

# MAINE STATE LEGISLATURE

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Report A

L.D. 1824

Date: 4/9/14

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CRIMINAL JUSTICE AND PUBLIC SAFETY

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

126TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 730, L.D. 1824, Bill, "An Act To Provide Additional Authority to the State Board of Corrections"

Amend the bill by inserting after the title and before the enacting clause the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the State Board of Corrections is not functioning as intended by the Legislature to provide a coordinated county jail system; and

Whereas, this legislation is necessary to address the improper functioning as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 4 MRSA §1057, sub-§3-A, as amended by PL 2009, c. 213, Pt. GGG, §1 and affected by §7, is further amended to read:

3-A. Reimbursement to counties. Monthly, the Treasurer of State shall transfer funds from the Government Operations Surcharge Fund to the State Board of Corrections Investment Operational Support Fund program in an amount equal to 2% of the total fines, forfeitures and penalties, including the surcharge imposed pursuant to subsection 2-A, received by the Treasurer of State for deposit in the Government Operations Surcharge Fund. The balance remaining in the Government Operations Surcharge Fund at the end of each month must accrue to the General Fund. Funds collected and deposited each month to the Government Operations Surcharge Fund must be transferred on the last

COMMITTEE AMENDMENT

1 day of the month in which the collections are made to the State Board of Corrections  
2 ~~Investment Operational Support~~ Fund program under Title 34-A, section 1805.

3 At the close of each month, the State Controller shall calculate the amount to be  
4 transferred to the State Board of Corrections ~~Investment Operational Support~~ Fund  
5 program based on the collections made during the month. The State Controller shall  
6 transfer by journal entry the amount due to the State Board of Corrections ~~Investment~~  
7 ~~Operational Support~~ Fund program. This subsection takes effect July 1, 2009.

8 **Sec. 2. 5 MRSA §1591, sub-§4, ¶A**, as reallocated by RR 2009, c. 1, §6, is  
9 amended to read:

10 A. Any General Fund balance remaining in the State Board of Corrections  
11 ~~Investment Operational Support~~ Fund program at the end of any fiscal year to be  
12 carried forward for the next fiscal year.

13 **Sec. 3. 30-A MRSA §701, sub-§2-A**, as amended by PL 2011, c. 315, §§1 and 2  
14 and affected by §4 and amended by c. 431, §1 and affected by §2, is further amended to  
15 read:

16 **2-A. Tax assessment for correctional services.** The counties shall annually collect  
17 no more and no less than \$62,172,371 from municipalities for the provision of  
18 correctional services, ~~excluding debt service~~, in accordance with this subsection.

19 The assessment to municipalities within each county may not be greater or less than the  
20 fiscal year 2007-08 county assessment for correctional-related expenditures, which is:

- 21 A. A sum of \$4,287,340 in Androscoggin County;
- 22 B. A sum of \$2,316,666 in Aroostook County;
- 23 C. A sum of \$11,575,602 in Cumberland County;
- 24 D. A sum of \$1,621,201 in Franklin County;
- 25 E. A sum of \$1,670,136 in Hancock County;
- 26 F. A sum of \$5,588,343 in Kennebec County;
- 27 G. A sum of \$3,188,700 in Knox County;
- 28 H. A sum of \$2,657,105 in Lincoln County;
- 29 I. A sum of \$1,228,757 in Oxford County;
- 30 J. A sum of \$5,919,118 in Penobscot County;
- 31 K. A sum of \$878,940 in Piscataquis County;
- 32 L. A sum of \$2,657,105 in Sagadahoc County;
- 33 M. A sum of \$5,363,665 in Somerset County;
- 34 N. A sum of \$2,832,353 in Waldo County;
- 35 O. A sum of \$2,000,525 in Washington County; and
- 36 P. A sum of \$8,386,815 in York County.

PL 03

1 Notwithstanding this subsection, the county assessment for correctional services-related  
2 expenditures in Somerset County must be set at the fiscal year 2009-10 level when the  
3 new Somerset County Jail is open and operating at a level sufficient to sustain the  
4 average daily number of inmates from Somerset County.

5 For the purposes of this subsection, "correctional services" includes the management  
6 services, personal services, contractual services, commodity purchases, capital  
7 expenditures and all other costs, or portions thereof, necessary to maintain and operate  
8 correctional services. "Correctional services" does not include county jail debt.

9 **Sec. 4. 30-A MRSA §710, sub-§1**, as amended by PL 2011, c. 374, §5, is further  
10 amended to read:

11 **1. Proposed budget.** ~~At least 14 months before the beginning of the first year of the~~  
12 ~~next biennium, the corrections working group established in Title 34-A, section 1804~~  
13 ~~shall provide biennial budget growth guidance for the correctional services expenditures~~  
14 ~~in the new fiscal year for each county biennial budget.~~ The county commissioners shall  
15 submit proposed itemized correctional services budgets to the board in a format and by a  
16 date to be determined by the board, but no later than 12 months before the beginning of  
17 the next biennium.

18 **Sec. 5. 30-A MRSA §710, sub-§1-A** is enacted to read:

19 **1-A. Budget growth factor.** The budget growth factor is the same as the growth  
20 limitation factor as calculated under section 706-A for the current year. Nothing in this  
21 subsection authorizes a county to exceed the tax assessment established in section 701,  
22 subsection 2-A.

23 **Sec. 6. 30-A MRSA §710, sub-§2**, as amended by PL 2011, c. 374, §5, is further  
24 amended to read:

25 **2. Review of county correctional services budgets.** The board shall review, amend  
26 if necessary and approve each county correctional services budget submitted under  
27 subsection 1. The board must approve the county correctional services proposed budget  
28 if the total expenses in the proposed budget do not exceed the prior fiscal year's actual  
29 expenses or the prior fiscal year's budgeted expenses, whichever is less, plus the budget  
30 growth factor described in subsection 1-A for appropriations of any recommended sum in  
31 excess of the county share established pursuant to section 701, subsection 2-A.

