

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
**OFFICE OF THE STATE TREASURER**

39 State House Station, Augusta, ME 04333-0039

[www.maine.gov/treasurer](http://www.maine.gov/treasurer)

**HENRY E.M. BECK, ESQ.**  
State Treasurer

**GREGORY OLSON**  
Deputy Treasurer

*Via Electronic Delivery*

January 1, 2023

Senator Michael Tipping, Chair  
Representative Amy Roeder, Chair  
Joint Standing Committee on  
Labor and Housing

Re: Progress and Implementation Report, *An Act To Require the State To Divest Itself of Assets Invested in the Fossil Fuel Industry*

Honorable Chairs and Members:

Please accept this report from the Office of the State Treasurer to the Joint Standing Committee on Appropriations and Financial Affairs as required by P.L. 2021, Ch. 23 § 4, *An Act To Require the State To Divest Itself of Assets Invested in the Fossil Fuel Industry* (“the Act”). The report is divided in to two main sections: implementation regarding the Treasurer’s Cash Pool and implementation regarding permanent funds held in trust by the State.

## **Background**

L.D. 99 was heard by the Joint Standing Committee on Labor and Housing on February 10, 2021. Testifying in support of the goals of the legislation, the Office of the State Treasurer outlined its general approach on the issues raised in the proposal by urging that if the Committee or Legislature elected to pass some form of L.D. 99 that “a realistic timeline be set, a fiduciary duty exception be made, and some de-minimis energy exposure be allowed.” The Office of the State Treasurer has consistently taken every step to ensure good faith compliance with chaptered law passed by the Legislature and ensure fulfillment of fiduciary duty.

## **No negative effect on Treasurer’s Cash Pool (TCP).**

The deposit and management of State funds is a primary responsibility of the Treasurer of State (see, 5 M.R.S. § 135). The TCP is sometimes described as the State’s operating account. It includes revenue funds collected as an ongoing basis and funds expended out on a daily and weekly basis. Funds not immediately needed to pay state expenses are invested in commercial paper, obligations of the U.S. Government, Certificates of Deposit and overnight accounts in Maine banks, money market mutual funds, corporate bonds, and repurchase agreements. The TCP is managed with safety, liquidity, and yield in mind.

The Act requires that the Treasurer of State may not invest in any prime commercial paper or corporate bonds issued by a fossil fuel company, as defined. The Act has had no material effect on the TCP or operations because there are almost no fossil fuel investments available in the market allowed for investment under statute that long predates the Act. According to the State’s external cash management



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advisor PFM Asset Management LLC, there is a fossil fuel investment in the marketplace allowed under statute occasionally available, ExxonMobil prime commercial paper or AAA corporate bonds. That same fiduciary reported on December 27<sup>th</sup> that “Exxon Mobil hasn’t offered much incremental yield relative to alternative investment options. Even if we were allowed to consider adding Exxon Mobil, we probably would have not done so.”

The TCP is at a record level and has performed well. As of November 30, 2022, the balance was \$4,545,003,572.40. The average daily balance in the cash pool was \$4,480,878,850.83, and fiscal year-to-date earnings as of the end of November were \$29,041,935.60. Monthly reports on balances and performance are publicly available at <https://www.maine.gov/treasurer/cash-management/investments>.

### **Permanent trust funds**

The Office of the State Treasurer manages the State of Maine’s permanent trust funds. Such funds include the Baxter State Park Trust, Lands Reserved Trust, MacWorth Island Trust, Permanent School Trust and a collection of many individual trusts, referred to as the “Several Trusts”, in which the settlers named the State of Maine as trustee. As of November 30, 2022 the balance of these trusts was \$64,312,941.

The Office of the State Treasurer began work implementing the Act by looking to fiduciary duty first. Therefore, it was adjudged that analysis of the effect of the Act on risk and return related to State trust funds should begin well in advance of the effective date of the Act. OST utilized the services and counsel of Harpswell Capital Advisors, a Maine-based investment advisor to public funds and endowments. Harpswell is led by John P. Moore, CFA. Moore is an alumnus of the Vanguard Group and Metlife and holds a Bachelor of Arts degree from Hobart College and earned his Master of Science degree from the London School of Economics.

On July 13, 2021, the Office of the Treasurer consulted with Moore, as well as a pre-existing formed advisory committee comprised of two CFAs to discuss the Act. After lengthy discussion, it was the consensus of the Office of the State Treasurer, Harpswell Capital Advisors, and the advisory committee that the most appropriate action that demonstrated good faith compliance with the Act and maintenance of fiduciary duty was a transition of state trust funds to competitive ESG funds. Discussions centered on the proposed Vanguard ESG portfolio with the current (non-ESG) portfolio. Participants compared portfolio analytics of hypothetical ESG portfolios implemented using Vanguard ESG funds vs iShares ESG funds. Based on performance, expense, and energy exposure, the advisory committee endorsed the selection of Vanguard ESG funds, at the discretion of the Treasurer. Representatives of fund beneficiaries such as Baxter State Park also participated. As a result of the transfer, fund exposure to the overall energy sector was greatly reduced from approximately 3.4% of the portfolio to a de minimus amount of less than 0.25%.

Since the divestment actions occurred on July 13, 2021, through the end of November 2022, the Several Trusts funds have appreciated -10.65%, as compared to -9.95% for the S&P 500 (which includes fossil fuel companies). In that time-period, the Several Trusts generated \$1,472,320 in dividend and interest income, with distributions to beneficiaries occurring in January and July of 2022. This compares to



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\$1,389,648 of trust income in January and July of 2021, pre-divestment. Therefore, income to trust recipients has increased by 5.94%.

Considering the above, we believe our management of State assets is within good faith compliance of the Act. Further, our actions were taken within a fiduciary standard. As allowed by the Act, we will continually monitor and manage State funds as appropriate.

Henry Beck  
State Treasurer