

MAINE STATE LEGISLATURE

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**Maine Citizen's Guide to the
Referendum Election**

Tuesday, November 8, 2016



**In Accordance with
the May 9, 2016 Proclamations of the Governor and with
the Act Passed by the 127th Legislature
at the Second Regular Session**

**Matthew Dunlap
Secretary of State**

Appropriation 010-29A-4213-012

State of Maine
Office of the Secretary of State
Augusta, Maine 04333

Dear Fellow Citizen,

The information in this booklet is intended to help voters learn about the questions that will appear on the November 8, 2016 Referendum Election ballot. Referendum elections are an important part of the heritage of public participation in Maine.

Inside this booklet, you will find:

- ◆ the referendum questions;
- ◆ the legislation each question represents;
- ◆ a summary of the intent and content of the legislation;
- ◆ an explanation of the significance of a “yes” or “no” vote;
- ◆ an analysis of the debt service on the bond issue;
- ◆ an estimate of the fiscal impact of each referendum question on state revenues, appropriations and allocations; and
- ◆ public comments filed in support of or in opposition to each ballot measure.

For information about how and where to vote, please contact your local Municipal Clerk or call Maine’s Division of Elections at 624-7650. Information is also available online at www.maine.gov/sos.

The Department of the Secretary of State, the Attorney General, the State Treasurer and the Office of Fiscal and Program Review have worked together to prepare this booklet of information and we hope you find it helpful.

Sincerely,



Matthew Dunlap
Secretary of State

**State of Maine
Referendum Election, November 8, 2016
Listing of Referendum Questions**

Question 1: Citizen's Initiative

Do you want to allow the possession and use of marijuana under state law by persons who are at least 21 years of age, and allow the cultivation, manufacture, distribution, testing, and sale of marijuana and marijuana products subject to state regulation, taxation and local ordinance?

Question 2: Citizen's Initiative

Do you want to add a 3% tax on individual Maine taxable income above \$200,000 to create a state fund that would provide direct support for student learning in kindergarten through 12th grade public education?

Question 3: Citizen's Initiative

Do you want to require background checks prior to the sale or transfer of firearms between individuals not licensed as firearms dealers, with failure to do so punishable by law, and with some exceptions for family members, hunting, self-defense, lawful competitions, and shooting range activity?

Question 4: Citizen's Initiative

Do you want to raise the minimum hourly wage of \$7.50 to \$9 in 2017, with annual \$1 increases up to \$12 in 2020, and annual cost-of-living increases thereafter; and do you want to raise the direct wage for service workers who receive tips from half the minimum wage to \$5 in 2017, with annual \$1 increases until it reaches the adjusted minimum wage?

Question 5: Citizen's Initiative

Do you want to allow voters to rank their choices of candidates in elections for U.S. Senate, Congress, Governor, State Senate, and State Representative, and to have ballots counted at the state level in multiple rounds in which last-place candidates are eliminated until a candidate wins by majority?

Question 6: Bond Issue

Do you favor a \$100,000,000 bond issue for construction, reconstruction and rehabilitation of highways and bridges and for facilities, equipment and property acquisition related to ports, harbors, marine transportation, freight and passenger railroads, aviation, transit and bicycle and pedestrian trails, to be used to match an estimated \$137,000,000 in federal and other funds?

Treasurer's Statement

The State of Maine borrows money by issuing bonds. General Obligation bonds are backed by the full faith and credit of the State and must be submitted statewide to the voters for approval.

Once approved, the Treasurer issues bonds as needed to fund the approved bond projects and uses a rapid 10-year repayment of principal strategy to retire the debt.

If the bond proposals on the ballot in November 2016 are approved by the voters, general obligation debt service as a percentage of the State's General Fund, Highway Fund and Revenue Sharing appropriations is expected to be 2.78% in FY17 and 2.99% in FY18.

The following is a summary of general obligation bond debt of the State of Maine as of **June 30, 2016**.

Bonds Outstanding (Issued and Maturing through 2026):

	Principal	Interest	Total
Highway Fund	\$61,620,000	\$5,697,497	\$67,317,497
General Fund	\$380,990,000	\$73,947,255	\$454,937,255
Total	\$442,610,000	\$79,644,752	\$522,254,752

Unissued Bonds Authorized by Voters:	\$ 49,883,697
Unissued Bonds Authorized by the Constitution and Laws:	\$ 99,000,000
Total Authorized but Unissued Bonds:	\$ 148,883,697

The total amount that must be paid in the present fiscal year for bonded debt already outstanding (for FY2017): **\$ 98,650,659**

If the bonds submitted here are approved by voters and issued for the full statutory period authorized, an estimate of the total interest and principal that may reasonably be expected to be paid is **\$133,000,000**, representing **\$100,000,000** in principal and **\$33,000,000** in interest.



Terry Hayes, Treasurer of State

Question 1: Citizen's Initiative

Do you want to allow the possession and use of marijuana under state law by persons who are at least 21 years of age, and allow the cultivation, manufacture, distribution, testing, and sale of marijuana and marijuana products subject to state regulation, taxation and local ordinance?

STATE OF MAINE

"An Act To Legalize Marijuana"

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA c. 417 is enacted to read:

CHAPTER 417

MARIJUANA LEGALIZATION ACT

§2441. Short title

This chapter may be known and cited as "the Marijuana Legalization Act."

§2442. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Advertising.** "Advertising" means the act of providing consideration for the publication, dissemination, solicitation or circulation, visual, oral or written, to induce directly or indirectly any person to patronize a particular retail marijuana establishment or retail marijuana social club or to purchase particular retail marijuana or a retail marijuana product. "Advertising" includes marketing, but does not include packaging and labeling. "Advertising" proposes a commercial transaction or otherwise constitutes commercial speech.

2. **Applicant.** "Applicant" means a person that has submitted an application for licensure as a retail marijuana establishment or retail marijuana social club pursuant to this chapter that was accepted by the state licensing authority for review but has not been approved or denied by the state licensing authority.

3. **Batch.** "Batch" means a specific quantity of cannabis harvested during a specified time period from a specified cultivation area.

4. **Batch number.** "Batch number" means any distinct group of numbers, letters or symbols, or any combination thereof, assigned by a retail marijuana cultivation facility or retail marijuana products manufacturing facility to a specific harvest batch or production batch of retail marijuana.

5. **Cannabis.** "Cannabis" means all parts of the plant of the genus Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin including cannabis concentrate. "Cannabis" does not include industrial hemp, fiber produced from the stalks, oil, cake made from the seeds of the plant, sterilized seed of the plant that is incapable of germination or any ingredient combined with cannabis to prepare topical or oral administrations, food, drink or any other product. "Cannabis" also means marijuana.

6. **Child-resistant.** "Child-resistant" means special packaging that is:

A. Designed or constructed to be significantly difficult for children under 5 years of age to open and not difficult for normal adults to use properly;

B. Opaque so that the product cannot be seen from outside the packaging; and

C. Closable, for any product intended for more than a single use or containing multiple servings.

7. Commissioner. "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry.

8. Container. "Container" means the sealed package in which retail marijuana or a retail marijuana product is placed for sale to a consumer and that has been labeled according to the requirements set forth in section 2446, subsection 1.

9. Department. "Department" means the Department of Agriculture, Conservation and Forestry.

10. Edible retail marijuana product. "Edible retail marijuana product" means any retail marijuana product that is intended to be consumed orally, including, but not limited to, any type of food, drink or pill.

11. Final agency order. "Final agency order" means an order of the state licensing authority issued in accordance with this chapter and the Maine Administrative Procedure Act following review of the initial decision and any exceptions filed thereto or at the conclusion of the declaratory order process.

12. Flowering marijuana plant. "Flowering marijuana plant" means the gametophytic or reproductive state of cannabis in which the plant is in a light cycle intended to produce flowers, trichomes and cannabinoids characteristic of marijuana.

13. Good cause. "Good cause," for purposes of denial of an initial license application or denial of a renewal or reinstatement of a license application, means:

A. The licensee or applicant has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this chapter, any rules adopted pursuant to it or any supplemental relevant state or local law, rule or regulation; or

B. The licensee or applicant has failed to comply with any special terms, consent decree or conditions that were placed upon the license pursuant to an order of the state licensing authority or the relevant municipality.

14. Harvest batch. "Harvest batch" means a batch of processed retail marijuana that is uniform in strain, cultivated using the same herbicides, pesticides and fungicides and harvested at the same time.

15. Identity statement. "Identity statement" means the name of the business as it is commonly known and used in any advertising.

16. Immature plant. "Immature plant" means a nonflowering retail marijuana plant that is taller than 24 inches and is wider than 18 inches.

17. Initial decision. "Initial decision" means a decision of a hearing officer in the department following a licensing, disciplinary or other administrative hearing.

18. Law enforcement agency. "Law enforcement agency" means any federal, state or municipal agency or any governmental agency or subunit of such agency or any state or federal court that administers criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

19. Licensed premises. "Licensed premises" means the premises specified in an application for a license pursuant to this chapter that are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, sell, consume or test retail marijuana in accordance with the provisions of this chapter and rules adopted pursuant to this chapter.

20. Licensee. "Licensee" means a person licensed pursuant to this chapter or, in the case of a holder of an occupational license, a natural person licensed pursuant to this chapter.

21. Limited access area. "Limited access area" means a building, room or other contiguous area upon the licensed premises where retail marijuana is grown, cultivated, stored, weighed, packaged, sold or processed for sale under control of the licensee.

22. Marijuana. "Marijuana" means cannabis.

23. Marijuana extraction. "Marijuana extraction" means the process of extracting marijuana with solvents or gases.

24. Mother plant. "Mother plant" means a plant that is used solely by a cultivator for the taking of seedling cuttings.

25. Natural person. "Natural person" means a citizen of this State who has a verifiable social security number.

26. Occupational license. "Occupational license" means a license granted to a natural person by the state licensing authority.

27. Owner. "Owner" means a person whose beneficial interest in a retail marijuana establishment or retail marijuana social club is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of a retail marijuana establishment or retail marijuana social club and has a controlling interest in a retail marijuana establishment or retail marijuana social club.

28. Person. "Person" means a natural person, partnership, association, company, corporation, limited liability company or organization or a manager, agent, owner, director, servant, officer or employee thereof. "Person" does not include any governmental organization.

29. Plant canopy. "Plant canopy" means the area upon the licensed premises dedicated to live plant cultivation, such as maintaining mother plants, propagating plants from seed to plant tissue, cloning and a maintaining a vegetative or flowering area. "Plant canopy" does not include areas such as space for storage of fertilizers, pesticides or other products, quarantine areas, office space, walkways, work areas and other similar areas.

30. Production batch. "Production batch" means a group of retail marijuana products created from a production run of retail marijuana products.

31. Propagation. "Propagation" means the reproduction of retail marijuana plants by seeds, cuttings or grafting.

32. Registered dispensary. "Registered dispensary" means a dispensary that is a nonprofit corporation organized under Title 13-B and registered with the Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act and holds one or more dispensary registrations.

33. Restricted access area. "Restricted access area" means a designated and secure area within the licensed premises in a retail marijuana store or retail marijuana social club where retail marijuana and retail marijuana products are sold, possessed for sale and displayed for sale and where no one under 21 years of age is permitted.

34. Retail marijuana. "Retail marijuana" means cannabis that is cultivated, manufactured, distributed or sold by a licensed retail marijuana establishment or retail marijuana social club.

35. Retail marijuana cultivation facility. "Retail marijuana cultivation facility" means an entity licensed to cultivate, prepare and package retail marijuana and sell retail marijuana to retail marijuana establishments and retail marijuana social clubs.

36. Retail marijuana establishment. "Retail marijuana establishment" means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturing facility or a retail marijuana testing facility.

37. Retail marijuana product. "Retail marijuana product" means concentrated retail marijuana and retail marijuana products that are composed of retail marijuana and other ingredients and are intended for use or consumption, including, but not limited to, edible products, ointments and tinctures.

38. Retail marijuana products manufacturing facility. "Retail marijuana products manufacturing facility" means an entity licensed to purchase retail marijuana; manufacture, prepare and package retail marijuana products; and sell retail marijuana and retail marijuana products only to other retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs.

39. Retail marijuana social club. "Retail marijuana social club" means an entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises.

40. Retail marijuana store. "Retail marijuana store" means an entity licensed to purchase retail marijuana from a retail marijuana cultivation facility and to purchase retail marijuana products from a retail marijuana products manufacturing facility and to sell retail marijuana and retail marijuana products to consumers.

41. Retail marijuana testing facility. "Retail marijuana testing facility" means an entity licensed and certified to analyze and certify the safety and potency of retail marijuana and retail marijuana products.

42. Sample. "Sample" means any retail marijuana or retail marijuana product provided for testing or research purposes to a retail marijuana testing facility by a retail marijuana establishment or retail marijuana social club.

43. Seedling. "Seedling" means a nonflowering retail marijuana plant that is no taller than 24 inches and no wider than 18 inches.

44. State licensing authority. "State licensing authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing and sale of retail marijuana and retail marijuana products in this State pursuant to this chapter.

45. THC. "THC" means tetrahydrocannabinol.

46. Universal symbol. "Universal symbol" means the image established by the state licensing authority and made available to licensees through the state licensing authority's website for indicating that retail marijuana or a retail marijuana product is within a container.

47. Unreasonably impracticable. "Unreasonably impracticable" means that the measures necessary to comply with the rules require such a high investment of risk, money, time or any other resource or asset that the operation of a retail marijuana establishment or retail marijuana social club is not worth being carried out in practice by a reasonably prudent business person.

§2443. Exemption from criminal and civil penalties, seizure and forfeiture

Notwithstanding Title 17-A, chapter 45 or any other provision of law to the contrary and except as provided in this chapter, the actions specified in this chapter are legal under the laws of this State and do not constitute a civil or criminal offense under the laws of this State or the law of any political subdivision within this State or serve as a basis for seizure or forfeiture of assets under state law. This chapter may not be construed to shield any individual, partnership, corporation, firm, association or other legal entity from federal prosecution.

§2444. State licensing authority

For the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing and sale of retail marijuana and retail marijuana products in this State, the state licensing authority is the Department of Agriculture, Conservation and Forestry.

1. Commissioner is chief administrative officer. The Commissioner of Agriculture, Conservation and Forestry is the chief administrative officer of the state licensing authority and may employ such officers and employees as may be determined to be necessary. The state licensing authority has the authority to:

A. Grant or refuse licenses for the cultivation, manufacture, distribution, sale and testing of retail marijuana and retail marijuana products as provided by this chapter;

B. Suspend, fine, restrict or revoke licenses under paragraph A upon a violation of this chapter or any rule adopted pursuant to this chapter; and

C. Impose any penalty authorized by this chapter or any rule adopted pursuant to this chapter.

2. Adoption of rules. The state licensing authority shall adopt rules for the proper regulation and control of the cultivation, manufacture, distribution, sale and testing of retail marijuana and

retail marijuana products and for the enforcement of this chapter, not later than 9 months after the effective date of this Act, and shall adopt amended rules and such special rules and make findings as necessary. These rules are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A. Rules must address but are not limited to the following issues:

A. The hearing of contested state license denials at a public hearing, employing full due process, including the subpoena power, the taking of oaths, the calling of witnesses and the maintaining of the confidentiality of customer records. Provision must be made for the conduct of appeal hearings following license actions, including, but not limited to, the denial of a license renewal or of an initial license and license revocation and suspension, and hearings contesting the imposition of a fine;

B. The development of such forms, licenses, identification cards and applications as necessary for the administration of this chapter or of any of the rules adopted under this chapter;

C. The preparation and transmission annually, in the form and manner prescribed by this chapter, of a report to the Legislature accounting for the efficient discharge of all responsibilities assigned by law or rules to the state licensing authority;

D. Procedures consistent with this chapter for the issuance, renewal, suspension and revocation of licenses to operate retail marijuana establishments;

E. Limits on the concentration of THC and other cannabinoids per serving in any retail marijuana product;

F. Qualifications for licensure including, but not limited to, the requirement for a fingerprint-based criminal history record check for all owners, officers, managers, employees and other support staff of entities licensed pursuant to this chapter;

G. Security requirements for any licensed premises under this chapter including, at a minimum, lighting, physical security, alarm requirements and other minimum procedures for internal control as determined necessary by the state licensing authority to properly administer and enforce the provisions of this chapter, including reporting requirements for changes, alterations or modifications to the licensed premises. Security requirements may not be unreasonably impracticable; and

H. Securing and recording permission for a local fire department or the State Fire Marshal to conduct an annual fire inspection of a retail marijuana cultivation facility.

