

130TH MAINE LEGISLATURE

MAINE LEGISLATIVE GUIDEBOOK



MAINE POLICY
INSTITUTE

MAINE POLICY INSTITUTE

**MAINE LEGISLATIVE
GUIDEBOOK
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“When plunder has become a way of life for a group of people living together in society, they create for themselves in the course of time a legal system that authorizes it, and a moral code that glorifies it.”

~ Frédéric Bastiat

About Maine Policy Institute

Maine Policy Institute, formerly known as The Maine Heritage Policy Center, is a 501(c)3 nonprofit, nonpartisan organization that conducts detailed and timely research to educate the public, the media, and lawmakers about public policy solutions that advance economic freedom and individual liberty in Maine.

Governed by an independent Board of Directors, Maine Policy relies on the generous support of individuals, corporations, and foundations, and does not accept government funds or perform contract work. With six full-time staff members and hundreds of individual supporters, we 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.

Over the past seventeen years, we have testified hundreds of times before the Maine Legislature. Some of our most notable victories include the largest tax cut in state history, historic welfare reforms that led to higher rates of employment, public-sector pension reform that saved taxpayers more than \$1 billion, and financial transparency, including “sunshine” on the pay and perks of government employees. These positive changes are the direct result of Maine Policy’s work and generosity of our supporters.

Introduction

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

This guidebook centers around Maine Policy Institute's three central themes: taxes, education, and health care. We discuss 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 as the 130th Legislature, Maine Policy Institute welcomes the opportunity to serve as a vital resource. Thank you for sharing our commitment to a freer, more prosperous Maine.

The staff of Maine Policy Institute is eager to discuss these ideas in greater depth; please don't hesitate to contact us at (207) 321-2550 or 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 extending to the right.

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. 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.

Table of Contents

EDUCATION

Charter Schools	1
Education Savings Accounts	5
School Administration Consolidation	10
Free Speech on Campus	12

ELECTIONS

Ballot Initiatives	16
Maine Clean Elections Act	19
Ranked-Choice Voting	22
Voter ID	24

ENERGY

Renewable Portfolio Standard	27
100 Megawatt Cap	30
Regional Greenhouse Gas Initiative	32
Wind Energy	34
Transportation and Climate Initiative	36

GOVERNMENT REFORM

Emergency Executive Authority	40
Welfare	43
Legislative Process	47
Budget Process	49
Boards and Commissions	52
Limiting Legislative Proposals	54

HEALTH CARE

Certificate of Need	57
Reforming Medicaid	61
Health Care in Rural Maine	65
Medical Licensing	68

INTERNET

Government Owned Networks	73
Net Neutrality	78
ConnectMaine Authority	81
ISP Mandates	86

LABOR

Occupational Licensing	90
Right-to-Work	94
Agency Fees	96
Public-Sector Union Reform	99
Minimum Wage	103
Prevailing Wage	106

REGULATIONS

Blue Laws	109
Rental Reform	112
Child Care	115
Vehicle Inspections	120
Regulatory Reform	123
Sharing Economy	126

TAXES

Income Tax	129
Excise Tax and Motor Vehicle Fees	131
Sin Taxes	133
Sales Tax	135
Charitable Giving	137
Estate Tax	139
Revenue Sharing and Property Taxes	141
Corporate Welfare	143

ABOUT THE AUTHORS	145
--------------------------	-----

ENDNOTES	146
-----------------	-----



EDUCATION

Improving on the Success of Maine Charter Schools

The Problem

Charter schools in Maine are held back by unnecessary restrictions despite their demonstrated success and capacity to improve educational outcomes, particularly among special needs, poor and disadvantaged students. Recent legislation signed into law permanently caps the number of charter schools that can operate in Maine at 10, and limits the amount of students that can attend virtual charter schools.

Analysis

Charter schools are some of the most promising new developments in the quest to improve Maine's public school system. 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.¹

A brief description of charter schools from the Maine Charter School Commission website reads:

“Charter schools are public schools of choice. Students can decide to attend a charter school as an alternative to the district public school to which they have been assigned.... Charter schools are publicly funded schools, created and governed by volunteers in a nonprofit organization, and operated independently of the traditional public school system. Charter schools have some flexibility that traditional public schools may not have over decisions concerning curriculum and instruction, scheduling, staffing and

finance. In return for this flexibility, charter schools are held accountable to the terms of contracts (their charters) that authorize their existence. In addition, they must adhere to all applicable federal laws, health and safety laws, and the same academic standards to which all public schools are accountable.”

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.”² 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.³

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.

But unfortunately, Maine has placed a strict cap of 10 on the number of charter schools that may educate our children. Predictably, this cap is proving to be far too low. As of this publication, all 10 slots for charter schools have been filled, with every school at nearly full enrollment, and current waiting lists of up to almost 600 potential students.

Some of the most serious charges leveled against charter schools in Maine since their inception have been that charter schools underperform, they are a drain on traditional public education funds, and that the Maine Charter School Commission can’t perform both application review and current charter school evaluation. Available evidence suggests these charges are off base.

In a recent interview with the executive director of the Maine Charter School Commission Bob Kautz, he stated: “The original application and authorization process for charter schools ensures the standards charter schools *must keep* (emphasis added) in order to maintain their status. Charter schools are under constant rigorous scrutiny and have a comprehensive intervention protocol to assure they are achieving these goals.”

If a charter school is not maintaining its performance standards as agreed upon in their initial authorization agreement, they become sanctioned and put on probation. If they do not improve, they lose their status as a public charter school and are then closed.⁴ In short, direct accountability ensures performance levels are high or else they are shut down, a process to which current traditional public schools need not adhere.

As far as funding, any traditional public school has the ability to increase their budget and get it approved by their school board and their local residents, without the added performance scrutiny required for charter schools. Traditional public schools are allowed to raise and keep revenue above their allotted 45% of the state school funding formula, something charter schools cannot do.⁵ Therefore, charter schools are not “diverting funds” from traditional public schools. As long as charter schools are meeting their criteria and being re-authorized, they are serving the public school system as intended.

Furthermore, current enrollment numbers for charter schools are above 2,400 students from 289 municipalities in Maine, with nearly every charter school at capacity and a statewide waiting list of nearly 600 students.⁶ These numbers, coupled with the scrutiny of maintaining a charter school authorization, reflects the fact that charter schools are working, successful, and meeting the needs of their students and parents. It also reflects the growing need for more charter schools.

As for the supposed “inability” of the Maine Charter School Commission to both review applications and evaluate existing charter schools, the commission has a specific timeline in state statute (90 days from submission deadline) to issue approval or denial. Since the inception of Maine Public Charter Schools in 2011, 26 schools have applied, with one school withdrawing its application, and as of this publication, 10 have been approved.⁷ An average of 2.5 are processed a year within that 90-day period, with the rest of the year dedicated to evaluating existing schools. Given the current success of our existing public charter schools, the Maine Charter School Commission is successfully performing its duties.

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 red tape. Allow Maine families access to greater education options and allow Maine’s economy to have access to more qualified workers.

Recommendations

- Remove the cap on the number of charter schools that may be approved by the Maine Charter School Commission.
- Raise the cap on charter schools by one school annually. If that spot remains open by the end of the year, it remains the successive year’s open spot.
- Raise the current limit on the number of charter schools by one whenever that limit is reached.
- Remove the enrollment cap on virtual charter schools.

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. Maine parents have limited choice, and government intervention is consistently limiting the few options they have. The one-size-fits-all approach to public education has failed Maine students, but there are options to empower parents and students through the enactment of Education Savings Accounts (ESAs) or Open Enrollment policies.

Analysis

Every parent should have the right to choose what school best meets their child's needs and have their child attend that school, provided that parents offset the cost of some services (transportation to and from school, for example).

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."⁸ A follow up report published in 2019 confirms that enrollment in Arizona's ESA program has grown to over 6,400 students from 144 when it was first created. It has saved taxpayers' money and has actually *increased* per pupil public school funding.⁹ ESAs expand parental choice 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 from ESAs 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.

ESAs can significantly reduce government education spending, saving taxpayers millions of dollars. Instead of funding school systems, 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 enact ESAs, the government deposits 90% 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 10% of student funds to administer the program and saves the rest. Thus, each student using a savings account actually saves money for the state.

The average per pupil cost to educate a public school student in the state of Maine is \$12,442.95.¹⁰ If Maine adopted a similar 90% funding plan, taxpayers could save more than \$1,000 on each participating student. Assuming 10% of current public school students opted for an ESA, Maine could economize roughly \$17.8 million annually on per pupil operating costs.¹¹

Another solution to school choice that is gaining traction in the United States is Statewide Open Enrollment policies (otherwise known as Controlled Open Enrollment, or Statewide Enrollment Options). Almost all states in the U.S. have some component of Open Enrollment (47 states),¹² including Maine, but most are very limited in nature. However, there are a few examples of states that have made the most of the process, and Maine should follow suit.

The premise behind Statewide Open Enrollment policies is that it offers a public school choice option that gives students and parents access to schools that are not within their residential district. Policies vary, but as long as a receiving school has not reached capacity (based on a first-come-first-serve or lottery system with a school's capacity listed on their public website), a student can attend any school with some restrictions. It should also be noted that states that use Open Enrollment policies allow local school districts to decide for themselves if they want to enter the program through an application to their state Department of Education.

For example, in Minnesota's Open Enrollment program, once a student is accepted in the program they may attend the receiving school through high school graduation. Also, the student's siblings will receive higher consideration at that same receiving school when a lottery is held, if spaces are limited.¹³

Florida has a similar law, but with different components. For instance, Florida offers a component of preferential treatment to the following:

- Dependent children of active duty military personnel whose move resulted from military orders;
- Children who have been relocated due to a foster care placement in a different school zone;

- Children who move due to a court-ordered change in custody due to separation or divorce, or the serious illness or death of a custodial parent; and
- Students residing in the district.¹⁴

A local school unit should always be striving to be the best it can be, and with Open Enrollment policies, public schools are incentivized to compete for students. To best meet their educational needs, students should have the right to attend any school that will have them. Open Enrollment is a tried and vetted policy that Maine should enact to allow parents and students the option to secure an education that is best suited for them.

A 2016 review of 18 studies using the method of random assignment showed 14 of them found that greater parental choice improved academic outcomes, particularly among those from disadvantaged backgrounds or poor households.¹⁵

Opponents of school choice consistently argue that public school enrollment numbers would decline with public school choice, thus resulting in budget cuts. This is simply not the case. In effect, these arguments recognize that their school is underperforming, and only a government mandate would keep them afloat. Sound fiscal and curriculum policies, coupled with teacher and academic accountability, allow public schools to flourish. If a public school is underperforming on any metric, or simply not meeting the needs of students or parents, more school choice ensures that our students are getting the best education, regardless of ZIP code or income.

In June of 2020, the United States Supreme Court ruled in *Espinoza v. Montana Dept. of Revenue* that state-sponsored school choice programs, like tax credit scholarship programs similar to those in Montana and New Hampshire, as well as those like Maine's town tuitioning program, must not discriminate against certain sectarian schools for the reason that they are religious. The court ruled that this discrimination

infringes on the First Amendment rights of parents to choose an appropriate school for their child within the state's scholarship or tuitioning program.¹⁶ Maine lawmakers should eliminate the unconstitutional "sectarian exclusion" from Maine's town tuitioning law in order to comply with the Supreme Court's ruling in *Espinoza*.

