APPROVED	CHAPTER
MARCH 17, 2021	1
BY GOVERNOR	PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-ONE

130TH RI Supplemental Budget

Excerpts related to MCILS

H.P. 155 - L.D. 220

An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2021

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 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; 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,

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

PART A

Sec. A-1. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Accident - Sickness - Health Insurance 0455

Initiative: Reduces funding by freezing one vacant part-time Accountant I position. This initiative relates to the curtailments ordered in Financial Order 001152 F1.

GENERAL FUND	**2020-21**	**2021-22**	**2022-23**
Personal Services	($16,893)	$0	$0
GENERAL FUND TOTAL	($16,893)	$0	$0

Administration - Human Resources 0038

All Other	($12,000)	$0	$0
GENERAL FUND TOTAL	($12,000)	$0	$0

HUMAN RIGHTS COMMISSION, MAINE DEPARTMENT TOTALS	**2020-21**	**2021-22**	**2022-23**
GENERAL FUND	**($49,550)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($49,550)**	**$0**	**$0**

Sec. A-19. Appropriations and allocations. The following appropriations and allocations are made.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: Increases allocation due to the cost of indigent legal services.

OTHER SPECIAL REVENUE FUNDS	**2020-21**	**2021-22**	**2022-23**
All Other	$2,635,396	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$2,635,396	$0	$0

Sec. A-20. Appropriations and allocations. The following appropriations and allocations are made.

INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF

Administrative Services - Inland Fisheries and Wildlife 0530

Initiative: Reduces funding by deferring planned maintenance activities at department-owned facilities. This initiative relates to the curtailments ordered in Financial Order 001152 F1.

GENERAL FUND	**2020-21**	**2021-22**	**2022-23**
All Other	($16,379)	$0	$0
GENERAL FUND TOTAL	($16,379)	$0	$0

Enforcement Operations - Inland Fisheries and Wildlife 0537

Initiative: Reduces funding by using federal Coronavirus Relief Fund funds to support public health and public safety Personal Services costs identified as an allowable use by guidance from the United States Department of the Treasury. This initiative relates to the curtailments ordered in Financial Order 001152 F1.

GENERAL FUND	**2020-21**	**2021-22**	**2022-23**
Personal Services	($6,092,877)	$0	$0

to the contrary, at the end of fiscal year 2020-21, the State Controller shall carry forward, to be used for the same purposes in fiscal year 2021-22, any unexpended balance of the $1,335,770 appropriated in the All Other line category contained in Part A in the Department of Health and Human Services, Food Supplement Administration program, General Fund account for the purpose of reimbursing the Federal Government for the Supplemental Nutrition Assistance Program error penalty incurred in federal fiscal year 2019.

PART Q

Sec. Q-1. PL 2019, c. 343, Part BBBB, §4 is amended to read:

Sec. BBBB-4. Transfer to Fund for a Healthy Maine. After the State Controller has made the transfers for MaineCare payments authorized pursuant to section 3 of this Part, the State Controller shall transfer ~~any remaining balance, up to~~ $14,500,000, on ~~June 30~~ July 1, 2021 to the Fund for a Healthy Maine dedicated revenue.

PART R

This Part left blank intentionally.

PART S

Sec. S-1. Transfer balances; indigent legal services. Notwithstanding any provision of law to the contrary, prior to June 30, 2021, the State Controller shall transfer, after the deduction of all allocations, financial commitments and other designated funds and any other transfer authorized by statute, any remaining balance in the Reserve for Indigent Legal Services account, Other Special Revenue Funds to the Maine Commission on Indigent Legal Services account, Other Special Revenue Funds in the Maine Commission on Indigent Legal Services.

PART T

Sec. T-1. PL 2019, c. 343, Part ZZZ, §1 is amended to read:

Sec. ZZZ-1. Carrying provision; Department of Secretary of State, Elections and Commissions. Notwithstanding any provision of law to the contrary, the State Controller shall carry forward any unexpended balance in the All Other line category at the end of fiscal year 2019-20 to the ~~next fiscal year~~ end of fiscal year 2021-22 in the Department of Secretary of State, Elections and Commissions program to be used as matching funds for the federal Help America Vote Act of 2002.

PART U

Sec. U-1. 36 MRSA §5200-A, sub-§1, ¶FF, as enacted by PL 2017, c. 474, Pt. D, §1, is amended to read:

FF. An amount equal to the taxpayer's global intangible low-taxed income deduction claimed in accordance with the Code, Section 250(a)(1)(B) and, for tax years beginning on or after January 1, 2020, an amount equal to the taxpayer's deduction claimed in accordance with the Code, Section 250(a).

PART V

This Part left blank intentionally.

APPROVED	CHAPTER
MARCH 31, 2021	29
BY GOVERNOR	PUBLIC LAW

STATE OF MAINE

BIENNIAL BUDGET
130TH RI

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-ONE

Did not fund MCDLS above baseline

H.P. 525 - L.D. 715

Excerpts below

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2022 and June 30, 2023

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

PART A

Sec. A-1. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Accident - Sickness - Health Insurance 0455

Initiative: BASELINE BUDGET

GENERAL FUND	**2021-22**	**2022-23**
POSITIONS - LEGISLATIVE COUNT	0.500	0.500
Personal Services	$33,324	$34,758
All Other	$772,957	$772,957
GENERAL FUND TOTAL	$806,281	$807,715

RETIREE HEALTH INSURANCE FUND	**2021-22**	**2022-23**
All Other	$116,951,295	$116,951,295
RETIREE HEALTH INSURANCE FUND TOTAL	$116,951,295	$116,951,295

ACCIDENT, SICKNESS AND HEALTH INSURANCE INTERNAL SERVICE FUND	**2021-22**	**2022-23**
POSITIONS - LEGISLATIVE COUNT	12.000	12.000
Personal Services	$1,082,319	$1,110,639
All Other	$169,431,976	$169,431,976

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	$107,864	$107,864
OTHER SPECIAL REVENUE FUNDS TOTAL	$107,864	$107,864

Sec. A-35. Appropriations and allocations. The following appropriations and allocations are made.

HUMANITIES COUNCIL, MAINE

Humanities Council 0942

Initiative: BASELINE BUDGET

GENERAL FUND	2021-22	2022-23
All Other	$53,357	$53,357
GENERAL FUND TOTAL	$53,357	$53,357

HUMANITIES COUNCIL 0942

PROGRAM SUMMARY

GENERAL FUND	2021-22	2022-23
All Other	$53,357	$53,357
GENERAL FUND TOTAL	$53,357	$53,357

Sec. A-36. Appropriations and allocations. The following appropriations and allocations are made.

INDIAN TRIBAL-STATE COMMISSION, MAINE

Maine Indian Tribal-state Commission 0554

Initiative: BASELINE BUDGET

GENERAL FUND	2021-22	2022-23
All Other	$111,614	$111,614
GENERAL FUND TOTAL	$111,614	$111,614

MAINE INDIAN TRIBAL-STATE COMMISSION 0554

PROGRAM SUMMARY

GENERAL FUND	2021-22	2022-23
All Other	$111,614	$111,614
GENERAL FUND TOTAL	$111,614	$111,614

Sec. A-37. Appropriations and allocations. The following appropriations and allocations are made.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: BASELINE BUDGET

GENERAL FUND	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT	11.500	11.500
Personal Services	$954,855	$977,284
All Other	$15,521,725	$15,521,725
GENERAL FUND TOTAL	$16,476,580	$16,499,009

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	$1,157,000	$1,157,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$1,157,000	$1,157,000

MAINE COMMISSION ON INDIGENT LEGAL SERVICES Z112

PROGRAM SUMMARY

GENERAL FUND	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT	11.500	11.500
Personal Services	$954,855	$977,284
All Other	$15,521,725	$15,521,725
GENERAL FUND TOTAL	$16,476,580	$16,499,009

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	$1,157,000	$1,157,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$1,157,000	$1,157,000

Sec. A-38. Appropriations and allocations. The following appropriations and allocations are made.

INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF

Administrative Services - Inland Fisheries and Wildlife 0530

Initiative: BASELINE BUDGET

GENERAL FUND	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT	4.000	4.000
Personal Services	$365,802	$370,593
All Other	$302,000	$302,000
GENERAL FUND TOTAL	$667,802	$672,593

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	$11,659	$11,659
OTHER SPECIAL REVENUE FUNDS TOTAL	$11,659	$11,659

SENATE

ANNE M. CARNEY, DISTRICT 29, CHAIR
HEATHER B. SANBORN, DISTRICT 28
LISA M. KEIM, DISTRICT 18

MARGARET REINSCH, SENIOR LEGISLATIVE ANALYST
SAM SENFT, LEGISLATIVE ANALYST
SUSAN PINETTE, COMMITTEE CLERK

HOUSE

THOM HARNETT, GARDINER, CHAIR
CHRISTOPHER W. BABBIDGE, KENNEBUNK
LOIS GALGAY RECKITT, SOUTH PORTLAND
STEPHEN W. MORIARTY, CUMBERLAND
ERIN R. SHEEHAN, BIDDEFORD
DAVID G. HAGGAN, HAMPDEN
KATHY L. DOWNES, BUCKSPORT
LAUREL D. LIBBY, AUBURN
JENNIFER L. POIRIER, SKOWHEGAN
JEFFREY EVANGELOS, FRIENDSHIP
RENA D. NEWELL, PASSAMAQUODDY TRIBE

STATE OF MAINE
ONE HUNDRED AND THIRTIETH LEGISLATURE
COMMITTEE ON JUDICIARY

March 18, 2021

TO: Senator Catherine E. Breen, Senate Chair
Representative Teresa S. Pierce, House Chair
Joint Standing Committee on Appropriations and Financial Affairs

FROM: Senator Anne M. Carney, Senate Chair
Representative Thom Harnett, House Chair
Joint Standing Committee on Judiciary

Re: Judiciary Committee's recommendations on the Biennial Budget (LD 221) + (LD 715)

Introduction

Thank you for the opportunity to present our Biennial Budget recommendations for the Department of the Attorney General, the Maine Human Rights Commission, the Maine Indian Tribal State Commission, the Maine Commission on Indigent Legal Services, the Judicial Branch and Pine Tree Legal Assistance, as well as Part KK, Part FFF and Part III. After the joint public hearings, the Judiciary Committee met on March 3rd, March 9th and March 16th. We appreciate your extension of the original reporting date.

Our work on the Biennial Budget was a thoughtful process, and we reached unanimous agreement on several initiatives, but not all. Overall, the majority of the Judiciary Committee supports the initiatives included in the original budget with specific exceptions described below. The work sheet with the recorded votes is attached.

Specific Changes

- Department of the Attorney General

The Budget includes Other Special Revenue funding for a new Assistant Attorney General position dedicated to Workers' Compensation litigation (Ref. # 397), as well as an additional Paralegal (Ref. # 399) and an additional Secretary Legal position (Ref. # 401). After discussion about the need for additional information about the existing costs of outsourcing this legal work on behalf of the State, the Attorney General and the Committee agreed to delete all three initiatives.

100 STATE HOUSE STATION, AUGUSTA, MAINE 04333-0100 TELEPHONE 207-287-1327

- Maine Human Rights Commission

The initiatives in the Biennial Budget addressing the Maine Human Rights Commission need significant revision because of updated information on range changes for several investigator positions. In addition, the Judiciary Committee agreed to recommend reorganization of existing positions in order provide the technology support required by the Commissioners as well as the staff. All of the changes are related and make possible the technology support; the Judiciary Committee strongly supports accepting the revisions in their entirety. The majority of the Judiciary Committee (9-1) supports the replacement of the initiatives listed as Ref. ## 1083, 1084, 1085, 1086, 1087, 1088 and 1089. The Commission ordinarily relies on a share of federal funds based on the work undertaken for and compensated by the federal Department of Housing and Urban Development (housing discrimination) and the Equal Employment Opportunity Commission (employment discrimination). The Commission is concerned that the federal government, because of the pandemic and the reduction in activities, will not be providing the amount of federal funds identified in the initiatives in the Biennial Budget, and also that the Commission's ability to close cases and meet contract obligations with these federal funders continues to be limited by staff leaves of absence and remote work. Our revised initiatives do not, therefore, rely on those new federal funds going forward. (There is no reason to expect the baseline federal funds to be affected.)

