

# MAINE

## LEGISLATIVE GUIDEBOOK



THE  
MAINE HERITAGE  
POLICY CENTER  
*We the people of Maine*

**128<sup>TH</sup> MAINE LEGISLATURE**

**THE MAINE HERITAGE POLICY CENTER**

**MAINE LEGISLATIVE  
GUIDEBOOK  
2017**

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*"It does not take a majority to prevail, but rather an irate, tireless minority, keen on setting brushfires of freedom in the minds of men."*

~Samuel Adams

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

The Maine Heritage Policy Center is a research and educational organization whose mission is to formulate and promote conservative public policies based on the principles of free enterprise; limited, constitutional government; individual freedom; and traditional American values – all for the purpose of providing public policy solutions that benefit the people of Maine.

MHPC's staff pursues this mission by undertaking accurate and timely research and marketing these findings to its primary audience: the Maine Legislature, nonpartisan Legislative staff, the executive branch, the state's media, and the broad policy community. MHPC's products include publications, articles, conferences, and policy briefings.

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

## Introduction

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

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

As you and your legislative colleagues conduct the people’s business in Augusta, The Maine Heritage Policy Center welcomes the opportunity to serve as a resource during the 128<sup>th</sup> Legislature. Thank you for sharing our commitment to a freer, more prosperous Maine.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Gagnon", with a long horizontal flourish extending to the right.

Matthew Gagnon  
Chief Executive Officer

# Guidance for Lawmakers

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

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

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

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

## **Be skeptical**

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

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

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

## **Beware the lobbyists and interest groups**

They're everywhere. Remember they work for their own self-interest, not the people of Maine. They are not impartial. They do have important input, but you have a responsibility to your constituents, not to them.

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**LABOR**

# Right-To-Work



## The Problem

Under current law, an employee in Maine may be required to pay union dues as a condition of employment, regardless of the employee's desire to join the union or the benefits derived from the union's activities. Based on data collected from other states, as many as 7,400 workers in Maine may choose to stop paying union dues if given the opportunity.<sup>1</sup>

## Analysis

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

To date, 26 states have adopted right-to-work legislation, and several more are likely to soon follow. But 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 about 11 percent, down from 13.4 percent in 2000, repeated efforts to pass right-to-work have been defeated by vociferous union leaders.

There is little doubt that forced unionization has a detrimental impact on Maine's economy. A 2014 report by the Competitive Enterprise Institute found that "the compelling preponderance of evidence suggests there is a substantial, significant, and positive relationship between economic growth in a state and the presence of a right-to-work law."<sup>2</sup> A study published in 2013 by the Mackinac

Center for Public Policy found that “from 1947 through 2011, right-to-work laws increased average real personal income growth by 0.8 percentage points and average annual population growth by 0.5 percentage points in right-to-work states. From 1970 through 2011, these laws also boosted average annual employment growth by 0.8 percentage points.”<sup>3</sup>

Peter DelGreco, president and CEO of Maine & Company, an organization that seeks to attract new businesses, jobs, and investment to Maine, has said that “the universe of decision makers who prefer right-to-work states is larger than the universe of decision makers who prefer non-right-to-work states. When we take out the sound bites and the passion and look simply at the totals, becoming a right-to-work state will encourage more decision makers to look at Maine.”<sup>4</sup>

Maine could become the first New England state to enact right-to-work legislation, giving us an important competitive advantage over our regional neighbors in business climate and job growth.

### **Recommendation**

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

# Reforming Occupational Licensing



## The Problem

State laws pertaining to occupational licensing have become increasingly burdensome over the last few decades, reducing employment opportunities for many—especially low-income—Mainers. According to a recent study by the Institute for Justice, Maine licenses 39 out of 102 low- to moderate-income professions. 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 \$206 in fees, devote 226 days to training, and pass one exam.

## Analysis

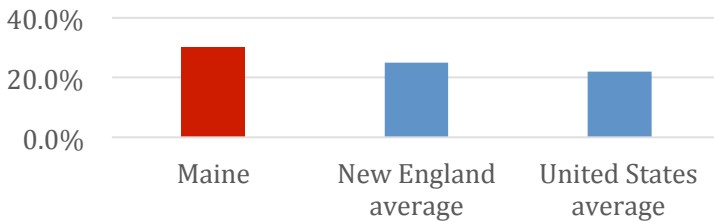
We all know that physicians and lawyers must obtain a license before plying their trade. Psychologists and dentists must do the same. Few people realize, however, the breadth of government regulation on occupational licenses.

A recent study found that more than 20 percent of Maine's workforce is licensed, representing more than 100,000 professionals. Nationwide, the proportion of the workforce needing to obtain a license has nearly quintupled since the 1950s, as state legislatures around the country have expanded the number of industries under government control.<sup>5</sup> Until 1985, for example, dietetic technicians were free to work in Maine without a license.<sup>6</sup>

The argument in favor of licensing always has 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 (particularly the poor) from entering the regulated profession, raise prices for goods and services, and do little to enhance public safety.<sup>7</sup>

## Licensure Rates Among Employed Workers



Sources: Heritage Foundation, U.S. Census Bureau

A study of occupational licensing policies in every state noted, “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. And 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 three states to license dietetic technicians; applicants must obtain more than two years of training prior to licensure.

In a report released in July 2015, the Department of the Treasury stated: “There is evidence that licensing requirements raise the price of goods and services, restrict employment opportunities, and make it more difficult for workers to take their skills across state lines. Too often,

policymakers do not carefully weigh these costs and benefits when making decisions about whether or how to regulate a profession through licensing.”<sup>8</sup>

Licensing requirements are not harmful to everyone. Entrenched industries benefit greatly from keeping new practitioners out of the market and suppressing competition. According to the Concise Encyclopedia of Economics, “it appears that every organized occupational group in America has tried at one time or another to acquire state licensure for its members.”<sup>9</sup> Licensing has more to do with imposing costly and time-consuming obstacles that limit competition than with ensuring competence and protecting public safety.

### **Recommendations**

- Lawmakers should 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.
- Under current law, criminal convictions can disqualify someone from obtaining an occupational license. These restrictions should be reformed to promote societal re-integration and economic opportunity.

# Giving Public Sector Union Members a Choice



## The Problem

Reforming public sector unions is critical to enhancing transparency, reducing government spending, and protecting workers' rights. 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. Following in the footsteps of recent trailblazers like Wisconsin, legislators should reform these policies.

## Analysis

Lawmakers in Maine have many opportunities to improve fairness and accountability among public employee unions.

According to a recent report, Maine is one of just 11 states that allow government unions to negotiate in secret.<sup>10</sup> Transparency in collective bargaining allows the public, the media, and elected officials to know precisely what union officials are demanding and what public officials are offering in any negotiation over employment terms and conditions.

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

One common provision in collective-bargaining agreements guarantees "release time," during which public employees perform union business—like contract negotiations,

attending union meetings, and defending members at disciplinary hearings—at taxpayer expense. For instance, the Maine State Employee Association—which represents more than 13,000 workers—is allowed to organize up to four one-day meetings of its Board of Directors per year without loss of pay or benefits, at a cost of at least \$15,000 to taxpayers.

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

Automatic dues deduction—in which public employers collect dues payments directly from employees' paychecks and pass them on to the union—is another provision that is commonly found in public collective bargaining agreements in Maine.

These arrangements use taxpayer-funded resources to the exclusive benefits of unions. Legislators should require unions to use their own resources to collect dues from their members.

As Greg Mourad, vice president of the National Right to Work Committee, explains: “Once their employer ceases taking their union dues out of their paychecks at taxpayers' expense, and they have to take active measures to continue bankrolling the union, public employee union members often decide the organization does not merit their financial support.”<sup>11</sup>

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



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

### **Recommendations**

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



# HEALTH CARE

# Introducing Competitive Shopping to Health Care



## The Problem

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

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

## Analysis

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

Through the creation of CompareMaine.org, a publicly available website that provides a wide array of pricing information on dozens of hospitals and clinics throughout the state of Maine, policymakers have taken an important step in making health care costs more transparent.

