

132ND LEGISLATURE

# MAINE

## LEGISLATIVE GUIDEBOOK

2025 | 2026



**MAINE POLICY**  
INSTITUTE

MAINE POLICY INSTITUTE

# MAINE LEGISLATIVE GUIDEBOOK 2025 | 2026

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*"The strongest argument for free enterprise is that it prevents anybody from having too much power. Whether that person is a government official, a trade union official, or a business executive. It forces them to put up or shut up. They either have to deliver the goods, produce something that people are willing to pay for, are willing to buy, or else they have to go into a different business."*

~ Milton Friedman

## **About Maine Policy Institute**

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

Governed by an independent Board of Directors, Maine Policy relies on the generous support of individuals, corporations, and foundations, and does not accept government funds or perform contract work. With six full-time staff members and hundreds of individual supporters, it educates the public, engages legislators, and employs the media to shift public opinion toward public policy solutions that improve the lives of Maine citizens.

Over the past 20 years, MPI has testified hundreds of times before the Maine Legislature. Some of the organization's most notable victories include the largest tax cut in state history, historic welfare reforms that led to higher rates of employment, public sector pension reform that saved taxpayers more than \$1 billion, and financial transparency, including “sunshine” on the pay and perks of government employees. These positive changes are the direct result of Maine Policy’s work and generosity of its supporters.

## Introduction

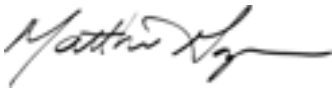
Maine Policy Institute is pleased to introduce the fifth edition of The Maine Legislative Guidebook, an overview of free market solutions to Maine's economic and political challenges.

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

As you and your legislative colleagues conduct the people's business in Augusta as the 132nd Legislature, Maine Policy Institute welcomes the opportunity to serve as a vital resource.

Thank you for sharing our commitment to a freer, more prosperous Maine. The staff of Maine Policy Institute is eager to discuss these ideas in greater depth; please don't hesitate to contact us at (207) 321-2550 or [contact@mainepolicy.org](mailto:contact@mainepolicy.org).

Sincerely,

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

Matthew Gagnon

Chief Executive Officer

# **A Note for New Lawmakers**

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

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

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

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

## **Be skeptical**

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

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

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

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# EDUCATION

# Improving on the Success of Maine's Charter Schools



## The Problem

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

## Analysis

Charter schools are some of the most promising developments in the quest to improve Maine's public school system. They foster a productive relationship between parents, teachers, and students, and are better able to adapt and respond to the unique needs of each student.<sup>1</sup>

A brief description of charter schools from the Maine Charter School Commission (MCSC) website:

“Charter schools are public schools of choice [that] are publicly funded..., created and governed by volunteers in a nonprofit organization, and operated independently of the traditional public school system. Charter schools have some flexibility that traditional public schools may not have over decisions concerning curriculum and instruction, scheduling, staffing and finance. In return for this flexibility, charter schools are held accountable to the terms of contracts [and] must adhere to all applicable federal laws, health and safety laws, and the same academic standards to which all public schools are accountable.”

An analysis by the Center for American Progress found that “high-quality and accountable charters are successfully improving student achievement and closing the opportunity gap for low-income students of color through innovation within the public education system.”<sup>2</sup> Students who attend charter schools are noted to be more productive, well-rounded, community-minded, and better able to contribute as skilled workers—which are desperately needed in Maine.<sup>3</sup>

Charter schools are showing favorable results in educating students in math, science, reading, and almost every other academic area. Assessments conducted shortly before the onset of the pandemic revealed that 91% of charter schools authorized by the SUNY Charter Schools Institute in New York outperformed their traditional public school counterparts in math, and 88% did so in English.<sup>4</sup> Charter schools utilize fewer resources than traditional public schools and serve a higher percentage of lower-income and minority students.

Unfortunately, Maine has placed a strict cap of 10 on the number of charter schools allowed to educate our children. Predictably, this cap is proving to be incredibly restrictive. As of this publication, all but one of the 10 slots for charter schools have been filled, with every school at nearly full enrollment.<sup>5</sup>

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

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

If a charter school is not maintaining performance standards agreed on in their initial authorization agreement, they become sanctioned and put on probation. If they do not improve, they lose their status as a public charter school and are subsequently closed.<sup>6</sup> In short, direct accountability ensures performance levels are high or else they are shut down, a process to which current traditional public schools need not adhere.

As far as funding, any traditional public school has the ability to increase their budget upon approval by their school board and local residents, without the added performance scrutiny required for charter schools. Traditional public schools are allowed to raise and keep revenue above their allotted share of the state school funding formula, something charter schools cannot do.<sup>7</sup> Therefore, charter schools are not “diverting funds” from traditional public schools. As long as charter schools are meeting their criteria and being re-authorized, they are serving the public school system as intended.

Furthermore, more than 2,727 students, representing approximately 283 municipalities, are currently enrolled in charter schools, such that nearly every charter school is at capacity and the statewide waiting list currently totals 214.<sup>8</sup> These numbers, coupled with the scrutiny of maintaining a charter school authorization, reflects the fact that charter schools are working, successful, and meeting the needs of their students and parents.

It also reflects the growing need for more charter schools. Maine Public Charter Schools have been beneficial for Mainers of all economic backgrounds, with 36% of all students enrolled being economically disadvantaged. This is virtually on par with the 37% of Maine Public School students who are economically disadvantaged. This ratio could be further improved by eliminating the arbitrary cap on the number of charter schools.<sup>9</sup>

Regardless of the cap, SAUs should be granted the ability to authorize charter schools at their discretion. During the 10 year transition period, “local school boards and collaboratives of local

school boards” were allowed to continue approving charter schools after the limit had been reached.<sup>10</sup> It was only with the passage of LD 307 in 2019 that this privilege was revoked.<sup>11</sup> Therefore, the Legislature should reinstate SAU’s capacity to authorize charter schools irrespective of the limitations placed on the MCSC.

Additionally, institutions of higher education should be allowed to authorize new charter schools without regard for any statewide cap that may be in place. Doing so is not a new concept. States across the country have granted a variety of different entities the ability to authorize charter schools. Sixteen states currently allow higher education institutions, or HEIs, to serve as authorizers, and three states have extended this privilege to non-profit organizations, or NPOs.<sup>12</sup> As of the 2018-19 school year, 10.4% of students attending charter schools in the country are enrolled in HEI-authorized institutions and 2.7% in schools authorized by NPOs.<sup>13</sup>

With more than 90,000 students, the aforementioned State University of New York’s (SUNY’s) Charter Schools Institute has proved highly successful, with the majority of its schools substantially outperforming their neighboring traditional public schools.<sup>14</sup> In Minnesota, the nonprofit organization Friends of Education has authorized 12 high-performing charter schools which, combined, serve more than 10,000 students.<sup>15</sup> Four schools operating under the auspices of the Friends of Education have been named National Blue-Ribbon Schools by the U.S. Department of Education since 2015, and the majority of their schools are performing well-above the state average on a wide range of indicators, including reading proficiency, college readiness, and college enrollment.<sup>16</sup> If done properly, the incorporation of HEI authorizers can play an important role in the curation and establishment of high-quality, high-performing, and highly-innovative charter schools.<sup>17</sup>

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

the ability of local SAUs to authorize charter schools regardless of restrictions on the MCSC and extend similar authorization rights to higher education institutions and education-focused nonprofits. Allow Maine families access to greater education options and allow Maine's economy to have access to more qualified workers.

## Recommendations

- Remove the cap on the number of charter schools that may be approved by the Maine Charter School Commission.
- Raise the cap on charter schools by one school annually. If that spot remains open by the end of the year, it remains the successive year's open spot.
- Raise the current limit on the number of charter schools by one whenever that limit is reached.
- Allow School Administrative Units (SAUs), education-focused nonprofits, and institutions of higher education to authorize new charter schools, regardless of a statewide limit.

# Establishing a Parental Bill of Rights

## The Problem

The influence of public education on the upbringing of children cannot be overstated, and as cultural and political divides continue to widen across the country, the importance of transparency and parental involvement in the educational process has only grown. As of 2024, the majority of Americans believe that public education is heading in the wrong direction.<sup>18</sup> This has been fueled in no small part by the influx of politically-charged content into the public space that would best be left to parents and households.

## Analysis

Public beliefs around educational decline are not unfounded. In Maine, test scores have been continuously on the decline, teachers are spending less time teaching and more time on administrative tasks, and ideological viewpoints are being disseminated against the wishes of the vast majority of Mainers.<sup>19</sup>

In 2022, a survey of 1,505 High School students found that 36 percent of students were taught that America is a systemically racist country, 41 percent were taught white people have white privilege, 35 percent were taught that white people have unconscious bias that negatively affects non-white people, 31% were taught that gender is a matter of identity and not biology (with a further 20% having heard this from an adult at school), and 45 percent were taught that America is built on stolen land.<sup>20</sup>

This is further augmented by several case studies of this bias occurring in Maine. Such instances include a student being removed from a Zoom call over a pro-Trump flag in the background, a teacher attacking the political beliefs of a student's parents, and a school principal consoling teachers and students over an intercom, describing the aftermath of Donald Trump's election to the

presidency as a “very challenging and scary time for a lot of people.”<sup>21</sup> Regardless of one’s personal views on these questions, it is clear that these topics are deeply political in nature and not the place of schools and educators to be engaging in them.

To solve this issue, transparency around school curriculums and classroom conduct needs to be increased. To accomplish this, Maine should adopt a Parental Bill of Rights, which would require school boards to develop policy to publicly and actively encourage parental participation in the educational process, prohibit schools from withholding information regarding a parent’s child, and grant parents the right to withdraw/opt out of educational material they deem inappropriate for their children.<sup>22</sup> By passing such a bill, Maine can end the politicization of public schools, foster transparency and institutional trust, and improve educational outcomes.

## Recommendations

- Amend Maine’s Constitution to establish a Parental Bill of Rights.



# Ensuring Access to Quality Education



## The Problem

Too often, a child's educational opportunities are determined by his or her parents' income and ZIP code. For some students, the education they would receive in public schools does not adequately address their individual needs. Maine parents have limited choice, and government intervention is consistently restricting the few options they do have. The one-size-fits-all approach to public education has failed Maine students, but enacting policies that expand school choice opportunities for families can empower parents and students to find their best educational option.

## Analysis

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

In several parts of the country, ESAs have been used successfully to improve educational opportunities and outcomes for low-income children. A 2012 report by the Goldwater Institute found that ESAs represent "the most innovative solution to provide all America's children with better opportunities."<sup>23</sup> A follow up report published in 2024 confirms that enrollment in Arizona's ESA program has grown to over 6,400 students from 144 when it was first created. It has saved taxpayers money and has actually *increased* per pupil public school funding. By 2024, student enrollment has skyrocketed to more than 77,000 while state per pupil public spending has increased to \$12,200, up from \$8,529 in 2019.<sup>24</sup> Nationally, the number of students using ESAs has markedly increased over time, with total program participants reaching nearly 330,000 in 2024.<sup>25</sup>

ESAs expand parental choice in selecting the best educational program for their children by providing state-funded savings

accounts that families use for education expenses. Parents operate the accounts and have discretion to purchase services and materials to optimize their child's education.

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

ESAs can significantly reduce government education spending, saving taxpayers millions of dollars. Instead of funding school systems, the state provides funds directly to families and audits every purchase. Participating families then report expenses to the state, and must account for every penny spent.

Opponents of school choice consistently argue that public school enrollment numbers would decline with school choice, thus resulting in budget cuts. This is simply not the case. In Arizona, one of the first states to enact ESAs, the government deposits 90 percent of student funds from the school funding formula into an account that is available for participating students. The state's department of education reserves some of the remaining ten percent of student funds to administer the program and saves the rest.<sup>26</sup>

For every Arizona student who opted for an ESA in 2019, local school districts got \$654 back, meaning that more than \$4.2 million in additional funding was made available to support public school students as a result of the state's ESA program.<sup>27</sup>

A Maine Policy analysis developed a hypothetical ESA program which allowed Maines SAUs to contribute a state-determined percentage of either their average per-pupil spending level or that

of the state per-pupil average per ESA-enrollee. At 93% of per-pupil spending, if 5% of students enroll in the program, distributed evenly across SAUs by population, districts would receive an average of about \$240 per ESA-enrollee, more than \$39 million in additional investment, to educate fewer students.<sup>28</sup>

Underlying these arguments is a recognition that some schools are underperforming, and government-mandated attendance is the only thing keeping them afloat. While some unsatisfactory schools will likely close, there is no reason that families should be forced to use a service which is failing them. Education should primarily serve students, not school systems.

Another solution to school choice that is gaining traction in the United States is Statewide Open Enrollment policies (otherwise known as Controlled Open Enrollment, or Statewide Enrollment Options). Almost all states in the U.S. have some component of Open Enrollment (43 states),<sup>29</sup> including Maine, but most are very limited in nature. Some states, however, have truly made the most of the process; Maine should follow suit.

The premise behind Statewide Open Enrollment policies is that it offers a public school choice option, allowing students and parents to enroll in schools that are not within their residential district. Policies vary, but as long as a receiving school has not reached capacity (either on a first-come-first-serve basis or by way of a lottery system wherein a school's capacity is listed on their public website), a student can attend any school in the state, subject to some restrictions.<sup>30</sup> Voluntary Open Enrollment allows local school districts to decide whether to participate, but may further exacerbate limitations in access to quality schooling, contrary to the goal of the policy.<sup>31</sup>

Many states across the country have implemented such Statewide Open Enrollment programs. For example, in Minnesota's Open Enrollment program, once a student is accepted in the program they may attend the receiving school through high school graduation. Also, the student's siblings will receive higher

consideration at that same receiving school when a lottery is held, if spaces are limited.

Florida has a similar law, but there, districts in Florida must provide preferential treatment in their controlled open enrollment processes to dependent children of active duty military personnel whose move resulted from military orders, children who have been relocated due to a foster care placement in a different school zone, and children who move due to a court-ordered change in custody due to separation or divorce, or the serious illness or death of a custodial parent, as well as students residing in the district.<sup>32</sup>

Arizona law requires school districts to “provide transportation limited to not more than thirty miles each way to and from the school of attendance” of the students they educate.<sup>33</sup> This may be a practical model for Maine as well, given our rural nature and high costs of transportation and road maintenance.

A local school unit should always strive to be the best it can be. With Open Enrollment policies, public schools are incentivized to compete for students. To most effectively meet their educational needs, students should have the right to attend any school that is willing to have them. Maine should enact Open Enrollment to allow parents and students the flexibility to secure the education best suited for them.

A 2016 review showed that 14 of 18 studies using the method of random assignment found that greater parental choice improved academic outcomes, particularly among those from disadvantaged backgrounds or low-income households.<sup>34</sup> Parents interested in finding better options for their children should be empowered to do so. Thankfully, the arc of history is bending toward greater opportunity.

In June of 2020, the United States Supreme Court ruled in *Espinoza v. Montana Dept. of Revenue* that state-sponsored school choice programs, specifically a tax credit scholarship program in Montana, must not discriminate against providing tuition to some schools

because they are religious. The court ruled that policy infringed on the First Amendment rights of parents to choose an appropriate school for their child within the state's program.<sup>35</sup>

The court again supported this principle in the June 2022 ruling on *Carson v. Makin* specifically regarding the sectarian exclusion in Maine's town-tuitioning law, the second-oldest private school choice program in the nation.<sup>36</sup> Town-tuitioning allows students residing in towns without a school or a contract with a school to be reimbursed up to the state average per-pupil spending amount for tuition to a school of their choice.<sup>37</sup> The state allows towns to provide tuition to any accredited private school, except for those which are sectarian.<sup>38</sup>

In the majority opinion in *Carson*, Chief Justice John Roberts declared that, "Maine's 'nonsectarian' requirement for its otherwise generally available tuition assistance payments violates the Free Exercise Clause of the First Amendment...Regardless of how the benefit and restriction are described, the program operates to identify and exclude otherwise eligible schools on the basis of their religious exercise."<sup>39</sup>

Maine lawmakers must eliminate the unconstitutional "sectarian exclusion" to comply with Supreme Court precedent and end state discrimination against religious families' private school choice in the administration of a publicly-available school choice benefit.

## Recommendations

- Create an ESA program eligible to all public school students.
- Allow school districts to participate in a statewide Open Enrollment program.
- Remove the sectarian exclusion from Maine's town tuitioning program, which can be found at 20-A M.R.S. §2951.2.

# Free Speech at Institutions of Higher Learning

## The Problem

The current state of freedom of speech and expression on college campuses is broken. Increasingly, America's colleges and universities have retreated from their historical position as bastions of free speech to become some of the most insular and least tolerant institutions in our society. According to the Foundation for Individual Rights in Education (FIRE), a non-partisan group dedicated to defending students' constitutional rights on college campuses, nine-in-ten American colleges restrict free speech on campus.<sup>40</sup>

## Analysis

Worse yet, the erosion of free speech is becoming more acceptable with each new generation. According to the Campaign for Free Speech, 61% of millennials believe the government should be empowered to restrict free speech, with 54% believing that possible jail time was an appropriate response to "hate speech."<sup>41</sup> Amongst the broader public, 57% believe the government should be able to take action against newspapers and TV stations, and 46% believe support possible jail time for those found guilty.<sup>42</sup> It is troubling that more and more people believe the government should have a role in limiting what individuals have a right to say in public.

But the problem doesn't end there. Even when explicit policies don't prevent students from exercising their free speech rights, campuses often nurture an environment in which new or controversial ideas are unwelcome and discouraged. In 2021, According to the Knight Foundation, 65% of students believed that the climate on their campus prevents some people from expressing their true beliefs.<sup>43</sup> As of 2020, 60% of college students felt unable

to express their genuine opinions out of fear for how fellow students, professors, and school administrators might respond.<sup>44</sup>

As Jeffrey Herbst, former president of Colgate University and now president of the Newseum, has observed: “with little comment, an alternate understanding of the First Amendment has emerged among young people that can be called ‘the right to non-offensive speech.’”<sup>45</sup> Contrary to all American jurisprudence, the chant “Hate speech is not free speech!” is common on college campuses.

However, this sentiment has been complicated following the October 7, 2023 attacks and the subsequent Israel-Hamas war. This change was concisely summarized by Eugene Volokh, a free speech expert. In an interview with Politico, Volokh expressed concern over the speech of both pro-Israeli and pro-Palestinian individuals but also expressed optimism:

“One possibility is that some people on the left, who both have campaigned for somewhat more restrictions on supposed hate speech and who support the Palestinian cause and who are sharply critical of Israel, maybe they’re going to reconsider. Maybe they’re going to say, ‘Wait a minute. If we allow suppression of hate speech, we see already that the pro-Israeli forces are using that as a tool to suppress anti-Israel advocacy. So, maybe we ought to agree with . . . leading liberal justices of the past who refused to come up with a hate speech exception and see that it’s actually important to protect speech.”<sup>46</sup>

To Volokh, the ideal response from college officials to political events across the world should be one of neutrality, only commenting on them in how it directly relates to University students and campus policy. The ongoing protests and controversy has shined a light on the past mistakes by college institutions.<sup>47</sup> By commenting on numerous other political issues, institutions of higher education have put their weight on the scale, which not only harms discourse on campus but puts colleges in the undesirable position of feeling pressure to comment on every political issue.<sup>48</sup>

Overall, in empowering government education officials to silence speech perceived to be hateful while promoting other political speech deemed politically correct, we erode our founding principles and stifle the discussions that allow our society to grow and prosper.

The University of Maine System is the primary network of public post-secondary institutions in the State of Maine and consists of seven schools. The University of Maine System includes the University of Maine, University of Maine at Augusta, University of Maine Farmington, University of Maine at Fort Kent, University of Maine at Machias, University of Maine at Presque Isle, and University of Southern Maine.

In June 2019, FIRE chose the University of Maine's free speech and assembly policy as their targeted Free Speech Code of the Month. FIRE raised concerns regarding a provision in the university's student handbook that requires students to notify the Chief of the University of Maine Police at least three days before holding expressive activities in outdoor areas of campus.<sup>49</sup> In 2024, this requirement continues to be University Policy.<sup>50</sup> While the requirement to notify campus police is likely to further the university's goals of preserving order and security in some circumstances, it restricts students' rights to assemble in a public forum. In addition, FIRE contends that the three-day policy may discourage students from expressing themselves on campus because approaching the Chief of Police could be intimidating for students, especially if they're broaching controversial subjects such as police violence, crime policy, or drug laws. The University of Maine's policy is needlessly broad.

As of 2024, at least 23 states have passed legislation preventing public colleges and universities from trampling on students' First Amendment protections.<sup>51</sup> In terms of specific legislation, the passing of the Campus Free Expression Act would prevent Maine's public colleges and universities from designating free speech zones or otherwise restricting expressive activities to a particular outdoor area of campus.<sup>52</sup>



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

### **Recommendations**

- Enact the Campus Free Expression (CAFE) Act.<sup>53</sup>
- Direct the University of Maine System to review its free speech policy to ensure genuine free expression on its campuses.