Recommendations

- Create an ESA program modeled after Arizona and Nevada while broadening eligibility to all public school students.
- Create a state Open Enrollment program modeled after Minnesota or Florida.
- Remove the sectarian exclusion from Maine's town tuitioning program.
- Create an ESA program for students in Maine's town tuitioning program.

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 \$2.2 billion, an increase of almost 35% over 2004 spending levels.¹⁷ 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.¹⁸ 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 roughly 177,000 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. A 2013 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% and teacher employment rose by only three percent.¹⁹ 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 2018, Maine ranked tenth-highest in terms of the number of high-level administrative staff per 10,000 students. Maine had 35 officials and administrators for every 10,000 school enrollments, compared to about one in Nevada and Louisiana. Even states known for their complex public school systems, such as California and New Jersey, had far fewer administrators than Maine; California had six and New Jersey had 10 for every 10,000 students.²⁰

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.
- Implement a cap on district-level administrative costs within the state's share of education funding.

Free Speech at Institutions of Higher Learning

The Problem

The current state of freedom of speech and expression on college campuses is broken. Increasingly, America's colleges and universities have retreated from their historical position as bastions of free speech to become some of the most insular and least tolerant institutions in our society.

According to the Foundation for Individual Rights in Education (FIRE), a non-partisan group dedicated to defending students' constitutional rights on college campuses, nine-in-ten American colleges restrict free speech on campus.²¹

Analysis

Worse yet, the erosion of free speech is becoming more acceptable with each new generation. A Pew Research Center poll found that 40% of millennials, the primary population on college campuses, believe the government should be able to prevent individuals from making offensive statements about minority groups in public, while 58% believed it should not be prevented.²² In contrast, only 12% of the Silent Generation, 24% of Baby Boomers and 27% of Generation X believed such speech should be prevented by the government.²³ It is troubling that more and more people believe the government should have a role in limiting what individuals say in public.

But the problem doesn't end there. Even when explicit policies don't prevent students from exercising their free speech rights, campuses often nurture an environment in which new

or controversial ideas are unwelcome and discouraged. For example, according to Gallup, “a slight majority of students, 54%, say the climate on their campus prevents some people from saying what they believe because others might find it offensive.”²⁴ Indeed, as Jeffrey Herbst, former president of Colgate University and now president of the Newseum, has observed: “with little comment, an alternate understanding of the First Amendment has emerged among young people that can be called ‘the right to non-offensive speech.’”²⁵ Contrary to all American jurisprudence, the chant “Hate speech is not free speech!” is common on college campuses.

This shift in attitudes was concisely summarized in a recent op-ed in the *Des Moines Register* by David Leslie, chancellor professor of education (emeritus) at the College of William and Mary:

“Orderly protests and open debates are legitimate exercises of free speech. But speech that interferes with the institution’s commitment to effective teaching and learning – hate speech, dogmatic intransigence, personal invective, libelous or slanderous public expression – may all detract from an effective learning environment.”²⁶

But in empowering government education officials to silence speech perceived to be hateful or dogmatically intransigent, we erode our founding principles and stifle the discussions that allow our society to grow and prosper.

The University of Maine System is the primary network of public post-secondary institutions in the State of Maine and consists of eight schools. The University of Maine System includes the University of Maine (Orono campus), University of Maine at Augusta, University of Maine Farmington, University of Maine at Fort Kent, University of Maine at Machias, University of Maine at Presque Isle, University of Southern Maine, and University of Maine School of Law.

In June 2019, FIRE chose the University of Maine’s free speech and assembly policy as their targeted Free Speech Code of the Month. FIRE raised concerns regarding a provision in the university’s student handbook that requires students to notify the Chief of the University of Maine Police at least three days before holding expressive activities in outdoor areas of campus.²⁷ While the requirement to notify campus police is likely to further the university’s goals of preserving order and security in some circumstances, it restricts students’ rights to assemble in a public forum. In addition, FIRE contends that the three-day policy may discourage students from expressing themselves on campus because approaching the Chief of Police could be intimidating for students, especially if they’re broaching controversial subjects such as police violence, crime policy, or drug laws. The policy is needlessly broad.

As of April 2019, at least 14 states had passed the Campus Free Expression Act (CAFE Act) to prevent public colleges and universities from trampling on students’ First Amendment protections.²⁸ The passing of the CAFE Act in Maine would prevent Maine’s public colleges and universities from designating free speech zones or otherwise restricting expressive activities to a particular outdoor area of campus.

While changing campus policies is crucial to protecting the free speech rights of Maine’s college students, reforms can only have limited impact until young people re-embrace the true meaning of the First Amendment and work to foster an open and inclusive environment where all views are permitted. To that end, Maine’s middle and high schools should emphasize the value of constitutional liberties.

Recommendations

- Enact the Campus Free Expression (CAFE) Act.²⁹
- Direct the University of Maine System to review its free speech policy to ensure genuine free expression on its campuses.

A photograph of a lighthouse on a rocky cliffside next to a house, with the word "ELECTIONS" overlaid in large white letters. The entire image has a blue color overlay.

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 20th 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 Maine Policy Institute found that, between 2009 and 2017, 71% of the \$81.3 million contributed to Maine ballot initiative campaigns originated from out-of-state sources.³⁰

The Maine Constitution states that the number of signatures collected for any proposed ballot measure must not be less

than 10% 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 20th 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 the ballot box.

Maine is one of twenty-four states which currently allow some form of citizen-initiated ballot referenda. Half of the 24 states impose a requirement that signatures be gathered from multiple parts of the state, preventing petitioners from gathering signatures in only the most densely populated urban areas.³¹ 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 restrictions on the breadth of subject matter one initiative may cover, as well as vote threshold requirements for passage of initiatives and constitutional amendments. Enacting these sorts of checks on the process 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 funds to be spent more deliberately in order to influence outcomes at our ballot box.

Recommendations

- Adopt a resolution to amend the Maine Constitution to require 50% 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% 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.
- 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) on the 1996 statewide ballot, almost \$37 million has been spent on taxpayer-funded political campaigns. In 2018, over \$6 million in taxpayer funds went to campaigns, a 90% increase from 2016. 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.

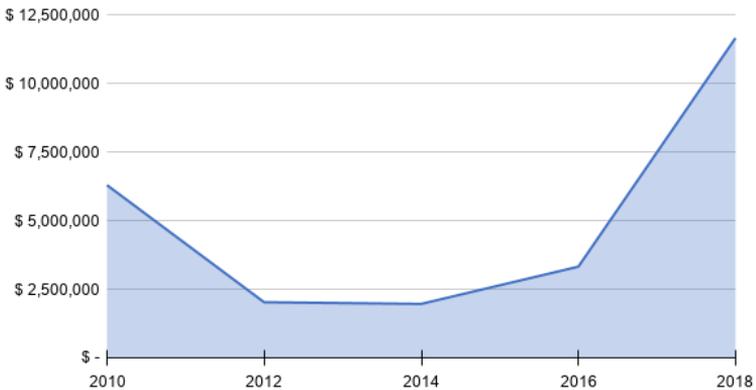
Analysis

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.”³² 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 Funds Disbursed to Candidates in Maine, 2010-2018



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 118th 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 127th Legislature’s House of Representatives included 13 educators, 19 business people, six attorneys, three farmers, 10 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. 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.

A 2019 analysis of ranked-choice voting by Maine Policy Institute found the system fails to live up to its promises to voters. Despite claims by RCV proponents, the system does not require majority winners, reduce negative campaigning, or boost voter turnout.³³

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 complexity 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 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.³⁴ 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% 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.³⁵

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."³⁶ 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.³⁷ 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:³⁸

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 cards 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.

A photograph of a lighthouse on a rocky cliffside next to a house, with the word "ENERGY" overlaid in large white letters. The entire image has a blue color cast.

ENERGY

Repealing the Renewable Portfolio Standard

The Problem

Rising electricity costs burden thousands of Maine families and threaten the survival of many of Maine’s manufacturing and industrial businesses. 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.

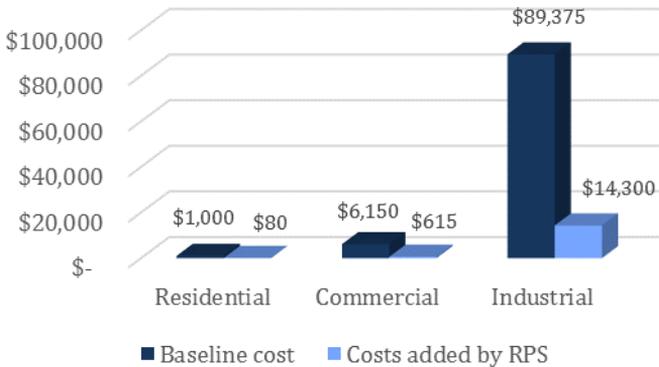
Analysis

First implemented in 1999 under Governor Angus King, Maine’s Renewable Portfolio Standard (RPS) law required that 30% 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. Numerous lakes and streams enabled the production of economically viable hydroelectric power, and its forestry industry supplied wood waste for biomass electricity production.³⁹

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% renewable requirement but compelled electricity providers to also adopt new sources of renewable energy by 1% annually beginning in 2008 and ending in 2017 when 10% 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 2020.⁴⁰

Increased energy prices hurt Maine households and businesses and, in turn, inflict significant harm on the state economy.⁴¹ 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.

In 2019, Maine moved in the wrong direction by updating its RPS requirements to include an additional 40% requirement for certain renewable sources, in addition to the 10% requirement by 2022.⁴² 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 and solar energy industries, 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. Current RPS regulations limit the amount of energy available from certain renewable sources—such as hydropower, tidal, biomass, and geothermal—to 100 megawatts per facility per year.

In 2009, legislators lifted the cap for wind power, which is expensive to generate and provides unreliable output. In 2019, lawmakers lifted the cap on solar power.⁴² Meanwhile, other sources of clean energy like hydropower, an area where generation facilities in Maine could easily surpass 100 megawatts per year, remain capped.

This arbitrary 100-megawatt cap gives wind and solar projects an unfair and artificial advantage. It 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.⁴⁴

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.”⁴⁵ 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 its way.

Recommendation

- Remove the 100-megawatt capacity limit on all forms of renewable energy.

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 10 states—Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. Virginia is set to join in 2021 and Pennsylvania Governor Tom Wolf directed the state’s Department of Environmental Protection to develop regulations for the state to join RGGI by July 31, 2020.⁴⁶

The RGGI cap-and-trade system applies to carbon dioxide (CO₂) 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 2005.⁴⁷

In 2014, a study by Maine Policy Institute—using economic 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 former Governor Paul LePage’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.⁴⁸

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 2019, 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.”⁴⁹

Through the sale of “emissions allowances” to power plants, Maine generated \$11.2 million in 2015, with revenues expected to exceed \$20 million by 2019.⁵⁰ 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 families and 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.⁵¹ The law also laid out an aggressive goal of having 2,000 megawatts of installed wind capacity by 2015, an unrealistic objective that was not 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.⁵²
- Incorporate decommission planning and funding into wind energy regulations.
- Tighten scenic impact requirements to ensure that wind projects fit harmoniously with their environment.

