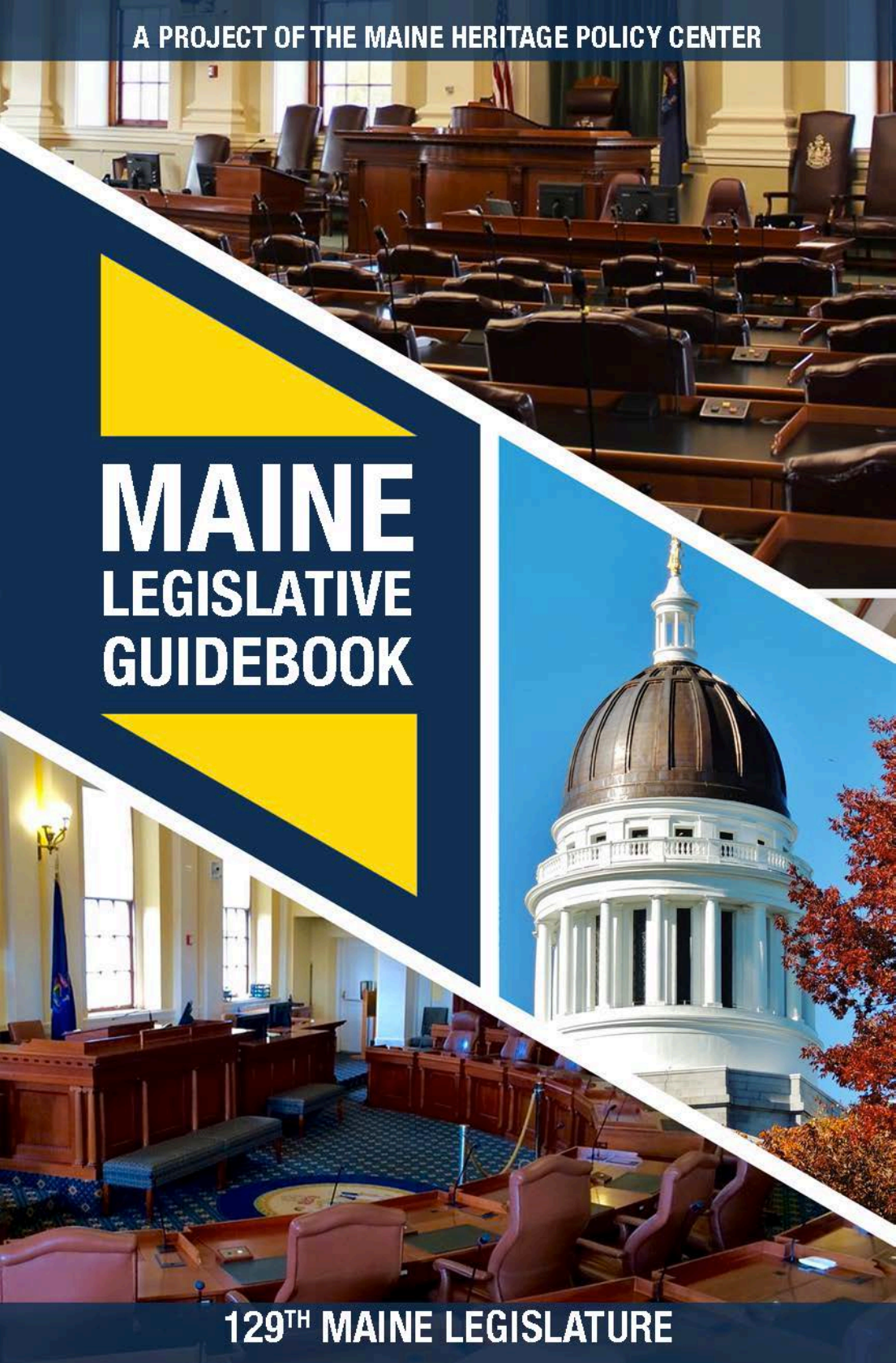


A PROJECT OF THE MAINE HERITAGE POLICY CENTER



# MAINE LEGISLATIVE GUIDEBOOK

129<sup>TH</sup> MAINE LEGISLATURE

**THE MAINE HERITAGE POLICY CENTER**

**MAINE LEGISLATIVE  
GUIDEBOOK  
2019**

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*“Posterity — you will never know how much it has cost my generation to preserve your freedom. I hope you will make good use of it.”*

~John Quincy Adams

## **ABOUT THE MAINE HERITAGE POLICY CENTER**

The Maine Heritage Policy Center (MHPC) is a nonprofit research and education organization dedicated to freeing people from dependency, creating prosperity, and redefining the role of government. Founded in Portland in 2003 by a handful of passionate citizens concerned about the direction of our state, MHPC has become the leading conservative public policy voice in the state of Maine.

With six full-time staff members and hundreds of individual supporters, we conduct detailed and timely research and develop public policy solutions that improve the lives of Maine citizens. We educate the public, engage legislators, and employ the media to shift public opinion and establish enduring legislative change in our state. MHPC's products include publications, articles, conferences, and policy briefings.

Governed by an independent Board of Directors, MHPC is a nonpartisan, tax-exempt organization. MHPC relies on the generous support from individuals, corporations, and foundations, and does not accept government funds or perform contract work.

## Introduction

The Maine Heritage Policy Center is pleased to introduce this second edition of The Legislative Guidebook, an overview of free-market solutions to Maine's economic and political challenges.

This guidebook focuses on The Maine Heritage Policy Center's three central themes: taxes, education, and health care. We discuss some of the most important public policy debates facing Maine, including solutions to poverty, spurring business growth, and reforming K-12 and higher education. After analysis of each issue, we offer concrete recommendations to achieve meaningful progress; some proposals represent small reforms, while others—like eliminating the income tax—constitute more substantial change.

As you and your legislative colleagues conduct the people's business in Augusta, The Maine Heritage Policy Center welcomes the opportunity to serve as a resource during the 129<sup>th</sup> Legislature. Thank you for sharing our commitment to a freer, more prosperous Maine.

The staff of The Maine Heritage Policy Center is eager to discuss these ideas in greater depth; please don't hesitate to contact us at (207) 321-2550 or [contact@mainepolicy.org](mailto:contact@mainepolicy.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Gagnon". The signature is fluid and cursive, with a long horizontal stroke at the end.

Matthew Gagnon  
Chief Executive Officer

# **A Note for New Lawmakers**

## **You are here to serve Maine**

It might seem obvious, but it is one of the facts most quickly forgotten by many legislators. Don't fall in love with the dome or view your job as a stepping stone of ambition. You are here to serve the people of Maine. Never forget it.

## **Be bold and stand for something**

Many politicians believe that taking a bold or controversial stance on an issue is a dangerous thing to do. This is rarely true. Constituents respect responsive leaders who listen, care, and who have their best interest at heart. The people who sent you to Augusta actually appreciate passion and are unfazed by lawmakers who disagree with them on issues, as long as you are perceived to be a genuine advocate for them.

## **Be skeptical**

Question everything. As a lawmaker, you will be given an avalanche of studies, data, statistics, and expert testimony. Be aware that everyone in Augusta has an agenda, and that statistics and data can be easily manipulated. Political interest groups and politicians are less interested in the truth than they are the acquisition of power and authority for their own purposes.

## **Sometimes trying to help can actually hurt**

We all want to help solve problems. Unfortunately, our tendency to offer solutions that use government power often does little to help, and simultaneously creates new problems.

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# EDUCATION

# Improving on the Success of Maine Charter Schools



## The Problem

Charter schools in Maine are being held back by unnecessary restrictions despite their demonstrated success and capacity to improve educational outcomes, particularly among poor and disadvantaged students.

## Analysis

Charter schools are some of the most promising new developments in the quest to improve Maine's public schooling system.

Compared to traditional public schools, charter schools are afforded greater flexibility in operations and teaching in exchange for higher standards and greater accountability. They foster a productive relationship between parents, teachers, and students, and are better able to adapt and respond to the unique needs of each student.<sup>1</sup>

A recent analysis by the Center for American Progress found that "high-quality and accountable charters are successfully improving student achievement and closing the opportunity gap for low-income students of color through innovation within the public education system."<sup>2</sup>

Students who attend charter schools are noted to be more productive, well rounded, community-minded, and better able to contribute as skilled workers—which are desperately needed in Maine.<sup>3</sup>

But unfortunately, Maine has placed a strict cap on the number of charter schools that may educate our children. As

laid out in the 2011 enabling law, the Maine Charter School Commission may only approve 10 total charter schools until the year 2022.<sup>4</sup> Today, Maine's charter schools serve roughly 2,000 students from more than 100 communities statewide.

Predictably, this cap is proving to be far too low. As of April 2017, eight of Maine's nine charter schools in operation had waiting lists of students eager to enroll.<sup>5</sup> With the ninth of 10 permitted charters having opened in the fall of 2016, few opportunities exist for wait-listed students to be accepted to a charter school in Maine.<sup>6</sup>

This arbitrary cap on the number of charter schools not only limits the number of students who may attend one of these schools, but it hampers the potential of Maine's economy. A healthy economy depends upon a well-educated and qualified workforce, which requires students to receive a quality education. It is essential for businesses to have access to proficient and knowledgeable workers in order to compete and thrive.<sup>7</sup>

According to a study by the University of Tennessee, charter schools are showing favorable results in educating students in math, science, reading, and almost every other academic area. They utilize fewer resources than traditional public schools and serve a higher percentage of lower-income and minority students.

Charter schools are leading to better educated students and graduates who are better prepared to face challenges as they enter the workforce. They are allowing for more competent workers, a higher amount of human capital, and are an important piece of the equation to solve the issues facing Maine's economy.<sup>8</sup>

Legislators should recognize that a cap on the number of charter schools that may operate in Maine is counterproductive to economic growth and academic excellence. They should take steps to remove this oppressive

piece of red tape and allow Maine's economy to have access to more qualified workers.

### **Recommendations**

- Raise or remove the cap on the number of charter schools that may be approved by the Maine Charter School Commission.
- Reform the application process to make it easier for new charter schools to be established in Maine.

# Ensuring Access to Quality Education



## The Problem

Too often, a child's educational opportunities are determined by his or her parents' income and zip code. For some students, the education they would receive in public schools does not adequately address their individual needs. The one-size-fits-all approach to public education has failed Maine students and can be reversed through the enactment of Education Savings Accounts (ESAs).

## Analysis

In several parts of the country, ESAs have been used successfully to improve educational opportunities and outcomes for low-income children. A 2012 report by the Goldwater Institute found that ESAs represent "the most innovative solution to provide all America's children with better opportunities."<sup>9</sup> ESAs expand parents' choices in selecting the best educational program for their children by providing state-funded savings accounts that families use for education expenses. Parents operate the accounts and have discretion to purchase services and materials to optimize their child's education.

The funds can be used for private school tuition, textbooks, online classes, tutoring, college tuition, or individual public school classes and extracurricular programs. Because the accounts allow families to choose from many different education services, a child's education can be precisely tailored to his or her needs. For students with special needs, such as children with autism, cerebral palsy, or hearing or vision impairments, parents can use the funds to send their

children to a school that specializes in addressing those challenges.

Research consistently shows that parental choice improves academic outcomes of participating students, particularly those from disadvantaged backgrounds or poor households. Nearly all empirical studies of parental choice programs show positive impacts, including improved reading and math achievement and increased graduation rates. ESAs can significantly reduce government education spending, saving taxpayers millions of dollars. Instead of funding schools, the state provides funds directly to families and audits every purchase. Participating families then report expenses to the state, and must account for every penny spent.

In Arizona, one of the first states to embrace ESAs, the government deposits 90 percent of student funds from the school funding formula into an account that is available for participating students. The state's department of education reserves some of the remaining ten percent of student funds to administer the program and saves the rest. Thus, each student using a savings account actually saves money for the state.

If Maine adopted a similar 90 percent funding plan, taxpayers could save more than \$1,000 on each participating student. Assuming 10 percent of current public school students opted for an ESA, Maine could economize roughly \$18.3 million annually.<sup>10</sup>

### **Recommendations**

- Create an ESA program modeled after Arizona and Nevada's systems, while broadening eligibility to all public school students.
- Create an ESA program for students with special needs or those in Maine's town tuitioning program.
- Extend Maine's town tuitioning program to all public school students.

# Removing Common Core Standards



## The Problem

The Common Core State Standards, since their adoption in 2011, have been an expensive and harmful experiment that threatens Maine's educational competitiveness. Unfunded mandates for local school districts, excessive testing requirements, developmentally inappropriate material, and dubious data collection practices underscore how Common Core has caused, and will continue to cause, problems for Maine's schools, teachers, and students.

## Analysis

In the 1990s, at a time when schools used a much more localized and flexible set of learning standards,<sup>11</sup> Maine reported the best student achievement scores in the country, exceeding the results of more geographically-concentrated and better-financed states.<sup>12</sup> By any measure, our public K-12 education system ranked among the best in the nation.

Local control of public school curriculum and instruction has historically driven innovation and reform in education. A one-size-fits-all, centrally controlled set of standards like Common Core hinders efforts to develop academically rigorous curricula, assessments, and standards that meet the unique challenges Maine faces. State and local leaders cannot change Common Core content, and there is no evidence that national standards lead to higher academic results.

Common Core also represents a lowering of academic standards. Common Core math standards fail to meet the content targets recommended by the National Mathematics Advisory Panel, the standards of leading states, and our

international competitors. They exclude certain algebra and geometry content that is currently a prerequisite at almost every four-year state college, essentially re-defining “college readiness” to mean readiness for a non-selective community college.

Common Core math standards also require that geometry be taught by an experimental method that has never been used successfully anywhere in the world, and delay or eliminate instruction in basic consumer math and topics in algebra.<sup>13</sup>

In English Language Arts, Common Core standards are also inadequate. Common Core demands that English teachers spend more than 50 percent of their reading instructional time on “informational texts” in a variety of subject areas, reducing the emphasis on literature and writing.<sup>14</sup> This requirement alone makes it difficult for English teachers to construct a coherent literature curriculum in grades 6–12.

The federal government has succeeded in pressuring states into adopting its centrally-planned education initiatives and stripping control from local school officials. Repealing Common Core would put Maine on the path to better student achievement, halt implementation costs, and improve local control over educational decisions.

Supporters of Common Core will say we’ve come too far to reverse course, however little evidence exists to suggest that these standards improve learning outcomes for students. A recent analysis found that the average performance among high school seniors “dropped in math and failed to improve in reading from 2013 to 2015.”<sup>15</sup>

### **Recommendations**

- Withdraw completely from Common Core standards and allow schools to adopt academic standards that suit the needs of their communities.



# Reducing Costly School Administration



## The Problem

The cost of Maine's K-12 education system has risen sharply over the last decade. During the 2015-16 school year, total expenditures on elementary and secondary education exceeded \$2.3 billion, an increase of 35 percent over 2004 spending levels.<sup>16</sup> These trends have continued despite declining enrollment and various efforts to maximize efficiencies and control cost growth. Yet little concrete action has been taken to shrink Maine's vast educational bureaucracy, which accounts for a sizeable portion of total education-related spending.

## Analysis

Despite unprecedented taxpayer investments in Maine's K-12 public schools, educational outcomes have not measurably improved in recent years.<sup>17</sup> Though numerous factors influence our students' performance, there can be little doubt that the progressive decline in bureaucratic efficiency in Maine has contributed to higher taxpayer spending without appreciable improvements on key metrics.