§2445. Independent testing and certification program

The state licensing authority shall establish, within a specific time frame, a retail marijuana and retail marijuana products independent testing and certification program. This program must require licensees to test retail marijuana and retail marijuana products to ensure at a minimum that products sold for human consumption do not contain contaminants that are injurious to health and to ensure correct labeling.

1. **Content of testing.** Testing must include, but is not limited to, analysis for residual solvents, poisons and toxins; harmful chemicals; dangerous molds and mildew; harmful microbes, such as Escherichia coli and salmonella; and pesticides.

2. **Presence of injurious substance.** In the event that test results indicate the presence of quantities of any substance determined to be injurious to health in any product, these products must be immediately quarantined and immediate notification to the persons responsible for enforcing the marijuana laws must be made. These products must be documented and properly destroyed.

3. **THC potency.** Testing must verify THC potency representations for correct labeling.

The establishment of an independent testing and certification program does not affect the adoption of rules in section 2444 or affect the implementation of cultivation, production and sale of retail marijuana and retail marijuana products.

§2446. Labeling; health and safety requirements; training; identification cards

1. Labeling requirements for sales of retail marijuana and retail marijuana products.

Labeling requirements for sales of retail marijuana and retail marijuana products include when applicable:

- A. The license number of the retail marijuana cultivation facility license;
- B. The license number of the retail marijuana store license;
- C. An identity statement and a universal symbol;
- D. The batch number;
- E. A net weight statement;
- F. THC potency and the potency of such other cannabinoids or other chemicals, including, but not limited to, cannabidiol, as determined relevant by the state licensing authority;
- G. Warning labels;
- H. Solvents used in marijuana extraction;
- I. Amount of THC per serving and the number of servings per package for retail marijuana products;
- J. A list of ingredients and possible allergens for retail marijuana products;
- K. A recommended use date or expiration date for retail marijuana products; and
- L. A nutritional fact panel for edible retail marijuana products.

2. Health and safety rules. The state licensing authority shall adopt health and safety rules, which are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A, and standards for the manufacture of retail marijuana products and the cultivation of retail marijuana, which must include:

- A. Limitations on the display of retail marijuana and retail marijuana products;
- B. Regulation of the storage of, warehouses for and transportation of retail marijuana and retail marijuana products; and
- C. Sanitary requirements for retail marijuana establishments, including but not limited to sanitary requirements for the preparation of retail marijuana products.

3. Training for local jurisdictions and law enforcement officers. The state licensing authority shall adopt rules, which are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A, and processes for training local jurisdictions and law enforcement officers in the law, including the requirements for inspections, investigations, searches, seizures, forfeitures and such additional activities as may become necessary from time to time.

4. Identification cards. The following provisions govern identification cards.

- A. The state licensing authority shall adopt rules detailing the format of, and inclusion of information on, individual identification cards for owners, officers, managers, contractors, employees and other support staff of entities licensed pursuant to this chapter, including a fingerprint-based criminal history record check as may be required by the state licensing authority prior to issuing an identification card.
- B. The state licensing authority shall specify those forms of photo identification that a retail marijuana store may accept when verifying a sale, including but not limited to government-issued identification cards.
- C. The state licensing authority shall develop procedures for license renewals, reinstatements, initial licenses and the payment of licensing fees, as well as other matters that are necessary for the fair, impartial and comprehensive administration of this chapter.
- D. Rules adopted pursuant to this subsection are routine technical rules, pursuant to Title 5, chapter 375, subchapter 2-A.

§2447. License application and issuance

An application for a license under the provisions of this chapter must be made to the state licensing authority on forms prepared and furnished by the state licensing authority and must set forth such information as the state licensing authority may require to enable the state licensing authority to determine whether a license should be granted. The information must include the name and address of the applicant and the names and addresses of the applicant's officers, directors or managers. Each application must be verified by the oath or affirmation of such person or persons as the state licensing authority may prescribe. The state licensing authority may issue a license to an applicant pursuant to this section upon completion of the applicable criminal history record check associated with the application. The license is conditioned upon municipal approval. An applicant is prohibited from operating a retail marijuana establishment or retail marijuana social club without state licensing authority and municipal approval. If the applicant does not receive municipal approval within one year from the date of state licensing authority approval, the license expires and may not be renewed. If an application is not approved by the municipality, the state licensing authority shall revoke the license.

1. Qualifications. The following provisions govern the qualifications for licensure as a retail marijuana establishment or retail marijuana social club. A person is not qualified to conduct licensed activities until the required annual fee has been paid.

A. An applicant who is a natural person must be at least 21 years of age. If an applicant is a corporation, all members of the board must comply with this paragraph.

B. A person who has been convicted of a disqualifying drug offense may not be a licensee. For purposes of this paragraph, "disqualifying drug offense" means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for 5 years or more. "Disqualifying drug offense" does not include an offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years prior to application for licensure or an offense that consisted of conduct that is permitted under this chapter.

C. A person who has had a license for a retail marijuana establishment or retail marijuana social club revoked may not be a licensee.

D. A sheriff, deputy sheriff, police officer, prosecuting officer or an officer or employee of the state licensing authority or a municipality is ineligible to become a licensee.

E. The state licensing authority shall investigate all applicants for compliance with this chapter prior to issuing a license.

F. First priority for licensure must be given to registered caregivers who have been continuously registered with the Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act or who have experience serving as a principal officer or board member of a nonprofit medical dispensary registered with the Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act. If an applicant, either a business entity or an individual, owns, has a financial interest in or controls the management of more than one dispensary in this State, that applicant may receive preference for only one license in each license class. As long as there are other preferred applicants for any or all license classes an applicant who owns, has a financial interest in or controls the management of more than one dispensary in this State is not eligible for multiple licenses in any class. Preference must be given to an applicant who has at least 3 medical marijuana caregiver registrations when determining which applicants receive licenses.

G. The state licensing authority shall accept applications from registered caregivers and principal officers or board members of registered dispensaries who have continuously registered with the Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act.

H. The state licensing authority shall adopt rules, which are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A, for a streamlined application process for registered caregivers and principal officers or board members of dispensaries registered with the

Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act, which must include an initial site inspection confirming compliance with this chapter.

2. Investigation of qualifications. In investigating the qualifications of an applicant or a licensee, the state licensing authority and municipality may have access to criminal history record information furnished by a law enforcement agency subject to any restrictions imposed by that agency. In the event the state licensing authority or municipality considers the applicant's criminal history record, the state licensing authority or municipality shall also consider any information provided by the applicant regarding such criminal history record, including, but not limited to, evidence of rehabilitation, character references and educational achievements, especially those items pertaining to the time between the applicant's last criminal conviction and the consideration of the application for a license.

At the time of filing an application for issuance of a retail marijuana establishment or retail marijuana social club license, an applicant shall submit a set of the applicant's fingerprints and personal history information concerning the applicant's qualifications for a license on forms prepared by the state licensing authority. The state licensing authority shall submit the fingerprints and the municipality may forward fingerprints to the State Bureau of Investigation for criminal history background information. The state licensing authority shall also forward the fingerprints to the Federal Bureau of Investigation for the purpose of conducting a federal fingerprint-based criminal history record check. The state licensing authority may acquire a name-based criminal history record check for an applicant or a licensee who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable. An applicant who has previously submitted fingerprints for state licensing purposes may request that the fingerprints on file be used. The state licensing authority shall use the information resulting from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to hold a license pursuant to this chapter. The state licensing authority or municipality may verify any of the information an applicant is required to submit.

3. Applications; issuance. The following provisions govern applications for and issuance of a retail marijuana establishment or retail marijuana social club license.

A. An applicant shall file an application in the form required by the state licensing authority for the type of license sought, along with the application fee as set by the state licensing authority.

B. An applicant may apply for and be granted more than one type of license except that a person licensed as a retail marijuana testing facility may not hold any other retail marijuana establishment license. Registered caregivers and registered dispensaries who have held a registration in good standing for 2 years by the date of the application must be given priority in the granting of licenses for a retail marijuana cultivation facility, retail marijuana products manufacturing facility or retail marijuana store license. The state licensing authority shall begin accepting and processing applications by 30 days after the adoption of rules under section 2444, subsection 2. If after 90 days those applications do not meet the maximum square footage allotment set by this chapter, the state licensing authority may begin accepting and processing applications by all other qualified applicants.

C. The state licensing authority shall issue or renew a license to operate a retail marijuana establishment or retail marijuana social club to an applicant who meets the requirements of the state licensing authority, which must include a review of the site plan, operating plan and relevant experience in the marijuana industry in this State, as set forth in rule, within 90 days of the date of receipt of the application unless:

(1) The state licensing authority finds the applicant is not in compliance with this section or rules adopted by the state licensing authority;

(2) The state licensing authority is notified by the relevant municipality that the applicant is not in compliance with an ordinance, rule or regulation in effect at the time of application;
or

(3) The number of retail marijuana establishments or retail marijuana social clubs allowed in the municipality has been limited pursuant to local ordinance or is limited by subsection 7 and the state licensing authority has already licensed the maximum number of retail

marijuana establishments or retail marijuana social clubs allowed in the municipality for the class of license that is sought.

D. The following provisions govern the situation when more than one application is received by the state licensing authority for establishment of a retail marijuana establishment or retail marijuana social club in the same municipality.

(1) If a greater number of applications are received from qualified applicants to operate a retail marijuana store in a municipality than are allowed under the limits enacted by that municipality pursuant to subsection 4, the state licensing authority shall solicit and consider input from the municipality as to the municipality's preferences for licensure. Within 180 days of the date the first application is received, the state licensing authority shall issue the maximum number of applicable licenses.

(2) In any competitive application process to determine which applicants receive licenses for any class of license, the state licensing authority shall give first preference to an applicant who has at least 2 years of previous experience cultivating marijuana in compliance with Title 22, section 2423 and who has been continuously registered with the Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act. Preference must be given to an applicant who has 3 medical marijuana caregiver registrations when determining which applicants receive licenses.

E. The state licensing authority may not grant a license for a retail marijuana establishment to a licensee who has already received a license to operate the same type of retail marijuana establishment if doing so would prevent another qualified applicant from receiving a license. The state licensing authority may not grant a license for a retail marijuana social club to a licensee who has already received a license to operate a retail marijuana social club if doing so would prevent another qualified applicant from receiving a license.

4. Limitation on number of retail marijuana stores. The state licensing authority may not limit the total number of retail marijuana stores in this State. A municipality may regulate the number of retail marijuana stores and the location and operation of retail marijuana establishments and retail marijuana social clubs and may prohibit the operation of retail marijuana establishments and retail marijuana social clubs within its jurisdiction.

5. Limitations on retail marijuana cultivation. The state licensing authority may establish limitations upon retail marijuana cultivation through one or more of the following methods:

A. Placing or modifying a limit on the number of licenses that it issues, by class or overall, but in placing or modifying the limits, the state licensing authority shall consider the reasonable availability of new licenses after a limit is placed or modified; and

B. Placing or modifying a limit on the amount of production permitted by a retail marijuana cultivation facility license or class of licenses based upon some reasonable metric or set of metrics, including, but not limited to, previous months' sales, pending sales or other reasonable metric as determined by the state licensing authority.

6. Limitation on retail marijuana cultivation facility size. The amount of space approved for marijuana cultivation at retail marijuana cultivation facilities is limited to 800,000 square feet of plant canopy, unless the state licensing authority determines that a greater amount may be needed to ensure an adequate supply to meet demand for various strains of marijuana throughout the State. An applicant must designate on the applicant's operating plan the size category of the licensed premises and the amount of actual square footage in the applicant's licensed premises that will be designated as plant canopy.

The state licensing authority shall license 2 types of retail marijuana cultivation facilities, those with 3,000 square feet or less of plant canopy and those with more than 3,000 square feet of plant canopy. The state licensing authority shall license marijuana cultivation at retail marijuana cultivation facilities by unit blocks of 10 feet by 10 feet, or 100 square feet, of plant canopy, with 40% of all licenses issued going to licensees of 30 unit blocks or less. The maximum amount of unit blocks allowed to a single licensee is 300.

An applicant who applies for a retail marijuana cultivation facility license for a facility with more than 3,000 square feet of plant canopy but is not licensed by the state licensing authority may be considered for a license for a facility with 3,000 square feet or less of plant canopy.

No more than 6 retail marijuana cultivation facilities or more than 300 unit blocks of plant canopy may be located on the same parcel of property.

The state licensing authority may reduce the number of unit blocks a retail marijuana cultivation facility is authorized to cultivate if 50% or fewer of the unit blocks a facility is authorized to cultivate are not used by the end of the first year of operation.

7. Restrictions on applications for licenses. The state licensing authority may not approve an application for the issuance of a license pursuant to this chapter:

A. If the application for the license concerns a location that is the same as or within 1,000 feet of a location for which, within the 2 years immediately preceding the date of the application, the state licensing authority denied an application for the same class of license due to the nature of the use or other concern related to the location; or

B. Until it is established that the applicant is in or will be entitled to possession of the licensed premises for which application is made under a lease, rental agreement or other arrangement for possession of the premises or by virtue of ownership of the premises.

§2448. Classes of licenses; license provisions

1. State licensing authority may issue license. For the purpose of regulating the cultivation, manufacture, distribution, sale and testing of retail marijuana and retail marijuana products, the state licensing authority, in its discretion, upon receipt of an application in the prescribed form, may issue and grant to the applicant a license from one or more of the following classes, subject to the provisions and restrictions provided by this chapter:

A. Retail marijuana store license;

B. Retail marijuana cultivation facility license;

C. Retail marijuana products manufacturing facility license;

D. Retail marijuana testing facility license;

E. Retail marijuana social club license; and

F. Occupational licenses and registrations for owners, managers, operators, employees, contractors and other support staff employed at, working in or having access to restricted access areas of the licensed premises, as determined by the state licensing authority.

2. Licensee to collect tax. A retail marijuana store licensee or retail marijuana social club licensee shall collect sales tax on all retail sales made at a retail marijuana store or retail marijuana social club, respectively.

3. Retail marijuana store license. The following provisions govern a retail marijuana store.

A. A licensed retail marijuana store may sell only retail marijuana, retail marijuana products, marijuana accessories, nonconsumable products such as apparel and marijuana-related products such as child-resistant containers, but is prohibited from selling or giving away any consumable product, including but not limited to cigarettes, alcohol and edible products that do not contain marijuana, including but not limited to sodas, candies and baked goods. Automatic dispensing machines that contain retail marijuana and retail marijuana products are prohibited.

B. A retail marijuana store licensee shall track all of its retail marijuana and retail marijuana products from the point at which they are transferred from a retail marijuana cultivation facility or retail marijuana products manufacturing facility to the point of sale.

All retail marijuana and retail marijuana products sold at a licensed retail marijuana store must be packaged and labeled as required by rules of the state licensing authority and pursuant to section 2446, subsection 1. Notwithstanding the provisions of this section, a retail marijuana store licensee may also sell retail marijuana products that are prepackaged and labeled as required by rules of the state licensing authority and pursuant to section 2446, subsection 1.

