budget by \$1.2 million.

## 3. Cash Balances Update

The average balance in the cash pool for December was \$1,571.6 million, a decrease from November's average of \$1,616.1 million but above both last December's average balance and the ten-year average for the month. The average Highway Fund balance of -\$9.7 million in November was down from November's average of \$0.9 million. The negative average balance in the Highway Fund for December was the result of increased expenditures for construction season spending and delays in the availability of federal reimbursements. The balance is now positive and expected to continue to improve with the release of federal funds.

**General Fund Revenue  
Fiscal Year Ending June 30, 2020 (FY 2020)**

**December 2019 Revenue Variance Report**

Revenue Category	December '19		December '19		Fiscal Year-To-Date			FY 2020 Budgeted Totals		
	Budget	Actual	Actual	Variance	Budget	Actual	Variance			
Sales and Use Tax	115,122,905	120,579,774	5,456,869		876,598,958	877,811,473	1,212,515	0.1%	7.0%	1,603,738,944
Service Provider Tax	4,694,125	4,703,116	8,991		29,161,377	29,170,366	8,989	0.0%	-5.8%	58,524,000
Individual Income Tax	154,050,000	149,174,596	(4,875,404)		876,442,561	871,544,281	(4,898,280)	-0.6%	5.3%	1,790,503,500
Corporate Income Tax	36,500,000	36,756,280	256,280		101,172,400	101,428,679	256,279	0.3%	-19.3%	217,460,000
Cigarette and Tobacco Tax	11,052,678	12,743,626	1,690,948		69,941,783	73,031,111	3,089,328	4.4%	7.9%	141,621,642
Insurance Companies Tax	248,066	4,309	(243,757)		13,685,146	13,962,659	277,513	2.0%	6.0%	75,950,000
Estate Tax	450,000	540,404	90,404		13,386,439	13,476,842	90,403	0.7%	447.3%	16,450,000
Other Taxes and Fees *	8,411,672	8,567,591	155,919		65,499,729	66,355,575	855,846	1.3%	-8.2%	136,772,575
Fines, Forfeits and Penalties	154,639	(122,807)	(277,446)		5,590,866	5,318,642	(272,224)	-4.9%	-29.3%	12,459,191
Income from Investments	953,708	1,122,230	168,522		6,124,991	6,293,462	168,471	2.8%	49.7%	10,803,680
Transfer from Lottery Commission	5,540,552	5,071,546	(469,006)		29,320,665	32,071,197	2,750,532	9.4%	-5.5%	57,000,000
Transfers to Tax Relief Programs *	(41,000,000)	(39,342,650)	1,657,350		(47,224,835)	(45,567,392)	1,657,443	3.5%	11.3%	(75,315,000)
Transfers for Municipal Revenue Sharing	(8,433,492)	(7,878,549)	554,943		(57,747,360)	(57,192,418)	554,942	1.0%	-56.4%	(110,933,772)
Other Revenue *	3,691,971	4,403,624	711,653		(8,676,448)	(8,637,562)	38,886	0.4%	37.2%	22,005,734
<b>Totals</b>	<b>291,436,824</b>	<b>296,323,090</b>	<b>4,886,266</b>		<b>1,973,276,272</b>	<b>1,979,066,915</b>	<b>5,790,643</b>	<b>0.3%</b>	<b>3.9%</b>	<b>3,957,040,494</b>

\* Additional detail by subcategory for these categories is presented on the following page.

**General Fund Revenue  
Fiscal Year Ending June 30, 2020 (FY 2020)**

**December 2019 Revenue Variance Report**

Revenue Category	December '19			December '19			December '19			Fiscal Year-To-Date			FY 2020 Budgeted Totals
	Budget	Actual	Variance	Budget	Actual	Variance	Budget	Actual	Variance	Variance %	% Change from Prior Year		
<b>Detail of Other Taxes and Fees:</b>													
- Property Tax - Unorganized Territory	0	0	0	12,362,347	12,000,724	(361,623)	-2.9%	-6.0%	14,613,169				
- Real Estate Transfer Tax	1,085,161	1,858,808	773,647	6,983,164	7,119,811	136,647	2.0%	-36.6%	14,266,803				
- Liquor Taxes and Fees	1,698,426	1,458,073	(240,353)	10,190,556	11,722,241	1,531,685	15.0%	-4.1%	20,381,153				
- Corporation Fees and Licenses	173,913	229,253	55,340	2,627,173	2,969,934	342,761	13.0%	52.0%	10,938,649				
- Telecommunication Excise Tax	4,403	0	(4,403)	(136,606)	99,724	236,330	173.0%	N/A	6,000,000				
- Finance Industry Fees	2,279,333	2,340,850	61,517	13,675,994	13,046,600	(629,394)	-4.6%	-3.3%	27,891,990				
- Milk Handling Fee	97,421	74,052	(23,369)	671,239	647,871	(23,368)	-3.5%	-73.6%	1,457,928				
- Racino Revenue	670,518	577,896	(92,622)	4,491,189	4,471,769	(19,420)	-0.4%	4.7%	8,722,005				
- Boat, ATV and Snowmobile Fees	174,137	174,916	779	1,737,463	1,648,369	(89,094)	-5.1%	0.9%	4,523,561				
- Hunting and Fishing License Fees	942,621	825,243	(117,378)	7,733,429	7,819,219	85,790	1.1%	-4.9%	15,990,794				
- Other Miscellaneous Taxes and Fees	1,285,739	1,028,500	(257,239)	5,163,781	4,809,312	(354,469)	-6.9%	19.3%	11,986,523				
<b>Subtotal - Other Taxes and Fees</b>	<b>8,411,672</b>	<b>8,567,591</b>	<b>155,919</b>	<b>65,499,729</b>	<b>66,355,575</b>	<b>855,846</b>	<b>1.3%</b>	<b>-8.2%</b>	<b>136,772,575</b>				
<b>Detail of Other Revenue:</b>													
- Liquor Sales and Operations	2,375	4,725	2,350	14,250	22,875	8,625	60.5%	-0.8%	28,500				
- Targeted Case Management (DHHS)	11,146	8,979	(2,167)	120,123	59,242	(60,881)	-50.7%	-59.2%	158,160				
- State Cost Allocation Program	1,560,883	1,928,732	367,849	12,216,614	12,584,463	367,849	3.0%	42.9%	23,109,989				
- Unclaimed Property Transfer	0	0	0	0	0	0	N/A	N/A	6,186,442				
- Tourism Transfer	0	0	0	(18,238,610)	(18,150,386)	88,224	0.5%	-5.7%	(18,238,610)				
- Transfer to Maine Milk Pool	(288,236)	(348,877)	(60,641)	(3,777,477)	(3,838,117)	(60,640)	-1.6%	60.1%	(5,512,616)				
- Transfer to STAR Transportation Fund	0	0	0	(9,530,000)	(11,138,493)	(1,608,493)	-16.9%	-18.0%	(9,530,000)				
- Other Miscellaneous Revenue	2,405,803	2,810,065	404,262	10,518,652	11,822,854	1,304,202	12.4%	-12.5%	25,803,869				
<b>Subtotal - Other Revenue</b>	<b>3,691,971</b>	<b>4,403,624</b>	<b>711,653</b>	<b>(8,676,448)</b>	<b>(8,637,562)</b>	<b>38,886</b>	<b>0.4%</b>	<b>37.2%</b>	<b>22,005,734</b>				
<b>Detail of Transfers to Tax Relief Programs:</b>													
- Me. Resident Prop. Tax Program (Circuitbreaker)	0	800	800	0	2,496	2,496	N/A	-29.9%	0				
- BETR - Business Equipment Tax Reimb.	(6,500,000)	(2,149,602)	4,350,398	(12,869,306)	(8,520,511)	4,348,795	33.8%	1.8%	(27,060,000)				
- BETE - Municipal Bus. Equip. Tax Reimb.	(34,500,000)	(37,193,848)	(2,693,848)	(34,355,529)	(37,049,377)	(2,693,848)	-7.8%	13.3%	(48,255,000)				
<b>Subtotal - Tax Relief Transfers</b>	<b>(41,000,000)</b>	<b>(39,342,650)</b>	<b>1,657,350</b>	<b>(47,224,835)</b>	<b>(45,567,392)</b>	<b>1,657,443</b>	<b>3.5%</b>	<b>11.3%</b>	<b>(75,315,000)</b>				
<b>Inland Fisheries and Wildlife Revenue - Total</b>	<b>1,199,393</b>	<b>1,066,357</b>	<b>(133,036)</b>	<b>21,476,037</b>	<b>9,903,784</b>	<b>(11,572,253)</b>	<b>-53.9%</b>	<b>-4.0%</b>	<b>21,486,646</b>				