- Maine Indian Tribal-State Commission

The Biennial Budget does not include any initiatives for the Maine Indian Tribal-State Commission. The majority of the Judiciary Committee (9-3) supports the appropriation of an additional $55,200 (All Other) each year to support the MITSC's expanded work. This will fund part-time support staff to continue the efforts supporting MITSC's responsibilities now that all the State and Tribal seats are occupied.

- Maine Commission on Indigent Legal Services

The Biennial Budget contains no initiatives for the Maine Commission on Indigent Legal Services, despite the great need for significant reform and additional funding to fulfill the State's constitutional and statutory obligations to those who need legal representation and do not have the financial resources to cover the costs. As you know, there are significant shortcomings in the State's provision of indigent legal services; the Sixth Amendment Center identified the multiple specific situations in which the State is at risk of being a defendant in a class action lawsuit unless substantial changes addressing the deficiencies are put in motion soon. With that in mind, we make the several recommendations for revitalizing the Maine Commission on Indigent Legal Services.

  - Part FFF

    Part FFF amends the statute governing the rule-making authority of the Maine Commission on Indigent Legal Services. The majority of the Judiciary Committee supports this change. It is included in our MCILS language recommendation. (Note that the Summary included in the Biennial Budget for Part FFF is not correct.)

- Judicial Branch

The most significant change in the Judicial Branch budget was proposed by the Judicial Branch itself – Delete Reference #1862 – the Courts believe they do not need the additional funding included for guardian ad litem costs that had been anticipated in child protection cases. Because

of the pandemic, case filings and court activities have been limited, so that the existing funding for GALs is sufficient. This is a savings of $254,711 in each year of the biennium.
Sincerely,

Part KK
Part KK amends the Maine Uniform Probate Code to repeal the requirement that the State purchase a bond when acting as the public guardian or public conservator. (The $14,000 in savings are included in the HHS budget.) The Committee's discussion of Part KK has convinced the majority to support the elimination of the bonding obligation described in this Section because it is clear that currently the bond is useless. However, we also realize that adults who have a public guardian or conservator should not be left without a remedy if their public guardians or conservators act negligently in performing their legal duties. In the interest of accountability, we recommend that the Legislature evaluate whether to add language that will waive sovereign immunity under the Maine Tort Claims Act and provide a limited remedy to these vulnerable adults.

Part III
Part III provides for the full 3% of the judicial salary adjustment that is annually budgeted, rather than basing the adjustment on the consumer price index for a cost of living adjustment. The majority of the Judiciary Committee (7-5) supports Part III, recognizing that even after the 3% increase, Maine judges will remain at or near the bottom of all states' compensation for judges.

Thank you for your consideration of our recommendations. We are happy to answer any questions.

Attachments
- Judiciary work sheet (votes)
- Maine Human Rights Commission revised initiatives
- Maine Commission on Indigent Legal Services revised initiatives (votes)
- Maine Commission on Indigent Legal Services language recommendations

Sec. A-38. Appropriations and allocations. The following appropriations and allocations are made.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: BASELINE BUDGET

GENERAL FUND	History 2019-20	History 2020-21	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT	0.000	11.500	11.500	11.500
Personal Services	$0	$899,599	$954,855	$977,284
All Other	$9,000	$15,521,725	$15,521,725	$15,521,725
GENERAL FUND TOTAL	$9,000	$16,421,324	$16,476,580	$16,499,009

OTHER SPECIAL REVENUE FUNDS	History 2019-20	History 2020-21	2021-22	2022-23
All Other	$0	$1,157,000	$1,157,000	$1,157,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$1,157,000	$1,157,000	$1,157,000

MAINE COMMISSION ON INDIGENT LEGAL SERVICES Z112
PROGRAM SUMMARY

GENERAL FUND	History 2019-20	History 2020-21	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT	0.000	11.500	11.500	11.500
Personal Services	$0	$899,599	$954,855	$977,284
All Other	$9,000	$15,521,725	$15,521,725	$15,521,725
GENERAL FUND TOTAL	$9,000	$16,421,324	$16,476,580	$16,499,009

OTHER SPECIAL REVENUE FUNDS	History 2019-20	History 2020-21	2021-22	2022-23
All Other	$0	$1,157,000	$1,157,000	$1,157,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$1,157,000	$1,157,000	$1,157,000

See new initiatives

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

DEPARTMENT TOTALS	2021-22	2022-23
GENERAL FUND	$16,476,580	$16,499,009
OTHER SPECIAL REVENUE FUNDS	$1,157,000	$1,157,000
DEPARTMENT TOTAL - ALL FUNDS	$17,633,580	$17,656,009

see JUD Language

PART FFF

Sec. FFF-1. 4 MRSA, §1804, sub-§4, ¶D is amended to read:

4. Powers. The commission may:

A. Establish and maintain a principal office and other offices within the State as it considers necessary;

B. Meet and conduct business at any place within the State;

C. Use voluntary and uncompensated services of private individuals and organizations as may from time to time be offered and needed;

D. Adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted to establish ~~standards under subsection 2, paragraph B and~~ rates of compensation for assigned counsel and contract counsel under subsection 2, paragraph F are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A; and

E. Appear in court and before other administrative bodies represented by its own attorneys.

w/changes
11-1 Absent DH RN

PART FFF
SUMMARY

incorrect

This Part allows the Maine Indigent Legal Services Commission to establish rates of compensation for assigned counsel and contract counsel through routine technical, rather than major substantive, rulemaking, enabling the Commission to make these changes more quickly and efficiently.

PART III

Sec. III-1. Judicial salary adjustment. Notwithstanding any provision of the Maine Revised Statutes, Title 4 to the contrary, effective July 1, 2021 and July 1, 2022, the State Court Administrator shall increase the salaries of the State's chief justices, Chief Judge, Deputy Chief Judge, associate justices and associate judges by 3% in total each of those fiscal years.

PART III
SUMMARY

This Part authorizes the State Court Administrator to increase the salaries of the State's chief justices, Chief Judge, Deputy Chief Judge, associate justices and associate judges by 3% in each of fiscal years 2021-22 and 2022-23 effective July 1, 2021 and July 1, 2022.

7-6

AC FB DH JP
TH CB KD JE
LR FS LL LK

38

Maine Commission on Indigent Legal Services
Biennial Budget – new initiatives
March 17, 2021

Initiative 1
Basic Central Office Staffing

Initiative: Provides for 4 attorneys (Public Service Manager II) and 2 paralegals to lead and staff the Attorney Supervision Subdivision and the Auditing Subdivision
Ref: MCILS 1

	2021-22	2022-23
Positions	(6)	(6)
Personal Services	$670,116	$691,559
All Other	$47,073	$27,573
Total costs:	$717,189	$719,138

JUD VOTE 14-0 AFA VOTE _____

Initiative 2
Enhanced Central Office Staffing

Initiative: Provides for one additional central office support staff (Office Support III SUPV)
Ref: MCILS 2

- Office Specialist
  87,871

	2021-22	2022-23
Position	(1)	(1)
Personal Services	$87,871	$90,682
All Other	$7,642	$4,392
Total costs:	$95,513	$95,074

JUD VOTE 9-5 AFA VOTE _____
LK LL
KD JP
DH

Initiative 3

Fully staff Attorney Supervision and Auditing Subdivisions and Establish Training and Investigative Subdivisions

Initiative: Provides for 3 attorneys (Public Service Manager II) and 4 Paralegals to provide an additional Attorney and Paralegal for the Attorney Supervision Subdivision, an additional Paralegal for the Auditing Subdivision, and to create the Training Subdivision, consisting of one Attorney and one Paralegal, and the Investigating Subdivision, consisting of one Attorney and one Paralegal.
Ref #: MCILS 3

		2021-22	2022-23
Positions		(7)	(7)
Personal Services		$707,775	$730,423
All Other		$54,715	$31,965
	Total costs:	$762,490	$762,388

JUD VOTE 9-5 AFA VOTE _____

LK KD
LL JP DH

Initiative 4

Executive Director Salary

Initiative: Changes the Grade of the Executive Director from 52 (top of range is $115,939, plus benefits) to Grade 37 (top of range is $122,512, plus benefits)
Needs statutory change
Ref #: MCILS 4

	2021-22	2022-23
Personal Services	$9,152	$$9,152

JUD VOTE 14-0 AFA VOTE _____

Initiative 5

Increase hourly rate from $60 per hour to $80 per hour ($20 per hour increase)

Initiative: Provides for hourly rate increase from $60 per hour to $80 per hour
Ref #: MCILS 5

	2021-22	2022-23
All Other	$5,732,980	$5,732,980

JUD VOTE 14-0 AFA VOTE _____

Initiative 6

Kennebec Public Defender Office

The Judiciary Committee submits three reports
Ref #: MCILS 5

REPORT A

Initiative: Provides for 9 Attorneys - a District Defender, Deputy District Defender and 2 Serious Felony Defender Attorneys (4 Public Service Manage III), 2 Senior Assistant Public Defender and 3 Assistant Public Defender Attorneys (5 Public Service Manager II), 2 Investigators (Public Service Coordinator I), 2 Social Workers (Clinical Social Worker), 3 Paralegals and one Office Manager (Office Specialist II SUPV) to establish a Public Defender Office in Kennebec County – starting in second year of biennium

	2021-22	2022-23
Positions		(17)
Personal Services		$1,961,273
All Other		$157,724
Total costs:		$2,118,997

JUD VOTE 5 AFA VOTE _____

AC HS CB SM LR

Absent RN

REPORT B

Initiative: Provides for 9 Attorneys - a District Defender, Deputy District Defender and 2 Serious Felony Defender Attorneys (4 Public Service Manage III), 2 Senior Assistant Public Defender and 3 Assistant Public Defender Attorneys (5 Public Service Manager II), 2 Investigators (Public Service Coordinator I), 2 Social Workers (Clinical Social

Worker), 3 Paralegals and one Office Manager (Office Specialist II SUPV) to establish a Public Defender Office in Kennebec County – starting in first year of biennium

	2021-22	2022-23
Positions	(17)	(17)
Personal Services	$1,961,273	$2,024,033
All Other	$157,724	$107,924
Total costs:	$2,118,997	$2,131,957

JUD VOTE 3 AFA VOTE _____

TH ES JE

Absent RN

REPORT C

Do not fund the Kennebec Public Defender Office in this biennium

5 LK KD LL JP DH

Initiative 7

Appellate Public Defender

The Judiciary Committee submits two reports:

Ref #: MCILS 7

REPORT A:

Initiative: Provides for one Attorney (Public Service Manager III) and one Paralegal in 2021-22 and additional 2 Attorneys (Public Service II) in 2022-23.

	2021-22	2022-23
Positions	(2)	(4)
Personal Services	$242,917	$484,171
All Other	$210,646	$142,646
Total costs:	~~$2,660,104~~ $453,563	~~$2,670,486~~ $ 626,817

JUD VOTE 12-1 AFA VOTE _____

JE

Absent RN

REPORT B

Initiative: Provides for Appeal and Post-Conviction Review Director, Appellate Division Deputy Director and Post-Conviction Review Division Deputy Director Attorneys (Public Service Manager III), 3 Senior Assistant Appellate Defender and 5 Assistant Appellate Defender Attorneys, and one Senior Assistant Post-Conviction Defender and 2 Assistance Post-Conviction Defender Attorneys (11 Public Service Manager II), 4 Paralegals, one Mitigation Specialist (Public Service Coordinator I) and an Investigator (Public Service Coordinator I)

	2021-22	2022-23
Positions	(20)	(20)
Personal Services	$2,449,458	$2,527,840
All Other	$ 210,646	$ 142,646
Total costs:	$2,660,104	$2,670,486

JUD VOTE 1-12 JE AFA VOTE _____

Absent RN

Initiative 8

Establish historical baseline funding

Initiative: Provides additional General Fund funding to fully fund compensation to be included in the baseline budget, recognizing the actual costs

Ref #: MCILS 8

	2021-22	2022-23
All Other	$2,804,980	$2,804,980

JUD VOTE 13-0 AFA VOTE _____

Absent RN

G:\COMMITTEES\JUD\BUDGET MATERIALS\BUDGET 2021 - Biennial\MCILS Inititatives 3-17-21.docx (3/17/2021 04:48:00 PM)

MCILS proposed budget language

Sec. 1. 2 MRSA §6, sub-§12 is amended to read:

12. Range ~~52~~ 37. The salary of the executive director of the Maine Commission on Indigent Legal Services is within salary range ~~52~~ 37.