C. A person must be 21 years of age or older to make a purchase in a retail marijuana store.

(1) Prior to initiating a sale, the employee of the retail marijuana store making the sale shall verify that the purchaser has a valid government-issued identification card, or other acceptable identification, showing that the purchaser is 21 years of age or older. If a person under 21 years of age presents a fraudulent proof of age, any action relying on the fraudulent proof of age may not be grounds for the revocation or suspension of any license issued under this chapter.

(2) The state licensing authority shall adopt rules, which are routine technical rules as described in Title 5, chapter 375, subchapter 2-A, to prohibit certain signs, marketing and advertising, including but not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching persons under 21 years of age.

These rules may include:

(a) A prohibition on health or physical benefit claims in advertising, merchandising and packaging;

(b) A prohibition on unsolicited advertising on the Internet;

(c) A prohibition on opt-in marketing that does not permit an easy and permanent opt-out feature; and

(d) A prohibition on marketing directed toward location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature.

(3) A magazine whose primary focus is marijuana or marijuana businesses may be sold only in a retail marijuana store or behind the counter in an establishment where persons under 21 years of age are present.

(4) A retail marijuana product may not contain an additive designed to make the product more appealing to children.

(5) Notwithstanding any other provision of state law, sales of retail marijuana and retail marijuana products are not exempt from state sales tax.

(6) Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a retail marijuana establishment or retail marijuana social club. A law enforcement agency may run a Maine criminal history record check of a licensee, or employee of a licensee, during an investigation of unlawful activity related to retail marijuana and retail marijuana products.

D. Retail marijuana and retail marijuana products may be transported between a licensed retail marijuana store and retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana social clubs and retail marijuana testing facilities.

4. Retail marijuana cultivation facility license. The state licensing authority shall create a statewide licensure class system for retail marijuana cultivation facilities.

A. The following provisions govern retail marijuana cultivation facilities.

(1) A retail marijuana cultivation facility licensee is permitted to cultivate retail marijuana for sale and distribution only to licensed retail marijuana stores, retail marijuana products manufacturing facilities, other retail marijuana cultivation facilities or retail marijuana social clubs.

(2) A retail marijuana cultivation facility may have a retail marijuana store if it is located on the same licensed premises as the retail marijuana cultivation facility. If the retail marijuana cultivation facility chooses the option to have a retail marijuana store it must meet all requirements set by the state licensing authority and municipality in which it is located. A retail marijuana store located on the licensed premises of a retail marijuana cultivation facility does not count against any municipal limits on the number of retail marijuana stores.

(3) A retail marijuana cultivation facility shall track the marijuana it cultivates from seed or immature plant to wholesale purchase. The state licensing authority may not make rules

that are unreasonably impracticable concerning the tracking of marijuana from seed or immature plant to wholesale purchase.

(4) A retail marijuana cultivation facility may provide, except as required by subsection 6, a sample of its products to a retail marijuana testing facility for testing and research purposes. A retail marijuana cultivation facility shall maintain a record of what was provided to the retail marijuana testing facility, the identity of the retail marijuana testing facility and the testing results.

B. Retail marijuana may be transported between a licensed retail marijuana cultivation facility and retail marijuana stores, other retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana social clubs and retail marijuana testing facilities.

5. Retail marijuana products manufacturing facility license. The following provisions govern retail marijuana products manufacturing facilities and the preparation of retail marijuana products.

A. The following provisions govern retail marijuana products manufacturing facilities.

(1) A retail marijuana products manufacturing facility licensee is permitted to manufacture retail marijuana products pursuant to the terms and conditions of this chapter.

(2) A retail marijuana products manufacturing facility may cultivate its own retail marijuana if it obtains a retail marijuana cultivation facility license, or it may purchase retail marijuana from a licensed retail marijuana cultivation facility. A retail marijuana products manufacturing facility licensee shall track all of its retail marijuana from the point it is either transferred from its retail marijuana cultivation facility or the point when it is delivered to the retail marijuana products manufacturing facility from a licensed retail marijuana cultivation facility to the point of transfer to a licensed retail marijuana store, retail marijuana social club or retail marijuana testing facility.

B. A retail marijuana products manufacturing facility licensee may not:

(1) Add any marijuana to a food product if the manufacturer of the food product holds a trademark to the food product's name, except that a retail marijuana products manufacturing facility licensee may use a trademarked food product if the licensee uses the product as a component or as part of a recipe and if the licensee does not state or advertise to the consumer that the final retail marijuana product contains a trademarked food product;

(2) Intentionally or knowingly label or package a retail marijuana product in a manner that would cause a reasonable consumer confusion as to whether the retail marijuana product was a trademarked food product;

(3) Label or package a product in a manner that violates any federal trademark law or regulation; or

(4) Include harmful additives in any retail marijuana product, including, but not limited to, those that are toxic, designed to make the product more addictive and designed to make the product more appealing to children or misleading to consumers, but not including common baking and cooking items.

C. The following provisions govern the preparation of retail marijuana products.

(1) Retail marijuana products must be prepared on licensed premises that are used exclusively for the manufacture and preparation of retail marijuana or retail marijuana products and prepared using equipment that is used exclusively for the manufacture and preparation of retail marijuana and retail marijuana products.

(2) All licensed premises in which retail marijuana products are manufactured must meet the sanitary standards for retail marijuana product preparation adopted pursuant to section 2446, subsection 2 and must be licensed as commercial kitchens by the Department of Health and Human Services.

(3) Retail marijuana products must be packaged, sealed and conspicuously labeled in compliance with this chapter and any rules adopted pursuant to this chapter.

(4) A retail marijuana products manufacturing facility licensee may provide a sample of the licensee's products to a licensed retail marijuana testing facility pursuant to subsection 6 for testing and research purposes. A retail marijuana products manufacturing facility licensee shall maintain a record of what was provided to the retail marijuana testing facility, the identity of the testing facility and the results of the testing.

(5) A retail marijuana products manufacturing facility licensee may list ingredients and compatibility with dietary practices on an edible retail marijuana product.

(6) All retail marijuana products that require refrigeration to prevent spoilage must be stored and transported in a refrigerated environment.

D. Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a retail marijuana establishment. A law enforcement agency may run a Maine criminal history record check of a licensee, or employee of a licensee, during an investigation of unlawful activity related to retail marijuana and retail marijuana products.

E. Retail marijuana products may be transported between a licensed retail marijuana products manufacturing facility and retail marijuana stores, other retail marijuana products manufacturing facilities, retail marijuana social clubs and retail marijuana testing facilities.

6. Retail marijuana testing facility license. A retail marijuana testing facility license may be issued to a person who performs testing and research on retail marijuana. The facility may develop and test retail marijuana products.

The state licensing authority shall adopt rules pursuant to its authority in section 2445 related to acceptable testing and research practices, including but not limited to testing, standards, quality control analysis, equipment certification and calibration, chemical identification and other practices used in bona fide research methods.

A. A person that has an interest in a retail marijuana testing facility license from the state licensing authority for testing purposes may not have any interest in a registered dispensary, a registered caregiver, a licensed retail marijuana store, a licensed retail marijuana social club, a licensed retail marijuana cultivation facility or a licensed retail marijuana products manufacturing facility. A person that has an interest in a registered dispensary, a registered caregiver, a licensed retail marijuana store, a licensed retail marijuana social club, a licensed retail marijuana cultivation facility or a licensed retail marijuana products manufacturing facility may not have an interest in a facility that has a retail marijuana testing facility license. For purposes of this paragraph, "interest" includes an ownership interest or partial ownership interest or any other type of financial interest, such as being an investor or serving in a management position.

B. Retail marijuana and retail marijuana products may be transported between the licensed retail marijuana testing facility and retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs.

7. Retail marijuana social club license. The following provisions govern retail marijuana social clubs.

A. A licensed retail marijuana social club may sell only retail marijuana, retail marijuana products, marijuana accessories, nonconsumable products such as apparel, marijuana-related products and edible products that do not contain marijuana, including but not limited to sodas, candies and baked goods, but may not sell or give away cigarettes or alcohol. All retail marijuana and retail marijuana products purchased at a licensed retail marijuana social club must be consumed or disposed of on and may not be taken off the licensed premises.

B. A retail marijuana social club shall track all of its retail marijuana and retail marijuana products from the point at which they are transferred from a retail marijuana cultivation facility, retail marijuana store or retail marijuana products manufacturing facility to the point of sale.

C. The following provisions govern procedures for preventing sales to persons under 21 years of age.

(1) Prior to allowing a person onto the retail marijuana social club's licensed premises, an employee of the retail marijuana social club shall verify that the person has a valid government-issued identification card, or other acceptable identification, showing that the person is 21 years of age or older. If a person under 21 years of age presents a fraudulent proof of age, any action relying on the fraudulent proof of age may not be grounds for the revocation or suspension of any license issued under this chapter.

(2) The state licensing authority shall adopt rules, which are routine technical rules as described in Title 5, chapter 375, subchapter 2-A, to prohibit certain signs, marketing and advertising, including but not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching persons under 21 years of age.

These rules may include:

(a) A prohibition on health or physical benefit claims in advertising, merchandising and packaging;

(b) A prohibition on unsolicited advertising on the Internet;

(c) A prohibition on opt-in marketing that does not permit an easy and permanent opt-out feature; and

(d) A prohibition on marketing directed toward location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature.

(3) Notwithstanding any other provision of state law, sales of retail marijuana and retail marijuana products are not exempt from state sales tax.

(4) Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a retail marijuana establishment. A law enforcement agency may run a Maine criminal history record check of a licensee, or employee of a licensee, during an investigation of unlawful activity related to retail marijuana and retail marijuana products.

D. Retail marijuana and retail marijuana products may be transported between a licensed retail marijuana social club and other retail marijuana social clubs or retail marijuana testing facilities.

8. Inspection of books and records. Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which must be open at all times during business hours for the inspection and examination by the state licensing authority or its duly authorized representatives. The state licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter and may require an audit to be made of the books of account and records on such occasions as it may consider necessary by an auditor to be selected by the state licensing authority. The auditor must have access to all books and records of the licensee, and the cost of the audit must be paid by the licensee.

The licensed premises, including any places of storage, where retail marijuana or retail marijuana products are stored, cultivated, sold, dispensed or tested are subject to inspection by the State or the municipality in which the licensed premises are located and by the investigators of the State or municipality during all business hours and other times of apparent activity for the purpose of inspection or investigation. Access must be granted during business hours for examination of any inventory or books and records required to be kept by a licensee. When any part of the licensed premises consists of a locked area, upon demand to the licensee this area must be made available for inspection, and, upon request by authorized representatives of the State or municipality, the licensee shall open the area for inspection.

Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period comprising the current tax year and the 2 immediately preceding tax years.

9. Product pricing. Nothing in this chapter may be construed as granting to the state licensing authority the power to fix prices for retail marijuana or retail marijuana products.

10. License fees. The state licensing authority shall determine the revenue needed to set up the licensing and enforcement operations of the department and set the fees applicable to the categories as outlined in subsection 1 within the ranges specified in the following schedule:

A. Retail marijuana store license, \$250 to \$2,500, with a \$10 to \$250 nonrefundable application fee;

B. Retail marijuana cultivation facility license, \$10 to \$100 per unit block, with a \$10 to \$250 nonrefundable application fee;

C. Retail marijuana products manufacturing facility license, \$100 to \$1,000, with a \$10 to \$250 nonrefundable application fee;

D. Retail marijuana testing facility license, \$500, with a \$10 to \$250 nonrefundable application fee;

E. Retail marijuana social club license, \$250 to \$2,500, with a \$10 to \$250 nonrefundable application fee; and

F. Occupational licenses and registrations for owners, managers, operators, employees, contractors and other support staff employed at, working in or having access to restricted access areas of the licensed premises, as determined by the state licensing authority.

11. License terms. All licenses under this chapter are effective for one year from the date of issuance.

12. License renewal. The following provisions govern license renewals.

A. Ninety days prior to the expiration date of an existing license, the state licensing authority shall notify the licensee of the expiration date by first class mail at the licensee's address of record with the state licensing authority. A licensee may apply for the renewal of an existing license to the state licensing authority not less than 30 days prior to the date of expiration. Upon receipt of an application for renewal of an existing license and any applicable fees, the state licensing authority shall, within 7 days, submit a copy of the application to the appropriate municipality to determine whether the application complies with all local restrictions on renewal of licenses.

B. The state licensing authority may not accept an application for renewal of a license after the date of expiration, except that the state licensing authority may extend the expiration date of the license and accept a late application for renewal of a license as long as the applicant has filed a timely renewal application with the municipality. The state licensing authority or the municipality, in its discretion, subject to the requirements of section 2447 and based upon reasonable grounds, may waive the 30-day time requirements set forth in this subsection.

C. Notwithstanding the provisions of paragraph A, a licensee whose license has been expired for not more than 90 days may file a late renewal application upon the payment of a nonrefundable late application fee of \$250 to the state licensing authority. A licensee who files a late renewal application and pays the requisite fees may continue to operate until the state licensing authority takes final action to approve or deny the licensee's late renewal application unless the state licensing authority summarily suspends the license pursuant to subsection 16, this chapter and rules adopted pursuant to this chapter.

D. The state licensing authority may administratively extend the expiration date of a license and accept a later application for renewal of a license at the discretion of the state licensing authority.

E. The state licensing authority may, for good cause, elect to not renew a license.

13. Inactive licenses. The state licensing authority, in its discretion, may revoke or elect not to renew any license if it determines that the licensed premises have been inactive, without good cause, for at least one year.

14. Unlawful financial assistance. The state licensing authority shall require a complete disclosure of all persons having a direct or indirect financial interest, and the extent of such

interest, in each license issued under this chapter. This subsection is intended to prohibit and prevent the control of a retail marijuana store, retail marijuana cultivation facility, retail marijuana products manufacturing facility or retail marijuana social club by a person or party other than the persons licensed pursuant to the provisions of this chapter.

15. Denial of license. The state licensing authority may, for good cause, deny approval of a license application. Upon denial of a license application, the state licensing authority shall inform the applicant of the basis for denial and the right to appeal the denial in a hearing.

16. Disciplinary actions. In addition to any other sanctions prescribed by this chapter, or rules adopted pursuant to this chapter, the state licensing authority has the power, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the licensee must be afforded an opportunity to be heard, to fine a licensee or to suspend or revoke a license issued by the state licensing authority for a violation by the licensee, or by any of the agents or employees of the licensee, of the provisions of this chapter or any of the rules adopted pursuant to this chapter or of any of the terms, conditions or provisions of the license issued by the state licensing authority. The state licensing authority has the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records necessary for a hearing that the state licensing authority is authorized to conduct.

The state licensing authority shall provide notice of suspension, revocation, fine or other sanction, as well as the required notice of the hearing required by this subsection, by mailing the same in writing to the licensee at the address contained in the license and, if different, at the last address furnished to the state licensing authority by the licensee. Except in the case of a summary suspension, a suspension may not be for a period longer than 6 months. If a license is suspended or revoked, a part of the fees paid must be retained by the state licensing authority.

Whenever a decision of the state licensing authority suspending a license for 14 days or less becomes final, the licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having the license suspended for all or part of the suspension period. Upon the receipt of the petition, the state licensing authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made that it considers desirable and may, in its sole discretion, grant the petition if the state licensing authority is satisfied that:

A. The public welfare would not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes; and

B. The books and records of the licensee are kept in such a manner that the loss of sales that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy.

The fine imposed may not be less than \$500 nor more than \$10,000. Payment of a fine pursuant to the provisions of this subsection must be in the form of cash or in the form of a certified check or cashier's check made payable to the state licensing authority.

Upon payment of the fine pursuant to this subsection, the state licensing authority shall enter its order permanently staying the imposition of the suspension. Fines paid to the state licensing authority pursuant to this subsection must be transmitted to the Treasurer of State.

In connection with a petition pursuant to this subsection, the authority of the state licensing authority is limited to the granting of such stays as are necessary for the state licensing authority to complete its investigation and make its findings and, if the state licensing authority makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.