To be sure, school administrators perform many tasks that are essential to the functioning of Maine's K-12 school system of 181,000 students. But there is ample evidence that Maine's educational bureaucracy is far too bloated and inefficient to justify the hundreds of millions of dollars needed to sustain it each year. In 2013, a study found that from 1992 to 2009, the number of administrators and other non-teaching staff in Maine increased by 76 percent, even as total enrollment fell by 11 percent and teacher employment rose by only three

percent.<sup>18</sup> This disparity between changes in enrollment and bureaucratic growth was the largest in the nation.

The disproportionate size of our school administration apparatus is immediately apparent when Maine is compared to other states. In 2015, Maine ranked ninth-highest in terms of the number of high-level administrative staff per 10,000 students.<sup>19</sup> Maine had 35 officials and administrators for every 10,000 school enrollments, compared to just one in Nevada and Louisiana. Does Maine need 35 times the number of administrators as Nevada and Louisiana? Even states well known to have complex and challenging public school systems, such as California and New Jersey, had far fewer administrators than Maine; California had just five and New Jersey had 10 for every 10,000 students.

There is much to gain from streamlining our public school administration. Since payroll costs account for a significant portion of public education expenses, shrinking the administrative workforce could free up financial resources to be redirected to more productive ends, ideally closer to the classroom.

### **Recommendations**

- Require or incentivize the consolidation of school administrative staff based on total student enrollment.

# Reforming Higher Education



## The Problem

Maine's public university and community college systems serve an important role in preparing the next generation of Mainers to be skilled workers and responsible citizens. Unfortunately, mismanagement of Maine's public higher education system has damaged its educational quality, threatened its financial stability, and wasted countless taxpayer dollars. It is time for lawmakers to reform our higher education system to promote accountability, efficiency, and cost-cutting.

## Analysis

As manufacturing and other jobs decline, employers are seeking better-trained workers with post-graduate educations. In 2014, economist John Dorrer explained that "more than one-third of projected new jobs between 2010 and 2020 will require postsecondary credentials and advanced skills...Maine will need thousands of scientists, engineers, computer specialists, management specialists, and marketing experts to move its economy forward."<sup>20</sup>

Unfortunately, a college education remains out of reach for many poor Mainers. A 2014 report by the Maine Legislature's Commission to Study College Affordability and College Completion concluded: "In Maine, there is not currently a viable path to a college degree for all students who meet the academic admission standards and are willing to work hard, take out reasonable student loans, and make timely progress towards completing a degree."<sup>21</sup> The commission estimated annual average costs of \$20,800 for one year at a Maine Community College and \$25,600 at a University of Maine System campus. As a result of these prohibitive costs,

economically disadvantaged students are significantly less likely to enroll in college.

In recent years, university administrators have taken laudable steps to reduce expenditures and limit the growth of student costs. Between 2014 and 2017, average in-state undergraduate and graduate tuition rates did not increase,<sup>22</sup> following a period of rapid tuition growth (averaging nine percent annually) from 2005 to 2009.<sup>23</sup> Room and board costs have increased by 13 percent since 2010, however, averaging \$4,765 in 2018.

Since 2007, the University of Maine System has also reduced its workforce by 705 full-time equivalent employees, but more work could be done to reduce costs and expand opportunity for all Mainers.<sup>24</sup>

### **Recommendations**

- Enhance transparency by publishing information on esoteric fees.
- Continue to reduce administrative and non-instructional expenses and refocus spending priorities on undergraduate instruction.
- Eliminate duplicative or unnecessary public university and community college campuses.
- Address the student debt problem by exploring private income share agreements that allow financiers to pay for students' college education in return for a small stake in their postgraduate income.
- Regularly review building utilization at public campuses and cut educational programming that does not align with the needs of Maine's economy.



# ELECTIONS

# Fixing Maine's Broken Ballot Initiative Process



## The Problem

In recent years, Maine's ballot initiative process has been exploited by outside interest groups who, largely without formalized opposition, dump millions of dollars into Maine and use our state as a laboratory for complex, unproven policies that could not withstand the deliberative scrutiny of the Maine Legislature; thus undermining representative government.

## Analysis

Maine's ballot initiative process, enshrined in the Maine Constitution, is an important provision that gives the people of Maine the direct power to circumvent the Legislature to enact or abolish laws. Yet that power is meant to be used sparingly in times when the overwhelming will of the people is not adequately represented by their elected leaders.

However, since its adoption in the early 20<sup>th</sup> century, the ballot initiative process has increasingly become a tool of special interests unable to move their agenda through the Maine Legislature. During the 1950s and 1960s, not a single citizens' initiative appeared on a ballot in Maine, compared to 16 initiatives from 2000 to 2010 and five in 2016 alone. Further, a 2018 analysis by The Maine Heritage Policy Center found that, between 2009 and 2017, 71 percent of the \$81.3 million contributed to Maine ballot initiative campaigns originated from out-of-state sources.<sup>25</sup>

The Maine Constitution states that the number of signatures collected for any proposed ballot measure must not be less than ten percent of the total vote cast for Governor in the

preceding gubernatorial election. However, Maine—unlike many other states—has no requirement that the signatures come from geographically-diverse areas. Since the early 20<sup>th</sup> century, when the initiative and referendum laws were enacted, Maine’s demographic landscape has changed dramatically.

In 1910, our population was much more evenly distributed, making it less likely that one region could impose its will on the rest of the state. Because of increasing urbanization and population declines in rural areas over past decades, petitioning groups focus a significant portion of their signature collection efforts in Southern Maine, leaving interests in other areas of the state unrepresented at our ballot box.

More than half of the 24 states that grant initiative rights to their citizens have imposed a geographic distribution requirement that signatures be gathered from multiple parts of the state, preventing petitioners from gathering signatures in only the most densely populated urban areas.<sup>26</sup> These provisions ensure all voters, not just those in urban areas, have a say in which proposals achieve ballot status.

In addition, several states impose checks and balances on their initiative and referendum processes that are not employed in Maine. These measures include single subject rules, subject restrictions, and supermajority or percent of vote requirements for passage of initiatives and constitutional amendments. Enacting these restrictions would reduce the influence of outside groups by ensuring the interests of all Maine people are represented at the ballot box. Inherently, these reforms will require petitioning groups and outside interests to pursue policies that have broad appeal among citizens in all corners of the state, and require supporting groups to expend funds more deliberately in order to influence outcomes at our ballot box.

## Recommendations

- Adopt a resolution to amend the Maine Constitution to require 50 percent of the signatures for a ballot measure come from residents of each congressional district.
- Adopt a resolution to amend the Maine Constitution that requires signatures collected for any proposed ballot measure come from each Senate district, and must not be less than 10 percent of the total vote for Governor cast in the preceding gubernatorial election in each Senate district.
- Impose a rule that requires initiatives to encompass only a single subject.
- Impose subject restrictions that bar initiatives from dedicating revenues or making or repealing appropriations.
- Disallow unconstitutional measures from appearing on the ballot.
- Increase the threshold of affirmative votes required for constitutional amendments to pass at the ballot box.
- Require the Maine Legislature to hold a public hearing on citizen initiatives.
- Print fiscal impact statements directly on each ballot.



# Ending Taxpayer Subsidized Political Campaigns



## The Problem

As policymakers have chased the illusory and unattainable goal of “clean” elections, beyond the reach of wealthy corporate donors or billionaire backers, it has become clear that these efforts are costing Maine taxpayers millions of dollars without improving the competitiveness or transparency of elections.

Since the passage of the Maine Clean Elections Act (MCEA), at least \$25 million has been spent on taxpayer-funded political campaigns. Mainers are supporting a system that has failed to increase electoral competitiveness and has also failed to diversify the Legislature. Despite the MCEA’s stated goals, negativity in campaigns and special interest money have never been more widespread in Maine politics.

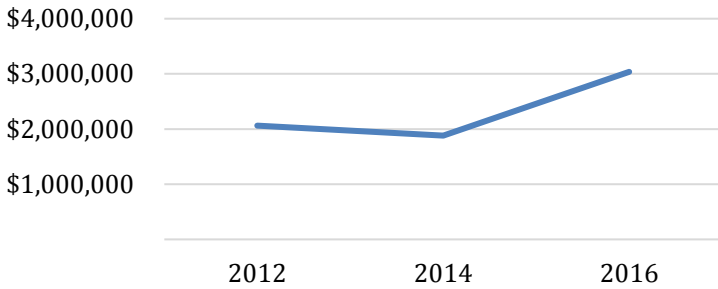
## Analysis

The MCEA, enacted in 1996 through a ballot initiative, was designed to provide public financing to candidates seeking state office. Since its inception, the MCEA has wasted taxpayer dollars, undermined our democratic process, and opened the door to abuse and fraud.

Not only does the MCEA force taxpayers to financially support candidates with whom they disagree, but the program has cost Mainers millions of dollars over the last decade. Though the MCEA has often been touted as a way to level the playing field between candidates, a thorough review of recent Maine elections revealed that “electoral competitiveness in Maine has not been appreciably affected by MCEA.”<sup>27</sup> The emergence of PACs and outside special interest groups has allowed

“clean” candidates to receive taxpayer funding while enjoying the support of deep-pocketed donors.

### Public-Financing Payments to Candidates in Maine



Source: *Maine Commission on Governmental Ethics & Election Practices*

Supporters of the MCEA often claim that public campaign financing will return our politics to the hands of the people and weaken the influence of career politicians. But an analysis of the longitudinal composition of the Maine Legislature reveals that this is not the case.

The members of 118<sup>th</sup> House of Representatives in Maine, who took office in 1996 before the MCEA took effect, included 23 educators, 16 business people, seven attorneys, four farmers, two lobstermen, five healthcare workers, and three homemakers. Thirty-two members were retirees. In all, 96 members had previous legislative experience and had served a cumulative total of 340 years.

In 2014, nearly two decades later, the members of the 127<sup>th</sup> Legislature’s House of Representatives included 13 educators, 19 business people, six attorneys, three farmers, ten healthcare workers, three carpenters, and two photographers. Twenty-six members were retirees. Ninety-eight legislators had previous legislative experience and had served a total of 453 years. In short, since the MCEA’s enactment the Legislature has gotten older, politicians are serving longer, and turnover has declined.

**Recommendations**

- Repeal the Maine Clean Elections Act.
- Repeal the 2015 expansion of Maine's Clean Elections Act.
- Restrict eligibility for public-financing to first-time candidates with no legislative experience.
- End public-financing of gubernatorial candidates.

# Dismantling Ranked-Choice Voting



## The Problem

Outside interest groups have ushered in a ranked-choice voting (RCV) law that fundamentally changes the way Maine citizens cast votes in elections. Instead of abiding by the principle of “one person, one vote,” RCV, often referred to as “instant runoff voting,” allows voters to rank multiple candidates in order of preference on one ballot and, contrary to the Maine Constitution, determines winners based on the majority of votes cast rather than a plurality. With the law in place, Maine now employs two separate voting methods, making our elections more expensive to ultimately achieve the same results that would be reached under the traditional system.

## Analysis

Prior to Maine’s use of RCV in the 2018 primary elections, the only other time in United States history that RCV was implemented in a statewide election was during a 2010 special election in North Carolina to fill an appellate court judge seat. Thirteen candidates ended up on the ballot, and it took over a month to announce the winner after two rounds of elimination and a recount. Realizing the chaos and uncertainty that could result from hundreds of races being decided by RCV, the North Carolina legislature repealed the RCV law ahead of the 2014 elections.

Portland, Maine, is one of the few cities that have adopted RCV for municipal elections. In 2011, Portland held an election for the office of mayor using RCV. Fifteen candidates were on the

ballot, and it took fifteen rounds of vote distribution and two whole days to declare a winner.

The Maine Secretary of State's office has estimated that fully implementing RCV would require \$1.5 million in additional funds to add at least one page to the ballot and change the computation and counting systems in place.

In addition to the challenges and costs of implementation, RCV is unlikely to improve our democratic process. Since a winning candidate will need to be the second- and third-place choice of voters who support rival candidates, RCV may discourage candidates from attacking each other directly, but this will only augment the role of third-party, unaccountable groups in negative campaigning.

Perhaps most importantly, the convoluted and complex nature of RCV's vote tabulation system will deter voters and erode confidence in our elections. In Maine's 2018 gubernatorial primary elections, it took more than a week for the Maine Department of the Secretary of State to declare candidate Janet Mills the winner of the Democratic gubernatorial primary election despite Mills obtaining a plurality of the votes cast on Election Day. Under the traditional one person one vote system, Mills still would have been declared the winner of this race.

If policymakers want to encourage electoral participation and combat the general distrust of government, they should be making our elections simple and clear. RCV is an unproven experiment that threatens to undermine our fundamental democratic values.

### **Recommendation**

- Fully repeal Maine's ranked-choice voting law.

# Implementing Voter ID Requirements



## The Problem

Maine is one of just 16 states that have not enacted some form of voter ID laws, which require voters to provide identification at polling stations in order to vote in elections.<sup>28</sup> While some fear that voter ID laws disenfranchise voters and suppress voter turnout, states have proven that these laws can be implemented in ways that alleviate concerns while still upholding the sanctity of free and fair elections, substantially eliminating the likelihood of voter fraud and abuse.

## Analysis

Approximately 60 percent of US voters live in states that require some form of photo identification in order to vote, according to the Congressional Research Service. Of the states that impose voter ID laws, 19 allow voters without IDs to cast a ballot through alternative means and 13 strictly enforce ID requirements. Since 1996, the number of states requiring voter IDs has tripled.<sup>29</sup>

In 2001, the National Commission on Federal Election Reform, or the Carter-Ford Commission, studied aspects of the nation's voting process and suggested that states improve "verification of voter identification at the polling place" by requiring voters "provide some form of official identification, such as a photo ID issued by a government agency."<sup>30</sup> Four years later, the same body issued similar findings, expanding its recommendations to include that states provide voter ID cards at no cost to voters without official identification.<sup>31</sup> Since then, 22 states have successfully passed or amended voter ID laws, many of which contain specific provisions to mitigate the concerns of disenfranchisement and reduced voter turnout.

Georgia, which originally passed voter ID in 1997, moved to strict photo ID requirements in 2005. Implemented in 2008 after clearing legal challenges, the law allows Georgians to use any of the following forms of photo identification to vote in elections:<sup>32</sup>

1. a Georgia driver's license (valid or expired),
2. a valid state or federal government-issued photo ID (including a free voter ID card),
3. a valid US passport,
4. a valid photo ID from any branch, department, agency, or entity of federal, state, county or municipal government,
5. a valid U.S. military photo ID; or
6. a valid tribal photo ID

Maine had the chance to enact similar legislation in 2018, however the measure was never referred to committee. The law would have authorized Mainers to use official identification cards issued by Maine colleges, the state or federal government, or electronic benefits transfer card as acceptable forms of identification to vote in elections. It would have also provided free voter IDs to those without proper identification and permitted Mainers to cast provisional ballots without identification.

Maine should move forward with voter ID requirements that are inclusive to all Maine citizens to ensure public confidence in our elections.