Sec. 2. 4 MRSA §1804, sub-§3 is amended to read:

3. Duties. The commission shall:

A. Develop and maintain a system that may employ attorneys, ~~uses~~ use appointed private attorneys, ~~contracts~~ and contract with individual attorneys or groups of attorneys, ~~and~~ The commission shall consider other programs necessary to provide quality and efficient indigent legal services;

B. Develop and maintain an assigned counsel voucher review and payment authorization system that includes disposition information;

C. Establish processes and procedures consistent with commission standards to ensure that office and contract personnel use information technology and case load management systems so that detailed expenditure and case load data are accurately collected, recorded and reported;

D. Develop criminal defense, child protective and involuntary commitment representation training and evaluation programs for attorneys throughout the State to ensure an adequate pool of qualified attorneys;

E. Establish minimum qualifications to ensure that attorneys are qualified and capable of providing quality representation in the case types to which they are assigned, recognizing that quality representation in each of these types of cases requires counsel with experience and specialized training in that field;

F. Establish rates of compensation for assigned counsel;

G. Establish a method for accurately tracking and monitoring case loads of assigned counsel and contract counsel;

H. By January 15th of each year, submit to the Legislature, the Chief Justice of the Supreme Judicial Court and the Governor an annual report on the operation, needs and costs of the indigent legal services system. The report must include:

(1) An evaluation of: contracts; services provided by contract counsel and assigned counsel; any contracted professional services; and cost containment measures; and

(2) An explanation of the relevant law changes to the indigent legal services covered by the commission and the effect of the changes on the quality of representation and costs.

The joint standing committee of the Legislature having jurisdiction over judiciary matters may report out legislation on matters related to the report;

I. Approve and submit a biennial budget request to the Department of Administrative and Financial Services, Bureau of the Budget, including supplemental budget requests as necessary;

J. Develop an administrative review and appeal process for attorneys who are aggrieved by a decision of the executive director, or the executive director's designee, determining:

(1) Whether an attorney meets the minimum eligibility requirements to receive assignments or to receive assignments in specialized case types pursuant to any commission rule setting forth eligibility requirements;

(2) Whether an attorney previously found eligible is no longer eligible to receive assignments or to receive assignments in specialized case types pursuant to any commission rule setting forth eligibility requirements; and

(3) Whether to grant or withhold a waiver of the eligibility requirements set forth in any commission rule.

All decisions of the commission, including decisions on appeals under subparagraphs (1), (2) and (3), constitute final agency action. All decisions of the executive director, or the executive director's designee, other than decisions appealable under subparagraphs (1), (2) and (3), constitute final agency action;

K. Pay appellate counsel;

L. Establish processes and procedures to acquire investigative and expert services that may be necessary for a case, including contracting for such services;

M. Establish procedures for handling complaints about the performance of counsel providing indigent legal services; ~~and~~

N. Develop a procedure for approving requests by counsel for authorization to file a petition as described in section 1802, subsection 4, paragraph D~~.~~; and

O. Establish a system to audit all financial requests and payments and that includes the authority to recoup payments when necessary. The commission may summon persons and subpoena witnesses, compel their attendance, require production of evidence, administer oaths and examine any person under oath as part of an audit. Any summons or subpoena may be served by registered mail with return receipt. Subpoenas issued under this section may be enforced by the Superior Court.

Sec. 3. 4 MRSA §1804, subsection 4, ¶D is amended to read:

D. Adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted to establish ~~standards under subsection 2, paragraph B and~~ rates of compensation for assigned counsel and contract counsel under subsection ~~2~~ 3, paragraph F are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A; and

Sec. 4. 4 MRSA §1805, sub-§9-A is enacted to read:

9-A. Audits; recoupment. Conduct audits of all financial requests and payments and recoup payments when necessary. The executive director may exercise the subpoena power of the commission granted under section 1804, subsection 3, paragraph O;

MCILS proposed budget language

Sec. 5. Carrying balance fiscal year 2020-21; Maine Commission on Indigent Legal Services. Notwithstanding any provision of law to the contrary, the State Controller shall carry any remaining fiscal year 2020-21 balance in the Maine Commission on Indigent Legal Services program, General Fund into fiscal year 2021-22.

Sec. 6. Carrying balance fiscal year 2021-22; Maine Commission on Indigent Legal Services. Notwithstanding any provision of law to the contrary, the State Controller shall carry any remaining fiscal year 2021-22 balance in the Maine Commission on Indigent Legal Services program, General Fund into fiscal year 2022-23.

SUMMARY

Section 1 changes the salary rage of the Executive Director of the Maine Commission on Indigent Legal Services from 52 to 37 resulting in a higher top salary.

Section 2 authorizes the Maine Commission on Indigent Legal Services to directly employ attorneys to provide legal services to indigent clients. Section 2 also requires the commission to establish an audit system and allow the recoup of payments when appropriate. The commission is extended subpoena power to conduct the audits, which is enforceable in the Superior Court. Section 4 directs the executive director to carry out the audits and seek recoupment. It authorizes the executive director to exercise the subpoena power on behalf of the commission.

Current law provides that rules governing standards and training for attorneys are major-substantive rules. Section 3 changes those rules to be routine technical. Section 3 also corrects a cross reference in the commission's rule-making authority.

Sections 5 and 6 provide that any remaining balance in the Maine Commission on Indigent Legal Service program, General Fund in fiscal year 2020-21 be carried into 2021-22 and fiscal year 2021-22 be carried into 2022-23.

G:\COMMITTEES\JUD\BUDGET MATERIALS\BUDGET 2021 - Biennial\MCILS Budget language.docx (3/17/2021 04:48:00 PM)

APPROVED	CHAPTER
JULY 1, 2021	398
BY GOVERNOR	PUBLIC LAW

STATE OF MAINE

BIENNIAL BUDGET
130TH, S1

Excerpts relevant to MCILS

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-ONE

H.P. 156 - L.D. 221

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2021, June 30, 2022 and June 30, 2023

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 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; 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,

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

PART A

Sec. A-1. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Accident - Sickness - Health Insurance 0455

Initiative: Establishes one Public Service Coordinator I position to support implementation of Public Law 2019, chapter 424, An Act To Expand Health Insurance Options for Town Academies, and Public Law 2019, chapter 446, An Act To Amend the Laws Concerning the Retired County and Municipal Law Enforcement Officers and Municipal Firefighters Health Insurance Program, and provides funding for related All Other costs.

Sec. A-22. Appropriations and allocations. The following appropriations and allocations are made.

(*)

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: Allocates funds for the cost of changing the salary range of the executive director from 52 to 37.

OTHER SPECIAL REVENUE FUNDS	**2021-22**	**2022-23**
Personal Services	$38,542	$31,677
OTHER SPECIAL REVENUE FUNDS TOTAL	$38,542	$31,677

Maine Commission on Indigent Legal Services Z112

Initiative: Allocates additional funding to reflect projected costs of the Maine Commission on Indigent Legal Services.

OTHER SPECIAL REVENUE FUNDS	**2021-22**	**2022-23**
All Other	$2,804,980	$2,804,980
OTHER SPECIAL REVENUE FUNDS TOTAL	$2,804,980	$2,804,980

Maine Commission on Indigent Legal Services Z112

Initiative: Establishes and allocates funds for 4 Public Service Manager II positions and 2 Paralegal positions to lead and staff the attorney supervision subdivision and the auditing subdivision. Also provides funding for All Other costs.

OTHER SPECIAL REVENUE FUNDS	**2021-22**	**2022-23**
POSITIONS - LEGISLATIVE COUNT	6.000	6.000
Personal Services	$670,116	$691,559
All Other	$47,073	$27,573
OTHER SPECIAL REVENUE FUNDS TOTAL	$717,189	$719,132

Maine Commission on Indigent Legal Services Z112

Initiative: Allocates funds to increase reimbursement for indigent legal services from $60 per hour to $80 per hour.

OTHER SPECIAL REVENUE FUNDS	**2021-22**	**2022-23**
All Other	$5,732,980	$5,732,980
OTHER SPECIAL REVENUE FUNDS TOTAL	$5,732,980	$5,732,980

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON DEPARTMENT TOTALS	**2021-22**	**2022-23**
OTHER SPECIAL REVENUE FUNDS	**$9,293,691**	**$9,288,769**
DEPARTMENT TOTAL - ALL FUNDS	**$9,293,691**	**$9,288,769**

and over, in the aggregate and, in order to identify and address potential disparities in access to and outcomes of such services, by race, ethnicity and geography.

Sec. CCC-4. Department of Health and Human Services to work with providers to encourage participation. The Department of Health and Human Services shall work with providers of oral health care and dental services to encourage participation in the MaineCare program to ensure access to the services required by the Maine Revised Statutes, Title 22, section 3174-F, subsection 1.

PART DDD

Sec. DDD-1. 22 MRSA §3174-FFF is enacted to read:

§3174-FFF. State-funded medical program for noncitizens

1. Coverage provided. Effective July 1, 2022, a person is eligible for the same scope of medical assistance provided under section 3174-G if the person is a child under 21 years of age who would be eligible for assistance under the federal Medicaid program under Title XIX of the federal Social Security Act but for the person's immigration status. In accordance with 8 United States Code, Section 1621, the State shall appropriate funds in the state budget to provide state-funded medical assistance through the MaineCare program and the children's health insurance program as defined in section 3174-X, subsection 1, paragraph A for noncitizen individuals who reside in the State and are ineligible for coverage due to federal restrictions relating to immigration status in the federal Medicaid program and the children's health insurance program.

2. Rulemaking. The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

PART EEE

Sec. EEE-1. 5 MRSA §1591, sub-§6 is enacted to read:

6. Maine Commission on Indigent Legal Services. Any All Other balance remaining in the Maine Commission on Indigent Legal Services program, General Fund account at the end of any fiscal year must be carried forward for use by the commission in the next fiscal year.

PART FFF

Sec. FFF-1. 4 MRSA §1804, sub-§4, ¶D, as amended by PL 2013, c. 368, Pt. RRR, §1 and affected by §4, is further amended to read:

D. Adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted to establish ~~standards under subsection 2, paragraph B and~~ rates of compensation for assigned counsel and contract counsel under subsection 2, paragraph F are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A; and

PART GGG

Sec. GGG-1. 2 MRSA §6, sub-§12, as enacted by PL 2009, c. 419, §1, is repealed.

Sec. GGG-2. 2 MRSA §6, sub-§13 is enacted to read:

13. Range 37. The salary of the executive director of the Maine Commission on Indigent Legal Services is within salary range 37.

PART HHH

Sec. HHH-1. Transfer of funds; Department of Inland Fisheries and Wildlife carrying account. On or before August 1, 2021, the State Controller shall transfer $45,000 from the Inland Fisheries and Wildlife Carrying Balances - General Fund account to the Enforcement Operations - Inland Fisheries and Wildlife program, General Fund account for the purchase of one replacement aircraft engine. On or before August 1, 2022, the State Controller shall transfer $46,000 from the Inland Fisheries and Wildlife Carrying Balances - General Fund account to the Enforcement Operations - Inland Fisheries and Wildlife program, General Fund account for the purchase of one replacement aircraft engine.