# Highway Fund Revenue Fiscal Year Ending June 30, 2020 (FY 2020)

## December 2019 Revenue Variance Report

Revenue Category	December '19		Fiscal Year-To-Date			FY 2020 Budgeted Totals	Budgeted Change FY 2019 to FY 2020
	Budget	Actual	December '19 Budget	Actual	Variance		
<b>Fuel Taxes:</b>							
- Gasoline Tax	16,659,536	16,109,511	110,430,987	109,499,323	(931,664)	-0.8%	0.1%
- Special Fuel and Road Use Taxes	4,850,075	5,103,299	26,741,686	26,770,241	28,555	0.1%	5.2%
- Transeap Transfers - Fuel Taxes	(1,581,217)	(1,560,747)	(10,060,562)	(10,030,519)	30,043	0.3%	-1.3%
- Other Fund Gasoline Tax Distributions	(416,653)	(402,851)	(2,760,295)	(2,743,609)	16,686	0.6%	-0.3%
Subtotal - Fuel Taxes	19,511,741	19,249,212	124,351,816	123,495,437	(856,379)	-0.7%	1.1%
<b>Motor Vehicle Registration and Fees:</b>							
- Motor Vehicle Registration Fees	4,283,291	4,212,313	33,188,054	33,204,002	15,948	0.0%	2.1%
- License Plate Fees	244,938	298,268	1,831,078	2,133,006	301,928	16.5%	4.4%
- Long-term Trailer Registration Fees	512,735	1,509,115	4,662,411	5,658,791	996,380	21.4%	5.5%
- Title Fees	985,662	1,244,952	7,537,789	7,797,079	259,290	3.4%	4.0%
- Motor Vehicle Operator License Fees	737,409	706,554	5,162,202	5,217,941	55,739	1.1%	10.2%
- Transeap Transfers - Motor Vehicle Fees	(3,748,987)	(3,728,728)	(8,410,789)	(8,426,070)	(15,281)	-0.2%	-3.3%
Subtotal - Motor Vehicle Reg. & Fees	3,015,048	4,242,474	43,970,745	45,584,748	1,614,003	3.7%	3.6%
Motor Vehicle Inspection Fees	400,208	511,196	1,951,250	1,909,589	(41,661)	-2.1%	4.9%
Other Highway Fund Taxes and Fees	107,257	70,099	667,934	693,022	25,088	3.8%	-6.9%
Fines, Forfeits and Penalties	85,363	85,365	417,173	417,299	126	0.0%	19.6%
Interest Earnings	9,574	1,420	258,301	225,231	(33,070)	-12.8%	-26.1%
Other Highway Fund Revenue	507,253	559,243	8,700,624	8,885,134	184,510	2.1%	9.7%
<b>Totals</b>	<b>23,636,444</b>	<b>24,719,009</b>	<b>180,317,843</b>	<b>181,210,460</b>	<b>892,617</b>	<b>0.5%</b>	<b>2.1%</b>

## 2019 Interim Legislative Studies and Committee Meetings

Updated January 17, 2020

Study/Committee	Citation	2019 Meetings Authorized	2019 Meetings Held	Scheduled Next Meeting Date(s)	Report Date	Chair(s)	Status/Notes
<b>NEW STUDIES</b>							
Task Force on Changes to the Maine Indian Claims Settlement Implementing Act	HP 1307	4	07/22/19 08/09/19 09/13/19 10/21/19 12/05/19 12/18/19		12/04/19 (extension approved)	Sen. Michael E. Carpenter Rep. Donna Bailey	Report completed
Commission To Study Long-term Care Workforce Issues	PL 2019, c. 343, Part BBBB	4	09/11/19 09/26/19 10/24/19 11/14/19 12/10/19		11/17/19 (extension approved)	Sen. Erin Herbig Rep. Jessica Fay	Report completed
Commission To Study the Economic, Environmental and Energy Benefits of Energy Storage to the Maine Electricity Industry	Resolve 2019, c. 83	4	10/22/19 11/06/19 11/19/19 12/02/19		12/04/19	Sen. Eloise A. Vitelli Rep. Christina Riley	Report completed
Advisory Committee for the Independent Review of the State's Early Childhood Special Education Services (with JSC on EDU oversight)	PL 2019, c. 343, Part VVVV	4	09/24/19, 11/07/19, 11/14/19, 12/02/19 (Advisory Committee) 10/18/19 (Advisory Subcommittee) 10/01/19, 12/11/19 (JSC on EDU)		Preliminary report 04/01/20; Final report 12/01/20 (to the EDU Committee)	Sen. Rebecca J. Millett Rep. Victoria P. Kornfield	Contract completed and signed; formal kick-off meeting with vendor scheduled for 01/22/20
Blue Ribbon Commission to Study and Recommend Funding Solutions for the State's Transportation Systems	Resolve 2019, c. 97	6	09/17/19 10/01/19 10/24/19 11/25/19 12/18/19		12/04/19 (extension approved)	Sen. Bill Diamond Rep. Andrew J. McLean	Report completed (subcommittee meetings held: 12/02/19, 12/04/19, 12/16/19)
Criminal Records Review Committee	Resolve 2019, c. 90	4			12/04/19	Sen. Michael E. Carpenter	Did not receive necessary outside funding to convene as required per Resolve
Committee To Study the Feasibility of Creating Basic Income Security	Resolve 2019, c. 82	4	11/22/19		11/04/20	Sen. Shenna L. Bellows Rep. James R. Handy	Meetings completed; no report required this interim
JSC on CJPS to Study the Stabilization of Funding for the County Jails and the Regional Jail	HP 1277	4	10/22/19 11/05/19 11/19/19 12/10/19		129th 2nd Regular Session	Sen. Susan A. Deschambault Rep. Charlotte Warren	Report completed
<b>ON-GOING LEGISLATIVE STUDIES</b>							
Right to Know Advisory Committee	1 MRSA §411	4	09/05/19 11/13/19 12/04/19 12/18/19		01/15/19 (annually)	Rep. Thom Harnett	Report completed (subcommittee meetings held: 09/20/19, 10/09/19, 10/21/19, 11/13/19, 12/04/19, 12/18/19)
Marijuana Advisory Commission	28-B MRSA, c. 1, subc. 9	not specified	10/24/19		01/15/20 (annually)	Sen. Justin M. Chénette Rep. Teresa S. Pierce	Report completed
State Education and Employment Outcomes Task Force	20-A MRSA §12901						Did not convene this interim
Citizen Trade Policy Commission	10 MRSA, c. 1-A	at least 2 times per year annually +2 off-site for public hearing	7/19/2019 10/02/19 12/19/19		annually	Sen. David R. Miramant Rep. Craig V. Hickman	12/03/19 meeting postponed

## 2019 Interim Legislative Studies and Committee Meetings

Updated January 17, 2020

Study/Committee	Citation	2019 Meetings Authorized	2019 Meetings Held	Scheduled Next Meeting Date(s)	Report Date	Chair(s)	Status/Notes
State Compensation Commission	3 MRSA §2-B	not specified	9/10/19 10/15/19 11/07/19 11/20/19 12/16/19 01/06/20		by 05/01 of every odd-numbered year and 01/15 of every even-numbered year an interim report; by 11/15 of every even-numbered year a final report	Vendean Vafiades	Report completed

### AUTHORIZED COMMITTEE MEETINGS

Appropriations and Financial Affairs	PSL	2	11/14/19 12/09/19				
Marine Resources Committee	Approved by POs	1	08/06/19				Off-site meeting re oyster aquaculture (Mook Sea Farm) and SEA Fellows Symposium at Darling Marine Center
Criminal Justice and Public Safety Committee	Approved by POs	1	09/17/19				Review of DOC Rule 2.12(F) re prisoner savings accounts, pursuant to CJPS decision to review under 5 MRSA §11113
Agriculture, Conservation and Forestry Committee	Approved by POs	2	09/24-25/19 10/08/19				Public forum and tour of forestland in northern ME related to CO bill LD 1691 banning aerial herbicides; and tour of Bigelow Preserve in western ME
Energy, Utilities and Technology Committee regarding PUC, OPA and Governor's Office on Energy briefings	Approved by POs	4	07/29/19				
Health Care and Insurance and Financial Services Committee regarding health care reform	Approved by POs	4	09/24/19 10/21/19 11/19/19 12/16/19				
Innovation, Development, Economic Advancement and Business Committee	Approved by POs	2	10/22/19 12/17/19				Update from DECD regarding Economic Development Plan
Inland Fisheries and Wildlife Committee	Approved by POs	1	09/11/19				Tour of new IFW Gray Regional Headquarters and Maine Wildlife Park
Judiciary Subcommittee regarding the reorganization of the Probate Court	Approved by POs	8					Did not convene
State and Local Government Subcommittee regarding ancient and family burial grounds	Approved by POs	4	09/17/19 10/01/19 10/07/19				
State and Local Government Subcommittee regarding abandoned and discontinued roads	Approved by POs	4	09/18/19 10/21/19 12/04/19				
Taxation Committee regarding tax expenditure reviews	Approved by POs	3	09/24/19 10/29/19 12/01/19		12/01/19 to the Legislature		Report completed
Veterans and Legal Affairs Subcommittee regarding the revision of Title 28-A	Approved by POs	8	08/26/19 09/10/19 09/24/19 10/08/19 10/22/19 11/19/19 12/19/19				Draft legislation in progress

**129<sup>th</sup> Maine State Legislature  
Legislative Council  
Tabled Pre Cloture Bill Requests  
From October 23, 2019 and December 6, 2019**

**SPONSOR: Rep. Kent Ackley**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2723	An Act To Allow Municipalities To Set Below-market Interest Rates for Senior Citizen Property Tax Deferral Programs	Tabled 12/06/19

**SPONSOR: Rep. Michael F. Brennan**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2847	An Act To Promote Justice for Victims of Sexual Abuse by Suspending the Statute of Limitations	Tabled 10/23/19

**SPONSOR: Sen. Ned Claxton**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2944	An Act To Minimize Potentially Objectionable License Plates	Tabled 12/06/19
2946	Resolve, Directing the Department of Education To Amend Its Certification Requirement Rules	Tabled 10/23/19

**SPONSOR: Sen. Scott Wynn Cyrway**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2610	An Act To Require Warning Labels Regarding the Danger of Psychosis from the Consumption of Marijuana Products	Tabled 12/06/19

**SPONSOR: Rep. Matthea Elisabeth Larsen Daughtry**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3058	An Act To Protect Independent Contractors from Sexual Harassment	Tabled 10/23/19
3065	An Act To Properly Fund Early Childhood Education and Postsecondary Grant Opportunities	Tabled 10/23/19
3066	An Act To Require Transparency in Postsecondary Institutions with Regard to Sexual Assaults	Tabled 10/23/19

**SPONSOR: Rep. John C. DeVeau**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2805	An Act To Provide Additional Supplemental Funding to the Veterans' Homelessness Prevention Coordination Program	Tabled 12/06/19

**SPONSOR: Rep. Justin J. Fecteau**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2849	An Act To Protect Students from Individuals Convicted of Sex Crimes	Tabled 10/23/19

**SPONSOR: Sen. Geoff Gratwick**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2691	An Act To Restrict the Use of Chlorpyrifos in Farming	Tabled 10/23/19
2692	An Act To Codify Rules Regarding Firearms in Child Care Facilities, Nursery Schools and the Facilities of Home-based Child Care Providers	Tabled 10/23/19