Several studies suggest, however, that price transparency alone is insufficient to motivate significant changes in consumer behavior. Only a small percentage of health insurance enrollees utilize their carrier's cost comparison tool (when such a tool is even available).

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

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

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

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

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

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

Also, patients who choose to receive medical care for less than their carrier's average cost from an out-of-network provider should enjoy the same cost sharing policies as if the services had been provided by an in-network provider.

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

### **Recommendations**

- Enact right-to-shop legislation to reward patients for seeking low-cost health care.
- Expand the number of procedures and providers listed on CompareMaine.org to promote price transparency.

# 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 a new facility, or purchase additional equipment. These laws, which have been rejected by many other states, limit competition in the health care system and drive up costs.

## Analysis

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

Health care entities seeking to make an investment under the purview of CON regulations commonly face four to ten months of delays, hearings, and analyses before the DHHS Commissioner makes a final decision. From 2008 to 2010—during which the Maine Certificate of Need unit processed 29 applications—more than \$500,000 in filing fees were collected, an average of \$17,240 per application.

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

Trade Commission and the Department of Justice jointly published a report titled *Improving Health Care: A Dose of Competition*, which states that “CON programs can pose serious competitive concerns that generally outweigh [their] purported economic benefits.

Where CON programs are intended to control health care costs, there is considerable evidence that they can actually drive up prices by fostering anticompetitive barriers to entry.”<sup>12</sup> Joseph Miller, a former prosecutor at the Department of Justice, remarked, “The Antitrust Division’s experience and expertise has taught us that Certificate of Need laws pose a substantial threat to the efficient performance of health care markets. We have examined historical and current arguments for CON laws, and conclude that these arguments provide no economic justification for depriving consumers of the benefits of free markets.”<sup>13</sup>

Examples of bureaucratic mistakes in gauging public need for additional health care infrastructure are countless. Officials in Hawaii denied a CON application to a company seeking to construct a new hospital on Maui, forcing the island’s 144,000 residents to rely on a single, government-run facility with little incentive to lower prices or improve performance.<sup>14</sup>

In North Carolina, the CON system denied an attempt by three neurologists to establish a small MRI facility in Garner, a suburb of Raleigh, which could have decreased costs for thousands of residents.<sup>15</sup> Here in Maine, a 2009 request for CON by MaineGeneral to build a new 226-bed hospital in Augusta was denied by DHHS; officials only agreed to let the project move forward if the number of beds was reduced to 192. In 2014, reports surfaced that the new facility was operating at full capacity 26 percent of the time, and that patients admitted to the hospital were often occupying emergency room beds until beds opened up on other floors.<sup>16</sup>

According to Holly Lusk, a former health policy advisor to Governor LePage, “Repealing CON means repealing the impediment to our state’s health care facilities ability to develop and plan based on efficient market forces. Market forces reward entities that provide excellent products at reasonable prices. CON serves as a barrier to innovation.”<sup>17</sup> Maine should entirely repeal its CON laws.

### **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.



# Supporting the Direct Primary Care Industry



## The Problem

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

A survey conducted in 2012 found that 90 percent of doctors believe the medical industry is on the “wrong track” and 83 percent are thinking of quitting. The vast majority blamed excessive government involvement for the problems the health care system faces. Reform must be made to attract more physicians to Maine and ensure that patients receive the care they need at an affordable cost.

## Analysis

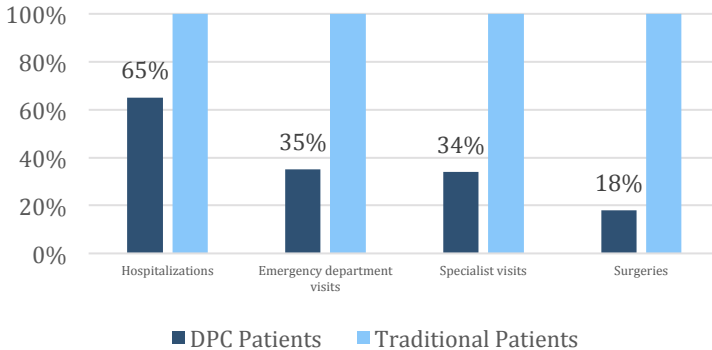
In the face of systemic dissatisfaction with our health care system, rising costs, and poor medical outcomes, a growing number of physicians and patients are transitioning to direct primary care (DPC), an innovative health care delivery model hailed as the “best kept secret in the health care industry”<sup>18</sup> and “one of the most intriguing experiments in [medicine].”<sup>19</sup> The model abandons third-party insurance payments and emphasizes coordinated, comprehensive, and personalized care.

In DPC, a simple flat monthly fee is charged for comprehensive coverage of all primary care services. This

empowers the doctor-patient relationship and enables DPC providers to focus on providing outstanding medical care instead of spending time with administration and billing.

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

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



*Source: British Medical Journal study of Qliance patients*

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

Several studies have tried to quantify the financial benefits of DPC's personalized approach. Data collected from thousands of DPC patients from 2013 to 2014 indicated average annual savings of \$679 per person compared to similar individuals with commercial insurance; researchers attributed the drop in health care spending to sharp declines in hospitalizations, emergency room visits, and specialist services.<sup>20</sup>

Direct primary care physicians in Maine operate with regulatory uncertainty and the possibility that the Bureau of Insurance may begin imposing rules and restrictions on their business. If considered health insurers under Maine law, DPC practices would face difficult—and possibility prohibitive—obligations, such as maintaining a minimum of \$1 million of capital reserves,<sup>21</sup> submitting annual detailed financial reports to the superintendent of the Bureau of Insurance,<sup>22</sup> and undergoing a “comprehensive” examination by state regulators at least once every five years.<sup>23</sup>

In order to protect DPC practices from burdensome regulation, 14 states have adopted laws explicitly exempting DPC from insurance regulations; six more states are considering similar legislation. According to nonpartisan researchers at the Florida legislature, exempting DPC practices from the insurance code “removes regulatory uncertainty for health care providers by stating that the direct primary care agreement is not insurance and as a result not regulated by the [Bureau of Insurance]. Additional primary care providers may elect to pursue a direct primary care model and establish direct primary care practices which may increase access to affordable primary care services.”<sup>24</sup>

## Recommendations

- Exempt DPC practices from insurance regulation.

# 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. Despite efforts in recent years to stabilize MaineCare spending, it continues to account for an unacceptably large portion of the state budget.

## Analysis

Medicaid—or MaineCare, as it is known in Maine—is an important public health insurance program that provides medical care to about 270,000 Mainers.<sup>25</sup> However, Medicaid’s growing budget has crowded out other spending priorities and threatened Maine’s long-term fiscal stability.

In 2015, MaineCare spending reached \$974 million, compared to \$794 million in 2009. Reforms must be made to reduce spending and focus resources on Maine’s most vulnerable populations, including the elderly, children, and the disabled.

In recent years, the Department of Health and Human Services has proposed thoughtful reforms to put MaineCare on a more sustainable fiscal trajectory. For example, Maine is one of just two states that provide Medicare Savings Plan benefits above the federal minimum.

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

to bring Maine's generous coverage in line with national norms could be a source of substantial savings.

Lawmakers should also redirect funds from ineffective programs like the Fund for a Healthy Maine (FHM) to essential MaineCare services.

The FHM, largely funded by tobacco settlement money, has spent more than \$215 million on tobacco prevention and control since 1993 with little measurable success. Using FHM resources to expand access to primary care for MaineCare recipients—a proven way to combat smoking—would be a wiser investment.

Reforming the Medicare Savings Plan (MSP) is another possible source of savings. Through the MSP, Maine seniors get help paying their Medicare premiums. Currently, Maine is one of just two states that provide MSP benefits beyond the federal minimum. Reducing Maine's generous MSP benefits could save more than \$20 million.<sup>26</sup>

In the years ahead, lawmakers should continue to oppose any expansion of MaineCare under the Affordable Care Act. Maine has already experienced the disastrous fiscal consequences of expanding MaineCare coverage to childless, able-bodied adults.