ELECTIONS

# ELECTIONS

# Fixing Maine's Broken Ballot Initiative Process

## The Problem

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

## Analysis

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

However, since its adoption in the early 20<sup>th</sup> century, the ballot initiative process has increasingly become a tool of special interests that are unable to move their agenda through the Maine Legislature. During the 1950s and 1960s, not a single citizen's initiative appeared on a ballot in Maine, compared to 16 initiatives from 2000 to 2010 and five in 2016 alone. Although at first glance this may appear to be indicative of greater citizen involvement in state politics, a closer look at the primary source of funding for these ballot initiatives suggests otherwise. A 2018 analysis by Maine Policy Institute found that, between 2009 and 2017, 71 percent of the \$81.3 million contributed to Maine ballot initiative campaigns originated from out-of-state sources.<sup>54</sup>

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

10% of the total vote cast for Governor in the preceding gubernatorial election. Maine—unlike many other states—has no requirement that the signatures come from geographically-diverse areas.<sup>55</sup>

Since the early 20<sup>th</sup> century when the initiative and referendum laws were enacted, Maine’s demographic landscape has changed dramatically. In 2024, the Greater Portland area comprised 40% of Maine’s total population, with Cumberland County alone accounting for 20% of Maine’s total population despite making up less than 3% of the state’s land area.<sup>56</sup> Ultimately, Maine’s extreme urban rural divide makes it far easier for urban constituencies to comply with ballot initiative requirement than their rural counterparts.

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

Maine is one of 26 states which currently allow some form of citizen-initiated ballot referenda. Sixteen of the 26 require signatures to be gathered from multiple parts of the state, preventing petitioners from gathering signatures in only the most densely populated urban areas.<sup>57</sup> These provisions ensure all voters, not just those in urban areas, have a say in which proposals achieve ballot status.

In addition, several states impose checks and balances on their initiative and referendum processes that are not employed in Maine. These measures include restrictions on the breadth of subject matter an initiative may cover, as well as vote threshold requirements for passage of initiatives and constitutional amendments. Enacting these sorts of checks on the process would reduce the influence of outside groups by ensuring the interests of all Maine people are represented at the ballot box. Inherently, these

reforms will require petitioning groups and outside interests to pursue policies that have broad appeal among citizens in all corners of the state and require funds to be spent more deliberately in order to influence outcomes at our ballot box.

## Recommendations

- Adopt a resolution to amend the Maine Constitution to require 50 percent of the signatures for a ballot measure come from residents of each congressional district.
- Adopt a resolution to amend the Maine Constitution that requires signatures collected for any proposed ballot measure come from each Senate district, and must not be less than 10 percent of the total vote for Governor cast in the preceding gubernatorial election in each Senate district.
- Impose a rule that requires initiatives to encompass only a single subject.
- Impose subject restrictions that bar initiatives from dedicating revenues or making or repealing appropriations.
- Require the attorney general to issue advisory opinions on the constitutionality of proposed ballot measures.
- Increase the threshold of affirmative votes required for constitutional amendments to pass at the ballot box.

# Ending Taxpayer Subsidized Political Campaigns



## The Problem

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

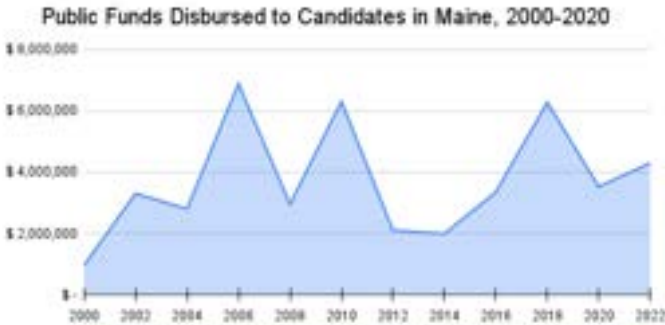
Since the passage of the Maine Clean Elections Act (MCEA) on the 1996 statewide ballot, more than \$44.3 million has been spent on taxpayer-funded political campaigns. In 2022, \$4,568,030 was spent on Legislative races, marking the largest taxpayer expense since 2002.<sup>58</sup> Mainers are supporting 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. However laudable its aims, the MCEA, since its inception, has wasted taxpayer dollars, undermined our democratic process, and opened the door to fraud and abuse. .

Not only does the MCEA force taxpayers to financially support candidates with whom they disagree, the program has also cost Mainers tens of millions of dollars over the decades. Though the MCEA has often been touted as a way to level the playing field between candidates, a recent, thorough review of state legislative elections revealed that “campaign contribution limits and partial public financing have little impact on incumbent reelection

corporate independent expenditures significantly increase the probability of incumbent reelection.”<sup>59</sup> The emergence of PACs and outside special interest groups has allowed “clean” candidates to receive taxpayer funding while simultaneously continuing to enjoy the support of deep-pocketed donors.



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

## Recommendations

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



# Repealing the National Popular Vote Compact



## The Problem

On April 15, 2024, Governor Mills allowed LD 1578 to become law without her signature.<sup>60</sup> The law commits Maine to awarding its electoral votes to the winner of the national popular vote even if this conflicts with the will of Maine voters. The National Popular Vote (NPV) Compact flies in the face of the constitution and the best interests of Maine voters.

## Analysis

In 2006, the NPV Compact was founded. Under this compact, states would award their electoral votes to the winner of the national popular vote once enough states comprising 270 electoral votes signed on to the compact.<sup>61</sup> Since then, every state involved overwhelmingly leans Democratic and passed the compact along extreme partisan lines.

The Electoral College was created as a result of numerous compromises during the Constitutional Convention. In practice, it serves to elevate the voices of small rural states so they can contend with the political influence of the larger, more populous states. Being a small and rural state, Maine is one of the beneficiaries of this system.

Under an NPV system, Maine would account for 0.43% of the vote total, while under the Electoral College Maine's electoral votes count for 0.75% of the total, more than a 40% difference.<sup>62</sup> The Electoral College also attracts presidential candidates to our State. In 2016, Donald Trump visited Maine five times in a bid to win Maine's 2nd Congressional District.<sup>63</sup> Without the Electoral College, it is difficult to envision candidates visiting Maine much at all.

Beyond reducing the voice of Mainers, there are at least five major legal problems with this new law.<sup>64</sup> For one, the law is in direct violation of Article I Section 10 of the Constitution, which has been interpreted by the Supreme Court to disallow compacts that directly involve or impact other states without their consent, thereby damaging the horizontal balance of powers. Additionally this compact potentially violates voting rights, the electoral college clause, and various other rights recognized by the Supreme Court.

Logistically, implementing a NPV system would bring about many possible issues. For one, recounts would become much more complicated under the proposed system. Instead of one, two, or three states being in contention, the entire country would be affected by routine electoral disputes. In addition, eliminating the unique, state-based nature of our electoral system would call into question why different states have such different approaches to federal elections, resulting in either more system distrust or greater federal control of how Mainers vote. For example, this could complicate state efforts to experiment with options like ranked-choice voting and runoff elections.

Ultimately, our participation in the NPV Compact undermines the interests of Maine voters, as well as basic constitutional tenets. The legislature should take action to end our involvement in this unconstitutional compact before it goes into effect.

## Recommendations

- Repeal the National Popular Vote Compact.

# Dismantling Ranked-Choice Voting



## The Problem

In the 2016 general election, outside interest groups like FairVote pushed for passage of a ballot initiative to institute ranked-choice voting (RCV) in Maine. This voting process allows voters to rank multiple candidates in order of preference on one ballot and, contrary to the Maine Constitution, determines winners based on the majority of votes cast rather than a plurality. Often referred to as “instant runoff voting,” RCV has been pushed in other states like Alaska and Massachusetts since 2020. With the implementation of RCV, Maine employs two separate voting methods, making our elections more expensive and voting more confusing only to achieve similar results that would be reached under the traditional system.

## Analysis

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

Portland, Maine, is one of the few cities that have adopted RCV for municipal elections. In 2011, Portland held an election for the office of mayor using RCV. Fifteen candidates were on the ballot, and it took fifteen rounds of vote distribution and two whole days to declare a winner.

Because of increased complexity, many voters struggle to understand and properly fill out RCV ballots.<sup>65</sup> When a voter has not ranked one of the two final candidates, their ballots become “exhausted” and are excluded in the final tally. As a consequence of this phenomenon, more than 60% of candidates who win RCV elections don’t actually win a majority of votes cast.<sup>66</sup>

In addition to the challenges and costs of implementation, RCV is unlikely to improve the overall tone of our elections. Although RCV may discourage candidates from attacking each other directly—as a winning candidate will need to be the second- and third-place choice of voters who support their rivals—the system simply augments the role of unaccountable third-party groups when it comes to negative campaigning. One analyst has actually pointed to the 2018 Maine gubernatorial race as an example of how the attitudes of candidates actually remain largely unchanged despite the supposed-incentives of RCV.<sup>67</sup>

Oftentimes, despite the claims often made in favor of ranked choice voting, the results produced by the lengthy and unwieldy process are the same as they would have been had the election been run as usual. In Maine’s 2018 gubernatorial primary elections, it took more than a week for the Maine Department of the Secretary of State to declare candidate Janet Mills the winner of the Democratic gubernatorial primary election despite Mills obtaining a plurality of the votes cast on Election Day. Under the traditional voting system, Mills still would have been declared the winner of this race. An analysis of nearly 400 single-winner RCV races in the U.S. since 2004 found that 97% of candidates who ultimately won RCV elections also won a plurality of the first-place ballots, meaning that the same results could have been achieved in a far less confusing and less expensive manner.<sup>68</sup>

Perhaps most importantly, the complexity of RCV’s convoluted vote tabulation system will deter voters and erode confidence in our elections. Not only is it a costly and cumbersome process, but when RCV does produce results that disagree with the first-round plurality, it is highly questionable whether it is actually more reflective of “the will of the people.” It has been demonstrated that

RCV can lead to candidates emerging victorious despite occupying a low ranking on the majority of ballots. Furthermore, it is possible for a popular candidate to be ranked second by the vast majority of voters, yet be eliminated immediately on account of not receiving enough first-choice votes.<sup>69</sup>

It is not surprising that most other states are unwilling to follow Maine's lead. In 2020, Massachusetts rejected a ballot initiative to implement RCV by approximately 10 percentage points.<sup>70</sup> Similarly, Alaska, which implemented RCV in 2020 on a narrow referendum vote, now has an initiative committed to repealing it.<sup>71</sup> Only one other state, Hawaii, has RCV for statewide races (doing so in 2023).<sup>72</sup> The fact that RCV is so limited across the country demonstrates how voters prefer the basic, understandable "first past the post system" (in addition to some states engaging in runoff elections).

If policymakers want to encourage electoral participation and combat the general distrust of government, they should simplify our elections. The alleged benefits of RCV are largely unproven while its drawbacks, such as its redundancy and its disenfranchising complexity, have been clearly demonstrated. Ultimately, RCV is a well-intentioned but reckless experiment that threatens to undermine our fundamental democratic values.

## Recommendations

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

# Implementing Voter ID Requirements



## The Problem

Maine is one of just 15 states that have not enacted some form of voter ID laws, which require voters to provide identification at polling stations in order to vote in elections.<sup>73</sup> While some fear that voter ID laws disenfranchise voters and suppress voter turnout, states have proven that these laws can be implemented in ways that alleviate concerns while still upholding the sanctity of free and fair elections, substantially eliminating the possibility of voter fraud.

## Analysis

Approximately 60 percent of US voters live in states that require some form of photo identification in order to cast a ballot, according to the Congressional Research Service. Of the states which have voter ID laws on the books, 16 allow those without IDs to cast a ballot through alternative means, while 19 strictly enforce ID requirements. Since 1996, the number of states requiring voter IDs has tripled.<sup>74</sup>

In 2001, the National Commission on Federal Election Reform, or the Carter-Ford Commission, studied aspects of the nation's voting process and suggested that states improve "verification of voter identification at the polling place" by requiring voters "provide some form of official identification, such as a photo ID issued by a government agency."<sup>75</sup> Four years later, the same body issued similar findings, expanding its recommendations to include that states provide voter ID cards at no cost to voters without official identification.<sup>76</sup> Since then, 23 states have successfully passed or amended voter ID laws, many of which contain specific provisions to mitigate the concerns of disenfranchisement and reduced voter turnout.

Georgia, which originally passed voter ID in 1997, moved to strict photo ID requirements in 2005. Implemented in 2008 after clearing legal challenges, the law allows Georgians to use any of the following forms of photo identification to vote in elections:<sup>77</sup>

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

In the four years after Georgia implemented its voter ID law, turnout among Black and Hispanic voters outpaced the overall population growth among those demographics.<sup>78</sup> Even through 2022, turnout in the state continues to break records.<sup>79</sup>

A national study published in the National Bureau of Economic Research (NBER) in 2019 observed over one million voters across eight years and found no statistically observable change in voting behavior like registration and turnout rates related to voter ID laws.<sup>80</sup>

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

According to a Pew Research poll from February 2024, 81% of Americans support requiring all voters to show some form of photo ID in order to cast their ballots.<sup>81</sup>

In Maine, a petition is currently being circulated to place the question of whether to impose voter identification requirements on a future ballot. As of July 2024, the group has reported acquiring roughly 40,000 signatures.<sup>82</sup> If successful, the measure would require voter identification as a prerequisite for voting. In addition, the petition would prohibit fees on non-driver license photo identification for those who do not have identification and are eligible to vote.<sup>83</sup> If approved by Maine voters, this petition would increase the security of Maine elections while taking the necessary steps to ensure voters are not disenfranchised.

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

### **Recommendations**

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



# Secretary of State's Removal of Qualified Candidates



## The Problem

In 2023, Maine Secretary of State Shenna Bellows made headlines across the country after she removed President Trump from the Maine ballot, citing the Constitution's insurrection clause of the 14th Amendment. This came as Colorado's state Supreme Court ruled that Trump was ineligible to run again due to engaging in insurrection.<sup>84</sup> Ultimately, the Supreme Court unanimously ruled that the federal government, not the states, has the power to remove qualified candidates from federal races. Nevertheless, this episode raises important questions as to the role and power the Secretary of State should have when it comes to removing legally eligible candidates from the ballot.

## Analysis

Unlike Colorado, where the state Supreme Court ruled on Trump's ballot qualification, Maine's Secretary of State was the one who made the initial ruling on this question, which in turn was rejected by a District Court judge as well as the Maine Supreme Court, both of which correctly argued that it is not the place of states to make rulings on federal law.<sup>85</sup>

While this issue was ultimately resolved unanimously and correctly by the Supreme Court, it's important that Maine takes measures to prevent such a process from occurring again. To be clear, there are instances where it is legally permissible to remove a candidate from the ballot. When it comes to state elections, it should be state courts, not the secretary of state, that initiates the process. Likewise, neither the secretary of state or state courts have the authority to remove candidates in federal elections from state ballots. Allowing this to continue risks additional political, rather than legal, efforts to strike candidates from the ballot.

Ultimately, to fix this issue, the Secretary of State should not be responsible for starting the process to strike a candidate from the ballot. Instead, this should be left up to state and federal courts to decide, respectively.

## **Recommendations**

- Ensure state courts have the initial and final rulings on the legality of disqualifying candidates running in state elections.
- Ensure Federal Courts have the initial and final rulings on the legality of disqualifying candidates running in federal elections.

# ENERGY

ENERGY

# Halting Costly Offshore Wind Development



## The Problem

Maine has long suffered from high energy prices and low energy output. Various proposals have been put forward in an attempt to make up the shortfall and deliver cheap energy to Maine residents, ranging from solar to nuclear to hydro power, but none have received as widespread support and attention as offshore wind. Under Governor Mills, the state of Maine has devoted a great deal of time and money toward moving forward with the Sears Island offshore wind project, ignoring valid criticism and fierce resistance from locals.

## Analysis

Environmental activists have long championed offshore wind as a clean, reliable, and relatively affordable source of energy. Proponents of offshore wind in Maine argue that it will help make up the state's energy shortfall and produce clean and cheap energy for Mainers across the state. While these are noble aims, the development of offshore wind poses several dangers to both the residents and wildlife of Maine.

The most notable offshore wind development currently under consideration is the Sears Island Wind Project, a pet project of Governor Mills', who recently requested \$456 million of federal funding from the U.S. Department of Transportation to assist in its construction.<sup>86</sup> Expected costs for the entire project are projected to approach \$760 million, which would represent a significant investment on the part of the state even with federal grant money.<sup>87</sup> The selection of Sears Island, an undeveloped and uninhabited island known for its natural beauty, has proven intensely controversial, as residents<sup>88</sup> and representatives<sup>89</sup> of the nearby town of Searsport have loudly protested the decision, citing noise, pollution, and destruction of the local environment as the largest reasons to cancel the project.

Many critics point to nearby Mack Point, located across the bay from Sears Island, as a more viable alternative. Owned by Sprague Energy, one of the largest energy suppliers in New England, Mack Point has already seen development, boasting existing infrastructure such as warehouses, liquid tank storage, and ample space for docks.<sup>90</sup> While Governor Mills claims that the Sears Island Wind Project “is expected to result in less environmental harm,”<sup>91</sup> environmentalists and concerned citizens have repeatedly disputed this assertion.<sup>92</sup> According to Friends of Sears Island, a local conservationist organization:

*“If the wind port is built on Sears Island, more than 45 acres of upland will be cleared, graded, and compacted; 1,250,000 cubic yards of earth will be removed; and more than 17 acres of marine habitat will be filled with over 800,000 cubic yards of the harvested soil. This will destroy acres of eelgrass meadows, essential fish habitat, a fisheries nursery area, and shellfish beds. About one-third of the island will be changed forever.”<sup>93</sup>*

The damage will not be limited to marine life and terrestrial mammals. Sears Island is home to at least 222 species of birds and has been described as “the shining gem of Maine coastal birding.”<sup>94</sup> The American Bird Conservancy recognizes wind turbines as a serious threat to bird populations, and data suggests that larger, rarer birds are disproportionately affected by wind turbine construction and operation.<sup>95</sup> If the Sears Island Wind Project goes forward, then Maine’s birds and their many passionate birdwatchers are likely to be negatively impacted.

Conservationists are not the only ones who are alarmed by the prospect of developing Sears Island. Local fishermen, many of whom are already facing pressure from strict federal regulations, have voiced their concerns about the damage the wind project may inflict on their livelihoods.<sup>96</sup> According to the Alliance for Sears Island, tens of thousands of visitors journey to the island every year and destroying large swaths of the local terrain may reduce its viability as a tourist destination.<sup>97</sup> The economic and environmental repercussions of Governor Mills’ decision could prove disastrous for the local economy.

The validity of pursuing a large-scale government subsidized wind project is itself in question, as similar projects in Virginia,<sup>98</sup> Massachusetts,<sup>99</sup> and New York<sup>100</sup> have all repeatedly suffered from delays, cost overruns, and even outright cancellations. Many cancellations occur after final approval has already been given, leading to exorbitant amounts of wasted money, especially in the case of New Jersey's Ocean Wind projects, which were canceled in late 2023 after numerous supply chain-induced delays, leading to losses totaling over \$4 billion.<sup>101</sup> New Jersey received a meager \$125 million payout in return.<sup>102</sup> The prospect of the state government destroying wide swaths of Sears Island's natural environment only for the proposed wind project to never materialize cannot be discounted, and serious consideration should be given before taking such a risky step forward.

Worse still, wind subsidies rarely benefit consumers or the local economy. Between 2000 and 2015, \$4.8 billion in federal subsidies were given to foreign energy suppliers.<sup>103</sup> State governments have been keen on luring in developers with similar incentives. For example, in 2023, Connecticut and New Jersey both collectively offered more than a billion dollars to the Danish energy giant, Ørsted, the same multi-billion dollar corporation that ended up backing out of New Jersey's Ocean Wind projects later that year.<sup>104</sup> Taxpayer-funded subsidies should not be offered to energy companies, especially when those entities have a track record of dishonesty and unreliability.

## Recommendations

- Enact legislation that preserves the environmental integrity of Sears Island.
- End subsidies for non-competitive energy suppliers.
- Repeal Maine's expedited wind law at Title35-A, chapter 34.
- Incorporate decommission planning and funding into wind energy regulations.

# Repealing the Renewable Portfolio Standard



## The Problem

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

## Analysis

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

The law itself did little to alter the state's mix of fuel sources used for electricity production. Maine was already producing large quantities of energy from renewable sources. Maine's numerous lakes, rivers, and streams enabled the production of economically viable hydroelectric power, and its forestry industry supplied wood waste for biomass electricity production.<sup>105</sup>

In June 2006, then-Governor Baldacci signed legislation to counter the perception that the RPS law lacked environmental benefits. The updated law kept in place the overall 30 percent renewable requirement but compelled electricity providers to also adopt new sources of renewable energy by one percent annually beginning in 2008 and ending in 2017 when 10 percent of the electricity sector's fuel mix will consist of new renewable energy sources.<sup>106</sup>

An analysis of the economic effects of these RPS mandates in 2012 by the Beacon Hill Institute—using data from the U.S. Energy Information Administration—estimated that RPS will raise the cost of electricity by \$83 million for the state’s residential consumers by 2020 by raising electricity prices 1.24 cents per kilowatt-hour (kWh) in the medium-risk scenario.<sup>107</sup> In reality, the average monthly retail electricity price in Maine grew from 11.8 cents/kWh in 2012 to 13.5 cents/kWh in 2020, a rise of more than 1.7 cents, greater than the worst-case scenario in the Beacon Hill Institute report.<sup>108</sup>

Increased energy prices hurt Maine households and businesses and, in turn, inflict significant harm on the state economy.<sup>109</sup> In the face of rising electricity prices, several states have recently taken action to repeal or reform their RPS requirements. In 2015, West Virginia ended its RPS program entirely, while Kansas amended its regulations to create voluntary—rather than mandatory—renewable energy targets. In 2014, Ohio temporarily froze its RPS for two years.