PART III

Sec. III-1. Transfer to the Department of Inland Fisheries and Wildlife, Office of the Commissioner - Inland Fisheries and Wildlife. Notwithstanding any provision of law to the contrary, on or before June 30, 2021, the State Controller shall transfer $2,084,500 from the unappropriated surplus of the General Fund to the Department of Inland Fisheries and Wildlife, Office of the Commissioner - Inland Fisheries and Wildlife, Other Special Revenue Funds account for the purpose of funding unmet capital construction and repair needs for state dams.

PART JJJ

Sec. JJJ-1. 12 MRSA §6022, sub-§3, as amended by PL 1989, c. 348, §3, is further amended to read:

3. Organization and personnel. The commissioner shall organize the department into the administrative units ~~which~~, including but not limited to the Bureau of Marine Patrol and the Bureau of Sea Run Fisheries and Habitat, that the commissioner decides are necessary to carry out its duties. The commissioner shall hire all necessary employees of the department subject to the Civil Service Law, except that persons in the following positions ~~shall be~~ are appointed by and serve at the pleasure of the commissioner: Deputy Commissioner; Chief, Bureau of Marine Patrol; and Assistant to the Commissioner for Public Information. The Chief of the Bureau of Marine Patrol ~~shall~~ must be appointed from among the patrol personnel of the bureau with the rank of sergeant or higher. In the event that the Chief of the Bureau of Marine Patrol is not reappointed, that person ~~shall have~~ has the right to be restored to the classified position from which that person ~~shall have been~~ was promoted or to a position equivalent thereto in salary grade without impairment of that person's personnel status or the loss of seniority, retirement or other rights to which uninterrupted service in the classified position would have entitled that person. If that person's service in the position of Chief of the Bureau of Marine Patrol ~~shall be~~ is terminated for cause, that person's right to be ~~so~~ restored ~~shall~~ must be determined by the State Civil Service Appeals Board.

Sec. JJJ-2. Transfer balances. Notwithstanding any other provision of law, at the end of fiscal year 2020-21, the State Controller shall transfer, after the deduction of all allocations, financial commitments and other designated funds and any other transfer authorized by statute, any remaining balance in the Division of Sea Run Fisheries and

PART JJJJ

Sec. JJJJ-1. Transfer to the Maine Commission on Indigent Legal Services. Notwithstanding any provision of law to the contrary, on or before June 30, 2022, the State Controller shall transfer $9,293,691 from the unappropriated surplus of the General Fund to the Maine Commission on Indigent Legal Services program, Other Special Revenue Funds account. Notwithstanding any provision of law to the contrary, on or before June 30, 2023, the State Controller shall transfer $9,288,769 from the unappropriated surplus of the General Fund to the Maine Commission on Indigent Legal Services program, Other Special Revenue Funds account.

Sec. JJJJ-2. Transfer to the Judicial Department. Notwithstanding any provision of law to the contrary, on or before June 30, 2022, the State Controller shall transfer $972,234 from the unappropriated surplus of the General Fund to the Judicial Department, Courts - Supreme, Superior and District program, Other Special Revenue Funds account. Notwithstanding any provision of law to the contrary, on or before June 30, 2023, the State Controller shall transfer $972,234 from the unappropriated surplus of the General Fund to the Judicial Department, Courts - Supreme, Superior and District program, Other Special Revenue Funds account.

Sec. JJJJ-3. Report of the Maine Commission on Indigent Legal Services. By January 2022, the Maine Commission on Indigent Legal Services shall provide a report to the joint standing committee of the Legislature having jurisdiction over judiciary matters and to the joint standing committee of the Legislature having jurisdiction over government oversight matters. The report must provide information regarding progress made in indigent legal services as a result of the following changes made in this Act:

1. Increasing the salary range for the executive director of the commission;

2. Raising the reimbursement rate for indigent legal services from $60 per hour to $80 per hour;

3. Providing additional funding to reflect actual costs of the commission;

4. Establishing 6 positions and providing funding for the supervision subdivision;

5. Authorizing remaining balances in the Maine Commission on Indigent Legal Services program to be carried forward for use by the commission in the next fiscal year; and

6. Allowing the commission to establish standards and training through routine technical rulemaking rather than major substantive rulemaking.

PART KKKK

Sec. KKKK-1. 15 MRSA §3203-A, sub-§4, ¶C, as amended by PL 1999, c. 624, Pt. B, §5, is further amended by repealing subparagraph (2).

Sec. KKKK-2. Benchmarks for reducing the population of detained and committed youths. From a baseline of the average daily population of youths detained and of the average daily population of youths committed in the custody of the Department of Corrections, each year, through July 1, 2024, the department shall submit an estimate to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters on the reduction in the number of youths detained and committed for

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2021, June 30, 2022 and June 30, 2023

L.D. 221

Date: (Filing No. H-)

APPROPRIATIONS AND FINANCIAL AFFAIRS AFA Committee Amendment to Biennial Budget in S1

Reproduced and distributed under the direction of the Clerk of the House.

Excerpts showing MCILS - Related language summaries

STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT " " to H.P. 156, L.D. 221, "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2021, June 30, 2022 and June 30, 2023"

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 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; 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 inserting the following:

'PART A

Sec. A-1. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Accident - Sickness - Health Insurance 0455

PART YY

This Part authorizes the Department of Health and Human Services to transfer appropriations within the Office of Child and Family Services related to the cost of administering the child welfare program.

PART ZZ

This Part authorizes the Department of Health and Human Services to transfer available balances of appropriations between MaineCare General Fund accounts for the 2022-2023 biennium.

This Part is similar to Part ZZ of the Governor's proposed 2022-2023 biennial budget.

PART AAA

This Part authorizes the Department of Health and Human Services to transfer available balances of Personal Services appropriations to All Other in the Office for Family Independence program and the Office for Family Independence – District program in fiscal years 2021-22 and 2022-23 only.

This Part is similar to Part AAA of the Governor's proposed 2022-2023 biennial budget.

PART BBB

This Part expands the capacity of the Higher Opportunity for Pathways to Employment Program from a statewide cap of 500 participants to 800 participants.

This Part is similar to Part BBB of the Governor's proposed changes to the Governor's proposed 2022-2023 biennial budget.

PART CCC

This Part adds comprehensive preventive, diagnostic and restorative dental services to the limited dental services currently available to MaineCare members 21 years of age and over. It requires the Department of Health and Human Services to consult with the dental subcommittee of the MaineCare Advisory Committee in creating a plan to implement and monitor the adult dental services. It requires the department to work with providers of oral health care and dental services to encourage participation in the MaineCare program.

This Part is similar to Part CCC of the Governor's proposed changes to the Governor's proposed 2022-2023 biennial budget.

PART DDD

This Part provides state-funded MaineCare and children's health insurance program coverage for noncitizen residents of this State who are ineligible for coverage under the federal Medicaid program or children's health insurance program due to their immigration status.

This Part is similar to Part DDD of the Governor's proposed changes to the Governor's proposed 2022-2023 biennial budget.

PART EEE *

This Part authorizes any All Other balance remaining in the Maine Commission on Indigent Legal Services program, General Fund account to be carried forward each fiscal year.

This Part is similar to Part EEE of the Governor's proposed changes to the Governor's proposed 2022-2023 biennial budget.

PART FFF *

This Part allows the Maine Indigent Legal Services Commission to establish standards prescribing minimum experience, training and other qualifications for assigned counsel and contract counsel through routine technical rules rather than major substantive rules, enabling the commission to make these changes more quickly and efficiently.

PART GGG (*)

This Part changes the salary range for the executive director of the Maine Commission on Indigent Legal Services from range 52 to range 37.

This Part is similar to Part GGG of the Governor's proposed changes to the Governor's proposed 2022-2023 biennial budget.

PART HHH

This Part transfers funds from the Inland Fisheries and Wildlife Carrying Balances - General Fund account to the Enforcement Operations - Inland Fisheries and Wildlife program, General Fund account to purchase one replacement aircraft engine in fiscal year 2021-22 and one replacement aircraft engine in fiscal year 2022-23.

This Part is similar to Part HHH of the Governor's proposed 2022-2023 biennial budget.

PART III

This Part transfers $2,084,500 to the Department of Inland Fisheries and Wildlife, Office of the Commissioner - Inland Fisheries and Wildlife, Other Special Revenue Funds account to provide funding for unmet capital construction and repair needs for several state dams.

This Part is similar to Part III of the Governor's proposed changes to the Governor's proposed 2022-2023 biennial budget.

PART JJJ

This Part establishes the Bureau of Sea Run Fisheries and Habitat in the Department of Marine Resources.

This Part also transfers any remaining balance in the Division of Sea Run Fisheries and Habitat, Other Special Revenue Funds account to the Bureau of Sea Run Fisheries and Habitat account to be used to manage and regulate the sea run fisheries and habitat resources of the State in terms of restoration, monitoring and resource use.

This Part is similar to Part JJJ of the Governor's proposed 2022-2023 biennial budget.

PART KKK

The Part clarifies the job classifications in the Department of Public Safety of persons who are eligible to elect to participate in the 1998 Special Plan of the Maine Public Employees Retirement System. Under that plan, a person may retire at 55 years of age with 10 years of creditable service or may retire before 55 years of age with 25 years of creditable service.

This Part is similar to Part KKK of the Governor's proposed 2022-2023 biennial budget.

PART LLL

This Part clarifies the job classifications in the Department of Public Safety that are eligible to elect to participate in the 1998 Special Plan of the Maine Public Employees Retirement System and adds assistant

Pine Tree Development Zone benefits are terminated from December 31, 2031 to December 31, 2033 and makes corresponding changes in several sections of law. This Part transfers $443,682 from the Maine Economic Development Fund, Other Special Revenue Funds account in the Department of Economic and Community Development to the General Fund unappropriated surplus to support this program.

PART JJJJ

This Part transfers funds from the unappropriated surplus of the General Fund in fiscal years 2021-22 and 2022-23 to the Maine Commission on Indigent Legal Services of $9,293,691 in fiscal year 2021-22 and $9,288,769 in fiscal year 2022-23.

It transfers from the unappropriated surplus of the General Fund to the Judicial Department $972,234 in fiscal year 2021-22 and $972,234 in fiscal year 2022-23.

It also requires the commission to submit a report on the progress made in indigent legal services as a result of funds provided and other changes made to the commission in this legislation.

It is the intent of the Legislature that the allocation to the Maine Commission on Indigent Legal Services Other Special Revenue Funds account made in Part A be allocated to the commission and that, in the Second Regular Session of the 130th Legislature, the Legislature will transfer unspent balances in the fund to the unappropriated surplus of the General Fund and appropriate funds equal to the transferred balance to the Maine Commission on Indigent Legal Services to be used for the same purpose as the original allocations.

PART KKKK

This Part, which is substantially the same as Legislative Document 546, "An Act To Implement the Recommendations of the Maine Juvenile Justice System Assessment and Reinvestment Task Force," as amended by the Joint Standing Committee on Criminal Justice and Public Safety, repeals a provision of the Maine Juvenile Code that establishes as a purpose of pre-adjudication detention providing physical care for a juvenile who cannot return home because there is no parent or other suitable person willing and able to supervise the juvenile adequately.

This Part requires the setting of benchmarks for measuring progress in reducing the average daily populations of detained youths and committed youths through July 1, 2024.

This Part directs the Juvenile Justice Advisory Group to reestablish the juvenile justice task force to help implement the recommendation made in the February 2020 report issued by the Maine Juvenile Justice System Assessment and Reinvestment Task Force. The task force is directed to work with stakeholder groups and the Department of Corrections and the Department of Health and Human Services regarding the development of a community-based system of therapeutic services for justice-involved youths that works to divert youths from detention and commitment, reduce the rates of detention and commitment across the State and achieve the benchmarks for progress established in this Part.

This Part requires annual reports on juvenile justice from the Department of Corrections to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters through January 31, 2025.