### **Recommendation**

- Enact voter ID legislation to strengthen Maine's election laws

The background of the image is a solid dark blue color. Overlaid on this background is a faint, light blue watermark of a classical building's dome. The dome features a circular balcony with a railing and is supported by a series of tall, fluted columns. At the top of the dome is a lantern with a pointed finial.

# ENERGY



# Repealing the Renewable Portfolio Standard



## The Problem

Rising electricity costs threaten the survival of many of Maine’s manufacturing and industrial businesses and burden thousands of Maine families. Unfortunately, policymakers have pursued a misguided approach—the Renewable Portfolio Standard—which increases the price of electricity, reduces private-sector employment, and does little to mitigate carbon emissions.

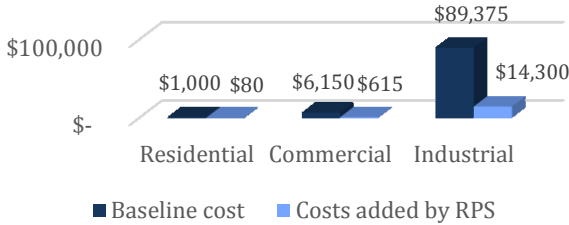
## Analysis

First implemented in 1999 under Governor Angus King, Maine’s Renewable Portfolio Standard (RPS) law required that 30 percent of total retail electric sales in the state come from renewable sources within a decade.

The law itself did little to alter the state’s mix of fuel sources used for electricity production. Maine was already producing large quantities of energy from renewable sources. Maine’s numerous lakes and streams enabled the production of economically viable hydroelectric power, and its forestry industry supplied wood waste for biomass electricity production.<sup>33</sup>

In June 2006, then-Governor Baldacci signed legislation to counter the perception that the RPS law lacked environmental benefits. The updated law kept in place the overall 30 percent renewable requirement but compelled electricity providers to also adopt new sources of renewable energy by one percent annually beginning in 2008 and ending in 2017 when 10 percent of the electricity sector’s fuel mix will consist of new renewable energy sources.

### Costs of Maine's RPS in 2017 (by ratepayer category)



Sources: Beacon Hill Institute and Environmental & Energy Technology Council of Maine

An analysis of the economic effects of these RPS mandates in 2012 by the Beacon Hill Institute—using data from the U.S. Energy Information Administration—estimated that RPS will raise the cost of electricity by \$83 million for the state’s residential consumers by 2020.<sup>34</sup>

Increased energy prices hurt Maine households and businesses and, in turn, inflict significant harm on the state economy.<sup>35</sup> In the face of rising electricity prices, several states have recently taken action to repeal or reform their RPS requirements. In 2015, West Virginia ended its RPS program entirely, while Kansas amended its regulations to create voluntary—rather than mandatory—renewable energy targets. In 2014, Ohio temporarily froze its RPS for two years.

With Maine’s electricity rates remaining among the highest in the country, it’s time to repeal our RPS and pursue free-market solutions to our energy challenges.

#### Recommendation

- Repeal Maine’s Renewable Portfolio Energy Standard.

# Removing the 100-Megawatt Cap on Clean Energy



## The Problem

In an effort to prop-up the uncompetitive wind energy industry, Maine has imposed a 100-megawatt cap on the amount of hydropower energy that producers are allowed to generate under Maine’s renewable energy regulations. This arbitrary limitation on a clean and inexpensive energy source has led to higher electricity costs for Maine’s residents and businesses.

## Analysis

Under Governors King and Baldacci, legislators enacted the Renewable Portfolio Standard (RPS), which promotes renewable electricity generation by mandating that a certain percentage of a retail electricity provider’s load be derived from renewable sources. The RPS regulations limit the amount of energy available from renewable sources—such as hydropower, solar, tidal, biomass, and geothermal—to 100 megawatts.

However, in 2009, legislators lifted the cap for wind power, which is expensive to generate and provides unreliable output. Meanwhile, sources of clean energy like hydropower, an area where Maine output could easily surpass 100 megawatts, remain capped.

This arbitrary 100-megawatt cap gives wind an unfair advantage and prevents Maine from harnessing large-scale hydropower to provide affordable and renewable energy, which ultimately drives up the cost of electricity. Estimates suggest the strict RPS regulations increase electricity prices

for the average residential consumer by about \$73 per year; industrial users like paper mills face much higher burdens.<sup>36</sup>

Other New England states—including Rhode Island, Vermont, and Connecticut—have recognized the importance of hydropower in meeting their environmental and economic objectives. As these states have explored innovative ways to reduce their energy costs and enhance the stability of their energy grids, Maine’s unnecessary restrictions have held us back.

The Office of the Public Advocate has stated that removing the 100-megawatt cap on hydropower is “virtually certain to lower electricity costs for Maine ratepayers.”<sup>37</sup> Hydropower is clean, abundant, and has the possibility of significantly reducing electricity costs to consumers and businesses. Policymakers must reduce needless regulations that stand in the way.

### **Recommendation**

- Remove the 100-megawatt capacity limit on hydroelectric power.

# Exiting the Regional Greenhouse Gas Initiative



## The Problem

The Regional Greenhouse Gas Initiative, of which Maine is a member, is an ineffective effort to combat climate change that has cost Maine jobs and raised electricity rates for all consumers—particularly businesses in our struggling manufacturing industry. Policymakers have also failed to allocate sufficient funds generated from the program to Maine’s most urgent energy priority: reducing electricity rates.

## Analysis

The Regional Greenhouse Gas Initiative (RGGI) is a mandatory cap-and-trade program designed to reduce greenhouse gas emissions in northeast and mid-Atlantic states. RGGI currently involves nine states—Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

The RGGI cap-and-trade system applies to carbon dioxide (CO<sub>2</sub>) emissions from electric power plants with capacities to generate 25 megawatts or more—approximately 163 facilities, including six in Maine. The RGGI emissions cap took effect January 1, 2009, based on an agreement signed in 2005.<sup>38</sup>

In 2014, a study by The Maine Heritage Policy Center—using economics modeling developed by the Beacon Hill Institute—estimated that Maine’s exit from the RGGI program would have saved electricity consumers as much as \$132 million from 2015 to 2020, created about 300 private-sector jobs, and boosted investment by \$5-6 million. According to the

Governor's Energy Office, RGGI caused the average Central Maine Power ratepayer's bill in 2014 to increase by 0.24 cents per kilowatt hour, creating exceptionally high burdens for energy-intensive manufacturing businesses.<sup>39</sup>

Regardless of the gravity of climate change or the role power plants play in exacerbating its effects, there is little evidence that RGGI is an effective response.

In 2016, the nonpartisan Congressional Research Service acknowledged that "from a practical standpoint, the RGGI program's contribution to directly reducing the global accumulation of [greenhouse gas] emissions in the atmosphere is arguably negligible."<sup>40</sup>

Through the sale of "emissions allowances" to power plants, Maine generated \$11.2 million in 2015, with revenues expected to exceed \$20 million by 2019.<sup>41</sup> Currently, Maine uses its revenues from RGGI to fund Efficiency Maine Trust's heating programs, business energy programs, and direct electric rate reduction for businesses.

At a time when energy costs are threatening many of Maine's largest employers, lawmakers should focus on returning RGGI funds to businesses, allowing them to determine the best way to grow their business, invest in energy projects, or hire more workers.

### **Recommendations**

- Exit RGGI.
- Use all RGGI funds to provide direct electric rate relief for Maine businesses.

# Eliminating Maine's Expedited Wind Energy Law



## The Problem

Maine's expedited wind law, signed in 2008 by then-Governor Baldacci, created a special permitting and zoning process for wind energy projects. Under the law, large portions of the state were designated as "expedited permitting areas" for grid-scale wind energy development. Passed with little debate or scrutiny, Maine's expedited wind energy law has increased electricity rates by distorting the free market, curtailed citizens' rights, and damaged some of Maine's most scenic landscapes.

## Analysis

Under Maine's expedited wind energy law, applications are fast-tracked in designated expedited permitting areas with little input from local residents, and the Maine Land Use Planning Commission is given broad authority to add land in unorganized territory to the expedited permitting area. The law also laid out an aggressive goal of having 2,000 megawatts of installed wind capacity by 2015, an unrealistic objective that wasn't achieved.

The expedited wind law ignores important ecological impacts that turbines have on the environment. It fails to take into consideration migratory bird paths, resulting in numerous birds colliding with turbines. Maine is directly in the migratory flight path for millions of birds representing hundreds of species that fly north every year to Canada's boreal forest.

In addition, wind development requires that thousands of trees be cut down, reducing our carbon capture capability, and

that ridge tops be leveled with explosives, which can disturb nearby wildlife habitats.

The expedited wind law also fails to require detailed decommissioning plans from wind developers prior to project approval. As a result, companies can construct turbines without the financial resources to responsibly dismantle them and restore the landscape when the project is no longer viable.

It should also be noted that Maine benefits little from wind energy development in the state. Much of the electrical power generated by wind installations in Maine is sold to states in southern New England whose residents have resisted wind energy development. In the end, Maine's aggressive push to promote wind energy is benefitting Connecticut and Massachusetts more than Maine ratepayers.

Wind energy developers should have the same opportunity to compete in Maine's marketplace as any other energy source, but the expedited wind law gives them a distinct advantage over other, cheaper forms of renewable energy like hydropower and biomass. Lawmakers should repeal or extensively amend the expedited wind law to restore a more level playing field in the energy sector.

### **Recommendations**

- Repeal the Expedited Wind Law.
- Incorporate decommission planning and funding into wind energy regulations.
- Tighten scenic impact requirements to ensure that wind projects fit harmoniously with their environment.



# Reversing Maine's Net Metering Practices



## The Problem

Each year, numerous bills are introduced to expand Maine's net metering policies, which allow distributed generation customers—people who have installed solar panels, natural gas micro-turbines, methane digesters or small wind power generators on their property—to sell excess electricity to a utility at retail rates and receive a credit on their bill, thus offsetting the customer's electricity consumption and reducing the amount of electricity the customer must purchase. Backed predominantly by solar energy advocates, net metering distorts the energy market by promoting solar over other forms of energy.

## Analysis

According to the National Conference of State Legislatures, Maine is an aggregate net metering state, meaning the state allows a single customer to offset electrical use from multiple meters on his or her property using a single renewable energy generating system. Maine's aggregate net metering law, passed in 2003, allows small generators to aggregate meters for a total capacity of five megawatts or less.<sup>42</sup>

Net metering is a billing system that allows electric customers with distributed generation systems like solar panels to sell the excess electricity they generate back to their utility at the full retail electricity rate, which includes both the cost of power and the fixed costs of poles, wires, meters, and other infrastructure that make up the electric grid.<sup>43</sup> Through the credit received as a result of owning a distributed generation system, customers avoid paying costs to maintain the

electrical grid despite still using these services to when they need power delivered or sold back to the utility.

With distributed generation customers avoiding the costs associated with utilizing the grid, customers without rooftop solar are forced to foot the bill through higher utility bills.

In practice, net metering policies have proven to be costly for non-solar utility customers. A 2013 report by the California Public Utilities Commission estimated that the state's net metering laws will force non-solar utility customers to pay an additional \$359 million in electricity costs by 2020.<sup>44</sup>

### **Recommendations**

- End or phase out net metering practices in Maine.
- End or recalculate metering policies to eliminate the incentive.



# **GOVERNMENT REFORM**

# Continuing to Reform Welfare



## The Problem

For too long, Maine's welfare programs have promoted government dependency instead of giving struggling families the help they need to become financially independent. Maine's repeated expansions of eligibility criteria and lax work requirement standards have turned benefits designed to meet the needs of the truly needy into middle-class entitlements. Although great strides have been made, there is more we can do to set Mainers on the path of self reliance.

## Analysis

Tightening welfare eligibility standards preserves resources for those truly in need while discouraging welfare dependence among those with higher incomes. In the Temporary Assistance for Needy Families (TANF) program, an applicant family comprised of a single parent caring for two children can earn up to \$1,347 per month<sup>45</sup>—or about 80 percent of the federal poverty line for a family of three—and still receive welfare benefits. Only 13 states have such lax eligibility criteria; the average among Maine's rural peer states—including Montana, New Hampshire, West Virginia, and others—is \$970.

In Maine, the income limit to receive subsidized child care services is 272 percent of the federal poverty level, or nearly \$67,000 for a family of four.<sup>46</sup> According to 2009 data, the average income threshold among similar rural states was 176 percent of the poverty line, or \$38,808 for a family of four.

Policymakers should also emphasize the importance of diversion programs to avoid long-term welfare enrollment. For those eligible to enroll in Maine's welfare system, the first

step should not be the near-automatic enrollment that is the case today.

Diversion programs are intended to deter welfare applicants from entering the system in the first place by providing lump sum payments to the needy as a way of assisting them with short-term financial problems—such as costly car repairs—that do not require full enrollment in the welfare system.

Maine's Alternative Aid program could be described as a diversion program, but its design is flawed. Those who qualify can get the equivalent of three months of TANF cash assistance each and every year without any work requirements and without jeopardizing any other benefit such as food stamps.

Maine's Alternative Aid program stands in stark contrast to Georgia's diversion strategy. In DeKalb County, Georgia, for instance, "applicants are required to attend an orientation, develop a TANF Family Service Plan based on a comprehensive assessment and, for those deemed ready for work, complete an up-front job search period as a condition of program eligibility."<sup>47</sup>

The program's intake meeting explores the applicant's job skills, work interests, educational attainment, and personal and family challenges. Applicants considered work-ready "participate in a four-week structured job search program for 40 hours per week," which includes "a series of workshops and group job search sessions to prepare for employment," as well as time spent "contacting employers, completing resumes, and participating in job interviews."

Georgia's diversion program is remarkably successful. Out of every 100 TANF applicants, "25 to 50 percent complete the program and receive TANF," with the remainder either finding employment or dropping out of the application process.

According to the U.S. Census, only 1.8 percent of households in Georgia received cash public assistance in 2012, one of the

lowest rates in the country. Maine, by contrast, had the nation's second highest rate of cash public assistance in 2012, at 5.2 percent of households.<sup>48</sup> In 2018, Maine is set to spend more than \$100 million on the TANF program alone.<sup>49</sup>

Policymakers should also strengthen job search and work requirements, which have consistently been shown to boost long-term earnings of welfare recipients, shorten the amount of time spent on the rolls, and reduce the number of people dependent upon government. In March 2016, Bethany Hamm, director of the Office for Family Independence in DHHS, testified before the Legislature that the TANF program contains an “overly broad exemption that has allowed TANF recipients to avoid required work too easily.”<sup>50</sup>

### **Recommendations**

- Focus Maine's limited welfare resources on Maine citizens and those who are most in need.
- Emphasize diversionary strategies to help those in need without promoting long-term dependency.
- Enforce work participation requirements and eliminate loopholes that promote non-compliance.
- Apply time limits to the General Assistance program.
- Reform Maine's General Assistance state funding formula.
- Reduce time limits in the TANF program from 60 months to 24 months.

# Passing Meaningful Legislative Reforms



## The Problem

Even for experienced lobbyists and public interest groups, the legislative process can be cumbersome and difficult to maneuver. Unfortunately, there are many tricks politicians and political parties use to manipulate the Joint Rules and the committee process in order to push their agendas through the legislature with minimal public input.