If the state licensing authority does not make the findings required in this subsection and does not order the suspension permanently stayed, the suspension goes into effect on the operative date finally set by the state licensing authority.

No later than January 15th of each year, the state licensing authority shall compile a report of the preceding year's actions in which fines, suspensions or revocations were imposed by the state licensing authority. The state licensing authority shall include this information in its annual report to the Legislature.

17. Disposition of unauthorized retail marijuana or retail marijuana products and related materials. The following provisions apply to the disposition of unauthorized retail marijuana or retail marijuana products and related materials.

A. The provisions of this subsection apply in addition to any criminal, civil or administrative penalties and in addition to any other penalties prescribed by this chapter or any rules adopted pursuant to this chapter. Every licensee is deemed, by virtue of applying for, holding or renewing that licensee's license, to have expressly consented to the procedures set forth in this subsection.

B. If the state licensing authority issues a final agency order imposing a disciplinary action against a licensee pursuant to subsection 16, then, in addition to any other remedies, the state licensing authority's final agency order may specify that some or all of the licensee's marijuana or marijuana products is not retail marijuana or a retail marijuana product and is an illegal controlled substance. The order may further specify that the licensee loses any ownership interest in any of the marijuana or marijuana products even if the marijuana or marijuana products previously qualified as retail marijuana or a retail marijuana product. The final agency order may direct the destruction of any such marijuana and marijuana products. The authorized destruction may include the incidental destruction of any containers, equipment, supplies and other property associated with the marijuana or marijuana products.

C. A district attorney, or an assistant attorney general, shall notify the state licensing authority if an investigation of a retail marijuana establishment or retail marijuana social club is commenced. If the state licensing authority has received notification from a district attorney, or an assistant attorney general, that an investigation is being conducted, the state licensing authority may not destroy any marijuana or marijuana products from the retail marijuana establishment or retail marijuana social club until the destruction is approved by the district attorney or assistant attorney general.

D. A state or local agency may not be required to cultivate or care for any retail marijuana or retail marijuana products belonging to or seized from a licensee. A state or local agency is not authorized to sell marijuana, retail or otherwise.

18. Judicial review. Final agency actions by the state licensing authority are subject to judicial review pursuant to Title 5, section 11001, et seq.

§2449. Local licensing

1. Municipality may regulate retail marijuana establishments and retail marijuana social clubs. A municipality may regulate the location and operation of retail marijuana establishments and retail marijuana social clubs pursuant to Title 30-A, chapter 187, subchapter 3. A municipality may adopt and enforce regulations for retail marijuana establishments and retail marijuana social clubs that are at least as restrictive as the provisions of this chapter and any rule adopted pursuant to this chapter. Nothing in this chapter prohibits the registered voters of a municipality from calling for a vote on any regulations adopted by a municipal legislative body.

2. Municipal approval required. A retail marijuana establishment or retail marijuana social club may not operate until it is licensed by the state licensing authority pursuant to this chapter and approved by the municipality in which it is located. If an application is denied by the municipality, the licensee has 90 days to locate and obtain legal interest in another property in a municipality that approves of the retail marijuana establishment or retail marijuana social club before the license is revoked.

3. Notice and portion of fee must be given to municipality. When the state licensing authority receives an application for original licensing, or renewal of an existing license, for any retail marijuana establishment or retail marijuana social club, the state licensing authority shall, within 7 business days, provide a copy of the application and 50% of the licensing fee to the municipality in which the establishment or club is to be located. The municipality shall determine whether the application complies with the local land use ordinance and any other restrictions on time, place, manner and the number of marijuana businesses within the municipality. The municipality shall inform the state licensing authority whether the application complies with the local land use ordinance and other local restrictions.

4. Municipality may impose licensing requirement. A municipality may impose a separate local licensing requirement as a part of its restrictions on time, place, manner and the number of marijuana businesses. A municipality may decline to impose any local licensing requirements, but a municipality shall notify the state licensing authority that it either approves or denies each application forwarded to it within 14 business days.

5. Public hearing notice. The following provisions govern local public hearings and notice.

A. If a municipality issues local licenses for a retail marijuana establishment or retail marijuana social club, a public hearing on the application may be scheduled. If the municipality schedules such a hearing, it shall post and publish public notice of the hearing not less than 10 days prior to the hearing. The municipality shall give public notice by posting a sign in a conspicuous place on the premises identified in a local license application and by publication in a newspaper of general circulation in the county in which the premises are located.

B. If a municipality does not issue local licenses, the municipality may give public notice of the state application by posting a sign in a conspicuous place on the premises identified in the application and by publication in a newspaper of general circulation in the county in which the premises are located.

§2450. Transfer of ownership

A license granted under the provisions of this chapter is not transferable except as provided in this section, but this section does not prevent a change of location as provided in section 2451, subsection 7.

For a transfer of ownership, a licensee shall apply to the state licensing authority on forms prepared and furnished by the state licensing authority. Upon receipt of an application for transfer of ownership, the state licensing authority shall, within 7 days, submit a copy of the application to the appropriate municipality to determine whether the transfer complies with any local restriction on transfer of ownership. In determining whether to permit a transfer of ownership, the state licensing authority shall consider only the requirements of this chapter, any rules adopted by the state licensing authority and any other local restrictions. The municipality may hold a hearing on the application for transfer of ownership. The municipality may not hold a hearing pursuant to this section until the municipality has posted a notice of hearing in the manner described in section 2449, subsection 5 on the licensed premises for a period of 10 days and has provided notice of the hearing to the applicant at least 10 days prior to the hearing. Any transfer of ownership hearing by the state licensing authority must be held in compliance with the requirements specified for a municipality in this section.

§2451. Licensing in general

The following provisions govern licensing in general.

1. Notice of new owner, officer, manager or employee. A retail marijuana establishment or retail marijuana social club shall notify the state licensing authority in writing of the name, address and date of birth of an owner, officer, manager or employee before the new owner, officer, manager or employee begins managing, owning or associating with the establishment or club. The owner, officer, manager or employee must pass a fingerprint-based criminal history record check as required by the state licensing authority and obtain the required identification card prior to being associated with, managing, owning or working at the establishment or club.

2. Each license separate. Each license issued under this chapter is separate and distinct. A person may not exercise any of the privileges granted under a license other than the license that the person holds and a licensee may not allow any other person to exercise the privileges granted under the licensee's license. A separate license is required for each specific business or business entity and each geographical location.

3. Licensee to maintain possession of premises. At all times, a licensee shall possess and maintain possession of the licensed premises identified in the license by ownership, lease, rental or other arrangement for possession of the premises.

4. License specifics; display. A license issued pursuant to this chapter must specify the date of issuance, the period of licensure, the name of the licensee and the premises licensed. A licensee shall conspicuously place the license at all times on the licensed premises.

5. Computation of time. In computing any time prescribed by this chapter, the day of the act, event or default from which the designated time begins to run is not included. Saturdays, Sundays and legal holidays are counted as any other day except that any documents due to be submitted to state or local government on a date that falls on a Saturday, Sunday or legal holiday are due on the next business day.

6. Licensee to report transfer of interest. A licensee shall report each transfer or change of financial interest in the license to the state licensing authority and appropriate municipality and receive approval prior to any transfer or change pursuant to section 2450.

7. Relocation of licensed premises. A licensee may move the permanent location of licensed premises to any other place in this State once permission to do so is granted by the state licensing authority and municipality where the retail marijuana establishment or retail marijuana social club proposes to relocate. Upon receipt of an application for change of location, the state licensing authority shall, within 7 days, submit a copy of the application to the municipality to determine whether the transfer complies with all local restrictions on change of location. In permitting a change of location, the municipality where the retail marijuana establishment or retail marijuana social club proposes to relocate shall consider all reasonable restrictions that are or may be placed upon the new location by the governing board of the municipality. Any such change in location must be in accordance with all requirements of this chapter and rules adopted pursuant to this chapter.

§2452. Personal use of marijuana

1. Person 21 years of age or older. A person 21 years of age or older may:

A. Use, possess or transport marijuana accessories and up to 2 1/2 ounces of prepared marijuana;

B. Transfer or furnish, without remuneration, up to 2 1/2 ounces of marijuana and up to 6 immature plants or seedlings to a person who is 21 years of age or older;

C. Possess, grow, cultivate, process or transport up to 6 flowering marijuana plants, 12 immature plants and unlimited seedlings, and possess all the marijuana produced by the plants at the adult's residence;

D. Purchase up to 2 1/2 ounces of retail marijuana and marijuana accessories from a retail marijuana store; and

E. Purchase up to 12 seedlings or immature plants from a retail marijuana cultivation facility.

2. Home cultivation. The following provisions apply to the home cultivation of marijuana for personal use by a person who is 21 years of age or older.

A. A person may cultivate up to 6 flowering marijuana plants at that person's place of residence, on property owned by that person or on another person's property with written permission of the owner of the property.

B. A person who elects to cultivate marijuana shall ensure the marijuana is not visible from a public way without the use of binoculars, aircraft or other optical aids and shall take reasonable precautions to prevent unauthorized access by a person under 21 years of age.

3. Legible tag on each marijuana plant. A person 21 years of age or older must have a legible tag on each marijuana plant. The tag must include at least the person's name and Maine driver's license number or Maine identification number.

4. Exemptions. The following exemptions apply.

A. Marijuana cultivation for medical use is not considered cultivation for personal use under this chapter and is governed by Title 22, section 2423-A.

B. This section does not apply to cultivation by a registered dispensary licensed pursuant to Title 22, section 2428.

5. Use. A person may consume marijuana in a nonpublic place including a private residence.

A. The prohibitions and limitations on smoking tobacco products in specified areas in Title 22, chapters 262 and 263 apply to smoking marijuana.

B. A person who smokes marijuana in a public place other than as governed by Title 22, chapters 262 and 263 commits a civil violation for which a fine of not more than \$100 may be adjudged.

C. This subsection may not be construed to shield any adult from federal prosecution.

D. This subsection may not be construed to allow any adult to possess or consume marijuana on federal property.

§2453. Unlawful acts and exceptions

1. Consumption; transfer. Except as otherwise provided in this chapter, a person may not:

A. Consume retail marijuana or retail marijuana products in a retail marijuana establishment. A retail marijuana establishment may not allow retail marijuana or retail marijuana products to be consumed upon its licensed premises; or

B. Buy, sell, transfer, give away or acquire retail marijuana or retail marijuana products.

2. Limited access area; transfer of ownership. Except as otherwise provided in this chapter, a person licensed pursuant to this chapter may not:

A. Be within a limited access area unless the person's identification card is displayed as required by this chapter;

B. Fail to designate areas of ingress and egress for limited access areas and post signs in conspicuous locations as required by this chapter; or

C. Fail to report a transfer as required by section 2450.

3. Person licensed to sell retail marijuana or retail marijuana products. A person licensed to sell retail marijuana or retail marijuana products pursuant to this chapter may not:

A. Display any signs that are inconsistent with local laws or regulations;

B. Use advertising material that is misleading, deceptive or false, or that is designed to appeal to a person under 21 years of age;

C. Have in that person's possession or upon the licensed premises any marijuana the sale of which is not permitted by the license;

D. Sell retail marijuana or retail marijuana products to a person under 21 years of age without checking the person's identification;

E. Except for a retail marijuana social club licensee, have on the licensed premises any retail marijuana, retail marijuana products or marijuana paraphernalia that shows evidence of the retail marijuana having been consumed or partially consumed; or

F. Violate the provisions of section 2450 or abandon the licensed premises or otherwise cease operation without notifying the state licensing authority and appropriate municipality at least 48 hours in advance and without accounting for and forfeiting to the state licensing authority for destruction all marijuana and products containing marijuana.

§2454. Construction

1. Relation to the Maine Medical Use of Marijuana Act. This chapter may not be construed to limit any privileges or rights of a qualifying patient, primary caregiver, registered or otherwise, or registered dispensary under the Maine Medical Use of Marijuana Act.

2. Employment policies. This chapter may not be construed to require an employer to permit or accommodate the use, consumption, possession, trade, display, transportation, sale or growing of cannabis in the workplace. This chapter does not affect the ability of employers to enact and enforce workplace policies restricting the use of marijuana by employees or to discipline employees who are under the influence of marijuana in the workplace.

3. School, employer or landlord may not discriminate. A school, employer or landlord may not refuse to enroll or employ or lease to or otherwise penalize a person 21 years of age or older solely for that person's consuming marijuana outside of the school's, employer's or landlord's property.

4. Person may not be denied parental rights and responsibilities or contact with a minor child. A person may not be denied parental rights and responsibilities with respect to or contact with a minor child as a result of acting in accordance with this chapter, unless the person's conduct is contrary to the best interest of the minor child as set out in Title 19-A, section 1653, subsection 3.

Sec. 2. 22 MRSA §2383, sub-§1, as repealed and replaced by PL 2009, c. 652, Pt. B, §6, is repealed.

Sec. 3. 36 MRSA §1817 is enacted to read:

§1817. Taxes on retail marijuana and retail marijuana products

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Retail marijuana" has the same meaning as in Title 7, section 2442, subsection 34.

B. "Retail marijuana product" has the same meaning as in Title 7, section 2442, subsection 37.

C. "Retail marijuana social club" has the same meaning as in Title 7, section 2442, subsection 39.

D. "Retail marijuana store" has the same meaning as in Title 7, section 2442, subsection 40.

E. "State licensing authority" has the same meaning as in Title 7, section 2442, subsection 44.

2. Sales tax on retail marijuana and retail marijuana products. The sales tax on retail marijuana and retail marijuana products is 10% and is the only tax charged on the sale of retail marijuana and retail marijuana products at the point of final sale at a retail marijuana store or retail marijuana social club.

3. Returns; payment of tax; penalty. A retail marijuana store or retail marijuana social club shall file, on or before the last day of each month, a return on a form prescribed and furnished by the state licensing authority together with payment of the sales tax due under this section. The return must report all sales of retail marijuana and retail marijuana products within the State during the preceding calendar month. A retail marijuana store or retail marijuana social club shall keep a complete and accurate record at its principal place of business to substantiate all receipts and sales of retail marijuana and retail marijuana products.

4. Failure to make payments. The state licensing authority shall adopt rules to address the case in which a retail marijuana store or retail marijuana social club fails to make tax payments as required by this section, including fines and other penalties up to permanently revoking the retail marijuana store's or retail marijuana social club's license. Rules adopted pursuant to this subsection are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

5. Exemption. The tax on marijuana imposed pursuant to this section may not be levied on marijuana sold by a registered nonprofit dispensary or registered caregiver to a qualifying patient or primary caregiver pursuant to Title 22, chapter 558-C.

6. Records. The following records must be kept by a licensee and those records must be available for inspection by an agent of the state licensing authority:

A. The reports and transmittal of monthly sales tax payments by retail marijuana stores and retail marijuana social clubs; and

B. Authorization for the Bureau of Revenue Services to have access to licensing information to ensure sales, excise and income tax payment.

7. Application of tax revenues. All sales tax revenue collected pursuant to this section must be deposited in the General Fund. Sales tax revenue derived from the sale of retail marijuana and retail marijuana products may not be used to directly fund any new state programs except that this

revenue may be appropriated to the Maine Criminal Justice Academy for the purpose of training law enforcement personnel on retail marijuana and retail marijuana products laws and rules. Funds appropriated to the Maine Criminal Justice Academy pursuant to this subsection may be used only for the actual costs incurred to provide the necessary education and training of law enforcement personnel.

SUMMARY

This initiated bill allows the possession and use of marijuana by a person 21 years of age or older. It provides for the licensure of retail marijuana facilities including retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana testing facilities and retail marijuana stores. It also provides for the licensure of retail marijuana social clubs where retail marijuana products may be sold to consumers for consumption on the licensed premises. It provides for regulation and control of the cultivation, manufacture, distribution and sale of marijuana by the Department of Agriculture, Conservation and Forestry. It allows the department to establish limitations on retail marijuana cultivation. It allows a municipality to regulate the number of retail marijuana stores and the location and operation of retail marijuana establishments and to prohibit the operation of retail marijuana establishments in the municipality. It also allows a municipality to require separate local licensing of retail marijuana establishments.