Resisting Efforts to Join the Transportation & Climate Initiative

The Problem

Similar to the Regional Greenhouse Gas Initiative, the Transportation & Climate Initiative (TCI) is a regional coalition of 12 states and Washington D.C. that seeks to reduce carbon emissions within the transportation sector. The TCI would price carbon emissions and place an artificial cap on how much of it can be produced from transportation-related sources within the region.⁵³ As the program advances, the cap of allowable transportation-related emissions would be reduced and the tax would be increased until, eventually, the region does not emit carbon from transportation-related sources. If adopted, the TCI would result in a substantial increase to the largely regressive tax on gasoline and diesel fuel, hurting Maine’s most vulnerable citizens.

Analysis

The TCI is a cap-and-trade style program that would establish an artificial cap on transportation-related carbon emissions across the region by 2022. Each participating jurisdiction would receive an emissions budget that is based on its “apportionment of the regional cap for each year of the TCI Program.”⁵⁴ The regional cap would decline annually, reducing the amount of carbon released into the environment.

To ensure transportation-related emissions are declining, gasoline and on-road diesel fuel suppliers will be required to purchase allowances or permits at auction for the carbon emitted by their fuel products. They would also be required to

report emissions to the jurisdictions participating in the program, affecting all fuel suppliers that operate within or deliver to the TCI region. The cost of the allowances paid by suppliers would be passed onto consumers at the pump, effectively creating a new tax on gasoline and diesel fuel. These costs would also increase annually, coercing divestment in gas-powered vehicles.

As part of the TCI agreement, revenues generated by the system would be used by states exclusively to expand clean energy infrastructure within the transportation sector, including replacing gas-powered public transit with electric alternatives and building new electric vehicle charging stations. Despite the normal state of disrepair of Maine's roads and bridges, the revenue Maine receives from participating in the program could not be used to plug the state's existing \$232 million transportation funding shortfall.⁵⁵

David Stevenson, the director of the Center for Energy and Environmental Policy at the Caesar Rodney Institute, estimates that, at 17 cents per gallon, the new gas tax contained within the TCI would cost \$225 per family per year, generate \$56 billion in revenue between 2022 and 2032, and save approximately 16 million tons of carbon dioxide emissions per year at a cost per ton savings of \$3,500. In terms of climate impact, the TCI would lead to a reduction of global temperatures by about one one-thousandth of a degree by 2100; a costly endeavor for such meager results.⁵⁶

The states supposedly participating in the TCI include Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and Virginia, though some states have already signaled they have no intention of joining the coalition.

In December 2019, after the TCI released its draft Memorandum of Understanding (MOU), New Hampshire Governor Chris Sununu rejected the plan, calling it a "financial

boondoggle,” and stating he will not force Granite Staters to pay more for gasoline.⁵⁷ Governors and lawmakers in Connecticut, Vermont and Virginia have also vocalized skepticism of the plan since the release of the draft MOU.⁵⁸ In addition, Maine Governor Janet Mills said in January 2020 that she “does not agree that states, as a group, should impose a fee on gross production of gas or any other fuel product, just to have it passed onto the retailer and the consumer at the pump. That’s not fair and that’s not something I want to glob onto,” adding that her administration was just “monitoring” the TCI, for now.⁵⁹

According to the United States Energy Information Administration, the average Mainer spent \$1,234 on gasoline and the state ranked 12th highest in the country for gasoline expenditures per person in 2017.⁶⁰ Additionally, the U.S. Census Bureau’s 2013-2017 American Community Survey found that more than 88% of Mainers commute to work by car, truck or van and the average travel time is nearly 24 minutes.⁶¹ By implementing the TCI, state government would be increasing this costly annual expenditure on Maine citizens, and the brunt of the burden would be borne by low-income Mainers.

While well-intentioned, artificially increasing the cost of gasoline and diesel fuel to achieve a reduction of one one-thousandth of a degree in global temperatures 80 years from now is not worth the substantially increased financial burden on Maine residents, particularly low-income Mainers. Elected officials in Maine should resist current and future efforts to enter our state into the TCI agreement.

Recommendations

- Do not join the Transportation & Climate Initiative, and resist future efforts to join.
- Prohibit the executive branch from entering interstate compacts without legislative approval.



GOVERNMENT REFORM

Executive Authority in Times of Emergency

The Problem

Maine has now lived through a devastating public health crisis, which necessitated the governor to declare a state of civil emergency in an attempt to respond. Unfortunately, decades ago, the Maine Legislature granted the governor unchecked executive authority in declared emergencies, and Governor Janet Mills has used those broad powers to govern Maine through a series of executive orders that carry the force of law, with no input or participation from the elected representatives of the people. Furthermore, she is able to grant herself this authority through perpetual renewals of the declaration of civil emergency, with no check or balance from any other level of government.

No single human being should ever have that much power, granted to themselves in perpetuity, for as long as they decide. A governor should have the power to respond effectively to a crisis or an emergency, but there needs to be limits and oversight on that authority.

Analysis

For a majority of 2020, the state of Maine was under a state of emergency by way of the governor's initial designation, as well as many additional extensions afterward. This means that for most of the year, Maine citizens experienced a state government that was effectively run by a single person, with the Maine Legislature adjourned and not participating in any of the decisions being made.

That concentrated power was exercised in truly remarkable ways. Maine citizens were issued orders to stay home, businesses were ordered to close, entire sectors of the economy were arbitrarily designated as “essential” while others were deemed “non-essential,” quarantines and travel restrictions were instituted and schools were shut down, necessitating an experiment in distance learning for Maine students.

These actions had a drastic impact on the state’s economy, with unemployment spiking from 3% in March to 10.4% in April.⁶² About 27,200 Maine businesses were awarded more than \$2 billion in emergency relief loans through the federal Paycheck Protection Program,⁶³ with roughly three-in-four Maine small businesses receiving funding.⁶⁴ Yet, despite this massive impact, there was no involvement in any of the decisions being made by the Maine Legislature. The Mills administration governed for months by executive order, with no legislative input.

The governor’s authority to manage the state in emergencies is granted in Maine statute under Title 37-B, Chapter 13 which deals with the Maine Emergency Management Agency.⁶⁵ This law grants the governor the power to declare several types of emergencies, yet curiously the section dealing with “energy emergency” proclamations requires that, if an order or rule issued by the governor is in effect for longer than 90 days, the Governor shall be required to call the Legislature into session, while the section on civil emergencies does not.⁶⁶ As such, given that she declared a state of civil emergency during the coronavirus pandemic, no time limits or oversight of the legislature was mandated.

Beyond this, Maine’s governor is among the most powerful in the country during emergency situations. Here, the governor is explicitly permitted to suspend statutes or regulations during an emergency, giving her broad authority to govern the state in an autocratic fashion. Interestingly, eight states, including Vermont and Massachusetts, provide no authority

to the governor to alter the enforcement of statutes or regulations during an emergency.⁶⁷

No one disputes that a governor should have latitude during an emergency to respond quickly to an evolving threat to the citizens of that state, and the COVID-19 pandemic certainly qualified. However, it is unwise and unnecessary to grant such absolute power to the state's chief executive, and after a certain amount of time, there should be a check on the authority of the governor by the elected legislature.

Recommendations

- Curtail the powers of the governor during a state of civil emergency.
- Amend Maine law to require a reconvening of the legislature after 90 days of civil emergency, and legislative approval of any additional extensions of emergency declarations.
- Require that declared disaster areas be the smallest political subdivision of the state possible to properly respond to the emergency.

Continuing to Reform Welfare

The Problem

Government in Maine has historically attempted to solve problems like poverty, food insecurity, and job loss with extremely generous social welfare programs. Legislative intentions may have been noble in the creation and structure of these programs, but it is evident that Maine's welfare programs have promoted government dependency instead of giving struggling families the help they need to become financially independent.

For eight years, between 2011 and 2019, Maine made serious attempts to reform the system so that it provided needed relief, while also encouraging self-sufficiency and upward mobility. This change had a tremendous impact on the state and its people, helping get more people back to work, and resulting in fewer people being dependent on the state government.

Since the new administration has taken over in Augusta, however, it has been aggressively turning back the clock on Maine's welfare programs, returning them to the failed approach of the past. Now, due to the massive economic devastation resulting from the government's response to the COVID-19 pandemic, there is a massive expansion of welfare. This has made it all the more difficult to get Mainers working again.

Analysis

A proper understanding of the issue of welfare needs to begin with an understanding of human psychology, and why perpetual, expansive, and overly generous welfare programs

ultimately trap into dependency the very people that we are trying to help.

As the pandemic grew across the country, tremendous job loss occurred, and the federal government, seeking to respond to the unprecedented financial crisis, expanded unemployment benefits to the tune of \$600 per week above the typical payments made to those on unemployment. The result was more money in the pockets of beneficiaries, however the additional payments made it more financially lucrative for many Americans to receive unemployment than it would have been for them to return to work.⁶⁸

This phenomenon caused many employers in Maine to have a difficult time rehiring workers once the economy began to reopen. This, in turn, led to a slower economic recovery, lower revenues into the state treasury, and more persistent unemployment.

In contrast, tightening welfare eligibility standards preserves resources for those truly in need while discouraging welfare dependence, particularly 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 month⁶⁹—or about 80% 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 280% of the federal poverty level, or \$69,048.05 for a family of four.⁷⁰ According to 2016 data, the average income threshold among similar rural states was 185% of the poverty line, or \$45,670 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 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.”⁷¹

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% 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% 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% of households.⁷² In 2018, Maine spent more than \$100 million on the TANF program alone.⁷³

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 the 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.”⁷⁴

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

The legislative process is opaque and difficult to understand, let alone able to be properly navigated by the citizens of Maine. Worse, 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 208.⁷⁵ Draft concepts are bills or resolutions that consist only of a bill title and rarely include a 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 128th 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 128th 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, a bipartisan group of 10 legislative leaders, 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 previous sessions.

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 may 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

Every two years, Maine's budget is proposed by the governor, debated by the legislature, and ultimately passed. However, due to the manner in which the system is set up, the process by which it is passed has been corrupted by special interests and powerful legislators. It is now quite common to see budget work completely ignored for months, while the legislature waits until the last minute to begin serious work, and then closed door meetings and quick, poor decision making end up creating flawed, bloated budgets. 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 exclusively by legislative leaders nor the executive branch.

A flurry of recommendations to improve Maine's budgeting process were put forward in 1993 by Maine Policy Review, a semi-annual publication from the Margaret Chase Smith Policy Center at the University of Maine, however few of those considerations were put into law.⁷⁶ 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 the user-friendliness of web portals, the ability for one-stop searching of all government expenditures, and the degree of ease with which the public may search for and download content.

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."⁷⁷

In light of these shortcomings, Maine should take action to increase legislative participation in the budget process and inject transparency into the Maine Open Checkbook website, ensuring Mainers can easily account for all the money spent by their state government.