32 **Sec. 7. 34-A MRSA §1404, sub-§1**, as amended by PL 2011, c. 374, §6, is  
33 further amended to read:

34 **1. Managing facility capacity and inmate placement.** ~~Consistent with the board's~~  
35 ~~determination of facility use and purpose under section 1803, subsection 2, paragraph A,~~  
36 ~~the commissioner is responsible for the daily management of inmate bed space~~  
37 ~~throughout the coordinated correctional system and shall direct the transfer of inmates~~  
38 ~~between facilities in order to fulfill this responsibility. If the board fails to manage inmate~~  
39 ~~bed space or inmate transfers as required under section 1803, subsection 2, paragraph D~~  
40 ~~or if the board requests the commissioner to take on one or more of these functions and~~  
41 ~~the commissioner agrees, the commissioner is responsible for the daily management of~~  
42 ~~inmate bed space throughout the coordinated correctional system and shall direct the~~  
43 ~~transfer of inmates between facilities in order to fulfill this responsibility consistent with~~

1 the board's determination of facility use and purpose under section 1803, subsection 2,  
2 paragraph A. The commissioner shall develop a process for information sharing between  
3 the correctional facilities and the county jails, which must include at a minimum:

4 A. Daily reporting to the department by county jails of:

5 (1) Facility population by gender; classification; legal status, including pretrial or  
6 sentenced; special needs; and any other parameters determined by the  
7 commissioner; and

8 (2) Facility capacity and available bed space or bed space needs by the  
9 reportable parameters under subparagraph (1); and

10 B. Regular consultation with sheriffs.

11 **Sec. 8. 34-A MRSA §1801, sub-§1**, as amended by PL 2011, c. 374, §7, is  
12 repealed and the following enacted in its place:

13 **1. Purpose of the board.** The purpose of the board is to:

14 A. Promote public safety;

15 B. Establish a unified, efficient jail system that encourages collaboration among the  
16 counties, the department and the judicial branch; and

17 C. Develop and implement a coordinated correctional system that demonstrates  
18 sound fiscal management, achieves efficiencies, reduces recidivism and ensures the  
19 safety and security of correctional staff, inmates, visitors, volunteers and surrounding  
20 communities.

21 **Sec. 9. 34-A MRSA §1801, sub-§2, ¶¶B and C**, as enacted by PL 2007, c. 653,  
22 Pt. A, §30, are amended to read:

23 B. Pretrial diversion; ~~and~~

24 C. Rate of incarceration;

25 **Sec. 10. 34-A MRSA §1801, sub-§2, ¶¶D to K** are enacted to read:

26 D. Standardization of practices, equipment, professionalism of personnel, programs  
27 and policies statewide among the counties;

28 E. Efficiencies and economies of scale through consolidated purchases of goods and  
29 services;

30 F. Establishment of regional authorities to promote the goals pursuant to this  
31 subsection;

32 G. Establishment of common accounting practices, codifications and reporting  
33 formats and standardized performance metrics;

34 H. Establishment of a common, prioritized long-term capital improvement budget;

35 I. Addressing mental health and substance abuse problems among inmates;

36 J. Efforts made toward equality in the burden of criminal justice-related costs of the  
37 coordinated correctional system on taxpayers statewide; and

1            K. Examination and implementation of best practices used at the national level.

2            **Sec. 11. 34-A MRSA §1802, sub-§1**, as amended by PL 2011, c. 374, §§9 and  
3 is further amended to read:

4            **1. Appointments.** The board consists of ~~9~~ 5 members who are appointed by the  
5 Governor. Each appointment is subject to review by the joint standing committee of the  
6 Legislature having jurisdiction over criminal justice and public safety matters and to  
7 confirmation by the Senate, except those members appointed pursuant to paragraph C.  
8 The following provisions govern member qualifications:

9            ~~A. Two members selected from a list of 3 nominations submitted to the Governor by~~  
10 ~~a statewide organization representing sheriffs, at least one of whom must be a county~~  
11 ~~sheriff. One member must be a sheriff nominated by a statewide organization~~  
12 ~~representing sheriffs;~~

13            ~~B. Two members selected from a list of 3 nominations submitted to the Governor by~~  
14 ~~a statewide organization representing county commissioners, at least one of whom~~  
15 ~~must be a county commissioner. One member must be a county commissioner~~  
16 ~~nominated by a statewide organization representing county commissioners;~~

17            C. Two members must be representatives of the executive branch and at least one of  
18 the 2 must be from the department; and

19            ~~D. One member must be a municipal official selected from a list of 3 nominations~~  
20 ~~submitted to the Governor by a statewide organization representing elected and~~  
21 ~~appointed municipal officers and officials; and~~

22            ~~E. Two members~~ One member must be broadly representative of the public. ~~A~~ The  
23 member appointed under this paragraph may not be an elected state or county official  
24 or municipal officer and may not derive income in substantial portion from work as  
25 an employee of a state, county or municipal government or in the field of corrections.