In 2019, Maine moved in the wrong direction by updating its RPS requirements to outline that 80% of energy will come from renewable sources by 2030 and 100% by 2050.<sup>110</sup> In 2023, Governor Mills announced a new goal to reach 100% clean energy by 2040. Although this is not a legal requirement, it is indicative that Maine is heading in the wrong direction.<sup>111</sup> 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.

## Recommendations

- Repeal Maine’s Renewable Portfolio Energy Standard.



# Cronyism in Energy Markets



## The Problem

Maine's electricity costs are among the highest in the nation.<sup>112</sup> Cronyism, overregulation, protectionism, and various anti-market policies have contributed to a severely uncompetitive local market that is dependent on expensive government subsidies to function at the most basic level, ensuring that local suppliers have little incentive to meet consumers' needs and operate efficiently.

## Analysis

Despite Governor Mills's ostensible commitment to making Maine a clean, carbon neutral state, under Maine's current laws, clean energy projects that generate more than 100 megawatts of electricity are not considered to be "renewable."<sup>113</sup> Given that Maine has pledged to derive 100 percent of its energy from renewable sources by 2040,<sup>114</sup> this legislation effectively restricts energy innovation and development to the wind and solar sectors, which are notoriously unreliable, being dependent upon government subsidies and frequently suffering from substantial cost overruns.<sup>115</sup>

Eliminating the cap would encourage development and innovation in other forms of clean energy, which could provide cheaper and more consistent energy generation at all times of day and through all seasons—something that wind and solar cannot currently do. Solar panels in particular are dependent upon clear weather and sunny conditions in order to facilitate energy generation, and given that Maine has been ranked 47th in the country for the amount of average annual sunlight it receives, one can justifiably question whether solar energy is a good fit for the state.<sup>116</sup>

While proponents of wind and solar power tout these energy sources as "clean" and "carbon neutral," studies suggest that this

may not actually be the case. A 2021 study by Harvard Business Review found that the solar industry is poised to produce large volumes of waste, and that only one American company has committed itself to recycling used solar panel components.<sup>117</sup>

In addition, Chinese companies supply nearly 95% of the polysilicon, wafers and ingots used in the construction of solar panels across the globe.<sup>118</sup> China's Xinjiang region, which is known for being the site of torture,<sup>119</sup> forced labor,<sup>120</sup> and the forced sterilization of ethnic minorities,<sup>121</sup> accounts for over 40% of global polysilicon manufacturing.<sup>122</sup> Any sizable, subsidy-fueled increase in the installation of solar panels in Maine is likely to be carried out using materials derived from Chinese slave labor.

One particularly harmful policy that has been doggedly pursued by the Mills administration is Net Energy Billing (NEB). Under the NEB system, solar energy projects in the state of Maine are effectively subsidized by electricity ratepayers.<sup>123</sup> Though proponents of NEB argue that it will help facilitate a shift toward clean energy, Maine residents have seen their electricity rates increase dramatically. In July 2024, Central Maine Power customers saw their monthly electricity bills increase by a startling 12%, while Versant Power customers shouldered a 6% increase in their monthly rates.<sup>124</sup> Working Mainers should not be forced to foot the bill for reckless experimental energy policies.

## Recommendations

- Eliminate the 100-megawatt capacity limit.
- Eliminate all forms of energy subsidies in Maine.
- End Maine's net energy billing program.

# Opposing Electric Vehicle Mandates

## The Problem

The expansion of electric vehicle (EV) adoption has played a prominent role in climate activists' efforts to reduce global carbon emissions. This has naturally led to a contentious debate around the merits of EV mandates as a tool to combat climate change. Thankfully, lawmakers enacted LD 2661 in the 131st Legislature, which requires any future mandate to be reviewed and approved by lawmakers before it can take effect.<sup>125</sup> The Maine Legislature should use this power to reject any future EV mandates due to their impractical and unethical nature.

## Analysis

Governor Mills' *Maine Won't Wait* climate action plan aims to have 219,000 EVs on the road by 2030.<sup>126</sup> For reference, as of 2022, only 0.17% of registered Maine vehicles were electric, totaling 6,000 (12,369 when including Hybrid vehicles).<sup>127</sup> Furthermore, the state is nowhere close to reaching this impractical goal. In 2023, only 7% of new vehicles sold were electric.<sup>128</sup>

There are several reasons why this is the case. In 2023, the cost of a new car in the United States was \$44,989 on average compared to the average EV cost of \$55,242.<sup>129</sup> While the Inflation Reduction Act included an up to \$7,500 tax credit for EVs depending on income and vehicle type, they still remain more expensive than gas cars.<sup>130</sup> In addition, there is still a lack of EV charging infrastructure, especially in northern Maine.<sup>131</sup> However, the biggest problem facing EVs is the fact that they have proven to be much less reliable than their gas counterparts.

In 2023, the latest survey from Consumer Reports found that electric vehicles experience 80% more problems than vehicles with internal combustion engines.<sup>132</sup> The most frequent problems

associated with EVs were issues with the battery and charging stations, though there were also complaints about the fundamental structure of the vehicles.<sup>133</sup> Ultimately, the unreliability of EVs combined with their higher purchase price has complicated efforts to transition away from gas-powered vehicles. Given the clear limitations and challenges presented by EV usage, it would be highly impractical to introduce an EV mandate in any form. Economically, forcing the sale of EVs would be an added expense on struggling families and would represent a time burden due to the additional liabilities stemming from EVs. More broadly, it should be up to individuals, not the government, to determine what car is most affordable and best suits their needs.

Such mandates are not an obscure hypothetical. In March 2024, the Maine Board of Environmental Protection (BEP) rejected a citizen-proposed EV mandate. In response, environmental groups are suing the state, citing the need to follow a 2019 law that set greenhouse gas emissions goals for the state, the first of which is to be achieved by 2030.<sup>134</sup> While the case is highly questionable from a legal perspective, it demonstrates that the conversation around EV mandates in Maine is still alive and well. Lawmakers should respect the economic freedom of all Mainers by withholding support for any policy that would impose EV mandates on Maine consumers.

## Recommendations

- Reject any future effort to mandate EV sales and usage.

# Exiting the Regional Greenhouse Gas Initiative



## The Problem

The Regional Greenhouse Gas Initiative (RGGI), 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 sector. Policymakers have also failed to allocate sufficient funds generated from the program to Maine’s most urgent energy priority: reducing electricity rates.

## Analysis

RGGI is a mandatory cap-and-trade program designed to reduce greenhouse gas emissions in northeast and mid-Atlantic states. The initiative currently involves 10 states—Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont. Pennsylvania was expected to join in 2023, but Governor Tom Wolf’s attempt to join via executive order and without legislative approval was struck down as unconstitutional.<sup>135</sup> Meanwhile, Virginia left the RGGI in December 2023.<sup>136</sup>

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.<sup>137</sup> The RGGI emissions cap took effect January 1, 2009, based on an agreement signed in 2005.

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

million.<sup>138</sup> According to former Governor Paul LePage’s Energy Office, RGGI caused the average Central Maine Power ratepayer’s bill in 2014 to increase by 0.24 cents per kilowatt hour, creating exceptionally high burdens for energy-intensive manufacturing businesses.<sup>139</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 2019, the nonpartisan Congressional Research Service acknowledged that “from a practical standpoint, the RGGI program’s contribution to directly reducing the global accumulation of [greenhouse gas] emissions in the atmosphere is arguably negligible.”<sup>140</sup> Through the sale of “emissions allowances” to power plants, Maine generated \$11.5 million in 2020, jumping to more than \$20 million in 2021, \$27 million in 2022, and over \$29 million in 2023.<sup>141</sup> Currently, Maine uses its revenues from RGGI to fund Efficiency Maine Trust’s heating programs, business energy programs, and direct electric rate reduction for businesses. Instead, policymakers should send these fees straight back to ratepayers in the form of direct bill assistance, as New Hampshire does.<sup>142</sup>

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 auction proceeds to provide direct electric rate relief.

# Resisting Efforts to Implement the Transportation & Climate Initiative



## The Problem

Similar to the Regional Greenhouse Gas Initiative, the Transportation & Climate Initiative (TCI) is a regional coalition of 12 states and Washington D.C. that seeks to reduce carbon emissions within the transportation sector. The TCI would price carbon emissions and place an artificial cap on how much of it can be produced from transportation-related sources within the region.<sup>143</sup> As the program advances, the cap of allowable transportation-related emissions would be reduced and the tax would be increased until, eventually, the region does not emit carbon from transportation-related sources. If adopted, the TCI would result in a substantial increase to the largely regressive tax on gasoline and diesel fuel, hurting Maine's most vulnerable citizens.

## Analysis

The TCI is a cap-and-trade style program that proposes to establish an artificial cap on transportation-related carbon emissions across the region. Each participating jurisdiction would receive an emissions budget that is based on its "apportionment of the regional cap for each year of the TCI Program."<sup>144</sup> The regional cap would decline annually, reducing the amount of carbon released into the environment.

To ensure transportation-related emissions are declining, gasoline and on-road diesel fuel suppliers will be required to purchase allowances or permits at auction for the carbon emitted by their fuel products. They would also be required to report emissions to the jurisdictions participating in the program, affecting all fuel suppliers that operate within or deliver to the TCI region. The cost of the allowances paid by suppliers would be passed onto

consumers at the pump, effectively creating a new tax on gasoline and diesel fuel. These costs would also increase annually, coercing divestment in gas-powered vehicles.

As part of the TCI agreement, revenues generated by the system would be used by states exclusively to expand clean energy infrastructure within the transportation sector, including replacing gas-powered public transit with electric alternatives and building new electric vehicle charging stations.

Despite the general state of disrepair of Maine's roads and bridges, TCI revenues could not be used to fix Maine's crumbling infrastructure. David Stevenson, the director of the Center for Energy and Environmental Policy at the Caesar Rodney Institute, estimates that, at 17 cents per gallon, the new gas tax contained within the TCI would cost \$225 per family per year, generate \$56 billion in revenue between 2022 and 2032, and save approximately 16 million tons of carbon dioxide emissions per year at a cost per ton savings of \$3,500. In terms of climate impact, the TCI would lead to a reduction of global temperatures by about one one-thousandth of a degree by 2100; a costly endeavor for such meager results.<sup>145</sup>

In December 2019, after the TCI released its draft Memorandum of Understanding (MOU), New Hampshire Governor Chris Sununu rejected the plan, calling it a "financial boondoggle," and stating he will not force Granite Staters to pay more for gasoline.<sup>146</sup> Soon after, governors and lawmakers in other northeastern states also voiced their skepticism.<sup>147</sup> In January 2020, Maine Governor Janet Mills said that she "does not agree that states, as a group, should impose a fee on gross production of gas or any other fuel product, just to have it passed onto the retailer and the consumer," rightly noting that it would not be fair to Mainers. Then, the Mills administration said it was just "monitoring" the TCI.<sup>148</sup> Maine is currently not in this agreement as Mills did not sign the MOU by the deadline date in December 2020. Since gas prices reached historic highs over 2022, the TCI seems to be in hibernation.<sup>149</sup>



According to the United States Energy Information Administration, Maine ranks 12<sup>th</sup> highest in the country for per capita gasoline expenditures, \$955 on average.<sup>150</sup> Additionally, the U.S. Census Bureau 2022 American Community Survey found that more than 73 percent of Mainers in the Lewiston-Auburn area commute to work alone by car, truck or van (an additional 9.3% carpool) with an average travel time of 24.4 minutes.<sup>151</sup> In the Portland-South Portland Metro Area, over 61% of Mainers commute to work alone by car, truck, or van (an additional 8.1% carpool) with an average travel time of 24 minutes.<sup>152</sup> By implementing the TCI, state politicians would undoubtedly increase this burden, the brunt of which would be borne by low-income Mainers.

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

## Recommendations

- Prohibit the executive branch from entering interstate compacts without legislative approval.

# Exploring the Development of Nuclear Power



## The Problem

Maine lawmakers have identified climate change as a necessary problem to tackle, and in response, have enacted policies to shift the state's energy portfolio to include more "clean" sources of energy such as wind and solar. However, the state's energy production has grown even more expensive over the last two decades, leaving consumers and businesses desperate for relief. In 2023 alone, costs to CMP residential customers rose by roughly 31.59 percent.<sup>153</sup> While there is some acknowledgment in Augusta of growing energy expenses, Governor Mills and lawmakers have done very little beyond attempting to alleviate short-term financial stress by providing temporary relief in the way of rebate checks to some Maine residents.<sup>154</sup> If Maine is truly going to pursue clean energy alternatives to fossil fuels, it needs to consider trying to cultivate nuclear power in Maine once again.

## Analysis

In 1972, the Maine Yankee Nuclear Power Plant, featuring a 900-megawatt reactor, began operations. During the lifespan of the plant, which was shut down in 1996, Maine Yankee provided roughly 119 billion kilowatt-hours of electricity, which supplied most of the state's required energy.<sup>155</sup> Since the closure of the reactor, Maine has transitioned toward alternative sources of electricity to fill the gap left by Maine Yankee's absence. These new sources include both heavily subsidized, expensive renewable options, as well as fossil fuel generation. The state's largest power plant today is natural gas-fired.<sup>156</sup>

The result has been dirtier and more expensive electricity generation for the last quarter-century. State lawmakers have been consistently searching for new renewable energy sources, leading

to the increasing focus on wind and solar farms. These alternatives, however, are not only expensive for the consumer, but also for taxpayers, as significant financial commitments are necessary to build and support their operation.

Yet as the state continues to search for clean energy alternatives to fossil fuels—a problem which will only grow worse with the nation’s move toward electrification—there has been no serious attempt to deal with the ever-increasing cost of electricity, which has grown significantly in recent years and will only continue to skyrocket. High energy prices are not only a problem for residential consumers, but they also severely limit the state’s ability to attract and grow businesses that consume a great deal of energy. Prices being higher by only a couple of cents per kilowatt hour will mean hundreds of thousands, if not millions of dollars, in additional expenses for such a business.

It is often claimed that our expensive electricity is a result of Maine’s cold climate, but this is not at all the case. The average cost of electricity for Maine residential consumers in March of 2024 was 22.25 cents per kilowatt-hour, while residents of other northern, cold-weather states such as Wisconsin (16.96 cents) Minnesota (14.69 cents) and North Dakota (10.44 cents) enjoy far cheaper electricity.<sup>157</sup>

The reason Maine has such high energy costs is primarily a supply issue. Maine currently generates less electricity than all but five other states, increasing pressure on prices.<sup>158</sup> Making matters worse, the energy we do produce is of a particularly expensive and volatile type due to the deliberate choices Maine lawmakers have made to emphasize expensive and unreliable renewable energy sources.

If the state is going to continue to press for clean energy solutions, it needs to do so in a way that also addresses the increasing cost of electricity. This means that it is time for the state to consider investing in nuclear power once again. The opposition to nuclear power is largely emotionally-based and irrational. Despite the sensationalist fear-mongering about the technology, nuclear power

has proven to be not just safe, but considerably safer (by a wide margin) than all other energy-producing options.<sup>159</sup>

Even in well-known nuclear incidents, the resulting casualties are extremely low. In the Fukushima nuclear disaster, for instance, the Japanese government reports only a single person's death directly attributable to the accident.<sup>160</sup> Several hundred workers on site were also exposed to higher than normal levels of radiation. Over 100,000 people were evacuated as a preventative measure, a sign that governments are capable of reacting promptly to minimize injury.<sup>161</sup>

Furthermore, recent data has found that deaths related to nuclear energy pale in comparison to hydro and biomass, while being roughly comparable to wind and solar. In deaths per thousand terawatt hour, biomass is 4.63, hydro is 1.3, wind is 0.04, nuclear is 0.03, and solar is 0.02.<sup>162</sup> Given their global nature, these numbers do not reflect the higher energy standards present in western countries such as the United States. Ultimately, the fear of nuclear energy is not based in the data, but rather on extremely rare high profile incidents from distant memory.

Modern nuclear technology is also considerably safer and more efficient than the nuclear technology of the past. Today, the promise of the up-and-coming technology of small modular reactors (SMR) offers a design that will speed construction, lower cost, and improve safety over traditional nuclear reactors.<sup>163</sup> SMRs are classified as having capacity between 50 MW and 300 MW, about one-third that of traditional reactors.<sup>164</sup> If policymakers choose to reinvest in nuclear energy, it is probable that further technological progress can be made towards making nuclear even safer. Given that Maine uses about 1,676,999 megawatt-hours (MWh) of electricity in a typical month, between five and 20 SMRs could power the whole state.<sup>165</sup>

Beyond the technology's safety, nuclear power continues to be remarkably inexpensive. In 2019, the United States Energy Information Administration (EIA) estimated that the cost of electricity from new, advanced nuclear power plants that were

expected to come online in 2023 to be 7.75 cents per kilowatt-hour before government subsidies.<sup>166</sup> Current energy generation in Maine is three times that cost.

Finally, there is the issue of environmental impact. While many people believe we should pursue an “all of the above” strategy, the truth is that options like wind and solar are responsible for a significant amount of environmental degradation, not only in their production (elements and materials necessary for them to be built and maintained), but also in their deployment. For instance, the wind farm that was built on top of Mars Hill necessitated a radical alteration to the landscape, including building roads, clearing trees and using dynamite to reshape the area in preparation for windmills.

Solar panels, too, are a major problem. Solar panels require roughly 17 times more in the way of materials—glass, concrete, cement, steel—to create the same amount of electricity when compared to nuclear power plants. In addition, solar needs 450 times more land to produce the same amount of power as a nuclear plant.<sup>167</sup> Nuclear power is extremely energy dense, enabling the production of a large amount of electricity in a very small area. Thus, by prioritizing other types of clean energy over nuclear power, we are in reality doing additional, unnecessary environmental harm.

The roadblock to the creation of new nuclear power plants, in Maine and across the country, is one primarily of psychology. The public is wary of nuclear power due to a prolonged, dishonest political campaign against it engineered by environmental activists who do not understand the technology. These groups pushed state and federal governments to adopt new, largely meaningless “safety” regulations that resulted in radical cost inflation for the building and operation of nuclear power plants. In the aftermath of these new regulations, costs to build and maintain reactors became two to three times more expensive.<sup>168</sup>

What Maine needs now are leaders who are willing to advocate for nuclear power, and search for ways to make the production of nuclear power cheaper and more likely to occur. Lawmakers at

both the state and the federal level need to reform regulations that have strangled the industry and made the production of new plants unfeasible.

## Recommendations

- Amend the definition of “renewable resource” to include nuclear energy.
- Reform utility regulations to make siting and planning of nuclear power plants more affordable and feasible.
- Commit state policy to attracting construction of one SMR every two years over the next 10 years.





# GOVERNMENT REFORM



# Reforming the Budget Process



## The Problem

In 2023, Governor Mills and legislative leaders worked together to artificially adjourn the Legislature with the expressed purpose of circumventing the normal bipartisan budget process.<sup>169</sup> The same process occurred in 2021 and is becoming more prevalent when one party controls the Blaine House and both chambers of the Legislature. This approach greatly undermines Maine's rich history of bipartisan cooperation during the budget process and leads to a lower quality, partisan budget, and less representative government.

## Analysis

In Maine, budgets can be enacted in one of two ways. Historically, the most common method is through emergency budgets, which are implemented immediately after being signed by the governor but require two-thirds support in both chambers of the Legislature in order to pass.<sup>170</sup> The less common way is majority budgets, whereby only a simple majority of each legislative body needs to support it. These budgets are implemented 90 days after the end of the session, requiring the Legislature to artificially adjourn its session by the end of March so that the budget takes effect before the start of the next fiscal year to avoid a government shutdown. This often results in the governor calling a special session after adjournment so lawmakers can return to Augusta to finish the rest of their scheduled work.

Despite recent trends to the contrary, Maine has been able to engage in good faith, bipartisan compromise during the budget process for essentially its entire history.<sup>171</sup> Bipartisan budgets allow for more Mainers to be represented in the process and often lead to better policy for several reasons. For one, bipartisan emergency budgets enable more time for constituents and legislators to read and engage with the budget they're intending to pass. Most importantly, encouraging a structure of bipartisan buy-in in the

budget crafting process inherently makes it more representative of the broader Maine electorate. There is no reason that the legislature cannot return its bipartisan past.

To address this, lawmakers should pass legislation to eliminate, or at the very least curb, the usage of the majority option.<sup>172</sup> Alternatively, a constitutional amendment could be passed requiring governors to outline the rationale behind calling a special session. While not perfect, this could reduce the usage of special sessions for partisan reasons. In conclusion, the Maine Legislature would benefit greatly from a recommitment to bipartisanship during the budgetary process, the result of which would be more representative and effective state budgets.