When Maine expanded coverage in 2001 and again in 2003, MaineCare quickly experienced annual shortfalls of \$50 million to more than \$100 million. The Department of Health and Human Services estimates that MaineCare expansion would cost taxpayers approximately \$315 million over the next five years, forcing deep spending cuts elsewhere or significant tax increases.<sup>27</sup>

### **Recommendations**

- Redirect revenue from the Fund for a Healthy Maine to important MaineCare initiatives like expanding access to primary care.

- Reduce Medicare Savings Plan benefits to the federally-mandated minimum.
- Align reimbursement rates of behavioral health services with other New England states
- Reduce coverage of optional benefits.
- End MaineCare coverage for able-bodied 19 and 20-year-olds when federal requirements expire in 2019.

The background of the page is a solid dark blue color. Overlaid on this background is a faint, light-colored image of a classical building, likely a government capitol building. The image shows a large dome with a lantern on top, supported by a portico with several columns. The building is centered and occupies most of the frame.

# EDUCATION

# Education Standards and Common Core



## The Problem

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

## Analysis

In the 1990s, at a time when schools used a much more localized and flexible set of learning standards,<sup>28</sup> Maine reported the best student achievement scores in the country, exceeding the results of more geographically-concentrated, and better-financed states.<sup>29</sup> By any measure, our public K-12 education system ranked among the best in the nation.

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

Common Core also represents a lowering of academic standards. Common Core math standards fail to meet the content targets recommended by the National Mathematics



Advisory Panel, the standards of leading states, and our international competitors. They exclude certain Algebra 2 and Geometry content that is currently a prerequisite at almost every four-year state college, essentially re-defining “college readiness” to mean readiness for a non-selective community college. Common Core math standards also require that geometry be taught by an experimental method that has never been used successfully anywhere in the world, and delay or eliminate instruction in basic consumer math and topics in algebra.

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

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

### **Recommendations**

- Withdraw completely from Common Core and adopt a set of rigorous academic standards similar to those Maine developed in the 1990s.

# Education Savings Accounts



## The Problem

Maine's public school system has encouraged skyrocketing costs for decades while thousands of students graduate without the basic skills they need to succeed in life. Too often, a child's educational opportunities are determined by her parents' income and zip code. The one-size-fits-all approach to public education, reinforced by reforms like Common Core, has failed.

## Analysis

In several parts of the country, education savings accounts (ESAs) have been used successfully to improve educational opportunities and outcomes for poor children. A 2012 report by the Goldwater Institute opined that ESAs represent "the most innovative solution to provide all America's children with better opportunities."<sup>30</sup>

ESAs expand parents' choices in selecting the best educational program for their child by providing state-funded bank accounts that families use for education expenses. Parents operate the accounts and have discretion to purchase services and materials to optimize their child's education.

The funds can be used for private school tuition, textbooks, online classes, tutoring, college tuition, or individual public school class 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 needs. For students with special needs, such as children with autism, cerebral palsy, or hearing or vision impairments, parents can use the funds to send their

children to a school that specializes in addressing those challenges.

Research consistently shows that parental choice improves academic outcomes of participating students, particularly those from disadvantaged or poor households. Nearly all empirical studies of parental choice programs show positive impacts, including improved reading and math achievement and increased graduation rates.

Education savings accounts can significantly reduce education spending, saving taxpayers millions of dollars. Instead of funding schools, the state provides funds directly to families and audits every purchase. Participating families then report expenses to the state, and must account for every penny spent. In Arizona, one of the first states to embrace ESAs, the government deposits 90 percent of student funds from the school funding formula into an account that is available for individual students. The state's department of education reserves some of the remaining ten percent of student funds to administer the program and saves the rest. Thus, each student using a savings account actually saves money for the state.

If Maine adopted a similar 90 percent funding plan, taxpayers could save more than \$1,000 on each participating student. Assuming 10 percent of current public school students opted for an ESA, Maine could economize nearly \$19 million.

### **Recommendation**

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

# Unleashing Innovation in Charter Schools



## The Problem

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

## Analysis

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

Compared to traditional public schools, charter schools are afforded greater flexibility in operations and teaching in exchange for higher standards and greater accountability. They foster a productive relationship between parents, teachers, and students, and are better able to adapt and respond to the unique needs of each student.<sup>31</sup>

The positive effects of charter schools extends well beyond our children. A recent study found that local communities and local economies receive many benefits from charter schools, primarily because of the wealth they generate, and the productive students they graduate.

Students who attend charter schools are noted to be more productive, well rounded, community-minded, and better able to contribute as skilled workers – which are desperately needed in Maine.<sup>32</sup>

But unfortunately, Maine has placed a strict cap on the number of charter schools that may educate our children. As laid out in the 2011 legislation that first allowed for charter schools, the Maine Charter School Commission may only approve ten total charter schools until the year 2022.<sup>33</sup>

Predictably, this cap is proving to be far too low. As of January 2015, every charter school in operation had waiting lists of students who wished to enroll in one of these schools.<sup>34</sup> With the eighth of the ten allowed charter schools opening in fall 2016, there are few opportunities for these wait-listed students to be accepted to a charter school in Maine.<sup>35</sup>

This arbitrary cap on the number of charter schools not only limits the number of students who may attend one of these schools, but it hampers the potential of Maine's economy. A healthy economy depends upon a well-educated and qualified workforce, and requires students who have received a quality education. It is essential for businesses to have access to proficient and knowledgeable workers in order to compete and thrive.<sup>36</sup>

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

Charter schools are not only leading to better educated students, but individuals who are better prepared to face challenges as they enter the workforce. They are allowing for more competent workers, a higher amount of human capital, and are a piece of the equation which will solve the issues facing Maine's economy.<sup>37</sup>

Maine legislators should recognize the cap on the number of charter schools that can be created by the Maine Charter

School Commission is counterproductive to economic growth and academic excellence. They should take steps to remove this oppressive piece of red tape and allow Maine's economy to have access to more qualified workers.

**Recommendations**

- Remove the cap on the number of charter schools that may be approved by the Maine Charter School Commission.

# Higher Education Reform



## The Problem

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

## Analysis

As manufacturing and other low-skill jobs decline, employers are seeking better-trained workers with a post-graduate education. In 2014, economist John Dorrer explained that "more than one-third of projected new jobs between 2010 and 2020 will require postsecondary credentials and advanced skills...Maine will need thousands of scientists, engineers, computer specialists, management specialists, and marketing experts to move its economy forward."<sup>38</sup>

Unfortunately, a college education remains out of reach for many poor Mainers. A 2014 report by Maine Legislature's Commission to Study College Affordability and College Completion concluded: "In Maine, there is not currently a viable path to a college degree for all students who meet the academic admission standards and are willing to work hard, take out reasonable student loans, and make timely progress towards completing a degree."<sup>39</sup> It estimated annual average costs of \$20,800 for one year at a Maine Community College and \$25,600 at a University of Maine System campus. As a

result of these prohibitive costs, economically disadvantaged students are significantly less likely to enroll in college.

In recent years, university administrators have taken laudable steps to reduce expenditures and limit the growth of student costs. For the first time since 1987, in-state undergraduate and graduate tuition has not increased for five consecutive years, following a period of rapid tuition growth (averaging 9 percent annually) from 2005 to 2009.<sup>40</sup> Increases in prices for room and board have been modest.<sup>41</sup>

Since 2007, the University System has also reduced its workforce by 521 full-time equivalent employees.<sup>42</sup> But more work could be done to reduce costs and expand opportunity for all Mainers.

### **Recommendations**

- Enhance transparency by publishing information on esoteric fees
- Continue to reduce administrative and non-instructional expenses and refocus spending priorities on undergraduate instruction.
- Eliminate duplicative or unnecessary public university and community college campuses.
- Address the student debt problem by implementing private income share agreements that allow financiers to pay for students' college education in return for a small stake in their postgraduate income.





# **FIGHTING POVERTY**

# Automobile Inspections



## The Problem

While a concern for public safety should always be on legislators' minds, Maine's car 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.