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.

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 can also inject transparency and public access into 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 more than 240 boards and commissions, without counting temporary task forces or other special groups.⁷⁸ The large number of boards and commissions makes it difficult to find qualified applicants to fill vacancies. Currently, more than 560 vacancies exist on dozens of different boards.⁷⁹ 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 2017.⁸⁰

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.⁸¹

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. As a result, some lawmakers submit dozens of bills without taking the time to carefully consider their repercussions or political viability. In the 129th Legislature, more than 2,130 bills were introduced, an average of more than 11 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.

Recommendation

- 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

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 by the federal government and 15 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 (DHHS).

Medical facilities—including nursing homes—must submit a CON application if their proposal includes a new capital expenditure over certain thresholds, an expansion of current bed capacity, or transfer of ownership, among other criteria. Health care entities seeking to make an investment under the purview of CON regulations commonly face four to 10 months of delays, hearings, and analyses before the DHHS commissioner makes a final decision.

Not only are health care providers asked to spend copious amounts of time amid the application process, they are also required to pay substantial fees. From 2018 to 2020, the Maine

Certificate of Need unit processed 18 applications, accumulating a total of \$348,786 in fees, an average of \$19,377 per application.⁸²

The application process for a Certificate of Need requires multiple stages of review, including a mandate that other hospitals weigh in on applications that their competitors have submitted.

Hospitals represented within the CON review committee have an incentive to vote down these bids from competitors. The process consumes hours of Maine Department of Health and Human Services staff time, as well as distorting economic incentives for medical care providers. A facility should be allowed to make its own investments for its own gain. For an industry already plagued with supply shortages, the CON process provides no discernible gain for patients, and has the well-documented effect of further restricting access to quality medical care.

Not only do CON laws impose a heavy burden on medical facilities, after decades of data collection and analysis, it is clear that CON laws do not control costs, as they stifle competition in the health care industry. A study published in the *Journal of Public Health* in 2016 that analyzed almost two decades of data shows that CON laws lead to a 3.1% increase in health care spending in the states that have enacted such laws.⁸³ The American Medical Association has promoted abolishing CON laws for years, observing that a huge body of evidence suggests CON laws do not contribute to improved medical services.⁸⁴

There is also evidence that CON laws drive up prices by fostering anti-competitive barriers to entry. In 2016, the Federal Trade Commission and the Antitrust Division of the U.S. Department of Justice issued a joint statement noting that “CON laws raise considerable competitive concerns and generally do not appear to have achieved their intended benefits for health care consumers.”⁸⁵

Countless examples abound of bureaucratic mistakes in gauging public need for additional health care infrastructure. A 2009 request for CON by MaineGeneral to build a new 226-bed hospital in Augusta was denied by the 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% of the time, and that patients admitted to the hospital were often occupying emergency room beds until beds opened up on other floors.⁸⁶

Mark Botti from the U.S. Department of Justice spoke before a joint meeting between the CON Special Committee of the Georgia House of Representatives and the Health and Human Services Committee of the State Senate in Washington, D.C. His testimony reflects what economic experts and policy makers have known for decades:

“Certificate of Need laws pose a substantial threat to the proper performance of health care markets. Indeed, by their very nature, CON laws create barriers to entry and expansion and thus are anathema to free markets. They undercut consumer choice, weaken markets' ability to contain health care costs, and stifle innovation.”⁸⁷

During the State of Civil Emergency declared in response to COVID-19, the office tasked with administering CON applications allowed hospitals to submit a notification of temporary increase of capacity for emergency beds, enabling an expedited CON application and review process.⁸⁸ Nursing homes could apply for a fast-tracked application, but had to wait for DHHS approval before increasing bed capacity.⁸⁹ Despite a temporarily quicker process, these facilities are required to submit a full CON application if they wish to make their temporary expansions permanent after the state of emergency ends.

If these rules can be suspended during a public health emergency to avoid a shortage of hospital resources, why would a Certificate of Need be necessary at any other time? In the realm of basic economics, increasing the supply of products or services provides many benefits to consumers, as market forces push businesses to lower prices, innovate, and increase quality in order to attract and retain customers.

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.

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. Costs continue to rise after Maine voters approved expansion of the program under the Affordable Care Act (ACA) in late 2017. In the following fiscal year, total MaineCare spending surpassed \$2.7 billion, about \$12,330 per recipient, or \$7,154 per eligible resident. Despite efforts in recent years to stabilize costs, MaineCare accounts for one-third of the state budget, an unsustainable and unmanageable sum.

Analysis

Government does not respond to economic incentives, plain and simple. Some say that this is precisely why we should adopt a “universal” or “single-payer” health care system, because the state will not limit coverage based on who can pay. In reality, this scheme distorts health care markets, crowding out private investment from insurance companies and medical providers, and in the end, limits consumers’ options for coverage. The state can only spend what it can raise from the people in taxes, and by law, must balance its budget every year. It is not immune to the reality of limited resources, and must react by rationing care, increasing fees, or reducing reimbursement rates for medical providers.

Government should not be determining what insurance coverage options are appropriate for individuals. Market forces are well-suited to reward services that lower costs, enhance quality, and promote choice. In order to aid individuals and families who are truly struggling to achieve independence, a

core objective of the Medicaid program, government action can and should play a limited role.

MaineCare is an important public health insurance program that provides medical care to about 220,583 vulnerable Maine adults and children living in or just outside of poverty. However, its growing budget has crowded out other spending priorities and threatened Maine's long-term fiscal stability.⁹⁰

In 2018, the percentage of state budget funds dedicated to MaineCare accounted for 34% of Maine's total expenditures, or slightly more than one-third of Maine's spending. Spending on MaineCare increased by 6.4% from 2017 to 2018, then 5.3% more between 2018 and 2019, meaning that MaineCare spending has increased by more than 11.7% in the two years since voters approved Medicaid expansion at the ballot.⁹¹ Reforms must be made to control 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 six states, plus the District of Columbia, that provide Medicare Savings Program (MSP) benefits above the federal minimum.⁹²

Many of the benefits that MaineCare offers—including prescription drugs, physical and occupational therapy, vision and eye care, chiropractic care, and other services—are not federally-mandated. Collectively, these optional services account for hundreds of millions of dollars each year. Judiciously limiting 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 them.

Lawmakers should continue to redirect funds from ineffective programs like the Fund for a Healthy Maine

(FHM) to essential MaineCare services. Seeded by payments from the multi-state tobacco settlement in 1998, the Fund has received more than \$1 billion, and spent more than \$215 million since then,⁹³ largely on efforts to discourage smoking among adults and children, with little discernible results.

Over \$65 million was allocated to FHM for Fiscal Year 2020-21 alone.⁹⁴ Rates of smoking and tobacco use overall have been falling steadily since the 1970s, and will continue to do so, with or without state-funded marketing campaigns.⁹⁵ These funds should be used to provide health care for Maine's most needy residents.

In the years ahead, lawmakers should also consider rolling back the expansion of MaineCare, as Maine has already experienced some fiscal consequences of expanding coverage to childless, able-bodied adults. As of June 1, 2020, over 46,000 people who are capable of productive work and financial self-sufficiency are enrolled on MaineCare. Of this group, over 70% are between the ages of 19 and 49.⁹⁶ Maine taxpayers will pay over \$40 million in 2020 alone to cover able-bodied, childless adults who are not caretakers.⁹⁷ Legislators should rein in access to MaineCare, ensuring the most vulnerable are provided for before those who are able to work.

Even though expansion is heavily subsidized by federal funds at the moment, the difference in the federal reimbursement rates for expansion (90%) versus traditional Medicaid (64%) creates adverse incentives for Maine's neediest to receive care. This means that in the event of cost overruns, state leaders are more likely to divert funds from traditional Medicaid recipients—seniors and the disabled—because that population costs MaineCare more per dollar than the expansion population.

Recommendations

- Exclude able-bodied, childless adults from Medicaid eligibility to ensure care for the most vulnerable populations: children, the elderly, and the disabled.
- 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.
- Resist attempts to implement costly, inefficient government-run health care schemes.

Enhancing Health Outcomes in Rural Maine

The Problem

Due to physician and other health care worker shortages in rural areas of the state, Maine must employ policies that utilize market forces to give more people access to affordable 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

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 (PCPs) 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 1,463:1.⁹⁸ The center estimates Maine will need an additional 120 PCPs by 2030 to remain at current levels of utilization.

Although Maine is largely on-par with national physician staffing numbers, a survey by the American Association of Medical Colleges (AAMC) found that more than one-third of rural physicians in Maine are aged 60 or older, and are quickly approaching retirement. The same AAMC survey found that only 50% of physicians who completed their graduate-level medical education in Maine currently practice in Maine.⁹⁹

In 2015, a University of Southern Maine study reached the conclusion that “Maine does not have a primary care shortage....Rather, the state’s physician supply problem is with physician distribution.”¹⁰⁰ 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 of 90.2 per 100,000 residents as of 2015.

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. A study from the University of Southern Maine in 2015 found that the positive effects of telemedicine services include unburdening overloaded acute care systems, as well as improving primary care and remote, in-home, and emergency medical care.”¹⁰¹

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

Telehealth can provide an array of care, including monitoring patients for strokes, eye exams, and even the prescription of certain drugs.¹⁰² By forgoing in-person visits, telehealth can save patients time and transportation expenses. It can also save hospital staff time by eliminating paperwork required for in-person evaluations. Some states have changed their regulations and now allow patients to access telehealth services from home and school, and Maine should do the same.¹⁰³

Several states including New Hampshire, Connecticut, and Delaware allow for the prescription of controlled substances via telehealth without an in-person evaluation by a physician,¹⁰⁴ but Maine does not.¹⁰⁵ As part of the state’s

COVID-19 response, however, Governor Mills is allowing physicians in Maine to forego face-to-face visits before prescribing.¹⁰⁶ Lawmakers should follow in the footsteps of other states by permanently adjusting telehealth laws so that physicians can provide a full range of private practice care via telehealth in the future.

Recommendations

- Expand the range of telehealth services that physicians can provide from out-of-state.
- Require reimbursement for facility and transmission fees to make telemedicine more financially attractive to providers.
- Eliminate payment parity within Medicaid for in-person vs. telehealth visits to attract more consumers to telemedicine due to its lower costs.¹⁰⁷
- Make permanent the suspension of telehealth regulations under the State of Emergency due to COVID-19.

Expanding Access to Skilled Medical Providers

The Problem

Maine suffers from a chronic lack of health care workers, yet our state's regulatory environment does not appeal to new professionals. Unnecessarily restrictive medical licensure regulations, applications, and fees prevent doctors, nurses, and other health care workers from providing the full range of services they could provide but for these limitations.

Analysis

Maine already has too few doctors, and the shortage is projected to become worse over the next several years.¹⁰⁸ Unfortunately, in 2020, Maine ranked last out of all 50 states for patient satisfaction of physicians.¹⁰⁹ We could increase competition by getting rid of rules that prevent doctors and medical professionals from other states from practicing in Maine, which would likely improve patient satisfaction in addition to relieving the overworked physicians who are currently practicing in our state.