## Analysis

Each year, several measures are introduced in the Maine Legislature as “draft concepts,” which are permitted under Joint Rule 208.<sup>51</sup> Draft concepts are bills or resolves that consist only of a bill title and summary. Draft concepts may only be submitted by legislators, as the Joint Rule prohibits the Governor and state entities from submitting legislation in this manner.

At the public hearing for bills submitted as draft concepts, the sponsor often releases the language of the bill for the first time and testifies in its favor; rarely is this language made available to Maine people prior to the public hearing. This prevents Maine citizens from understanding the details and consequences of the proposed legislation before a public hearing is held, which is the only period within the legislative process where the public may provide input on a proposed bill.

For contentious policy proposals, draft concepts are frequently used by politicians and political parties to advance an agenda without exposing the contents of a bill to their opponents. For instance, in the 128<sup>th</sup> Legislature, LD 837, a

draft concept titled “An Act To Provide Supplemental Appropriations and Allocations for the Operations of State Government,” was used to redirect funding from the Fund for a Healthy Maine to partially implement Medicaid expansion.

A number of draft concepts were also introduced in the Second Session of the 128<sup>th</sup> Legislature despite legislation in this session being constitutionally restricted to emergency matters. If a bill is merely a draft concept upon submission to the Legislative Council, it is highly unlikely its contents rise to the emergency threshold outlined in the Maine Constitution. More often than not, these bills are used by legislators as placeholders for their personal, unfinished priorities carried over from the first session.

Although not always done intentionally, lawmakers can make changes to a bill during the legislative process that limits public understanding of the bill’s contents and impact. During the committee process, legislators can adopt an amendment to a bill that strikes the full text of the measure and offers an entirely new proposal, sometimes with language that conflicts with the original intent of the bill. Despite the public only having the opportunity to weigh in on the original language, the committee may move forward into work sessions with new language that has not been vetted by the public.

### **Recommendations**

- Implement a Joint Rule or enact a law that requires legislative committees to hold another public hearing if an amendment is accepted to a bill that strikes all existing language.
- Require two public hearings for draft concepts or end the practice by abolishing Joint Rule 208.
- Disallow draft concepts in the second session.



# Streamlining Maine's Budget Process



## The Problem

Lawmakers have been scrutinized in recent years for a lack of transparency within Maine's budget making process. In 2017, Maine experienced its first government shutdown since 1991. In 2015, legislative leaders came under fire for holding closed door "chairs and leads" meetings to reach a budget agreement, violating Maine's public meeting laws.<sup>52</sup> Maine needs to reform its budget process to improve transparency and to ensure that every elected official has input in the final agreement.

## Analysis

Despite Maine's governor being required to submit a budget proposal in January of a budget year, several legislatures have struggled to debate and negotiate a biennial budget in a timely fashion. The budget making process is one that should incorporate the full legislature and the expertise of all members of government; a budget should not be settled upon by legislative leaders exclusively, nor the executive branch.

A flurry of recommendations to improve Maine's budgeting process were put forward by Maine Policy Review in 1993, however few of those considerations were put into law.<sup>53</sup> In addition, the Special Commission on Governmental Restructuring was established in 1991 to maximize citizen participation in public policy making and restructure state government in such a way that efficiencies and cost savings are assured. The commission put forth several strategies to improve Maine's budget process, including strict limits on expenditures and clear identification of all expenditures for state programs, federally-funded programs to which the state

contributes, and tax exemptions. The commission also recommended that the number of boards and commissions be reduced wherever possible. Despite these recommendations, Maine continues to have one of the most opaque and complex state budgeting processes.

In 2016, the U.S. Public Interest Reporting Group conducted its seventh annual “Following the Money” report that studies state government spending transparency websites. The study grades individual states based on transparency standards that include user-friendly web portals, one-stop searching for all government expenditures, and one-click searchable and downloadable content capabilities. The report rated Maine’s “Maine Open Checkbook” website in the bottom 10 of all states, or 41st overall, in providing online access to government spending data. Maine received a “C” grade for having “comprehensive and easy-to-access checkbook-level spending information but limited information on subsidies or other ‘off-budget’ expenditures.”<sup>54</sup>

### **Recommendations**

- Expand Maine Open Checkbook to provide detailed spending and subsidy data from all entities of state government.
- Enforce a competing budget deadline of February 28 in a budget year.
- End government shutdowns by implementing automatic cuts in the budget when an agreement cannot be reached by the start of a new fiscal year.

# Changing the Constitutional Officer Selection Process



## The Problem

Maine is the only state in the nation in which constitutional officers—Secretary of State, State Treasurer, and Attorney General—are selected by the Legislature. Most states have adopted a process of either gubernatorial appointment with Senate confirmation or popular election. Maine’s antiquated system is prone to politicization and partisanship since the party that holds the majority in the Legislature decides who to appoint to these important positions, regardless of the governor’s preferences. This means Maine’s governor and constitutional officers may constantly be at odds with one another, leading to brinkmanship and government dysfunction.

## Analysis

Constitutional officers are important bureaucrats with great influence on public policy, and they play a central role in ensuring that public affairs are carried out in a coherent and nonpartisan way.

Constitutional officers have substantial responsibilities. The Secretary of State is responsible for protecting the integrity of our elections, managing the Bureau of Motor Vehicles, overseeing boards and commissions, and maintaining the State Archives.

The Attorney General represents the State in civil actions, prosecutes homicides and other serious crimes, and spearheads efforts to recover money for the State. In state lawsuits against the federal government, the Attorney General provides legal advice and counsel.

The State Treasurer is tasked with collecting and investing state funds, managing debt, and administering trust funds.

Under current law, the Legislature—both the House and Senate—select all three of Maine’s constitutional officers. Unfortunately, the current system benefits entrenched insiders and the politically well-connected. Too often, personal connections with legislators—more than professional qualifications—can influence the appointment of a constitutional officer. In recent years, the overwhelming majority of constitutional officers have had previous experience serving in the Legislature, suggesting that political connections—more than professional competence—may have influenced their appointments.

In light of the close collaboration needed between the Executive Branch and constitutional officers to efficiently execute laws, Maine should reform its process of constitutional officer selection in favor of gubernatorial appointment with confirmation by the Senate. This is the same process undergone by department commissioners and judicial nominees and ensures that these officials are accountable to the governor.

### **Recommendations**

- Pass a resolution to amend the Maine Constitution to transfer the power to appoint constitutional officers to the governor, with approval by the Senate, or by popular election.

# Abolishing Unnecessary Boards and Commissions



## The Problem

Boards and commissions can serve a variety of purposes, such as advising agencies on current issues or giving citizens the opportunity to share their expertise with state government. They also can inject transparency and public access to government processes that are often opaque. Over time, however, a board's mission may lose its significance or the board's activities may cease. To prevent waste and inefficiencies within state government, Maine should constantly be reviewing the necessity of its active boards and commissions.

## Analysis

Maine has approximately 240 permanent boards and commissions, without counting temporary task forces or other special groups.<sup>55</sup> The large number of boards and commissions makes it difficult to find qualified applicants to fill vacancies. Currently, more than 300 vacancies exist on dozens of different boards.<sup>56</sup> In addition, at least 15 boards, including The Commercial Fishing Safety Council, The Board of Licensing of Dietetic Practice, The Pollution Prevention and Small Business Assistance Advisory Panel, and The Maine Agricultural Water Management Board, among others, reported inactivity or did not meet during 2016 and 2017.<sup>57</sup>

A report by the Office of Program Evaluation and Government Accountability in 2008 highlighted the need to reform Maine's boards and commissions in order to reduce costs and streamline administrative processes. In 2013, the Office of Policy and Management echoed those recommendations by

proposing the elimination of 17 inactive boards and commissions.

Some progress has been made. Since 2012, the Legislature has repealed at least 31 boards or commissions, including the Maine Wild Mushroom Harvesting Advisory Committee and the Travel Information Advisory Council. The elimination of boards that have outlived their usefulness should be an ongoing process. Historically, lawmakers regularly dissolved boards that were inactive or no longer justified. Records from the Bureau of Corporations, Elections & Commissions suggest that approximately 220 boards have been eliminated in the history of Maine.

Other states are embracing similar reforms. Since 2009, at least 19 states have eliminated or consolidated state entities, including California, New Jersey, Washington and Kentucky, which have been exceptionally active in eliminating boards and commissions. In 2011, California Governor Jerry Brown eliminated the California Postsecondary Education Commission. In 2010, New Jersey Governor Chris Christie signed a bill that eliminated more than a dozen inactive boards, commissions, committees, councils, and task forces.<sup>58</sup>

### **Recommendations**

- Dissolve all inactive boards and commissions that have not met or produced substantive work in the last year, except those that are meant to rarely convene to discuss specific matters.
- Direct the Office of Program Evaluation and Government Accountability to compile a list of duplicative, unnecessary, or outdated boards and commissions to be consolidated or eliminated.
- Pass a law that requires the Legislature to regularly re-examine the value of existing boards and commissions.

# Limiting Frivolous Legislative Proposals



## The Problem

Anyone who observes—or experiences—the final days of a legislative session understands the dysfunction of Maine’s current lawmaking process. Votes are called at a dizzying pace, committees rush through the review process, and many legislators struggle to keep up. Each year, many frivolous or duplicative bills are submitted, which takes time away from more important proposals.

## Analysis

Maine imposes no restrictions on the number of bills a legislator may introduce during the First Regular Session of the Legislature. During the Second Regular Session, bills may only be submitted by the Governor, and legislative proposals may only be introduced if approved by the Legislative Council, a bipartisan group of 10 legislative leaders. As a result, some lawmakers submit dozens of bills without taking the time to carefully consider their repercussions or political viability. In the 128<sup>th</sup> Legislature, more 1,900 bills were introduced by 186 legislators, an average of more than 10 bills per legislator.

The costs of introducing and debating legislation are not trivial. While it is difficult—given the broad diversity of bills introduced—to calculate the cost involved, a study conducted in Wyoming in 2011 found that it cost between \$450 and \$40,000 to propose, draft, and adopt a single piece of legislation.

The price included the cost of paper printing, administrative time, and the hours lawmakers spent reviewing and debating the legislation. Numerous analysts and budget experts work

in Augusta to help lawmakers craft legislation and make an informed decision when voting. In addition to legal and policy specialists working in the Revisor's Office and the Office of Policy and Legal Analysis, drafts of bills often require a fiscal note, provided by the Office of Fiscal and Program Review. Combined, these agencies employ at least 40 people.

On top of these quantifiable costs, the need to spend time studying superfluous legislation can distract lawmakers from more important bills that deserve careful analysis. Under the current system, when a bill is submitted by a lawmaker, the Revisor's Office is tasked with researching relevant state and federal laws and regulations, investigating how similar programs operate in other states, accounting for myriad tax policy repercussions, and writing a coherent legal framework to implement the program. Yet, despite all that work, the proposal may have no politically feasible path to enactment.

To reduce the amount of money spent on superfluous proposals and to allow more time for substantive legislation, a per-legislator cap on the number of bills submitted should be imposed. Many states, including Colorado, California, and Florida have adopted similar rules. Given the complexity of many state programs and laws, most legislators lack the time to carefully study all proposed legislation. Limits on the number of bills introduced would help to simplify the legislative process, force lawmakers to prioritize their legislative goals, and reduce costs for staff, printing, and paper.

### **Recommendations**

- Cap the number of bills that may be introduced during the First Regular Session of the Legislature to five bills per legislator, except for constituent bills.





# HEALTH CARE

# Expanding Competitive Shopping in Health Care



## The Problem

More than any other industry in Maine, the health care sector needs robust competition in order to lower prices and improve quality. Yet opaque pricing policies and convoluted insurance arrangements make it difficult—and often impossible—for patients to comparison shop for medical services despite evidence of significant price disparities among Maine providers.<sup>59</sup>

Beyond a lack of transparency, Maine's health insurance system removes consumer incentives to seek low-cost care, since patients—especially for expensive diagnostic services and treatments—rarely pay out of pocket.

## Analysis

Right-to-shop policies harness personal incentives to lower health care spending, reward quality and value, and promote competition between health care providers.

Maine citizens earned the right-to-shop through the enactment of LD 445 in the First Session of the 128th Legislature, an idea championed by The Maine Heritage Policy Center.<sup>60</sup> Coupled with the 2015 rollout of CompareMaine.org, a publicly available website that provides a wide array of pricing information on dozens of hospitals and clinics throughout the state, policymakers have taken an important step in making health care costs more transparent.

Several studies suggest, however, that price transparency alone is insufficient to motivate significant changes in consumer behavior. Only a small percentage of health

insurance enrollees utilize their carrier's cost comparison tool (when such a tool is even available).

According to a recent poll by the Kaiser Family Foundation, only six percent of consumers compare hospital prices. Another survey conducted by Catalyst for Payment Reform found that only two percent of Americans with health insurance use cost estimator tools before selecting a provider.

Around the country, companies are increasingly offering their employees financial incentives for seeking low-cost medical services, resulting in substantial savings.

For instance, a Chicago-based company called HealthEngine contracts with self-insured employers to offer their employees complete pricing and quality information for a vast number of health services; employees enjoy up to 60 percent of the cash savings between reimbursed costs and the actual costs.

A similar company, Vitals, has seen a 90 percent increase in its transparency program usage since introducing incentive rewards to some of its clients, New Hampshire public employees. From 2011 to 2014, more than 60 percent of Vitals members earned cash incentives for health care shopping, averaging \$669 in savings each time the program was utilized.

Informed consumers motivated by financial incentives are the best antidote to the substantial price variation between Maine providers. Drawing on the successful experiences of companies that have incorporated comparison shopping rewards into their health plans, lawmakers in Augusta should expand right-to-shop legislation to reward consumers for seeking low-cost medical services.

The health care industry would likely respond by dropping prices and enhancing quality, and unnecessary price variation would narrow as competition flourished.

Also, all Mainers who choose to receive medical care for less than their carrier's average cost from an out-of-network provider should enjoy the same cost sharing policies as if the services had been provided by an in-network provider. All Mainers should be able to achieve these savings and incentives without having to enroll in a specific right-to-shop insurance plan.

This would encourage robust competition in the health care market by supporting high-quality, affordable independent practitioners and creating more options for consumers.

### **Recommendations**

- Expand Maine's Right-to-Shop law to include obstetrical and gynecological services, inpatient and outpatient surgical procedures, and outpatient nonsurgical diagnostic tests and procedures.
- Make right-to-shop insurance plans available to all Maine citizens.

# Ending Certificate of Need



## The Problem

Certificate of Need (CON) laws, first enacted in Maine in 1978, require health care entities to obtain government approval—and navigate a lengthy and expensive process of bureaucratic review—before making large expenditures to expand services, build new facilities, or purchase additional equipment. These laws, which have been rejected in 13 other states, limit competition in the health care system and drive up costs.

## Analysis

Originally, proponents of Maine CON laws sought to limit unnecessary construction of medical facilities and duplication of health services, which they feared would increase health care costs. In order to regulate health care investment, a convoluted bureaucratic process was designed to review applications through the Department of Health and Human Services.