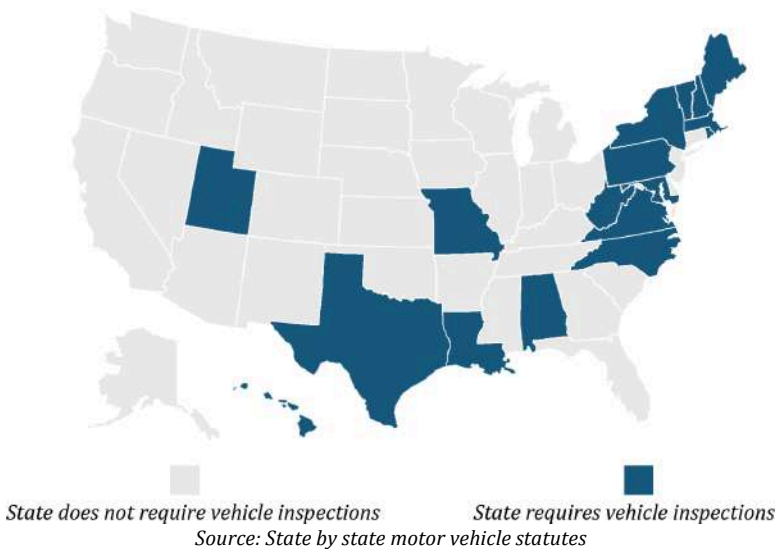
## Analysis

While proponents assert that these inspections ensure cars are safe to drive and help protect drivers and passengers, there is little evidence to support this stance. Driver error is the biggest cause of automobile accidents, while mechanical failures account for as few two percent of crashes.

Sixteen states have repealed their inspection programs over the last few decades. 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. Based on the evidence, it is clear that the car inspection program constitutes a burdensome regulation that disproportionately impacts the poor.

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

## States that require periodic (annual or biannual) vehicle safety 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.
- 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.

# Continuing to Reform Welfare



## The Problem

For too long, Maine's welfare programs have promoted government dependency instead of giving struggling families the help they need to become financially independent. Maine's repeated expansion of eligibility criteria and lax work requirement standards have turned benefits designed to meet the needs of the truly needy into middle-class entitlements. Simply put, Maine's welfare system is broken.

## Analysis

Tightening welfare eligibility standards preserves resources for those in need while discouraging welfare dependence among those with higher incomes. In the TANF program, an applicant family comprised of a single parent caring for two children can earn up to \$1,022 per month—or about 64% of the federal poverty line—and still receive welfare benefits. Only nine states have such lax eligibility criteria; the average among rural states like Maine—including Montana, New Hampshire, West Virginia, and others—is \$792.<sup>43</sup>

In Maine, the income limit to receive subsidized child care services is 267 percent of the federal poverty level, or nearly \$65,000 for a family of four.<sup>44</sup> According to 2009 data, the average income threshold among similar rural states was 176 percent of the poverty line, or \$38,808 for a family of four.

Policymakers should also emphasize the importance of diversion programs to avoid long-term welfare enrollment. For those eligible to enroll in Maine's welfare system, the first step should not be the near-automatic enrollment that is the case today.

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

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

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

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

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

According to the U.S. Census, only 1.8 percent of households in Georgia received cash public assistance in 2012, one of the lowest rates in the country. Maine, by contrast, had the nation's second highest rate of cash public assistance in 2012, at 5.2 percent of households.<sup>45</sup> In 2014, Maine spent \$85 million on the TANF program.<sup>46</sup>

Policymakers should also strengthen job search and work requirements, which have consistently been shown to boost long-term earnings of welfare recipients, shorten the amount of time spent on the rolls, and reduce the number of people dependent upon government. In March 2016, Bethany Hamm, director of the Office for Family Independence in DHHS, testified before the Legislature that the TANF program contains an “overly broad exemption that has allowed TANF recipients to avoid required work too easily.”<sup>47</sup>

### **Recommendations**

- Focus Maine's limited welfare resources on Maine citizens and those who are most in need.
- Emphasize diversionary strategies to help the poor 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.

# Improving the Child Care Industry



## 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. In 2015, an estimated 53,000 young children in Maine needed child care services outside the home.<sup>48</sup>

Yet despite its importance, the cost of child care is often prohibitive for low-income Mainers. In 2015, according to Child Care Aware of America, “a single parent with two children pays 73 percent of their income towards child care. A married family at the poverty line with two children pays 68 percent of their income towards center-based child care. [The] annual combined cost of child care for an infant and a four-year-old is \$16,381, which exceeds the cost of the state’s four-year public college tuition.”<sup>49</sup>

## Analysis

Child care shortages are being felt across the state, limiting access for working parents and driving up prices. Chantel Pettengill, who runs a child care center in Lewiston, recently testified to the Legislature: “We are...in a childcare crisis, I have been open since November...my infant rooms are full (16 infants), my toddler room has only two slots left, and the same for my two-year-old room.”<sup>50</sup>

Vicki Gordon – who owns a daycare in Freeport – recently stated: “As more and more daycare regulations are passed, more and more great home daycares are closing, because it is

becoming almost impossible to comply with all the rules and regulations.”<sup>51</sup>

As the Washington Examiner noted in 2014, “excessive regulation of daycare and preschool mostly hurts the poor and working class. For one thing, it makes daycare rarer and more expensive.”<sup>52</sup> A paper by the RAND Corporation concluded, unsurprisingly, “that regulations have an economically significant effect on the price of childcare, which in turn affects both the demand of regulated care and the labor force participation choices of the mothers.”<sup>53</sup>

Intuitively, strict regulations on child care providers may seem necessary to ensure the safety of vulnerable children and promote high-quality services that spur cognitive, emotional, and social development. Yet, according to a report by the National Center for Policy Analysis, “state and local regulations significantly affect the price of care without improving quality.”<sup>54</sup>

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

In Maine, about 200 pages of regulations apply to child care facilities, nursery schools, or family child care providers. Depending on the type of child care provider and the age of the children being cared for, the Department of Health and Human Services imposes strict staffing ratios. For instance, in a small child care facility (defined as a business that cares for 3-12 children under the age of 13), one staff member may not supervise more than 12 children over the age of five. Similarly, child care centers – facilities with more than 13 children – may not allow one staff member to care for more than four infants.<sup>55</sup>



Though it's important to ensure that children receive the attention and supervision they need, these staffing ratios increase labor costs, have not been demonstrated to be beneficial to child development, and are often more restrictive than other states. Thirty-five states, for instance, allow staff members to supervise more 5-to-13-year-olds than Maine; while Maine limits the number to 13 children per staff member, some states – like North Carolina and Florida – allow 25 children. Using a limited dataset, a study by the General Accounting Office estimated that increasing strict child/adult ratios could lead to substantial reductions in costs.<sup>56</sup>

The motivation for tightly regulating the child care market—the desire to protect the thousands of children who rely on commercial child care from neglect or abuse—is laudable. Yet, despite extensive government involvement, the overall quality of child care in Maine remains mediocre while prohibitive costs prevent many poor families from pursuing professional or educational opportunities made possible by reliable child care.<sup>57</sup> Reducing burdensome regulations would allow more entrepreneurs to enter the child care arena and lead to more affordable options.

### **Recommendations**

- Align child/adult ratios allowed in child care facilities in Maine with national averages.
- Eliminate educational requirements for lead teachers and other staff that have not been demonstrated to improve service quality.



# TAX POLICY

# Lowering and Eliminating the Personal Income Tax



## The Problem

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

## Analysis

Despite recent income tax reductions, Mainers continue to shoulder a large income tax burden. According to the Tax Foundation, "Maine's individual income tax system consists of three brackets with a top rate of 7.15 percent. The top rate ranks 11<sup>th</sup> highest among states levying an individual income tax. Maine's state and local tax collections per person were \$1,153 in 2013, which ranked 16<sup>th</sup> highest nationally."