Maine has taken a step in the right direction by allowing physicians from other states to practice in Maine; however, these physicians can only act as consultants for physicians, physician assistants (PAs), and advanced practice registered nurses (APRNs) who are already in Maine.¹¹⁰

In addition to the steep cost of licensure, physicians must wait an inordinate amount of time for state bureaucracy to process their application before they can start practicing: 45 to 90 days on average.¹¹¹ The COVID-19 crisis has made it

clear that permanent and temporary licenses could be approved in far less time. Under Governor Mills' Executive Order No. 16, physicians who are in good standing and licensed in other states were allowed to apply for and receive emergency licenses within 48 hours during the Civil State of Emergency.¹¹² After the coronavirus crisis subsides, this more relaxed, expedited process should replace the previous months-long process.

Physicians should be incentivized to file for licensure to the greatest extent possible. Completely removing fees associated with medical licensure in Maine would help accomplish that goal. In Maine, there is a \$600 nonrefundable application fee that must be submitted with a physician's initial application, and an additional \$100 must be included to cover the cost of a jurisprudence exam. Especially for recent medical school graduates, an initial \$700 fee could easily deter applicants from bothering to apply for licensure in Maine. Maine's fee, on average, costs several hundred dollars more than most U.S. states.¹¹³ Governor Mills responded to the COVID-19 crisis by waiving licensure fees for physicians; lawmakers should ensure that this policy continues indefinitely.¹¹⁴

Currently, practicing physicians are required to renew their licenses in Maine every two years. There is no real need for physicians to re-apply for licensure—Maine's medical licensure board can take away a physician's credentials at any point in time. This is a much stronger mechanism by which physicians are incentivized to provide adequate services to their patients. In order to save physicians' money and time, and to reduce the risk of lapsed licensure, physician licenses should be automatically renewed every two years.¹¹⁵

Maine legislators must seriously consider how to incentivize nurses to practice in-state, since the demand for nurses is steadily increasing. The U.S. Bureau of Labor Statistics projects the demand for skilled nurses will increase by 12%

from 2018 to 2028, a much greater shift than other occupations.¹¹⁶ As of 2019, around 25,000 nurses practice in Maine.¹¹⁷ This means that by 2028, Maine will need about 3,000 more practicing nurses to keep up with demand.

As a response to the COVID-19 crisis, Governor Mills issued Executive Order No. 35, which waived licensure fees for nurses who want to practice in Maine, and decreased the amount of time taken to review licensure applications.¹¹⁸ Given the demand for nurses that existed prior to COVID-19, it makes sense for Maine to eliminate licensure fees permanently and to continue using a more expeditious form of review to ensure that nurses can start practicing as quickly as possible.

Physician assistants and nurse practitioners are an invaluable contribution to Maine's health care system, and they should be given the authority to implement their full range of expertise. In March 2020, legislators passed and Governor Mills signed LD 1660, ending requirements for PAs to obtain a certificate of registration (in addition to a license), and for those who have practiced for more than 4,000 hours, to enter into a written agreement under a physician.¹¹⁹

Also in Executive Order No. 35, Mills removed Maine's restriction on prescribing remotely for both physician assistants and nurse practitioners. If Maine's health care providers can operate safely without these pointless restrictions during a public health crisis, they are likely to continue to do so during stable times.

Recommendations:

- Grant licensing reciprocity to all skilled medical professionals from all 50 states.
- Eliminate the costly licensure application fees for health professionals, which only serve to deter potential health professionals from working in Maine.
- Replace the regular medical licensure process for physicians, nurses, physician assistants, and nurse practitioners with the expedited process that is being utilized during COVID-19.

- Allow for the auto-renewal of licenses for health professionals to extend past the COVID-19 crisis.
- Ensure that the expanded scope of practice regulations for physician assistants and nurse practitioners during COVID-19 remain in place after the crisis has ended.

A photograph of a lighthouse on a rocky cliffside next to a house, with the word "INTERNET" overlaid in large white letters. The entire image has a blue color cast.

INTERNET

Ensuring Transparency and Efficiency in Municipal Broadband Development

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, in the long run, weakens consumer choice 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.¹²⁰

Countless examples show that when municipalities invest in GONs in areas already served by private telecommunications companies, the duplication of services often leads to costly inefficiencies and less private-sector investment. In addition, municipalities rarely account for future maintenance costs as a result of establishing a GON.

Virginia and Tennessee are two largely-rural states that have attempted to implement GONs with no success. In Virginia, the Bristol Virginia Utility Authority created its own GON in 2002. The GON was eventually sold at a loss of over \$80 million. Clarksville, Tennessee developed its own GON in 2007; the costs totaled over \$40 million and the municipality was forced to borrow millions more than their projected cost due to construction overruns.¹²¹

Some will argue, such as Christopher Mitchell at the Institute for Self-Reliance, that GONs can increase competition by providing a low-cost option for consumers, but this ignores the crowding-out effect that government-sponsored enterprises have in their area of operation.¹²² Overall, because GONs are government-owned, this type of action is anticompetitive.

GONs are disconnected from the incentive to make a profit, which means they are less prone to look for ways to save costs in order to affordably deliver their service. Because GONs are so heavily-subsidized, this leads private companies to determine that they cannot compete in the same area as the municipal network. Governments are not known for their ability to spot emerging consumer trends and adapt to new technology, so consumers ultimately lose from this arrangement.

Dr. George S. Ford, Chief Economist of the Phoenix Center for Advanced Legal and Public Policy Studies, in a 2016 report for the State Government Leadership Foundation, describes the crowding-out effect of municipal broadband entry:

“If municipal systems are truly not interested in profit maximization, as is frequently claimed, then municipal entry may be a poison pill for all private sector investment. It may also hasten the exit of private firms from the marketplace, reducing, not increasing, competition if competition is measured by the number of firms.”¹²³

Government-owned networks have a dubious track record of financial feasibility. Using data over a five-year period, a 2017 University of Pennsylvania Law School study of 20 GONs around the United States found that only two are on track to recover their total costs over the course of their useful life expectancy, between 30 and 40 years. Eleven do not bring in enough money to cover current operating costs,¹²⁴ and five of the nine cash-flow positive projects are projected to take over 100 years to recover their costs. Considering many publicly-owned local networks require substantial bonding to get off the ground, the economics of GONs do not allow for local taxpayer confidence that their investment will be recouped in any reasonable timeframe.

By any measure, basic public infrastructure in Maine is in need of substantial repairs and updates. Decisions to build public broadband networks shift precious tax dollars away from crucial local budget priorities like roads and public safety, prompting 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.

A recent report found 43% of Maine's roads are in poor or mediocre condition, and 13% of our state's bridges are structurally deficient.¹²⁵ Maine towns also levy some of the highest property taxes in the country, and mill rates continue to climb. According to the Tax Foundation, Maine property tax rates as a percentage of owner-occupied housing values rank as the 16th-highest state in the country, despite being the 30th-highest state in terms of income per capita.¹²⁶ 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 at New York Law School 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.”¹²⁷

Pursuing the purchase and construction of a GON is a monumental undertaking for any municipality, especially in sparsely-populated rural areas. The state has a role to play in protecting local taxpayers and consumers and ensuring municipalities have achieved the highest level of preparedness before bonding and constructing a GON.

Municipalities should commission and present to their residents a feasibility study considering the myriad factors that could inhibit or encourage usage of the proposed municipal broadband network. These studies should consider whether the proposal would limit or encourage competition for the service, whether any entity would provide the service but for the municipality, the projected growth in demand for broadband services and resulting expected growth in revenue, and a full-cost accounting projection for the municipality to purchase, construct, maintain, or operate any facilities needed to sustain a GON.

If the state will allow local governments to expend millions of local taxpayer dollars and limit market-driven possibilities for internet service, local planners should provide ample time for public input by scheduling multiple hearings and votes of local residents and governing boards. Taxpayers would benefit from the implementation of reforms proposed in LD 1516 from the 128th Maine Legislature, which includes some of the aforementioned policy ideas as well as other ways to ensure local budgets are safe from potential cost overruns due to a costly GON arrangement.¹²⁸

Government-owned broadband networks are redundant at best and savage monopolies at worst. They hold the potential to be a severe hindrance in the progression of internet service delivery within their sphere of influence. Maine

should follow the lead of 22 other states in restricting local government ownership of telecommunications networks.¹²⁹

Recommendations

- Prohibit municipalities from owning or operating broadband networks that are offered to the public.
- Require municipalities to hold multiple public hearings and votes by the town council and residents in order to establish a GON.
- Require municipalities to commission an economic feasibility study for all GON proposals.
- Require municipalities to hold funds accumulated from service fees for GONs in a separate account, in order to avoid commingling with basic infrastructure funds.
- Municipal bonds to construct or operate a GON must be secured and paid for solely by the revenues generated by the proposed GON.

Fostering Innovation for Internet Service

The Problem

According to Broadband Now, 10% of Mainers are underserved with access to fewer than two wireless providers,¹³⁰ and Maine ranks fifth in the nation for lowest average internet speeds.¹³¹ Broadband access in rural Maine is well below minimum access speeds recommended by the Federal Communications Commission¹³² and 62% slower than the national average.¹³³ This is particularly troubling for low-income families. According to the Portland Press Herald, “low-income households with children are four times more likely to lack a high-speed internet connection.”¹³⁴

As a crucial aspect of the 21st century economy, ensuring adequate access to the internet should be a goal for policymakers. History and data show that this is best accomplished through market-tested innovation and entrepreneurship, not through one-size-fits-all government regulation.

Analysis

In 2015, the Federal Communications Commission (FCC) declared that internet service providers (ISPs) would be regulated as public utilities under Title II of the Federal Communications Act, instead of as “information services” under Title I. This order, proponents claimed, would usher in a new era of “Net Neutrality,” protecting consumers from predatory “throttling” of internet bandwidth.

In the 1990s, President Bill Clinton and Congress under Speaker Newt Gingrich committed to maintain the culture of innovation and information decentralization that is at the

heart of the World Wide Web. After an era of explosive growth in internet services, impressive stories of rags-to-riches entrepreneurship, and few instances of malfeasance by ISPs, there was little need for the FCC to tighten regulations on internet access in 2015.

In 2017, FCC Chairman Ajit Pai reversed the Obama-era order, restoring regulation of ISPs to historical normalcy under Title I. While Pai's opponents claim that ISPs would block or throttle content to silence dissent and maximize profits, these fears have not materialized. Average connection speeds in the U.S. climbed significantly over 2018. Speedtest, a site that measures internet speeds across the world, recorded a 35.8% increase in broadband download speeds and a 22% increase in upload speeds over 2018. Mobile download speeds also increased more than 20% in that time.

In the two years of "Net Neutrality," ISPs decreased their investments in local broadband infrastructure by \$2.4 billion, primarily in rural areas.¹³⁵ This led to stagnating growth in the average speed of broadband connection in the United States, which had been climbing steadily since 2010.¹³⁶ According to a US Telecom Issue Brief, broadband investments increased by at least \$1.5 billion after net neutrality regulations under Title II were repealed in 2017.¹³⁷

In 2019, Maine legislators overlooked this data and passed LD 1364, prohibiting ISPs to contract with the state unless they commit to abiding by the now-repealed 2015 FCC order.¹³⁸

While wrong-headed on its face, the legislation also failed to take into account the undesirable situation of a patchwork of state internet rules within which providers must operate in order to interact with their customers for an agreed upon service.