This Part requires that, by February 15, 2022 and annually thereafter through 2025, the Department of Corrections report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters with detailed information, including the efforts of the department and the Department of Health and Human Services to reduce rates of detention of youths, the success of the Department of Corrections in achieving the benchmarks, an analysis of community-based juvenile housing,

LAW WITHOUT GOVERNOR'S SIGNATURE

JULY 15, 2021

CHAPTER

481

PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-ONE

Judiciary committee-initiated bill (enacted version)

H.P. 1256 - L.D. 1687

An Act To Improve the Provision of Indigent Legal Services

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's constitutional and statutory obligations include ensuring that each person facing a potential loss of liberty in a criminal or juvenile proceeding is provided with effective representation at every critical stage of the proceeding and also include providing counsel services to indigent parents in child protection proceedings and to individuals in hearings for involuntary commitment; and

Whereas, the Sixth Amendment Center identified significant challenges that the State faces in fulfilling its statutory and constitutional obligations; and

Whereas, it is important for the State to begin to address these significant challenges 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,

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

Sec. 1. 4 MRSA §1804, sub-§3, ¶A, as enacted by PL 2009, c. 419, §2, is amended to read:

A. Develop and maintain a system that ~~uses~~ may employ attorneys, use appointed private attorneys~~, contracts~~ and contract with individual attorneys or groups of attorneys ~~and~~. The commission shall consider other programs necessary to provide quality and efficient indigent legal services;

Sec. 2. 4 MRSA §1804, sub-§3, ¶M, as amended by PL 2019, c. 427, §3, is further amended to read:

M. Establish procedures for handling complaints about the performance of counsel providing indigent legal services; ~~and~~

Sec. 3. 4 MRSA §1804, sub-§3, ¶N, as enacted by PL 2019, c. 427, §4, is amended to read:

N. Develop a procedure for approving requests by counsel for authorization to file a petition as described in section 1802, subsection 4, paragraph D~~.~~; and

Sec. 4. 4 MRSA §1804, sub-§3, ¶O is enacted to read:

O. Establish a system to audit financial requests and payments that includes the authority to recoup payments when necessary. The commission may summon persons and subpoena witnesses and compel their attendance, require production of evidence, administer oaths and examine any person under oath as part of an audit. Any summons or subpoena may be served by registered mail with return receipt. Subpoenas issued under this paragraph may be enforced by the Superior Court.

Sec. 5. 4 MRSA §1804, sub-§4, ¶D, as amended by PL 2013, c. 368, Pt. RRR, §1 and affected by §4, is further amended to read:

D. Adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted to establish ~~standards under subsection 2, paragraph B and~~ rates of compensation for assigned counsel and contract counsel under subsection ~~2~~ 3, paragraph F are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A; and

Sec. 6. 4 MRSA §1805, sub-§9-A is enacted to read:

9-A. Audits; recoupment. Conduct audits of financial requests and payments and recoup payments when necessary. The executive director may exercise the subpoena power of the commission granted under section 1804, subsection 3, paragraph O;

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

Approved: 07/13/21 mac

130th MAINE LEGISLATURE

LD 1687 **LR 2054(07)**

An Act To Improve the Provision of Indigent Legal Services

Fiscal Note for Bill as Engrossed with:
C "A" (H-707)
S "A" (S-396) to C "A" (H-707)
Committee: Judiciary

FINAL FISCAL NOTE LD1687 (as enacted)

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs to the Maine Commission on Indigent Legal Services are assumed to be minor and can be absorbed with existing budgeted resources.

L.D. 1687

Date: (Filing No. S-)

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

STATE OF MAINE

SENATE

130TH LEGISLATURE

FIRST SPECIAL SESSION

A+A COMMITTEE AMENDMENT

SENATE AMENDMENT " " to COMMITTEE AMENDMENT "A" to H.P. 1256, L.D. 1687, "An Act To Improve the Provision of Indigent Legal Services"

Amend the amendment by striking out the first indented paragraph after the title and inserting the following:

'Amend the bill by striking out all of section 1.

Amend the bill in section 5 in paragraph O in the first line (page 1, line 36 in L.D.) by striking out the following: "all"

Amend the bill in section 7 in subsection 9-A in the first line (page 2, line 12 in L.D.) by striking out the following: "all"

Amend the bill by striking out all of sections 8, 9 and 10.'

Amend the amendment by striking out all of section 10.

Amend the amendment by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment removes the provision of the bill that changes the salary range for the executive director of the Maine Commission on Indigent Legal Services. It removes the requirement that the commission establish a system to audit all financial requests and payments and retains the requirement that the commission establish a system to audit financial requests and payments, and it removes the requirement that the executive director conduct audits of all financial requests and payments and retains the requirement that the executive director conduct audits of financial requests and payments. It removes the requirement in the bill that the State Controller carry balances of the commission in fiscal years 2020-21 and 2021-22 into the next fiscal year. It removes the appropriations and allocations section.

SPONSORED BY: _____

(Senator BREEN, C.)

COUNTY: Cumberland

These pieces were instead part of the Biennial Budget Bill P.L. 2021, Ch. 398 except the appellate public defender positions which were removed in the majority committee amendment

SENATE AMENDMENT

Approved: 07/01/21 mac

130th MAINE LEGISLATURE

LD 1687 **LR 2054(06)**

An Act To Improve the Provision of Indigent Legal Services

Fiscal Note to AFA Committee Amendment

Fiscal Note for Senate Amendment " " to Committee Amendment "A"
Sponsor: Sen. Breen of Cumberland
Fiscal Note Required: Yes

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Net Cost (Savings)				
General Fund	($9,264,301)	($9,266,244)	($9,288,667)	($9,311,807)
Appropriations/Allocations				
General Fund	($9,264,301)	($9,266,244)	($9,288,667)	($9,311,807)

Fiscal Detail and Notes

This amendment removes the General Fund appropriations to the Maine Commission for Indigent Legal Services provided in the bill of $9,264,301 in fiscal year 2021-22 and $9,266,244 in fiscal year 2022-23.

L.D. 1687

Date: (Filing No. H-)

MAJORITY COMMITTEE AMENDMENT

12-1

JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE

HOUSE OF REPRESENTATIVES

130TH LEGISLATURE

FIRST SPECIAL SESSION

COMMITTEE AMENDMENT " " to H.P. 1256, L.D. 1687, "An Act To Improve the Provision of Indigent Legal Services"

Amend the bill by striking out all of section 10 and inserting the following:

'**Sec. 10. Appropriations and allocations.** The following appropriations and allocations are made.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: Appropriates funds for the cost of changing the salary range of the executive director from 52 to 37.

GENERAL FUND	**2021-22**	**2022-23**
Personal Services	$9,152	$9,152
GENERAL FUND TOTAL	$9,152	$9,152

Maine Commission on Indigent Legal Services Z112

Initiative: Provides additional funding to reflect projected costs of the Maine Commission on Indigent Legal Services.

GENERAL FUND	**2021-22**	**2022-23**
All Other	$2,804,980	$2,804,980
GENERAL FUND TOTAL	$2,804,980	$2,804,980

Maine Commission on Indigent Legal Services Z112

Initiative: Establishes and appropriates funds for 4 Public Service Manager II positions and 2 Paralegal positions to lead and staff the attorney supervision subdivision and the auditing subdivision. Also provides funding for All Other costs.

GENERAL FUND	**2021-22**	**2022-23**
POSITIONS - LEGISLATIVE COUNT	6.000	6.000

Personal Services	$670,116	$691,559
All Other	$47,073	$27,573
GENERAL FUND TOTAL	$717,189	$719,132

Maine Commission on Indigent Legal Services Z112

Initiative: Appropriates funds to increase reimbursement for indigent legal services from $60 per hour to $80 per hour.

GENERAL FUND	**2021-22**	**2022-23**
All Other	$5,732,980	$5,732,980
GENERAL FUND TOTAL	$5,732,980	$5,732,980

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON DEPARTMENT TOTALS	**2021-22**	**2022-23**
GENERAL FUND	**$9,264,301**	**$9,266,244**
DEPARTMENT TOTAL - ALL FUNDS	**$9,264,301**	**$9,266,244**

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment is the majority report of the committee. It retains the funding for the increase in the salary range for the executive director, raises the reimbursement rate from $60 to $80 per hour, fully funds the projected costs and funds the basic central office staff of 6 additional positions for supervision and auditing.

FISCAL NOTE REQUIRED

(See attached)

Approved: 06/08/21 mac

130th MAINE LEGISLATURE

LD 1687 **LR 2054(02)**

Fiscal Note to Majority Committee Amendment

An Act To Improve the Provision of Indigent Legal Services

Fiscal Note for Bill as Amended by Committee Amendment " "
Committee: Judiciary
Fiscal Note Required: Yes

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Net Cost (Savings)				
General Fund	$9,264,301	$9,266,244	$9,288,667	$9,311,807
Appropriations/Allocations				
General Fund	$9,264,301	$9,266,244	$9,288,667	$9,311,807

Fiscal Detail and Notes

This bill includes General Fund appropriations to the Maine Commission on Indigent Legal Services (MCILS) of $9,264,301 in fiscal year 2021-22 and $9,266.244 in fiscal year 2022-23 for an increase in the salary range for the Executive Director of MCILS, raising the reiumbursement rate for indigent legal services from $60 per hour to $80, providing additional All Other funding to reflect actual costs of the MCILS, establishing 6 positions and providing All Other funding for the supervision subdivision.

ORIGINAL BILL

130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document **No. 1687**

H.P. 1256 House of Representatives, May 6, 2021

An Act To Improve the Provision of Indigent Legal Services

(EMERGENCY)

Reported by Representative HARNETT of Gardiner for the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 4, section 1804, subsection 3, paragraph H.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint Rule 218.

Rob B. Hunt

ROBERT B. HUNT
Clerk

Printed on recycled paper

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's constitutional and statutory obligations include ensuring that each person facing a potential loss of liberty in a criminal or juvenile proceeding is provided with effective representation at every critical stage of the proceeding and also include providing counsel services to indigent parents in child protection proceedings and to individuals in hearings for involuntary commitment; and

Whereas, the Sixth Amendment Center identified significant challenges that the State faces in fulfilling its statutory and constitutional obligations; and

Whereas, it is important for the State to begin to address these significant challenges 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,

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

Sec. 1. 2 MRSA §6, sub-§12, as enacted by PL 2009, c. 419, §1, is amended to read:

12. Range ~~52~~ 37. The salary of the executive director of the Maine Commission on Indigent Legal Services is within salary range ~~52~~ 37.

Sec. 2. 4 MRSA §1804, sub-§3, ¶A, as enacted by PL 2009, c. 419, §2, is amended to read:

A. Develop and maintain a system that ~~uses~~ may employ attorneys, use appointed private attorneys~~, contracts~~ and contract with individual attorneys or groups of attorneys ~~and~~. The commission shall consider other programs necessary to provide quality and efficient indigent legal services;

Sec. 3. 4 MRSA §1804, sub-§3, ¶M, as amended by PL 2019, c. 427, §3, is further amended to read:

M. Establish procedures for handling complaints about the performance of counsel providing indigent legal services; ~~and~~

Sec. 4. 4 MRSA §1804, sub-§3, ¶N, as enacted by PL 2019, c. 427, §4, is amended to read:

N. Develop a procedure for approving requests by counsel for authorization to file a petition as described in section 1802, subsection 4, paragraph D~~.~~; and

Sec. 5. 4 MRSA §1804, sub-§3, ¶O is enacted to read:

O. Establish a system to audit all financial requests and payments that includes the authority to recoup payments when necessary. The commission may summon persons and subpoena witnesses and compel their attendance, require production of evidence, administer oaths and examine any person under oath as part of an audit. Any summons

or subpoena may be served by registered mail with return receipt. Subpoenas issued under this paragraph may be enforced by the Superior Court.

Sec. 6. 4 MRSA §1804, sub-§4, ¶D, as amended by PL 2013, c. 368, Pt. RRR, §1 and affected by §4, is further amended to read:

D. Adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted to establish ~~standards under subsection 2, paragraph B and~~ rates of compensation for assigned counsel and contract counsel under subsection ~~2~~ 3, paragraph F are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A; and

Sec. 7. 4 MRSA §1805, sub-§9-A is enacted to read:

9-A. Audits; recoupment. Conduct audits of all financial requests and payments and recoup payments when necessary. The executive director may exercise the subpoena power of the commission granted under section 1804, subsection 3, paragraph O;

Sec. 8. Carrying balance fiscal year 2020-21; Maine Commission on Indigent Legal Services. Notwithstanding any provision of law to the contrary, the State Controller shall carry any remaining fiscal year 2020-21 balance in the Maine Commission on Indigent Legal Services program, General Fund into fiscal year 2021-22.