**SPONSOR: Rep. Sheldon M. Hanington**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2658	An Act To Impose Penalties for the Failure of Municipalities To Keep the Grave Sites of Veterans in Public Burying Grounds in Good Condition and Repair	Tabled 10/23/19

**SPONSOR: Rep. Henry Ingwersen**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2884	Resolve, Directing the Department of Environmental Protection To Investigate Potential Sources of High-level Per- and Polyfluoroalkyl Substances Contamination of Land and Drinking Water	Tabled 10/23/19

**SPONSOR: Pres. Troy Dale Jackson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2657	An Act To Allow Day Students at the Maine School of Science and Mathematics	Tabled 10/23/19
2713	An Act To Provide Tax Credits for Employers Who Employ Qualified Apprentices	Tabled 10/23/19



2714 An Act To Ensure Equitable Pricing for Fuel Delivered to Energy Markets Tabled 10/23/19

2737 An Act To Ensure Access to Affordable Prescription Drugs Tabled 10/23/19

2985 Resolve, To Establish Guidelines for the Creation of Offshore Wind Projects That Include the Protection of Fisheries and Wildlife and the Creation of High-quality Local Jobs Tabled 10/23/19

**SPONSOR: Sen. Lisa Keim**

LR # Title Action  
2760 An Act To Provide MaineCare to Disabled Veterans Tabled 10/23/19

**SPONSOR: Rep. MaryAnne Kinney**

LR # Title Action  
2625 An Act To Protect the People of Maine from Drug Overdoses Tabled 10/23/19

**SPONSOR: Rep. Scott Landry**

LR # Title Action  
3060 An Act Relating to Energy Storage Tabled 10/23/19

**SPONSOR: Sen. Nate Libby**

LR # Title Action  
2855 Resolve, To Ensure Appropriate Case Management under the Behavioral Health Home Program and for Adults with Human Immunodeficiency Virus Infection Tabled 10/23/19

**SPONSOR: Rep. Jay McCreight**

LR # Title Action  
2968 An Act To Maintain and Enhance the Behavioral Health Workforce in Maine Tabled 10/23/19

**SPONSOR: Sen. Dave Miramant**

LR # Title Action  
2718 An Act To Amend the Laws Governing Aquaculture Leases Tabled 10/23/19

**SPONSOR: Sen. Marianne Moore**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2746	An Act To Clarify the Rights of Parties in Certain Foreclosure Actions	Tabled 12/06/19

**SPONSOR: Rep. Stephen Sullivan Stanley**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2808	An Act To Remove the Tax Cap on County Jail Funding	Tabled 10/23/19

**SPONSOR: Rep. Scott W. Strom**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2709	An Act To Prohibit the Collection of Campaign Contributions within a Voting Place	Tabled 10/23/19

**SPONSOR: Rep. Nathan J. Wadsworth**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2966	An Act To Provide Funding to the Maine Quality Centers within the Maine Community College System	Tabled 10/23/19
2967	An Act To Support Maine's Workforce Initiatives within the Maine Community College System	Tabled 10/23/19

**SPONSOR: Sen. David Woodsome**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2684	An Act To Provide Veterans with Educational Benefits	Tabled 10/23/19
2686	An Act To Ensure Maine Cable Service Franchises Are Nonexclusive	Tabled 12/06/19
2704	An Act To Establish Common Law Marriage in Maine	Tabled 12/06/19
2873	An Act To Remove Barriers to Entry to the Profession of Dental Therapy and Expand Access for the Underserved Dental Patient Population	Tabled 12/06/19

**Legislative Council Actions  
Taken by Ballot Since the  
December 19, 2019 Council Meeting**

**Legislative Council Decisions:**

**Motion:** That the Legislative Council approve the Blue Ribbon Commission established in LD 2036 Resolve, To Establish the Blue Ribbon Commission to Continue Studying and Recommend Funding Solutions for the State's Transportation Systems that will incur \$1,960 in Highway Fund costs to the Legislature in fiscal year 2019-20. And further that the Legislative Council approves this commission as non-conforming with the provisions of Joint Rule 353.

Motion by: President Jackson  
Date: January 17, 2020  
Vote: 10-0-0 Passed

Second by: Speaker Gideon

**129th Maine State Legislature  
Legislative Council  
Requests to Introduce Legislation  
Second Regular Session  
As of: 1/15/2020**

**AFTER DEADLINE BILL REQUESTS**

**SPONSOR: Rep. Kent Ackley**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3138	An Act To Prohibit Foreign Governments and Foreign Quasi-governmental Agencies from Influencing Citizens' Initiatives	

**SPONSOR: Rep. Seth A. Berry**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3161	An Act To Designate Solar Farms as an Acceptable Activity on Land Classified as Farmland or Open Space Land	

**SPONSOR: Rep. Anne Carney**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3137	Resolve, Directing the Maine Complete Count Committee To Submit a Report to the Legislature Regarding Full Participation in the 2020 Federal Decennial Census	

**SPONSOR: Sen. Justin Chenette**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3162	An Act To Protect Homeowners by Requiring Disclosure of Basement Flooding Coverage in Insurance Policies	

**SPONSOR: Rep. Margaret M. Craven**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3155	An Act To Improve Prescription Information Access for Maine Residents	

**SPONSOR: Sen. Erin Herbig**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3135	An Act To Allow Certified Parents To Teach Driver's Education Courses	

**SPONSOR: Sen. Louis J. Luchini**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3154	An Act Regarding Municipal Alcohol Sales	

**SPONSOR: Rep. Sarah A. Pebworth**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3171	Resolve, To Establish a Task Force To Study the Coordination of Services and Expansion of Educational Programs for Young Adults with Disabilities	

#### **TABLED BY THE LEGISLATIVE COUNCIL**

#### **AFTER DEADLINE BILL REQUESTS**

**SPONSOR: Sen. Scott Wynn Cyrway**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3106	An Act To Amend the Law Governing Contracts for Pharmacy Services	Tabled 12/19/19

**SPONSOR: Sen. Susan Deschambault**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3121	An Act To Prohibit the Use of Cellphones in Schools by Students in Grades 9 and under	Tabled 12/19/19

**SPONSOR: Sen. Geoff Gratwick**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3102	An Act To Improve School Safety	Tabled 12/19/19

**SPONSOR: Sen. Marianne Moore**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
3118	An Act Regarding Mobile Billboards	Tabled 12/19/19



State of Maine  
129th Legislature, First Regular Session

**Fourteenth Annual Report  
of the  
Right to Know Advisory  
Committee**

**January 2020**

Office of Policy and Legal Analysis



**STATE OF MAINE  
127th LEGISLATURE  
SECOND REGULAR SESSION**

**Fourteenth Annual Report of the  
Right to Know Advisory Committee**

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### **Appendices**

- A. Authorizing legislation: 1 MRSA §411
- B. Membership list
- C. Recommended legislation to amend certain provisions of law in Titles 1 through 7-A relating to previously-enacted public records exceptions
- D. Public records exceptions reviewed in 2019 for which no statutory change is recommended
- E. Recommended legislation on remote participation
- F. Additional legislation recommended by the Improve the FOAA Subcommittee
- G. Legislation and correspondence recommended by the Issues Subcommittee



## Executive Summary

This is the fourteenth annual report of the Right to Know Advisory Committee. The Right to Know Advisory Committee was created by Public Law 2005, chapter 631 as a permanent advisory council with oversight authority and responsibility for a broad range of activities associated with the purposes and principles underlying Maine's freedom of access laws. The members are appointed by the Governor, the Chief Justice of the Supreme Judicial Court, the Attorney General, the President of the Senate and the Speaker of the House of Representatives.

As in previous annual reports, this report includes a brief summary of the legislative actions taken in response to the Advisory Committee's January 2019 recommendations and a summary of relevant Maine court decisions from 2019 on the freedom of access laws. This report also summarizes several topics discussed by the Advisory Committee that did not result in a recommendation or further action.

For its fourteenth annual report, the Advisory Committee makes the following recommendations:

- Amend certain provisions of law in Titles 1 through 7-A relating to previously-enacted public records exceptions;**
- Direct legislative staff to help identify nonstandard language concerning existing public records exceptions;**
- Enact legislation to provide parameters on the use of remote participation by members of public bodies;**
- Enact legislation to cap copying fees;**
- Enact legislation to require planning boards, specific school district officials and additional municipal officials and their deputies to complete Freedom of Access Act training, and to clarify the application of existing training requirements;**
- Request that the Public Access Ombudsman develop suggestions to enhance and improve FOAA training for public officials, and develop methods for gathering data on FOAA requests and requesters related to unfulfilled requests and costs;**
- Request that the Joint Standing Committee on Judiciary establish a study group to examine the use of emerging technologies with regard to making and keeping records and to examine the use of communications technology during public proceedings;**
- Enact legislation to improve the review of public records exceptions by including consideration of access to information that will assist in making informed decisions about health and safety;**
- Enact legislation to expand the membership of the Right to Know Advisory Committee to include a member with experience and expertise in data and personal privacy issues;**

- Enact legislation to revise the membership of the Archives Advisory Board to include a public member and two members representing journalistic and news perspectives;**
- Request that the Archives Advisory Board emphasize the publicizing of information about its meetings to enhance public awareness and participation given the importance of records retention schedules;**
- Send a letter to the Joint Standing Committee on Judiciary expressing issues that should be considered when dealing with surveillance videos; and**
- Defer to the Joint Standing Committee on Judiciary as to whether to require the collection and reporting of aggregate information concerning certain search warrants.**

In 2020, the Right to Know Advisory Committee will continue to discuss the unresolved issues identified in this report, including a review of the fees charged for copies of public records and the waiver for requests made in the public interest, as well as whether the FOAA request reporting requirements applicable to agencies should be revised. The Advisory Committee will also continue to provide assistance to the Joint Standing Committee on Judiciary relating to proposed legislation affecting public access. The Advisory Committee looks forward to another year of activities working with the Public Access Ombudsman, the Judicial Branch and the Legislature to implement the recommendations included in this report.