Consumers lose when choices are reduced, not only from a clear loss of options, but from competition among providers that allow for better services at lower prices. Data show a strong, correlative relationship between regulation and prices. In the most regulated industries like education and health care, prices have risen over 150% since 1997, where prices in less-regulated markets like electronics, toys, and software have dropped over 50% in that time period.¹³⁹The market for internet access is no different.

A study by New York Law School summarized the landscape as such:

“Data indicate that the vast majority of consumers are satisfied with their broadband connections and that, in general, the supply of bandwidth and the speeds of Internet connections are being shaped, in fact, by consumer demand and actual usage patterns.”¹⁴⁰

Opponents will argue that because access to the Web is a crucial aspect of participating in today’s economy, it must be regulated as a public utility. While they are partially correct, regulating ISPs with a heavy hand leads to more consolidation, less competition, and less satisfied consumers.

We are at the precipice of great leaps in technological innovation concerning the delivery of internet service like 5G, small cells, TV white space, and the like. Private innovation should be allowed to flourish under a light-touch policy. Leave regulation of broadband to the proper authority at the Federal Trade Commission, not as a public utility under the state, locality, or FCC. History and data show that consumers will benefit overall.

Recommendations

- Repeal state-level “Net Neutrality” regulations.
- Reject efforts to limit market forces in the delivery of internet service.

Reforming the ConnectMaine Authority

The Problem

As society attempts to recover from the stress inflicted by the COVID-19 pandemic and resulting government-mandated shutdowns of vast portions of the economy, affordable access to the internet has become a front-and-center issue across the United States. Expansions in virtual schooling, remote work, and telehealth services have shifted value from conventional workspaces to the home. While emphasized in the COVID-19 era, this is not a new issue for Maine.

In recognition of the problem of spotty access to reliable internet across Maine, in 2005 lawmakers established the ConnectMaine Authority (ConnectME), a state agency to study internet availability across Maine and make grants to localities to promote access.¹⁴¹ Since its inception, roughly \$1 million of taxpayer funds have been allocated yearly to the ConnectMaine Fund.

Peggy Schaffer, Director of ConnectME, estimates that expanding coverage to all residents in Maine will cost over \$1 billion.¹⁴² The agency has requested that in order to achieve its goals, it recommends “\$30 million in FY20/21 and \$42.5 million in each of the next four years” of Maine taxpayer dollars, making up 25% of the total, the rest being private investment and federal tax dollars.¹⁴³

Analysis

Each year, ConnectMaine is required to determine criteria for and designate which areas of Maine are “unserved” by adequate broadband connectivity. Following FCC criteria, ConnectMaine designates “unserved” areas as those with

under 25 Megabits per second (Mbps) of download speed and three Mbps of upload speed (25/3).¹⁴⁴ Based on data obtained from ISPs, ConnectME estimates that 11.5% of Maine households are unserved. The counties with the most unserved households are the most rural in Maine. Data show that more than 30% of households are unserved in Washington, Waldo, and Hancock counties. In Franklin County, that climbs to more than 50%. In Piscataquis County, the least populous county in the state,¹⁴⁵ more than three-quarters of households are considered unserved.

Based on an overview of ConnectME's broadband connectivity map,¹⁴⁶ much of Maine's northern and Downeast counties have access to download speeds less than 25Mbps. For Mainers who live outside of the cities in those counties, broadband speeds are limited, but even in the population centers of Aroostook County: Van Buren, Fort Kent, Houlton, Caribou, etc., the map shows that a vast majority of households are served by 25/3 internet service.

It is important to note that ConnectME receives service reporting data from surveys of ISPs, which show an area as served when at least one household in the census bloc has access to 25/3, though not necessarily using their service. Peggy Schaffer, upon providing Maine Policy with the updated service map, cautioned that, "While it is probably pretty accurate on who has less than 10/1 service, it is very inaccurate on who has 25/3."

In addition to collecting data on internet coverage, ConnectMaine Authority makes grants available to localities to develop broadband infrastructure. Since its first report filed 14 years ago, ConnectMaine has spent more than \$13 million, aiding fewer than 40,000 households to gain internet access.¹⁴⁷ For comparison, Charter Communications, a private company also known as Spectrum, has brought internet connectivity to 12,000 Maine households over the last three years at very little cost to taxpayers.

In July 2019, to begin Fiscal Year 2019 (FY19), ConnectME received \$1.5 million from Maine taxpayers.¹⁴⁸ Its funding is allocated through a 0.25% tax on all communications, video, and internet service bills for retail in-state service. FY19 was the first budget since lawmakers diverted 10 cents per phone landline from E911 fee collections to ConnectME. This change, which began in January 2020, put another \$1.75 million into the agency's coffers, much more than the \$750,000 predicted in their annual report.¹⁴⁹

Efforts to increase the yearly budget by a factor of 10 or more have frequently appeared before the legislature, including in the most recent session.¹⁵⁰ Instead of mustering the political will with legislators necessary to pass this kind of proposal, advocates sent yet another massive bond to the voters, which passed overwhelmingly in July 2020, allocating \$15 million more to ConnectME in FY20.¹⁵¹

Without waiting to observe the results from the doubling of ConnectME's funds in the last year, lawmakers moved to give the agency more money, while piling more debt onto the state's already strained balance sheet. Especially with projected annual shortfalls of at least 10% of the budget over the next three years—due to the economic shock of the coronavirus and ensuing shutdowns,¹⁵² legislators should remain vigilant to future attempts to divert infrastructure dollars to grow inefficient bureaucracies across state government.

ConnectMaine has acted to encourage some private investment in broadband for local communities, but funding these sorts of projects through a state agency means that a sizable portion of that money will be diverted to pay for administrative costs. In FY19, the agency spent over 26% of expenses on administration.¹⁵³ Charter and other ISP companies have benefited from the receipt of ConnectME grants, but the overall effects of market distortion and misallocation of scarce resources—even through public/private partnerships—cannot be ignored.

By taxing the people and spending their money in ways that they themselves have not voluntarily pursued, the state has misallocated Mainers' hard-earned resources to a service which is not yet financially sustainable. Consumers acting through the market are better equipped to reward providers for affordable, valuable services. In ConnectME's 2020 Broadband Action Plan, they call the lack of adequate broadband service in rural Maine a "persistent market failure."¹⁵⁴

By pursuing this strategy of cajoling private investment through grants to local governments, ConnectME itself is contributing to the crowding-out of internet service, stifling innovation in the delivery of a vital service. Maine should provide a friendly environment for technology companies first before chalking up inadequate service to market failure.

Lawmakers should require greater transparency of funds spent by the ConnectMaine Authority. A bill passed by the 129th Legislature and signed by Governor Mills moved this principle in the opposite direction. Now law, LD 31 altered ConnectME's rule-making authority to be "routine technical" rules instead of "major substantive" rules.¹⁵⁵ A much lower level of scrutiny for state bureaucracy, this means that no longer will ConnectME be subject to legislative review and approval for its proposed rule changes.¹⁵⁶

The agency should be governed by major substantive rulemaking because, as stated in Maine law, its rules, "Require the exercise of significant agency discretion or interpretation in drafting" and because they are likely to "result in a significant increase in the cost of doing business, a significant reduction in property values, the loss or significant reduction of government benefits or services, the imposition of state mandates on units of local government...or other serious burdens on the public or units of local government."¹⁵⁷

Recommendations

- Require the commission of an economic and financial feasibility study before any ConnectME grant is issued.
- Restore administrative rulemaking by ConnectME to the previous “major substantive” standard.
- Initiate a legislative audit of ConnectMaine.
- Remove grantmaking authority from ConnectME, require it to focus on detailed reporting of prices and service access data.

Resisting Onerous Rules on Internet Service Providers

The Problem

Last session, the Maine Legislature passed and Governor Mills signed into law LD 946, a bill that would require internet service providers (ISPs) to secure their customers' consent before disclosing personal information like browsing history, geolocation data, financial information, Internet Protocol (IP) address, and other data.¹⁵⁸ A cursory look at this legislation might show its requirements reasonable, but full context shows that this law will treat internet companies unequally, without fulfilling its stated goal of protecting consumer data.

Analysis

Aside from the potential market disruption and heightened costs that come with a patchwork of state-based internet rules, private-sector conduct regarding data privacy is already well-regulated by current state and federal regulations.

Testimony in opposition to LD 1610, a similar bill which appeared before the 128th Maine Legislature, highlighted the extent of consumer protections that exist at the federal level.¹⁵⁹ These are enforced through Federal Communications Commission (FCC) Consumer Proprietary Network Information (CPNI) rules¹⁶⁰ or through Federal Trade Commission (FTC) oversight. Telecommunications companies are required to follow CPNI rules today, allowing consumers to “opt-out” of sharing their personal data. This level of scrutiny for ISPs is more than adequate. Web-based companies are also held to the same standards as ISPs under the FTC's 2012 guidance.¹⁶¹

Through a conventional “opt-out” provision, similar to those found in many software and website usage agreements, consumers may choose to limit what data they share. The problem is not with the present degree of scrutiny inflicted upon internet companies, it is the under-educated consumer who consents to a usage agreement without understanding the options they have to protect themselves.

LD 946 has only slightly altered current standards to require the consumer to “opt-in” without providing a safe haven for Mainers’ personal information because this law does not require the same level of scrutiny for internet-based companies: search engines, social media outlets, etc. It only requires a heightened standard for the ISPs.

Testimony offered by the Telecommunications Association of Maine (TAM)—neither for nor against the bill—describes a likely situation where a consumer, after providing personal information through signing up for an email account with Google, begins to see targeted advertisements based on their search history, but blames their ISP for a believed data breach. Other testimony on LD 1610 in the 128th Maine Legislature cited this worry from consumers.¹⁶² In response to this concern, TAM testified on LD 946 that:

“If the State is truly concerned about protecting customer data then it makes no sense that this bill would not include any company that collects private customer information as a part of their offering of service to the customer over the Internet. The net effect of enacting this legislation as drafted would be to create an assumption in the mind of consumers that the problem has been ‘fixed’ without actually addressing the major issues that customers have complained about.”¹⁶³

What sponsors of LD 946 failed to recognize was that Mainers could fall into a false sense of security that their data is automatically protected. These rules only apply to one half

of the equation, not to web-based companies like Facebook and Google, for which the value of users' personal information is a pillar of their business models.

Arguably, these companies have a greater incentive than ISPs to sell their consumers' data in order to boost engagement for their advertisers through more developed targeting. ISPs are subject to much less competition than web-based companies, and would therefore have less to gain from selling their customers information. The market does not need this extra level of stringency, but if it did, the rules should be technology-neutral. They should apply equally to web-based enterprises as well as telecommunications firms.