26 ~~Of the 9 members, one must be a person with expertise in issues relating to mental illness.~~

27            **Sec. 12. 34-A MRSA §1803, sub-§1**, as amended by PL 2011, c. 374, §12, is  
28 further amended to read:

29            **1. Manage the cost of corrections.** The board shall develop a plan to achieve  
30 systemic cost savings and cost avoidance throughout the coordinated correctional system  
31 with the goal of operating efficient correctional services. Additionally, the board shall:

32            A. Review, amend if necessary and adopt the correctional services expenditures in  
33 each county budget under Title 30-A, section 710;

34            B. Develop reinvestment strategies within the coordinated correctional system to  
35 improve services and reduce recidivism;

36            C. Establish boarding rates for the coordinated correctional system, except boarding  
37 rates for federal inmates;

38            D. Review department biennial and supplemental budget proposals affecting adult  
39 correctional and adult probation services and submit recommendations regarding  
40 these budget proposals to the joint standing committee of the Legislature having  
41 jurisdiction over criminal justice and public safety matters and the joint standing

1 committee of the Legislature having jurisdiction over appropriations and financial  
2 affairs;

3 E. Develop parameters for facility population, including but not limited to gender;  
4 classification; legal status, including pretrial or sentenced; and special needs; and

5 F. Enter into contracts on behalf of ~~and with the consent of the county~~  
6 ~~commissioners and sheriffs in the case of county jails, and with the consent of the~~  
7 ~~board of directors of the regional jail authority in the case of a~~ or regional jail, jails  
8 for any goods and or services when such contracts will:

- 9 (1) Lower the cost of providing correctional services;
- 10 (2) Improve delivery of correctional services; or
- 11 (3) Otherwise help to achieve the goals of the board pursuant to section 1801.

12 If the board enters into a contract on behalf of a county, that county is responsible for  
13 meeting the terms of the contract and the pro rata share of the costs for the goods and  
14 services under the contract. A county subject to a contract under this paragraph may  
15 not contract for any goods or services that are the subject of the contract without the  
16 prior written approval of the board. Except for goods and services contracted by the  
17 board, a county or regional jail may enter into an agreement with another county or  
18 regional jail to procure goods and services without the written permission of the  
19 board.

20 **Sec. 13. 34-A MRSA §1803, sub-§1-A** is enacted to read:

21 **1-A. Adopt a budget growth factor; personnel costs.** The board shall establish a  
22 budget growth factor for each fiscal year as determined pursuant to Title 30-A, section  
23 710, subsection 1-A. The board shall approve a county budget that does not exceed the  
24 budget growth factor calculated on the total county budget that includes the state-funded  
25 portion of the county budget. A county may exceed the budget growth factor as applied  
26 to personnel costs but may not exceed the budget growth factor established for a county's  
27 overall budget.

28 **Sec. 14. 34-A MRSA §1803, sub-§2, ¶¶B and C,** as enacted by PL 2007, c.  
29 653, Pt. A, §30, are amended to read:

30 B. Review and approve staffing levels at each correctional facility and county jail to  
31 ensure that safe conditions exist for staff, inmates and others; ~~and~~

32 C. Review the use of all correctional facilities and county jails. The board may  
33 downsize or close facilities or reassign services. The board shall adopt rules  
34 governing the process and standards for closing or downsizing a correctional facility  
35 or a county jail, including criteria to be evaluated and stakeholders to be consulted.  
36 Rules adopted pursuant to this paragraph are major substantive rules as defined in  
37 Title 5, chapter 375, subchapter 2-A.;

38 **Sec. 15. 34-A MRSA §1803, sub-§2, ¶¶D and E** are enacted to read:

39 **D. Manage inmate bed space throughout the coordinated correctional system and**  
40 **direct the transfer of inmates between county jails; and**

1 E. Receive and review all reports and results of county jail inspections conducted by  
2 the department pursuant to section 1208, subsection 2.

3 **Sec. 16. 34-A MRSA §1803, sub-§3-A** is enacted to read:

4 **3-A. Adopt and enforce standards of efficiency.** The board shall adopt and  
5 enforce standards to improve the efficiency of the county correctional system relating to:

6 A. Management information systems and infrastructure;

7 B. Security equipment;

8 C. Inmate classification;

9 D. Pretrial services;

10 E. Staffing qualifications and staffing levels; and

11 F. Other matters relating to construction, maintenance and operations.

12 **Sec. 17. 34-A MRSA §1803, sub-§5, ¶D**, as amended by PL 2009, c. 213, Pt.  
13 GGG, §3 and affected by §7, is further amended to read:

14 D. Administer the County Jail Prisoner Support and Community Corrections Fund  
15 established in section 1806 and the State Board of Corrections ~~Investment~~  
16 Operational Support Fund program established in section 1805. The board may  
17 allocate available funds from the State Board of Corrections ~~Investment~~ Operational  
18 Support Fund program to meet any emergency expenses or for maintenance in  
19 emergency conditions of any correctional facility or county jail. The board may  
20 make allocations for these purposes only upon written request of the commissioner or  
21 a county;

22 **Sec. 18. 34-A MRSA §1803, sub-§5, ¶E**, as amended by PL 2009, c. 213, Pt.  
23 GGG, §4 and affected by §7, is further amended to read:

24 E. Prepare and submit to the Governor a budget for the State Board of Corrections  
25 ~~Investment~~ Operational Support Fund program established in section 1805 biennially  
26 that clearly identifies the financial contribution required by the State to support the  
27 actual recommended costs of corrections as established in subsection 1-A in addition  
28 to the capped property tax contribution under Title 30-A, section 701, subsection 2-A.  
29 The board shall also propose in its budget an appropriation to the State Board of  
30 Corrections ~~Investment~~ Operational Support Fund program of an amount equal to the  
31 ~~difference between the 2007-08 fiscal year's county jail debt and the amount of that~~  
32 ~~year's debt payment~~ 10% of the amount of projected statewide long-term capital  
33 improvement plan needs as approved by the board for the succeeding 10 years; and

34 **Sec. 19. 34-A MRSA §1803, sub-§5, ¶F**, as enacted by PL 2007, c. 653, Pt. A,  
35 §30, is amended to read:

36 F. Promote and support the use of evidence-based practices; and

37 **Sec. 20. 34-A MRSA §1803, sub-§5, ¶G** is enacted to read:

38 G. Consult with mental health and drug abuse experts to assist the board with issues  
39 related to mental health and drug abuse.