State of Maine  
129th Legislature, First Regular Session

**Commission to Study the  
Economic, Environmental and Energy  
Benefits of Energy Storage to the  
Maine Electricity Industry**

**December 2019**

Office of Policy and Legal Analysis



**STATE OF MAINE  
129th LEGISLATURE  
FIRST REGULAR SESSION**

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- A. Authorizing Resolve
- B. Membership List
- C. Work Session Handouts
- D. Stakeholder Presentations
- E. Member Takeaways and Findings and Member Suggested Recommendations
- F. Model Draft Language for Legislation

## Executive Summary

The 129<sup>th</sup> Maine Legislature established the Commission to Study the Economic, Environmental and Energy Benefits of Energy Storage to the Maine Electricity Industry (referred to in this report as the “commission”) with the passage of Resolve 2019, chapter 83. Pursuant to the resolve, 14 members were appointed to the commission: two members of the Senate appointed by the President of the Senate; three members of the House of Representatives appointed by the Speaker of the House; four public members appointed by the President of the Senate including: a representative of the energy storage industry, a representative of the hydroelectric energy storage industry, a representative of an electric utility in the State and an academic in the field of energy storage; four public members appointed by the Speaker of the House including: a representative of a conservation organization, a representative of a business that uses significant electric power in the State, a representative of a large-scale energy storage owner and a representative of a small-scale energy storage owner; and the Public Advocate.

The resolve set forth the following duties for the commission:

- Review and evaluate the economic, environmental and energy benefits of energy storage to the State's electricity industry, as well as public policy and economic proposals to create and maintain a sustainable future for energy storage in the State;
- Consider the challenges of the broad electricity market in the State, including challenges with transmission and stranded renewable energy generation in the northern part of the State, and analyze whether energy storage is part of the transmission solution;
- Consider whether the environmental, economic, resiliency and energy benefits of energy storage support updating the State's energy policy to strengthen and increase the role of energy storage throughout the State;
- Consider the economic benefits of energy storage systems procurement targets, including: benefits of cost savings to ratepayers from the provision of services, including energy price arbitrage, capacity, ancillary services and transmission and distribution asset deferral or substitution; direct cost savings to ratepayers that deploy energy storage systems; an improved ability to integrate renewable resources; improved reliability and power quality; the effect on retail electric rates over the life of a given energy storage system compared to the effect on retail electric rates using a nonenergy storage system alternative over the life of the nonenergy storage system alternative; reduced greenhouse gas emissions; and any other value reasonably related to the application of energy storage system technology and compare those economic benefits to the effects of leaving current policies in place;
- Review economically efficient and effective implementation approaches to energy storage targets;
- Consider bring-your-own-device programs that offer credits for sharing stored energy With electric utilities and storm outage and response management programs for behind

the-meter energy storage to reduce peak reduction and increase resiliency; and

- Examine any other issues to further the purposes of the study.

In addition, the commission was required to seek public input and consult and collaborate with stakeholders and relevant experts. The commission is required to submit a report, with findings and recommendations, including suggested legislation, to the Joint Standing Committee on Energy, Utilities and Technology in December 2019.

Over the course of four meetings the commission received presentations from stakeholders, state utility regulators, state office representatives, and subject matter experts. With this information and through several discussions the commission developed four findings and seven recommendations that seek to promote energy storage opportunities in the State.

The commission unanimously agreed on the following four findings:

1. Energy storage has the potential to reduce costs and improve reliability;
2. Energy storage complements and supports renewable energy;
3. Energy storage technology is dynamic and evolving and presents cost-effective options; and
4. Energy storage development may be inhibited by market barriers or a lack of clear regulatory signals.

The commission developed the following recommendations to capture the economic, environmental and energy benefits of energy storage:

1. Establish state targets for energy storage development;
2. Encourage energy storage paired with renewable and distributed generation resources;
3. Advance energy storage as an energy efficiency resource;
4. Address electricity rate design issues relating to time variation in costs;
5. Clarify utility ownership of energy storage;
6. Advocate for energy storage consideration in regional wholesale markets; and
7. Conduct an in-depth Maine-specific analysis of energy storage costs, benefits and opportunities.

In accordance with the resolve, and in order to provide more clarity and to assist the Joint Standing Committee on Energy, Utilities and Technology in its deliberations, the commission is including in Appendix F, model draft language for legislation to address the recommendations in this report.

In making its recommendations, the commission was deliberate in suggesting achievable near-future policy actions, paired with further study and investigation to inform future policy action. This reflects the commissions' recognition that while it is important to move forward now, long-term advancement of energy storage needs to be based on well-developed policy, informed by quantitative data that is specific to Maine and that is technology neutral.



State of Maine  
129th Legislature, First Regular Session

**Blue Ribbon Commission To Study  
and Recommend Funding Solutions for the  
State's Transportation Systems**

**December 2019**

Office of Policy and Legal Analysis





**STATE OF MAINE  
129th LEGISLATURE  
FIRST REGULAR SESSION**

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- A. Authorizing Resolve
- B. Membership List
- C. Proposed Legislation

## Executive Summary

This is the report of the Blue Ribbon Commission To Study and Recommend Funding Solutions for the State's Transportation Systems, referred to in this report as "the commission." The commission was established in the First Regular Session of the 129<sup>th</sup> Legislature by Resolve 2019, chapter 97 (Appendix A), which originally arrived in the Joint Standing Committee on Transportation as LD 945, sponsored by Representative Thomas Martin. The commission consisted of 13 members appointed by the President of the Senate, Speaker of the House, and the Governor. Resolve 2019, chapter 97 (Appendix A) also included as members of the commission the Commissioner of Transportation and the Executive Director of the Maine Turnpike Authority. A list of commission members can be found in Appendix B.

The commission was charged with studying how to reform and adequately supplement funding for the State's transportation infrastructure to promote equity, sustainability and predictability so that the State can responsibly provide safe and reliable state transportation systems and was required to submit a report, with findings and recommendations, including suggested legislation, to the Joint Standing Committee on Transportation in December 2019. Over the course of five commission meetings and three subcommittee meetings, the commission developed the following recommendation.

- **That the Joint Standing Committee on Transportation report out a bill to immediately continue and authorize the commission to continue the work started by the commission, so that a recommendation may be submitted to the Joint Standing Committee on Transportation and can be acted upon before the end of the Second Regular Session of the 129th Legislature (see Appendix C for proposed language).**



State of Maine  
129th Legislature, First Regular Session

**Joint Standing Committee on Criminal Justice  
and Public Safety Study of the Stabilization of  
Funding For The County and Regional Jails**

**January 2020**

Office of Policy and Legal Analysis



**STATE OF MAINE  
129th LEGISLATURE  
FIRST REGULAR SESSION**

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- A. Authorizing Joint Order
- B. LD 973, An Act To Stabilize County Corrections
- C. Draft Committee Amendment to LD 973

## REPORT AND PROPOSED LEGISLATION

The 129th Maine Legislature passed a joint order directing the Joint Standing Committee on Criminal Justice and Public Safety to study the stabilization of funding for the county and regional jails.<sup>1</sup> In performing the study the committee invited various stakeholders to participate, including the Maine County Commissioners Association, the Maine Chiefs of Police Association, the Maine Sheriffs' Association, the Maine Municipal Association, the Department of Corrections and the State of Maine Judicial Branch.

This report contains background information on the work of the committee and proposals for a committee amendment to LD 973, An Act to Stabilize County Corrections, which was carried over to the Second Regular Session. As required by the joint order, this report is provided to the Second Regular Session of the 129<sup>th</sup> Legislature.

### Study Process

To conduct the study the Criminal Justice and Public Safety Committee met four times, on October 22, November 5, November 19 and December 10, 2019.

#### October 22, 2019 Meeting

The first meeting of the committee was held on October 22, 2019. The meeting included the following speakers and discussion regarding current funding of county and regional jails:

- Sheriff Todd Brackett, Sheriff Joel Merry and Sheriff Kevin Joyce, representing the Maine Sheriffs' Association, reviewed for the committee recent funding levels and expenditures for the county jails and the one regional jail. Funding for the county jails from municipalities is governed by Title 30-A, Maine Revised Statutes, section 701, subsection 2-C, which requires the counties to collect annually no less than \$62,172,371 from the municipalities for the purpose of funding correctional services. This amount, the base assessment limit for correctional services as set by statute, acts as a minimum and also controls the maximum that the counties may collect for correctional purposes. Counties may collect more than this base assessment limit but the increase above the figure set for each county in Title 30-A MRSA, section 701, subsection 2-C is limited to an annual increase of 4% or the growth limitation factor set forth in Title 30-A, section 706-A, whichever is less.
- Charles Pray, representing the Maine County Commissioners Association; Greg Zinser, representing the Maine Association of County Clerks, Managers and Administrators; and Randall Liberty, Commissioner of Corrections, discussed the history of the Board of

<sup>1</sup> HP 1277, Joint Order, Requiring the Joint Standing Committee on Criminal Justice and Public Safety To Study the Stabilization of Funding for the County Jails and the Regional Jail, a copy of which is attached as Appendix A.

Corrections, its authority over and regulation of county jails and its repeal in state fiscal year 2015-2016. Information about jail populations included the following: overall, the county average daily inmate population for all of the jails totaled 1659 in 2018. The average daily population for each of the jails was below the capacity of the jail except for two counties, Penobscot County and Androscoggin County, which consistently exceeded their jail capacity.