The initiated bill allows a person 21 years of age or older to use, possess or transport marijuana accessories and up to 2 1/2 ounces of prepared marijuana; transfer or furnish, without remuneration, up to 2 1/2 ounces of marijuana and up to 6 immature plants or seedlings to a person who is 21 years of age or older; possess, grow, cultivate, process or transport up to 6 flowering marijuana plants, 12 immature marijuana plants and unlimited seedlings, and possess all the marijuana produced by the marijuana plants at that person's residence; purchase up to 2 1/2 ounces of marijuana and marijuana accessories from a retail marijuana store; and purchase up to 12 marijuana seedlings or immature marijuana plants from a retail marijuana cultivator. It allows the home cultivation of marijuana for personal use of up to 6 flowering marijuana plants by a person 21 years of age or older.

The initiated bill allows a person to consume marijuana in a nonpublic place including a private residence. It provides that the prohibitions and limitations on smoking tobacco products in specified areas as provided by law apply to smoking marijuana and that a person who smokes marijuana in a public place other than as governed by law commits a civil violation for which a fine of not more than \$100 may be adjudged.

The initiated bill places a sales tax of 10% on retail marijuana and retail marijuana products.

Intent and Content
Prepared by the Office of the Attorney General

This citizen-initiated legislation would repeal the existing state law that makes it a civil violation to possess up to 2 ½ ounces of marijuana (broadly defined to include all parts of the Cannabis plant, as well as any resin, compounds, or derivatives), other than for medical use by a qualifying patient. It would make it permissible under state law for a person 21 years of age or older to possess, grow, cultivate, process, transfer or purchase up to certain specified amounts of marijuana. (These activities would still be prohibited by federal law.) The initiative would establish a system of state regulation and licensing of the cultivation, manufacture, distribution, testing and retail sale of marijuana and marijuana products, and would authorize municipal regulation as described below. It would impose a 10% sales tax on sales by retail marijuana stores and social clubs, with revenues to be deposited in the General Fund.

Personal use of marijuana: The initiative would allow any person 21 years of age or older to:

- use, possess, or transport up to 2½ ounces of prepared marijuana;
- transfer or furnish to another person who is 21 years of age or older, without payment of any kind, up to 2½ ounces of marijuana and up to 6 immature marijuana plants or seedlings;
- possess, grow, cultivate, process or transport up to 6 flowering marijuana plants, 12 immature plants and an unlimited number of seedlings, and possess all the marijuana produced by these plants at the person's residence;
- purchase up to 2½ ounces of retail marijuana from a retail marijuana store;
- purchase up to 12 seedlings or immature plants from a retail marijuana cultivation facility;
- cultivate up to 6 flowering plants at the person's residence, or on property the person owns or has written permission to use for this purpose; and
- consume marijuana in a nonpublic place, including a private residence.

The term "nonpublic place" is not defined in the bill. The initiated bill does not repeal state criminal laws relating to marijuana but provides that personal use and other activities specifically authorized in the bill are nevertheless legal. Cultivation of marijuana for medical use would continue to be regulated under the existing medical marijuana law. Existing laws that restrict where people may smoke tobacco would also apply to smoking marijuana, though not to ingestion of marijuana and marijuana products by other means.

State licensing and regulation: The Department of Agriculture, Conservation and Forestry (the "Department") would become the state licensing authority and would be required to adopt rules within nine months. A state license would be required for any entity to locate or operate a "retail marijuana establishment" or "retail marijuana social club." A *retail marijuana social club* means a facility that sells retail marijuana to consumers for consumption on the premises. A *retail marijuana establishment* includes the following facilities, all of which are prohibited from allowing consumption of retail marijuana or retail marijuana products on the premises:

- a *retail marijuana store*, which sells retail marijuana and/or retail marijuana products to consumers;
- a *retail marijuana testing facility*, which analyzes and certifies the potency of retail marijuana and retail marijuana products;

- a *retail marijuana cultivation facility*, where retail marijuana is grown, prepared and packaged; and
- a *retail marijuana manufacturing facility*, where retail marijuana products are manufactured, prepared and packaged.

The Department would be required to regulate the labeling and advertising of retail marijuana and retail marijuana products, including a prohibition on mass market advertising campaigns that would “have a high likelihood of reaching persons under 21 years of age.”

Municipal authority: Local approval by the municipality where the applicant proposes to locate the facility would be required before the issuance of any state license. In addition, this initiative would authorize municipalities, within their jurisdictions, to:

- prohibit the operation of retail marijuana establishments and retail marijuana social clubs;
- restrict the number of retail marijuana stores in the municipality;
- regulate the location and operation of retail marijuana establishments and social clubs; and
- adopt and enforce regulations for retail marijuana establishments and social clubs, which are at least as restrictive as the state law and regulations and may include local licensing requirements.

Employment policies: The proposed law specifies that employers would not be required to allow or to accommodate the consumption, use, possession, sale, trade, display or growing of marijuana in the workplace. Employers also could adopt and enforce policies restricting use of marijuana by employees and could discipline employees who were under the influence of marijuana in the workplace.

If approved, this citizen initiated legislation would take effect 30 days after the Governor proclaims the official results of the election.

A “YES” vote is to enact the initiated legislation.

A “NO” vote opposes the initiated legislation.

Fiscal Impact Statement
Prepared by the Office of Fiscal and Program Review

This citizen initiative legalizes recreational marijuana and assesses a sales tax of 10%. Assuming a January 1, 2018 effective date, State sales tax collections would increase by an estimated \$2,800,000 in fiscal year 2017-18 and by an estimated \$10,700,000 in subsequent years. Under current statute 98% of any sales tax collected is credited to the General Fund and 2% is transferred to the Local Government Fund for distribution to cities and towns.

The initiative designates the Department of Agriculture, Conservation and Forestry (ACF) as the state licensing authority for retail marijuana. ACF may collect fees of \$250 to \$2,500 from each retail marijuana store license, \$10 to \$100 per unit block from each retail marijuana cultivation facility license, \$100 to \$1,000 from each retail marijuana products manufacturing facility license, \$500 from each retail marijuana testing facility license, \$250 to \$2,500 from each retail marijuana social club license and other fees determined by ACF for certain other occupational licenses. Half of the revenue from these fees will go to the State and half will go to the municipality in which the establishment or club is located. Although there is no way to predict how many municipalities will allow marijuana establishments within their borders, this fiscal note assumes ACF will set license fees to generate enough revenue to cover ACF costs. ACF will require funding of approximately \$132,633 in fiscal year 2016-17 and \$2,379,534 in fiscal year 2017-18 for 3 permanent positions in fiscal year 2016-17 and an additional 15 permanent positions (18 total) in fiscal year 2017-18, related costs and certain one-time costs to regulate and control the licensing of the cultivation, manufacture, distribution, testing and sale of retail marijuana and retail marijuana products. As these funding requirements will begin prior to receipt of revenues from licensing fees, General Fund appropriations will be required until other fee revenue becomes available.

The Department of the Attorney General, the Judicial Department, the Maine Commission on Indigent Legal Services and the Department of Corrections will experience a decrease in the number of marijuana-related offenses. The amount of savings generated from the reduction in the number of civil and criminal cases is expected to be significant. Some of these savings may be offset by increased legal costs related to the licensing process and the regulation of the legalized marijuana industry.

Public Comments
Public comment in support of Question 1

Comment submitted by:

David Boyer
Campaign to Regulate Marijuana Like Alcohol
23 Pembroke Street
Portland, ME 04103

Voting Yes on Question 1 will create significant economic, public safety, and health benefits for Maine.

Regulating and taxing marijuana will provide tax revenue that can be used for vital services like funding our schools. A recent Tax Foundation study shows we could generate tens of millions of dollars per year from taxes on marijuana. In 2015, Colorado brought in over \$150 million dollars in new tax revenue.

We are wasting valuable law enforcement and court resources on punishing adults for small marijuana crimes. These penalties create criminal records that can negatively affect people for life through loss of student loans and employment. In other states that have approved legalization measures, arrests for simple marijuana offenses are down nearly 90%, saving a huge amount of police and court time and substantial taxpayer money. Regulating marijuana would free up time and money for police to focus on serious, violent, and unsolved crimes.

Our current system is failing; marijuana is widely available in Maine. Question 1 offers a chance for adults who choose to use marijuana — or who need it for medical purposes — to get it in a safe, regulated environment.

Maine's medical marijuana program is not accessible for all adults that could benefit from it. There is only a handful of qualifying conditions, and if you do qualify, you have to pay an expensive doctor's fee every year. Patients and doctors should be able to determine the best treatments and have ready access to marijuana without fear of committing a crime.

If marijuana were legal for private, adult use, we could control and regulate it, rather than allowing criminals to control its distribution and quality.

Please join the majority of Mainers who agree it's time for a new approach. Vote YES on Question 1!

The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment.
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Public Comments
Public comment in opposition to Question 1

Comment submitted by:

Hillary Lister
16 Chapel Street
Augusta, Maine 04330

Comments in Opposition to Question 1 on the November 8, 2016 General Election ballot

Question 1 directs lawmakers to enact a scheme to tax, regulate, and police marijuana similar to Washington and Colorado. Those states have spent millions of taxpayer dollars to implement and enforce the new laws. This proposal doesn't guarantee revenue would cover expanded costs.

The initiative creates a cumbersome government contract process to award limited licenses for industrial marijuana operations, favoring large out-of-state investors. Increased scale of production creates financial incentives for cartel involvement. Implementation would require devoting significant resources to prevent interstate sale, bringing increased federal intervention.

Unconstitutional media restrictions nearly identical to those in Colorado's initiative direct lawmakers to treat marijuana publications like pornography. Colorado created criminal penalties for people who distributed magazines about marijuana if publications weren't behind the counter and inaccessible to people under 21. Following lawsuits, the law was amended in 2016 to remove the penalty. If voters approve Question 1, that unnecessary and unconstitutional restriction would become part of Maine's law.

Question 1 creates marijuana social clubs, leading to concerns about impaired driving. Legislators will be pressured to modify Maine laws to comply with federal priorities on drugged driving by implementing costly and inaccurate blood tests for anyone suspected of operating under the influence of marijuana.

Maine already allows legal and regulated cultivation, processing, sale, and testing of marijuana, generating millions every year in registration fees and tax revenue. The medical marijuana program has been rated best in the country, balancing safe patient access with needed safety protections.

Maine has some of the lowest arrest and incarceration rates in the country for cannabis possession and cultivation, and law enforcement resources are able to be directed to more serious problems.

Our laws can be improved without passing an initiative that would bring new costs and favor big business over the health and well-being of Maine people.

<p>The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment.</p>

Question 2: Citizen's Initiative

Do you want to add a 3% tax on individual Maine taxable income above \$200,000 to create a state fund that would provide direct support for student learning in kindergarten through 12th grade public education?

STATE OF MAINE

“An Act To Establish The Fund to Advance Public Kindergarten to Grade 12 Education”

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §15697 is enacted to read:

§15697. Fund to Advance Public Kindergarten to Grade 12 Education

1. Fund established. The Fund to Advance Public Kindergarten to Grade 12 Education, referred to in this section as "the fund," is established as an interest-bearing account administered by the department.

2. Revenue; 30-day review before changing use of fund. The Treasurer of State shall deposit all revenue collected pursuant to Title 36, section 5111, subsection 6 from the income tax surcharge to advance public kindergarten to grade 12 education into the fund according to the schedule in Title 36, section 5111, subsection 6. Any private or public funds appropriated, allocated or dedicated to the fund must be deposited into the fund as well as income from any other source directed to the fund. All interest earned by the fund becomes part of the fund. Legislation that proposes to enact or amend a law that would change the distribution of the revenue directed to the fund by this subsection or by Title 36, section 5111, subsection 6 must be submitted to the Legislative Council and to the joint standing committee of the Legislature having jurisdiction over education matters at least 30 days prior to any vote or public hearing on that legislation.

3. Use of fund to supplement and not supplant General Fund appropriations; direct support for student learning. The use of the fund is controlled by this subsection. The fund may not be used for any purpose other than as described in this subsection.

A. If the General Fund appropriation for the state contribution for general purpose aid for local schools as finally enacted in any year is insufficient to meet the annual target established by section 15752, the commissioner shall use the fund to supplement the state contribution. These supplemental funds must be used to enable the State to meet the annual target established by section 15752 or to decrease the amount by which state funding from all other sources falls short of the target. The commissioner shall announce the increased state contribution amounts made possible by the supplemental amounts obtained from the fund within 14 days after final enactment of the General Fund appropriation for general purpose aid for local schools. The commissioner shall distribute the increased state contribution amounts on the basis of the essential programs and services formula set forth in this chapter.

B. The fund may be used only to pay for portions of the state contribution that constitute direct support for student learning and not for the costs of administration. As used in this paragraph, "direct support for student learning" includes salary and benefit costs paid for public school classroom teachers; special teachers of reading or mathematics; literacy specialists; career technical education teachers; education technicians; associate teachers; assistant teachers;

special education technicians I, II or III; guidance staff; health staff; librarians; and media assistants as documented in the department's database. Direct support for student learning does not include salary and benefit costs paid for school administrative staff or clerical staff. By July 1st annually each school administrative unit must file a report to the department detailing how the funding provided by this section was used to provide direct support for student learning in this chapter.

C. The fund may be used for the necessary expenses of the department in the administration of the fund.

4. Report. Annually by January 15th, the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over education matters showing the amounts deposited into and disbursed from the fund and detailing how those disbursements increased the state contribution and enabled the State to meet or come closer to meeting the applicable annual targets specified in section 15752. The department shall post the report on its publicly accessible website.

5. Rule of construction. This section must be liberally construed to increase the amount of funding available for public kindergarten to grade 12 education above the General Fund appropriation for that year to the greatest extent possible in any year.

Sec. 2. 36 MRSA §5111, sub-§6 is enacted to read:

6. Income tax surcharge to advance public kindergarten to grade 12 education. An income tax surcharge to advance public kindergarten to grade 12 education, referred to in this subsection as "the surcharge," is established and administered as follows.

A. For tax years beginning on or after January 1, 2017, in addition to any other tax imposed by this chapter, a tax at the rate of 3% is imposed on that portion of the taxpayer's Maine taxable income in excess of \$200,000.

B. One hundred percent of the revenue from the surcharge must be deposited each year into the Fund to Advance Public Kindergarten to Grade 12 Education established in Title 20-A, section 15697 in accordance with this paragraph.

(1) Prior to January 1st of each year, the bureau shall estimate the annual revenue to be collected from the surcharge for the immediately following calendar year.

(2) On the first of each month, beginning on January 1, 2018, the Treasurer of State shall deposit 8.333% of the estimated annual total revenue from the surcharge into the Fund to Advance Public Kindergarten to Grade 12 Education.

(3) The bureau may adjust the monthly transfer amount once annually to account for any difference between the estimated collection and actual collection.

C. The surcharge must be imposed and collected regardless of whether the income tax brackets in this section are changed, replaced or eliminated by an act of the Legislature or by a measure approved by voters pursuant to the Constitution of Maine, Article IV, Part Third, Section 18.

SUMMARY

This initiated bill establishes the Fund to Advance Public Kindergarten to Grade 12 Education for the purpose of improving the ability of the State to reach the annual target of 55%, as specified in statute, for the state share of the total cost of funding public education from kindergarten to grade 12, and for increasing direct support for student learning rather than administrative costs. Revenue for the fund is generated by a 3% surcharge on Maine taxable income over \$200,000, beginning with tax years beginning on or after January 1, 2017.