1           **Sec. 21. 34-A MRSA §1803, sub-§7**, as enacted by PL 2007, c. 653, Pt. A, §30,  
2 is amended to read:

3           **7. Authority limited.** The board does not have authority to exercise jurisdiction  
4 over inmate grievances, labor negotiations or contracts, including personnel rules  
5 negotiated as part of any collective bargaining agreement, ~~or any aspect of the operation~~  
6 ~~of detention facilities~~ or the administration of juvenile community corrections services.  
7 Nothing in this subchapter authorizes the board to interfere in obligations counties have  
8 in collective bargaining obligations under Title 26, section 965.

9           **Sec. 22. 34-A MRSA §1803, sub-§8**, as enacted by PL 2007, c. 653, Pt. A, §30,  
10 is amended to read:

11           **8. Rulemaking.** The board may adopt rules necessary to implement this ~~section~~  
12 ~~subchapter~~. Unless otherwise indicated, rules adopted pursuant to this subsection are  
13 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

14           **Sec. 23. 34-A MRSA §1803-A, sub-§3**, as enacted by PL 2011, c. 374, §15, is  
15 amended to read:

16           **3. Duties and powers of executive director.** The Executive Director of the State  
17 Board of Corrections shall perform administrative duties and exercise the powers  
18 consistent with policies established by the board, including:

19           A. Reviewing and making recommendations concerning proposed county corrections  
20 budgets;

21           B. Preparing the board budget;

22           C. Coordinating and compiling the long-term capital improvement plans submitted  
23 by the counties into a single budget document;

24           D. Preparing proposed goals, objectives for performance metrics and reports  
25 concerning the county correctional facilities; and

26           E. Developing recommendations with respect to contracts, services, standards and  
27 other matters within the jurisdiction of the board as the board may direct.

28 The executive director may appoint a financial analyst to assist with the work of the  
29 board. The executive director may request the assistance of the board, the Office of the  
30 Attorney General and other agencies of the State or the counties whenever necessary.  
31 The executive director and the commissioner shall enter into a written memorandum of  
32 understanding regarding the relationship of the board and its staff to the department.

33           **Sec. 24. 34-A MRSA §1803-A, sub-§4** is enacted to read:

34           **4. Compensation.** The board shall set the compensation for the executive director  
35 and the financial analyst appointed under subsection 3.

36           **Sec. 25. 34-A MRSA §1805**, as amended by PL 2009, c. 213, Pt. GGG, §5 and  
37 affected by §7 and amended by c. 391, §15, is further amended to read:

# COMMITTEE AMENDMENT

1 **§1805. State Board of Corrections Operational Support Fund program**

2 **1. Program established.** The State Board of Corrections ~~Investment~~ Operational  
3 Support Fund program, referred to in this section as "the program," includes General  
4 Fund accounts and Other Special Revenue Funds accounts for the purposes specified in  
5 this section.

6 **2. Expenditures of program.** ~~Except as otherwise provided in this section, funding~~  
7 ~~of the program may be expended only to compensate county governments and the~~  
8 ~~department for costs approved by the board and the Legislature~~ Upon approval by the  
9 board, program funds may be used for personnel, goods and services, including, but not  
10 limited to, motor vehicles, information technologies and office equipment, that do not  
11 exceed \$50,000 per item.

12 **3. Sources of funding.** The State Controller shall credit to the Other Special  
13 Revenue Funds accounts of the program:

14 A. Any net county assessment revenue pursuant to Title 30-A, section 701,  
15 subsection 2-A in excess of county jail appropriations in counties where jails or  
16 correctional services have been closed or downsized;

17 B. Any net county assessment revenue in excess of county jail expenditures in  
18 counties where changes in jail operations pursuant to board directives under section  
19 1803 have reduced jail expenses. Any net revenue in excess of county or regional jail  
20 expenditures resulting from efficiencies generated by the independent actions of a  
21 county or regional jail remains with the county's or regional jail authority's  
22 correctional services fund balance;

23 D. Money from any other source, whether public or private, designated into or  
24 credited to the Other Special Revenue Funds accounts of the program; and

25 E. Interest earned or other investment income on balances in the Other Special  
26 Revenue Funds accounts of the program.

27 **4. Unencumbered balances.** Any unencumbered balance in General Fund accounts  
28 or Other Special Revenue Funds accounts remaining at the end of any fiscal year does not  
29 lapse but is carried forward to be expended for the purposes specified in this section and  
30 may not be made available for any other purpose.

31 **5. Report by chair of the State Board of Corrections.** The chair of the board shall  
32 report at least annually on or before the 2nd Friday in December to the joint standing  
33 committee of the Legislature having jurisdiction over appropriations and financial affairs  
34 and the joint standing committee of the Legislature having jurisdiction over criminal  
35 justice and public safety matters. The report must summarize the activity in any funds or  
36 accounts directly related to this section.

37 **6. County correctional budget savings.** In the first fiscal year in which any  
38 unencumbered balance in the corrections-related account of a county arises out of savings  
39 realized during the course of that fiscal year, that county may retain the unencumbered  
40 balance for future corrections-related purposes without offset of the state funds that  
41 would otherwise be due that county. A county shall submit to the board 10% of any  
42 unencumbered balance realized in a subsequent fiscal year and the remaining  
43 unencumbered balance must be used by the county as provided in this subsection.