## Recommendations

- Pass a constitutional amendment eliminating the majority budget option.
- Pass a constitutional amendment requiring Governors to outline the specific “extraordinary occasion” necessitating a special session.
- End government shutdowns by implementing automatic cuts in the budget when an agreement cannot be reached by the start of a new fiscal year.

# Executive Authority in Times of Emergency



## The Problem

Maine is on the other side of an unprecedented public health crisis, in response to which Governor Mills rationalized a 15-month-long, continuous Civil State of Emergency. Decades ago, the Maine Legislature granted the governor near-unchecked executive authority in times of emergency. Governor Mills used those broad powers to govern under single-person rule from March 2020 to July 2021 with very little input or participation from Mainers' elected representatives.

No single human being should ever be able to grant themselves unchecked power for as long as they wish. A governor should have the power to respond effectively to an imminent threat or crisis, but there must be clear limits and oversight on that authority in order to maintain constitutional balance, even during times of crisis.

## Analysis

Governor Mills exercised her power in truly remarkable ways during the Civil State of Emergency in response to the COVID-19 pandemic. Mainers were ordered to stay home, businesses were ordered to close, entire sectors of the economy were arbitrarily designated as "essential" while others were deemed "non-essential," patients were forced to delay or cancel so-called "elective procedures," quarantines and travel restrictions were enforced, and schools were closed necessitating an experiment in distance learning for Maine students.

These actions had a drastic impact on the state's economy. Despite this, the Maine Legislature had virtually no involvement in the state's response as Mills governed for months behind closed doors and by unilateral executive orders. Even after she allowed the Civil State of Emergency to lapse on June 30, 2021, emergency

rulemaking continued through a Public Health Emergency, declared by the state Department of Health and Human Services (DHHS), on July 1. This enabled Maine CDC to force healthcare facilities to fire dedicated employees for refusing to take part in COVID-19 vaccination, despite their individual risk profile, religious objections, or even verified medical exemptions. Many months later, peer-reviewed scientific publications have validated that refusal, as the COVID-19 vaccines have failed to significantly limit infection or transmission of the virus.

The governor's authority to manage the state in emergencies is granted in Maine statute under Title 37-B, Chapter 13 which deals with the Maine Emergency Management Agency.<sup>173</sup> This law grants the governor the power to declare several types of emergencies, yet curiously the section dealing with "energy emergency" proclamations requires that, if an order or rule issued by the governor is in effect for longer than 90 days, the Governor shall be required to call the Legislature into session while the section on civil emergencies does not.<sup>174</sup> As such, given that she declared a state of civil emergency during the coronavirus pandemic, no time limits or oversight by the Legislature was mandated.

Beyond this, Maine's governor is among the most powerful in the country during emergency situations, as the governor may alter or suspend statutes or regulations. Interestingly, eight states, including Vermont and Massachusetts, provide no authority to the governor to change either statutes or regulations during an emergency.<sup>175</sup>

Very few dispute that a governor should be able to respond quickly to an evolving threat, and the early days of the COVID-19 pandemic panic certainly qualified. However, it is unwise and unnecessary to grant such absolute, unchecked power to the state's chief executive. After a certain amount of time, ideally within two weeks, the people's branch should counterbalance that authority.

Not only should legislative approval be required to continue an emergency beyond the initial declaration, legislators should also be able to amend or rescind specific emergency orders by joint resolution.

Additionally, Mainers should be able to challenge emergency orders which infringe on constitutional rights under the “strict scrutiny” standard, whereby the state must prove that it is fulfilling a compelling interest with the least restrictive means possible, and courts should guarantee that these challenges are heard as soon as possible.

## Recommendations

- Require majority vote of the legislature to continue a state of emergency beyond 14 days, and for every 14-day extension thereafter.
- Only the governor may declare a state of emergency and issue emergency orders. No agency may enter emergency rulemaking without an emergency declaration from the governor.
- Allow for a legislative joint resolution to rescind or amend, in whole or in part, any emergency order issued by the governor.
- The governor cannot issue an emergency declaration for a similar circumstance to those which have expired or been terminated.
- Require emergency orders to be narrowly tailored, and that legal challenges to them receive expedited judicial review.
- Require that declared disaster areas be the smallest political subdivision of the state possible to properly respond to the emergency.

# Continuing to Reform Welfare



## The Problem

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

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

Since the Mills administration has taken over in Augusta, however, it has been aggressively turning back the clock on Maine's welfare programs, returning to the failed approach of the past. After a massive expansion of welfare due to the state and federal government responses to the COVID-19 pandemic, it has become more difficult than ever to get Mainers working again.

## Analysis

A proper understanding of the issue of welfare needs to begin with an understanding of human psychology and why perpetual, expansive, and overly generous welfare programs ultimately trap into dependency the very people they try to help.

The federal government, seeking to respond to the unprecedented financial crisis resulting from government-mandated economic shutdowns, expanded unemployment benefits by \$600 per week

above the typical payments made to those on unemployment. The result was more money in the pockets of beneficiaries, however the additional payments made it more financially lucrative for many Americans to receive unemployment than it would have been for them to return to work.<sup>176</sup>

This phenomenon caused many employers in Maine to have a difficult time rehiring workers once the economy began to reopen. This, in turn, led to a slower economic recovery, lower revenues into the state treasury, and more persistent unemployment. While revenues have since bounced back, the labor force has struggled to recover to its pre-pandemic levels.

In contrast, tightening welfare eligibility standards preserves resources for those truly in need while discouraging welfare dependence, particularly among those with higher incomes. In the Temporary Assistance for Needy Families (TANF) program, an applicant family consisting of a single parent caring for two children can earn up to \$1,634 per month and receive welfare benefits.<sup>177</sup> Only 11 states have such lax eligibility criteria. In Maine, the income limit to receive subsidized child care services is 125% of the state's median income, adjusted for family size.<sup>178</sup>

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

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

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

Maine's Alternative Aid program stands in stark contrast to Georgia's diversion strategy. In DeKalb County, Georgia, for instance, "applicants are required to attend an orientation, develop a TANF Family Service Plan based on a comprehensive assessment and, for those deemed ready for work, complete an up-front job search period as a condition of program eligibility."<sup>179</sup>

The program's intake meeting explores the applicant's job skills, work interests, educational attainment, and personal and family challenges. Applicants considered work-ready "participate in a four-week structured job search program for 40 hours per week," which includes "a series of workshops and group job search sessions to prepare for employment," as well as time spent "contacting employers, completing resumes, and participating in job interviews."<sup>180</sup>

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.<sup>181</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 welfare rolls, and reduce the number of people dependent upon the government. In March 2016, Bethany Hamm, director of the Office for Family Independence in DHHS, testified before the Legislature that the TANF program contains an "overly broad exemption that has allowed TANF recipients to avoid required work too easily."<sup>182</sup>



## Recommendations

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

# Allowing Mainers to Select Their Constitutional Officers

## The Problem

Maine is the only state in the country that does not have its constitutional officers either elected by the people or nominated by the governor and subsequently confirmed by the state Senate. Instead, Maine lawmakers from the House and Senate convene together to select individuals for these positions and then confirm them secretly without outside input.<sup>183</sup> The process is undemocratic and opaque, and often leads to unqualified, termed-out lawmakers being appointed to serve in constitutional officer roles for which they are not qualified.

## Analysis

Constitutional officers are important governmental figures that have a profound impact on the State. By having this process determined by the legislature, key factors are not being considered. Most notably, state legislators will naturally be biased towards the people they know and interact with regularly. Recently, the vast majority of constitutional officers selected by the legislature have had previous experience in the legislature, a strong indicator that legislative connections are playing a pivotal role in who is getting appointed to these important positions over professional qualifications.<sup>184</sup>

The recent scandal surrounding Attorney General Aaron Frey highlights this dynamic further. By not going through either an election or a public confirmation process, his character was never scrutinized.<sup>185</sup> Later, he abused his position of power by not disclosing an affair he was having with a subordinate employee within the Attorney General's Office.

Another example of unqualified former lawmakers being appointed

to important constitutional officer positions can be seen with Matthew Dunlap. In 2020, the Legislature selected him to be the state auditor after he was termed out of the Secretary of State position. Dunlap, previously a state representative, had no previous auditing credentials. Under state law, he had nine months to acquire them.<sup>186</sup> To become qualified for the position, Dunlap needed to obtain internal auditor credentials, which requires passing three different exams.

After taking two attempts at the first exam, Dunlap failed both the second and third exams, resulting in the state auditor office becoming vacant.<sup>187</sup> After five months of vacancy, Dunlap eventually earned the necessary qualifications for the position and subsequently reappointed to the state auditor position.<sup>188</sup> Despite eventually earning the credentials, it was obvious at the time of his first appointment that he was not the most qualified person for the position, and it is difficult to see what got him the appointment besides his relationship with other legislators.

Beyond concerns of corruption and favoritism, there is the possibility of the legislature being out of step with the governor and the people. Constitutional officers work closely with the governor, which is why the federal government—as well as many states—allow for governors to appoint these officers directly. Alternatively, by electing them directly, the people can determine who would be qualified and capable of carrying out the job.

Either of these common alternatives would be preferable to the current system. Maine should follow in the footsteps of other states by either allowing the people to elect their constitutional officers, or allowing the governor to appoint them with senate approval. In conclusion, eliminating Maine's appointment of constitutional officers by secret legislative ballot will result in a more effective, democratic, and transparent governmental structure.

## Recommendations

- Require constitutional officers to be elected through statewide elections.
- Allow Governors to appoint constitutional officers with Senate confirmation.

# Passing Meaningful Legislative Reforms



## The Problem

The Legislative process is opaque and difficult to understand and navigate by the citizens of Maine. Worse, there are many tricks politicians and political parties use to manipulate the Joint Rules and the committee process in order to push their agendas through the legislature with minimal public input or scrutiny.

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

## Analysis

Each year, several measures are introduced in the Maine Legislature as “concept drafts,” which are permitted under Joint Rule 208.<sup>189</sup> Concept drafts are bills or resolutions that consist only of a bill title and summary. Concept drafts may only be submitted by legislators, as the Joint Rule prohibits the governor and state entities from submitting legislation in this manner.

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

far from uncommon in the legislative process. In the 131st Legislative session, nearly 11% of all bills proposed were concept drafts.<sup>190</sup>

For contentious policy proposals, concept drafts are frequently used by politicians and political parties to advance an agenda without exposing the contents of a bill to their opponents. For instance, in the 128<sup>th</sup> Legislature, LD 837, a concept draft titled “An Act To Provide Supplemental Appropriations and Allocations for the Operations of State Government,” was used to redirect funding from the Fund for a Healthy Maine to partially implement Medicaid expansion. This concept draft was originally a “placeholder” for the biennial budget before it was hijacked and repurposed to expand MaineCare eligibility.

A number of concept drafts are also introduced in the second session of each legislature despite legislation in this session being constitutionally restricted to “emergency” measures. If a bill is merely a concept draft upon submission to the Legislative Council, it is highly unlikely its contents rise to the emergency threshold outlined in the Maine Constitution. More often than not, these bills are used by legislators as placeholders for their personal, unfinished priorities carried over from the first session.

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

Further, 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 10 legislative leaders. As a result, some lawmakers submit dozens of bills without taking the time to carefully consider their repercussions or political viability. In the 129<sup>th</sup> Legislature, more than 2,130 bills were introduced by 186 legislators, an average of more than 11 bills per legislator.

The costs of introducing and debating legislation are not trivial. While it is difficult—given the broad diversity of bills introduced—to calculate the cost involved, a study conducted in Wyoming in 2011 found that it cost between \$450 and \$40,000 to propose, draft, and adopt a single piece of legislation. The price included the cost of paper printing, administrative time, and the hours lawmakers spent reviewing and debating the legislation. Numerous analysts and budget experts work in Augusta to help lawmakers craft legislation and make an informed decision when voting. In addition to legal and policy specialists working in the Revisor’s Office and the Office of Policy and Legal Analysis, drafts of bills often require a fiscal note provided by the Office of Fiscal and Program Review. Combined, these agencies employ at least 40 people.

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

To reduce the amount of money spent on superfluous proposals and to allow more time for substantive legislation, a per-legislator cap on the number of bills submitted should be imposed. Many states, including Colorado, California, and Florida have adopted similar rules. Given the complexity of many state programs and

laws, most legislators lack the time to carefully study all proposed legislation. Limits on the number of bills introduced would help to simplify the legislative process, force lawmakers to prioritize their legislative goals, and reduce costs for staff, printing, and paper.

## Recommendations

- Implement a Joint Rule or enact a law that requires legislative committees to hold another public hearing if an amendment is accepted to a bill that strikes all existing language.
- Require two public hearings for concept drafts.
- Disallow concept drafts in the Second Session.
- Prohibit concept drafts entirely.
- Cap the number of bills that may be introduced during the First Regular Session of the Legislature to five bills per legislator, except for constituent bills.



# Regulatory Petition Reform



## The Problem

Under Maine law, if 150 registered voters sign a petition for a change in regulatory procedure, then the agency in question is required to begin rulemaking proceedings within 60 days.<sup>191</sup> This rarely used procedure re-entered the public spotlight when a petition was submitted in 2023 by a group of environmental organizations to require electric vehicle (EV) sales in Maine by adopting California's Advanced Clean Cars II Program. Although the proposal was eventually rejected by the Bureau of Environmental Protection in 2024, the episode sparks legitimate concerns over allowing a mere 150 signatures to prompt the adoption or alteration of existing regulations.

## Analysis

Unlike the People's Veto or Citizens Initiative process, regulatory petitions do not require any level of broad public support in order to be submitted. Ballot question petitions require circulators to collect a number of signatures equal to 10 percent of the votes cast for governor in the previous gubernatorial election. This threshold often amounts to more than 60,000 valid signatures to be certified for the ballot. The threshold for regulatory petitions is only 150 signatures, a threshold so low that anyone could conceivably petition the state government to change its rules with relative ease.

As a result, regulatory petitions create a dynamic where state government agencies could be required to waste time and taxpayer dollars considering proposals that have little popular support as demonstrated by the consideration and subsequent rejection of California-style EV mandates.<sup>192</sup> If citizens want to petition for regulatory change, they should go through the normal process and find a lawmaker who is willing to sponsor a bill to consider the change. Another option is to use the traditional ballot initiative process as a means to achieve that end. Either option is better than

wasting public time and resources because a lowly 150 signatures were collected in support of a regulatory petition.

Hypothetically, a group of 150 Maine voters could grind regulatory agencies to a halt by submitting petition after petition that would have to be formally considered. The fact that regulatory petitions have been rarely used is not a viable defense for its existence, but rather a lucky turn of events. Ultimately, the elimination of regulatory petitions is a necessary step to ensure Maine's government remains functional and truly democratic.

### **Recommendations**

- Eliminate the usage of regulatory petitions.

# HEALTH CARE

# Expanding Right to Shop

## The Problem

In 2017, the Maine legislature passed LD 445, otherwise known as “Right to Shop.”<sup>193</sup> This law gives Mainers the option to compare the prices of comparable medical services to receive the best price. If consumers find comparable medical services that are cheaper than their default provider, then the consumer can go to the cheaper provider while the insurance company and the consumer share the savings.

In 2023, Maine took a further step in the right direction by passing LD 1085, eliminating two sunset provisions in the legislation, thus making it permanent law.<sup>194</sup> Although the passage of this legislation is promising, much work needs to be done to fulfill the true vision of Maine’s Right to Shop law.

## Analysis

The biggest limitation of this legislation is that it only applies to five different types of procedures: physical and occupational therapy services, radiology and imaging services, laboratory services, infusion therapy services, and surgical procedures.<sup>195</sup> Every other procedure is unaffected by the legislation. Ideally, Right to Shop should apply to all procedures and treatments that insurance would necessarily cover. This maximizes the opportunities for savings and increases competition in the healthcare sector as much as possible. The current limitations on the procedures Right to Shop applies to are arbitrary, restrictive, and nonsensical. Furthermore, the lack of a 50-50 savings split means that many insurance companies greatly minimize the savings passed on to the consumer, removing almost any incentive for consumers to engage in shopping.

Beyond procedure limitation, the current, vague language of the law has allowed for the cost savings benefits to become heavily

slanted in favor of insurance providers. As a result, consumers have little incentive to shop around. By reverting to the original language of Right to Shop by requiring a 50-50 split of savings (once savings exceed \$50), consumers will be properly incentivized to shop for alternatives, thereby actually facilitating competition amongst healthcare providers and lowering the cost of procedures for insurance providers and consumers.<sup>196</sup> Expanding Right to Shop will be ineffective if consumers do not have a meaningful incentive to partake in it.

In addition, by allowing consumers the choice in how they are to be compensated, whether that is in cash, reductions in premiums, or even gift cards (which are currently permitted under Maine law), consumers will be all the more motivated to shop around with no additional monetary cost. Under current law, such variance in compensation is permitted, but it is entirely up to the provider as opposed to the consumer.

In 2015, New Hampshire adopted a Right to Shop law with impressive results.<sup>197</sup> In the first three years of the program, 88% of program enrollees shopped at least once. This perfectly matches the 88% of Americans who regularly comparison shop in other aspects of life.<sup>198</sup> Amongst those who engaged in Right to Shop, two-thirds received a financial incentive for choosing lower cost care. The new law saved New Hampshire \$11,000,000 in the first three years alone.<sup>199</sup> For consumers, the average person saved \$670 per transaction, totaling \$1,000,000 in consumer savings.<sup>200</sup>

The need for financial incentives becomes clear when the participation in New Hampshire's Right to Shop program is compared to standard transparency measures without such incentives. Typically, price transparency laws encourage around 2% of consumers to shop.<sup>201</sup> This is overwhelmingly lower than how consumers shop for other items, as well as how they shop for healthcare under Right to Shop.

In order to revamp and improve Maine's existing Right to Shop policy, the law must be expanded to cover all procedures and treatments, insurance companies must be required to provide 50%

of savings to consumers to foster a tangible incentive, and consumers should be empowered to choose the method by which they receive compensation, as opposed to leaving the choice in the hands of insurers.

## Recommendations

- Expand Maine's Right-to-Shop legislation by covering all medical treatments and procedures.
- Allow consumers to choose the method by which they are compensated.
- Require insurance companies to provide 50% of the savings to consumers.

# Ending Certificate of Need

## The Problem

Certificate of Need (CON) laws, first enacted in Maine in 1978, require health care entities to obtain government approval—and navigate a lengthy and expensive process of bureaucratic review—before making large expenditures to expand services, build new facilities, or purchase additional equipment. These laws, which have been rejected by the federal government and 15 other states, limit competition in the health care system and drive up costs.

## Analysis

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

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

Not only are health care providers asked to spend copious amounts of time amid the application process, they are also required to pay substantial fees. It costs providers \$1,000 in fees for every \$1 million in proposed expansion, at least \$5,000, and up to \$250,000 per application.<sup>202</sup> From 2018 to 2020, the average applicant spent nearly \$20,000 in fees.<sup>203</sup> The application process for a Certificate

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

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

Not only do CON laws impose a heavy burden on medical facilities, after decades of data collection and analysis, it is clear that CON laws do not control costs. It's clear, however, that they stifle competition in the health care industry. A study published in the National Library of Medicine found that the costs of CON laws exceed the benefits of such laws by 8%. On average, CON laws were found to increase health care costs and elderly mortality while providing only a mild reduction in heart surgery mortality.<sup>204</sup> The American Medical Association has promoted abolishing CON laws for years, observing that a huge body of evidence suggests CON laws do not contribute to improved medical services.<sup>205</sup>

There is also evidence that CON laws drive up prices by fostering anti-competitive barriers to entry. Countless examples abound of bureaucratic mistakes in gauging public need for additional health care infrastructure. In 2019, when Nepalese immigrant Dipendra Tiwari wanted to create a home health care system designed specifically for Nepalese immigrants in Louisville, Kentucky, his application for a Certificate of Need was rejected. Due to Kentucky's arbitrary and overly-broad requirement that only counties with a home health need exceeding 250 people be granted a CON, Tiwari was not allowed to take a chance and attempt to serve his community.<sup>206</sup>



CON may also contribute to wasteful misallocation of resources due to bureaucratic misunderstandings of how markets for health care services function. For example, in 2009, a request for a CON by MaineGeneral to build a new 226-bed hospital in Augusta was denied by the DHHS; officials only agreed to let the project move forward if the number of beds was reduced to 192.<sup>207</sup>

Mark Botti from the U.S. Department of Justice spoke before a joint meeting between the CON Special Committee of the Georgia House of Representatives and the Health and Human Services Committee of the State Senate in Washington, D.C. His testimony reflects what economic experts and policymakers have known for decades: “Certificate of Need [CON] laws pose a substantial threat to the proper performance of healthcare markets . . . by their very nature, CON laws create barriers to entry and expansion and thus are anathema to free markets.”<sup>208</sup>

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

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

## Recommendations

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

# Reforming Medicaid (MaineCare)

## The Problem

Spending on MaineCare—Maine’s Medicaid program—has ballooned since 2003, when substantial expansions of the program drove enrollment and expenditures to unprecedented levels. Costs continue to rise after Maine voters approved expansion of the program under the Affordable Care Act (ACA) in late 2017. In the 2022 fiscal year, total MaineCare spending surpassed \$3.9 billion, about \$10,735 per recipient.<sup>209</sup> Despite efforts in recent years to stabilize costs, MaineCare still accounts for nearly 30% of the state budget, an unsustainable and unmanageable sum.