Intent and Content
Prepared by the Office of the Attorney General

This citizen-initiated legislation would establish a new state fund to support K-12 public education, with revenue generated by a 3% tax on individual Maine taxable income above \$200,000.

The 3% tax would apply in tax years beginning on or after January 1, 2017. The tax would apply only to that portion of an individual taxpayer's Maine taxable income that exceeds \$200,000. Maine taxable income means an individual's adjusted gross income under federal tax law, with modifications, personal exemptions and deductions as provided by Maine tax law.

All of the revenue generated by this tax would go into a new state fund, called the "Fund to Advance Public Kindergarten to Grade 12 Education" (the "Fund"), to be administered by the Maine Department of Education. Necessary expenses incurred by the Department in administering the Fund could be paid from the Fund.

Existing law directs the Legislature to provide at least 55% of the total cost of K-12 public education from General Fund revenue. The intent of this initiative is that the Fund would be used to supplement (not supplant) the state's General Fund appropriation when that appropriation falls short of the 55% annual target. It would be used to pay only for "direct support for student learning." This phrase is defined to exclude salary and benefit costs for school administrative or clerical staff. It includes salary and benefit costs for classroom teachers as well as associate and assistant teachers, career technical education teachers, special reading and math teachers, education technicians, special education technicians, literacy specialists, guidance staff, health staff, librarians and media assistants.

Monies from the Fund would be distributed to schools under the existing school funding formula. By July 1st of each year, each school district would be required to file a report with the Department detailing how the funds were used to provide "direct support for student learning," as defined above.

If approved, this citizen initiated legislation would take effect 30 days after the Governor proclaims the official results of the election.

A "YES" vote is to enact the initiated legislation.

A "NO" vote opposes the initiated legislation.

Fiscal Impact Statement
Prepared by the Office of Fiscal and Program Review

This initiated bill imposes a 3% additional tax, referred to as a surcharge, on Maine taxable income in excess of \$200,000 for tax years beginning on or after January 1, 2017. The surcharge is in addition to whatever tax would be imposed on these incomes under current statute or future statute. Beginning January 1, 2018, 1/12th of that tax year's estimated collections from the 3% surcharge will be transferred monthly to the Fund to Advance Public Kindergarten to Grade 12 Education. Money in the Fund will be used to supplement but not supplant General Fund appropriations for general purpose aid to local schools (GPA). It is estimated that amounts generated by the surcharge would be approximately \$142 million annually, increasing by an additional \$12 million or more each subsequent year.

It should be noted that since collections will begin in calendar 2017 for tax years that begin on or after January 1, 2017, but transfers to the Fund do not start until January of 2018, presumably for tax years that begin on or after January 1, 2018, it is unclear what would be done with the revenue collected in and for the first year. While the intent of the initiative is to have all collections from the surcharge be credited to the new fund, subsequent implementing legislation may be required to clarify that issue.

It should also be noted that while the intent of this initiative is to provide additional funding to local schools over and above what would be provided without this initiative (baseline funding), no mechanism is provided to prevent future legislators from reducing baseline funding by an amount equal to a portion of future estimates of the additional funding provided by the surcharge. Language in the initiative does indicate the amount from the surcharge will be announced "within 14 days after final enactment of the General Fund appropriation for general purpose aid for local schools". However, estimates of the surcharge amount will be available before the announcement and may impact budget negotiations on the GPA baseline appropriation.

Public Comments
Public comment in support of Question 2

Comment submitted by:

Robert Walker
Citizens Who Support Maine's Public Schools
35 Community Drive
Augusta, ME 04330

We urge support for Question 2 because all students, regardless of zip code, deserve support, resources, and time to learn. That's why a coalition of parents, teachers, and organizations are determined to put students, teaching, and learning first, by voting Yes on 2, for tax fairness and fair funding of Maine's public schools.

What does a YES vote mean?

If approved by voters, the initiative, known as *Stand Up for Students*, will generate an estimated \$157 million more dollars for schools statewide.

How will the money be raised?

By adding a 3% surcharge to taxable income above \$200,000, Maine schools stand to gain an additional \$157 million for direct funding of classroom education.

Why is this "tax fairness"?

Right now in Maine, someone earning \$40,000 per year has to pay the same top tax rate as someone making \$1 million per year.

Maine's wealthiest residents had their income taxes cut twice in recent years.

Those tax cuts mean less money coming from the state. Many towns have had to make tough choices to raise property taxes and/or cut back on school funding for both extracurricular activities such as music and art courses and technical education, as well as foreign language and advance math and science classes. With this proposal we can restore a lot of these important school programs.

Many Maine families are struggling. It's only right to ask the wealthiest Mainers to pay their fair share to fund our public schools.

Why is this investment in public education so important?

Maine has a lot to offer, including a great quality of life, but the key to building a strong economic future is having a skilled, well-educated workforce that will draw more families, companies, and jobs to our great state.

For more information: <http://standupforstudentsmaine.org>

The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment.
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Public Comments
Public comment in opposition to Question 2

Comment submitted by:

Dana Connors
President of the Maine State Chamber of Commerce
125 Community Drive #101
Augusta, ME 04330

Vote No on Question 2

Question 2 is the wrong solution for Maine's education funding problem. Question 2 raises taxes, it doesn't fund school infrastructure and creates more unfair funding distributions for Maine schools and towns.

Question 2 raises taxes, more than \$157 million on Maine households. In fact, this law would make Maine's top rate the second-highest in the nation, with a rate over 10 percent. Two-thirds of the taxpayers targeted by this extra income are community based small business owners, many of them local family businesses.

Question 2 was written by the teacher's union, for the teacher's union. Towns struggling to pay for schools and other education infrastructure won't get any help from this bill. According to the fine print, all of the money raised by this new tax must be spent on salaries for teachers and other school personnel meaning that none of this new money can be spent on fixing school buildings, buying technology, or providing materials for students. It usurp local control by dictating to local school boards where the money must be spent, not where the local need exists.

More than one third of the state's local school districts would receive zero additional dollars raised from this new tax. That's right. Towns like Cape Elizabeth, Falmouth, and Scarborough get millions, while towns like Sedgwick, Greenville and West Bath get nothing. 60 percent of the money raised from this new tax goes to 12 percent of towns. That is not fair.

All Maine public schools need to be adequately funded. Question 2 is just too vague and misleading with no guarantees, we should find a better way to give all our Maine students the education opportunities and experience they deserve. Question 2 is the wrong solution for Maine.

<p>The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment.</p>

Question 3: Citizen's Initiative

Do you want to require background checks prior to the sale or transfer of firearms between individuals not licensed as firearms dealers, with failure to do so punishable by law, and with some exceptions for family members, hunting, self-defense, lawful competitions, and shooting range activity?

STATE OF MAINE

“An Act to Require Background Checks for Gun Sales”

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 25 MRSA §2014 is enacted to read:

§2014. Background checks for firearms sales and transfers

1. Definitions. As used in this section, the following terms have the following meanings.

A. "Corrections officer" has the same meaning as in section 2801-A, subsection 2.

B. "Family member" means husband, wife, domestic partner, parent by blood, parent by adoption, child by blood, child by adoption, sibling by blood, sibling by adoption, grandparent, grandchild, niece, nephew, aunt, uncle, first cousin, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister or intimate partner.

C. "Firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A.

D. "Firearm dealer" means a person who holds any federal firearms license under 18 United States Code, Section 923(a) (2015).

E. "Intimate partners" means individuals in a dating relationship who are currently living with each other.

F. "Law enforcement agency" has the same meaning as in section 3701, subsection 1.

G. "Law enforcement officer" has the same meaning as in section 3701, subsection 3.

H. "Person" means an individual, corporation, partnership, firm, trust, organization or other legal entity.

I. "Sell" has the same meaning as in Title 17-A, section 554-A, subsection 1, paragraph C.

J. "Transfer" has the same meaning as in Title 17-A, section 554-A, subsection 1, paragraph A.

K. "Transferee" means a person who receives or intends to receive a firearm in a sale or transfer.

L. "Transferor" means a person who delivers or intends to deliver a firearm in a sale or transfer.

M. "Unlicensed person" means any person who is not a firearm dealer under this section.

2. Background checks required for all sales and transfers. Except as provided in subsection 8, each sale or transfer of a firearm occurring in whole or in part in this State between unlicensed persons must be preceded by a background check on the transferee, and an unlicensed person may not sell or transfer a firearm and an unlicensed person may not receive a firearm without complying with the process described in this section.

3. Background check conducted by firearm dealer. When both parties to a prospective sale or transfer of a firearm are unlicensed persons, the transferor and transferee shall meet jointly at a firearm dealer and request that the firearm dealer facilitate the sale or transfer. A firearm dealer who agrees to facilitate a sale or transfer under this section shall process the sale or transfer as though selling or transferring the firearm from its own inventory to the transferee,

complying with all requirements of federal and state law that would apply if it were making such a sale or transfer, including all background check and record-keeping requirements.

4. No sale or transfer if failed background check. Neither a firearm dealer nor a transferor may deliver any firearm to a transferee if the results of the background check pursuant to subsection 3 indicate that the transferee is disqualified to possess firearms under state or federal law.

5. Leaving dealer with firearm. Notwithstanding any other provision of law:

A. This section does not prevent the transferor from removing the firearm from the premises of the firearm dealer while a background check is being conducted pursuant to subsection 3. Before the transferor sells or transfers the firearm to the transferee, the parties must return to the firearm dealer, who shall take possession of the firearm in order to complete the sale or transfer; and

B. This section does not prevent the transferor from removing the firearm from the premises of the firearm dealer if the results of the background check pursuant to subsection 3 indicate that the transferee is disqualified to possess firearms under state or federal law.

6. Reasonable fee. A firearm dealer who agrees to facilitate a sale or transfer pursuant to this section may charge a reasonable fee for services rendered.

7. Completion of forms. A transferor and a transferee must each complete, sign and submit all federal and state forms necessary to process the background check and otherwise complete the sale or transfer pursuant to this section.

8. Exceptions. The provisions of this section apply to the transfer or sale of a firearm between unlicensed persons except if:

A. The sale or transfer is between family members;

B. The firearm is a curio or relic, as defined in 27 Code of Federal Regulations, Section 478.11 (2015), and the sale or transfer is between collectors of firearms as curios or relics, as defined by 18 United States Code, Section 921(a)(13) (2015), who both have in their possession a valid collector of curios and relics license issued by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives;

C. The sale or transfer is of an antique firearm, as defined in 18 United States Code, Section 921(a)(16) (2015);

D. The transfer is temporary and is necessary to prevent imminent death or great bodily harm, and:

(1) The transfer lasts only as long as necessary to prevent such threat; and

(2) The transferor has no reason to believe that the transferee is disqualified to possess firearms under state or federal law and has no reason to believe that the transferee intends to use the firearm in the commission of a crime;

E. Either the transferor or the transferee is a law enforcement agency or the Department of Corrections or is, to the extent the person is acting within the course of the person's employment or official duties, a peace officer, a law enforcement officer, a corrections officer, a member of the Armed Forces of the United States or the National Guard or the Reserves of the United States Armed Forces, a federal law enforcement officer or a person licensed as a security guard or employed by a contract security company or proprietary security organization under Title 32, chapter 93;

F. The transfer is temporary, the transferor has no reason to believe that the transferee intends to use the firearm in the commission of a crime and the transfer and the transferee's possession of the firearm take place exclusively:

(1) At an established shooting range authorized by the governing body of the jurisdiction in which such range is located or, if no such authorization is required, operated consistently with local law in such jurisdiction;

(2) At a lawfully organized competition involving the use of a firearm or for participation in or practice for a performance by an organized group that uses firearms as a part of the performance;

(3) While the transferee is hunting or trapping if such activity is legal in all places where the transferee possesses the firearm and the transferee holds any license or permit required for such activity; or

(4) In the actual presence of the transferor.

Any transfer allowed by this paragraph is permitted only if the transferor has no reason to believe that the transferee is disqualified to possess firearms under state or federal law or, if the transferee is under 18 years of age and is receiving the firearm under direct supervision and control of an adult, that such adult is disqualified to possess firearms under state or federal law; or

G. The transfer occurs by operation of law upon the death of a person for whom the transferee is an executor, administrator, trustee or personal representative of an estate or a trust created in a will.

9. Violations. Any person who knowingly delivers or receives a firearm without complying with this section commits:

A. For a first conviction involving the sale or transfer of one or more firearms, a Class D crime; and

B. For a 2nd or subsequent conviction involving the sale or transfer of one or more firearms, a Class C crime.

SUMMARY

This initiated bill requires a background check before a firearm sale or transfer between individuals not licensed as firearm dealers. If neither party to a sale or transfer has a federal firearms license, the parties meet at a licensed firearm dealer, who conducts a background check on the transferee and completes the sale or transfer as though selling or transferring from the dealer's own inventory. Exceptions to the background check requirement are made for transfers between family members, while the parties are hunting or sport shooting, for emergency self-defense, in the presence of the transferor and in other circumstances.

Intent and Content
Prepared by the Office of the Attorney General

This citizen-initiated legislation would require a background check to be performed before any firearm is sold or transferred by or between individuals in Maine who are not licensed as firearms dealers, with certain exceptions. These exceptions are explained below. "Transfer" under this initiative means "to sell, furnish, give, lend, deliver or otherwise provide with or without consideration." Thus "transfer" includes sales and giving or loaning a firearm to another person without payment of any kind. See 17-A M.R.S. § 554-A(1)(A).

Federal law requires licensed firearms dealers to conduct background checks before selling firearms, but the federal law does not apply to private sales or transfers. Under this initiative, before a private sale or transfer could occur, the parties would have to go to a licensed firearm dealer who would conduct the background check as if the dealer were making the sale. Both parties to the transaction would have to fill out the forms necessary to complete the background check. The dealer would be authorized to charge a reasonable fee for providing this service. If the background check shows that the person proposing to buy or accept transfer of the firearm is disqualified by state or federal law from possessing a firearm, then the sale or transfer would be prohibited. See 15 M.R.S. § 393 and 18 U.S.C. § 922.

The following types of transfers would be exempt from the background check requirement:

- 1) The sale or transfer of firearms between "family members" -- defined to include spouses, domestic partners, parents, children, siblings, grandparents, grandchildren, aunts and uncles, nieces and nephews, first cousins, in-laws, half siblings, step parents, step children, step siblings, and individuals in a dating relationship who are currently living with each other (referred to as intimate partners);
- 2) The sale or transfer of a type of firearm that is defined in federal law as a curio or relic, provided the proposed sale or transfer occurs between federally licensed collectors of such firearms;
- 3) The sale or transfer of an antique firearm, as defined in federal law;
- 4) A temporary transfer that is necessary to prevent imminent death or great bodily harm, provided the transfer lasts only as long as necessary to prevent the threat, and the person transferring the firearm has no reason to believe that the recipient is disqualified from possessing a firearm by state or federal law or intends to use the firearm to commit a crime;
- 5) One party to the transfer is a law enforcement agency (including state police, county sheriffs' departments and municipal police departments) or the Department of Corrections; or is a person acting within the scope of employment as a peace officer, state or federal law enforcement officer, corrections officer, or member of the Armed Forces or National Guard, or is a licensed security guard or employee of a contract security company or proprietary security organization;
- 6) A temporary transfer where the person transferring the firearm has no reason to believe that the person receiving it or the adult directly supervising a minor who receives it intends to use the firearm to commit a crime or is disqualified to possess firearms under state or federal law, and where the transfer occurs:
 - a. at an established shooting range;

- b. at a lawfully organized firearms competition or by an organized group that uses firearms in the course of its performance; or
 - c. while the person receiving the firearm is hunting or trapping legally and holds any required permits or licenses; and
- 7) A transfer that occurs by operation of law upon the death of the person who owned the firearm to a person who is serving as the executor, administrator, trustee or personal representative.