1           **Sec. 26. 34-A MRSA §1806, sub-§7**, as amended by PL 2009, c. 213, Pt. GGG,  
2 §6 and affected by §7, is further amended to read:

3           **7. Surcharge imposed.** In addition to the 14% surcharge collected pursuant to Title  
4 4, section 1057, an additional 1% surcharge must be added to every fine, forfeiture or  
5 penalty imposed by any court in this State, which for the purposes of collection and  
6 collection procedures is considered a part of the fine, forfeiture or penalty. All funds  
7 collected pursuant to this subsection are nonlapsing and must be deposited monthly in the  
8 State Board of Corrections Investment Operational Support Fund program that is  
9 administered by the board. All funds collected pursuant to this subsection must be  
10 distributed to counties that have experienced at least a 10% increase in their total annual  
11 jail operating budget or to counties that have issued bonds for the construction of a new  
12 jail or renovation of an existing jail and that meet all other requirements under subsection  
13 5. Funds distributed to counties pursuant to this subsection must be used for the sole  
14 purpose of funding costs of the support of prisoners detained or sentenced to county jails  
15 and for establishing and maintaining community corrections.

16           **Sec. 27. 34-A MRSA §§1808 to 1815** are enacted to read:

17           **§1808. Financial data**

18           **1. Develop a plan.** The board shall develop a plan, policies and procedures  
19 regarding the collection, analysis and interpretation of financial data.

20           **2. Develop a guidance document for counties.** The board shall develop a guidance  
21 document for the counties regarding:

22           A. Coding expenses;

23           B. Submission of emergency requests;

24           C. Submission of budgets;

25           D. Implementing the board's fiscal policies;

26           E. Developing methods and costs that can be used to compare costs within the  
27 county corrections system and averaged system-wide for the county jail facilities; and

28           F. Any other policies and procedures that the board considers important to  
29 facilitating the counties' ability to comply with the board's needs.

30           **3. Develop a fund balance policy.** The board shall develop a fund balance policy  
31 consistent with the provisions of Title 30-A, section 924, subsection 2 to allow counties  
32 to reserve cash for their corrections needs as long as the needs reflect the policies and  
33 priorities of the board. The policy must include incentives for counties to save money.  
34 The board shall regularly assess fund balances, and any transfers of fund balances must  
35 be approved by the board.

36           **4. Board contracts with the counties.** The board may develop and execute  
37 contracts between the board and the counties. The contracts may provide for the use of  
38 state funds, board and county responsibilities and any other provisions the board  
39 determines necessary.

1 **§1809. Application for other funds**

2 The board may accept funds and apply for grants and other funds to implement  
3 statewide or multicounty corrections initiatives, including, but not limited to,  
4 programming, technology, innovation and other initiatives to create a statewide county  
5 jail system.

6 **§1810. Budget format**

7 **1. Creation of the county budget.** The board shall develop and implement a budget  
8 format for county jails and a budget process that follows the same format and process that  
9 the State Budget Officer uses for the General Fund budget and for the department.

10 **2. Baseline budget and budget initiatives.** The board shall create a baseline budget  
11 for funding the county jails and new funding initiatives that define the need for funding  
12 decreases or increases. The board shall transmit budget instructions from the Department  
13 of Administrative and Financial Services to the county commissioners, who shall submit  
14 the budgets for their respective counties to the board. The budget instructions must  
15 include a budget growth factor consistent with the provisions of Title 30-A, section 710,  
16 subsection 1-A that the Department of Administrative and Financial Services has  
17 approved.

18 **3. Single chart of accounts.** The board shall establish a single chart of accounts for  
19 county corrections-related expenditures consistent with state General Fund standards and  
20 practices. All county jail budgets must be based and submitted on a state fiscal year  
21 basis.

22 **4. Standardized format and data.** The board shall adopt rules with respect to the  
23 standardized format and data to be used in county jail budgets and record keeping. The  
24 board shall ensure consistency in all county jail budgets to facilitate comparisons among  
25 county budgets and benchmarking.

26 **5. Funding allocation among county jails.** The board shall develop and approve a  
27 formula for allocating funding to the county jails. In determining the funding allocation  
28 formula, the board shall adopt rules that include, but are not limited to, rules regarding:

- 29 A. Jail size;
- 30 B. The number of beds;
- 31 C. The age of a facility;
- 32 D. Historic costs;
- 33 E. Management information system upgrades; and
- 34 F. Any other criteria determined necessary by the board.

35 **§1811. County Corrections Capital Improvement Fund**

36 **1. Fund established.** The County Corrections Capital Improvement Fund, referred  
37 to in this section as "the fund," is established.

38 **2. Capital investment plan; capital expenditure budget.** The board shall prepare a  
39 10-year system-wide capital investment plan to be used to determine capital projects that

1 can be funded for each county jail facility from the fund. The board shall report on the  
2 status of the capital investment plan to the Legislature by no later than January 15th of  
3 each first regular session of the Legislature. The board shall contract with an independent  
4 entity with expertise in developing a capital investment plan for correctional facilities to  
5 assist in developing the plan.

6 The board shall develop a capital expenditure budget for each county jail facility based on  
7 the capital investment plan to be submitted by each county with the operational budget  
8 for inclusion in the biennial budget or as required by the State Budget Officer.

9 **3. Budget growth factor.** The capital expenditure budget under subsection 2 must  
10 include a budget growth factor pursuant to Title 30-A, section 710, subsection 1-A that is  
11 approved by the Department of Administrative and Financial Services.

12 **4. Rules.** The board shall adopt rules governing the capital expenditure budget that  
13 take into consideration but are not limited to the following:

- 14 A. The age of the county jail facility;
- 15 B. The condition of the county jail facility;
- 16 C. Inmate and employee safety;
- 17 D. The needs of the system-wide correctional system;
- 18 E. Improvements necessary for the county jail facility to be more efficient; and
- 19 F. Any other criteria the board determines necessary.