Sec. 9. Carrying balance fiscal year 2021-22; Maine Commission on Indigent Legal Services. Notwithstanding any provision of law to the contrary, the State Controller shall carry any remaining fiscal year 2021-22 balance in the Maine Commission on Indigent Legal Services program, General Fund into fiscal year 2022-23.

Sec. 10. Appropriations and allocations. The following appropriations and allocations are made.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: Establishes and appropriates funds for one Office Support Supervisor position and provides funding for related All Other costs.

GENERAL FUND	**2021-22**	**2022-23**
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	$87,871	$90,682
All Other	$7,642	$4,392
GENERAL FUND TOTAL	$95,513	$95,074

Maine Commission on Indigent Legal Services Z112

Initiative: Establishes and appropriates funds for 3 Public Service Manager II positions and 4 Paralegal positions to provide an additional attorney and paralegal for the attorney supervision subdivision and an additional paralegal for the auditing subdivision and to create the training subdivision, consisting of one attorney and one paralegal, and the investigating subdivision, consisting of one attorney and one paralegal. Also provides funds for All Other costs.

GENERAL FUND	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT	7.000	7.000
Personal Services	$707,775	$730,423
All Other	$54,715	$31,965
GENERAL FUND TOTAL	$762,490	$762,388

Maine Commission on Indigent Legal Services Z112

Initiative: Appropriates funds for the cost of changing the salary range of the executive director from 52 to 37.

GENERAL FUND	2021-22	2022-23
Personal Services	$9,152	$9,152
GENERAL FUND TOTAL	$9,152	$9,152

Maine Commission on Indigent Legal Services Z112

Initiative: Appropriates funds to increase reimbursement for indigent legal services from $60 per hour to $80 per hour.

GENERAL FUND	2021-22	2022-23
All Other	$5,732,980	$5,732,980
GENERAL FUND TOTAL	$5,732,980	$5,732,980

Maine Commission on Indigent Legal Services Z112

Initiative: Establishes and appropriates funds for one Public Service Manager III position and one Paralegal position beginning in fiscal year 2021-22 and 2 additional Public Service Manager II positions beginning in fiscal year 2022-23. Also provides funding for All Other costs.

GENERAL FUND	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT	2.000	4.000
Personal Services	$242,917	$484,171
All Other	$210,646	$142,646
GENERAL FUND TOTAL	$453,563	$626,817

Maine Commission on Indigent Legal Services Z112

Initiative: Provides additional funding to reflect projected costs of the Maine Commission on Indigent Legal Services.

GENERAL FUND	2021-22	2022-23
All Other	$2,804,980	$2,804,980
GENERAL FUND TOTAL	$2,804,980	$2,804,980

Maine Commission on Indigent Legal Services Z112

Initiative: Establishes and appropriates funds for 4 Public Service Manager II positions and 2 Paralegal positions to lead and staff the attorney supervision subdivision and the auditing subdivision. Also provides funding for All Other costs.

GENERAL FUND	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT	6.000	6.000
Personal Services	$670,116	$691,559
All Other	$47,073	$27,573
GENERAL FUND TOTAL	$717,189	$719,132

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON DEPARTMENT TOTALS	2021-22	2022-23
GENERAL FUND	**$10,575,867**	**$10,750,523**
DEPARTMENT TOTAL - ALL FUNDS	**$10,575,867**	**$10,750,523**

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

SUMMARY

This bill makes the following changes to the provisions governing the Maine Commission on Indigent Legal Services.

1. It changes the salary range of the executive director of the commission from 52 to 37, resulting in a higher top salary.

2. It authorizes the commission to directly employ attorneys to provide legal services to indigent clients. It also requires the commission to establish an audit system and allow the recoupment of payments when appropriate. The commission is given subpoena power, enforceable in the Superior Court, to conduct the audits. It directs the executive director to carry out the audits and seek recoupment. It authorizes the executive director to exercise the subpoena power on behalf of the commission.

3. Current law provides that rules governing standards and training for attorneys are major substantive rules. This bill changes those rules to be routine technical and also corrects a cross-reference in the commission's rule-making authority.

4. It provides that any remaining balance in the Maine Commission on Indigent Legal Services program, General Fund in fiscal year 2020-21 be carried into 2021-22 and fiscal year 2021-22 be carried into 2022-23.

5. It provides funding to the commission to fully staff the commission; to increase the salary of the executive director; to increase the hourly rate from $60 per hour to $80 per hour for attorneys providing legal services; to establish an appellate public defender, which includes one attorney and one paralegal in fiscal year 2021-22 and 2 additional attorneys in fiscal year 2022-23; and provides further funding.

not enacted

APPROVED	CHAPTER
JULY 19, 2021	483
BY GOVERNOR	PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-ONE

ARPA $ bill
Excerpt Related to MCILS

S.P. 577 - L.D. 1733

An Act To Provide Allocations for the Distribution of State Fiscal Recovery Funds

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

PART A

Sec. A-1. Appropriations and allocations. The following appropriations and allocations are made.

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF

Administration - Economic and Community Development 0069

Initiative: Provides funding for additional economic recovery grants for businesses and organizations within sectors that are struggling to recover from economic effects of the COVID-19 pandemic.

FEDERAL EXPENDITURES FUND - ARP STATE FISCAL RECOVERY	**2021-22**	**2022-23**
All Other	$20,000,000	$0
FEDERAL EXPENDITURES FUND - ARP STATE FISCAL RECOVERY TOTAL	$20,000,000	$0

Administration - Economic and Community Development 0069

Initiative: Provides one-time funding for loans or loan guarantees through the Finance Authority of Maine for businesses having difficulty securing investment capital due to the COVID-19 pandemic and provides capital for rural development projects through the Maine Rural Development Authority.

FEDERAL EXPENDITURES FUND - ARP STATE FISCAL RECOVERY	**2021-22**	**2022-23**
All Other	$33,400,000	$15,000,000
FEDERAL EXPENDITURES FUND - ARP STATE FISCAL RECOVERY TOTAL	$33,400,000	$15,000,000

All Other	$10,000,000	$0
FEDERAL EXPENDITURES FUND - ARP STATE FISCAL RECOVERY TOTAL	$10,000,000	$0

HOUSING AUTHORITY, MAINE STATE DEPARTMENT TOTALS	**2021-22**	**2022-23**
FEDERAL EXPENDITURES FUND - ARP STATE FISCAL RECOVERY	**$10,000,000**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$10,000,000**	**$0**

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: Allocates additional funds for counsel fees due to a backlog of cases caused by the COVID-19 pandemic.

FEDERAL EXPENDITURES FUND - ARP STATE FISCAL RECOVERY	**2021-22**	**2022-23**
All Other	$4,000,000	$0
FEDERAL EXPENDITURES FUND - ARP STATE FISCAL RECOVERY TOTAL	$4,000,000	$0

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON DEPARTMENT TOTALS	**2021-22**	**2022-23**
FEDERAL EXPENDITURES FUND - ARP STATE FISCAL RECOVERY	**$4,000,000**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$4,000,000**	**$0**

LABOR, DEPARTMENT OF

Employment Services Activity 0852

Initiative: Establishes 16 limited-period CareerCenter Consultant positions through June 10, 2023.

FEDERAL EXPENDITURES FUND - ARP STATE FISCAL RECOVERY	**2021-22**	**2022-23**
Personal Services	$1,240,592	$1,293,376
All Other	$9,189	$9,189
FEDERAL EXPENDITURES FUND - ARP STATE FISCAL RECOVERY TOTAL	$1,249,781	$1,302,565

APPROVED	CHAPTER
APRIL 20, 2022	163
BY GOVERNOR	RESOLVES

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-TWO

UNANIMOUSLY APPROVED BY JUD CMTE.

H.P. 1433 - L.D. 1926

Resolve, Regarding Legislative Review of Portions of Chapter 301: Fee Schedule and Administrative Procedures for Payment of Commission Assigned Counsel, a Major Substantive Rule of the Maine Commission on Indigent Legal Services

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 Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, a major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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, be it

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 301: Fee Schedule and Administrative Procedures for Payment of Commission Assigned Counsel, a provisionally adopted major substantive rule of the Maine Commission on Indigent Legal Services that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

94-649 MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Chapter 301: FEE SCHEDULE AND ADMINISTRATIVE PROCEDURES FOR PAYMENT OF COURT OR COMMISSION ASSIGNED COUNSEL

Summary: This Chapter establishes a fee schedule and administrative procedures for payment of Court Assigned and Commission aAssigned counsel. The Chapter sets a standard hourly rate and ~~maximum~~ fee amounts that trigger presumptive review for specific case types. The Chapter also establishes rules for the payment of mileage and other expenses that are eligible for reimbursement by the Commission. Finally, this Chapter requires ~~that, unless an attorney~~Counsel ~~has received prior authorization to do otherwise, all~~that all vouchers must be submitted using ~~the MCILS~~ the MCILS electronic case management system.

SECTION 1. DEFINITIONS

~~1.~~

1. Court Assigned ~~Attorney~~~~Counsel~~Counsel. "Court Assigned ~~Attorney~~~~Counsel~~Counsel" means ~~an attorney~~c~~Counsel~~ licensed to practice law in ~~the State of~~ Maine, designated eligible to receive an assignment to a particular case, and initially assigned by a Court to represent a particular client in a particular matter.

2. ~~2.~~ Commission Assigned Counsel. "Commission Assigned Counsel" means counsel licensed to practice in Maine, designated eligible to be assigned to provide a particular service or to represent a particular client in a particular matter, and assigned by MCILS to provide that service or represent a client.

3. Counsel. As used in this Chapter "Counsel" means a Court Assigned Counsel or Commission Assigned Counsel, or both.

~~2.~~4. MCILS or Commission. "MCILS" or "Commission" means the Commissioners of the Maine Commission on Indigent Legal Services.

~~3.~~

~~3.~~5. Executive Director. "Executive Director" means the Executive Director of MCILS or the Executive Director's decision-making designee.

SECTION 2. HOURLY RATE OF PAYMENT

Effective July 1, 2021:

A rate of Eighty Dollars ($80.00) per hour is authorized for time spent by Counsel, and billed using MCILS electronic case management system, on an assigned case on or after July 1, 2021. A rate of Sixty Dollars ($60.00) per hour remains authorized for time spent on an assigned case between July 1, 2015 and June 30, 2021~~.~~ A rate of Fifty-five Dollars ($55.00) per hour remains authorized for time spent on an assigned case between July 1, 2014 and June 30, 2015. A rate of Fifty Dollars ($50.00) per hour remains authorized for time spent on an assigned case between the inception of the Commission and June 30, 2014.

SECTION 3. EXPENSES

~~1.~~

1. **Routine Office Expenses.** Routine Office expenses ~~are considered to be included in the hourly rate~~will not be paid by MCILS. Routine office expenses~~,~~ include, ~~ing,~~ but are not limited to, postage, express postage, regular telephone, cell telephone, fax, office overhead, utilities, secretarial services, ~~routine copying (under 100 pages)~~the first 100 pages of any one print or copy job, local phone calls, parking (except as stated below), and office supplies, etc.~~, will not be reimbursed.~~ Paralegal time may be billed to MCILS only through the non-counsel cost procedures.

~~2.~~

2. **Itemized Non-Routine Expenses.** Itemized non-routine expenses, such as discovery from the State or other agency, long distance calls (only if billed for long distance calls by your phone carrier), collect phone calls, ~~extensive copying (over 100 pages),~~copy costs for print or copy jobs in excess of 100 pages, beginning with the 101st page, printing/copying/-binding of legal appeal brief(s), relevant in-state mileage (as outlined below), tolls (as outlined below), and fees paid to third parties~~.~~, may be paid by MCILS after review. Necessary parking fees associated with multi-day trials and hearings will be reimbursed~~, but must be approved in advance by the Executive Director.~~.