The proposal would make it a crime for a person to knowingly deliver or receive a firearm without complying with the requirements of this law. A first conviction would be classified as a Class D crime, while any subsequent conviction would be a Class C crime.

If approved, this citizen initiated legislation would take effect 30 days after the Governor proclaims the official results of the election.

A “YES” vote is to enact the initiated legislation.

A “NO” vote opposes the initiated legislation.

Fiscal Impact Statement
Prepared by the Office of Fiscal and Program Review

This initiated bill requires a background check before a firearm sale or transfer between individuals not licensed as firearm dealers, with certain exceptions. The background check must be performed by a licensed firearm dealer who may charge a reasonable fee for services rendered. No state or local government costs or revenues are generated by these transactions. Violations for failing to comply are Class D crimes for a first conviction and Class C crimes for a 2nd or subsequent conviction. The average cost to a county for a Class D crime is \$7,774 for a 62 day sentence. The average cost to the State for a Class C crime is \$47,285 for a 439 day sentence. Some Class C sentences can be served in county facilities. The number of new cases resulting from this initiative becoming law is expected to be quite small.

Public Comments
Public comment in support of Question 3

Comment submitted by:

David Farmer
Mainers for Responsible Gun Ownership
PO Box 1413
Ellsworth, ME 04605

Mainers have a proud tradition of responsible gun ownership, and we strongly believe in the Constitutional right to bear arms. We also know that those rights come with responsibilities.

Every day, 91 Americans die from gun violence. Requiring a criminal background check for all gun sales is the single most effective policy for bringing that number down by keeping guns out of the hands of felons, domestic abusers and other dangerous people.

Currently, federal law only requires background checks for gun sales conducted by licensed dealers. But people can easily and anonymously buy guns from unlicensed sellers – often from strangers met online or through classified ads – with no background check required, no questions asked.

Although no one law will stop all crime, research shows that background checks can keep guns away from dangerous people and save lives. In places that already require background checks on all handgun sales, there are:

- 48 percent fewer law enforcement officers are killed with handguns;
- 46 percent fewer women are shot to death by intimate partners;
- 48 percent fewer gun suicides; and
- There is 48 percent less gun trafficking in cities.

Support for criminal background checks on all gun sales is strong across Maine, among Republicans, Democrats and Independents alike, whether they own a gun or not.

Mainers know that support for the Second Amendment goes hand in hand with keeping guns away from dangerous people—and that closing loopholes in the background check system is a common-sense policy that respects the rights of gun owners while helping to prevent crime and save lives.

The proposed initiative is a simple, common-sense policy: it requires that everyone in Maine who buys a gun gets the same criminal background check, no matter where they buy it or who they buy it from.

Vote YES on Question 3.

<p>The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment.</p>

Public Comments
Public comment in opposition to Question 3

Comment submitted by:

Todd Tolhurst
Gun Owners of Maine, Inc.
PO Box 65
China, ME 04358

While this initiative may sound good on the surface, it will not accomplish the goal of keeping firearms out of the hands of criminals, but it will make unwitting criminals out of ordinary Mainers.

Criminals routinely avoid background checks by having others purchase firearms on their behalf. That's why, according to Federal statistics, background-checked dealer sales are the #1 source of traced crime guns, not private sales.

This bill will create criminals. Ordinary Mainers will become criminals by relying on the exceptions in the law. But those exceptions are traps. The so-called hunting exception, for example, does not allow you to lend a rifle to your neighbor at home to hunt in the morning. That would be a crime. And when he returns it the next day, that will be a second crime, this time a felony. For both of you.

The bill uses a fantastically broad definition of transfer, which is borrowed from the law which makes it a crime to transfer a firearm to a child. That definition reads:

"Transfer" means to sell, furnish, give, lend, deliver or otherwise provide, with or without consideration.

The phrase "otherwise provide" is meant to cover circumstances like leaving a firearm accessible to a child. This bill will literally treat adults like children. That means if you leave your rifle in the car with a buddy, or you have someone in to clean your house or fix the furnace while you're away, you could be charged with a crime.

This bill also would make it impossible for young adults, 18 to 20 years old, to buy a handgun. Even for active duty military, law enforcement cadets, or active law enforcement. That's unconstitutional, plain and simple.

Even if you favor background checks, this bill is fatally flawed. Maine can do better.

The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment.
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Question 4: Citizen's Initiative

Do you want to raise the minimum hourly wage of \$7.50 to \$9 in 2017, with annual \$1 increases up to \$12 in 2020, and annual cost-of-living increases thereafter; and do you want to raise the direct wage for service workers who receive tips from half the minimum wage to \$5 in 2017, with annual \$1 increases until it reaches the adjusted minimum wage?

STATE OF MAINE

“An Act to Raise the Minimum Wage”

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 26 MRSA §664, sub-§1, as amended by PL 2007, c. 640, §4, is further amended to read:

1. Minimum wage. ~~The minimum hourly wage is \$6.50 per hour. Starting October 1, 2006, the minimum hourly wage is \$6.75 per hour. Starting October 1, 2007, the minimum hourly wage is \$7.00 per hour. Starting October 1, 2008, the minimum hourly wage is \$7.25 per hour. Starting October 1, 2009, the minimum hourly wage is \$7.50 per hour.~~ Starting January 1, 2017, the minimum hourly wage is \$9.00 per hour; starting January 1, 2018, the minimum hourly wage is \$10.00 per hour; starting January 1, 2019, the minimum hourly wage is \$11.00 per hour; and starting January 1, 2020, the minimum hourly wage is \$12.00 per hour. On January 1, 2021 and each January 1st thereafter, the minimum hourly wage then in effect must be increased by the increase, if any, in the cost of living. The increase in the cost of living must be measured by the percentage increase, if any, as of August of the previous year over the level as of August of the year preceding that year in the Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W, for the Northeast Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of 5¢. If the highest federal minimum wage is increased in excess of the minimum wage in effect under this section, the minimum wage under this section is increased to the same amount, effective on the same date as the increase in the federal minimum wage, ~~but in no case may the minimum wage exceed the minimum wage otherwise in effect under this section by more than \$1 per hour~~ and must be increased in accordance with this section thereafter.

Sec. 2. 26 MRSA §664, sub-§2, as amended by PL 2011, c. 118, §3, is further amended to read:

2. Tip credit. An employer may consider tips as part of the wages of a service employee, but such a tip credit may not exceed 50% of the minimum hourly wage established in this section. Starting January 1, 2017, the minimum cash wage paid directly to a tipped service employee may not be less than \$5.00 per hour, and the tip credit may not exceed the difference between the minimum cash wage paid directly to a tipped service employee and the minimum hourly wage established under subsection 1. Starting January 1, 2018, and on each January 1st thereafter, the minimum cash wage paid directly to a tipped service employee must be increased by an additional \$1.00 per hour until it reaches the same amount as the annually adjusted minimum hourly wage established under subsection 1, except that if the minimum cash wage paid directly to a tipped service employee is less than \$1.00 less than the annually adjusted minimum hourly wage, it must be increased by that lesser amount. An employer who elects to use the tip credit, until it is eliminated under this subsection, must inform the affected employee in advance and must be able to show that the employee receives at least the minimum hourly wage when direct wages and the tip credit are combined. Upon a satisfactory showing by the employee or the employee's representative that the actual tips received were less than the tip credit, the employer shall increase the direct wages by the difference.

The tips received by a service employee become the property of the employee and may not be shared with the employer. Tips that are automatically included in the customer's bill or that are charged to a credit card must be treated like tips given to the service employee. A tip that is charged to a credit card must be paid by the employer to the employee by the next regular payday and may not be held while the employer is awaiting reimbursement from a credit card company.

SUMMARY

This initiated bill raises the minimum wage to \$9.00 per hour in 2017 and by \$1.00 per hour each year after that until it is \$12.00 per hour in 2020. The minimum wage then increases at the same rate as the cost of living. The minimum wage for workers who receive tips increases to \$5.00 per hour in 2017 and then by \$1.00 per hour each year until it matches the minimum wage for all other workers, which occurs no sooner than 2024.

Intent and Content

Prepared by the Office of the Attorney General

This citizen-initiated legislation would increase the minimum wage for workers who are paid by the hour as well as for service workers who are eligible to receive tips. The existing minimum wage under state law (in effect since October 1, 2009) is \$7.50 per hour for hourly workers, and half that amount for service workers who are eligible to receive tips and whose employers choose to consider tips as part of employee wages.

For hourly wage-earners, the legislation would increase the minimum wage to \$9 per hour, beginning on January 1, 2017. That rate would increase each year by \$1 per hour until it reached \$12 per hour in 2020. After 2020, the minimum wage would increase each year by the amount of the increase in the cost of living that year, calculated according to the Consumer Price Index and rounded to the nearest multiple of 5 cents.

For service workers paid partially with tips, the legislation would require employers to pay a minimum cash wage of not less than \$5 per hour, beginning on January 1, 2017, provided that their workers received at least \$4 per hour in tips. The minimum cash wage would increase by \$1 per hour on January 1, 2018, and each year after that, until it reached the same amount as the adjusted minimum wage for hourly workers.

If approved, this citizen initiated legislation would take effect 30 days after the Governor proclaims the official results of the election.

A "YES" vote is to enact the initiated legislation.

A "NO" vote opposes the initiated legislation.

Fiscal Impact Statement
Prepared by the Office of Fiscal and Program Review

The Bureau of Labor Standards within the Maine Department of Labor will require General Fund appropriations of \$16,500 per year for each of the 4 years that the minimum wage is increased and for any subsequent year that the minimum wage would be raised by the Consumer Price Index for Urban Wage Earners and Clerical Workers for the Northeast Region. Of this annual amount, \$3,500 per year would be for updating the minimum wage poster and other related publications, \$5,000 would be for postage costs to distribute the updated poster and publications and \$8,000 would be for travel costs associated with compliance, education and outreach.

The first step on the lowest salary rate schedule in State Government is \$8.43 per hour. Currently there is no one being paid at that level. There are currently 2 employees being paid \$9.41 per hour. The 4-step increase in the minimum wage in the proposed initiative may not increase salary costs to the State until the \$10.00 per hour rate begins on January 1, 2018. The future State Government impact of the changes to the minimum wage will depend on the salary schedules in place at the time the increases occur and cannot be estimated at this time.

The increased wages required by this initiative would create costs to municipalities which would vary by individual municipality. As with State Government, the municipal impact would depend on the existing rates of pay for the lowest paid employees in each municipality at the time a higher wage would be imposed and cannot be estimated at this time.

Public Comments
Public comment in support of Question 4

Comment submitted by:

Amy Halsted
Mainers for Fair Wages
565 Congress Street #200
Portland, ME 04101

The costs of groceries, housing and other basic necessities keep going up, but wages haven't. With passage of Question 4, Maine's minimum wage will increase from \$7.50 an hour to \$9 in 2017 and then by one dollar each year until it reaches \$12 an hour in 2020. After that it will keep pace with the cost of living.

Important for Maine women and families

This initiative is particularly important for women, who make up 6 in 10 of the 181,000 Mainers who will see a raise. For single moms struggling to provide for their families on a salary of \$300 a week for full-time work, even a small raise is a lifeline.

Important for Maine seniors and those who care for them

Question 4 will affect one in four workers over the age of 55, many of whom can't afford to save for retirement. It will also boost wages for vitally important workers, including EMTs, firefighters and home health aides, who make less than \$12 an hour.

A question of basic fairness

Question 4 will also increase the subminimum wage for service workers who receive tips from \$3.75 to \$5 in 2017 and then gradually raise it to the adjusted minimum wage. Even with tips, these workers make an average of just \$8.72 an hour. They're twice as likely to fall under the poverty line and nearly three times as likely to rely on food stamps to feed their families.

A boost for small businesses and local economies

This initiative will create stronger communities by putting money into the pockets of workers who will spend it locally. It's been endorsed by more than 600 local businesses and by the Maine Small Business Coalition.

It's time to begin to build an economy that works for everyone.

Learn more at fairwagemaine.com

The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment.

Question 5: Citizen's Initiative

Do you want to allow voters to rank their choices of candidates in elections for U.S. Senate, Congress, Governor, State Senate, and State Representative, and to have ballots counted at the state level in multiple rounds in which last-place candidates are eliminated until a candidate wins by majority?

STATE OF MAINE

"An Act To Establish Ranked-Choice Voting"

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 21-A MRSA §1, sub-§27-C is enacted to read:

27-C. Office elected by ranked-choice voting. "Office elected by ranked-choice voting" means any of the following offices: United States Senator, United States Representative to Congress, Governor, State Senator and State Representative, and includes any nominations by primary election to such offices.

Sec. 2. 21-A MRSA §1, sub-§35-A is enacted to read:

35-A. Ranked-choice voting. "Ranked-choice voting" means the method of casting and tabulating votes in which voters rank candidates in order of preference, tabulation proceeds in sequential rounds in which last-place candidates are defeated and the candidate with the most votes in the final round is elected.

Sec. 3. 21-A MRSA §601, sub-§2, ¶J is enacted to read:

J. For offices elected by ranked-choice voting, the ballot must be simple and easy to understand and allow a voter to rank candidates for an office in order of preference. A voter may include no more than one write-in candidate among that voter's ranked choices for each office.

Sec. 4. 21-A MRSA §722, sub-§1, as amended by PL 2009, c. 253, §36, is further amended to read:

1. How tabulated. The Secretary of State shall tabulate all votes that appear by an election return to have been cast for each question or candidate whose name appeared on the ballot. For offices elected by ranked-choice voting, the Secretary of State shall tabulate the votes according to the ranked-choice voting method described in section 723-A. The Secretary of State shall tabulate the votes that appear by an election return to have been cast for a declared write-in candidate and shall tabulate the votes that appear to have been cast for an undeclared write-in candidate based on a recount requested and conducted pursuant to section 737-A, subsection 2-A.

Sec. 5. 21-A MRSA §723-A is enacted to read:

§723-A. Determination of winner in election for an office elected by ranked-choice voting

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Batch elimination" means the simultaneous defeat of multiple candidates for whom it is mathematically impossible to be elected.

B. "Continuing ballot" means a ballot that is not an exhausted ballot.

C. "Continuing candidate" means a candidate who has not been defeated.

D. "Exhausted ballot" means a ballot that does not rank any continuing candidate, contains an overvote at the highest continuing ranking or contains 2 or more sequential skipped rankings before its highest continuing ranking.

E. "Highest continuing ranking" means the highest ranking on a voter's ballot for a continuing candidate.

F. "Last-place candidate" means the candidate with the fewest votes in a round of the ranked-choice voting tabulation.

G. "Mathematically impossible to be elected," with respect to a candidate, means either:

(1) The candidate cannot be elected because the candidate's vote total in a round of the ranked-choice voting tabulation plus all votes that could possibly be transferred to the candidate in future rounds from candidates with fewer votes or an equal number of votes would not be enough to surpass the candidate with the next-higher vote total in the round; or

(2) The candidate has a lower vote total than a candidate described in subparagraph (1).

H. "Overvote" means a circumstance in which a voter has ranked more than one candidate at the same ranking.

I. "Ranking" means the number assigned on a ballot by a voter to a candidate to express the voter's preference for that candidate. Ranking number one is the highest ranking, ranking number 2 is the next-highest ranking and so on.

J. "Round" means an instance of the sequence of voting tabulation steps established in subsection 2.

K. "Skipped ranking" means a circumstance in which a voter has left a ranking blank and ranks a candidate at a subsequent ranking.

2. Procedures. Except as provided in subsections 3 and 4, the following procedures are used to determine the winner in an election for an office elected by ranked-choice voting. Tabulation must proceed in rounds. In each round, the number of votes for each continuing candidate must be counted. Each continuing ballot counts as one vote for its highest-ranked continuing candidate for that round. Exhausted ballots are not counted for any continuing candidate. The round then ends with one of the following 2 potential outcomes.

A. If there are 2 or fewer continuing candidates, the candidate with the most votes is declared the winner of the election.