Lawmakers should repeal the new restrictions on ISPs passed last session. At best, these rules are unnecessary and duplicative. At worst, they are disruptive to the provision of a crucial service, especially in the shadow of the COVID-19 pandemic. Remote work and telehealth are becoming essential aspects of the Maine economy and society. Many layers of rules and regulations already govern this relationship between internet users, their data, and internet companies.

Recommendation

- Repeal recently enacted legislation that requires ISP consumers to opt-in to data sharing (35-A MRSA ch. 94 §9301).



LABOR

Reforming Maine's Complex System of Occupational Licensing

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.¹⁶⁴ 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 in the area of occupational licensing.

A recent study found that more than 20% 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.¹⁶⁵ Until 1985, for example, dietetic technicians were free to work in Maine without a license.¹⁶⁶

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.¹⁶⁷

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.”¹⁶⁸

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.”¹⁶⁹ 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.¹⁷⁰ 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.¹⁷¹

Unfortunately, rarely are regulatory alternatives to licensure examined by lawmakers and state regulators before new 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.

Streamlining the occupational licensing process in Maine would make it easier for Mainers to obtain meaningful employment, as well as reduce the burden for skilled workers to bring their talents to Maine.¹⁷²



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.
- Encourage employment and licensing reciprocity by enacting the Right to Earn a Living Act¹⁷³ and the Universal Recognition Act.¹⁷⁴

Establishing Right-To-Work

The Problem

Under current law, a private-sector 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.¹⁷⁵

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, 27 states and Guam have adopted right-to-work legislation, and several more are likely to follow.¹⁷⁶ 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 11.8 percent, down from 13.4% in 2000, repeated efforts to pass right-to-work have been defeated by vociferous union leaders.¹⁷⁷

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."¹⁷⁸

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.¹⁷⁹

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.”¹⁸⁰

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.

Recommendation

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

Codifying the Janus Decision

The Problem

In 2018, the U.S. Supreme Court ruled in *Janus v. American Federation of State, County and Municipal Employees* that public employees cannot be compelled to pay dues or agency fees, otherwise known as “fair share” fees, to a union as a condition of employment. Despite this action from our nation’s highest court more than two years ago, Maine law still violates the First Amendment rights of public employees. Current labor relations law for municipal, state, judicial, and University of Maine System employees does not recognize the decision and instead says public-sector employees can still be forced to make these unconstitutional payments to public unions.¹⁸¹

Analysis

While the decision was a historic victory for First Amendment rights, many public workers are still unaware of how the ruling affects their employment and workplace. Under *Janus*, public workers can no longer be required to pay agency fees, or payments taken from a worker’s paycheck to compensate a labor union for its representational activities. Before *Janus*, these funds were deducted from workers’ paychecks even when they were not members of the union. The deduction also disregarded whether or not the worker felt the union was adequately representing his or her interests in the workplace.

In its ruling, the Supreme Court left little ambiguity about the constitutionality of agency fees. The ruling states: “The First Amendment is violated when money is taken from nonconsenting employees for a public-sector union; employees must choose to support the union before anything is taken from them. Accordingly, neither an agency fee nor any other form of payment to a public-sector union may be

deducted from an employee, nor may any other attempt be made to collect such a payment, unless the employee affirmatively consents to pay.”¹⁸²

When *Janus* was decided, 27 states already granted the right-to-work without forced unionization, but the roughly five million workers in 22 states, including Maine, without right-to-work laws were still required to pay their unions. Even after the ruling, many public employees may not know how to opt out of union membership or fear that withdrawing membership could negatively affect their employment through a reduction in salary or benefits under pressure from the union.

Since the decision, public-sector unions have been pulling tricks to retain members after a worker resigns from the union. In many unions, workers are allowed to withdraw membership only during a designated period in the year. Workers who have resigned outside of that window are still having dues deducted from their paychecks despite the high court’s ruling. As highlighted by scholars at the Competitive Enterprise Institute, there are at least four pending lawsuits throughout the country challenging unions that have blocked employees from withdrawing membership after the decision.¹⁸³

It is important that Maine law respects the First Amendment rights of all employees to unionize and collectively bargain for what is in their best interest. At the same time, it is equally as important to respect the First Amendment rights of public employees who wish to disassociate with a union by opting out of membership or refusing to join in the first place. If affirmative consent has not been given after the *Janus* decision, or has been withdrawn, unions should immediately cease collecting all payments from public workers.

Because of *Janus*, workers now have a real choice—one that actually respects their First Amendment rights—and can no longer be compelled to financially support a union. It’s time for Maine law to accurately reflect the Supreme Court’s decision.

Recommendation

- Conform Maine labor relations law to the Supreme Court's decision in *Janus v. AFSCME* by eliminating the requirement for public employees to pay fees to labor unions as a condition of employment.

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-sector unions.

According to a 2015 report, Maine is one of just 11 states that allow government unions to negotiate in secret.¹⁸⁴ 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.”¹⁸⁵

As a result of the Supreme Court’s decision in *Janus v. American Federation of State, County and Municipal Employees*, public employees cannot be compelled to pay dues or fees to a union as a condition of employment, and unions must obtain “clear and compelling evidence” that a worker agrees to pay before any payments can be deducted from their paycheck.

Since automatic dues deduction exists in Maine, the onus falls on state and municipal governments to ensure a worker affirmatively consents to pay dues and fees to a union. Thus, it is incumbent upon state and municipal governments in Maine

to establish an opt-in system, similar to that adopted in Alaska, to protect the First Amendment rights of public employees.¹⁸⁶

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.

Maine can also end the “free rider” argument created by unions by ending exclusive representation provisions in collective bargaining agreements. Exclusive representation prevents employees who are not members of the union from representing themselves in negotiations with their employer. Unions say that workers who withdraw membership and do not pay dues or fees to unions are “free riders” of union's services, but unions are the party in these negotiations that write exclusive representation provisions into collective bargaining agreements.

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 state and municipal governments to establish an opt-in system to protect the First

Amendment rights of public employees under the *Janus* decision.

- Require that unions obtain biennial recertification by earning the support of the majority of their members.
- End exclusive representation provisions in collective bargaining agreements.

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.¹⁸⁷

According to the Bureau of Labor Statistics, in 2019, only 1.5% of Maine workers were paid hourly rates at or below the minimum wage.¹⁸⁸ 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,¹⁸⁹ the Maine Legislature has continued to deny modifications to the law at the behest of the special interest groups that organized for the 2016 measure to appear on the ballot.

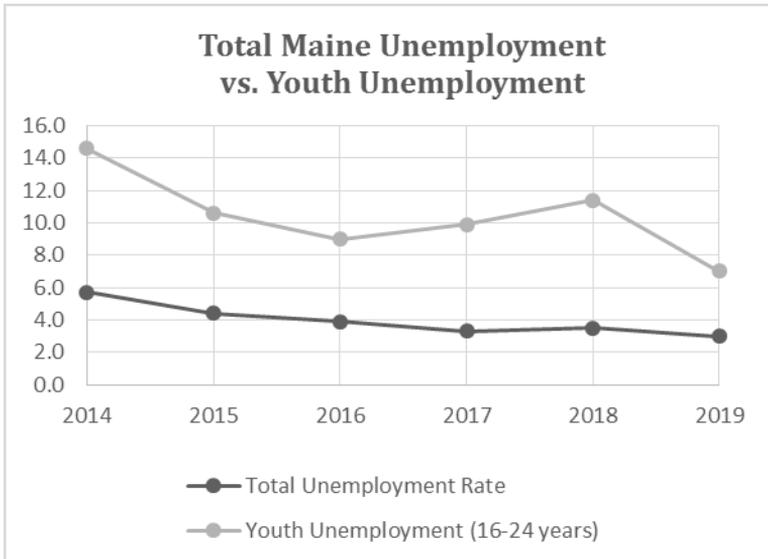
Sandra Fickett, owner of Tilton’s Market in Buckfield, testified before the Labor, Commerce, Research and Economic Development Committee in 2018 that “most of the wage increases have not gone to my experienced staff, who have families to support,” and requested that legislators implement a training wage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

Since the passage of the 2016 ballot initiative, Maine’s minimum wage has caused tangible harm to young workers seeking to enter the job market. According to the Bureau of Labor Statistics, even as the overall unemployment rate in Maine declined and stabilized in 2017 and 2018, the unemployment rate among young workers (16 to 24-year olds) grew steadily, from nine percent¹⁹⁰ in 2016 to 11.4 percent¹⁹¹ in 2018.

In addition, the minimum wage increase coincides with an abrupt reversal of the trend in unemployment among young workers, which had been falling in line with the overall

unemployment. As a result, 3,000 more young people in Maine were unable to find work in 2018 than in 2016, despite generally improving economic conditions. Although data show this disparity easing somewhat in 2019, the shock from government-ordered business shutdowns as an attempt to limit the spread of the coronavirus will likely exacerbate this issue in 2020.



Source: Maine Policy Institute analysis of Bureau of Labor Statistics data

Recommendations

- Repeal or reduce Maine’s minimum wage.
- Eliminate 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 26 states—including Maine—have enacted state-level prevailing wage laws,¹⁹² 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.¹⁹³ In the First Session of the 129th Legislature, lawmakers approved a bill that significantly increased fines for Maine workers who fail to respond to surveys administered by the bureau.¹⁹⁴ According to the Maine Department of Labor, there are approximately 90 construction-related occupations for which the state pays the prevailing wage.¹⁹⁵

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:

“(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.”¹⁹⁶

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% statewide and inflates the total cost of public projects by 13 to 25 percent.¹⁹⁷ 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. It’s time for Maine to do the same.

Recommendations

- Repeal Maine’s prevailing wage law.
- Reduce fringe benefits for prevailing wage workers.
- Reduce or eliminate fines for failing to respond to prevailing wage surveys.

A photograph of a white lighthouse on a rocky cliffside next to a white house with a dark roof. The entire image is overlaid with a semi-transparent blue filter. The lighthouse is tall and cylindrical with a dark top section. The house is a two-story structure with several windows. The foreground shows the rough, rocky terrain of the cliff.

REGULATIONS

Ending Maine's Archaic 'Blue Laws'

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 21st 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 who work Monday through Friday and have only the weekend to evaluate or purchase a new car, as well as to dealerships seeking to broaden narrow profit margins. Maine also prohibits hunting on Sundays, which has no basis in science or conservation.

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.¹⁹⁸

Blue laws also affect large supermarkets and department stores, which are required to close on Thanksgiving, Easter, and Christmas. Maine is still one of only three states in the country to impose such restrictions.¹⁹⁹

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 on Sunday 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.²⁰⁰

Recommendations

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

Protecting the Rights of Property Owners

The Problem

Housing affordability remains a persistent problem in Maine. Statewide, the most recent Census Bureau data indicate that more than one-quarter of low-income tenants pay at least 30% of their earnings in rent, 13% 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.²⁰¹ 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. 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.

3. 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.
4. Property tax revenues decline as reductions in investment and upkeep lead to lower rental property values.
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.

Recommendation

- 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.