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

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

revenues on their owners' personal income tax return. In 2014, more than 145,000 tax filers in Maine reported business income.<sup>58</sup> Repealing the income tax would allow job creators to keep more of their money to re-invest in their businesses and expand their operations.<sup>59</sup>

A 2012 study found by Arthur Laffer and Stephen Moore found that, in any ten-year period since 1960, no-income tax states consistently outperform the highest income tax states (including Maine) on measures like population growth, personal income, Gross State Product, and employment. "The Northeast is falling further and further behind, and the South is booming. One of the biggest factors behind that phenomenon is that the South, on a whole variety of economic policy variables we have examined, is a region much more receptive to business and worker rights than the high tax, heavily unionized Northeast," the report concluded.<sup>60</sup>

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

### **Recommendations**

- Repeal the individual income tax entirely.
- Adopt a 4 percent flat individual income tax.

# Motor Vehicle Excise Tax and Car Fees



## The Problem

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

## Analysis

Maine policymakers have enacted detrimental policies that make it harder for the poor to purchase and operate a car. Maine's red-tape and regulations surrounding automobiles is tremendously expensive, and another huge cost that drivers must overcome. An analysis in 2012 revealed that the average annual cost of operating a car in Maine – when insurance, repairs, and gasoline expenses were calculated – was \$2,119, or about \$2,200 in real terms. An estimated 42,000 drivers in Maine – roughly 7 percent of all vehicle operators – lack legally required liability automobile insurance, an indication of the financial strains that owning a car creates.

When purchasing a car privately or from a dealer, individuals must pay a 5.5 percent sales tax. If a person is buying a vehicle with a manufacturer's suggested retail price of \$20,000, the tax would be an astonishing \$1,100. If that vehicle cost \$30,000, the purchaser would pay \$1,650 in sales taxes. Many states have lower car taxes, and some — like New Hampshire — don't have any automobile sales taxes at all.

The owner must also pay an annual municipal excise tax to register their vehicle. While this excise tax varies depending on the age of the vehicle, the tax burden is often high. If those \$20,000 and \$30,000 vehicles were made in 2016, the excises taxes on each would be \$480 and \$720, respectively. Even the excise tax on a \$20,000 car manufactured in 2005, a more realistic choice for a low-income family, would still be \$80.

The owner must also pay a fee – which is \$35 for passenger vehicles – when they go to register their car. If the car was purchased privately, they must also pay a \$35 title application fee. Many municipalities also charge an agent fee. Every year, an individual must re-register their car and pay another registration fee. All told, the owner of a \$20,000 vehicle would pay more than \$1,600 in fees and taxes the first year they purchased their car. The owner of the \$30,000 car would pay more than \$2,400.

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

### **Recommendations**

- Reduce the Motor Vehicle Excise Tax rates.
- Require personal vehicles to be registered biannually for a fee of \$50.

# Ending Sin Taxes



## The Problem

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

## Analysis

In 2014, Maine collected \$206.7 million (5.4 percent of total tax revenues) in sin taxes on alcohol and tobacco products, as well as casino and video gaming activities.<sup>61</sup> Maine’s cigarette tax is currently \$2.00 per pack, the 11<sup>th</sup> highest in the country and 24 percent above the national average.<sup>62</sup>

There is little evidence that sin taxes are effective. According to the Mercatus Center, “research has shown that when the price of a “sinful” good increases, consumers often substitute an equally “bad” [product] in its place.”<sup>63</sup> For example, two studies found that teen marijuana consumption increased when states raised beer taxes or increased the minimum drinking age.

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

smokers and drinkers will continue to use tobacco and alcohol. Thus, raising taxes on these products makes the tax burden even more regressive.”<sup>64</sup>

A 2008 Gallup poll showed that about 30 percent of American adults earning less than \$36,000 per year smoked. By contrast, only 13 percent of those with incomes exceeding \$120,000 used tobacco products.<sup>65</sup> A 2014 study confirmed that cigarette smoking is strongly associated with income and educational achievement.<sup>66</sup>

According to a 2012 survey, about 31 percent of smokers smoke one pack a day, while an additional 68 percent smoke less than one pack.<sup>67</sup> In other words, nearly one-third of smokers in Maine—who are disproportionately low-income—face an annual burden of more than \$700 in sin taxes, while many more pay hundreds of dollars per year.

### **Recommendation**

- Reduce “sin taxes” on alcohol and tobacco.



# Real Sales Tax Reform



## 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 the poor because, as a recent analysis by Pew Charitable Trusts noted, in 2014 "low-income families spent a far greater share of their income on core needs, such as housing, transportation, and food, than did upper-income families."<sup>68</sup>

On average, the bottom 20 percent of Mainers paid 6.1 percent of their income in sales and excise taxes in 2015, totaling \$744 per family. The next 20 percent paid, on average, \$1,331 in 2015.<sup>69</sup>

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

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

now enjoys. In a 2011 report, The Maine Heritage Policy Center estimated that Maine lost \$2.2 billion in retail activity in 2007, thanks in large part to our comparatively high sales tax burden.<sup>70</sup>

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

### **Recommendations**

- Reduce Maine’s general sales tax rate.

# Encouraging Charitable Giving



## The Problem

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

## Analysis

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

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

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

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

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

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

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

### **Recommendation**

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

# Ending Maine's Reliance on the Estate Tax



## The Problem

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

## Analysis

After the death of a family member, a family is sometimes forced to either sell the business altogether or to reduce capital equipment to pay the estate tax liability. Often this results in a residual impact in the loss of private sector jobs. As noted in a recent study, “death taxes are self-defeating because they drive out businesses and high-income residents.

Even for those choosing to remain in death tax states, the elderly are incentivized to spend down their assets while alive or to find tax shelters, which results in massive disinvestment in family-owned businesses—the backbone of local economies.”<sup>71</sup>

A report by the Heritage Foundation confirms that “citizens whose estates are most likely to be partially confiscated at death are often moving elsewhere to escape taxation,” leading to a reduction in capital stock to spur local economic growth.<sup>72</sup>

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

The estate tax is also highly volatile and generates relatively little revenue. Estate tax collections totaled \$79 million in 2013, \$24 million in 2014, and \$31 million in 2015.<sup>73</sup> By comparison, the personal income tax generated about \$1.5 billion in 2015, while the sales and use taxes raised nearly \$1.2 billion.

In 2014, the estate tax accounted for only 0.8 percent of total state revenue.<sup>74</sup> Clearly, the estate tax's utility as a source of revenue does not justify its ancillary effects on the business environment and the hostile message it sends to many of Maine's residents.

### **Recommendations**

- Repeal the estate tax entirely.
- Increase the exclusion amount applied to Maine properties from \$5.45 million to \$10 million.

# Revenue Sharing and Property Tax Relief



## The Problem

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

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

## Analysis

Maine's municipal revenue sharing program transfers a small percentage of tax collections from major broad-based taxes—including the income tax and sales tax—directly to municipalities in an effort to alleviate local property tax burdens and supplement municipal budgets. Revenue sharing peaked in 2008 when \$133 million was allocated to municipalities. Despite these efforts, Maine's municipal property tax burden ranks 9<sup>th</sup> in the country.

Currently, revenue sharing is designed to distribute a higher percentage of funds to municipalities with very high tax burdens.<sup>75</sup> Although the intent of the provision was clearly to allow high-tax cities and towns to reduce their property tax rates by providing state aid, municipalities have taken advantage of this feature of the program to raise local taxes and attract additional state funds (just as states have

responded to Medicaid's federal matching formula by increasing state spending to receive more federal dollars).

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

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

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

### **Recommendations**

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





# ENERGY POLICY

# Renewable Portfolio Standard



## The Problem

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

## Analysis

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

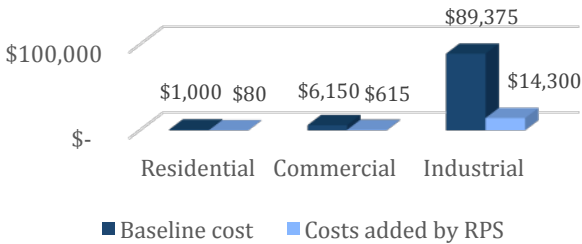
The law itself did little to alter the state’s mix of fuel sources used for electricity production. Maine was already producing large quantities of energy from renewable sources. Maine’s numerous lakes and streams enabled the production of economically viable hydroelectric power, and its forestry industry supplied wood waste for biomass electricity production.<sup>76</sup>

In June 2006, then-Governor Baldacci signed legislation to counter the perception that the RPS law lacked environmental benefits.