- Lauren Metayer, Office of Fiscal and Program Review, and Scott Ferguson, the Director of the Corrections Service Center in the Department Administrative and Financial Services, discussed with the committee state funding for county jails for the state fiscal years 2009-2010 through 2019-2021. General Fund legislative appropriations for state fiscal year 2019-2020 is \$18,322,104 and for state fiscal year 2020-2021 is \$18,442,104.
- Sheriff Todd Brackett and Sheriff Joel Merry, representing the Maine Sheriffs' Association, provided an overview of funding for jails for state fiscal year 2018-19, in which General Fund funding totaled \$15,202,104 and county property taxes totaled \$66,387,142. In addition, miscellaneous revenues provided \$8,067,099. Sheriff Brackett and Sheriff Merry also discussed with the committee the cost drivers for the jails. These include: the number of pre-trial detainees in jails; best practice standards for jails; capital expenses, especially for the older facilities; inmate medical expenses; and the cost of overtime pay for correctional officers that is necessary because of the shortage of officers. Initiatives to control some of the cost drivers that the jails are implementing or examining for future use include: additional and expanded cooperative agreements for transportation regionalization efforts; alternative sentencing programs and community corrections programs; use of day reporting programs (currently being developed by Penobscot County); coordination with the Department of Corrections in areas such as shared training and mental health units; expansion of best practices, including pre-trial services; substance use disorder and mental health treatment; and management of medical services.

### **November 5, 2019 Meeting**

- Scott Ferguson, representing the Department of Administrative and Financial Services, provided historical information about daily in-house populations, expenditures and growth trends, and information about the base assessment limit for correctional services established in Title 30-A MRSA, section 701, subsection 2-C. The committee discussed information about jail populations' length of stay, jail capacities, and daily costs. The committee reviewed Title 22 MRSA, section 3104, subsection 17, which took effect September 19, 2019, which ensures that inmates may apply for Medicaid at any time before, during or after incarceration.
- Cullen Ryan, Executive Director of Community Housing of Maine, presented information regarding the Statewide Homeless Council of Maine Criminal Justice System



Blueprint for Ending and Preventing Homelessness. The report discusses efforts to address the populations most involved in repeated cycles of incarceration, hospitalization and homelessness in Maine. The report lists several ways to improve discharge planning from institutions, invigorate the existing intensive case management program, and further coordinate efforts with sheriffs, county jails, the judicial system and the Statewide Homeless Council.

- Jack Williams, Jay Davis and Dr. Tim Hughes, Restorative Justice Project of Maine, spoke about their organization's victim-offender and community focused approach to justice, an approach that focuses on the rehabilitation of offenders through reconciliation with harmed parties and the community at large. They discussed a new federal grant for community justice purposes that will provide expanded opportunities for using restorative justice processes.
- Anne Jordan, Judicial Branch Manager of Criminal Process & Specialty Dockets, Administrative Office of the Courts, discussed the usefulness of the weekly length of stay reports that the Judicial Branch receives from the jails. Ms. Jordan presented information about the pending recommendations of the Maine Judicial Branch's Pretrial Justice Reform Task Force. This task force was established in February, 2019 to review existing judicial procedures and programs and make recommendations to reduce the human and financial costs of pretrial incarceration and restrictions; to achieve fairness in the application of policies and laws; to provide for collecting reliable data; and to identify needed resources.
- Sheriff Troy Morton, Penobscot County, provided information on the operation of the jail and the weekly length of stay reports. Sheriff Morton discussed bail and pre-trial release, alternative sentencing, substance use disorder, initiatives to provide treatment to inmates and the use of validated screening tools to identify inmates with substance use disorder.

### **November 19, 2019 Meeting**

- Johnathan Sahrbeck, District Attorney of Cumberland County, provided information about the costs of the drug court for one year for an individual (\$14,000), and the cost to incarcerate an individual for one year (\$44,000). District Attorney Sahrbeck discussed the prevalence of substance use disorder among criminal defendants and the connections between adverse childhood events and substance use disorder.
- Elizabeth Blackwell-Moore, public health consultant, discussed the main factors and pathways to opioid use disorder and current statistics about poverty and overdose deaths in Maine. Ms. Blackwell-Moore discussed adverse childhood events, some states' trauma informed focus in child welfare services and the Massachusetts children in need of services program that uses a civil court process to provide services to children engaged in self-destructive and dangerous behaviors.

- Gordon Smith and Katherine Coutu, representing the Governor’s Office of Opioid Response, presented information about current state interagency work regarding the opioid epidemic and state initiatives to serve people with substance use disorder and mental illness within the jails, persons on pre-trial release, and persons after conviction and sentencing. Mr. Smith praised initiatives in the jails to provide substance use disorder treatment during and after incarceration, expressed concern regarding the shortage of treatment practitioners and stressed the need for prevention of substance use disorder and diversion from the criminal justice system.
- Winifred Tate, Associate Professor of Anthropology at Colby College, and Courtney Allen, Family Treatment Court Mentor, presented preliminary observations on substance use and incarceration from their research involving incarcerated women in recovery in central and northern Maine and Downeast Maine. Their presentation included a discussion by two women enrolled in the Criminogenic Addiction & Recovery Academy (CARA) program at the Kennebec County Jail regarding the supports they have needed while addressing addiction during and after incarceration.
- Sheriff Todd Brackett, Sheriff Troy Morton and Sheriff Kevin Joyce, representing the Maine Sheriffs’ Association, reviewed per capita/per day budgets at each jail, using November, 2019 data for average length of time prisoners spend in jail and the difference in numbers between populations awaiting trial and the populations serving sentences. Longer time spent in jail is attributed to: waiting for forensic mental health evaluations; drug addiction; prisoners’ complex cases, such as multiple charges in different counties; waiting for mental health or substance use residential settings; defense requests for continuances: prisoners’ requests for replacement of counsel; coordinated resolution of multiple cases; and delays for trials or sentencing in more serious crimes.
- Bruce Noddin, Maine Prisoner Re-Entry Network; Denise Black, Healthy Acadia; and Captain Tim Richardson, Hancock County Jail, discussed the existing coordination of community resources, case management and recovery coaching for incarcerated people. The Maine Prisoner Re-Entry Network is working to address recidivism rates among formerly incarcerated individuals through programs such as Re-Entry Maine, Rose's Room, and R4R Mentor Training. Through Maine Alliance for Recovery Coaching (Maine-ARC), Healthy Acadia and partners are collaborating with healthcare and treatment centers, jails, drug courts, pre-release sites, social service, law enforcement agencies and other community partners across five counties.
- Elizabeth Simoni, Maine Pretrial Services, discussed pretrial release across the state, alternative sentencing programs and the details of how those alternatives are utilized by the judicial system. Ms. Simoni discussed the need for detention when there is an unmanageable risk that the arrested person may abscond or re-offend pretrial. She presented for consideration the following elements of a high-functioning pretrial

detention or release system: more frequent use of summonses versus the use of arrests; seasoned prosecutors; zealous representation by defense attorneys; robust pretrial services; and infrequent arrests for technical violations. Ms. Simoni concluded that current practices in the use of pretrial release and bail overpredict risk and rely too heavily on monetary bail. She suggested increasing pretrial conditions of mandatory drug and alcohol monitoring and testing, increasing periodic reporting, close management and supervision and use of global positioning monitoring.

- Charles Pray, representing the Maine County Commissioners Association, and Robert Devlin and Gregory Zinser, representing the Maine Association of County Clerks, Administrators and Managers, provided information on law enforcement assisted diversion programs that are being operated by municipalities and counties and stressed the need for different levels of drug treatment services in the jails. Mr. Zinser discussed the challenge of producing savings in jail budgets since real savings on the operational level require closing an entire pod within the jail.
- Public comments included information from Dawn DiBlasi, Somerset County Administrator, and Carrie Kipfler, representing the Two Bridges Regional Jail Authority. Ms. DiBlasi and Ms. Kipfler spoke against raising or repealing the tax cap set in Title 30-A MRSA, section 701, subsection 2-C, due to already-high rates of county taxes. Ms. DiBlasi and Ms. Kipfler discussed the reality that the fixed costs of operating the jail do not decrease because a portion of the jail population is diverted from the jail. Douglas Dunbar of Bangor advocated for more mental health training for jail correctional officers and more treatment for inmates.

### **December 10, 2019 Meeting**

- Rebecca Graham, legislative advocate representing the Maine Municipal Association, shared the organization's opposition to adjusting the existing base assessment limit for correctional services. The Maine Municipal Association believes that local jail administrators have no power to shape, drive, or influence incarceration spending, in part because 77% of those incarcerated are there for offenses with regard to which, if the officer finds probable cause, the officer is required to make an arrest.
- Peter Lehman, Maine Prisoner Advocacy Coalition, discussed the statewide issues of mental illness among imprisoned persons and the prevalence of homelessness and poverty. The Maine Prisoner Advocacy Coalition supports regularizing and increasing state support of jails.
- William Doyle, Regional Director, National Correctional Employees Union, spoke about the serious shortage of correctional officers throughout the state, which causes mandatory overtime work by correctional officers, leads to higher than usual labor costs and has the potential of jeopardizing safety in the jails. Mr. Doyle spoke to the need for predictable and adequate funding for county corrections.

## Conclusion

At the conclusion of the fourth interim meeting on the stabilization of jail funding the members of the Joint Standing Committee on Criminal Justice and Public Safety voted unanimously in favor of a proposal to amend LD 973, An Act to Stabilize County Corrections. The proposed committee amendment to LD 973 is attached as Appendix B. The proposed committee amendment does the following.

Defines as state-sanctioned inmates persons who:

- Are held on murder or a Class A, B or C offense;
- Are serving consecutive sentences that together exceed 9 months;
- Are held on probation violations in which on the underlying sentence they were sentenced to DOC custody;
- Are held beyond the date and time of court ordered mental health evaluation and treatment; or
- Are sentenced for contempt of court.

Requires state funding and provisions regarding funding as follows.

- For State FY 2019-2020, State must fund \$18,442,104 or 20% of total jail operating costs. Requires reporting of jail costs to DOC.
- Beginning State FY 2022, the State must fund at least 20% of the prior fiscal year's actual total jail costs or \$50 per day for all state-sanctioned inmates, whichever is greater.
- State must distribute funding to the jails based on the county where the crime is alleged to have been committed or the sheriff to whom the inmate is committed.
- Funding will be distributed to the recipient jail on a quarterly basis. Distribution of funding depends upon monthly updating of CRAS system and daily updating of the BARS system.
- The sheriffs and the DOC, along with DAFS Service Center, will define what constitutes failure to enter data in the CRAS system sufficient to cause delaying payments.
- The CRAS system will be updated to collect data allowing for actuals snapshots.
- A full 25% of state funding must be spent on "programs and services" (previously referred to as county corrections).