B. If there are more than 2 continuing candidates, the last-place candidate is defeated and a new round begins.

3. Ties. A tie under this section between candidates for the most votes in the final round or a tie between last-place candidates in any round must be decided by lot, and the candidate chosen by lot is defeated. The result of the tie resolution must be recorded and reused in the event of a recount. Election officials may resolve prospective ties between candidates before the election.

4. Modification of ranked-choice voting ballot and tabulation. Modification of a ranked-choice voting ballot and tabulation is permitted in accordance with the following.

A. The number of allowable rankings may be limited to no fewer than 6.

B. Two or more candidates may be defeated simultaneously by batch elimination in any round of tabulation.

5. Effect on rights of political parties. For all statutory and constitutional provisions in the State pertaining to the rights of political parties, the number of votes cast for a party's candidate for an office elected by ranked-choice voting is the number of votes credited to that candidate after the initial counting in the first round described in subsection 2.

6. Application. This section applies to elections held on or after January 1, 2018.

Sec. 6. Application. This Act applies to elections held on or after January 1, 2018.

SUMMARY

This initiated bill provides ranked-choice voting for the offices of United States Senator, United States Representative to Congress, Governor, State Senator and State Representative for elections held on or after January 1, 2018. Ranked-choice voting is a method of casting and tabulating votes in which voters rank candidates in order of preference, tabulation proceeds in rounds in which last-place candidates are defeated and the candidate with the most votes in the final round is elected.

Intent and Content

Prepared by the Office of the Attorney General

This citizen-initiated legislation would establish a new method of voting and counting votes in elections for the offices of United States Senator, Representative to Congress, Governor, State Senator and State Representative, and in primary elections to determine the nominees for those offices.

Rather than choosing one candidate for each of these offices, voters would be allowed to rank all the candidates listed for each office, including up to one write-in candidate, in order of the voter's preference. Thus in a three-way race, instead of marking one vote on the ballot for candidate A, B or C, the voter could express preferences among all three candidates by ranking them as choice(s) #1, 2 or 3 on the same ballot.

Ballots are counted at the municipal level in Maine, and there are approximately 500 municipalities. Under current law, all 500 municipalities report their vote tallies to the Secretary of State within three business days of the election, and the Secretary of State then aggregates those results in a single tabulation. The candidate with the most votes for each office based on that single tabulation wins.

Ranked-choice voting involves a different process for tallying voters' choices. All of the voters' first-choice votes would be tallied in the first round of counting by municipal officials and reported to the Secretary of State within three business days of the election, as occurs now. In a multi-candidate race, if one candidate were to win more than 50% of the total votes in the first round, that candidate would be declared the winner. If no candidate received over 50% of the vote in round one, then there would be a second round of counting. The candidate in last place after the first round would be eliminated, and the second-choice votes of the voters who preferred the eliminated candidate would be distributed to their second-choice candidates. In a three-way race, only two candidates would continue to round two, and the candidate with the most votes after round two would win. If there were four or more candidates in the race, the process might need to go to a third round of counting. A voter's first choice would continue to be counted in each round unless that candidate had been eliminated, at which point the voter's next ranked choice who had not been eliminated would be counted. This process would continue until only two candidates were left in the final round, or until one candidate received a majority.

The second and subsequent rounds of counting voter preferences could not be performed at the local level for statewide offices such as Governor or U.S. Senate, or for any elective office that encompasses more than one municipality. The process of re-allocating voter preferences in a multi-candidate race would have to be done centrally, using computer software to read digitally scanned images of the ballots. Ballots or electronic devices holding images of ballots would have to be retrieved from all the municipalities in the district for that particular elective office (meaning 500 towns in a gubernatorial or U.S. Senate race), and delivered to a secure central location where the second and, if necessary, subsequent rounds of counting could be performed.

The Maine Constitution currently provides that in elections for Governor, State Senator and State Representative, the candidate who receives “a plurality of all votes returned” as reported by the municipalities wins. In order to implement ranked-choice voting in general elections for these offices, this language would have to be amended by a separate constitutional resolve, adopted by a two-thirds vote of the Legislature and approved by the voters at a statewide referendum election. See *Opinion of the Attorney General*, No. 2016-01, dated March 4, 2016.

If approved, the citizen initiative would take effect 30 days after the Governor proclaims the official results of the November 2016 election, but the ranked-choice voting system would not apply to elections until 2018. This would allow time for the Legislature and the voters to consider a constitutional amendment before implementation.

A “YES” vote is to enact the initiated legislation.

A “NO” vote opposes the initiated legislation.

Fiscal Impact Statement
Prepared by the Office of Fiscal and Program Review

This initiated bill proposes to implement ranked-choice voting for the offices of United States Senator, United States Representative to Congress, Governor and state legislative candidates for general elections and primaries held on or after January 1, 2018. The Department of Secretary of State would require a General Fund appropriation of \$761,344 in fiscal year 2017-18 and \$641,440 in fiscal year 2018-19 to print an additional ballot page, update the ballot tabulating machines, lease additional ballot tabulating machines, purchase additional memory devices, lease a high-speed vote tabulating unit and contract 2 limited-period Special Deputy positions to oversee the central ranked-choice voting counting process. The Department of Public Safety would require a General Fund appropriation of \$75,926 and a Highway Fund allocation of \$72,948 in fiscal years 2017-18 and 2018-19 for overtime and fuel to retrieve, secure and return election ballots. As most of the expenditures are on-going rather than one-time start up, costs in subsequent years are anticipated to be in a similar range.

Public Comments
Public comment in support of Question 5

Comment submitted by:

Richard Woodbury, Chair
The Committee for Ranked Choice Voting
PO Box 928
Gorham, ME 04038

We need a system that works – where candidates with the best ideas, not the biggest bank accounts have a fighting chance. You should never have to vote for the “lesser of two evils” when there is another candidate you really like.

Question 5 proposes a better system, Ranked Choice Voting, which restores majority rule and gives voters more voice in our democracy.

This simple change to the way we elect Maine’s leaders gives you the freedom to vote for the candidate you like best without feeling like your vote is “wasted” – and without worrying that you will help to elect the candidate you like least.

Question 5 is broadly supported by Democrats, Republicans, Independents, Greens, and Libertarians across Maine. Seventy-three thousand Maine citizens signed petitions to place it on the ballot. That’s because Mainers understand our system is broken, and we’ll be better off as a state if voters have more voice and a majority elect our leaders.

Ranked Choice Voting works just like actual runoff elections without the cost and delay. It is the only runoff system that allows the men and women of the U.S. Armed Forces stationed overseas to fully participate in our elections. It has been used across the U.S. for years, including in Portland, Maine, where voters report ease of use and greater satisfaction with elections.

We all have a responsibility to vote to make our state and our country a better place for our children and grandchildren. Question 5 is the change we need to give voters more voice in our democracy.

Please visit our website for more information: **www.YesOn5.me**

Richard Woodbury, Chair

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Public Comments
Public comment in support of Question 5

Comment submitted by:

Jill Ward, President
League of Women Voters of Maine
P.O. Box 863
Augusta, ME 04332-0863

The League of Women Voters of Maine supports Ranked Choice Voting and encourages Maine citizens to vote “Yes” on Question 5 this November 8, 2016, because this nonpartisan reform:

- **Restores majority rule** and results in the election of consensus candidates who are more broadly support by voters.
- **Eliminates vote splitting and the need for strategic voting**, so voters never have to vote for the lesser of two evils when there is another candidate they really like.
- **Encourages greater civility in campaigns**, as candidates must reach beyond narrow bases of support to build majority coalitions, knowing that negative campaigning can backfire when voters have the power to rank more than one candidate.
- **Works just like actual runoff elections without the cost and delay.** Ranked Choice Voting is the most cost-effective and efficient way to conduct a runoff, and it is the only reform that allows overseas and absentee voters to fully participate.

Races with more than two candidates have been common in Maine since 1974, and often result in candidates elected by less than half of voters. In 2008, the League convened a study to consider improvements to the way we vote in Maine. In 2011, the League endorsed Ranked Choice Voting as the best solution to restore majority rule, to put more power in the hands of voters, and to reduce some of the negativity in politics.

To read the League of Women Voters of Maine study on Ranked Choice Voting, visit:
<http://www.lwvme.org/files/lwvmeIRV.pdf>

Submitted August 30, 2016

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Question 6: Bond Issue

Do you favor a \$100,000,000 bond issue for construction, reconstruction and rehabilitation of highways and bridges and for facilities, equipment and property acquisition related to ports, harbors, marine transportation, freight and passenger railroads, aviation, transit and bicycle and pedestrian trails, to be used to match an estimated \$137,000,000 in federal and other funds?

**STATE OF MAINE
Chapter 478
Public Laws of 2016
Approved April 15, 2016**

“An Act To Authorize a General Fund Bond Issue To Improve Highways, Bridges and Multimodal Facilities”

Preamble. Two thirds of both Houses of the Legislature deeming it necessary in accordance with the Constitution of Maine, Article IX, Section 14 to authorize the issuance of bonds on behalf of the State of Maine to provide funds as described in this Act,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. Authorization of bonds. The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding \$100,000,000 for the purposes described in section 5 of this Act. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 10 years from the date of the original issue of the bonds.

Sec. 2. Records of bonds issued; Treasurer of State. The Treasurer of State shall ensure that an account of each bond is kept showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the bond, the date of sale and the date when payable.

Sec. 3. Sale; how negotiated; proceeds appropriated. The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set forth in this Act. Any unencumbered balances remaining at the completion of the project in this Act lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.

Sec. 4. Interest and debt retirement. The Treasurer of State shall pay interest due or accruing on any bonds issued under this Act and all sums coming due for payment of bonds at maturity.

Sec. 5. Disbursement of bond proceeds from General Fund bond issue. The proceeds of the sale of the bonds authorized under this Act must be expended as designated in the following schedule under the direction and supervision of the agencies and entities set forth in this section.

TRANSPORTATION, DEPARTMENT OF

Provides funds to construct, reconstruct or rehabilitate Priority 1, Priority 2 and Priority 3 state highways under the Maine Revised Statutes, Title 23, section 73, subsection 7 and associated improvements, for the municipal partnership initiative and to replace and rehabilitate bridges.

Total

\$80,000,000

Provides funds for facilities, equipment and property acquisition related to ports, harbors, marine transportation, aviation, freight and passenger railroads, transit and bicycle and pedestrian trails that preserve public safety or otherwise have demonstrated high transportation economic value.

Total \$20,000,000

Sec. 6. Contingent upon ratification of bond issue. Sections 1 to 5 do not become effective unless the people of the State ratify the issuance of the bonds as set forth in this Act.

Sec. 7. Appropriation balances at year-end. At the end of each fiscal year, all unencumbered appropriation balances representing state money carry forward. Bond proceeds that have not been expended within 10 years after the date of the sale of the bonds lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.

Sec. 8. Bonds authorized but not issued. Any bonds authorized but not issued within 5 years of ratification of this Act are deauthorized and may not be issued, except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining unissued bonds for an additional amount of time not to exceed 5 years.

Sec. 9. Referendum for ratification; submission at election; form of question; effective date. This Act must be submitted to the legal voters of the State at a statewide election held in the month of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:

"Do you favor a \$100,000,000 bond issue for construction, reconstruction and rehabilitation of highways and bridges and for facilities, equipment and property acquisition related to ports, harbors, marine transportation, freight and passenger railroads, aviation, transit and bicycle and pedestrian trails, to be used to match an estimated \$137,000,000 in federal and other funds?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If a majority of the legal votes are cast in favor of this Act, the Governor shall proclaim the result without delay and this Act becomes effective 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purposes of this referendum.

Sec. 10. Contingent transfer for additional ballot. If the number or length of referendum questions to be submitted to the voters at the general election in November 2016 requires the production and delivery of more than a single ballot by the Secretary of State, the State Controller by August 1, 2016 shall transfer from the unappropriated surplus of the General Fund to the Department of the Secretary of State, Bureau of Administrative Services and Corporations program, General Fund account, \$107,500 for each ballot in addition to the initial ballot required by the Secretary of State, unless the Secretary of State has already received a transfer of funds for that additional ballot.

Intent and Content
Prepared by the Office of the Attorney General

This Act would authorize the State to issue general obligation bonds in an amount not to exceed one hundred million dollars (\$100,000,000), to raise funds for a variety of projects as described below. The bonds would run for a period not longer than 10 years from the date of issue and would be backed by the full faith and credit of the State.

Proceeds from the sale of these bonds would be administered by the Department of Transportation for the following purposes:

Highways, secondary roads and bridges – eighty million dollars (\$80,000,000) would be expended to:

- construct, reconstruct or rehabilitate state highways that have been designated as Priority 1, 2 or 3 by the Department of Transportation in accordance with state statute (23 M.R.S. § 73(7));
- repair secondary roads in partnership with municipalities pursuant to the existing Municipal Partnership Initiative program; and
- replace and rehabilitate bridges.

Municipalities are required to contribute 50% or more of the project costs under the Municipal Partnership Initiative program, which is described on the Department's web site at <http://maine.gov/mdot/planning/>. Highway and bridge projects are matched with federal funds on a ratio of 1.1 to 1 (federal to state) dollars. Accordingly, these bond proceeds are expected to leverage approximately eighty-eight million dollars (\$88,000,000) in federal and local matching funds.

Multi-modal projects – Twenty million dollars (\$20,000,000) would be spent on a variety of projects, including facilities, equipment and acquisition of property related to ports, harbors, marine transportation, aviation, railroads (both passenger and freight), transit (public transportation) and bicycle and pedestrian trails. The intent is to fund projects that preserve public safety or otherwise demonstrate high economic value in terms of transportation. The investment of these bond proceeds is expected to be matched by approximately forty-nine million dollars (\$49,000,000) in federal, local and private funds.

If approved, the authorization of these bonds would take effect 30 days after the Governor's proclamation of the vote.

A "YES" vote approves the issuance of up to one hundred million dollars (\$100,000,000) in general obligation bonds to finance the activities described above.

A "NO" vote disapproves the bond issue in its entirety.

Debt Service
Prepared by the Office of the Treasurer

Total estimated life time cost is **\$133,000,000** representing **\$100,000,000** in principal and **\$33,000,000** in interest (assuming interest at **6.0%** over **10** years).

Fiscal Impact Statement
Prepared by the Office of Fiscal and Program Review

This bond issue has no significant fiscal impact other than the debt service costs identified above.

Public Comments
Public comment in support of Question 6

Comment submitted by:

Representative Andrew McLean
Go Maine
114 Johnson Road
Gorham, ME 04038

I urge you to vote “Yes” on Question 6 in support of a \$100 million transportation bond.

Maine faces a serious transportation funding challenge. Engineers at Maine’s Department of Transportation estimate that our state underfunds basic maintenance and repairs on roads and bridges by \$168 million each year. These engineers are not political appointees. They are professionals tasked with ensuring the safety of our roads or bridges.

Maintaining a safe and reliable transportation system is critical to keeping Maine businesses competitive and the traveling public safe. It is a basic function of government. A sustainable funding model is needed to support it.

Maine’s Highway Fund collects revenue to maintain and improve roads and bridges, as well as our airports, seaports, and rail lines. It relies on fuel taxes, and registration and excise fees for a majority of its revenue. But as vehicles have become more fuel-efficient, revenue into the Highway Fund has declined, limiting necessary investments in infrastructure projects.

In response to declining revenue, policy makers and engineers have gone through the Highway Fund budget line-by-line to find efficiencies and savings. But anyone who drives on our deteriorating roads and bridges knows that won’t be enough to fund even basic repairs. A long-term solution is needed. It will take negotiation, and most important, public pressure.

In the meantime, voting “Yes” on Question 6 is a temporary, yet necessary fix to keep our roads and bridges as safe as possible.

Representative Andrew McLean
House Chair, Joint Standing Committee on Transportation

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