20 **5. Verification of emergency capital requests.** In cases of emergency, if there are  
21 insufficient funds in the fund and in the retained funds of the affected county, the board  
22 may approve transfer of funds from the State Board of Corrections Operational Support  
23 Fund program. The board shall verify emergency capital requests based on criteria  
24 established by the board. The board shall:

- 25 A. Develop a uniform request form;
- 26 B. Require backup information documenting the emergency; and
- 27 C. Require evidence that the county used the most efficient procurement process  
28 possible under the emergency circumstances.

29 **6. Reports to the board.** Any payments made from the State Board of Corrections  
30 Operational Support Fund program that are not required to be approved by the board must  
31 be reported to the board in advance and included in financial reports on the State Board of  
32 Corrections Operational Support Fund program.

33 **§1812. Use of funds**

34 **1. Restriction on use of funds.** Property tax revenues for the support of county jails  
35 pursuant to Title 30-A, section 701, subsection 2-A and the State Board of Corrections  
36 Operational Support Fund program may be used only for county jail operations.

37 **2. Fund balances.** Fund balances remaining at the end of any fiscal year do not  
38 lapse but are carried forward for the benefit of the county jails that created the surplus.

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1        **3. Capital funds.** Capital funds appropriated or allocated through the Capital  
2 Investment Fund or from other sources may be used only for approved capital investment  
3 purposes as determined by the board.

4        **4. Inmate boarding revenues.** Except as provided in this subsection, federal or  
5 state inmate boarding revenues are retained by the county jail facility generating the  
6 funds and are not offset against the state appropriation otherwise due that county under  
7 the approved allocation formula. Federal inmate boarding revenues are retained by the  
8 county up to budgeted amounts approved as part of the county correctional services  
9 budget procedure pursuant to Title 30-A, section 710 and the remaining federal revenues  
10 must be used as follows:

11        A. A county jail holding jail debt on or before July 1, 2008 shall transfer 25% of any  
12 remaining federal revenue to the County Corrections Capital Improvement Fund  
13 under section 1811 and apply 75% to the jail debt until the full discharge of that debt.

14        B. A county jail without any jail debt must transfer 75% of any remaining federal  
15 revenues to the County Corrections Capital Improvement Fund under section 1811.

16        **5. Allocation of funds on quarterly basis.** The board shall distribute allotments of  
17 funds quarterly, together with a report of the financial status of each county jail facility.  
18 The board may curtail funds as necessary to address shortfalls. The board may request  
19 the State Budget Officer to transfer funds from one quarter to another to meet the needs  
20 of county jails.

21        **6. Revenue and expenditure reports.** A county jail facility shall send a report of  
22 revenues generated and expenses incurred by the county jail to the board on a monthly  
23 basis and in the format prescribed by the board.

24        **§1813. Monitoring performance**

25        The board may monitor the operational, programmatic and financial performance of  
26 each county jail facility and establish appropriate metrics and data collection  
27 requirements to compare the counties among themselves and with other appropriate  
28 jurisdictions. The board shall require timely reporting of the data collected in a consistent  
29 format.

30        **§1814. Enforcement authority**

31        **1. Board actions.** A county jail that violates a provision of this subchapter may be  
32 subject to the following as determined by the board:

33        A. Holding in escrow appropriations otherwise due to a county jail;

34        B. Making a county jail facility ineligible for participation in programs;

35        C. Suspending or denying funding;

36        D. Requiring a county jail to transfer funds collected pursuant to Title 30-A, section  
37 701, subsection 2-A to the State Controller to be credited to the State Board of  
38 Corrections Operational Support Fund program in an amount sufficient to cover any  
39 sums due to the board, the state or the other counties; and

1        E. If the county jail facility is a habitual violator, restricting or modifying the  
 2        operations of the county jail facility and making a request to the department to take  
 3        over the management and control of the county jail facility and its staff and inmates.  
 4        For purposes of this paragraph, "habitual violator" means a county jail facility with 3  
 5        or more violations of this subchapter. The board shall adopt rules to implement the  
 6        provisions of this paragraph. Rules adopted pursuant to this paragraph are major  
 7        substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

8        A county that violates this subchapter is responsible for all costs incurred by the State or  
 9        other counties as a result of the violation, and the board may reallocate that county's  
 10       appropriations during the time the county remains in violation of this subchapter.

11       **2. Withdrawal from correctional system prohibited.** A sheriff or a county  
 12       commissioner may not withdraw a county jail facility from the coordinated correctional  
 13       system or refuse to house any out-of-county inmates except in cases of jail overcrowding  
 14       as determined by the department. Any disagreement or dispute by a county with the board  
 15       is subject to mediation proceedings developed pursuant to this subchapter. This  
 16       subsection does not prohibit a party from petitioning a court for relief at any time.

17       For purposes of this section, a violation of this subchapter includes a violation of a  
 18       rule adopted by the board pursuant to this subchapter.

19       **§1815. Program incentives**

20       The board may provide funding to a county to support innovative or efficient  
 21       programs for meeting needs of a county jail facility identified by the county or the board.

22       **Sec. 28. Use of electronic technology.** The State Board of Corrections shall  
 23       work with the judicial branch to use electronic technology whenever possible to reduce  
 24       the level of physical transfer of inmates between a county jail facility and a court. The  
 25       board shall report its progress on the use of electronic technology to the joint standing  
 26       committee of the Legislature having jurisdiction over criminal justice and public safety  
 27       matters by February 28, 2015.

28       **Sec. 29. Rename program; State Board of Corrections.** Notwithstanding  
 29       any other provision of law, the State Board of Corrections Investment Fund program  
 30       within the State Board of Corrections is renamed the State Board of Corrections  
 31       Operational Support Fund program.

