STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES
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SERVING THE PUBLIC AND DELIVERING ESSENTIAL SERVICES TO STATE GOVERNMENT

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March 11, 2021

To: Members of the Joint Standing Committees on:
Appropriations and Financial Affairs
State and Local Government
Taxation
Veterans and Legal Affairs

From: Kirsten LC Figueroa, Commissioner
Department of Administrative and Financial Services (DAFS)

Re: Responses to Questions from recent Joint Committee Hearings

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Questions from the Public Hearing with AFA and TAX:

Projection for the future costs of the Renewable Energy Facilities Property Tax Exemption program.
(Public Law 2019, chapter 440)

The law exempts from property tax solar and wind energy equipment that generates heat and electricity as long as all of the generated energy is used on site, or the customer receives a bill credit for the generated energy (i.e. it is subject to net energy billing). Maine Revenue Services estimates the impact to be $192,500 and $1.7M for fiscal years 2022 and 2023 and $5M – $7M in fiscal years 2024 and 2025. If all projects with an active non-operational status in CMP's and Versant's net metering filing covering through November 2020 are built reimbursement would be around $7.2 million in FY 2025. However, these projects are in the early stages of development. The status of all property is determined as of April 1 each year. If, on April 1, the equipment is under construction and not yet operational, then the equipment is not yet generating any energy, there is no energy to be used on site or credited to the customer, and the equipment would not qualify for the exemption.

What other property tax relief programs are available to the elderly?

The property tax fairness credit applies to both elderly and non-elderly households. Elderly households can receive up to $1,200 in credit while others are capped at $750.

The Homestead exemption of $25K is available to any homestead regardless of age.

On 2/19/2021, I testified about the Tree Growth Tax Reimbursement Program in the biennial budget. I made an error in the way I described the funding of the program. Please see my corrections (strikeout/underline) below:

On page **A-36** is the **Tree Growth Tax Reimbursement** program with a baseline budget of $7.6 million per year. The purpose of this program is to help moderate municipal property tax rates for municipalities that experience reduced valuations due to the mandated use of lower current use values in place of higher ad-valorem values. The reduced valuation on forestland causes a general shift in local tax burden to non-classified property because the lower taxable valuation base produces a somewhat higher property tax rate.

~~Unlike other property tax reimbursement programs, the Tree Growth Tax Reimbursement program is authorized by the Constitution and is not subject to the amendment mandating reimbursement by the State. The State reimburses municipalities for revenue loss associated with the program.~~
Article IV, Part Third, Section 23 of the Maine Constitution requires that the Legislature reimburse municipalities for at least 50% of the property tax revenue loss associated with statutory exemptions or credits enacted after April 1, 1978. However, because the Tree Growth current use program is specifically authorized by the Constitution as an exception to the requirement that all property be assessed at just value, reimbursement is not constitutionally mandated. The State does by statute (36 M.R.S. § 578) reimburse municipalities for a portion of the revenue loss associated with the program.

For tax year 2019, there were approximately 3.6 million classified acres included in more than 24,000 parcels in municipalities statewide reimbursed through the program.

Although not reimbursed through this program, there are an additional 7.5 million acres of classified forestland in the Unorganized Territory.

Representative Pierce requests a copy of BGS' comprehensive file of known data related to harmful contaminants contained in and around workspaces.

This report, sorted by date, lists environmental projects by building and the result of those projects. Information in the report is used by staff to assess if previous similar reports were made or if there are particular hazards they should be aware of when beginning other projects in the area.

Link to report from BGS: Environmental Projects Listing

Representative Pierce requested a copy or update from the vendor's separate analysis and inventory of all state facilities to include "catch up, keep up and build up" maintenance and renovation information.

This is an ongoing effort, and will include observations and recommendations from our vendor, Sightlines, on the State of Maine's building infrastructure, capital investment levels, and investment targets as compared to peers and the vendor's database. We will update AFA and SLG when this report is complete.

Representative Corey asked: is State office space under-utilized? What is the square footage of owned versus leased space? Can we break this down by city?

1. State-owned space

The State's major hub of owned space is in the Greater Augusta area (Augusta, Hallowell, Vassalboro), with close to 2 million square feet of employee-occupied space in 54 buildings. DAFS manages these facilities.

The Controller's Office, Risk Management Division, maintains a list of 4,200 facilities throughout the State, specifying the agency responsible for them. These range from docks to fish hatcheries. The list includes buildings under the Community College System, the University of Maine System, Maine Maritime Academy and all agencies, and can be sorted for areas of interest.

Buildings at the Dorothea Dix Psychiatric Center comprise about 400,000 square feet, with 200,000 used for psychiatric treatment and the balance either vacant or managed by the BGS Leased Space Division.

2. Leased space

The Division of Leased Space is currently administering 269 active leases for office, warehouse, garage, storage, tower and training purposes—in the service of 37 state agencies, and across 68 different municipalities and 5 unorganized territories. The Division's leasing portfolio includes 1,748,398 square feet of leased space (excluding towers and associated access roads and rights of way).

A list of municipalities where State leases are located can be found here: Copy of Leases by city

3. Is State office space under-utilized?

Leased space is not underutilized; rather, it is carefully managed. If an agency finds that it has excess space, the lease will be amended to reduce square footage or when renewed, the footprint will be reduced in size. In some cases, agencies will relocate to smaller facilities or co-locate in other agency buildings.