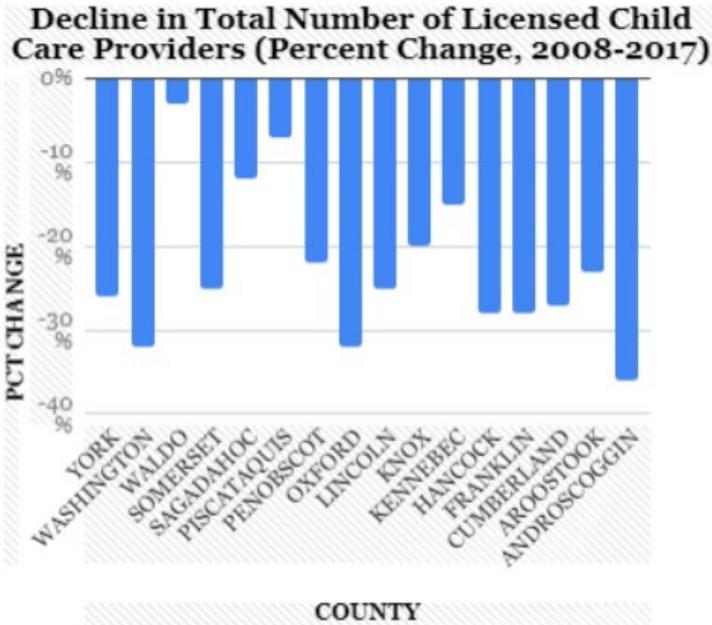
Analysis

According to *The State of Child Care in Maine*, a 2019 study by Maine Children's Alliance, the cost of full-time child care consumes between 11% and 22% of a typical family budget. The survey notes that a family could pay between "a low of \$6,500 for full-time preschool care in Aroostook County, to a high of \$15,756 for infant care in Cumberland County."²⁰² Maine ranks second in the nation, just behind California, for the least-affordable center-based infant care, a 2018 study by the nonprofit Child Care Aware of America found.²⁰³

The average annual cost of center-based care in Maine exceeds the average cost of a year's tuition at one of the state's four-year public universities. 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. In 2016, Chantel Pettengill, who runs a child care center in Lewiston, 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."²⁰⁴

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.”²⁰⁵

As noted by the *Washington Examiner*, “excessive regulation of daycare and preschool mostly hurts the poor and working class. For one thing, it makes daycare rarer and more expensive.”²⁰⁶ 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.”²⁰⁷

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.”²⁰⁸

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, and 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 three 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.²⁰⁹

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.²¹⁰ Some states—like North Carolina and Florida—allow 25 children

per staff member. A study by the General Accounting Office estimated that increasing strict child to adult ratios to allow for more children to be watched by fewer adults could lead to substantial reductions in costs.²¹¹

In response to the COVID-19 pandemic and ensuing economic shock from government-ordered business shutdowns, Governor Mills signed an order allowing home-based or family child care providers without certification to care for three children who are not living in the provider's home.²¹² This was raised from the previous limit of two.²¹³ If the Governor recognizes that this regulation stifles the availability for child care in the midst of a pandemic, lawmakers should do away with it completely, if not make this modest reform permanent.

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. Reducing burdensome regulations would allow more entrepreneurs to enter the child care arena and lead to more affordable options for families.

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 without certification to watch more children.
- 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.
- Make the changes for uncertified home-based providers in Executive Order No. 20 permanent.

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 2% 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% of motor vehicle accidents in Utah were due to mechanical failures. The majority of reported accidents were caused by speeding.²¹⁴

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. 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 that some Mainers 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 2017.²¹⁵

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.

In March 2020, Governor Janet Mills extended expiration dates indefinitely on state driver's licenses, IDs, vehicle registrations and inspection stickers during the Civil State of Emergency caused by the COVID-19 pandemic. Suspending vehicle inspections for several months amid a pandemic further calls into question the merit of Maine's vehicle inspection program. No data exists to suggest that motor vehicle accidents

increased or that Maine drivers were less safe during the period of suspended inspections.

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.

Wholesale Regulatory Reform

The Problem

State government agencies adopt regulations to implement laws and orders crafted by legislatures and chief executives. This red tape affects all individuals, families, businesses, nonprofits, and other entities in their everyday activities. After each legislative session or gubernatorial term, new regulations are added on top of old regulations, creating what academic research has called “regulatory overload,” which actually makes Americans less safe.²¹⁶ Unfortunately, no formal process exists in Maine to regularly review, modify or eliminate obsolete, duplicative, ineffective or overly burdensome regulations.

Analysis

Few exhaustive reviews of Maine’s regulatory burden have been conducted in our 200-year history. In 2018, researchers from the Mercatus Center uploaded the 2018 Code of Maine Rules (CMR) into a platform called State RegData. State RegData is a tool that allows researchers to identify the industries that state regulation targets most by connecting text relevant to those industries with restrictive word counts.

Referred to as regulatory restrictions, the words and phrases “shall,” “must,” “may not,” “prohibited,” and “required” can signify legal constraints and obligations. State RegData sorted through the entire 2018 CMR, and according to the analysis, Maine is home to 113,862 regulatory restrictions. It would take an individual about 449 hours—or more than 11 weeks—to read the entire CMR, assuming the reader spends 40 hours per week reading at a rate of 300 words per minute.²¹⁷

The industries targeted most by regulation in Maine are ambulatory healthcare services, food manufacturing, utilities, and chemical manufacturing, all of which are subject to more than 3,000 industry-relevant restrictions. The Mercatus Center’s analysis also shows that the top regulators in Maine are the Department of Health and Human Services, the Department of Environmental Protection, the Department of Agriculture, Conservation and Forestry, and the Department of Professional and Financial Regulation.

The sections of the 2018 CMR associated with these departments contain more than 12,000 regulatory restrictions each, with DHHS topping the list at 22,820 restrictions. These findings suggest more work must be done to break down barriers that keep Maine residents from prosperity.

Of course, not all regulation constitutes meaningless red tape. Some rules do serve a legitimate public purpose in keeping our workplaces safe and our air and water clean. The real problem arises when so many rules are adopted that the complex web of regulatory requirements becomes impossible to comprehend.

However, regulatory reform is among the most powerful tools policymakers possess to boost long-term economic growth and job creation. Individuals and businesses must navigate these rules—along with federal regulations—in order to remain in compliance and earn a living in Maine.

As noted by James Broughel, senior research fellow at the Mercatus Center and adjunct professor of law at the Antonin Scalia Law School, other states are already beginning to understand the benefits of regulatory reform. Virginia recently signed a bipartisan bill into law that requires a 25% reduction in requirements from two specific agencies that regulate occupational licensing and criminal justice activities. Following the state’s action, CNBC ranked Virginia as the fourth best state in the nation for doing business, citing its

regulatory reform law as a major reason for its high ranking.²¹⁸

To ease the burden on businesses and job creators, Maine should begin unraveling the red tape that has built up throughout state government, stifling economic growth and entrepreneurship at no benefit to our state.

Recommendations

- Adopt a Regulatory Reform Pilot Program to examine the necessity of existing regulations and eliminate those that are obsolete, duplicative or have not been demonstrated to protect public health and safety.
- Require the Department of Health and Human Services, the Department of Environmental Protection, the Department of Agriculture, Conservation and Forestry, and the Department of Professional and Financial Regulation to eliminate 25% of its regulations over a three-year period.

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, regardless of whether or not they used the service.²¹⁹ 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, reducing prices for consumers. Prices are further lowered because key business functions are

outsourced to digital 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 moratoriums or ordinances that stifle the sharing economy.



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 10th highest among states that levy an individual income tax, including the District of Columbia.²²⁰ Per capita state and local tax collections in Maine totaled \$5,206 in 2016, which ranked 14th highest nationally.²²¹

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 make up more than 90% of all Maine business and support 57% of private-

sector jobs.²²² 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 2017, more than 112,000 tax filers in Maine reported business income.²²³ Repealing the income tax would empower job creators to use their savings to re-invest in their businesses and expand their operations.

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.²²⁴

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.

Recommendation

- Repeal the individual income tax.

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

Unfortunately, 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 conducted by MoneyWise in 2020 revealed that the average annual cost of operating a car in Maine—when insurance, repairs, and gasoline expenses were calculated—totaled about \$2,700.²²⁵

When purchasing a car privately or from a dealer, individuals must pay a 5.5% 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 excise 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 every two years 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 2017, Maine collected \$475.1 million (5.3% of total tax revenues) in sin taxes on alcohol and tobacco products, as well as casino and video gaming activities.²²⁶ Liquor store taxes account for 1.8% of state revenue, the highest share of any state. Maine’s cigarette tax is currently \$2.00 per pack, the 17th highest in the country and 15% above the national average.²²⁷

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.”²²⁸ 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.”²²⁹

A 2008 Gallup poll showed that about 30% of American adults earning less than \$36,000 per year smoked. By contrast, only 13% of those with incomes exceeding \$120,000 used tobacco products.²³⁰ A 2014 study confirmed that cigarette smoking is strongly associated with income and educational achievement.²³¹

According to a 2012 survey, about 31% of smokers smoke one pack a day, while an additional 68% smoke less than one pack.²³² In other words, nearly one-third of smokers in Maine—who are disproportionately low-income—face an annual expense of more than \$700 in sin taxes, while many more pay hundreds of dollars per year.

Unfortunately, Maine is moving in the wrong direction on sin taxes. In the First Session of the 129th Legislature, lawmakers approved a bill that equalized the tax on tobacco products consistent with the 43% tax on the wholesale price of cigarettes.²³³ Legislators would be wise to eliminate this unnecessary, regressive form of taxation, instead of expanding it.

Recommendation

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

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."²³⁴

On average, the bottom 20% of Mainers paid 6.1% of their income in sales and excise taxes in 2015, totaling \$744 per family. The next 20% paid, on average, \$1,331 in 2015.²³⁵

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 only results in a more convoluted 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, Maine Policy Institute 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.²³⁶ The disparity exemplifies why adopting a local-option sales tax in Maine would be a losing endeavor considering we border only one state, New Hampshire, which does not impose a sales tax.

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.”

Recommendations

- Eliminate or reduce Maine’s general sales tax rate.
- Prohibit municipalities from imposing a local-option sales tax.

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 \$28,350 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."²³⁷

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 only serves to harm Maine communities.

Recommendations

- Lift the cap on charitable giving entirely.
- Align the charitable deduction cap with federal tax 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 by The Heritage Foundation, “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.”²³⁸

The study 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.

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 \$11.7 million in 2017, \$13.8 million in 2018, and \$15.8 million in 2019.²³⁹

In 2019, the estate tax accounted for only 0.4% of total state revenue.²⁴⁰ 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 \$5.8 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.²⁴¹ Despite these efforts, Maine per capita property tax collections ranks 9th highest in the country.²⁴²

Currently, revenue sharing is designed to distribute a higher percentage of funds to municipalities with very high tax burdens.²⁴³ 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.

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.

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. 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.²⁴⁴

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 crony policies.²⁴⁵ 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 2019, companies in Maine received at least \$37,189,875 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.)²⁴⁶

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.²⁴⁷ 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.

Possible Tax Reductions by Eliminating Corporate Welfare	
<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 massive taxpayer-financed incentives to a small handful of corporations with little oversight or accountability.

Recommendation

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

About the Authors

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