## Analysis

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

Government should not be determining what insurance coverage options are appropriate for individuals. Market forces are well-suited to reward services that lower costs, enhance quality, and promote choice. In order to aid individuals and families who are truly struggling to achieve independence, a core objective of the Medicaid program, government action can and should play a limited role.

MaineCare is an important public health insurance program that provides medical care to, as of April 2024, about 368,000 vulnerable Maine adults and children living in or just outside of poverty.<sup>210</sup> However, its growing budget has crowded out other spending priorities and threatened Maine’s long-term fiscal stability.

In 2023, the percentage of state budget funds dedicated to MaineCare accounted for 29.6% of Maine’s total expenditures, virtually unchanged from 29% in 2021, totaling \$874,976,000 in Fiscal Year 2023.<sup>211</sup> Spending on MaineCare has increased by more than 19% since voters approved Medicaid expansion at the ballot in late 2017.<sup>212</sup>

The most substantive driver of these ballooning costs is Medicaid expansion. As of October 1, 2023, nearly 107,000 people are enrolled through MaineCare expansion.<sup>213</sup> Furthermore, over 88.5% of adult MaineCare enrollees are able-bodied without dependent children.<sup>214</sup> Nearly three-quarters of this group are between the ages of 19 and 49.

Legislators should rein in MaineCare eligibility to ensure the most vulnerable are provided for before those who are able to work. Reforms must be made to control spending and focus resources on Maine’s most vulnerable populations, including the elderly, children, and the disabled. Even though expansion is heavily subsidized by federal funds at the moment, the difference in the federal reimbursement rates for expansion (90%) versus traditional Medicaid (62.65% in 2024) creates perverse incentives for Maine’s most needy to receive care.<sup>215</sup> This means that in the event of cost overruns, state leaders are more likely to divert funds from traditional Medicaid recipients—seniors and the disabled—because that population costs MaineCare more per dollar than the expansion population.

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

millions of dollars each year. Maine is one of just six states, plus the District of Columbia, that provide Medicare Savings Program (MSP) benefits above the federal minimum.<sup>216</sup> Judiciously limiting benefits to bring Maine's generous coverage in line with national norms could be a source of substantial savings and enable higher quality services for those who truly need them.

Lawmakers should continue to redirect funds from ineffective programs like the Fund for a Healthy Maine (FHM) to essential MaineCare services. Seeded by payments from the multi-state tobacco settlement in 1998, the Fund has received more than \$1 billion and spent more than \$215 million since then,<sup>217</sup> largely on efforts to discourage smoking among adults and children, with meager discernible results.

Over \$65 million was allocated to FHM for Fiscal Year 2020-21 alone.<sup>218</sup> Rates of smoking and tobacco use overall have been falling steadily since the 1970s, and will continue to do so, with or without state-funded marketing campaigns.<sup>219</sup> These funds can and should be used to supplement MaineCare costs and to provide health care for Maine's most needy residents instead of funding ineffective public advertisements.

## Recommendations

- Exclude able-bodied, childless adults from Medicaid eligibility to ensure care for the most vulnerable populations: children, the elderly, and the disabled.
- Redirect revenue from the Fund for a Healthy Maine to important MaineCare initiatives like expanding access to primary care.
- Reduce Medicare Savings Plan benefits to the federally-mandated minimum.
- Align reimbursement rates of behavioral health services with other New England States.
- Reduce coverage of optional benefits.
- Resist attempts to implement costly, inefficient government-run health care schemes.

# Promoting Health Care Access in Rural Maine

## The Problem

Due to physician and other health care worker shortages in rural areas of the state, Maine must employ policies that utilize market forces to give more people access to affordable primary care. States throughout the country are addressing this issue by connecting doctors and patients through the use of telemedicine and remote area medical clinics.

## Analysis

According to an analysis conducted by the Robert Graham Center, Maine fares better than most states in terms of the total number of practicing primary care physicians (PCPs) as a proportion of the state population. The current population to PCP ratio in Maine is 1,067:1, far lower than the national average of 1,463:1.<sup>220</sup> The center estimates Maine will need an additional 120 PCPs by 2030 to remain at current levels of utilization.

Although Maine is largely on-par with national physician staffing numbers, the American Association of Medical Colleges (AAMC) 2021 State Physician Workforce Data Report found that, in 2020, 39.3% of all Maine physicians were at least 60-years-old, the highest percentage in the nation. This signals that a significant portion of the workforce are quickly approaching retirement.<sup>221</sup>

In 2015, a University of Southern Maine study reached the conclusion that “Maine does not have a primary care shortage....Rather, the state’s physician supply problem is with physician distribution.”<sup>222</sup> For example, Oxford and Somerset counties have less than 60 PCP per 100,000 residents while Cumberland and Hancock counties have 145 or more. Seven Maine counties – Androscoggin, Oxford, Sagadahoc, Somerset, Waldo,

Washington, and York – had PCP rates well below the national average of 90.2 per 100,000 residents as of 2015.

Many studies have determined that telemedicine and remote area medical clinics are among the best methods of delivering life changing care to populations that do not have affordable or reliable access to primary care. A study from the University of Southern Maine found that positive effects of telemedicine services include unburdening overloaded acute care systems, as well as improving primary care and remote, in-home, and emergency medical care.”<sup>223</sup>

Telemedicine is a health care practice whereby doctors remotely evaluate, diagnose, and treat patients through the use of telecommunications, i.e. audiovisual consultation. Remote area medical clinics are temporary “pop-up” medical clinics run by nonprofit health entities all over the world that provide care to underserved populations. Both concepts are emerging as realistic short and long-term solutions for growing access to primary care medical services in rural areas of the country. Telehealth can provide an array of care, including monitoring patients for strokes, eye exams, and even the prescription of certain drugs.<sup>224</sup> By forgoing in-person visits, telehealth can save patients time and transportation expenses. Maine should take steps to expand access to these services.<sup>227</sup>

## Recommendations

- Expand the range of telehealth services that physicians can provide from out-of-state.
- Clarify reimbursement language to ensure facility and transmission fees are required in order to make telemedicine more financially attractive to providers.
- Make permanent the suspension of telehealth regulations under the Civil State of Emergency in response to COVID-19.



# Expanding Access to Skilled Medical Providers

## The Problem

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

## Analysis

Maine already has too few doctors, and the shortage is projected to become worse over the next several years.<sup>229</sup> Unfortunately, in 2020, Maine ranked last out of all 50 states for patient satisfaction of physicians.<sup>230</sup> We should increase competition by getting rid of rules that prevent doctors and medical professionals from other states from practicing in Maine, which would likely improve patient satisfaction, in addition to relieving the overworked physicians who are currently practicing in our state.

Maine has taken a step in the right direction by allowing physicians from other states to practice in Maine; however, these physicians can only act as consultants for physicians, physician assistants (PAs), and advanced practice registered nurses (APRNs) who are already in Maine.<sup>231</sup>

In addition to the steep cost of licensure, physicians must wait an inordinate amount of time for state bureaucracy to process their application before they can start practicing: 45 to 90 days on average.<sup>232</sup> The COVID-19 crisis has made it clear that permanent and temporary licenses could be approved in far less time. Under Governor Mills' Executive Order No. 16, physicians in good standing and licensed in other states were able to apply and receive

emergency licenses within 48 hours during the Civil State of Emergency.<sup>233</sup> Confusingly, these rules were relaxed in order to protect patient health and safety, but Gov. Mills restored them for the same reason when the Civil State of Emergency ended.

Physicians should be incentivized to file for licensure to the greatest extent possible. Completely removing fees associated with medical licensure in Maine would help accomplish that goal. In Maine, there is a \$600 nonrefundable application fee that must be submitted with a physician's initial application and an additional \$100 must be included to cover the cost of a jurisprudence exam. Especially for recent medical school graduates, an initial \$700 fee could easily deter applicants from bothering to apply for licensure in Maine. Maine's fee, on average, costs several hundred dollars more than most U.S. states.<sup>234</sup> Governor Mills responded to the COVID-19 crisis by waiving licensure fees for physicians. Lawmakers should make changes like this permanent.<sup>235</sup>

Currently, practicing physicians are required to renew their licenses in Maine every two years. There is no real need for physicians to re-apply for licensure—Maine's medical licensure board can take away a physician's credentials at any point in time. This is a much stronger mechanism by which physicians are incentivized to provide adequate services to their patients. In order to save physicians' money and time, and to reduce the risk of lapsed licensure, physician licenses should be automatically renewed every two years.<sup>236</sup>

Maine legislators must seriously consider how to incentivize nurses to practice in-state, since the demand for nurses is steadily increasing. The U.S. Bureau of Labor Statistics projects the national demand for skilled nurses will increase by 6% from 2022 to 2032, a shift greater than many other professions.<sup>237</sup> As of 2019, around 25,000 nurses practice in Maine.<sup>238</sup> This means that by 2028, Maine will need about 1,500 more practicing nurses to keep up with demand.

As a response to the COVID-19 crisis, Governor Mills issued Executive Order No. 35, which waived licensure fees for nurses who

want to practice in Maine and decreased the amount of time taken to review licensure applications.<sup>239</sup> Given the demand for nurses that existed prior to COVID-19, it makes sense for Maine to eliminate licensure fees permanently and to continue using a more expeditious form of review to ensure that nurses can start practicing as quickly as possible.

Physician assistants and nurse practitioners are an invaluable contribution to Maine's health care system, and they should be given the authority to implement their full range of expertise. In March 2020, legislators passed and Governor Mills signed LD 1660, ending requirements for PAs to obtain a certificate of registration (in addition to a license), and for those who have practiced for more than 4,000 hours, to enter into a written agreement under a physician.<sup>240</sup>

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

In 2024, Maine took a step in the right direction by passing LD 2043 and LD 2137, which committed Maine to the Physician Assistants Licensure Compact and the Dentist and Dental Hygienist Compact.<sup>241</sup> By joining these compacts, physicians and dentists from other states in the compact will be qualified to work in Maine.<sup>242</sup> Although this compact is an improvement, Maine should instead simply allow skilled, licensed medical professionals from all 50 states to practice in Maine. Furthermore, the compact system still allows for burdensome fees, which serve to deter professionals from working in Maine. In conclusion, granting licensing reciprocity will help meaningfully address Maine's shortage of medical professionals all while maintaining the standards necessary to ensure quality care.

## Recommendations

- Grant licensing reciprocity to all skilled medical professionals from all 50 states.
- Eliminate the costly licensure application fees for health professionals, which only serve to deter potential health professionals from working in Maine.
- Replace the regular medical licensure process for physicians, nurses, physician assistants, and nurse practitioners with the expedited process utilized under the COVID-19 emergency.
- Restore the expanded scope of practice regulations for physician assistants and nurse practitioners allowed under the COVID-19 emergency.



# HOUSING

# Promoting Sustainable Growth at the Local Level



## The Problem

While the entire state of Maine may not be facing a “housing crisis,” renters and owners alike are feeling the pinch of higher housing costs since the economic shock caused by the state and federal responses to the COVID-19 pandemic. The fact is, this problem is much more acute in the areas with higher population density and economic opportunities, especially the southern and more-urban York, Cumberland, and Androscoggin counties than the more sparsely populated rural areas. Instead of relying on mere anecdotes, policymakers should utilize the comprehensive perspective that economic indicators provide.

Lawmakers in Augusta and councilors in localities can become a bigger part of ensuring a healthy housing market by encouraging a culture of growth instead of pushing for more regulation.

## Analysis

As more Americans take up remote employment, workers across the nation are looking for their next home base. About 25.6 million Americans moved in 2023, and more than 30 million are projected to move in 2024.<sup>243</sup> FlexJobs, a remote job board, ranked Maine sixth in the nation and fourth in New England in its list of the best states to get a remote job.<sup>244</sup> There is no question that the shift to more remote work makes living in Maine more attractive to many who previously had to live in or near a big city. Madeleine Hill, president of Maine Association of Realtors, pointed to “Maine’s quality of life and the emergence of teleworking” as the driving forces behind the state’s hot real estate market, and the growing popularity of the state as a remote work destination.<sup>245</sup>

In late 2021, the Maine Association of Realtors reported that the median price of an existing single-family home in Maine had risen 10% from October 2020 while the national median home price rose more than 13% in that time.<sup>246</sup> The market has since cooled somewhat, with home mortgage rates hitting highs not seen since 2001 as the Federal Reserve has consistently ratcheted up the interest rate at which banks may lend to other banks.<sup>247</sup>

Limited supply is a significant factor driving persistently higher housing prices in Maine. In October 2019, the market had more than four months of for-sale inventory, about a year later that was down to less than two months. In 2023, a report from the Maine State Housing Authority showed that Maine will need to construct anywhere from 76,400-84,300 new homes by 2030 to meet current and future demand.<sup>248</sup> A majority of the existing housing shortage is affecting Coastal Maine, which is currently short 21,200 homes and needs to build an additional 24,200-28,000, totaling a 45,200-49,200 current and future housing need.<sup>249</sup> In May 2024, the average price of a Maine home rose to more than \$400,000, a historic high.<sup>250</sup>

This vision of Maine as a remote employee's dream can be fulfilled, but only if the housing market can grow to accommodate the extra residents and if prospective movers see the state as their best financial option compared to other states. This calls for a culture of growth at both the state and local levels.

A broad consensus in economic policy is the recognition that a household is considered "rent-burdened" when rent costs are greater than 30% of total household income. The logic of this idea is presented in findings of a study supported by real estate website Zillow, which showed that "homelessness is higher in areas where rents make up a larger share of income."<sup>251</sup>

This assertion supports other research by scholars such as Salim Furth of the Mercatus Center at George Mason University. In a paper published in the journal *Critical Housing Analysis*, Furth uses data from various New England sub-regions to "rewrite the



equation for rent burden as a sum of four factors: rent gap, income gap, excess size cost, and demographic baseline.” He ultimately shows that “high rent is the primary cause of unaffordability in high-cost, high-wage metro areas,” like the southern counties of Maine and New Hampshire.<sup>252</sup>

In other words, the affordability of housing is a function of the overall economy. It is intricately related to overall economic vitality and mobility, but Maine’s recent approach to economic development, predominately made up of corporate welfare programs, ever-increasing grants and exemptions to select employers and industries, has not borne adequate results to help Mainers better afford daily life. This government-centric fiscal philosophy rears its ugly head in housing policy as well. Maine must be more competitive in fiscal and regulatory policy to drive real growth, which means more businesses, jobs, and housing.

Former Speaker of the Maine House, Ryan Fecteau drafted a bill in the Second Session of the 130th Legislature to tackle what was deemed to be a crisis by a special commission on zoning and land use reform.<sup>253</sup> Some of the commission’s recommendations, which became part of Fecteau’s LD 2003, took a reasonable approach to clearing away excessive barriers to housing development. For instance, the bill guarantees the right of every single-family homeowner to build an accessory-dwelling unit (ADU), such as a tiny home or in-law apartment. This affirms the rights of individual property owners, providing them another potential stream of income, and offering others a place to live in a desirable area.

Unfortunately, other aspects of the final version of the bill went too far, injecting greater state control over local planning and opening municipalities to legal scrutiny from the federal Department of Housing and Urban Development (HUD). While the bill included some funds to help municipalities with drafting mandated ordinances, many are concerned that higher mandated densities will necessitate greater spending on infrastructure and education at the local level.

With the implementation of LD 2003's second round of mandates coming in the summer 2024, some local Maine officials worry that their towns may face similar challenges to other small New England towns—like Marblehead, Massachusetts—which is being forced to accept dramatically increased density in their town centers due to overbearing state planning.<sup>254</sup>

Some legislators and local leaders in opposition also allege that both the overt requirements and the hidden, unintended consequences of LD 2003 would create a host of mandates which municipalities would have to fund.<sup>255</sup> With greatly increased housing density, many towns would have to increase funding for water and sewer infrastructure, school systems, and everything in between. They point to Article IX, Section 21 of the Maine State Constitution, which states:

“...the State may not require a local unit of government to expand or modify that unit’s activities so as to necessitate additional expenditures from local revenues unless the State provides annually 90% of the funding for these expenditures...This section must be liberally construed.”<sup>256</sup>

This particular question may ultimately be settled in court. Would a liberal construction of this passage allow the technical assistance funding currently provided in the bill to fulfill the state’s constitutional responsibility to fund 90% of the cost of requiring localities to “expand or modify” their activities?

To get around the new mandates of LD 2003, as well as other future attempts to implement top-down federal and state planning of local development, towns may choose to eliminate zoning altogether and dissolve their comprehensive plan. While this comes with some risk, since towns with comprehensive plans receive some state and federal assistance, local leaders may choose to act boldly to sustainably grow their towns out of this unstable period.

Furth also studied the zoning peculiarities of Maine’s localities and found that whether a Maine town is zoned or unzoned is largely a

random occurrence. While some factors—like population or its distance to Boston or a major highway—may more highly influence this decision, Furth’s model found that these factors only explain about 16% of the correlation, versus an entirely random model. While the largest towns are zoned, Furth writes, that “it is more likely that zoning’s association with higher growth is due to towns adopting zoning when they face development pressure.”<sup>257</sup>

## Recommendations

- Reward municipalities which relax zoning rules with greater revenue sharing dollars.
- Limit higher single-family zoning density mandate to more population-dense towns.
- Remove reference to federal Fair Housing Act at Title 30-A §4364-C.

# Protecting the Rights of Property Owners



## The Problem

Property owners in Maine have long been saddled with volumes of onerous regulations, but instead of working to alleviate homeowners' burdens by slashing through decades of antiquated red tape, some lawmakers believe that implementing even tighter controls over property use is the way forward. From traditional landlords, who rent out space in monthly or yearly increments, to single-family homeowners who list a spare room in their home for a few weeks during the summer to make a little extra money, all Mainers should be allowed and encouraged to use their property as they see fit, be it for leisure or more economically productive purposes.

## Analysis

It is no secret that many houses in Maine do not serve as permanent residences. Nearly 1 in 5 properties in the state function as vacation homes, and the number is expected to increase as visitors continue to flock to the Pine Tree State.<sup>258</sup> Other units serve as rentals; some of these are long-term rentals, where occupants are expected to stay for 6 months or more, but increasingly, Mainers have been renting off their properties in the short term, through Airbnb and other services.<sup>259</sup> Short-term rentals (STRs) serve as an important source of supplementary income for families across the state, helping to alleviate some of the financial pressures exacerbated by rampant inflation and crushing tax burdens.

Not all, however, see STRs as an innocuous symbol of private investment. Some critics claim that Airbnbs have swallowed up much of Maine's already thin housing stock, driving up property prices and forcing lower income families to compete in a cutthroat market.<sup>260</sup> The numbers claim otherwise. According to a study by the Harvard Business Review, areas that see the heaviest proliferation of Airbnbs are likely to see average rent increases of a

mere 1%, and property prices are rarely affected by the presence of STRs at all.<sup>261</sup>

Other studies reveal that the link between Airbnbs and high property prices is tenuous at best, and that the negative impact of STRs is usually overblown.<sup>262</sup> This hasn't stopped communities such as Portland<sup>263</sup> and Bangor<sup>264</sup> from mandating the registration of STRs. Kennebunk was a recent town to take steps toward restricting STRs, with voters backing an initiative to mandate the registration and inspection of local units.<sup>265</sup> By forcing homeowners to pay registration fees and arbitrarily limiting the amount of units that can be rented out, these cities discourage homeowners from finding alternative uses for their properties instead of leaving them vacant.

The fight over STRs has not been confined to individual municipalities. On April 1, 2024, the Maine Legislature narrowly shot down a bill that would have allowed municipalities to increase the lodging tax as it applies to short-term rentals.<sup>266</sup> The relatively thin margin of failure—the House voted 73-65 against the bill—reflects the contentious nature of the debate. STRs have come under scrutiny at both the state and local level, and unit owners have been feeling the pressure.

Owners of long-term rental units, too, frequently find their own finances jeopardized by repressive and backwards legislation or local regulation. Many cities in Maine have implemented policies that actively punish developers and landlords who seek to eke out a profit from their own units. Portland, for example, has implemented some of the harshest rent control and inclusive zoning laws in the country. Developers who fail to designate 25% of the units in a project as “workforce housing” face fines of as much as \$177,000 *per unit*, which can prove suffocating for those who intend to build multi-family housing or even hotels.<sup>267</sup>

After Portland passed its harmful anti-development ordinances, the number of annual approved constructions collapsed from nearly 1,000 in 2021 to less than 400 in 2022, representing a dramatic

decline in housing construction that has only worsened the city's acute housing shortage.<sup>268</sup> The housing crisis is severe enough without municipalities actively pushing for and implementing policies that actively worsen its effects; efforts should be made to prevent communities in Maine from violating the standards set by LD 2003, and to block rent control and inclusionary zoning legislation whenever it appears.

## Recommendations

- Prohibit municipalities from implementing rent control, creating rental registries, or allowing warrantless property inspections.
- Protect owners of STRs from being subject to further restrictive legislation.