3. ~~3.~~ **Travel Reimbursement.** Mileage reimbursement shall ~~not exceed the~~be made at the ~~applicable~~ State rate applicable to confidential state employees on the date of the travel. Mileage reimbursement will be paid for travel to and from courts other than ~~an attorney~~Counsel's home district and superior court. Mileage reimbursement will not be paid for travel to and from an ~~attorney~~Counsel's home district and superior courts. Tolls will be reimbursed, except that tolls will not be reimbursed for travel to and from ~~attorney~~Counsel's home district and superior court. All out-of-state travel or any overnight travel must be approved by ~~the MCILS~~ MCILS in writing prior to incurring the expense. Use of the telephone, video equipment, and email in lieu of travel is encouraged as appropriate.

4. ~~4.~~ **Itemization of Claims.** Claims for all expenses must be itemized and include documentation. Claims for mileage shall be itemized and include the start and end points for the travel in question.

5. ~~5.~~ **Discovery Materials.** ~~The~~ MCILS will reimburse only for one set of discovery materials. If counsel is permitted to withdraw, appropriate copies of discovery materials must be forwarded to new counsel ~~forthwith~~within one week of notice of new counsel's assignment. Counsel may retain a copy of a file transferred to new counsel, or to a client. Counsel shall perform any scanning or make any copies necessary to retain a copy of the file at counsel's expense. The client owns the file. The original file shall be tendered to new counsel, or to the client, as directed.

6. ~~6.~~ **Expert and Investigator Expenses.** Other non-routine expenses for payment to third parties, ~~which historically required preapproval by the Court before July 1, 2010~~ (e.g., investigators, interpreters, medical and psychological experts, testing, depositions, etc.) ~~are required to~~shall be approved in advance by MCILS. Funds for third-party services will be provided by ~~the~~ MCILS only upon written request and a sufficient demonstration of reasonableness, relevancy, and need in accordance with ~~the~~ MCILS rules and procedures governing requests for funds for experts and investigators. See Chapter 302 Procedures Regarding Funds for Experts and Investigators.

7. ~~7.~~ **Witness, Subpoena, and Service Fees.** ~~In criminal and juvenile cases, witness~~Witness, subpoena, and service fees will be reimbursed only pursuant to ~~M.R. Crim. P. 17(b).~~ the Maine Rules of Court. It is unnecessary for counsel to advance these costs, and they shall not be included as a voucher expense without prior consent from the Executive Director or designee. Fees for service of process by persons other than the sheriff shall not exceed those allowed by 30-A M.R.S. § 421. The same procedure shall be followed in civil cases.

SECTION 4. ~~MAXIMUM FEES~~ PRESUMPTIVE REVIEW

Vouchers submitted for amounts ~~greater than~~in excess of the applicable ~~maximum fees outlined in this section~~ trigger for presumptive review will ~~not~~ be ~~approved~~considered for payment~~, except as approved~~ after review by the Executive Director~~:~~ or designee. Vouchers submitted in excess of the trigger for presumptive review must be accompanied by an explanation of the time spent on the matter. The explanation shall be set forth in the notes section of a voucher or invoice.

1. **Trial Court Criminal Fees**

A. ~~A. Maximum fees~~Triggers for presumptive review, excluding any itemized expenses, are set in accordance with this subsection. Counsel must provide MCILS with written justification for any voucher that exceeds the ~~maximum fee~~trigger limit.

~~Effective July 1, 2015:~~

~~1) **Murder.** Fee to be set by the Executive Director on a case by case basis.~~

1) ~~2)~~ **Murder.** All murder cases shall trigger presumptive review.

2) **Class A.** $~~3~~5,000~~,000~~

3) ~~3)~~ **Class B and C (against person).** $~~2,250~~4,000

4) ~~4)~~ **Class B and C (against property).** $~~1~~2,500

5) ~~5)~~ **Class D and ~~E (Superior or Unified Criminal Court)~~E.** $~~750~~2,500

6) 6) ~~**Class D and E (District Court).** $540~~Repealed

7) 7) **Post-Conviction Review.** $~~1,200~~3,000

8) ~~8)~~ **Probation Revocation.** $~~540~~1,500

9) ~~9)~~ **Miscellaneous (i.e. witness representation on 5th Amendment grounds, etc.~~~~). $540.~~) $1,000

10) ~~10)~~ **Juvenile.** $~~540~~1,500

11) **Bindover:** applicable criminal class trigger

B. ~~B.~~ In cases involving multiple counts against a single defendant, the ~~maximum~~triggering fee shall be that which applies to the most serious count. In cases where a defendant is charged with a number of unrelated offenses, c~~C~~ounsel ~~is expected to~~shall coordinate and consolidate services as much as possible.

C. ~~C.~~ Criminal and juvenile cases will include all proceedings through a terminal case event~~disposition~~ as defined in Section 6~~5.1.A~~ below. Any subsequent proceedings, such as probation revocation, will require new application and appointment.

~~D. When doing so will not adversely affect the attorney~~Counsel~~-client relationship, Commission-assigned counsel are urged to limit travel and waiting time by cooperating with each other to stand in at routine, non-dispositive matters by having one attorney~~Counsel ~~appear at such things as arraignments and routine non-testimonial motions, instead of having all Commission-assigned counsel in an area appear~~Repealed.

D. ~~E.~~ Upon written request to MCILS, ~~assistant~~ a second Counsel ~~counsel~~, may be ~~appointed~~assigned in a murder case or other complicated cases~~:~~, to provide for mentorship, or for other good cause at the discretion of the Executive Director:

1) ~~1)~~ the duties of each ~~attorney~~Counsel must be clearly and specifically defined, and counsel must avoid unnecessary duplication of effort;

2) ~~2)~~ each ~~attorney~~Counsel must submit a voucher to MCILS. Counsel should coordinate the submission of voucher so that they can be reviewed together. Co-counsel who practice in the same firm may submit a single voucher that reflects the work done by each ~~attorney~~Counsel.

2. ~~2.~~ **District Court Child Protection**

A. ~~A. Maximum~~Triggering fees, excluding any itemized expenses, for Commission-assigned counsel in child protective cases are set in accordance with the following schedule:

~~Effective July 1, 2015:~~

1) ~~1)~~ **Child protective cases** (each stage). $~~900~~1,500

2) ~~2)~~ **Termination of Parental Rights stage** (with a hearing). $ ~~1,260~~2,500

B. B. Counsel must provide MCILS with written justification for any voucher that exceeds the maximum feetriggering limit. Each child protective stage ends when a proceeding results in a court order as defined in Section 5.1.B belowPreliminary Protective Order, Judicial Review Order, Jeopardy Order, Order on Petition for Termination of Parental Rights, or entry of a Family Matter or other dispositional order. Each distinct stage in on-going child protective cases shall be considered a new appointment for purposes of the maximum triggering fee for that case. A separate voucher must be submitted at the end of each stage.

3. 3. **Other District Court Civil**

A. A. Maximum feesTriggering fees in District Court civil actions, excluding any itemized expenses, are set in accordance with this subsection. Counsel must provide MCILS with written justification for any voucher that exceeds the maximumtriggering fee limit.

Effective July 1, 2015:

1) 1) **Application for Involuntary Commitment.** $4201,000

2) 2) **Petition for Emancipation.** $4201,500

3) 3) **Petition for Modified Release Treatment.** $4201,000

4) 4) **Petition for Release or Discharge.** $4201,000

4. 4. **Law Court**

A. Maximum fees, excluding any itemized expenses, for Commission-assigned counsel are set in accordance with the following schedule: Repealed

Effective July 1, 2015:

1) **Appellate work following the grant of petition for certificate of probable cause.** $1,200

~~B. Expenses shall be reimbursed for printing costs and mileage to oral argument at the applicable state rate. Vouchers for payment of counsel fees and expenses must be submitted, including an itemization of time spent.~~ Repealed

C. Appellate: $2,000

SECTION 5: MINIMUM FEES

~~Effective July~~:

~~1, 2015:~~

~~1.~~ ~~Attorney~~Counsels may ~~charge~~bill a minimum fee of ~~$150.00~~3 hours for ~~appearance~~appearances as Lawyer of the Day~~.~~, or in specialty or diversionary courts or programs. A single minimum fee may be charged for each appearance at which the Counsel serves. If Ceounsel serves as Lawyer of the Day for a morning session that continues into the afternoon, that will be one appearance. If ~~c~~Counsel serves as Lawyer for the Day for a morning session and then a subsequent afternoon session with a second appearance time and list, that will be two appearances. Vouchers seeking the minimum fee ~~shall~~must show the actual time expended and the size of the minimum fee adjustment rather than simply stating that the minimum fee is claimed. In addition to previously scheduled representation at initial appearance sessions, Lawyer of the Day representation includes representation of otherwise unrepresented parties at the specific request of the court on a matter that concludes the same day. Only a single minimum fee may be charged per appearance regardless of the number of clients consulted at the request of the court.

SECTION 6: ADMINISTRATION

~~1.~~ Vouchers for payment of counsel fees and expenses shall be submitted within ninety days ~~after the date of disposition of a criminal, juvenile or appeals~~of a terminal case~~, or completion of a stage of a child protection case resulting in an order.~~ event. Lawyer of the Day and specialty courts shall be billed within 90 days of the service provided. Vouchers not submitted ~~more than ninety days after final disposition, or completion of a stage of a child protection case, shall not be paid.~~

~~A. For purposes of~~ within 90-days of a terminal case event cannot be paid, except on a showing by counsel that a voucher could not have been timely submitted for reasons outside the actual or constructive control of counsel. Counsel are encouraged to submit interim vouchers not more often than once every 90 days per case. Counsel may request

reconsideration of a voucher rejected between April 1, 2021 and the effective date of this rule~~, "disposition" of a criminal or juvenile case shall be at the following times:~~ if that voucher would be payable under this rule.

~~1) entry of judgment (sentencing, acquittal, dismissal, or filing);~~

Terminal case events are:

1) The withdrawal of counsel

~~2) upon~~ The entry of ~~a deferred disposition;~~

~~3) upon issuance~~dismissal of ~~a warrant of arrest for failure to appear;~~ all charges or petitions

~~4) upon granting of leave to withdraw;~~

~~5) upon decision of any post-trial motions;~~

~~6) upon completion of the services the attorney~~Counsel ~~was assigned to provide (e.g., mental health hearings, "lawyer of the~~3) Judgment in a case, or
4) Final resolution of post-judgment proceedings for which counsel is responsible

The 90 day~~," bail hearings, etc.); or~~

~~7) specific authorization of the Executive Director to submit an interim~~ period for submitting a voucher.

~~B. For purposes of this rule, "each stage" of a child protection case~~ shall ~~be:~~

~~1)~~ run from the date that an Order ~~after Summary Preliminary hearing~~, Judgment, or ~~Agreement~~ Dismissal is docketed.

~~2) Order after Jeopardy Hearing~~

~~3) Order after each Judicial Review~~

~~4) Order after a Cease Reunification Hearing~~

~~5) Order after Permanency Hearing~~

~~6) Order after Termination of Parental Rights Hearing~~

~~7) Law Court Appeal~~

1. ~~2. Unless otherwise authorized in advance, all~~All vouchers must be submitted using ~~the MCILS~~ MCILS electronic case management program and comply with all instructions for use of the system.

2. ~~3.~~ All time on vouchers shall be detailed and accounted for in .10 of an hour increments. The purpose for each time entry must be self-evident or specifically stated. Use of the comment section is recommended.

3. ~~4.~~ All expenses claimed for reimbursement must be fully itemized on the voucher. Copies of receipts for payments to third parties shall be retained and ~~supplied upon request.~~appended to the voucher.

~~5. Legal services provided in the district court for cases subsequently transferred to the superior court shall be included in the voucher submitted to the MCILS~~ MCILS ~~at disposition of the case~~.