32       **Sec. 30. Appointment of members to the State Board of Corrections;**  
 33       **transitional members of board.** Members for the 5 positions on the State Board of  
 34       Corrections as described in the Maine Revised Statutes, Title 34-A, section 1802,  
 35       subsection 1 must be appointed as provided in Title 34-A, section 1802, subsection 1.  
 36       Notwithstanding Title 34-A, section 1802, on the effective date of this Act, the State  
 37       Board of Corrections consists of the following 5 members:

- 38       1. The most recently appointed member representing sheriffs;
- 39       2. The most recently appointed member representing county commissioners;
- 40       3. The 2 members representing the executive branch; and
- 41       4. The most recently appointed member representing the public.

1 The 5 members of the State Board of Corrections on the effective date of this Act as  
 2 described in subsections 1 to 4 may remain on the State Board of Corrections until the  
 3 member or the member's successor is appointed and confirmed.

4 **Sec. 31. Appropriations and allocations.** The following appropriations and  
 5 allocations are made.

6 **CORRECTIONS, STATE BOARD OF**

7 **State Board of Corrections Investment Fund Z087**

8 Initiative: Provides one-time funding for an anticipated shortfall in fiscal year 2013-14.

9	<b>GENERAL FUND</b>	<b>2013-14</b>	<b>2014-15</b>
10	All Other	\$1,200,000	\$0
11			
12	<b>GENERAL FUND TOTAL</b>	<u>\$1,200,000</u>	<u>\$0</u>

13 **State Board of Corrections Investment Fund Z087**

14 Initiative: Provides one-time funding to contract for a 10-year system-wide capital  
 15 improvement plan for the purpose of determining capital needs in each jail.

16	<b>GENERAL FUND</b>	<b>2013-14</b>	<b>2014-15</b>
17	All Other	\$0	\$225,000
18			
19	<b>GENERAL FUND TOTAL</b>	<u>\$0</u>	<u>\$225,000</u>

20 **State Board of Corrections Investment Fund Z087**

21 Initiative: Adjusts funding to bring allocations in line with available resources projected  
 22 by the Revenue Forecasting Committee for fiscal years 2013-14 and 2014-15.

23	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2013-14</b>	<b>2014-15</b>
24	All Other	\$3,806	(\$7,696)
25			
26	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$3,806</u>	<u>(\$7,696)</u>

27 **CORRECTIONS, STATE BOARD OF**  
 28 **DEPARTMENT TOTALS**

29		<b>2013-14</b>	<b>2014-15</b>
30	<b>GENERAL FUND</b>	<b>\$1,200,000</b>	<b>\$225,000</b>
31	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$3,806</b>	<b>(\$7,696)</b>
32			
33	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<u><b>\$1,203,806</b></u>	<u><b>\$217,304</b></u>



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1 **Emergency clause.** In view of the emergency cited in the preamble, this  
2 legislation takes effect when approved.'

3 **SUMMARY**

4 This amendment is the majority report and replaces the bill. It makes the following  
5 changes to the process for approving county correctional budgets and to the authority of  
6 the State Board of Corrections.

7 1. It clarifies that the correctional services budget for a county does not include  
8 county jail debt.

9 2. It establishes a growth factor for county correctional budgets that is equivalent to  
10 the growth limitation factor established in the Maine Revised Statutes, Title 30-A, section  
11 706-A.

12 3. It requires the State Board of Corrections to approve a county budget that does not  
13 exceed the budget growth factor that is calculated on the total county budget that includes  
14 both the state and county share of the budget.

15 4. It authorizes the State Board of Corrections to manage county inmate bed space  
16 and direct the transfer of inmates between county jails. If the State Board of Corrections  
17 fails to manage inmate bed space or inmate transfers or if the State Board of Corrections  
18 requests that the Commissioner of Corrections take on one or more of these functions and  
19 the commissioner agrees, it authorizes the Commissioner of Corrections to perform these  
20 functions.

21 5. It clarifies the purpose of the State Board of Corrections to promote public safety  
22 and establish and implement a unified and efficient county jail system.

23 6. It adds to the list of goals for the State Board of Corrections benchmarks for  
24 performance that include increased standardization, economies of scale, a long-term  
25 capital improvement budget, addressing mental health and substance abuse issues and  
26 best practices used at the national level.

27 7. It changes the membership of the State Board of Corrections from 9 members to 5  
28 members to include one sheriff, one county commissioner, two representatives of the  
29 executive branch and one member representing the public. It also repeals the requirement  
30 that one member must have expertise in mental health issues and directs the State Board  
31 of Corrections to consult with mental health and drug abuse experts to assist the board  
32 with issues related to mental health and drug abuse.

33 8. It allows the State Board of Corrections to enter into contracts on behalf of county  
34 jails and regional jails for goods and services and requires the counties to meet the terms  
35 of the contract and pay their pro rata share.

36 9. It amends the responsibilities of the Executive Director of the State Board of  
37 Corrections to include reviewing and making recommendations concerning the proposed  
38 county corrections budgets; preparing the State Board of Corrections budget;  
39 coordinating the long-term county improvement plans into a single document; and  
40 preparing performance metrics. It also allows the executive director to appoint a financial  
41 analyst to assist the State Board of Corrections.

**COMMITTEE AMENDMENT**

1           10. It provides that a county may exceed the budget growth factor as applied to  
2 personnel costs but may not exceed the county's overall budgeted growth factor cap.

3           11. It requires the State Board of Corrections to adopt and enforce standards related  
4 to the efficiency of the county correctional system including information systems,  
5 security equipment, inmate classification, pretrial services, staffing qualifications and  
6 staffing levels, ratios of personnel across different levels of command and other matters  
7 related to construction, maintenance and operations.

8           12. It requires the State Board of Corrections to receive and review all reports and  
9 results of county jail inspections conducted by the Department of Corrections.