# INTERNET

INTERNET

# Ensuring Transparency and Efficiency in Broadband Development



## The Problem

As virtual schooling, remote work, and telehealth services expand as a result of the reaction to COVID-19, ensuring quick and reliable access to the internet has become a front-and-center issue across the United States. While affordable high-speed internet is crucial to building thriving Maine communities, government intervention in the broadband market often results in a more inefficient and costly approach that, in the long run, weakens consumer choice and burdens local taxpayers. While this occurs at any level of intervention, some are more economically destructive than others.

## Analysis

In response to slow internet speeds and limited broadband access in some areas of Maine, a growing number of localities are building new broadband networks, known as government-owned networks (GONs), or forming quasi-public Broadband Utility Districts (BUDs) with other adjacent towns to build out internet infrastructure.

Recent efforts to establish these arrangements in Maine communities like Knox County, Southwestern Waldo County, the Town of Hampden, and the City of Caribou are propelled by millions of dollars in federal American Rescue Plan Act (ARPA ) funds and Infrastructure Investment and Job Act (IIJA) funds, and disbursed directly to municipalities and counties to be used for various purposes over 2020 and 2021. Both pieces of legislation provide for funding to be used for broadband development, thus many Maine localities have rolled out plans to spend their share on building new networks.

Despite claims that municipal broadband delivers significant economic benefits to communities, the costs of public-sector



construction and management of fiber-optic networks—and the effects of deterring private-sector investment and undermining competition—are too high.<sup>268</sup> Lawmakers in Augusta should carefully consider guardrails on publicly-owned infrastructure projects to better protect taxpayers' interests and consumers' choices.

Government-owned networks have a dubious track record of financial feasibility. Several examples from around the nation show that when municipalities invest in GONs in areas already served by private telecommunications companies, the duplication of services often leads to costly inefficiencies and less private-sector investment. Plus, municipalities rarely account for future maintenance costs as a result of establishing a GON. Considering many publicly-owned local networks require substantial bonding to get off the ground, the economics of GONs do not allow for local taxpayer confidence that their investment will be recouped in any reasonable timeframe.

Using data over a five-year period, a 2017 University of Pennsylvania Law School study of 20 GONs around the United States found that only two were on track to recover their total costs over the course of their useful life expectancy, between 30 and 40 years. Eleven did not bring in enough money to cover current operating costs, and five of the nine cash-flow positive projects were projected to take over 100 years to recover their costs.<sup>269</sup>

Pursuing purchase and construction of a GON is a monumental undertaking for any municipality, especially in sparsely-populated rural areas. When the real price tag of a GON is fully realized, municipal governments are often forced to reprioritize in order to maintain it, shifting funds away from services that are truly needed by local taxpayers.

Virginia and Tennessee are two large, rural states that have attempted to implement GONs with little success. In 2002, the Bristol Virginia Utility Authority (BVU) created their own GON called OptiNet.<sup>270</sup> After BVU executives were convicted and sentenced for a corrupt kick-back scheme in 2015,<sup>271</sup> the utility

eventually sold OptiNet to a private provider at a loss.<sup>272</sup> Clarksville, Tennessee developed its own GON in 2007. Total costs amounted to more than \$40 million and the municipality was forced to borrow millions more than projected due to cost overruns.<sup>273</sup>

Any sort of government-owned broadband utility may fall victim to the poor incentives of public enterprises. Recently, several clusters of municipalities in Maine have formed BUDs, which as quasi-public utilities, can access low-interest municipal revenue bonds.<sup>274</sup> Because of this, proponents argue that BUDs pose no financial risks to the towns which stand them up, so they are more effective than a traditional GON.

GONs often fail to provide any sort of long term benefit to those municipalities which take the risk in investing in such a fundamentally inefficient and ineffective service. According to a study conducted by Citizens Against Government Waste, "From Bristol, Virginia to Provo, Utah, towns and cities have invested tens of millions of dollars to build a GON, only to sell these systems for pennies on the dollar, including in Provo, where the system was sold for exactly one dollar."<sup>275</sup> GONs are wasteful even while operating, and when they inevitably go under, as illustrated by the study, the cost can be immense.

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

The state has a role to play in protecting local taxpayers and consumers in ensuring municipalities have achieved the highest level of preparedness before bonding and constructing a GON. To this end, municipalities must commission and present to residents a feasibility study, considering the myriad factors that could inhibit

or encourage usage of the proposed GON. These studies should consider whether the proposal would limit or encourage competition for the service, whether any entity would provide the service but for the municipality, the projected growth in demand for broadband services and resulting expected growth in revenue, and a full-cost accounting projection for the municipality to purchase, construct, maintain, or operate any facilities needed to sustain a GON over its lifetime.

Local planners should provide ample time for public input, as vast sums of public money will be spent, by scheduling multiple hearings and votes of local residents and governing boards before proceeding with any GON project. Taxpayers would benefit from the implementation of reforms proposed in LD 1516 from the 128th Maine Legislature, which includes some of the aforementioned policy ideas as well as other ways to ensure local budgets are safe from potential cost overruns that come from costly GON arrangements.<sup>276</sup>

In 2019, Governor Mills signed LD 1206, which allows municipalities to charge fees for above-ground utility poles and facilities in the public right of way. This means that municipalities which operate their own GON may charge their private-sector competitors for fees for use of utility poles in the town, but allows the municipalities to skirt these costs themselves. The law unfairly favors municipal-owned utilities, including those offering broadband services, for no economic reason whatsoever. It should be promptly repealed to level the playing field.

In principle, GONs should be prohibited in the State of Maine, but if they are to exist, they should be able to compete equally with legacy providers. Unfortunately, GONs are redundant at best and savage monopolies at worst. They hold the potential to be a severe hindrance in the progression of internet service delivery within their sphere of influence. Maine should join 22 other states and move to limit or restrict local government ownership of telecommunications networks.<sup>277</sup>

## Recommendations

- Prohibit municipalities from owning or operating broadband networks that are offered to the public.
- Resist state-level efforts to expand utility districts' authority to include regional GONs.
- Require municipalities to hold multiple public hearings and votes by the town council and residents in order to establish a GON.
- Require municipalities to commission an economic feasibility study for all GON proposals.
- Require municipalities to hold funds accumulated from service fees for GONs in a separate account, in order to avoid commingling with basic infrastructure funds.
- Require municipal bonds to construct or operate a GON be secured and paid for solely by the revenues generated by the proposed GON.
- Restore “make-ready fees” for municipal GONs to utilize utility poles in public rights of way (repeal LD 1206 from 129th Legislature).

# Reform the State Broadband Bureaucracy to Better Serve Consumers



## The Problem

In recognition of the problem of spotty access to reliable internet access across Maine, lawmakers in 2005 established the ConnectMaine Authority (ConnectMaine), a state agency to study internet availability across Maine and make grants to localities to promote access.<sup>278</sup> For the first 15 years of its existence, roughly \$1 million of taxpayer funds were allocated annually to the ConnectMaine Fund. In 2021, Governor Mills and legislative allies approved legislation to create the Maine Connectivity Authority (MCA), a larger quasi-public entity tasked with a similar mission and now housing ConnectMaine within it.<sup>279</sup> MCA began its tenure in 2021 with \$150 million in federal funds in its bank account, many times more than the previous annual funding level allotted to ConnectMaine.<sup>280</sup>

## Analysis

Each year, ConnectMaine is required to determine criteria for and designate which areas of Maine are considered “unserved” or “underserved” by adequate broadband connectivity. Before 2021, following FCC criteria, ConnectMaine had defined “unserved” areas as those with under 25 mbps download speed and 3 mbps uploads (25/3);<sup>281</sup> it estimated that 11.5% of Maine households were unserved. The agency receives service reporting data from surveys of ISPs, which show an area as served when at least one household in the census bloc has access to 25/3, though not necessarily using their service.

Public broadband proponents like Peggy Schaeffer, former head of ConnectMaine, estimated in February 2021 that in order to get from 88.5% of Maine households to 95% “served,” the state will

need to invest \$600 million.<sup>282</sup> Serving an additional 6.5% of census blocks, an estimated 30,000 people, would require new infrastructure in very rural areas. In this modest scenario, the government estimates a cost of nearly \$20,000 per connection, hardly a worthwhile investment for taxpayers. Surely there are better, more efficient solutions to get Mainers the internet speeds they desire.

Based on an overview of ConnectMaine's broadband connectivity map, much of the northern counties, as well as Washington and Hancock counties, have access to download speeds under 25 mbps. According to Broadband Now, Maine ranks 22nd, above average in the country, for broadband access, with over 92.6% of residents having access to a 100mbps broadband connection.<sup>283</sup>

But, in May 2021, the ConnectMaine board voted to change the standard for broadband service in Maine, revising the definition of "unserved" to be areas where available service speeds are below 50/10, and "underserved" as those between 100/100 and 50/10.<sup>284</sup> After the broadband bureaucracy moved the goalposts, the Maine Connectivity in Authority reported in February 2024 that the state now considers a whopping 67.3% of Maine households to be either unserved, underserved, or "most critical" in terms of broadband access.<sup>285</sup>

MCA plans to push this unrealistic standard even further to justify more wasteful spending; they seek to fund projects in places without access to 100mbps symmetrical service.<sup>286</sup> The agency says that it will prioritize funding BUDs which commit to offering service speeds which "include 100mbps/100mbps at least."<sup>287</sup> For nearly all residential consumers, 100/100 is overkill. Zoom, the online video conferencing service, recommends 3.8mbps upload and 3mbps download for high definition video calls.<sup>288</sup> Patients using a telehealth service would require comparable bandwidth.

The federal government also spends billions of dollars on expanding broadband every year through its Rural Development Opportunity Fund (RDOF) as well as myriad other programs.<sup>289</sup> A

Government Accountability Office (GAO) report published in May 2022 accounted for more than 100 different broadband programs administered by 15 different agencies, which spent \$44 billion from 2015 to 2020 to finance infrastructure development. GAO called the funding scheme “overlapping and fragmented,” noting that millions of Americans still lack access to 25/3 service: 17% in rural America versus only 1% of those living in urban areas.<sup>290</sup> For all the money spent by all levels of government, the “digital divide” persists and little evidence exists to show the government is playing a meaningful role in providing a solution.

Proponents of more public spending will blame ISPs for a lack of connection options in some rural communities. But according to NCTA, a telecom industry association, private companies have invested \$300 billion in network infrastructure since 2000, \$172 billion in the last decade. This has led to a 98% reduction in the price-per-megabit of data, from \$28.13 in 2000 to \$0.64 in 2020.<sup>291</sup> Claims that brand new quasi-public entities can deliver this service better than the private sector shows a profound misunderstanding of the industry and the economy as a whole.

In the past, ConnectMaine encouraged some private investment in broadband for local communities, but funding these sorts of projects through a state agency means that a sizable portion of the money was diverted to pay for administrative costs. In FY19, the agency spent over 26% of expenses on administration.<sup>292</sup> ISPs may benefit from ConnectMaine grants, but the overall effects of market distortion and misallocation of scarce resources—even through public/private partnerships—cannot be ignored.

By taxing the people and spending their money in ways that they themselves have not voluntarily pursued, the state has misallocated Mainers’ hard-earned resources to a service which is not yet financially sustainable. Consumers acting through the market are better equipped to reward providers for affordable, valuable services. In ConnectMaine’s 2020 Broadband Action Plan, they call the lack of adequate broadband service in rural Maine a “persistent market failure.”<sup>293</sup> By pursuing this strategy of cajoling private investment through grants to local governments, the state’s

broadband bureaucracy is contributing to the crowding-out of internet service, stifling innovation in delivery of a vital service. Maine should provide a friendly environment for technology companies first before chalking up inadequate service to market failure.

Lawmakers should pursue avenues to require greater transparency of funds spent by Maine's broadband bureaucracy. A bill passed by the 129th Legislature and signed by Governor Mills moved this principle in the opposite direction. Rule-making is now merely "routine technical," instead of "major substantive," a much lower level of scrutiny for state bureaucracy.<sup>294</sup> This means that MCA will no longer be subject to legislative review and approval for its proposed rule changes.<sup>295</sup>

The agency should be governed under a higher threshold of rulemaking because, as stated in Maine law, its rules, "Require the exercise of significant agency discretion or interpretation in drafting" and because they are likely to "result in a significant increase in the cost of doing business, a significant reduction in property values, the loss or significant reduction of government benefits or services, the imposition of state mandates on units of local government...or other serious burdens on the public or units of local government."<sup>296</sup> There is little doubt that state government bureaucrats' actions in the internet service market distort price signals and contribute to a rise in the costs for the ISPs who have been in business for decades.



## Recommendations

- Require the commission of an economic and financial feasibility study before any state broadband grant is issued.
- Prohibit state broadband funding in areas already served by federal grants.
- Restore rulemaking by ConnectMaine and MCA to the “major substantive” standard.
- Initiate a legislative audit of ConnectMaine and MCA.
- Remove grantmaking authority from ConnectMaine and MCA, require it to focus on detailed reporting of prices and service access data.

# Fostering Innovation in Internet Service



## The Problem

According to Broadband Now, more than 97 percent of Mainers live in a Census block which is served by internet plans with download speeds of at least 25 megabits per second (mbps), as of January 2023. More than 92% are served by speeds of at least 100 mbps download.<sup>297</sup> Yet, Maine's average download speed of 151 mbps ranks fourth-slowest in the nation. At the same time, only 4.5% of residents have access to a low-priced internet plan, defined as \$60 or less per month. This pales in comparison to the national average of 51.5% access to an affordable plan.<sup>298</sup>

Ensuring better and more affordable access to the internet should be a goal for policymakers, but this is best accomplished through market-tested innovation and entrepreneurship, not through one-size-fits-all government regulation.

## Analysis

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

In the 1990s, President Bill Clinton and Congress under Speaker Newt Gingrich committed to maintain the culture of innovation and information decentralization that is at the heart of the World Wide Web. After an era of explosive growth in internet services, impressive stories of rags-to-riches entrepreneurship, and few instances of malfeasance by ISPs, there was little need for the FCC to tighten regulations on internet access in 2015.

In the two years under Title II governance, private investments in broadband infrastructure amounted to \$30 billion less than previously projected.<sup>299</sup> This led to stagnating growth in the average speed of broadband connection in the United States, which had been climbing steadily since 2010.<sup>300</sup> According to a US Telecom Issue Brief, broadband investments increased by at least \$1.5 billion after net neutrality regulations under Title II were repealed in 2017.<sup>301</sup>

In 2017, FCC Chairman Ajit Pai reversed the Obama-era order, restoring regulation of ISPs to historical normalcy under Title I. In September of that year, the FCC reported the average download speed for fixed broadband in the US was 62.9mbps; upload speeds were in the low single-digits.<sup>302</sup> By September 2022, Speedtest reported an average download of 172mbps and an average upload of more than 22mbps for American consumers.<sup>303</sup>

In 2019, Maine legislators overlooked this striking data and passed LD 1364, prohibiting ISPs to contract with the state unless they commit to abiding by the now-repealed 2015 FCC order.<sup>304</sup> While wrong-headed on its face, the legislation also failed to take into account the undesirable situation of a patchwork of state internet rules within which providers must operate in order to interact with their customers for an agreed upon service.

Consumers lose when their choices are reduced, not only from a clear loss of options, but from competition among providers that allow for better services at lower prices. The market for internet access is no different. A study by New York Law School summarized the landscape as such: “Ample data demonstrates that, by nearly every metric, broadband availability and performance have greatly improved—and continue to improve—across the entire country. Over the last 15 years, consumers have been getting increasingly more value for their money; average speeds have increased and the number of service options has multiplied.”<sup>305</sup>

Some argue that because access to the Web is a crucial aspect of participating in today’s economy, it must be considered a public utility and regulated as such. While they are partially correct,

regulating ISPs with a heavy hand leads to more consolidation, less competition, and less satisfied consumers. Trusting consumers to choose the best option for their needs will provide the appropriate data with which to judge the true scope and scale of the issue of connectivity in Maine. Policymakers must better understand the differences between access and affordability.

Policymakers should be attempting to assess to what extent the problem they see is related to access versus what can be attributed to affordability. Shouldn't the state and localities aid the consumers out there who are truly underserved before deploying a duplicative and expensive fiber network? Infrastructure projects should provide access where there is no service or insufficient local competition first, if at all, but the last thing we should do is allow them to be run by quasi-public entities.

If affordability is at least part of the issue, why are state funds directed solely to building infrastructure? By throwing tax dollars at miles and miles of costly fiber optic cable for minimal additional customers served, the state distorts the market in favor of subsidized service providers, driving potential private-sector competitors away. This ultimately hurts consumers by limiting choice and hurts taxpayers by putting them on the hook for funding a failing service.

So, why not use this money to provide vouchers to folks struggling to pay for sufficiently fast internet speeds? In addition to being a direct benefit to the consumer, they could be an incentive for the private companies to expand service into rural areas to better meet demand—as well as a far better use of public resources.

Consumers would have much more say in how their service is provided, since they would be directing their funds. From there, gathering a more particularized view of which households are struggling with affordability, state agencies can be more focused on collecting and reporting that data to determine in which areas assistance is most needed.

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

This solution has the potential to be simpler and cheaper to administer in the long-run than the convoluted state grantmaking process and the creation of wasteful and unaccountable GONs or BUDs. Vouchers are also technology-neutral, leaving room for other, possibly cheaper and better options for consumers. Lawmakers should give Mainers the power to choose the best internet service option for their needs.

## Recommendations

- Repeal state-level “Net Neutrality” regulations.
- Reject efforts to limit market forces in the delivery of internet service.
- Support consumer affordability and satisfaction with direct vouchers for needy residents.



# LABOR

# Reforming Maine's Complex System of Occupational Licensing



## The Problem

State laws pertaining to occupational licensing have become increasingly burdensome over the last few decades, reducing employment and entrepreneurial opportunities for many—especially low-income—Mainers. According to a recent study by the Institute for Justice, Maine licenses 45 out of 102 low- to moderate-income professions.<sup>306</sup> These include makeup artists, teachers, funeral attendants, auctioneers, and sign language interpreters, among many others. Those seeking to enter these occupations must, on average, pay \$181 in fees, devote 298 days to training, and pass one exam just to obtain a license to work in Maine.

## Analysis

Physicians and lawyers must obtain a license before plying their trade; psychologists and dentists must do the same. Few people realize, however, the breadth of government regulation in the area of occupational licensing.

A 2023 study by West Virginia University found that Maine licenses 181 professions and more than 21 percent of the state's workforce is licensed. 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>307</sup> Until 1985, for example, dietetic technicians were free to work in Maine without a license.<sup>308</sup> Today, Maine is one of only two states in the entire country that licenses dietetic technicians.<sup>309</sup>

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

workers are well-trained and consumers are protected. However, the overwhelming consensus of scholarly research is that—unless imposed with extraordinary parsimony and care—occupational licensing requirements deter people from entering the regulated profession, raise prices for goods and services on consumers, and do little to enhance public safety.<sup>310</sup>

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

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

Licensing requirements are not harmful to everyone. Entrenched industries benefit greatly from keeping new practitioners out of the marketplace 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>311</sup> Licensing has more to do with imposing costly and time-consuming obstacles that limit competition than with ensuring competence or protecting public safety.

It is estimated that today Maine licenses more than 200 individual occupations at a cost of 29,206 jobs and \$276 million in annual economic output.<sup>312</sup> Nationwide, “examined license variation



among the states and found that shifting an occupation from unlicensed to licensed reduces employment in the licensed occupation by 29 percent.”<sup>313</sup>

Unfortunately, rarely are regulatory alternatives to licensure examined by lawmakers and state regulators before new licensing regimes are established. As seen below, a number of less burdensome alternatives to licensure exist—such as market competition, inspections, bonding or insurance—and would achieve the same result as licensure without permanently locking workers out of meaningful employment opportunities. Streamlining the licensing process would make it easier for Mainers to obtain meaningful employment, as well as reduce the burden for skilled workers to bring their talents to Maine.