Requires county funding and provisions regarding funding as follows.

- Counties must report jail costs.
- Jail funding as set forth in Title 30-A MRSA, section 701, subsection 2-C, allows a county to re-set its base assessment limit for correctional services in state FY2021 and every 4 years thereafter.

Requires jails to adhere to best practices as follows:

- Counties must participate in coordination of inmate transportation;
- Counties must offer substance abuse-addiction recovery treatment, including at a minimum a licensed clinician or licensed professional organization to assist inmates;

- Medication assisted treatment for substance use disorder to the extent funded by the State;
- Mental health treatment, including at a minimum, a licensed clinician or licensed professional organization to assist inmates; and
- Community corrections programs, including at a minimum, pretrial or conditional release, alternative sentencing or housing programs and electronic monitoring.

Requires establishing the County Corrections Coordinating Council.

- Before FY 2022, the DOC Commissioner and sheriffs will decide upon construction of the County Corrections Coordinating Council.
- The County Corrections Coordinating Council will determine the make-up of the “programs and services” that require 25% of State funding.

The amendment also requires the Maine County Commissioners Association and the Maine Sheriffs’ Association to report annually by April 1 to the Criminal Justice and Public Safety Committee on jail funding and operations. Additionally, the new requirements imposed by this legislation will be reported to the Criminal Justice and Public Safety Committee on April 1, 2021



State of Maine  
129th Legislature, First Regular Session

**Task Force on Changes to  
the Maine Indian Claims  
Settlement Implementing Act**

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**January 2020**

**Office of Policy and Legal Analysis**



**STATE OF MAINE  
129th LEGISLATURE  
FIRST REGULAR SESSION**

**Task Force on Changes to the Maine Indian Claims  
Settlement Implementing Act**

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Chief William Nicholas, Sr.  
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## EXECUTIVE SUMMARY

In 1980, the State of Maine, the federal government, and the Passamaquoddy Tribe, Penobscot Nation, and Houlton Band of Maliseet Indians negotiated a settlement in response to litigation asserting that the Passamaquoddy Tribe and Penobscot Nation had legal claims under federal law to a large amount of the land in Maine. The Maine Indian Claims Settlement Act of 1980<sup>1</sup> (“Settlement Act”), was enacted by Congress and signed into law on October 10, 1980. The corresponding Act to Implement the Maine Indian Claims Settlement<sup>2</sup> (“Maine Implementing Act”) became effective upon ratification by the federal government.

In the nearly 40 years since the enactment of the Settlement Act and Maine Implementing Act, the Tribes and the State have been at odds and have engaged in litigation over various provisions of these laws. The common factor in these disputes has been disagreements over essential issues of Tribal self-determination and sovereignty.

The Task Force on Changes to the Maine Indian Claims Settlement Implementing Act (the “Task Force”) was established in the First Regular Session of the 129th Legislature by House Paper 1307, *Joint Order, Establishing the Task Force on Changes to the Maine Indian Claims Settlement Act*. The Joint Order was developed after the Legislature passed a *Joint Resolution to Support the Development of Mutually Beneficial Solutions to the Conflicts Arising from the Interpretation of An Act to Implement the Maine Indian Claims Settlement and the Federal Maine Indian Claims Settlement Act of 1980* in June 2019. The Task Force was comprised of 13 members, 10 of whom were voting members and three of whom were ex officio, non-voting members.

The Joint Order directed the Task Force to review the Settlement Act and the corresponding Micmac Settlement Act and to make consensus recommendations to the Legislature regarding any suggested changes to the Acts. The Joint Order defined a “consensus” recommendation as a recommendation supported by “representatives on the task force of the Tribe or Tribes affected by the suggested changes and a majority of the other voting members of the task force.”

The Joint Order further charged the Task Force with submitting a report to the Joint Standing Committee on Judiciary, to include its findings, consensus-based recommendations and suggested legislation, for introduction to the Second Regular Session of the 129th Legislature. Although the Joint Order directed the Task Force to submit its report “[n]o later than December 4, 2019,” the Legislative Council extended the reporting deadline to December 15, 2019 pursuant to Joint Rule 353(7). In addition, all recommendations considered but not adopted by the Task Force must be documented in the report. Under the Joint Order, the Joint Standing Committee on Judiciary shall report out legislation based on the Task Force’s recommendations; any law enacted by the Legislature pursuant to the Task Force’s recommendations and that affects the Act to Implement the Maine Indian Claims Settlement Act or the Micmac Settlement Act must be approved by the affected Tribe or Tribes through their own governmental processes.

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<sup>1</sup> Pub. L. No. 96-420, 94 Stat. 1785 (Oct 10, 1980).

<sup>2</sup> P.L. 1979, ch. 732.

The Task Force presents the following consensus recommendations, which are grouped by subject area.

### **Task Force Consensus Recommendations**

#### **Alternative Dispute Resolution and Tribal-State Collaboration and Consultation**

**Consensus Recommendation #1:** Amend the Maine Implementing Act to establish an enhanced process for tribal-state collaboration and consultation as well as a process for alternative dispute resolution. Allow stakeholders to meet in January to delineate the contours of the Task Force's general recommendation on these issues.

#### **Criminal Jurisdiction**

**Consensus Recommendation #2:** Amend the Maine Implementing Act to recognize the jurisdiction of the Passamaquoddy Tribal Court, Penobscot Nation Tribal Court and the Houlton Band of Maliseet Indians Tribal Court over certain criminal and juvenile offenses committed on the following Tribal lands: any land held now or in the future by the Secretary of Interior in trust for the relevant Tribe and any restricted-fee land held now or in the future by the relevant Tribe.

**Consensus Recommendation #3:** Amend the Maine Implementing Act to:

Part 1: Equate the exclusive criminal jurisdiction of the Passamaquoddy Tribal Court and the Houlton Band of Maliseet Indians Tribal Court with the exclusive criminal jurisdiction of the Penobscot Nation Tribal Court over offenses committed by Indian defendants.

Part 2: Recognize the authority of Tribal Courts in Maine to impose the maximum penalties other Tribal Courts are authorized to impose under the federal Tribal Law and Order Act of 2010, as long as the due process protections required by that Act are observed.

**Consensus Recommendation #4:** Enact and implement L.D. 766, *An Act Regarding the Penobscot Nation's and Passamaquoddy Tribe's Authority To Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010 and the Federal Violence Against Women Reauthorization Act of 2013*, as it is ultimately amended by agreement of the Tribes and the State, to amend the Maine Implementing Act to grant Tribal courts jurisdiction over certain domestic violence criminal offenses committed by non-Indian defendants on Tribal lands against Indian victims.

**Consensus Recommendation #5:** Amend the Maine Implementing Act to recognize the concurrent jurisdiction of Tribal courts over offenses committed on Tribal lands by Indian defendants against non-Indian victims, subject to the maximum penalty provisions and due process requirements of the Tribal Law and Order Act of 2010.

**Consensus Recommendation #6:** Amend the Maine Implementing Act to recognize each Tribal government's authority to define all crimes and juvenile offenses committed

on its Tribal lands over which its Tribal court has exclusive or concurrent criminal jurisdiction, but retain the authority of the State to define all crimes and juvenile offenses committed on Tribal lands over which state courts have exclusive or concurrent jurisdiction.

### **Fish and Game**

**Consensus Recommendation #7:** Amend the Maine Implementing Act to recognize federal law regarding the exclusive jurisdiction of Tribes to regulate fishing and hunting by Tribal citizens of all federally recognized Tribes on Tribal lands, using the expanded definition of Tribal lands described in consensus recommendation #2.

**Consensus Recommendation #8:** Amend the Maine Implementing Act to restore and affirm the exclusive jurisdiction of Tribes to regulate fishing and hunting by non-Tribal citizens on Tribal lands, using the expanded definition of Tribal lands described in consensus recommendation #2, but do not cede any of the Maine Indian Tribal-State Commission (MITSC)'s authority to regulate hunting and fishing under current law to the State.

**Consensus Recommendation #9:** Amend the Maine Implementing Act to relinquish the State of Maine's jurisdiction with respect to the regulation of fishing and hunting by both Tribal and non-Tribal citizens on Tribal lands, except that, solely for conservation purposes, the State of Maine may regulate Tribal members engaged in such activities off Tribal lands to the extent permitted under general principles of federal Indian law and in a manner consistent with reserved Tribal treaty rights.

### **Land Use and Natural Resources**

**Consensus Recommendation #10:** Amend the Maine Implementing Act to restore and affirm the Tribes' rights to exercise regulation of natural resources and land use on Tribal land to the fullest extent under federal Indian law.

### **Taxing Authority**

**Consensus Recommendation #11:** Amend the Maine Implementing Act to recognize federal law providing that Tribes have exclusive jurisdiction to tax Tribal members and Tribal entities on Tribal lands, including entities owned by a Tribe or Tribal member, using the definition of Tribal lands described in consensus recommendation #2.

**Consensus Recommendation #12:** Amend the Maine Implementing Act to recognize federal law providing that Tribes, Tribal members and Tribal entities are not subject to state and local sales taxation on Tribal lands, using the definition of Tribal lands described in consensus recommendation #2.

**Consensus Recommendation #13** Amend the Maine Implementing Act to recognize federal law providing that Tribal members who live on Tribal lands are not subject to state income

tax for income earned on Tribal lands, using the definition of Tribal lands described in consensus recommendation #2.

**Consensus Recommendation #14:** Amend the Maine Implementing Act to recognize federal law providing that Tribal lands are not subject to state and local real property tax, using the definition of Tribal lands described in consensus recommendation #2.