Health care entities seeking to make an investment under the purview of CON regulations commonly face four to ten months of delays, hearings, and analyses before the DHHS Commissioner makes a final decision. From 2010 to 2012—during which the Maine Certificate of Need unit processed 30 applications—more than \$275,000 in filing fees were collected; an average of \$9,266 per application.<sup>61</sup>

Not only do CON laws impose a heavy burden on businesses, but after decades of data collection and analysis, it is clear that CON laws have failed to control costs while stifling competition in the health care industry. In 2004, the Federal Trade Commission and the Department of Justice jointly

published a report titled *Improving Health Care: A Dose of Competition*, which states that “CON programs can pose serious competitive concerns that generally outweigh [their] purported economic benefits.”<sup>62</sup>

Where CON programs are intended to control health care costs, there is considerable evidence that they can actually drive up prices by fostering anticompetitive barriers to entry.<sup>63</sup> Joseph Miller, a former prosecutor at the Department of Justice, remarked, “The Antitrust Division’s experience and expertise has taught us that Certificate of Need laws pose a substantial threat to the efficient performance of health care markets. We have examined historical and current arguments for CON laws, and conclude that these arguments provide no economic justification for depriving consumers of the benefits of free markets.”<sup>64</sup>

Examples of bureaucratic mistakes in gauging public need for additional health care infrastructure are countless. Officials in Hawaii denied a CON application to a company seeking to construct a new hospital on Maui, forcing the island’s 144,000 residents to rely on a single, government-run facility with little incentive to lower prices or improve performance.<sup>65</sup> In North Carolina, the CON system denied an attempt by three neurologists to establish a small MRI facility in Garner, a suburb of Raleigh, which could have decreased costs for thousands of residents.<sup>66</sup>

Here in Maine, a 2009 request for CON by MaineGeneral to build a new 226-bed hospital in Augusta was denied by DHHS; officials only agreed to let the project move forward if the number of beds was reduced to 192. In 2014, reports surfaced that the new facility was operating at full capacity 26 percent of the time, and that patients admitted to the hospital were often occupying emergency room beds until beds opened up on other floors.<sup>67</sup>

According to Holly Lusk, a former health policy advisor to Governor LePage, “Repealing CON means repealing the impediment to our state’s health care facilities ability to

develop and plan based on efficient market forces. Market forces reward entities that provide excellent products at reasonable prices. CON serves as a barrier to innovation.”<sup>68</sup>

### **Recommendations**

- Repeal all of Maine’s CON laws.
- Raise capital expenditure thresholds to exempt as many projects as possible from CON requirements.
- Exempt capital expenditures that result in no net increase in MaineCare costs from CON requirements.

# Growing the Direct Primary Care Industry



## The Problem

As Maine’s population continues to grow older and the demand for health care services increases, the supply of doctors—especially primary care physicians—is dwindling. Much of this decline is rooted in dissatisfaction with the medical profession; many physicians feel overwhelmed with administrative responsibilities and unable to devote enough time to their patients.

A survey conducted in 2012 found that 90 percent of doctors believe the medical industry is on the “wrong track” and 83 percent are thinking of quitting.<sup>69</sup> The vast majority blamed excessive government involvement for the problems the health care system faces.

## Analysis

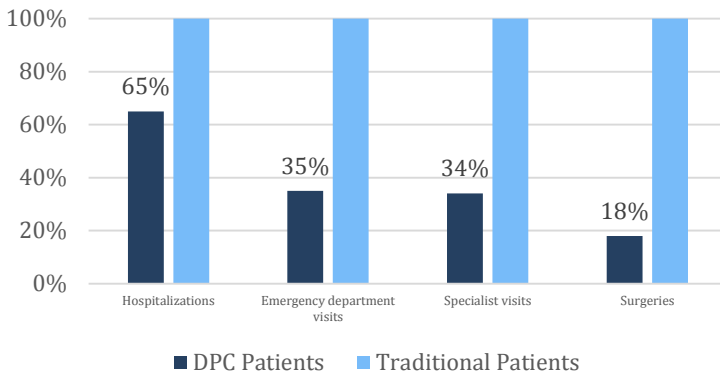
In the face of systemic dissatisfaction with our health care system, rising costs, and poor medical outcomes, a growing number of physicians and patients are transitioning to direct primary care (DPC), an innovative health care delivery model hailed as the “best kept secret in the health care industry”<sup>70</sup> and “one of the most intriguing experiments in [medicine].”<sup>71</sup> The model abandons third-party insurance payments and emphasizes coordinated, comprehensive, and personalized care.

Under DPC, a simple, flat monthly fee is charged for comprehensive coverage of all primary care services. This empowers the doctor-patient relationship and enables DPC providers to focus on providing outstanding medical care instead of spending time with administration and billing.



The DPC model provides unrestricted access to unhurried primary care. Patients go to their DPC physician for all routine and preventive services like checkups, urgent care, and chronic care management. High-deductible insurance is typically paired with DPC to cover hospitalization and expensive specialty care.

### DPC Patients Require Less Medical Care Than Traditionally-Insured Patients



*Source: British Medical Journal study of Qliance patients*

The DPC model, with its emphasis on close collaboration between doctor and patient to monitor existing illnesses, coordinate treatments, and quickly address emerging issues, differs from a traditional primary care practice that is often forced to concentrate on reactive, superficial care to alleviate symptoms and acute health problems. In the United States' current primary care model, physicians must each juggle the needs of about 2,500 patients, resulting in office visits—lasting from 10 to 15 minutes—that are too brief to provide detailed information or develop a long-term wellness plan. With patient panels typically ranging from 200 to 600 people, DPC physicians can devote more time to each patient.

Several studies have tried to quantify the financial benefits of DPC's personalized approach. Data collected from thousands of DPC patients from 2013 to 2014 indicated average annual

savings of \$679 per person compared to similar individuals with commercial insurance. Researchers attributed the drop in health care spending to sharp declines in hospitalizations, emergency room visits, and specialist services.<sup>72</sup>

According to nonpartisan researchers at the Florida Legislature, exempting DPC practices from the insurance code “removes regulatory uncertainty for health care providers by stating that the direct primary care agreement is not insurance and as a result not regulated by the [Bureau of Insurance]. Additional primary care providers may elect to pursue a direct primary care model and establish direct primary care practices which may increase access to affordable primary care services.”<sup>73</sup>

In order to protect DPC practices from burdensome regulation, 21 states, including Maine, have adopted laws explicitly exempting DPC from insurance regulations; six more states are considering similar legislation. DPC practitioners were exempted from insurance regulations through the passage of LD 1385 in the 128<sup>th</sup> Legislature, an idea championed by The Maine Heritage Policy Center. Now, Maine has the opportunity to build on the successes of its enabling law by expanding the reach of DPC practices.

### **Recommendations**

- Allow DPC physicians to make referrals for private insurance, Medicaid, and Medicare consumers.
- Allow insurance companies operating in Maine to sell non-ACA compliant catastrophic-only health insurance plans for Mainers who utilize DPC services.

# Reforming Medicaid



## The Problem

Spending on MaineCare—Maine’s Medicaid program—has ballooned since 2003, when substantial expansions of the program drove enrollment and expenditures to unprecedented levels. In 2016, total Medicaid spending in Maine surpassed \$2.5 billion.<sup>74</sup> Despite efforts in recent years to stabilize MaineCare spending, it continues to account for an unacceptably large portion of the state budget.

## Analysis

Medicaid—or MaineCare, as it is known in Maine—is an important public health insurance program that provides medical care to about 261,000 Mainers.<sup>75</sup> However, Medicaid’s growing budget has crowded out other spending priorities and threatened Maine’s long-term fiscal stability.

Between 2010 and 2015, the percentage of state budget funds dedicated to the MaineCare program rose by nearly five percent, accounting for nearly one-third of all state spending.<sup>76</sup> Reforms must be made to reduce spending and focus resources on Maine’s most vulnerable populations, including the elderly, children, and the disabled.

In recent years, the Department of Health and Human Services has proposed thoughtful reforms to put MaineCare on a more sustainable fiscal trajectory. For example, Maine is one of just three states that provide Medicare Savings Program (MSP) benefits above the federal minimum.<sup>77</sup> Reducing Maine’s generous MSP benefits could save more than \$20 million.<sup>78</sup>

Many of the benefits that MaineCare offers—including prescription drugs, physical and occupational therapy, vision

and eye care, chiropractic care, and many other services—are not federally-mandated. Collectively, these optional services account for hundreds of millions of dollars each year. Judiciously restricting benefits to bring Maine’s generous coverage in line with national norms could be a source of substantial savings and enable higher quality services for those who truly need it.

Lawmakers should also redirect funds from ineffective programs like the Fund for a Healthy Maine (FHM) to essential MaineCare services. The FHM, largely funded by tobacco settlement money, has spent more than \$215 million on tobacco prevention and control since 1993 with little measurable success.

In the years ahead, lawmakers should also consider reforming the expansion of MaineCare under the Affordable Care Act, which passed at the ballot box in November 2017. Maine has already experienced the disastrous fiscal consequences of expanding MaineCare coverage to childless, able-bodied adults.<sup>79</sup>

When Maine expanded coverage in 2001 and again in 2003, MaineCare quickly experienced annual shortfalls of \$50 million to more than \$100 million. The Department of Health and Human Services estimates that MaineCare expansion would cost taxpayers approximately \$400 million over the next five years, forcing deep spending cuts elsewhere or significant tax increases.<sup>80</sup>

### **Recommendations**

- Redirect revenue from the Fund for a Healthy Maine to important MaineCare initiatives like expanding access to primary care.
- Reduce Medicare Savings Plan benefits to the federally-mandated minimum.
- Align reimbursement rates of behavioral health services with other New England states.
- Reduce coverage of optional benefits.

- Limit MaineCare eligibility to Maine's most vulnerable populations, including children, the elderly, and the disabled.
- Exclude able-bodied, childless adults from Medicaid eligibility.
- Resist Medicaid expansion if implementation requires use of the Budget Stabilization Fund or results in tax increases on Maine families or businesses.

# Enhancing Health Outcomes in Rural Maine



## The Problem

Due to physician and other health care worker shortages in rural areas of the state,<sup>81</sup> Maine must employ free market solutions that give citizens in these areas access to primary care. States throughout the country are addressing this issue by connecting doctors and patients through the use of telemedicine and remote area medical clinics.

## Analysis

Telemedicine is a healthcare practice whereby doctors remotely evaluate, diagnose, and treat patients through the use of telecommunications, i.e. audiovisual consultation. Remote area medical clinics are periodic “pop-up” medical clinics run by nonprofit health entities that provide care to underserved populations in rural and impoverished areas of the world. Both concepts are emerging as realistic short and long-term solutions for combating low access to primary care services in rural areas of the country.

According to an analysis conducted by the Robert Graham Center, Maine fairs better than most states in terms of the total number of practicing primary care physicians (PCP) as a proportion of the state population. The current population to PCP ratio in Maine is 1,067:1, far lower than the national average of 1,463:1.<sup>82</sup> The center estimates Maine will need an additional 120 PCPs by 2030 to remain at current levels of utilization.

Using this data, a University of Southern Maine study concluded that “Maine does not have a primary care shortage....Rather, the state’s physician supply problem is

with physician distribution.”<sup>83</sup> For example, Oxford and Somerset counties have less than 60 PCP per 100,000 residents while Cumberland and Hancock counties have 145 or more. Seven Maine counties – Androscoggin, Oxford, Sagadahoc, Somerset, Waldo, Washington, and York – have PCP rates well below the national average.

Many studies have determined that telemedicine and remote area medical clinics are among the best methods of delivering life changing care to populations that do not have affordable or reliable access to primary care. Telemedicine has been found to have a “profound positive impact on many areas of the healthcare industry, by unburdening overloaded acute care systems, as well as improving primary care and remote, in-home, and emergency medical care.”<sup>84</sup>

Organizations that run remote area medical clinics are comprised of hundreds of volunteer doctors, physicians, and dentists that provide free medical, dental, and vision care to those who cannot afford it by organizing mobile medical clinics in rural areas of the nation. Services offered by these groups include dental cleanings, fillings and extractions, eye exams, breast exams, diabetes screenings, and physicals.

While remote area medical clinics do not offer long term care to patients, they do primarily serve populations that would not otherwise receive any form of health care services.

### **Recommendations**

- Reform Maine’s medical licensing laws to allow out-of-state professionals in good standing to easily practice in Maine.
- Require reimbursement for facility and transmission fees to make telemedicine more financially attractive.



**LABOR**



# Restoring the Right to Earn a Living



## The Problem

State laws pertaining to occupational licensing have become increasingly burdensome over the last few decades, reducing employment and entrepreneurial opportunities for many—especially low-income—Mainers. According to a recent study by the Institute for Justice, Maine licenses 45 out of 102 low- to moderate-income professions.<sup>85</sup> These include makeup artists, teachers, funeral attendants, auctioneers, and sign language interpreters, among many others. Those seeking to enter these occupations must, on average, pay \$181 in fees, devote 298 days to training, and pass one exam just to obtain a license to work in Maine.

## Analysis

Physicians and lawyers must obtain a license before plying their trade. Psychologists and dentists must do the same. Few people realize, however, the breadth of government regulation on occupational licenses.

A recent study found that more than 20 percent of Maine's workforce is licensed, representing more than 100,000 professionals. Nationwide, the proportion of the workforce needing to obtain a license has nearly quintupled since the 1950s, as state legislatures around the country have expanded the number of industries under government control.<sup>86</sup> Until 1985, for example, dietetic technicians were free to work in Maine without a license.<sup>87</sup>

The argument in favor of licensing has always been that it protects the public from incompetent charlatans. By passing strict entry requirements, proponents argue, the government

ensures that workers are well trained and consumers are protected. However, the overwhelming consensus of scholarly research is that—unless imposed with extraordinary parsimony and care—occupational licensing requirements deter people from entering the regulated profession, raise prices for goods and services, and do little to enhance public safety.<sup>88</sup>

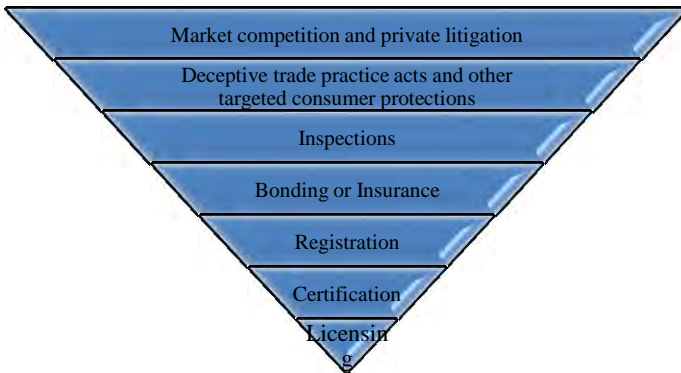
The need to license any number of occupations defies common sense. Maine requires plumbers and electricians to be licensed, but not carpenters or painters. Geologists need to be licensed, but not biologists, chemists, and physicists. Barbers require longer, more expensive training than emergency medical technicians. In addition, Maine is virtually alone in regulating certain jobs. For instance, log scalers—who are responsible for estimating the value of logs—face no employment restrictions in any state except Maine and Idaho. Maine is also one of only two states to license dietetic technicians and electrical helpers.

In a report released in July 2015, the Department of the Treasury stated: “There is evidence that licensing requirements raise the price of goods and services, restrict employment opportunities, and make it more difficult for workers to take their skills across state lines. Too often, policymakers do not carefully weigh these costs and benefits when making decisions about whether or how to regulate a profession through licensing.”<sup>89</sup>

Licensing requirements are not harmful to everyone. Entrenched industries benefit greatly from keeping new practitioners out of the market and suppressing competition. According to the Concise Encyclopedia of Economics, “it appears that every organized occupational group in America has tried at one time or another to acquire state licensure for its members.”<sup>90</sup> Licensing has more to do with imposing costly and time-consuming obstacles that limit competition than with ensuring competence and protecting public safety.