10           13. It provides that the laws governing the State Board of Corrections do not  
11 authorize it to engage in collective bargaining obligations under the Maine Revised  
12 Statutes, Title 26, section 965.

13           14. It changes the name of the State Board of Corrections Investment Fund program  
14 to the State Board of Corrections Operational Support Fund program.

15           15. It provides that expenditures from the State Board of Corrections Operational  
16 Support Fund program are only for expenses approved by the board for personnel, goods  
17 and services, including, but not limited to, motor vehicles, information technologies and  
18 office equipment, that do not exceed \$50,000 per item.

19           16. It provides that in the first fiscal year in which any unencumbered balance in the  
20 corrections-related account of a county arises out of savings realized during the course of  
21 that fiscal year, the county may retain the unencumbered balance for future corrections-  
22 related purposes; however, 10% of savings in any subsequent fiscal year must be  
23 submitted to the State Board of Corrections.

24           17. It creates the County Corrections Capital Improvement Fund and requires the  
25 State Board of Corrections to prepare a 10-year system-wide capital investment plan with  
26 the assistance of an independent entity for the purpose of determining capital projects that  
27 can be funded for each county jail facility from the fund.

28           18. It directs the State Board of Corrections to contract with an independent entity  
29 with expertise in developing a capital investment plan for correctional facilities to assist  
30 in developing the 10-year system-wide capital investment plan.

31           19. It requires the State Board of Corrections to report on the status of a capital  
32 investment plan to the Legislature by no later than January 15th of each first regular  
33 session of the Legislature.

34           20. It requires the State Board of Corrections to develop a capital expenditure budget  
35 for each county jail facility based on a capital investment plan to be submitted by each  
36 county with the operational budget for inclusion in the biennial budget or as required by  
37 the State Budget Officer.

38           21. It establishes a uniform method of accounting and budgeting for county jail  
39 facilities.

40           22. It provides that federal or state inmate boarding revenues are retained by the  
41 county jail facility generating the funds and are not offset against the state appropriation  
42 otherwise due that county under the approved allocation formula.

# COMMITTEE AMENDMENT

1 23. For remaining federal revenues, it provides that federal inmate boarding revenues  
2 are retained by the county up to budgeted amounts approved as part of budgeted county  
3 correctional services. It requires a county jail holding jail debt on or before July 1, 2008  
4 to transfer to the County Corrections Capital Improvement Fund 25% of any remaining  
5 federal revenue and apply 75% to the jail debt until the full discharge of that debt. A  
6 county jail without any jail debt must transfer 75% of any remaining federal revenue to  
7 the County Corrections Capital Improvement Fund.

8 24. It clarifies that any county that has realized savings may retain those savings for  
9 future corrections-related services without the State's withholding funds that it would  
10 otherwise have allocated to that county.

11 25. It gives the State Board of Corrections enforcement authority by allowing it to  
12 hold funding in escrow for violations of rules, declare a county jail facility ineligible for  
13 participation in programs, suspend or deny funding and restrict or modify the operations  
14 of a county jail facility identified as a habitual violator.

15 26. It allows the State Board of Corrections to accept funds and apply for grants.

16 27. It prohibits a sheriff and a county commissioner from withdrawing from the  
17 coordinated correctional system or refusing to house any out-of-county inmates except in  
18 cases of jail overcrowding. It also provides that a disagreement or dispute with the State  
19 Board of Corrections is subject to mediation.

20 28. It establishes that the State Board of Corrections has the authority to monitor the  
21 operational, programmatic and financial performance of each county jail facility.

22 29. It requires the State Board of Corrections to work with the judicial branch to use  
23 electronic technology whenever possible to reduce the level of physical transfer of  
24 inmates between a county jail facility and a court and report to the joint standing  
25 committee of the Legislature having jurisdiction over criminal justice and public safety  
26 matters regarding the progress in implementing electronic technologies.

27 30. It provides an appropriations and allocations section for the State Board of  
28 Corrections Operational Support Fund and to continue funding for a financial analyst  
29 position.

30 **FISCAL NOTE REQUIRED**

31 **(See attached)**



# 126th MAINE LEGISLATURE

LD 1824

LR 2302(02)

## An Act To Provide Additional Authority to the State Board of Corrections

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-511)

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

### Fiscal Note

	FY 2013-14	FY 2014-15	Projections FY 2015-16	Projections FY 2016-17
<b>Net Cost (Savings)</b>				
General Fund	\$1,200,000	\$225,000	\$0	\$0
<b>Appropriations/Allocations</b>				
General Fund	\$1,200,000	\$225,000	\$0	\$0
Other Special Revenue Funds	\$3,806	(\$7,696)	(\$7,696)	(\$7,696)

### Fiscal Detail and Notes

This bill includes a one-time General Fund appropriation of \$1,200,000 in fiscal year 2013-14 to the State Board of Corrections to address an anticipated shortfall and a one-time appropriation of \$225,000 in fiscal year 2014-15 for the development of an independent system-wide capital improvement plan. It does not address supplemental funding needs in fiscal year 2014-15. It establishes a budget growth factor that will likely increase the state share of county jail costs since the county tax assessment for county correction services remains capped. The value of the growth factor using estimated fiscal year 2012-1013 and fiscal year 2013-14 data exceeds \$1,900,000. The exact amount required will vary each year.

This bill allows counties to retain savings realized during the course of the fiscal year rather than returning the funds to the State Board of Corrections and may increase the amount of General Fund appropriations required in any given fiscal year. It also allows counties to retain funds received from boarding federal or state inmates. These funds are to be used to discharge debt and as a source of funds to establish a County Corrections Capital Improvement Fund. These revenues had been available to reduce the amount of state funding needed to support county jail operational costs.