**Consensus Recommendation #15:** Amend the Maine Implementing Act to recognize federal law providing that Tribes have concurrent jurisdiction to tax non-members on Tribal lands, using the definition of Tribal lands described in consensus recommendation #2.

**Consensus Recommendation #16:** Amend the Maine Implementing Act to recognize federal law providing that state and local governments have concurrent jurisdiction to tax non-members on Tribal lands unless their jurisdiction is preempted under a fact-specific, federal common law balancing test.

### **Gaming**

**Consensus Recommendation #17:** Amend the Maine Implementing Act to render the federal Indian Gaming Regulatory Act applicable in Maine.

### **Civil Jurisdiction**

**Consensus Recommendation #18:** Amend the Maine Implementing Act to restore to the Tribal nations the exclusive authority to exercise civil legislative jurisdiction over Indians and non-Indians on Tribal land. To the extent that a Tribal nation does not exercise, or terminates its exercise of exclusive civil legislative jurisdiction, the State has exclusive jurisdiction over those matters.

**Consensus Recommendation #19:** Amend the Maine Implementing Act to restore to the Tribal nations the exclusive authority to exercise civil adjudicatory jurisdiction over Indians and non-Indians on Tribal land. To the extent that a Tribal nation does not exercise, or terminates its exercise of exclusive civil adjudicatory jurisdiction, the State has exclusive jurisdiction over those matters.

### **Federal Law Provisions**

**Consensus Recommendation #20:** Amend the Maine Implementing Act to specify that, for the purposes of §6(h) and §16(b) of the federal Settlement Act, federal laws enacted for the benefit of Indian country do not affect or preempt the laws of the State of Maine.

### **Trust Land Acquisition**

**Consensus Recommendation #21:** Amend the Maine Implementing Act to recognize the ability of all Maine Tribes to acquire trust land in accordance with their settlement acts and federal laws like the Indian Reorganization Act and its implementing regulations.

**Consensus Recommendation #22:** Amend the Maine Implementing Act so that, consistent with federal law, state and local governments do not have veto power over trust acquisitions and eliminate time constraints on trust land acquisitions, as included in the Maine Implementing Act.

**MAINE**  
**STATE COMPENSATION COMMISSION**  
**FINAL REPORT**  
JANUARY 2020

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**Christine Brawn**, Appointed by the President of the Senate  
**Joyce Oreskovich**, Appointed by the President of the Senate  
**Kathryn Rand**, Appointed by the Speaker of the House  
**Timothy Schneider**, Appointed by the Speaker of the House

**Members:**

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**STATE OF MAINE**

**STATE COMPENSATION COMMISSION**

TO: Members, 129<sup>th</sup> Legislature

Senator Ned Claxton, Chair  
Representative Danny Martin, Chair  
Joint Standing Committee on State and Local Government

FROM: Hon. Vendean Vafiades, Chair   
State Compensation Commission

DATE: January 15, 2020

SUBJ: State Compensation Commission report pursuant to Title 3, section 2-B,  
subsection 2

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In accordance with 3 MRSA section 2-B, sub section 2, the State Compensation Commission submits its January, 2020 Final Report. We thank you for the opportunity to review and recommend changes to the compensation and benefits of those who serve in Maine's three branches of government.

During the process of researching and considering our responsibilities, the Commission members developed an even greater respect and appreciation of all who serve and support the people of Maine. The Commission feels strongly that our proposed recommendations are necessary to move Maine's public servants' compensation from last in the nation to a more fair and reasonable level. The Commission is available to meet with you to discuss our thoughts and the specifics of the report.



The report includes draft legislation of recommended statutory changes related to the functioning of the Commission. The report does not include draft legislation for the numerous recommended changes in compensation given that the State and Local Government Committee is authorized under 3 MRSA section 2-B to introduce a bill based on our final report. If requested by the Committee, the Commission would also be happy to prepare its own separate legislation advancing the report recommendations, as allowed by our statutory charge.

As Chair of the Commission, I want to thank the members of the Commission for their thoughtful, prepared, focused and collegial service. The Commission also thanks the staff of the Office of Fiscal and Program Review for their professional, substantive and responsive support of the Commission.

Respectfully submitted on behalf of the Commission,

Hon. Vendean Vafiades, Chair

cc:

Janet T. Mills, Governor  
Hon. Leigh Ingalls Saufley, Chief Justice of the Maine Supreme Judicial Court  
Members, Joint Standing Committee on State and Local Government  
Jeremy Kennedy, Chief of Staff, Governor's Office  
Ted Glessner, State Court Administrator  
Clerk of the House  
Secretary of the Senate  
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## INTRODUCTION

The rights of Maine citizens are supported and protected by our democratic institutions of government, which in turn rely on the talent and dedication of the people who serve in those institutions. These committed individuals ensure that an independent judiciary, and a representative legislature and Governor support a functioning, accessible democracy.

With greater political polarization and increasingly critical attitudes toward the actions of government, serving in legislative, judicial and executive offices is harder than ever. Our elected officials and judges sacrifice their personal and family time, their privacy, and opportunities for professional advancement and financial gain to serve. Demonstrating support and respect for those who serve in these positions is vital.

These realities have been at the forefront of the Maine State Compensation Commission’s work. Our recommendations for meaningful changes in compensation and related benefits for those who represent the State of Maine are rooted in our respect and appreciation of those who are willing to serve. The success of Maine’s democratic institutions relies on them.

“In the final analysis, a democratic government represents the sum total of the courage and the integrity of its individuals. It cannot be better than they are.”

*Eleanor Roosevelt, 1963*

## PURPOSE

The State Compensation Commission (SCC or Commission), described in 3 M.R.S. § 2-B, is composed of five members and is tasked with reviewing: <sup>1</sup>

1. Compensation of Legislators, representatives of Indian tribes, Secretary and Assistant Secretary of the Senate and Clerk and Assistant Clerk of the House of Representatives, including all payments for salaries, meals, housing, travel, mileage, constituent services and all other expenses and allowances, and for additional services by the President of the Senate, Speaker of the House of Representatives and members of legislative leadership;
2. Compensation for justices and judges, including all payments for salaries, meals, housing, travel, mileage and all other expenses and allowances, and for additional services by any justice or judge; and
3. Compensation for the Governor, including all payments for salaries, meals, housing, travel, mileage, constituent services and all other expenses and allowances.

## PROCESS

During six public meetings, the Commission met with 12 individuals and conducted a public hearing to gather information and opinions pertaining to the compensation issues the commission was charged with reviewing. A complete list of the persons who participated in the Commission meetings is included as Appendix I.

In addition to meeting with these individuals, the Commission:

- Reviewed prior SCC and Judicial Compensation Commission reports;
- Reviewed recent legislation related to compensation changes for the governor, legislators, judges and justices;
- Collected data on the compensation history for the governor, legislators, judges and justices;
- Compared where Maine's Governor, legislators, judges and justices rank nationally and regionally for compensation received;
- Reviewed data on Maine household median, household mean, and per capita incomes;
- Reviewed benefit packages offered to the governor, legislators, judges and justices;
- Examined case load and administrative support available to judges and justices in Maine;
- Invited comments from current members of legislative leadership and the Chief Justice of the Supreme Judicial Court; and
- Held a public hearing on December 16, 2019 to gather additional comments on draft recommendations.

<sup>1</sup> PL 2017, c. 242 and PL 2019, c.384 changed the statutory requirements of the Commission, removing Constitutional Officers from the positions the SCC must review, and adding the compensation of justices and judges, as well as the Governor.

## SUMMARY CONCLUSIONS AND RECOMMENDATIONS

### Legislature

The Commission finds that current legislative pay does not adequately compensate legislators for their dedicated public service, and likely has the effect of discouraging qualified Mainers from running for, or remaining in, the Legislature.

Maine State Senators and Representatives currently receive a stipend of \$14,862.48 for the first legislative session, which typically lasts 6 months, and \$10,581.92 for the second session, which typically lasts 4 months.

Compensation for legislators should be enough to make it financially possible for any qualified Mainer to serve. Each of the current and former legislators who testified before the Commission indicated that they viewed their work in the Legislature as a public service. They did not seek the office for the salary and benefits, nor expect to be compensated at a level comparable to what they might earn in private life. However, if legislative compensation is too low, the financial sacrifice of serving may be so great that it prevents some Mainers from serving, compromising the State's vision of a broad-based citizen legislature.

Legislative compensation has not kept pace with inflation over the last thirty years. For example, legislators in the 114<sup>th</sup> Legislature in 1990 received \$16,500, for the two-year term which, adjusted for inflation, would be approximately \$31,807 in 2019 dollars. Meanwhile, over the same time span, the demands on legislators have increased. Serving constituents has become a year-round responsibility. With the advent of email, texting, and use of social media as an important tool of communication, legislators are expected to be in constant communication with their peers, constituents, advocacy groups, and the public, even when the Legislature is not in session.

The current reimbursement rates for travel and lodging are also too low. The current mileage rate for legislators is 44¢ per mile for one round trip per week, and 44¢ per mile each subsequent day up to \$38 per day. The rate of 44¢ per mile is just 75% of the federal mileage rate of 58¢ per mile, which is calculated annually by the IRS to fully compensate drivers for the cost of using their personal vehicle. Legislators need to be in Augusta when the legislature is in session, which requires many legislators to travel long distances from their homes. The farther a legislator drives, the greater the shortfall, especially after mileage is capped at \$38 per day. The lodging rate, which is linked to the mileage rate and set at \$38 per day, is also too low. Of 13 Augusta area hotels and bed & breakfasts reviewed in the fall of 2019, only 2 locations offered rates at or below \$38 per day during the legislative session.

Finally, while the Senate President, Speaker and other leadership receive higher pay than legislators to compensate for additional responsibilities, committee chairs do not, though these positions involve substantial additional administrative, leadership, and time commitments.

To address these shortcomings, the Commission makes the following recommendations:

**1. Increase base compensation for Legislators to a total of \$32,000 per two-year term.<sup>2</sup>**

As noted above, this would effectively match the stipend to that of legislators in 1990, adjusted for inflation, addressing the erosion of compensation over the intervening 30 years. This level is roughly equivalent to the annual per capita income in Maine of \$32,095, so that compensation for two years of legislative service is on par with one year of the average Maine worker's salary.