*Source: Mackinac Center for Public Policy*

## Recommendations

- Undertake a comprehensive review of occupational licensing in Maine, repealing or reducing requirements that have not been shown to be necessary in protecting public safety.
- Remove “good character” clauses from licensing rules and statutes to allow individuals with past criminal convictions to reintegrate into society.
- Encourage employment and licensing reciprocity by enacting the Right to Earn a Living Act<sup>314</sup> and the Universal Recognition Act.<sup>315</sup>

# Establishing Right-to-Work



## The Problem

Under current law, a private-sector employee in Maine may be required to pay union dues as a condition of employment, regardless of the employee's desire to join the union or experience any benefits derived from the union's activities. Based on data collected from other states, as many as 7,400 workers in Maine may opt out of compulsory union dues if given the freedom to do so.<sup>316</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, 27 states and Guam have adopted right-to-work legislation, and several more are likely to follow.<sup>317</sup> 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 12.4 percent, down from 13.4 percent in 2000, repeated efforts to pass right-to-work have been defeated by vociferous union leaders.<sup>318</sup>

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>319</sup> In 2023, the Manhattan Institute found that right-to-work laws benefit workers by creating stronger labor markets and lowering unemployment. The same analysis found

right-to-work laws do not reduce workers' wages. Furthermore, right-to-work laws play an important social role by reducing poverty and increasing socioeconomic mobility.<sup>320</sup>

Peter DelGreco, president 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 soundbites 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>321</sup>

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

## Recommendations

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

# Codifying the Janus Decision



## The Problem

In 2018, the U.S. Supreme Court ruled in *Janus v. American Federation of State, County and Municipal Employees* that public employees cannot be compelled to pay agency fees, or so-called “fair share” fees, to a union as a condition of employment. Despite this action from our nation’s highest court, Maine law still violates the First Amendment rights of public employees. Current labor relations law for municipal, state, judicial, and University of Maine System employees does not recognize the decision and instead says public-sector employees can still be forced to make these unconstitutional payments to public unions.<sup>322</sup>

## Analysis

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

In its ruling, the Supreme Court left little ambiguity about the constitutionality of agency fees. The ruling states: “The First Amendment is violated when money is taken from nonconsenting employees for a public-sector union; employees must choose to support the union before anything is taken from them. Accordingly, neither an agency fee nor any other form of payment to a public-sector union may be deducted from an employee, nor may any other attempt be made to collect such a payment, unless the employee affirmatively consents to pay.”<sup>323</sup>

When *Janus* was decided, 27 states already granted the right-to-work without forced unionization, but the roughly 5 million workers in 23 states, including Maine, without right-to-work laws were still required to make payments to unions. Even after the ruling, many public employees may not know how to opt out of union membership or fear that withdrawing membership could negatively affect their employment through a reduction in salary or benefits under pressure from the union.

Since the decision, public-sector unions have been pulling tricks to retain members after a worker resigns from the union. In many unions, workers are allowed to withdraw membership only during a designated period in the year. Workers who have resigned outside of that window are still having dues deducted from their paychecks despite the high court's ruling.

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

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

## Recommendations

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

# Giving Public Sector Union Members a Choice



## The Problem

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

## Analysis

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

According to a 2015 report, Maine is one of just 11 states that allow government unions to negotiate in secret.<sup>324</sup> Transparency in collective bargaining allows the public, the media, and elected officials to know precisely what union officials are demanding and what public officials are offering in any negotiation over employment terms and conditions.

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

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

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

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

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

As Greg Mourad, vice president of the National Right to Work Committee, explains: “Once their employer ceases taking their union dues out of their paychecks at taxpayers’ expense, and they have to take active measures to continue bankrolling the union, public employee union members often decide the organization does not merit their financial support.”<sup>325</sup>

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

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

system, similar to that adopted in Alaska, to protect the First Amendment rights of public employees.<sup>326</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.

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



## Recommendations

- Open public-sector collective-bargaining negotiations to the public.
- Prohibit “release time” provisions in union agreements.
- Prevent municipal, county, and state governments from automatically collecting dues on unions’ behalf; unions should use their own resources to raise revenue and manage activities.
- Require state and municipal governments to establish an opt-in system to protect the First Amendment rights of public employees under the Janus decision.
- Require that unions obtain biennial recertification by earning the support of the majority of their members.
- End exclusive representation provisions in collective bargaining agreements.

# Fixing Maine's Minimum Wage

## The Problem

In 2016, Maine voters passed a minimum wage ballot initiative that has hurt small businesses and Maine's lowest wage earners. The measure incrementally raised Maine's minimum wage to \$12 an hour by 2020 and indexed future wage increases to inflation. As of January, 2024, Maine's minimum wage is \$14.15 per hour.<sup>327</sup> The original ballot initiative also removed the tip credit for food service workers, which was later reinstated by the 128th Legislature. As a result, steps must be taken to make Maine's minimum wage law workable for small businesses and low-wage earners.

## Analysis

In 2017, researchers at the University of Washington used detailed employment data provided by the state government to study the economic impact of Seattle's minimum wage increase. The study concluded that when Seattle's minimum wage increased to \$13 an hour in 2016, the city's lowest-wage workers saw their wages rise by 3.4 percent and their hours decrease by more than double that amount, at about 7 percent, leading to an annual net loss in earnings.<sup>328</sup>

According to the Bureau of Labor Statistics, in 2021, only 1.3 percent of Maine workers were paid at hourly rates at or below the minimum wage.<sup>329</sup> When wages rise artificially due to an increase in the minimum wage, payroll costs on businesses increase without compensation for growth in productivity or sales. With a majority of businesses operating on razor-thin profit margins, Maine's minimum wage increase gives many small businesses no choice but to reduce their operations, raise prices, lay off workers, transition to automation, or relocate to another state.

When minimum wage hikes drive businesses to reduce costs, the first victims are low-wage, low-skill workers—the same workers

that minimum wage laws are intended to support. Despite calls by dozens of small businesses to slow the state's scheduled minimum wage increases,<sup>330</sup> the Maine Legislature has continued to deny modifications to the law at the behest of the special interest groups that organized for the 2016 measure to appear on the ballot.

Sandra Fickett, owner of Tilton's Market in Buckfield, testified before the Labor, Commerce, Research and Economic Development Committee in 2018 that "most of the wage increases have not gone to my experienced staff, who have families to support," and requested that legislators implement a training wage for young workers to master necessary and fundamental job skills before a business is required to pay them the full minimum wage.<sup>331</sup>

Sammie H. Angel, owner of the Front Porch Café in Dixfield, closed her doors in November 2016 and called the passage of the minimum wage ballot initiative "the last nail in our coffin."<sup>332</sup> Like many other small business owners in Maine, Angel was unable to afford labor cost increases without increasing prices or compromising the quality of her service, and soon found herself out of business.

Further minimum wage increases threaten the remaining small business owners who have weathered the storm of bad legislation over the past decade. Recent initiatives to implement a statewide \$15 minimum wage have aroused the fear of business owners across the state, who question whether they will be able to stomach the increased costs while continuing to operate on thin profit margins.<sup>333</sup>

Amid record inflation, lawmakers must ease the pain on employers by rolling back the mandated minimum wage to previous levels or halting its annual increases.

## Recommendations

- Repeal or reduce Maine's minimum wage.
- Eliminate the law's indexing the minimum wage to inflation.
- Enact a training wage for youth workers.

# Ending the Prevailing Wage



## The Problem

As a result of the federal Davis–Bacon Act of 1931, a total of 26 states—including Maine—have enacted state-level prevailing wage laws,<sup>334</sup> which are proven to inflate the cost of state-funded construction projects, thus wasting valuable public resources.

## Analysis

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

Maine defines its prevailing wage as “the hourly wage and benefits paid to the median number of workers employed in a trade or occupation” on projects with value exceeding \$50,000. The state determines the prevailing wage by administering an annual survey conducted by the Maine Bureau of Labor Standards.

Every September, the bureau surveys the wages and benefits paid to laborers in construction-related trades to determine the prevailing wage in each county.<sup>335</sup> In the First Session of the 129th Legislature, lawmakers approved a bill that significantly increased fines for Maine workers who fail to respond to surveys administered by the bureau.<sup>336</sup> According to the Maine Department of Labor, there are approximately 90 construction-related jobs for which the state pays the prevailing wage.<sup>337</sup>

The Davis–Bacon Act’s original intent was to prevent contractors from paying reduced wages to minority workers during the Great Depression. Given the numerous worker protections that exist

today, many have questioned the usefulness of the prevailing wage and assert it is obsolete. In a 1979 report issued to Congress, the federal Government Accountability Office (GAO) recommended repealing the Davis–Bacon Act because:

“(1) there have been significant changes in the economy... which we believe make continuation of the act unnecessary, (2) after nearly 50 years, the Department of Labor has yet to develop an effective program to issue and maintain accurate wage determination, and it may be impractical to ever do so, and (3) the act is inflationary and results in unnecessary construction and administrative costs of several hundred million dollars annually.”<sup>338</sup>

Prevailing wage laws effectively force taxpayers to subsidize the bloated compensation of politically influential construction unions. A 2017 report by the Empire Center for Public Policy found that New York’s prevailing wage law increases labor costs on public projects by 72 percent statewide and inflates the total cost of public projects by 13 to 25 percent.<sup>339</sup> It also found that because prevailing wage laws incorporate benefits, costly fringe benefits offered by unions can approach or exceed the cost of hourly pay.

Since 2015, five states—Arkansas, Indiana, Kentucky, Michigan, and West Virginia—have repealed their prevailing wage laws. New Hampshire ended its prevailing wage in 1985. It’s time for Maine to do the same.

## Recommendations

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

# REGULATIONS

# Ending Maine's Archaic Blue Laws



## The Problem

Statutes that limit commercial activities on Sunday—so-called “blue laws”—are common in Maine. They interfere with the free market by unfairly restricting businesses’ ability to generate revenue and denying consumers the opportunity to shop. In the 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 who work Monday through Friday and have only the weekend to evaluate or purchase a new car, as well as to dealerships seeking to broaden 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>340</sup>



Blue laws also affect large supermarkets and department stores, which are required to close on Thanksgiving, Easter, and Christmas. Maine is still one of only three states in the country to impose such restrictions.<sup>341</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 drugstore has about 11,000 square feet of selling space), while prohibiting businesses from compelling their employees to work on Sunday.

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

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

In September 2015, organizers of the Great North Music and Arts Festival in Norridgewock were surprised to learn that on-site alcohol consumption was prohibited, and had to cancel one of their events. “Officials in some of the towns say updating the laws would help business, but they have persisted the way they are for decades,” the *Kennebec Journal* reported.<sup>342</sup>

Maine’s Blue Laws also prohibit hunting on Sundays, which has no basis in science or conservation. Following the passage of Maine’s Right to Food Amendment, a lawsuit has been filed against the Maine Department of Inland Fisheries and Wildlife challenging this law’s constitutionality, arguing that it has been “superseded” by the

recent amendment.<sup>343</sup> In the 2024 case *Virginia Parker v. Dept of Inland Fisheries and Wildlife*, Maine's Supreme Court ruled that hunting on Sunday would, according to state law, constitute poaching, and dismissed the case.<sup>344</sup> Although legal battles are still ongoing, it sheds light on the growing sentiment among Mainers that such blue laws are no longer a necessary or appropriate part of the state's legal code.

## Recommendations

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

# Lowering the Cost of Child Care



## The Problem

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

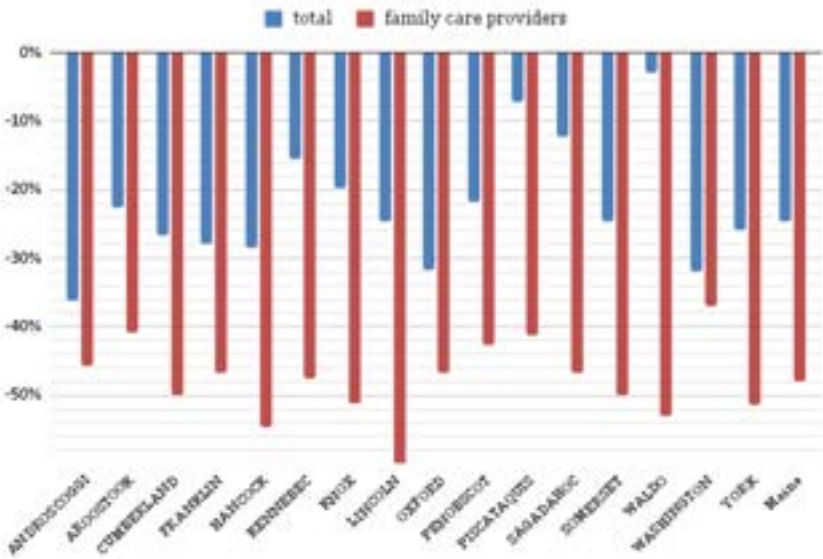
## Analysis

According to figures provided in the Maine Department of Health and Human Services' 2024 Child Care Market Rate Survey, the cost of care at a child care facility ranged from over \$9,000 per year for school-aged children to more than \$14,000 for infants.<sup>345</sup> The average annual cost of center-based care for infants in Maine exceeds the average cost of a year's tuition for an in-state student at the University of Maine.<sup>346</sup>

Child care shortages have been felt across the state for several years, limiting access for working parents and driving up the cost of care. Despite millions of dollars doled out by Gov. Mills and the legislature, this problem has gotten even worse in the post-pandemic era.

Since 2008, each county in Maine has experienced significant losses in the total number of licensed providers, particularly in family child care. By 2021, all but one county in Maine had lost more than 40% of their family child care providers, and seven counties had lost half or more.<sup>347</sup>

Decline in licensed Maine child care providers, 2008 to 2021



The economic impact of the childcare cost crisis is immense. According to a 2023 study by ReadyNation, the annual cost to the American economy totals \$122 billion—more than double the \$57 billion total of 2018. The cost to Maine alone is in excess of \$400 million.<sup>348</sup> These eye watering totals are indicative of the dramatic increase in the price of childcare over the same timeframe.

As a Freeport daycare owner testified in 2016: “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>349</sup>

As noted by the *Washington Examiner*, “excessive regulation of daycare and preschool mostly hurts the poor and working class. For one thing, it makes daycare rarer and more expensive.”<sup>350</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>351</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 study by the Cato Institute, “more strenuous requirements raise child-care prices but have little apparent effect on quality.”<sup>352</sup>

According to Susan Gale Perry, the CEO of Child Care Aware of America, “The main reason that child care is so expensive has to do with just how many people you need in a classroom to make sure that little, little children are healthy, safe and learning every day.”<sup>353</sup>

This statement calls to mind the strict staffing ratios imposed on child care centers by the Department of Health and Human Services. For instance, in a small child care facility (defined as a business that cares for 3 to 12 children under the age of 13), one staff member may not supervise more than 12 children over the age of five. Similarly, child care centers—facilities with more than 13 children—may not allow one staff member to care for more than four infants.<sup>354</sup>

Twenty-eight states, meanwhile, allow staff members to supervise more 5-to-13-year-olds than Maine.<sup>355</sup> While Maine limits the number to 13 children per staff member, some states—like North Carolina and Florida—allow up to 25 children. A study by the General Accounting Office estimated that increasing strict child-to-staff ratios to allow for more children to be watched by fewer adults could lead to substantial cost reductions.<sup>356</sup>

A piece by The Economist eloquently explains the dangers of poorly thought out childcare policy and the potential havoc it could wreak upon young parents and their children:

*“A framework that weighs up the benefits of spending on child care for families and setting that against the costs is essential, if the policy is to help the most in need. Without it, child care in America also risks becoming subject to an unseemly mess of regulations: the same tangle of subsidies, supply restrictions, and poor quality that afflicts higher education and health care.”<sup>357</sup>*

No such framework currently exists in the United States. Faced with prohibitive costs and overly burdensome regulations, working Mainers have struggled to secure adequate care for their children. In the absence of state assistance, some enterprising residents have turned to private organizations for assistance. The Child Care Business Lab, run by Coastal Enterprises Inc., has assisted with the opening of more than 28 new child care businesses since launching in 2020, which collectively serve more than 500 Maine children.<sup>358</sup> Private ventures such as these should be encouraged, not throttled by volumes of superfluous regulations.

Also costly are education requirements for lead teachers and other staff working in the child care industry. According to a report published in 2015, “requiring a lead teacher to hold at least a high school degree” causes “the cost of child care for four-year-olds” to increase anywhere between 22% and 44%. When controlling for center- and home-specific characteristics, traditional measures of quality, including caregivers’ level of formal education, were found to be statistically insignificant.<sup>359</sup>

When taken together, staff ratio requirements and education requirements produce daycare workers that are both overqualified and underpaid, while also seriously burdening childcare businesses with high operating costs and low profit margins. One daycare owner noted that her business spent 83% of its monthly budget on staff salaries, in contrast to the 25% commonly spent by nearby fast food chains.<sup>360</sup> The exorbitant percentage spent on salaries is not reflected by the individual salaries themselves. As of June 2024, the average daycare teacher in Maine is expected to make slightly more than \$16 an hour.<sup>361</sup> Parents and business owners are both forced to pay more, while employees make less—all while the quality of care remains virtually unaffected.

The motivation for tightly regulating the child care market—a 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 bar many low-income families from pursuing the professional and educational

opportunities made possible through reliable access to child care. Reducing burdensome regulations would allow more entrepreneurs to enter the child care arena, ultimately leading to more affordable options for the families who need them most.

## Recommendations

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

# Repealing Maine's Vehicle Inspection Program

## The Problem

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

## Analysis

Maine passed its vehicle inspection law in 1930, a time when vehicles were far less reliable and considerably more dangerous than they are today. Proponents of Maine's vehicle inspection program assert these examinations are necessary to protect motorists and ensure cars are safe to drive on public roadways. However, driver error is actually the biggest cause of automobile accidents, while mechanical failures—which are what vehicle inspection programs are intended to prevent—account for as few as 2% of crashes.

A 2015 report from the federal Government Accountability Office (GAO) that reviewed six rigorous studies examining vehicle safety inspection programs found no statistically significant difference in crash rates, fatalities, or injuries between states with and without inspection programs.<sup>362</sup>

Proponents of Maine's program also claim that inspections are necessary because the chemicals used on our roads in the winter exacerbate problems with rust and wear-out of exhaust, brakes, struts, and other vehicle components. Yet winter conditions haven't prevented Minnesota, North Dakota, or Connecticut—which receive



an average of nearly 50 inches of snow each year—from repealing their vehicle inspection programs. Research using crash statistics from these states has not shown an increase in vehicular accidents, injuries, or fatalities in the absence of an inspection requirement.

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

Stringent standards and the sluggish pace of the inspection process can often produce unintended consequences. As reported by the *Portland Press Herald* in 2022, “This was the case in Auburn, where the school system had to sideline much of its bus fleet in February after officials learned that a licensed mechanic had signed and handed off stickers to an unlicensed technician, who then performed substandard inspections . . .”<sup>363</sup>

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

In March 2020, Governor Janet Mills extended expiration dates indefinitely on state driver’s licenses, IDs, vehicle registrations and inspection stickers during the Civil State of Emergency caused by the COVID-19 pandemic. Suspending vehicle inspections for several months amidst a pandemic further calls into question the merit of Maine’s vehicle inspection program. No data exists to suggest that motor vehicle accidents increased due to mechanical failures or that Maine drivers were less safe during the period of suspended inspections.

It is also worth noting that even in the absence of the personal vehicle inspection requirement, law enforcement officers would

fully retain the power to pull over and ticket drivers operating dangerous vehicles, as doing so is a Class E crime under Maine State Law.<sup>364</sup> Therefore, it is clear that eliminating mandatory inspections would not jeopardize the safety on Maine's roads, but rather it would free drivers from the expensive and time-consuming annual inspection process.

The complete lack of evidence supporting the idea that mandatory vehicle inspections are somehow a necessity has not stopped certain elements of the Maine Legislature from attempting to not only defend the practice, but to seriously contemplate raising preexisting fees. During the 2023 legislative session, the House narrowly approved LD 900, a bill that would have raised the annual inspection fee to \$20, but common sense prevailed in the Senate, leading to the overwhelming rejection of the motion with a vote of 30-2.<sup>365</sup>

To maximize access to transportation and reduce unnecessary costs on drivers, lawmakers should resist any attempts to further burden Mainers with increased inspection fees. In addition, a strong effort should be made to repeal the requirement that personal cars pass an annual state inspection.

## Recommendations

- Repeal the requirement that non-commercial vehicles pass a state inspection.
- Require inspections only every two or three years instead of annually.
- Remove inspection requirements for vehicles younger than 10-years-old.
- Revise inspection guidelines to ensure that safety concerns are the only acceptable justification for failing a vehicle.
- Reduce the penalties for failing to inspect a vehicle.
- Resist efforts to increase vehicle inspection fees.

# Wholesale Regulatory Reform



## The Problem

State government agencies adopt regulations to implement laws and orders crafted by legislatures and chief executives. Otherwise known as red tape, these rules affect all individuals, families, businesses, nonprofits, and other entities in nearly all aspects of life. At the end of every legislative session, more rules and regulations are added to the total, leading the amount of red tape to grow over time. While regulations are ostensibly meant to improve residents' quality of life by setting standards for safe conduct, studies indicate that an excessive buildup of regulatory legislation can have the opposite effect, harming, rather than helping, Americans' safety.<sup>366</sup>

## Analysis

Mainers are saddled with a dizzying array of rules, regulations, and other restrictions that have been enshrined into law. The 2018 Code of Maine Rules (CMR) is, according to an analysis by researchers from the Mercatus Center, home to 113,862 separate regulatory restrictions. Assuming that a reader would spend 40 hours per week reading at a rate of 300 words per minute, it would take them roughly 11 weeks—449 hours—to read through the CMR in its entirety.<sup>367</sup> The sheer density of the regulatory code effectively renders it impossible to parse through for the overwhelming majority of Mainers; if the regulations meant to protect a population cannot be understood by the members of said population, then one must wonder whether those regulations are actually fulfilling their purpose.

While regulations themselves often serve a valuable role both at home and in the workplace, efforts must be made to ensure that they are made accessible and understandable for the general public. Instead of simply adding to the current list of regulations every

legislative session, representatives should take time to review the CMR and trim away excess regulations, especially those that are redundant or outdated, to combat the bloat and opacity that increasingly plagues the state's list of regulations. Increased simplicity, rather than complexity, will do much to bolster regulatory efficacy.