It's estimated that Maine licenses more than 200 individual occupations at a cost of 29,206 jobs and \$276 million in annual economic output.<sup>91</sup> Researchers have also concluded that Maine's licensing programs have resulted in a misallocation of resources of approximately \$2.6 billion, or \$4,719 per Maine household.<sup>92</sup>

Unfortunately, rarely are regulatory alternatives to licensure examined by lawmakers and state regulators before new occupational licensing regimes are established. As seen below, a number of less burdensome alternatives to licensure exist—such as market competition, inspections, bonding or insurance—and would achieve the same result as licensure without permanently locking workers out of meaningful employment opportunities.



*Source: Mackinac Center for Public Policy*

## Recommendations

- Undertake a comprehensive review of occupational licensing in Maine, repealing or reducing requirements that have not been shown to be necessary in protecting public safety.
- Remove “good character” clauses from licensing rules and statutes to allow individuals with past criminal convictions to re-integrate into society.

# Establishing Right-To-Work



## The Problem

Under current law, an employee in Maine may be required to pay union dues as a condition of employment, regardless of the employee's desire to join the union or experience any benefits derived from the union's activities. Based on data collected from other states, as many as 7,400 workers in Maine may opt out of compulsory union dues if given the freedom to do so.<sup>93</sup>

## Analysis

Right-to-work laws prohibit requirements that employees join or pay dues to a union as a condition of employment. They empower workers to decide for themselves whether or not joining a union is a good investment. Under right-to-work laws, employees are still free to join a union if they like, but workers can't be fired for failing to do so.

To date, 28 states have adopted right-to-work legislation, and several more are likely to follow. Though the majority of southern and midwestern states have embraced the policy, not a single northeastern state has followed suit. In Maine, where union membership is 11.4 percent, down from 13.4 percent in 2000, repeated efforts to pass right-to-work have been defeated by vociferous union leaders.

There is little doubt that forced unionization has a detrimental impact on Maine's economy. A 2014 report by the Competitive Enterprise Institute found that "the compelling preponderance of evidence suggests there is a substantial, significant, and positive relationship between economic growth in a state and the presence of a right-to-work law."<sup>94</sup> A study published in 2013 by the Mackinac Center for Public

Policy found that from 1947 through 2011, right-to-work laws increased average real personal income growth, average annual population growth, and average annual employment growth in right-to-work states.<sup>95</sup>

Peter DelGreco, president and CEO of Maine & Company, an organization that seeks to attract new businesses, jobs, and investment to Maine, has said that “the universe of decision makers who prefer right-to-work states is larger than the universe of decision makers who prefer non-right-to-work states. When we take out the sound bites and the passion and look simply at the totals, becoming a right-to-work state will encourage more decision makers to look at Maine.”<sup>96</sup>

Maine could become the first New England state to enact Right-To-Work legislation, giving us an important competitive advantage over our regional neighbors in business climate and job growth. If workers are actually benefitting from the unions that represent them, unions should not be worried about declines in membership as a result of enacting right-to-work legislation.

### **Recommendations**

- Pass right-to-work legislation to protect employees’ rights.

# Giving Public Sector Union Members a Choice



## The Problem

Current law in Maine allows public unions to negotiate in secret, demand paid time off for union activities, and maintain their representative authority even when they lack majority support among their members.

## Analysis

Reforming public sector unions is critical to enhancing transparency, reducing government spending, and protecting workers' rights. Lawmakers in Maine have many opportunities to improve fairness and accountability among public employee unions.

According to a recent report, Maine is one of just 11 states that allow government unions to negotiate in secret.<sup>97</sup> Transparency in collective bargaining allows the public, the media, and elected officials to know precisely what union officials are demanding and what public officials are offering in any negotiation over employment terms and conditions.

Taxpayers should be able to attend collective-bargaining negotiations to ensure that the public's interest is being represented. Government employees, city managers, and elected officials work for the public; the public is entitled to know what their employees are doing on their dime.

One common provision in collective-bargaining agreements guarantees "release time," during which public employees perform union business—like contract negotiations, attending union meetings, and defending members at disciplinary hearings—at taxpayer expense. For instance, the

Maine State Employee Association—which represents more than 13,000 workers—is allowed to organize up to four one-day meetings of its Board of Directors per year without loss of pay or benefits, at a cost of at least \$15,000 to taxpayers.

Release time is no more than a taxpayer-funded subsidy to government unions, with taxpayers receiving nothing in return. While public employees should not be prohibited from freely associating outside of their employment duties, this should occur at employee, not taxpayer, expense.

Automatic dues deduction—in which public employers collect dues payments directly from employees' paychecks and pass them on to the union—is another provision that is commonly found in public collective bargaining agreements in Maine. These arrangements use taxpayer-funded resources to the exclusive benefits of unions. Legislators should require unions to use their own resources to collect dues from their members.

As Greg Mourad, vice president of the National Right to Work Committee, explains: “Once their employer ceases taking their union dues out of their paychecks at taxpayers’ expense, and they have to take active measures to continue bankrolling the union, public employee union members often decide the organization does not merit their financial support.”<sup>98</sup>

Maine also lacks recertification requirements for public unions. As research by The Heritage Foundation has shown, the vast majority of public employees never had a chance to vote for the union that represents them (and claims part of their paycheck).

Often, once a government union organizes a public employer, it remains the exclusive representative of the workforce indefinitely, regardless of its members’ views. Recertification requirements protect workers’ rights and ensure that union leaders focus their efforts on reforms that tangibly help their members.

## Recommendations

- Open public-sector collective-bargaining negotiations to the public.
- Prohibit “release time” provisions in union agreements.
- Prevent municipal, county, and state governments from automatically collecting dues on unions’ behalf; unions should use their own resources to raise revenue and manage activities.
- Require that unions obtain bi-annual recertification by earning the support of the majority of their members.



# Fixing Maine's Minimum Wage



## The Problem

In 2016, Maine voters passed a minimum wage ballot initiative that has hurt small businesses and Maine's lowest wage earners. The measure incrementally raised Maine's minimum wage to \$12 an hour by 2020 and indexed future wage increases to inflation. It also removed the tip credit for food service workers, which was later reinstated by the 128th Legislature. As a result, steps must be taken to make Maine's minimum wage law workable for small businesses and low wage earners.

## Analysis

In 2017, researchers at the University of Washington used detailed employment data provided by state government to study the economic impact of Seattle's minimum wage increase. The study concluded that when Seattle's minimum wage increased to \$13 an hour in 2016, the city's lowest-wage workers saw their hours decrease by nine percent, leading to a net loss in earnings of \$125 per month, or \$1,500 less per year.<sup>99</sup>

According to the Bureau of Labor Statistics, in 2017, only 2.7 percent of Maine workers were paid at hourly rates at or below the minimum wage.<sup>100</sup> When wages rise artificially due to an increase in the minimum wage, payroll costs on businesses increase without compensation for growth in productivity or sales. With a majority of businesses operating on razor-thin profit margins, Maine's minimum wage increase gives many small businesses no choice but to reduce their operations, raise prices, lay off workers, transition to automation, or relocate to another state.

When minimum wage hikes drive businesses to reduce costs, the first victims are low-wage, low-skill workers—the same workers that minimum wage laws are intended to support. Despite calls by dozens of small businesses to slow the state’s scheduled minimum wage increases,<sup>101</sup> the Maine Legislature has continued to deny modifications to the law at the behest of the special interest groups that organized for the measure to appear on the ballot.

Sandra Fickett, owner of Tilton’s Market in Buckfield, testified before the Labor, Commerce, Research and Economic Development Committee in 2018 that “most of the wage increases have not gone to my experienced staff, who have families to support” and requested that legislators implement a training wage for young workers to master necessary and fundamental job skills before a business is required to pay them the full minimum wage.

Sammie H. Angel, owner of the Front Porch Café in Dixfield, closed her doors in November 2016 and called the passage of the minimum wage ballot initiative “the last nail in our coffin.” Like many other small business owners in Maine, Angel was unable to afford labor cost increases without increasing prices or compromising the quality of her service, and soon found herself out of business.

### **Recommendations**

- Repeal Maine’s minimum wage law.
- Delay or reduce the scheduled increases to Maine’s minimum wage law.
- Remove the law’s indexing to inflation.
- Enact a training wage for youth workers.

# Ending the Prevailing Wage



## The Problem

As a result of the federal Davis–Bacon Act of 1931, a total of 28 states—including Maine—have enacted state-level prevailing wage laws, which are proven to inflate the cost of state-funded construction projects, thus wasting valuable public resources.

## Analysis

The Davis–Bacon Act requires construction contractors and subcontractors to pay the local prevailing wage to workers when performing their trade on federally funded contracts. At the state level, the prevailing wage is the wage paid to laborers in public works construction projects led by state agencies.

Maine defines its prevailing wage as “the hourly wage and benefits paid to the median number of workers employed in a trade or occupation” on projects with value exceeding \$50,000. The state determines the prevailing wage by administering an annual survey conducted by the Maine Bureau of Labor Standards. Every September, the bureau surveys the wages and benefits paid to laborers in construction-related trades to determine the prevailing wage in each county.<sup>102</sup> According to the Maine Department of Labor, there are approximately 90 construction-related jobs for which the state pays the prevailing wage.<sup>103</sup>

The Davis–Bacon Act’s original intent was to prevent contractors from paying reduced wages to minority workers during The Great Depression. Given the numerous worker protections that exist today, many have questioned the usefulness of the prevailing wage and assert it is obsolete. In a 1979 report issued to Congress, the federal Government

Accountability Office (GAO) recommended repealing the Davis–Bacon Act because:<sup>104</sup>

“(1) there have been significant changes in the economy...which we believe make continuation of the act unnecessary, (2) after nearly 50 years, the Department of Labor has yet to develop an effective program to issue and maintain accurate wage determination, and it may be impractical to ever do so, and (3) the act is inflationary and results in unnecessary construction and administrative costs of several hundred million dollars annually.”

Prevailing wage laws effectively force taxpayers to subsidize the bloated compensation of politically influential construction unions. A 2017 report by the Empire Center for Public Policy found that New York’s prevailing wage law increases labor costs on public projects by 72 percent statewide and inflates the total cost of public projects by 13 to 25 percent.<sup>105</sup> It also found that because prevailing wage laws incorporate benefits, costly fringe benefits offered by unions can approach or exceed the cost of hourly pay.

Since 2015, five states—Arkansas, Indiana, Kentucky, Michigan, and West Virginia—have repealed their prevailing wage laws. New Hampshire ended its prevailing wage in 1985.

### **Recommendation**

- Repeal Maine’s prevailing wage law.
- Reduce fringe benefits for prevailing wage workers.



# REGULATIONS

# Bolstering Access to Broadband Services



## The Problem

In response to slow internet speeds and limited broadband access in some areas of Maine, a growing number of municipalities are funding government-owned networks (GONs). While high-speed internet is crucial to building thriving communities and attracting businesses to Maine, government intervention into the broadband market is an inefficient, costly approach that undermines the free market and burdens local taxpayers.

## Analysis

As a growing number of towns in Maine consider investing in local GONs, lawmakers in Augusta should carefully consider whether taxpayer-funded municipal broadband is an appropriate strategy for improving Maine's internet performance. Despite GON advocates' claims that municipal broadband delivers significant economic benefits to communities, many researchers have found that the costs of building and maintaining fiber-optic networks—and the effects of deterring private-sector investment and undermining competition—are high.

When municipalities invest in GONs in areas already served by private telecommunications companies, the duplication of services often leads to inefficiencies and less private-sector investment. In addition, rarely do municipalities account for future maintenance costs incurred as a result of establishing a GON. According to a study by Professor Joseph Fuhr of Widener University, "Government-owned networks compete unfairly with existing providers. As a government entity, a GON can practice various anticompetitive activities that put

private firms at a competitive disadvantage. Thus, municipalities that use taxpayer funds to build a broadband network actually act to forestall market entry and decrease competition. With GONs, consumers lose the benefits of competition and choice.”<sup>106</sup>

Municipal investment in public networks also reduces spending on budget priorities and promotes higher property tax rates. When the real price tag is fully realized, municipal governments are often forced to reprioritize in order to maintain the network, taking public funds away from areas where they’re truly needed. By any measure, basic public infrastructure in Maine is in need of substantial repairs and updates.

A recent report found 26 percent of Maine’s major urban locally and state-maintained roads are in poor condition, while 34 percent of Maine’s bridges show significant deterioration or fail to meet modern design criteria.<sup>107</sup> Maine towns also levy some of the highest property taxes in the country, and mill rates continue to climb. Instead of financing expensive municipal broadband projects, towns should focus on rebuilding their basic infrastructure and providing much-needed property tax relief to their residents.

As a 2014 report by the Advanced Communications Law and Policy Center noted, “the substantial costs of building, maintaining, and operating GONs outweigh real benefits... and there are important opportunity costs associated with a decision to pursue a GON instead of spending money on other infrastructure...or public policy needs.”<sup>108</sup> Maine should follow the lead of twenty-one other states in restricting or prohibiting local government ownership of telecommunications networks.

**Recommendation**

- Prohibit municipalities from owning or operating broadband networks.
- Require municipalities to hold two public hearings, votes by the town council and residents, and produce a fiscal note on all proposals to implement a GON.
- Resist state-level Net Neutrality regulations.



# Increasing Commercial Activity on Sundays



## The Problem

Statutes that limit commercial activities on Sunday—so-called “blue laws”—are common in Maine. They interfere with the free market by unfairly restricting businesses’ ability to generate revenue and denying consumers the opportunity to shop. In the 21<sup>st</sup> century, vestiges of our strict religious heritage, however valid when guiding personal behavior, should not dictate public policymaking.

## Analysis

Maine law prohibits businesses from opening to the public on Sunday except for works of necessity, emergency, or charity, or between the hours of 12 p.m. and 5 p.m. from Thanksgiving to Christmas, during the holiday shopping season.

Over the years, however, a litany of exceptions have been passed to allow restaurants, bowling alleys, movie theaters, pharmacies, and many other businesses to stay open on Sunday.

Importantly, car dealerships are not among the exceptions to the Sunday prohibition. Selling a vehicle on Sunday is a Class E crime, punishable by up to six months in jail and a \$1,000 fine per violation. This law is onerous to those working Monday through Friday and have only the weekend to evaluate or purchase a new car, as well as dealerships seeking to broaden narrow profit margins. It hasn’t always been this way; according to the *Portland Press Herald*, “Conducting retail business on Sunday had been almost routine behavior for a long time until about 1960,” when penalties for doing so were substantially increased.<sup>109</sup>

Blue laws also affect large supermarkets and department stores, which are required to close on Thanksgiving, Easter, and Christmas. In 2013, Fox News reported that Maine was one of only three states in the country to impose such restrictions.<sup>110</sup>

In 2015, a proposal—LD 855—was introduced to relax Sunday closing requirements for stores with fewer than 10,000 square feet of interior customer selling space (for comparison, a typical chain drug store has about 11,000 square feet of selling space), while prohibiting businesses from compelling their employees to work on Sunday.