**2. Increase mileage rate to the federal rate.**

Raising this rate to the current federal level more accurately reflects the costs of travel, including wear and tear on a personal vehicle. The current federal rate is 58¢ per mile.

**3. Increase lodging rate to equal benefit received in mileage rate.**

This equalizes the increased mileage rate with the lodging rate so that neither staying in a hotel or traveling back and forth from home each day is incentivized or penalized.

**4. Grant Legislative Council authority to approve an additional stipend for committee chairs.**

The Legislative Council is in the best position to recognize the increased demands of committee chairs and determine if an additional stipend is warranted and the amount of any approved stipend.

**5. Maintain the current process for setting salaries for the Secretary and Assistant Secretary of the Senate, and the Clerk and Assistant Clerk of the House of Representatives. Further, amend Title 3 §2-B by removing these positions from the purview of the SCC.**

The current process for setting these salaries, which relies in part on statute and on the Legislative Council, is sufficient to attract individuals to the position and compensates these individuals similarly to other legislative staff.

<sup>2</sup> The Constitution of Maine, Article IV, Section 7 prohibits any law which would increase the compensation of legislators to take effect during the Legislative session that it was enacted. As such, these recommendations would take effect with the start of the 130<sup>th</sup> Legislature.

## Judiciary

The Commission finds that Maine's judicial salaries are the lowest in the country and this ranking does not reflect the respect and value that Maine holds for its judges and justices.

Maine judges and justices rank 51<sup>st</sup> in national salary rankings for associate justices of the courts of last resort (our Supreme Judicial Court) and judges and justices of general jurisdiction trial courts<sup>3</sup> and are paid just 70% of the compensation received by their federal colleagues.

Maine judges and justices' compensation of \$133,286 for trial judges and \$142,209 for Supreme Court associate justices are the lowest in New England by over \$20,000. Pay in the past 10 years for Maines judges and justices has barely kept up with inflation, while some Commissioner positions in the executive branch have increased by 30-50%.

Maine judges have a heavy workload and hear a full range of cases including criminal, civil, and family matters. They do most of their own research and writing of decisions and lack significant administrative and clerk support.<sup>4</sup> Judges and justices have little flexibility in their schedule and most travel to numerous courts throughout the State. Judges and justices' personal and volunteer interests are restricted, and they are limited in their ability to participate fully in their community.

Given the range of cases heard by trial judges, a bench with a broad range of experience is optimal. Judges and justices are recruited from a pool of attorneys who, as a class, are compensated higher than the average wage, and for whom accepting a judgeship may mean a significant reduction in salary. Despite the comparatively low compensation and the personal impact of the position, to date Maine has been able to attract highly qualified attorneys to serve.

However, the Commission is concerned that current judicial compensation may threaten the continued ability to attract and retain the highly qualified and dedicated jurists that Maine now enjoys. The comparatively low compensation has made it more difficult to attract trial, defense, and business attorneys to serve. There also is evidence that the low compensation received by judges and justices has led some to leave the bench, with several individuals recently choosing to leave earlier than planned without seeking the opportunity to work as Active Retired Judges.

The position of Active Retired Judge (ARJ) status is crucial to support the work of the sitting trial judges. ARJs fill in for a judge who is sick or has a family problem and provide some relief and flexibility for sitting judges. Further, ARJs are extremely valuable in filling in if there is a scheduling problem or a need to clear up caseload backlogs. Given these important functions of ARJs, the trend of individuals choosing to forgo ARJ status is especially problematic.

To address these shortcomings, the Commission makes the following recommendations:

<sup>3</sup> The national rankings include the District of Columbia, Northern Mariana Islands, Puerto Rico, Guam, and the Virgin Islands.

<sup>4</sup> The Maine Judicial branch has 56 positions for trial judges and justices and only 17 positions for law clerks to work with those judges. In New Hampshire, each of the judges in its trial court has a dedicated law clerk.

- 1. Increase salaries so that Maine judges and justices' salaries rank 35<sup>th</sup> nationally, increasing the salary of District Court judges and Superior Court justices to \$150,000, Supreme Judicial Court justices to \$169,000 and the Chief Justice of the Supreme Judicial Court to \$184,000.**

The Commission believes that maintaining an independent judiciary is critical to a well-functioning democracy, and this salary adjustment better ensures that a broad range of qualified individuals are recruited and continue to serve. Increasing judicial salaries to a rank of 35<sup>th</sup> nationally would also bring them in line with where Maine ranks in terms of median household income (See Appendix II).

- 2. Increase the per diem pay for Active Retired Judges from \$350 to \$500.**

As discussed above, these positions are crucial for the efficient and effective management of caseloads to benefit the public, and also provide some flexibility and support for sitting judges. Additional compensation will encourage retiring judges to transition to these important positions.

- 3. Increase the additional compensation for serving as Chief and Deputy Chief Judge of the trial courts to \$10,000 additional for the Chief Judges and \$5,000 additional for the Deputy Chief Judges.**

The recommended increases for Deputy Chief Judges, the District Court Chief Judge, and the Superior Court Chief Justice are based on the additional administrative responsibilities required of the trial court leaders including scheduling and supervising judges and assigning and managing caseloads.

- 4. Grant the Chief Justice authority to approve an annual longevity payment to judges and justices at certain anniversary dates in recognition of years of service in the Maine judiciary.**

All Maine District Court judges receive the same annual salary regardless of their years of service on the bench. The same is true for Maine Superior Court justices. While this is the case in the federal court system, and in most court systems in the country, it is not the case for others in public service in Maine. Public employees in Maine, and most employees in the private sector, are placed on a salary range with rates of pay increasing annually to the top of the range. Maine state employees also receive an annual payment ("longevity stipend") at 15, 20, 30, etc. years in recognition of their service to the state of Maine.

## Governor

The Commission finds that the Maine Governor's salary is embarrassingly low, suggesting a disrespect for the position and making Maine an outlier from the rest of the country.

The Maine Governor's annual salary is the lowest in the nation at \$70,000 and has not changed since 1987. Among New England states, the next closest state is New Hampshire at \$134,581, almost double the salary of the Maine Governor. All who testified before the Commission on the Governor's compensation agreed that the salary is far too low.

Even though Maine ranks last in the nation for governor's salary, the executive branch in Maine is strong. For example, unlike the majority of states (43), Maine does not have a lieutenant governor, placing all executive authority and responsibility in the Governor. Further, the Maine Governor has strong veto and appointment powers compared with other states.<sup>5,6</sup>

Salary is not the primary motivator for a Mainer to seek the governor's office, and the Commission does not expect the pool of interested candidates to change if the salary were increased. However, the Commission strongly believes that the current level of compensation does not comport with the level of effort expected from our chief executive, nor does it adequately reflect the dignity and respect Maine people hold for this office.

The Governor also receives an annual expense account in the amount of \$30,000. The expense account was established by law in 1943 at \$10,000, was increased to \$15,000 in 1953, and was increased to \$30,000 in 1990. While expenses of any sort have increased over that time, the amount appropriated has not kept up with any escalated costs.

To address these shortcomings, the Commission makes the following recommendations:<sup>7</sup>

- 1. Raise the Governor's salary to \$130,000 per year, effective in 2022.**

This would bring the salary of Maine's governor to 35<sup>th</sup> in the nation, and nearly equivalent to that of neighboring New Hampshire. The ranking of 35<sup>th</sup> is also where Maine ranks nationally in Median Household Income (see Appendix II). The change also partially accounts for the effect of inflation since the current salary of \$70,000 was set by the Legislature in 1987. Adjusted for inflation, that would be \$161,911 in 2019 dollars. The Commission believes it is appropriate to compensate the governor at an equivalent standing to Maine's median household income as compared among the 50 states.

<sup>5</sup> The Governors: Powers. Council of State Governments. Numbers referenced do not include American Samoa, Guam, CNMI, and Puerto Rico.

<sup>6</sup> The Powers of the Governor in North Carolina: Where the Weak Grow Strong—Except for the Governor: [https://nccppr.org/wp-content/uploads/2017/02/The\\_Powers\\_of\\_the\\_Governor\\_of\\_NC.pdf](https://nccppr.org/wp-content/uploads/2017/02/The_Powers_of_the_Governor_of_NC.pdf) (Maine Governor appointment power page 30).

<sup>7</sup> While the SCC is only required to review Governor's compensation in the last year of a gubernatorial term, the Commission determined that it was more efficient to review the Governor's salary and benefits at the same time as the legislators and judges.



The Constitution of Maine, Article V, Section 6 states that the compensation for the Governor may not be increased while the Governor is in office. As a result, this recommendation would not take effect until 2022 with a new gubernatorial term.

**2. Increase the Governor's Expense Account to \$40,000 each fiscal year.**

Created in 1943, the Governor's expense account is a long-standing component of a Maine governor's total compensation package. While the legislative record does not indicate what motivated the Legislature to create the expense account at that time, the Commission believes it is important to enable a governor to be as free as possible from personal financial stress. The account has not kept pace with inflation, and adjusting for inflation from its 1990 amount would exceed the amount the Commission is recommending, with the inflation adjusted amount totaling \$59,173. This increase to \$40,000 would not become effective until after the next gubernatorial election in 2022.

## **OTHER PROPOSED LEGISLATION**

1. Changes to the SCC statute (3 MRSA §2-B):
  - a. There should be a clearer process for nominating the 5<sup>th</sup> member of the commission, with the 5<sup>th</sup> member to serve as chair and appointed jointly by the Maine Speaker of the House and the Maine Senate President.
  - b. Amend the statute which requires the commission to meet 15 days after members are nominated to the commission to 15 days after the end of session.
  - c. Amend the statute changing which legislative positions the SCC must review (see recommendation 5 in legislative section).
2. Change references in statute so that salary received by individuals nominated in special elections matches the compensation received by other legislators.