The updated law kept in place the overall 30 percent renewable requirement but compelled electricity providers to also adopt new sources of renewable energy—defined as small generation plants reaching service after September 2005—by one percent annually beginning in 2008 and

ending in 2017, when 10 percent of the electricity sector's fuel mix will consist of new renewable energy resources.

### 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 \$145 million for the state's consumers in 2017, an increase of 8 percent.

The increased energy prices hurt Maine's households and businesses and, in turn, inflict significant harm on the state economy.

The Beacon Hill Institute found that in 2017 the RPS will lower employment by about 995 jobs, reduce real disposable income by \$85 million, decrease investment by \$11 million, and increase the average household electricity bill by \$80 per year; commercial businesses by an average of \$615 per year; and industrial businesses by an average of \$14,350 per year.

In the face of rising electricity prices, several states have recently taken action to repeal or reform their RPS requirements.

In 2015, West Virginia ended its RPS program entirely, while Kansas amended its regulations to create voluntary—rather

than mandatory—renewable energy targets. In 2014, Ohio temporarily froze its RPS for two years.

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

**Recommendation**

- Repeal Maine’s Renewable Energy Standard

# 100 Megawatt Cap Reform



## The Problem

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

## Analysis

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

But in 2009, legislators lifted the cap for wind power, which is expensive to generate, provides unreliable output, and produces a minimal amount of electricity; in 2011, Maine generated only 4.5 percent of its electricity from wind.

This arbitrary 100 megawatt cap gives wind an unfair 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.<sup>77</sup>

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

The Office of the Public Advocate has stated that removing the 100 megawatt cap on hydropower is “virtually certain to lower electricity costs for Maine ratepayers.”<sup>78</sup> Hydropower is clean, abundant, and has the possibility of significantly reducing electricity costs to consumers and businesses. Policymakers must reduce needless regulations that stand in the way.

### **Recommendation**

- Lift the 100 megawatt capacity limit on hydroelectric power to qualify as a renewable resource.

# 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 priorities: reducing electricity rates for businesses.

## Analysis

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

The RGGI cap-and-trade system applies to carbon dioxide (CO<sub>2</sub>) emissions from electric power plants with capacities to generate 25 megawatts or more—approximately 163 facilities, including six in Maine. The RGGI emissions cap took effect January 1, 2009, based on an agreement signed in 2005.<sup>79</sup>

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

According to the Governor's Energy Office, RGGI caused the average Central Maine Power ratepayer's bill in 2014 to increase by 0.24 cents per kilowatt hour, creating exceptionally high burdens for energy-intensive manufacturing businesses.<sup>80</sup>

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

In 2016, the respected Congressional Research Service acknowledged that "from a practical standpoint, the RGGI program's contribution to directly reducing the global accumulation of [greenhouse gas] emissions in the atmosphere is arguably negligible."<sup>81</sup>

Through the sale of "emissions allowances" to power plants, Maine generated \$11.2 million in 2015, with revenues expected to exceed \$20 million by 2019.<sup>82</sup> Currently, Maine uses its revenues from RGGI to fund three different initiatives: 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 electric rate relief for Maine businesses



# Maine's Wind Energy Laws



## The Problem

Maine's expedited wind law, passed with little debate or scrutiny, has increased electricity rates by distorting the free market, curtailed citizens' rights, and damaged some of Maine's most scenic landscapes.

## Analysis

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.

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

The expedited wind law ignores important ecological impacts that turbines have on their 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 create a more level playing field in the energy sector.

### **Recommendations**

- Repeal the Expedited Wind Law.
- Incorporate decommission planning into wind energy regulations.
- Tighten scenic impact requirements to ensure that wind projects fit harmoniously with their environment.
- Expand local authority over the addition and removal of land from the expedited permitting area.



# **BUSINESS REGULATIONS**

# Encouraging Broadband Access



## The Problem

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

## Analysis

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

When municipalities invest in GONs in areas already served by private telecommunications companies, the duplication of services often leads to inefficiencies and less private-sector investment. According to a study by Professor Joseph Fuhr of Widener University, "Government-owned networks compete unfairly with existing providers.

As a government entity, a GON can practice various anticompetitive activities that put private firms at a competitive disadvantage. Thus, municipalities that use

taxpayer funds to build a broadband network actually act to forestall market entry and decrease competition. With GONs, consumers lose the benefits of competition and choice.”<sup>83</sup>

Municipal investment in public networks also reduces spending on budget priorities and promotes higher property tax rates. By any measure, basic public infrastructure in Maine is badly in need of substantial repairs.

A recent report found 26 percent of Maine’s major urban locally and state-maintained roads are in poor condition, while 34 percent of Maine’s bridges show significant deterioration or fail to meet modern design criteria.<sup>84</sup> Maine towns also levy some of the highest property taxes in the country, and mill rates continue to climb. Instead of financing expensive municipal broadband projects, towns should focus on rebuilding their basic infrastructure and providing much-needed property tax relief to their residents.

As a 2014 report by the Advanced Communications Law and Policy Center noted, “the substantial costs of building, maintaining, and operating GONs outweigh real benefits... and there are important opportunity costs associated with a decision to pursue a GON instead of spending money on other infrastructure...or public policy needs.”<sup>85</sup>

Maine should follow the lead of twenty-one other states in restricting or prohibiting local government ownership of telecommunications networks.

### **Recommendation**

- Prohibit municipalities from owning or operating broadband networks.

# The Ban on Sunday Hunting



## The Problem

Maine is one of only three states that impose complete bans on Sunday hunting.<sup>86</sup> The vast majority of states have never had such a restriction. The refusal of legislators to allow Sunday hunting has hurt Maine's economy and hindered small business growth, especially in rural regions of the state.

## Analysis

Maine has banned hunting on Sundays since 1883. The law, enacted at a time when religious principles had enormous influence over public policy, was meant to encourage Mainers to devote time on Sunday to relaxation and spiritual reflection.

Over the years, as Maine gradually became less religious – and more denominationally diverse – the rationale for the law eroded. Mainers began engaging in a broader set of recreational activities on Sunday, and many even worked.

Yet despite our state's evolution, lawmakers have rejected dozens of bills that would lift the ban, or at least create exceptions for certain species or weapons, or permit the practice on private property or in the unorganized territories.

Hunting is an important economic activity in Maine, particularly in rural areas where local businesses struggle to attract customers. According to a recent study, hunting expenditures in 2011 in Maine totaled \$203 million and supported 3,664 jobs.<sup>87</sup> Of that, 50 percent were trip-related expenses like food, lodging, and transportation. More than

\$45 million was spent on guns, ammunition, and equipment. The average trip-related expenditure per hunter was \$565.<sup>88</sup>

According to the National Shooting Sports Foundation, “The benefits of Sunday hunting extend well beyond the sportsmen’s community. An economic impact report has found that the removal of Sunday hunting restrictions would result in an estimated 1,800 new Maine jobs.

The report also noted that these jobs would pay more than \$45 million in wages and contribute more than \$133 million in additional economic activity to the state.”

Despite the economic importance of the hunting industry, the number of paid license holders in Maine has decreased by 32,128 in the last five years – 14,777 of which were non-resident licenses. In 2015 alone, Maine lost a total of 9,415 paid license holders.<sup>89</sup>

A weekend hunting trip to Maine may not be worth the cost when non-residents can go to New Hampshire, Vermont, or New Brunswick, Canada and hunt every day of the trip. While our Sunday hunting ban may not be the only factor behind the alarming decrease in non-resident license sales, it is interesting to note that during the same five year period, New Hampshire recorded a net loss of only 86 paid license holders.