“This bill [is] an opportunity for workers to pick up additional shifts voluntarily if they prefer or choose to work on Sundays. This could be a good opportunity for youth especially. This also provides more convenient access to grocery stores by residents,” said Julie Rabinowitz, then-director of communications and operations at the Maine Department of Labor. Ultimately, consumers should justify whether or not a store will open.

State law in Maine also allows municipalities to restrict the sale of wine, malt liquor, or spirits by local referendum, an option that several dozen towns have used to deny businesses the opportunity to operate, abridging the personal freedoms of their residents.

In September 2015, organizers of the Great North Music and Arts Festival in Norridgewock were surprised to learn that on-site alcohol consumption was prohibited, and had to cancel one of their events. “Officials in some of the towns say updating the laws would help business, but they have persisted the way they are for decades,” the *Kennebec Journal* reported.<sup>111</sup>

**Recommendations**

- Allow car dealerships to open on Sunday.
- Relax alcohol sale restrictions on Sunday.
- Allow all retail stores to open on Thanksgiving, Easter, and Christmas.

# Protecting the Rights of Property Owners



## The Problem

Housing affordability remains a persistent problem in Maine. Statewide, the most recent Census Bureau data indicates that more than one-quarter of low-income tenants pay at least 30 percent of their earnings in rent, 13 percent more than the national average. But instead of seeking to discard onerous regulations and expand the supply of housing, some state and local lawmakers are pushing for policies that would make Maine's housing market even more unaffordable.

## Analysis

Recent years have seen a renewed effort to pass rent control in several Maine communities, yet advocates of rent control ignore fundamental laws of economics. Ultimately, rent control inflicts harm on the very people its advocates are trying to help.

Economists are in virtually unanimous agreement that rent control reduces the quantity and quality of housing.<sup>112</sup> The harmful effects of rent control are many and far-reaching:

1. By preventing rents to match the market equilibrium price (where supply and demand meet), rent control discourages new housing construction and diverts investment to more profitable markets.
2. As the profitability of rental properties declines, landlords lose the incentive to invest in renovations and maintenance, leading to deterioration in the quality of housing stock.

3. Property tax revenues decline as reductions in investment and upkeep lead to lower rental property values.
4. A costly bureaucracy is typically needed to enforce rent control policies. Rental units must be registered, detailed information must be collected, systems for determining rents must be created, and hearing and appeals processes must be established.
5. Due to the scarcity of vacant housing in many rent-controlled communities, prospective tenants must pay substantial finder's fees to obtain a rental unit. Low-income people are especially hard-hit by these costs.

More than anything else, rent control is a political tool. At first glance, it sounds like it would help the poor and combat housing inequality. In fact, it tends to benefit the well-connected and those who are able to get to the front of the line for rent-controlled units.

In response to overwhelming consensus among experts that the costs of rent control substantially outweigh its benefits, the vast majority of states have either prohibited or greatly constrained rent control. Yet, according to the National Multifamily Housing Council, Maine is one of just nine states that lack any state laws preventing localities from adopting rent control.

In addition to rent control policies, another damaging form of rental regulation has gained traction in Maine in recent years, including the communities of Sanford, Waterville, and Yarmouth. Several municipalities have recently enacted ordinances which compel landlords to register their rental properties and allow town officials to inspect rental units without a warrant. Mandatory rental inspections violate the 4th Amendment and may deter entry into the housing market. People should not lose their privacy rights just because they choose to rent a property.

**Recommendations**

- Prohibit municipalities from implementing rent control, creating rental registries, or allowing warrantless property inspections.

# Lowering Child Care Costs



## The Problem

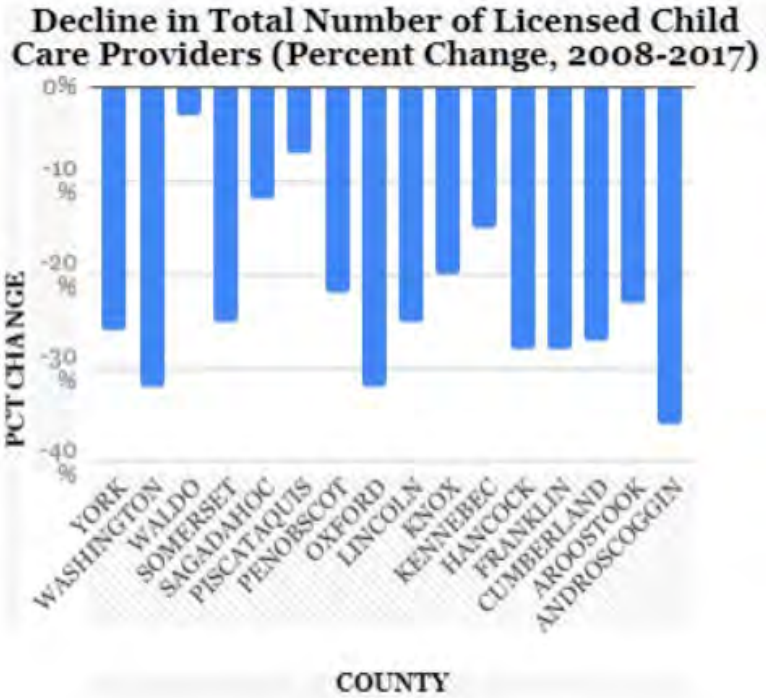
For many families with young children, especially single-parent households, child care is critical to being able to work and earn a living. Yet despite its importance, the cost of child care is often prohibitive for low-income Mainers.

## Analysis

According to Child Care Aware of America, in 2017, a Maine family with two children at the poverty line would spend 90 percent of its income for both children to receive center-based child care services. The same family would spend 70 percent of their income to enroll their children in a home-based program. The average annual cost of center-based child care in Maine is \$9,667, which exceeds the average cost of a year's tuition at one of the state's four-year public universities (\$9,573). This is also true for 41 other states and the District of Columbia.

Child care shortages are being felt across the state, limiting access for working parents and driving up the cost of care. Chantel Pettengill, who runs a child care center in Lewiston, recently testified to the Legislature: "We are...in a childcare crisis, I have been open since November...my infant rooms are full (16 infants), my toddler room has only two slots left, and the same for my two-year-old room."<sup>113</sup>

Since 2008, each county in Maine has experienced significant reductions in the total number of licensed providers, particularly in family child care.



Source: Office of Child and Family Services – Maine DHHS

Vicki Gordon—who owns a daycare in Freeport—recently stated: “As more and more daycare regulations are passed, more and more great home daycares are closing, because it is becoming almost impossible to comply with all the rules and regulations.”<sup>114</sup>

As the *Washington Examiner* noted in 2014, “excessive regulation of daycare and preschool mostly hurts the poor and working class. For one thing, it makes daycare rarer and more expensive.”<sup>115</sup> A paper by the RAND Corporation concluded, unsurprisingly, that “regulations have an economically significant effect on the price of childcare, which in turn affects both the demand of regulated care and the labor force participation choices of the mothers.”<sup>116</sup>

Intuitively, strict regulations on child care providers may seem necessary to ensure the safety of vulnerable children



and promote high-quality services that spur cognitive, emotional, and social development. Yet, according to a report by the National Center for Policy Analysis, “state and local regulations significantly affect the price of care without improving quality.”<sup>117</sup>

A 2015 study by the Mercatus Center determined that policymakers often focus their regulatory efforts on structural, easily-observable aspects of child care—such as group sizes, zoning restrictions, and program administration—despite evidence that developmental outcomes are more closely linked to the quality of the interactions between the caregiver and the child.

In Maine, about 200 pages of regulations apply to child care facilities, nursery schools, or family child care providers. Depending on the type of provider and the age of the children being cared for, the Department of Health and Human Services imposes strict staffing ratios.

For instance, in a small child care facility (defined as a business that cares for 3 to 12 children under the age of 13), one staff member may not supervise more than 12 children over the age of five. Similarly, child care centers—facilities with more than 13 children—may not allow one staff member to care for more than four infants.<sup>118</sup>

Though it’s important to ensure that children receive the attention and supervision they need, these staffing ratios increase labor costs, have not been demonstrated to be beneficial to child development, and are often more restrictive than other states.

Twenty-eight states, for instance, allow staff members to supervise more 5-to-13-year-olds than Maine.<sup>119</sup> While Maine limits the number to 13 children per staff member, some states—like North Carolina and Florida—allow 25 children. Using a limited dataset, a study by the General Accounting Office estimated that increasing strict child to adult ratios could lead to substantial reductions in costs.<sup>120</sup>

The motivation for tightly regulating the child care market—the desire to protect the thousands of children who rely on commercial child care from neglect or abuse—is laudable. Yet, despite extensive government involvement, the overall quality of child care in Maine remains mediocre while prohibitive costs prevent many low-income families from pursuing professional or educational opportunities made possible by reliable child care.<sup>121</sup> Reducing burdensome regulations would allow more entrepreneurs to enter the child care arena and lead to more affordable options.

### **Recommendations**

- Align child/adult ratios allowed in child care facilities in Maine with national averages.
- Eliminate educational requirements for lead teachers and other staff that have not been demonstrated to improve service quality.
- Allow providers to watch more children without certification.
- Reduce the fees associated with obtaining a license to practice as a child care provider and extend the term of the license.
- Review existing rules and eliminate those that were not carefully tailored to mitigate legitimate health and safety risks.
- Prevent the creation of new rules and regulations that are not tailored to mitigate legitimate health and safety risks.

# Repealing Maine's Vehicle Inspection Program



## The Problem

While a concern for public safety should always be on legislators' minds, Maine's vehicle inspection program is outdated and unnecessary. Drivers spend an estimated \$16 million—and countless hours—getting their vehicles inspected each year, despite the absence of evidence that mandated inspections increase safety or reduce the number of accidents and injuries on our roads and highways.

## Analysis

Maine passed its vehicle inspection law in 1930 at a time when vehicles were far less reliable and considerably more dangerous than they are today. Proponents of Maine's vehicle inspection program assert these examinations are necessary to protect motorists and ensure cars are safe to drive on public roadways. However, driver error is the biggest cause of automobile accidents, while mechanical failures—which are what vehicle inspection programs are intended to prevent—account for as few as two percent of crashes.

Using accident report data from 1981 to 1993, a study found that vehicle inspection programs do not reduce fatality rates or the number of nonfatal accidents. In addition, little evidence exists to suggest that motor vehicle accidents occur as a result of mechanical failure. A recent study by the Libertas Institute found that, in 2013, only 3.8 percent of motor vehicle accidents in Utah were due to mechanical failures. The majority of reported accidents were caused by speeding.<sup>122</sup>

Proponents of the program also claim inspections are necessary because the chemicals used on our roads in the

winter exacerbate problems with rust and wear-out of exhaust, brakes, struts, and other vehicle components. Yet winter conditions haven't prevented Minnesota, North Dakota, or Connecticut—which receive an average of nearly 50 inches of snow each year—from repealing their vehicle inspection programs. Research using crash statistics from these states has not shown an increase in vehicular accidents, injuries, or fatalities in the absence of an inspection requirement.

Owning a car opens doors of opportunity that are often beyond the reach of those reliant on public transit, especially in rural areas of the state where poverty is most acute. Reducing the costs of purchasing and maintaining a vehicle should be an important goal of policymakers seeking to alleviate poverty.

The inspection requirement has grown so burdensome for some Mainers that they have begun making their own inspection stickers. As reported by the *Portland Press Herald*, the State of Maine had to crack down on a Saco counterfeiter's black market vehicle inspection operation in 2017.<sup>123</sup>

Seventeen states have repealed their inspection programs over the last few decades, including Utah in 2017, understanding that these inspections do not ensure safety and only offer a snapshot in time of a vehicle's overall condition and performance. Continuation of Maine's inspection program constitutes a burdensome regulation that disproportionately impacts low-income earners.

To maximize access to transportation and reduce unnecessary costs on drivers, lawmakers should repeal the requirement that personal cars pass a state inspection.

## Recommendations

- Repeal the requirement that personal cars pass a state inspection.
- Require inspections only every two or three years instead of annually.
- Remove inspection requirements for new vehicles, specifically those less than 10 years old.
- Revise inspection guidelines to ensure that safety concerns are the only acceptable justification for failing a vehicle.
- Reduce the penalties for failing to inspect a vehicle.



# TAXES

# Phasing Out the Personal Income Tax



## The Problem

Maine’s personal income tax hampers economic growth, accelerates out-migration, and places us at a competitive disadvantage with other states by discouraging work and investment.

## Analysis

Despite recent income tax reductions, Mainers continue to shoulder a large income tax burden. Maine’s individual income tax system consists of three brackets with a top rate of 7.15 percent. According to The Tax Foundation, Maine’s top income tax rate ranks 11<sup>th</sup> highest among states that levy an individual income tax. State and local tax collections per person in Maine were \$1,153 in 2015, which ranked 19<sup>th</sup> highest nationally.

Eliminating the income tax would have a profound impact on Maine’s entrepreneurs and job creators, spurring private-sector investment and employment by returning hundreds of millions of dollars to where they are best spent—by individuals in their communities. In 2016, Tennessee fully eliminated its income tax, joining a growing number of states that have embraced low-tax policies. As wealth continues to flow from Maine to Florida and New Hampshire, lawmakers should realize that Maine’s high-tax climate is unsustainable.

Repealing the income tax would be particularly beneficial for Maine’s small businesses, which collectively support 61 percent of private-sector jobs. Many small businesses—including S-corporations, sole proprietorships, and partnerships—are “pass-through entities” which report

revenues on their owners' personal income tax return. In 2014, more than 145,000 tax filers in Maine reported business income.<sup>124</sup> Repealing the income tax would allow job creators to keep more of their money to re-invest in their businesses and expand their operations.<sup>125</sup>

A 2012 study by Arthur Laffer and Stephen Moore found that, in any ten-year period since 1960, states with no income tax consistently outperformed the highest income tax states (including Maine) on measures like population growth, personal income, Gross State Product, and employment. "The Northeast is falling further and further behind, and the South is booming. One of the biggest factors behind that phenomenon is that the South, on a whole variety of economic policy variables we have examined, is a region much more receptive to business and worker rights than the high tax, heavily unionized Northeast," the report concluded.<sup>126</sup>

In 2006, in an exhaustive report on Maine's economic future, the Brookings Institution declared that "high overall burdens, the second-highest property taxes in the nation, and the state's low thresholds for its very high personal income tax top rate all may well be sending negative signals to workers, entrepreneurs, and retirees about the state as a place in which to live and do business." Building on recent tax reductions, it's time to repeal the income tax entirely and send a message that Maine is truly open for business.

## **Recommendations**

- Repeal the individual income tax entirely.



# Reducing Motor Vehicle Taxes and Fees



## The Problem

Maine's high motor vehicle excise taxes and car fees are a burden on many, particularly low-income households. By limiting transportation options for low wage earners, these taxes make it harder for them to find and keep a job, access child care and educational opportunities, and engage in their communities.

## Analysis

Maine policymakers have enacted detrimental policies that make it harder for low-income individuals to purchase and operate a car. Maine's red-tape and regulations surrounding automobiles are tremendously expensive, and another huge cost that drivers must overcome. An analysis in 2012 revealed that the average annual cost of operating a car in Maine—when insurance, repairs, and gasoline expenses were calculated—was about \$2,200. An estimated 42,000 drivers in Maine—roughly seven percent of all vehicle operators—lack legally required liability automobile insurance, an indication of the financial strains that owning a car creates.