When allowed to balloon to the point of excess, regulations can frequently fail to produce the desired effect. A 2021 study by the Mercatus Center at George Mason University found a strong correlation between regulatory overload and increased rate of poverty and income inequality. Researchers estimated that, between 1997 and 2015, federal regulations were associated with 13,140 Mainers living in poverty, 1.9 percent higher income inequality, and 7.35 percent higher prices.<sup>368</sup> Maine was noted as ranking worse than average for regulatory burdens.

The prospect of reviewing and editing a codebook that demands a several hundred hour commitment for a single read may seem daunting, but various states have adopted a series of bold strategies designed to help with the assessment and reduction of their respective regulatory burdens. One increasingly popular policy is the “regulatory sandbox”, which seeks to foster innovation in private industry by allowing businesses to temporarily conduct their activities in a space that is largely devoid of all but the most basic and essential of regulations.<sup>369</sup> The regulatory sandbox has proven itself to be a useful tool for over nine different state governments in gauging the impact of certain regulations on local businesses.

## Recommendations

- Adopt a Regulatory Reform Pilot Program to examine the necessity of existing regulations and eliminate those that are obsolete, duplicative, or have not been demonstrated to protect public health and safety.
- Require the Department of Health and Human Services, the Department of Environmental Protection, the Department of Agriculture, Conservation and Forestry, and the Department of Professional and Financial Regulation to eliminate 25% of its regulations over a three-year period.
- Require that the majority of state agency regulations automatically sunset after five or 10 years unless determined necessary and effective by way of a comprehensive internal review, to be reviewed again after another five to 10 years.
- Enact regulatory sandbox legislation that allows businesses to experiment with conducting activities while being subject to minimal regulations.

# Protecting Innovation within the 'Sharing Economy'



## The Problem

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

## Analysis

The sharing economy illustrates the wonders of the free market. Companies such as Uber, Lyft, TaskRabbit, Instacart and others are delivering substantial consumer benefits. Fueled by people seeking flexibility and opportunity through part-time work, and made possible through unprecedented technological innovations, the sharing economy is challenging the status quo throughout the world.

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

The barriers to entry in the sharing economy are very low, which drives competition, reducing costs for consumers. Prices are further lowered because key business functions are outsourced to digital platforms, thus creating economies of scale. Anyone with a car, room, or free time can participate in the sharing economy. The opportunities are virtually unlimited for individuals to create their own micro-businesses to supplement, or in some cases even fully provide, their income.

In addition to greater affordability, the sharing economy provides consumers greater product and service variety. Tourists looking to stay in an area, for example, can choose between renting a family's spare bedroom, a private apartment, or a whole house. Similarly, Uber allows customers to select the type of vehicle and seat capacity they prefer. The competition rideshare apps such as Uber and Lyft provide for taxi services helps to keep prices low, increases the quality of the services provided, and encourages a more dynamic market.<sup>370</sup>

Despite these benefits, heavy-handed government meddling could easily disrupt this valuable part of our economy. Opponents of the sharing economy—namely those in established industries whose profits have been lost to more innovative competitors—seek government intervention simply for protection against providing a service more people want.

## Recommendations

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

# Resisting Flavored Tobacco Bans

## The Problem

Maine has recently seen a coordinated push by anti-tobacco activists against the sale of flavored tobacco in municipalities across the state. Some municipalities have elected to ban the sale of flavored tobacco on their own, but activists continue to advocate for a statewide ban of flavored tobacco products. Attempting to regulate consumption and morality through heavy-handed legislation has historically proven wildly unsuccessful, often leading to dangerous unintended consequences, and there is no reason to suggest that a statewide flavored tobacco ban would prove any more effective.

## Analysis

Flavored tobacco bans have been a hot topic in the news ever since the Biden administration broached the idea of implementing a nationwide ban on menthol cigarettes. Proponents of such bans argue that tobacco is a dangerous, unhealthy product whose use should be curtailed through every possible means, and that underage, low-income, and ethnic minority members of the population are particularly vulnerable to being “hooked” by flavored tobacco products. However, the seemingly noble aim of eliminating dangerous products from the public sphere can often cause more harm than good, as evidenced by the calamitous results of similar initiatives implemented in other locales over the past few decades.

For example, after banning menthol cigarettes in 2020, Massachusetts saw a dramatic increase in its rates of illegal cigarette smuggling, with 64 million packs of cigarettes smuggled into the state in 2021 alone, representing nearly 38% of total consumption in the state—and costing its government \$224 million in foregone tax revenue.<sup>371</sup> Meanwhile, cigarette sales in the neighboring states of Rhode Island and New Hampshire rose 18% and 29.7% respectively.<sup>372</sup>



In California, which implemented a ban on flavored tobacco products in 2022, a study found that nearly 98% of discarded e-vapor products collected in the state in 2023, one year after the ban, were flavored, and almost all belonged to brands headquartered in China that are not subject to FDA standards and regulations.<sup>373</sup> The fruits of the ban are made all the more bitter by the fact that local small business owners, the very ones forced to cease all sales of flavored tobacco products, were already achieving a 98% compliance rate with the FDA's age-verification laws.<sup>374</sup>

The negative impact of wide-sweeping tobacco bans is not purely economic. Numerous reports have detailed the way that bans hurt, rather than help, the health of the American public. For example, multiple studies have established a link between increased restrictions on tobacco consumption and higher recorded numbers of fatal drunk driving accidents in the affected areas.<sup>375</sup>

A study published in the Journal of the National Cancer Institute also found that individuals who smoke menthol cigarettes, which are currently under consideration for being banned, tend to smoke less than those who smoke non-flavored cigarettes, and also experience comparatively lower rates of lung disease and smoking-related health complications.<sup>376</sup> This is especially significant given that, after local and statewide menthol bans are implemented, smokers in those areas are much more likely to switch to other tobacco products rather than quit smoking altogether.<sup>377</sup>

Economist and senior Heritage Foundation fellow Stephen Moore put it best when he wrote in an opinion piece for the *Washington Times*:

*"The strangest and most illogical thing about this call to ban menthol cigarettes is that it comes at a time when smoking is rarer than at any time in the last 100 years and probably since the founding of our country. In the last 60 years, smoking is down more than 60% for virtually all age groups, especially among the young. Anti-smoking education campaigns are working. Don't change a winning strategy."*<sup>378</sup>

Efforts to combat e-cigarette use have proven to be similarly ineffective. A 2022 study of six major metropolitan areas in the US found that, in the wake of the FDA's 2020 ban on the sale of flavored e-cigarettes, only 8.4% of young adults indicated that their use of flavored and cartridge-based e-cigarettes had decreased, and even fewer reported that they had any intention of quitting.<sup>379</sup> Similarly, a survey conducted by the *Tobacco Control* journal revealed that less than 5% of participating adult e-cigarette smokers admitted to quitting in the wake of the ban.<sup>380</sup>

Flavored tobacco bans have enjoyed a recent history of dismal failure in the state legislature. First in 2021,<sup>381</sup> then in 2023,<sup>382</sup> and again in 2024.<sup>383</sup> However, much to the dismay of anti-tobacco lobbyists and activists, the bills have consistently been allowed to die; most recently without even having a vote cast.<sup>384</sup>

Proponents of sweeping bans on tobacco products would do well to recall the catastrophic failure that was Prohibition. Originally intended to curtail alcohol consumption by banning it entirely, the Eighteenth Amendment instead caused a dramatic increase in criminal activity. Public health was hurt by the proliferation of black market substitutes for a previously regulated good, and criminals were the only beneficiaries.<sup>385</sup> States that have implemented sweeping tobacco bans have suffered similar consequences.

Given that the data indicates tobacco bans tend not only to be ineffective, but often actively detrimental to states and their residents, resisting flavored tobacco bans should be a no-brainer. Should further legislation containing flavored tobacco bans be introduced, it is the duty of legislators to strike it down.

## Recommendations

- Strike down regressive bans on flavored tobacco products.
- Protect the rights of Maine residents to purchase commodities of their own choosing.
- Focus anti-smoking efforts on educational campaigns.



# TAXES

# Phasing Out the Personal Income Tax



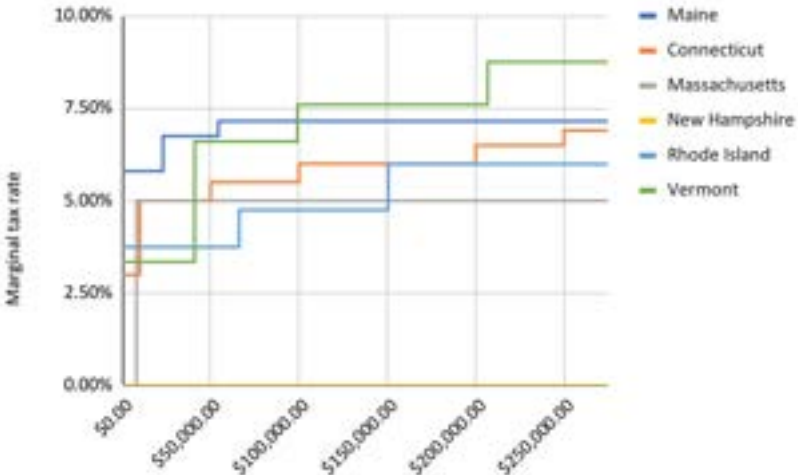
## The Problem

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

## Analysis

Despite recent income tax reductions, Mainers continue to shoulder a large income tax burden. Maine's individual income tax system consists of three brackets with a top rate of 7.15 percent, which according to The Tax Foundation is the 10<sup>th</sup> highest among states that levy an individual income tax.<sup>386</sup> Per capita state and local tax collections in Maine ranked 12<sup>th</sup> highest in 2021.<sup>387</sup> Among New England states, Mainers are taxed the most on income earned up to \$100,000 per year for a single filer. Vermont takes more at higher incomes, but Massachusetts’ new 9% tax on income earned over \$1 million per year is the highest rate in the region.

**Marginal Tax Rates by Income Level, New England States, 2022**



Source: Dan Mitchell, Adept Economics

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.

Unfortunately, the legislature took a step in the wrong direction when it tried to pass LD 1231 in 2023.<sup>388</sup> The bill, originally intended to reduce income taxes across all brackets, ended up proposing a tax hike on top earners while providing only a meager tax cut. Such an approach, even if well intended, is likely to backfire. In 2019, \$43 billion of wealth was shifted nationally due to taxpayers fleeing high tax states in favor of low taxed ones.<sup>389</sup> Between 2020 and 2021, an additional \$68 billion made its way from high-tax, urban states as a result of migration.<sup>390</sup> Bearing this in mind, it would not be a far journey for Maine taxpayers to find a state with lower taxes (New Hampshire has no income tax). Maine would be wise to focus its efforts on reducing its tax burden, not increasing it.

Repealing the income tax would be particularly beneficial for Maine’s small businesses, which collectively make up 99.2 percent of all Maine businesses and support 56.3 percent of private-sector jobs.<sup>391</sup> 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 2020, nearly 80,000 Maine tax returns reported S-corp or partnership income.<sup>392</sup> Repealing the income tax would empower job creators to use their savings to re-invest in their businesses and expand their operations.

A 2012 study by Arthur Laffer and Stephen Moore found that, in any ten-year period since 1960, states with no income tax consistently outperformed the highest income tax states (including Maine) on measures like population growth, personal income,

Gross State Product, and employment. “The Northeast is falling further and further behind, and the South is booming. One of the biggest factors behind that phenomenon is that the South, on a whole variety of economic policy variables we have examined, is a region much more receptive to business and worker rights than the high tax, heavily unionized Northeast,” the report concluded.

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.” It’s time to repeal the income tax entirely and send a message that Maine is truly open for business.

## Recommendations

- Repeal Maine’s individual income tax.

# Reducing Motor Vehicle Taxes and Fees



## The Problem

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

## Analysis

Unfortunately, Maine policymakers have enacted policies that make it harder for low-income individuals to purchase and operate a car. Maine's red tape and regulations surrounding automobiles are yet another cost that drivers must overcome. An analysis in 2023 revealed that the average annual cost of operating a car in Maine—when insurance, repairs, and gasoline expenses were calculated—totaled \$4,400 in 2023.<sup>393</sup>

When purchasing a car privately or from a dealer, individuals must pay a five and a half percent sales tax. If a person is buying a vehicle with a manufacturer's suggested retail price of \$20,000, the tax would be an astonishing \$1,100. If that vehicle cost \$30,000, the purchaser would pay \$1,650 in sales taxes. Many states have lower car taxes; New Hampshire levies no sales tax on automobiles whatsoever.

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 a \$30,000 vehicle was made in 2024, the excise taxes would be \$720. Even the excise tax on a \$20,000 car manufactured in 2010, a more realistic choice for a low-income family, would still be \$80.



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

All told, the owner of a new \$20,000 vehicle would pay more than \$1,600 in fees and taxes the first year they purchased their car. The owner of a new \$30,000 car would pay more than \$2,400. By reducing these taxes and fees, policymakers can help to reduce the high costs of car ownership and promote the availability of transportation for those living in poverty.

## Recommendations

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

# Abolishing Sin Taxes

## The Problem

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

## Analysis

In 2017, Maine collected \$475.1 million (5.3 percent of total tax revenues) in sin taxes on alcohol and tobacco products, as well as casino and video gaming activities.<sup>394</sup> Liquor store taxes account for 1.8 percent of state revenue, the highest share of any state. Maine’s cigarette tax is currently \$2.00 per pack, the 25<sup>th</sup> highest in the country.<sup>395</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>396</sup>

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>397</sup>

According to the Center for Disease Control, 36 percent of Americans who live below the federal poverty line are regular smokers, while less than 21 percent of those above the poverty line smoke.<sup>398</sup> These figures are corroborated by other studies, which suggest a significant disparity in cigarette consumption between the educated and uneducated; one such study found that 16 percent of the US population smoked on a weekly basis in 2021. For people with a high school degree or less, this figure was as high as 28 percent, and for those with a postgraduate degree it was as low as 5 percent.<sup>399</sup>

According to a Gallup Poll, since 2021, 21 percent of smokers in the US admitted to smoking more than one pack a day, while 71 percent smoke less than one pack.<sup>400</sup> In other words, nearly one-third of smokers in Maine—who are disproportionately low-income—face an annual expense of more than \$700 in sin taxes, while many more pay hundreds of dollars per year.

Unfortunately, Maine is moving in the wrong direction on sin taxes. In the First Session of the 129<sup>th</sup> Legislature, lawmakers approved a bill that equalized the tax on tobacco products consistent with the 43 percent tax on the wholesale price of cigarettes.<sup>401</sup> Legislators would be wise to eliminate this unnecessary, regressive form of taxation instead of expanding it.

## Recommendations

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

# Lowering the Sales Tax



## The Problem

Maine's sales tax, while not particularly high on its own, represents just one of a wide variety of taxes that together produce a remarkably heavy tax burden for state residents. Special taxes on food, lodging, auto rentals, and other services serve only to pile on to an already unreasonable load, and Governor Mills has continued to ratchet up the pressure by advocating for the implementation of still more regressive forms of taxation, such as a poorly conceived streaming tax that would yield little revenue and serve only to hurt Mainers.

## Analysis

Maine has a general sales tax of 5.5%.<sup>402</sup> When sales taxes, property taxes, and income taxes are all considered together, Maine has, by function of the percent of income that an average resident pays on taxes, the fourth worst total tax burden of any state in the country. The average Mainer pays 10.7% of their income on taxes every year, a higher percentage than both California (10.4%) and Connecticut (10.1%).<sup>403</sup> Given that Maine has the lowest median household income of any state in New England,<sup>404</sup> these figures represent a severe degree of financial strain placed on taxpayers by the state government.

Instead of seeking to alleviate the inordinate amount of pressure put on Mainers, Governor Mills has instead moved to add to it, proposing that music and video streaming services should be subject to the sales tax.<sup>405</sup> The most optimistic projections assert that Maine's streaming tax could net the state government a total of about \$10 million a year,<sup>406</sup> suggesting that revenues made would even in the best of cases account for an infinitesimal portion of the overall budget—and that fails to take into account the myriad ways in which citizens could duck the tax.

The use of account sharing, out-of-state billing, and other workarounds provide ample opportunities for creative residents to escape from having to pay a sales tax on their streaming services. The youngest and poorest residents of Maine would be forced to foot a disproportionate share of the bill, as snowbirds and wealthier residents who own properties in other states could simply register their accounts for streaming services in other areas not subject to the tax.

Given that Maine's sole neighboring state is New Hampshire, which has no sales tax,<sup>407</sup> legislators should consider that potential revenue increases brought about by new sales tax rates are unlikely to materialize given the ease with which Mainers can drive across state lines to purchase cheaper, untaxed goods. Instead of implementing regressive and inconsistent tax policies that can be easily dodged by Maine residents, thus defeating the entire purpose of the taxes in the first place, the state government should put more thought into saving taxpayers money and spending responsibly.

## Recommendations

- Reduce or eliminate Maine's sales tax.
- Resist efforts to apply the sales tax to digital streaming services.

# Eliminating Maine's Estate Tax



## The Problem

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

## Analysis

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

As noted in a recent study by the Heritage Foundation, “death taxes are self-defeating because they drive out businesses and high-income residents. Even for those choosing to remain in death tax states, the elderly are incentivized to spend down their assets while alive or to find tax shelters, which results in massive disinvestment in family-owned businesses—the backbone of local economies.”<sup>408</sup>

The study confirms that “citizens whose estates are most likely to be partially confiscated at death are often moving elsewhere to escape taxation,” leading to a reduction in capital stock to spur local economic growth.

As a result, several states have repealed their estate tax since 2010, and Maine remains among the minority of states relying on this inefficient form of taxation. The estate tax is also highly volatile and generates relatively little revenue. Estate tax collections totaled \$11.7 million in 2017, \$13.8 million in 2018, and \$15.8 million in 2019.<sup>409</sup>

In 2023, the estate tax ended the fiscal year representing only 0.4 percent of total state revenue. According to a report by the Department of Administrative and Financial Services, the estate tax was more than \$1.2 million under budget, missing its target by more than 4% and faring worse than any other form of tax collection that year.<sup>410</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 and retirees.

### **Recommendations**

- Repeal the estate tax entirely.
- Increase the exclusion amount applied to Maine properties.

# Providing Real Property Tax Relief

## The Problem

Mainers suffer from the worst property tax burden in the United States; the average Maine resident spent 5.21% of their income on property taxes in 2020.<sup>411</sup> When combined with the ongoing housing crisis, this represents a formidable obstacle that stands in the path of long-term homeownership for middle class residents. Steps should be taken to alleviate the financial pressure caused by property taxes.

## Analysis

Property taxes in Maine pose a serious threat to the financial stability of families across the state. The rapidly ballooning price of housing<sup>412</sup> and steep interest rates on mortgages<sup>413</sup> already serve as imposing barriers for prospective homeowners, and high property taxes serve only to further dissuade Mainers from purchasing properties themselves.

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. These efforts, while commendable, have failed to prevent Maine's average property tax burden from gradually growing into the highest in New England and, indeed, the entire country.<sup>414</sup>

Currently, revenue sharing is designed to distribute a higher percentage of funds to municipalities with very high tax burdens.<sup>415</sup> Although the intent of the provision was clearly to allow high-tax cities and towns to reduce their property tax rates by providing state aid, municipalities have taken advantage of this feature of the program to raise local taxes and attract additional state funds.



Whenever money is raised at one level of government and spent at another, there is a loss of accountability to voters. State officials who determine the tax rates, on which revenue sharing funds rely, have no control over how localities spend the money. Similarly, municipal leaders aren't accountable for revenues raised at the state level, and can complain that state funds are insufficient when justifying local tax hikes to support irresponsible spending and unnecessary programs.

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

### **Recommendations**

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

# Gutting Corporate Welfare



## The Problem

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

## Analysis

The scale of corporate welfare at the federal level is quite alarming. In 2023, the federal government spent \$100 billion on corporate subsidies averaging a cost of approximately \$940 for every American family.<sup>416</sup>

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

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

In 2023, Governor Mills and the Maine Legislature approved the Dirigo Business Incentive Program, the newest entry in a long line

of business subsidy programs. According to the Maine Center for Economic Policy, “the subsidy is estimated to cost over \$59 million per year beginning in 2024—a steep price tag at a time when the state is facing a housing crisis, rising food and energy costs, and a slew of other unmet needs that would support Mainers to lead healthy and productive lives.”<sup>417</sup> Since 1995, Maine has doled out more than \$1 billion in corporate welfare.<sup>418</sup>

In the 2024 session, LD 2258 was passed, which gave a \$133,000 per year tax credit to the Portland Sea Dogs, incorrectly citing the need to “keep the team in the state.”<sup>419</sup> This was despite the team showing no indication of intending to move and the Sea Dogs having one of the highest game attendance averages when compared to similar minor league teams. The state of Maine’s subsidizing of the Sea Dogs is the epitome of corporate welfare run amok.

A recent study from the Mercatus Center at George Mason University quantifies the opportunity costs of corporate welfare for every state.<sup>420</sup> The table below shows the extent to which the elimination of corporate handouts in Maine would allow policymakers to lower corporate income taxes, personal income taxes, or sales taxes and still support general fund spending.

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

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

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

## Recommendations

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

## About the Authors

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