George Smith, who served as the executive director of the Sportsman’s Alliance of Maine, agrees this prohibition hurts us economically: “Our neighboring states of New Hampshire, Vermont, and New York all offer Sunday hunting and steal our hunters, both resident and nonresident, who like to hunt both days of a weekend. I know a very successful Portland lawyer who spends his fall weekends with his wife in New Hampshire, where they both enjoy hunting on Saturday and Sunday. The national hunting magazines have punished and pummeled our state for its lack of Sunday hunting opportunity.”<sup>90</sup>

Repealing this outdated prohibition would boost our economy, expand our freedoms, and allow more Mainers to participate in hunting activities.

### **Recommendations**

- Allow Sunday hunting on private property with the landowner's consent.
- Allow Sunday hunting in the Unorganized Territories.
- Create a pilot project in a small number of wildlife management districts to demonstrate the benefits of Sunday hunting.



# Reforming the Eviction Process



## The Problem

Maine's current eviction process is expensive, slow, and duplicative. Landlords seeking to evict tenants for non-payment of rent – by far the most common motivation for eviction – often face weeks of delays, court appearances, and frivolous legal appeals while incurring significant and uncompensated financial losses.

## Analysis

The entire eviction process, from the tenant ceasing to pay rent to the successful re-acquisition of the rental property, can last several months. As a result of Maine's convoluted eviction laws, rental unit costs are rising and small apartment owners are being driven out of business.

The current eviction process works like this:

1. Once the tenant has failed to pay rent for seven days, the landlord may deliver an eviction notice, letting the tenant know that the rent must be paid within seven additional days. A landlord must make three good-faith attempts to personally serve the tenant with the notice to quit. If repeated attempts are unsuccessful, the landlord may mail the notice and leave a copy at the unit.
2. On the 15<sup>th</sup> day, the landlord may go to court and file a summons and complaint to set a date for a court hearing. The tenant must receive the documents – served by a sheriff's deputy – at least seven days before the court date.
3. On the 22<sup>nd</sup> day, if the tenant doesn't appear at the hearing, the court issues a Writ of Possession, giving the tenant 48 hours to vacate.

4. On the 24<sup>th</sup> day, the landlord must once again contact law enforcement to forcibly evict the tenant.

This process can be lengthened considerably depending on the court's schedule and the availability of sheriff's deputies. Frivolous appeals and legal obstacles can drag the process out even further. Ken and Deb LaVoie, who own 35 rental units in Waterville, testified to the Legislature in 2010 that "an incorrect date or slight miscalculation" in filing court motions can lead to further delays, as can tenants who deliberately avoid being served court documents. "One such incident...can literally mean the difference between a profit and loss for the entire year."

Charles Kellenberger, who has been a landlord in Central Maine for 25 years, acknowledges that vulnerable tenants should have legal protection from unscrupulous landlords, but emphasizes that Maine's current laws make eviction for failure to pay rent an expensive and time-consuming undertaking. "When landlords are struggling to evict tenants who aren't paying rent, capital investments don't get made, employees aren't hired, and businesses' already narrow profit margins shrink," he says.

Sherwood and Laurie Booker, who operate many rental units in Waterville, say they've "accumulated over \$1 million in unpaid rent, damages, and legal fees" since 1993. "We feel that the eviction process is responsible for 50% or more of this amount...95% of our evictions are for nonpayment of rent."

### **Recommendations**

- Streamline the eviction process by shortening wait times.
- Hold tenants accountable for failure to pay rent and for damage done to rental property.

# Needless Bans on Commercial Activity on Sunday



## The Problem

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

## Analysis

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

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

Importantly, car dealerships are not among the exceptions to the Sunday prohibition. Selling a vehicle on Sunday is a Class E crime, punishable by up to six months in jail and a \$1,000 fine per violation. This law is onerous to those working Monday through Friday and only have the weekend to evaluate or purchase a new car, as well as dealerships seeking to broaden narrow profit margins. It hasn’t always been this way; according to the *Portland Press Herald*, “Conducting retail business on Sunday had been almost

routine behavior for a long time until about 1960,” when penalties for doing so were substantially increased.<sup>91</sup>

Blue laws also affect large supermarkets and department stores, which are required to close on Thanksgiving, Easter, and Christmas. In 2013, Fox News reported that Maine was one of only three states in the country to impose such restrictions.<sup>92</sup>

In 2015, testifying on a bill which would have enabled businesses to stay open on holidays, Shelley Doak, executive director of the Maine Grocers & Food Producers Association, said, “The grocery business is fiercely competitive and the current restriction gives smaller store owners a chance to enjoy three brisk sales days; especially for last minute holiday items.” One business owner told her, “The smaller stores have these days to make up for lost sales during the rest of the year.”<sup>93</sup>

In 2015, a proposal – LD 855 – was introduced to relax Sunday closing requirements for stores with fewer than 10,000 square feet of interior customer selling space (for comparison, a typical chain drug store has about 11,000 square feet of selling space), while prohibiting businesses from compelling their employees to work on Sunday. “This bill [is] an opportunity for workers to pick up additional shifts voluntarily if they prefer or choose to work on Sundays.

This could be a good opportunity for youth especially. This also provides more convenient access to grocery stores by residents,” said Julie Rabinowitz, director of communications and operations at the Maine Department of Labor. Curtis Picard, executive director of the Retail Association of Maine, testified that, “Ultimately, it is the consumers that should justify whether or not a store will open.”

State law in Maine also allows municipalities to restrict the sale of wine, malt liquor, or spirits by local referendum, an

option that several dozen towns have used to deny businesses the opportunity to operate, abridging the personal freedoms of their residents. In September 2015, organizers of the Great North Music and Arts Festival in Norridgewock were surprised to learn that on-site alcohol consumption was prohibited, and had to cancel one of their events. “Officials in some of the towns say updating the laws would help business, but they have persisted the way they are for decades,” reported the *Kennebec Journal*.<sup>94</sup>

**Recommendation**

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

# Family Medical Leave Act



## The Problem

Maine has enacted family leave laws that contain more generous provisions than the federal law, placing heavy burdens on small business owners. The Pacific Research Institute ranks Maine 43<sup>rd</sup> out of the 50 states on family leave regulations, noting: “expanded family leave regulations create additional burdens... including higher employee expenditures and the potential costs and lost productivity created when workers exercise their leave benefits. These higher costs reduce the ability of small businesses to add new employees and grow.”<sup>95</sup>

## Analysis

In 1993, the U.S. Congress passed the Family and Medical Leave Act, which entitles eligible employees to take unpaid, job-protected leave for specified family and medical reasons.<sup>96</sup> Though lawmakers’ motivations were laudable in trying to protect the jobs of those with serious medical conditions or sick children, family medical leave regulations are often a significant burden on small businesses who face disjointed work schedules, lost productivity, and administrative hurdles as a result.

The federal Family Medical Leave Act (FMLA) provides up to 12 weeks of unpaid leave during a 12-month period to care for a family member, or to attend to the employee’s own serious health condition. The law applies to private employers with 50 or more employees.

Under the Maine Family Medical Leave Act, lawmakers have expanded beyond the requirements of the federal law and imposed additional regulations on businesses. In Maine,

private employers with 15 or more employees, all state employers and local governments with 25 or more employees must provide up to ten weeks of leave every two years. Leave may be taken to care for a child, spouse, parent, sibling, or civil union partner, or to be an organ donor. Maine law extends family medical leave eligibility to more small businesses than federal statute, and allows leave to be taken for the care of a larger pool of relatives.

A 2013 survey of businesses found that 69% of respondents said family medical leave laws impose an “undue burden” on their operations and result in “unpredictable staffing levels.”<sup>97</sup> In 2014, the National Business Group on Health noted that the administrative requirements of family medical leave laws are burdensome and disruptive.<sup>98</sup>

Policymakers should strive to achieve balance in family medical leave laws. Employees coping with serious illness in the family should be protected, but the regulatory burden on small business must be reduced and streamlined in order to identify fraud, minimize paperwork requirements, and mitigate financial losses. Legislators should align Maine’s Family Medical Leave Act with federal law.

### **Recommendations**

- Increase the business size exemption; federal family medical leave regulations only apply to companies with more than 50 employees, while Maine’s law covers employers with at least 15 employees.