In State-owned space, the BGS space management office is constantly looking for empty cubicles or other spaces for temporary employees, interns, contractors and the like. Such space is difficult to find. Space is not underutilized, as it is constantly evaluated for efficient "fit" with agency program needs. On the contrary, many agencies work in overcrowded spaces.

An overwhelming percentage of State employees have teleworked during the pandemic. Accordingly, many State-owned and leased buildings were not fully occupied during the past year. Lower occupancy gave DAFS the opportunity to study several overcrowded agency spaces. One agency had such a successful experience with telework that the number of workstations was reduced permanently, and the square footage occupied by the agency decreased. This provides an opportunity to move employees from other severely overcrowded space into the newly available space.

It is likely that some amount of telework will continue post-pandemic. This will relieve stressed, cramped workspaces and provide some "breathing room." It should be noted, even as agencies/employees shift more permanently to telework, it will likely not be full time and so we will be planning for "shared-with-others" space at their state space for office days.

How long did it take to accumulate the funding for the $104 payments made under the Property Tax Relief Fund?

State Treasurer Beck responded during the meeting indicating that the fund accumulated over approximately 7 years. Funding accumulated in the Property Tax Relief Fund through the 'cascade'. Revenue performance in excess of budget was the driving factor.

<u>Questions from the FY21 Work Session with TAX:</u>

Representative Terry asked how many municipalities receive payments from Revenue Sharing II (Disproportionate Tax Burden Fund).

According to the Office of the State Treasurer, 488 total municipalities receive Revenue Sharing I, Revenue Sharing II or both. Of those 488 municipalities, 416 receive Revenue Sharing II.

<u>Questions from the Public Hearing with AFA and VLA:</u>

Representative Corey asked about the General Fund revenues collected related to marijuana excise and sales taxes versus the cost of the Adult Use program.

The Adult Use Marijuana program 'went live' on September 8, 2020 with retail sales beginning on October 9th.

FY2021 Revenues (actual as of 3/2/21)	$1,889,239
FY2019 Expenses (actual)	$384,783
FY2020 Expenses (actual)	$1,631,321
FY2021 Appropriation (budget)	$2,389,043

<u>Questions from the Public Hearing with AFA and SLG:</u>

Representative Hymanson asked about the Workday project:

Does the subscription rate for the Workday product include only those components of the system to be used by the State of Maine?

We have subscribed to a selection of Workday modules, but not the entire system. We are only charged subscription fees for the modules we have chosen to use. Annual subscription fees are calculated based on the number of active employees in the system and are $1.5M per year.

Modules that we are using include: Human Capital Management (includes onboarding, position assignment, salary and wage schedules, etc.), Cloud Connect for Benefits, Recruiting, Payroll, and Time Tracking.

On March 3rd, Representative Fecteau asked about Workday Professional Services staff. During AFA's Supplemental vote on March 4th, Representative Fecteau alleged "probable sexual misconduct" at the Workday Project:

DAFS is aware of comments made during a Legislative public hearing, alleging what was characterized as "probable sexual misconduct" on the Workday project. This public announcement was the first time we had been made aware of this alleged impropriety. The Department takes these allegations seriously and has launched a full and complete investigation. The Bureau of Human Resources is working with the Office of the Attorney General on this matter.

DAFS is aware of a letter to the Government Oversight Committee that contains this same allegation and also expresses concern about potential "fraud, waste, and/or abuse" of government resources within the Workday project. We recently contracted with a third-party to provide an independent assessment of the long-standing effort, and have been working with the Office of the Attorney General on a contract dispute in regard to Workday implementation – and we will continue to work with the Office of the Attorney General to find resolution.

Workday is two things:

A. A software-as-a-service (SaaS) financial and human resources capital management platform, for which we pay a subscription fee per user.
B. A company which offers its consulting and professional services to implement the software.

The need for a system like Workday was identified during the LePage Administration – meant as a modernization effort for the State's significantly out of date computer systems, an issue that makes for:

- inherently inefficient processes;
- multiple legacy software systems that have limited integrations with each other;
- incompatibility with supporting systems that are no longer supported by vendors and/or using computer languages that are no longer taught;
- considerable administrative burden and/or cost for the upkeep and functionality of these legacy systems; and
- vulnerability to cyber-attack and/or malfunction.

Workday has been under contract with the State for both the SaaS and the professional services implementation spanning Administrations.

Following the third-party assessment of the effort, communications between the State team and Workday team were happening regarding concerns identified by that report; however, on February 12th at 5pm, Workday paused its work on the project.

Because of this and other concerns, the State notified Workday on February 25th that Workday is required to remedy several contractual issues within 30 days. These issues include failure to deliver adequate labor costing and ad-hoc reporting solutions, failure to meet certain expectations in the agreed upon statement of work and operating in bad faith. If Workday is unable to remedy the noted issues, the State will move forward with termination of the Professional Services Agreement and seek payment from Workday in the amount of $22,164,755 due to incomplete deliverables and failure to meet the State's requirements.

The Office of the Attorney General is continuing to evaluate next steps on the contract dispute.

The need to replace these legacy software systems remain – and we remain committed to completing the implementation of the Workday software.

Along with the initiative in the supplemental for funding and Certificate of Participation borrowing, the funds requested in the biennial budget are needed to complete installation and implementation efforts and ongoing funding for maintenance, updates, debt service and support. The State remains committed to the Workday software and to its successful implementation, rollout, and utilization.