When purchasing a car privately or from a dealer, individuals must pay a five and a half percent sales tax. If a person is buying a vehicle with a manufacturer's suggested retail price of \$20,000, the tax would be an astonishing \$1,100. If that vehicle cost \$30,000, the purchaser would pay \$1,650 in sales taxes. Many states have lower car taxes, and some—like New Hampshire—don't have any automobile sales taxes at all. The owner must also pay an annual municipal excise tax to register their vehicle. While this excise tax varies depending on the age of the vehicle, the tax burden is often high. If those

\$20,000 and \$30,000 vehicles were made in 2017, the excises taxes on each would be \$480 and \$720, respectively. Even the excise tax on a \$20,000 car manufactured in 2005, a more realistic choice for a low-income family, would still be \$80.

The owner must also pay a fee—which is \$35 for passenger vehicles—when they go to register their car. If the car was purchased privately, they must also pay a \$35 title application fee. Many municipalities also charge an agent fee. Every year, an individual must re-register their car and pay another registration fee.

All told, the owner of a new \$20,000 vehicle would pay more than \$1,600 in fees and taxes the first year they purchased their car. The owner of a new \$30,000 car would pay more than \$2,400.

By reducing these taxes and fees, policymakers can help to reduce the high costs of car ownership and promote the availability of transportation for those living in poverty.

### **Recommendations**

- Reduce the Motor Vehicle Excise Tax rates.
- Require personal vehicles to be registered biannually for a fee of \$50.
- Allow municipalities to assess the excise tax based on the purchase price of the vehicle rather than the MSRP price.

# Abolishing Sin Taxes



## The Problem

Over the years, lawmakers have enacted several so-called “sin taxes” that seek to discourage certain behaviors, like drinking or smoking. While proponents argue that these taxes reduce habits that are harmful to public health, these policies are largely ineffective. In addition, sin taxes are notoriously regressive, imposing the highest burden on Maine’s poorest residents.

## Analysis

In 2014, Maine collected \$206.7 million (5.4 percent of total tax revenues) in sin taxes on alcohol and tobacco products, as well as casino and video gaming activities.<sup>127</sup> Maine’s cigarette tax is currently \$2.00 per pack, the 14<sup>th</sup> highest in the country and 16 percent above the national average.<sup>128</sup>

There is little evidence that sin taxes are effective. According to the Mercatus Center, “research has shown that when the price of a ‘sinful’ good increases, consumers often substitute an equally “bad” [product] in its place.”<sup>129</sup> For example, two studies found that teen marijuana consumption increased when states raised beer taxes or increased the minimum drinking age.

Another study found that smokers in high-tax states are more likely to smoke cigarettes that are longer and higher in tar and nicotine than smokers in low-tax states. Ultimately, as a report by the National Center for Policy Analysis summarized, “when prices for tobacco and alcohol products rise due to tax increases, demand for these products does not go down much. A few consumers will quit and many will substitute lower-cost brands, but most lower-income smokers and drinkers will

continue to use tobacco and alcohol. Thus, raising taxes on these products makes the tax burden even more regressive.”<sup>130</sup>

A 2008 Gallup poll showed that about 30 percent of American adults earning less than \$36,000 per year smoked. By contrast, only 13 percent of those with incomes exceeding \$120,000 used tobacco products.<sup>131</sup> A 2014 study confirmed that cigarette smoking is strongly associated with income and educational achievement.<sup>132</sup>

According to a 2012 survey, about 31 percent of smokers smoke one pack a day, while an additional 68 percent smoke less than one pack.<sup>133</sup> In other words, nearly one-third of smokers in Maine—who are disproportionately low-income—face an annual burden of more than \$700 in sin taxes, while many more pay hundreds of dollars per year.

### **Recommendation**

- Remove or reduce “sin taxes” on alcohol and tobacco.

# Cutting the Sales Tax



## The Problem

Maine's flat sales tax is highly regressive, imposing significant burdens on low-income taxpayers. It also puts Maine businesses—particularly those in border counties—at a competitive disadvantage with New Hampshire, which doesn't levy a general sales tax.

## Analysis

Maine's sales tax disproportionately impacts low-income earners because, as a recent analysis by Pew Charitable Trusts noted in 2014, "low-income families spent a far greater share of their income on core needs, such as housing, transportation, and food, than did upper-income families."<sup>134</sup>

On average, the bottom 20 percent of Mainers paid 6.1 percent of their income in sales and excise taxes in 2015, totaling \$744 per family. The next 20 percent paid, on average, \$1,331 in 2015.<sup>135</sup>

Changes to the sales tax that took effect in January 2016 expanded the sales tax base by increasing the number of taxable services and food products. Although legislators also created a refundable income tax credit to provide sales tax relief to low-income families, it adds to the convolution of the tax code, is unlikely to fundamentally alter consumer behavior, and should be replaced by a lower tax rate. Broadening the tax base is an acceptable strategy only if paired with rate reductions that result in a lower overall tax burden.

Reducing Maine's sales tax would help reduce cross-border shopping and the distinct retail advantage New Hampshire

now enjoys. In a 2011 report, The Maine Heritage Policy Center estimated that Maine lost \$2.2 billion in retail activity to New Hampshire in 2007, thanks in large part to our comparatively high sales tax burden.<sup>136</sup>

The study also predicted that “lowering Maine’s sales and excise taxes would likely increase retail sales to the point where greater business performance would increase other tax collections, such as the individual and corporate income tax, which would more than offset the lower sales and excise tax revenue.”

### **Recommendation**

- Remove or reduce Maine’s general sales tax rate.

# Encouraging Charitable Giving



## The Problem

In 2013, legislators passed a budget that included a cap on itemized deductions, including the charitable giving deduction. As a result, donations to vital nonprofits have declined and charities have been forced to scale back their operations in communities across the state.

## Analysis

Maine's \$28,550 cap on itemized income tax deductions (including charitable giving deductions) reduces the incentive for wealthy individuals to contribute to nonprofits. When a cap on charitable giving deductions was put in place in 2013, a coalition of nonprofit groups immediately began urging lawmakers to repeal the cap, warning that penalizing wealthy donors for their generosity would undermine nonprofits' efforts to serve the people of Maine.

They were right—after a sharp decline in charitable giving from 2006 to 2012, the policy caused Maine nonprofits to lose an estimated \$20 million annually since its adoption.

According to the National Council of Nonprofits, "Limitations on state charitable deductions and other giving incentives effectively remove motivations for donations to churches and synagogues, domestic violence shelters, early childhood programs, food banks, school alumni groups, and all other charitable nonprofits, and... further reduce the ability of charitable organizations to meet the increasing need for services in their communities."

Maine isn't the first state to impose a cap on charitable giving deductions. A few years ago, lawmakers in Hawaii and

Michigan—in an effort to mitigate severe budget deficits—decided to repeal tax credits for donations to food banks and homeless shelters.

The adverse effects of the policy were immediately felt as giving declined, and the caps were quickly lifted. Other states that have enacted tax reforms—including North Carolina, Kansas, and Montana—have expressly exempted charitable donations from deduction limits.

Maine politicians should learn the lessons of other states and recognize that raising revenue on the backs of nonprofit organizations is a mistake.

### **Recommendation**

- Lift the cap on charitable giving entirely.
- Align the charitable deduction cap with federal law.



# Eliminating Maine's Estate Tax



## The Problem

Maine's estate tax—commonly known as the “death tax”—is an unpredictable and diminishing revenue source that places a significant burden on family businesses and farms, especially multi-generational job creators in rural areas.

## Analysis

After the death of a family member, a family is sometimes forced to either sell the business altogether or reduce capital equipment to pay the estate tax liability. Often this results in a residual impact in the loss of private sector jobs.

As noted in a recent study, “death taxes are self-defeating because they drive out businesses and high-income residents. Even for those choosing to remain in death tax states, the elderly are incentivized to spend down their assets while alive or to find tax shelters, which results in massive disinvestment in family-owned businesses—the backbone of local economies.”<sup>137</sup>

A report by The Heritage Foundation confirms that “citizens whose estates are most likely to be partially confiscated at death are often moving elsewhere to escape taxation,” leading to a reduction in capital stock to spur local economic growth.<sup>138</sup>

As a result, several states have repealed their estate tax since 2010, and Maine remains among the minority of states relying on this inefficient form of taxation.

The estate tax is also highly volatile and generates relatively little revenue. Estate tax collections totaled \$79 million in 2013, \$24 million in 2014, and \$31 million in 2015.<sup>139</sup>

In 2014, the estate tax accounted for only 0.8 percent of total state revenue.<sup>140</sup> Clearly, the estate tax's utility as a source of revenue does not justify its ancillary effects on the business environment and the hostile message it sends to many of Maine's residents.

### **Recommendations**

- Repeal the estate tax entirely.
- Increase the exclusion amount applied to Maine properties from \$5.45 million to \$11 million per individual.

# Providing Property Tax Relief



## The Problem

Maine's revenue sharing program was created in 1973 to redistribute state revenue to cities and towns across Maine. When it was created, the Legislature made clear that its purpose was to "stabilize the municipal property tax burden and to aid in financing all municipal services."

However, revenue sharing has failed to limit the growth of local property taxes. Since the program's creation more than four decades ago, local property tax collections have roughly doubled in inflation-adjusted dollars, even as revenue sharing funds have consistently grown.

## Analysis

Maine's municipal revenue sharing program transfers a small percentage of tax collections from major broad-based taxes—including the income tax and sales tax—directly to municipalities in an effort to alleviate local property tax burdens and supplement municipal budgets. Revenue sharing peaked in 2008 when \$133 million was allocated to municipalities. Despite these efforts, Maine's municipal property tax burden ranks 17th in the country.<sup>141</sup>

Currently, revenue sharing is designed to distribute a higher percentage of funds to municipalities with very high tax burdens.<sup>142</sup> Although the intent of the provision was clearly to allow high-tax cities and towns to reduce their property tax rates by providing state aid, municipalities have taken advantage of this feature of the program to raise local taxes and attract additional state funds.

Whenever money is raised at one level of government and spent at another, there is a loss of accountability to voters. State officials who determine the tax rates, on which revenue sharing funds rely, have no control over how localities spend the money.

Similarly, municipal leaders aren't accountable for revenues raised at the state level, and can complain that state funds are insufficient when justifying local tax hikes to support irresponsible spending and unnecessary programs. Adjusted for inflation, total local government spending in Maine grew from \$3.7 billion in 1992 to \$4.2 billion in 2000; by 2013, it had reached \$4.7 billion.

Reforming the revenue sharing program to incentivize sound municipal budget management is crucial if we are to put Maine on a sustainable fiscal path.

### **Recommendations**

- Eliminate the revenue sharing program.
- Reform the revenue sharing formula to reward municipalities for lowering property taxes, instead of incentivizing excessive spending.

# Protecting Innovation within the ‘Sharing Economy’



## The Problem

The "sharing economy"—in which assets and services are shared between private individuals, typically by means of the Internet—allows people to connect and exchange in ways unimaginable a decade ago. In response, some policymakers have tried to impose taxes and regulations that would stifle the innovation that has been the driving force behind sharing economy platforms. Such onerous policies would reduce competition, raise prices on services, and decrease the social benefits that the sharing economy provides to Mainers.

## Analysis

The sharing economy illustrates the wonders of the free market. Companies such as Uber, Lyft, TaskRabbit, Instacart and others are delivering substantial consumer benefits; according to one estimate, the social value of Uber in 2016 was equivalent to giving every American \$20, whether or not they used the service.<sup>143</sup> Fueled by people seeking flexibility and opportunity through part-time work, and made possible through unprecedented technological innovations, the sharing economy is challenging the status quo throughout the world.

At its core, the sharing economy allows for idle assets to be more fully utilized. It makes it easier for a household to rent out an empty house, room, or car.

The barriers to entry in the sharing economy are very low, which drives competition and reduces prices for consumers. Prices are further lowered because key business functions are outsourced to platforms, thus creating economies of scale.

Anyone with a car, room or free time can participate in the sharing economy. The opportunities for individuals to create their own micro-businesses to supplement or fully provide income are virtually unlimited.

In addition to greater affordability, the sharing economy provides consumers greater product and service variety. Tourists looking to stay in an area, for example, can choose between renting a family's spare bedroom, a private apartment, or a whole house. Likewise, Uber allows customers to select the type of vehicle and seat capacity they prefer.

Despite these benefits, heavy-handed government meddling could easily disrupt this valuable part of our economy. Opponents of the sharing economy—namely those in established industries whose profits have been reduced by their innovative competitors—only seek government intervention in these markets as a form of protectionism.

### **Recommendations**

- Protect the sharing economy by only adopting regulations that reduce barriers to entry, promote transparency and competition, and safeguard property rights.
- Prohibit municipalities in Maine from enacting ordinances that stifle the sharing economy.

# Gutting Corporate Welfare



## The Problem

Economists have long criticized politicians' penchant for creating narrow legal carveouts and targeted tax exemptions to lure large corporations. Both economic theory and empirical evidence indicate that these incentives are ineffective ways of spurring economic development.<sup>144</sup> Despite these findings, government continues to pick winners and losers through tax policy when the elimination of corporate welfare could result in substantial savings for all Maine taxpayers.

## Analysis

The scale of corporate welfare at the federal level is quite alarming. In 2012, the Cato Institute calculated that the federal government spends almost \$100 billion annually on corporate welfare. That's an average of \$870 for every American family.<sup>145</sup>

It is confusing enough collecting data on federal agencies to come up with an aggregate figure, but, until recently, the task of doing so at lower levels of government was herculean. The web of state and local corporate welfare provisions was so tangled that quantifying their impact was nearly impossible.

However, thanks to a crucial rule change and a new database by Good Jobs First, we now have a glimpse into the financial effects of these cronyist policies.<sup>146</sup> In August 2015, the Government Accounting Standards Board (GASB) issued Statement No. 77 which requires GASB-compliant state and local governments to report on revenues lost due to corporate tax breaks.

According to Good Jobs First, in 2017, companies in Maine received at least \$42,465,028 in various state and local tax breaks and other giveaways. (The actual figure is likely higher, since this estimate is based on a limited review of state laws and only includes 24 municipalities.)<sup>147</sup>

A recent study from the Mercatus Center at George Mason University uses this estimate to quantify the opportunity costs of corporate welfare for every state.<sup>148</sup> The table below shows the extent to which the elimination of corporate incentives in Maine would allow policymakers to lower corporate income taxes, personal income taxes, or sales taxes and still support general fund spending.

<b>Possible Tax Reductions by Eliminating Corporate Welfare</b>	
<u>Tax</u>	<u>Possible reduction</u>
Corporate Income	-25.3%
Personal Income	-2.7%
Sales	-3.0%
Total tax burden	-1.3%

Source: Mercatus Center, *The Opportunity Cost of Corporate Welfare*

Slashing Maine's corporate income tax by one-quarter for every business in Maine is far more likely to create jobs and promote economic growth than offering a small handful of corporations massive taxpayer-financed incentives with little oversight or accountability.

### **Recommendations**

- Reduce or eliminate the tax credit and incentive programs offered through the Department of Economic and Community Development.



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