# **GOVERNMENT REFORM**



# Reforming Boards and Commissions



## The Problem

Boards and commissions can provide a variety of tasks, such as advising agencies on current issues and giving citizens the opportunity to share their expertise with state government. They also can inject transparency and public access to government process that are often opaque. Over time, however, a board's mission may lose its significance or the board's activities may cease. Maine has a very large number of boards and commissions, some of which should be eliminated or consolidated.

## Analysis

Maine has approximately 230 permanent boards and commissions, without counting temporary task forces or other special groups. The large number of boards and commissions makes it difficult to find qualified applicants to fill vacancies. Currently, more than one hundred vacancies exist on dozens of different boards. In addition, at least six boards—the Aquaculture Advisory Council, the Judicial Compensation Commission, the Maine Quality Forum Advisory Council, the Maine Biomedical Research Board, the Maine Agricultural Water Management Board, and the Tobacco Prevention and Control Advisory Board—reported inactivity or did not meet during 2014 and 2015.

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 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 at least 217 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, and Washington which have been exceptionally active in eliminating boards and commissions. In 2011, California Governor Jerry Brown eliminated the California Postsecondary Education Commission. In 2010, New Jersey Governor Chris Christie signed a bill that eliminated more than a dozen inactive boards, commissions, committees, councils, and task forces.<sup>99</sup>

### **Recommendations**

- Repeal all inactive 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.
- Include sunset provisions in laws creating additional boards or commissions in order to compel the Legislature to regularly re-examine their value.

# Reforming Maine's Ballot Initiative Process



## The Problem

As Maine's population has become more concentrated in southern and coastal areas over the last century, ballot measures have increasingly reflected the interests of urban populations. Petition gatherers often ignore whole counties when collecting signatures, to the detriment of rural areas.

## Analysis

Maine's ballot initiative process, enshrined in the Maine Constitution, is an important provision that gives the people of Maine the direct power to circumvent the Legislature to enact or abolish laws. Yet that power is meant to be used sparingly in times when the overwhelming will of the people is not adequately represented by their elected leaders. However, since its adoption in the early 20<sup>th</sup> century, the ballot initiative process has increasingly become a tool of special interests unable to move their agenda through the deliberative scrutiny of the 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.

According to the Maine Constitution, the number of signatures collected for any proposed ballot measure must not be less than ten percent of the total vote for Governor cast in the preceding gubernatorial election. However, Maine—unlike many other states—has no requirement that the signatures come from geographically-diverse areas. Since the early 20<sup>th</sup> century, when the initiative and referendum laws were enacted, Maine's demographic landscape has

changed dramatically. In 1910, our population was much more evenly distributed so it was unlikely that one part of the state could potentially impose its will on the rest of the state. Because of increasing urbanization and population declines in rural areas over past decades, it is now possible for the residents of Portland, Lewiston, Bangor, and other population centers to place proposals on the ballot that would be detrimental to rural interests.

Consider, for example, the residents of Cumberland County made up just 15 percent of the state population in 1910, but had grown to 21 percent by 2010. Conversely, Washington County—which had six percent of the state population in 1910—had just two percent in 2010. Today, the combined population of Cumberland and York counties is nearly 500,000 people, more than one-third of the entire state.

County	Percent of State Population in 1910	Percent of State Population in 2010
<b>Androscoggin</b>	8%	8%
<b>Aroostook</b>	10%	5%
<b>Cumberland</b>	15%	21%
<b>Franklin</b>	3%	2%
<b>Hancock</b>	5%	4%
<b>Kennebec</b>	8%	9%
<b>Knox</b>	4%	3%
<b>Lincoln</b>	2%	3%
<b>Oxford</b>	5%	4%
<b>Penobscot</b>	11%	12%
<b>Piscataquis</b>	3%	1%
<b>Sagadahoc</b>	3%	3%
<b>Somerset</b>	5%	4%
<b>Waldo</b>	3%	3%
<b>Washington</b>	6%	2%
<b>York</b>	9%	15%

Half of the 24 states that have citizens' initiatives laws have a geographic distribution requirement that signatures be gathered from multiple parts of the state, preventing petitioners from gathering signatures only in the most densely populated urban areas.<sup>100</sup> These provisions ensure all voters, not just those in urban areas, have a say in which proposals achieve ballot status.

### **Recommendations**

- Adopt a resolution to amend the Maine Constitution to require 50 percent of the signatures for a ballot measure come from residents of each congressional district.
- Adopt a resolution to amend the Maine Constitution to require that the number of signatures collected for any proposed ballot measure in each county must not be less than ten percent of the total vote for Governor cast in the preceding gubernatorial election in each county.

# Limiting Frivolous Legislative Proposals



## The Problem

Anyone who observes—or experiences—the final days of a legislative session understands the dysfunctionality of Maine’s current 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 take 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 introduced if approved by the Legislative Council, a bipartisan group of legislative leaders. As a result, some lawmakers submit dozens of bills without taking the time to carefully consider their repercussions or political viability. In the 127<sup>th</sup> Legislature, 1,455 bills were introduced by 186 legislators, an average of nearly eight 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 piece of legislation.

The price included the cost of paper printing, administrative time, and the hours lawmakers spend 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 44 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 bills.

Limits on the number of bills introduced would help to simplify the legislative process, force lawmakers to prioritize their legislative goals, and reduce costs for staff, printing, and paper.

### **Recommendations**

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

# Ending Taxpayer Subsidized Political Campaigns



## The Problem

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

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

## Analysis

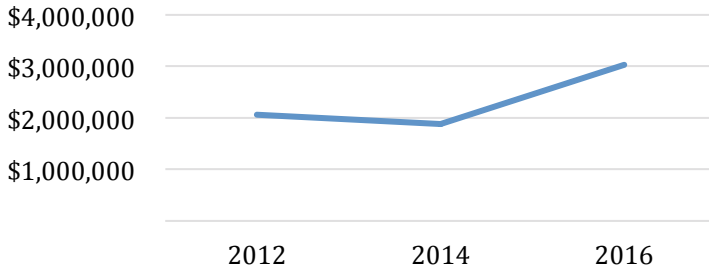
The MCEA, enacted in 1996 through a ballot initiative, was designed to provide public financing to candidates seeking state office. Since its inception, the MCEA has wasted taxpayer dollars, undermined our democratic process, and opened the door to abuse and fraud.

Not only does the MCEA force taxpayers to financially support candidates with whom they disagree, but the program has cost Mainers millions of dollars over the last decade. Though the MCEA has often been touted as a way to level the playing field between candidates, a thorough review of recent Maine elections revealed that “electoral competitiveness in Maine has not been appreciably affected



by MCEA.”<sup>101</sup> The emergence of PACs and outside special interest groups has allowed “clean” candidates to receive taxpayer funding while enjoying the support of deep-pocketed donors.

### Public-Financing Payments to Candidates in Maine



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

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

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

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

older, politicians are serving longer, and turnover has declined.

### **Recommendations**

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

# Constitutional Officer Reform



## The Problem

Maine is the only state in the nation in which constitutional officers—Secretary of State, State Treasurer, and Attorney General—are selected by the Legislature. Most states have adopted a process of either gubernatorial appointment or popular election.

Maine's antiquated system is prone to politicization and partisanship, since the party that holds the majority in the Legislature decides who to appoint to these important positions, regardless of the governor's preferences. This makes it more difficult for the Executive Branch to execute its responsibilities.

## Analysis

Constitutional officers are not unimportant bureaucrats with little influence on public policy; on the contrary, they play a central role in ensuring that public affairs are carried out in a coherent and nonpartisan way. Constitutional officers have substantial responsibilities.

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

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

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

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

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

### **Recommendations**

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

# About the Authors

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Liam Sigaud is a policy analyst for The Maine Heritage Policy Center. Sigaud joined MHPC in October 2015 and has been lead researcher on a number of research projects, including *The 2016 Piglet Book* and *Maine's Red Tape Guidebook*, and *Top 10 Things Keeping Mainers Poor*.

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