STATUTORY AUTHORITY:
4 M.R.S. §§ 1804(2)(F), (3)(B), (3)(F) and (4)(D)

EFFECTIVE DATE:
- August 21, 2011 – filing 2011-283

AMENDED:
- March 19, 2013 – filing 2013-062
- July 1, 2013 – filing 2013-150 (EMERGENCY)
- October 5, 2013 – filing 2013-228
- July 1, 2015 – filing 2015-121 (EMERGENCY ~~major substantive)~~)
- June 10, 2016 – filing 2016-092 ~~(Final adoption, major substantive)~~
- July 21, 2021 – filing 2021-149 (EMERGENCY ~~major substantive~~)

APPROVED	CHAPTER
APRIL 20, 2022	635
BY GOVERNOR	PUBLIC LAW

STATE OF MAINE

130TH R2 Supplemented Budget

Did Not include Any MCELS INITIATIVES

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-TWO

H.P. 1482 - L.D. 1995

An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2022 and June 30, 2023

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 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; 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,

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

PART A

Sec. A-1. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Accident - Sickness - Health Insurance 0455

Initiative: Establishes one Public Service Manager II position to provide expertise related to both state and federal insurance laws and provides funding for related All Other costs.

ACCIDENT, SICKNESS AND HEALTH INSURANCE INTERNAL SERVICE FUND	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	$0	$121,746

SENATE

ANNE M. CARNEY, DISTRICT 29, CHAIR
HEATHER B. SANBORN, DISTRICT 28
LISA M. KEIM, DISTRICT 18

MARGARET REINSCH, SENIOR LEGISLATIVE ANALYST
JANET STOCCO, LEGISLATIVE ANALYST
SUSAN PINETTE, COMMITTEE CLERK

HOUSE

THOM HARNETT, GARDINER, CHAIR
CHRISTOPHER W. BABBIDGE, KENNEBUNK
LOIS GALGAY RECKITT, SOUTH PORTLAND
STEPHEN W. MORIARTY, CUMBERLAND
ERIN R. SHEEHAN, BIDDEFORD
DAVID G. HAGGAN, HAMPDEN
LAUREL D. LIBBY, AUBURN
JENNIFER L. POIRIER, SKOWHEGAN
JAMES E. THORNE, CARMEL
JEFFREY EVANGELOS, FRIENDSHIP
RENA D. NEWELL, PASSAMAQUODDY TRIBE

STATE OF MAINE
ONE HUNDRED AND THIRTIETH LEGISLATURE
COMMITTEE ON JUDICIARY

April 5, 2022

TO: Senator Catherine E. Breen, Senate Chair
Representative Teresa S. Pierce, House Chair
Joint Standing Committee on Appropriations and Financial Affairs

FROM: Senator Anne M. Carney, Senate Chair
Representative Thom Harnett, House Chair
Joint Standing Committee on Judiciary

Re: Judiciary Committee report on MCILS additional initiatives re: Supplemental Budget LD 1995

As we mentioned in our March 4th report-back on the Supplemental Budget, the Judiciary Committee needed more time to develop initiatives for the Maine Commission on Indigent Legal Services, inconceivably left out of the Supplemental Budget proposals. We strongly support five unanimous funding initiatives that we believe will help advance indigent legal services in the right direction, but we recognize that these recommendations do not respond to all the concerns and we still strongly support additional steps moving forward. In addition to the five unanimous recommendations, the majority of the committee supports two other initiatives, discussed below.

We rely on MCILS to carry out many responsibilities, but have only statutorily focused on one: to roster and pay counsel to represent indigent litigants in situations in which the United States and Maine Constitutions and laws require the State to provide such counsel. We also recognize the role of MCILS as a unifying voice of advocacy for the indigent criminal defense in Maine, providing leadership commensurate with the State's highest prosecutor. We are grateful to Executive Director Andrus for embracing this role and championing not only increased funding, but also taking a stand on constitutional issues such as the illegal recording of defendants' calls with their attorneys.

Addressing the challenges in the provision of legal services has been a focus of the Judiciary Committee's work since we convened in January of 2021. Maine's Sixth Amendment obligation has been a unifying issue for committee members, and we unanimously support these five funding initiatives that we believe to be the bare minimum to allow MCILS to operate effectively. One goal of our work has been to reach parity for defenders as compared with prosecutors. We were unable to address the disparity in health insurance and loan forgiveness/repayment opportunities at this time.

100 STATE HOUSE STATION, AUGUSTA, MAINE 04333-0100 TELEPHONE 207-287-1327

The five unanimous recommendations are as follows:

1. Rural Public Defender Unit

Initiative. Establishes one District Defender position (Elected DA-equivalent Grade 90), 2 Assistant Defender I positions (ADA-equivalent Grade 38) and 2 Assistant Defender II positions (ADA-equivalent Grade 30), to be dispatched in the State where needed, and provides for their ancillary costs and meals and travel expenses.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

GENERAL FUND	**2021-22**	**2022-23**
POSITIONS - LEGISLATIVE COUNT		5
Personal Services		$704,482
All Other		$261,415
GENERAL FUND TOTAL		$965,897

Judiciary Committee vote: 12-0 (2 absent)

2. Legal research resources (electronic access, some paper publications)

Initiative: Provides ongoing funds for MCILS to enter into contract for online legal research access that is then provided to MCILS rostered attorneys (up to 300), and annual reimbursement for written legal materials purchased by attorneys.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

GENERAL FUND	**2021-22**	**2022-23**
All Other		$275,580
GENERAL FUND TOTAL		$275,580

Judiciary Committee vote: 12-0 (2 absent)

3. Training

Initiative: Provides ongoing funds for MCILS to provide up to 4, 2-day in-person trainings per year, including the costs of facilities, necessary expenses and honoraria for expert trainings. Existing funds will cover the hourly expense for attendance by rostered attorneys.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

GENERAL FUND	**2021-22**	**2022-23**
All Other		$300,000
GENERAL FUND TOTAL		$300,000

Sec. 1. 4 MRSA §1804, sub-§2, ¶F is amended to read:

F. Standards for the reimbursement of expenses incurred by assigned counsel and contract counsel, including attendance at training events provided by the commission; and

Judiciary Committee vote: 12-0 (2 absent)

4. Contracts to specialists

Initiative: Provides ongoing funds and authority for MCILS to contract with attorneys and other providers and subject matter experts to support indigent legal services by providing targeted support concerning diversion and mitigation, appellate assistance, mentoring of new attorneys and serving co-counsel or lead counsel with a new attorney. Contracts will cover diversion and mitigation, appellate assistance, mentoring of new lawyers and serving as co-counsel and leas counsel with new attorneys

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

GENERAL FUND	**2021-22**	**2022-23**
All Other		$240,000
GENERAL FUND TOTAL		$240,000

Judiciary Committee vote: 12-0 (2 absent)

5. Increase hourly rate to $100

Initiative: Provides ongoing funding to raise the hourly rate for attorneys from $80 to $100 to continue to move toward resource parity between the defense and prosecution functions.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

GENERAL FUND	**2021-22**	**2022-23**
All Other		$4,649,763
GENERAL FUND TOTAL		$4,649,763

Judiciary Committee vote: 12-0 (2 absent)

6. Kennebec and Somerset Counties Public Defender Office

A majority of the Judiciary Committee supports LD 1686 that has remained on the Special Appropriations Table since 2021, and we recommend slight modifications. We recommend that the geographically-limited public defender office encompass not only Kennebec County as originally envisioned, but all of that prosecutorial District (District 4), to include Somerset County. We recommend that the 17 positions necessary to make that public defender office provide high-quality constitutionally legal defense be funded to start on October 1, 2022.

This is based on the appropriations section from the committee amendment to LD 1686, currently on the Special Appropriations Table. The numbers have been updated to reflect a start date of October 1, 2022, and the two 3% state employee increases. Also note that the public defender office coverage is the entire Prosecutorial District 4.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: Establishes and provides funding for 4 Public Service Manager III positions, 5 Public Service Manager II positions, 2 Public Service Coordinator I positions, 2 Clinical Social Worker positions, 3 Paralegal positions and one Office Specialist II position to establish a Public Defender Office in Kennebec County. These positions begin October 1, 2022.

GENERAL FUND	**2021-22**	**2022-23**
POSITIONS - LEGISLATIVE COUNT		17.000
Personal Services		$1,559,211
All Other		$115,719
GENERAL FUND TOTAL		$1,674,930

Judiciary Committee vote: 8-4 (2 absent)

7. Civil Legal Services Fund ongoing appropriation

A majority of the Judiciary Committee also recognizes the increasing need for civil legal services for those who cannot afford them but are not in situations in which the state is constitutionally required to provide representation.

JUDICIAL DEPARTMENT
Courts - Supreme, Superior and District 0063

Initiative: Provides ongoing funding for civil legal services for persons unable to afford a lawyer by providing additional funds available for distribution by the Civil Legal Services Fund Commission pursuant to the Maine Revised Statutes, Title 4, section 18-A, subsection 1.

GENERAL FUND	**2022-23**
All Other	$4,000,000
GENERAL FUND TOTAL	$4,000,000

Judiciary Committee vote: 8-5 (1 absent)

APPROVED	CHAPTER
MAY 3, 2022	720
BY GOVERNOR	PUBLIC LAW

STATE OF MAINE

Judiciary Committee-Initiated bill (enacted version)

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-TWO

H.P. 1255 - L.D. 1686

An Act To Establish Public Defender Positions and Provide Support for Indigent Legal Services Providers

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

Sec. 1. 4 MRSA §1804, sub-§2, ¶F, as enacted by PL 2009, c. 419, §2, is amended to read:

F. Standards for the reimbursement of expenses incurred by assigned counsel and contract counsel, including attendance at training events provided by the commission; and

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: Establishes one District Defender position (Elected DA-equivalent Grade 90), 2 Assistant Defender I positions (ADA-equivalent Grade 38) and 2 Assistant Defender II positions (ADA-equivalent Grade 30), to be dispatched in the State where needed, and provides for their ancillary costs and meals and travel expenses.

GENERAL FUND	**2021-22**	**2022-23**
POSITIONS - LEGISLATIVE COUNT	0.000	5.000
Personal Services	$0	$704,482
All Other	$0	$261,415
GENERAL FUND TOTAL	$0	$965,897

Maine Commission on Indigent Legal Services Z112

Initiative: Provides ongoing funds for a contract for online legal research access to be provided to up to 300 rostered attorneys and for annual reimbursement for written legal materials purchased by attorneys.

GENERAL FUND	**2021-22**	**2022-23**
All Other	$0	$275,580

GENERAL FUND TOTAL	$0	$275,580

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON DEPARTMENT TOTALS	**2021-22**	**2022-23**
GENERAL FUND	**$0**	**$1,241,477**
DEPARTMENT TOTAL - ALL FUNDS	**$0**	**$1,241,477**

L.D. 1686

Date: (Filing No. S-)

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

STATE OF MAINE

SENATE

130TH LEGISLATURE

SECOND REGULAR SESSION

AFA Committee amendment

SENATE AMENDMENT " " to COMMITTEE AMENDMENT "A" to H.P. 1255, L.D. 1686, "An Act To Implement a Geographically Limited Public Defender Office"

Amend the amendment by inserting after the title the following:

'Amend the bill by striking out the title and substituting the following:

'An Act To Establish Public Defender Positions and Provide Support for Indigent Legal Services Providers' '

Amend the amendment by striking out the first paragraph after the title (page 1, line 11 in amendment) and inserting the following:

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

'Sec. 1. 4 MRSA §1804, sub-§2, ¶F, as enacted by PL 2009, c. 419, §2, is amended to read:

F. Standards for the reimbursement of expenses incurred by assigned counsel and contract counsel, <u>including attendance at training events provided by the commission</u>; and

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: Establishes one District Defender position (Elected DA-equivalent Grade 90), 2 Assistant Defender I positions (ADA-equivalent Grade 38) and 2 Assistant Defender II positions (ADA-equivalent Grade 30), to be dispatched in the State where needed, and provides for their ancillary costs and meals and travel expenses.

GENERAL FUND	**2021-22**	**2022-23**
POSITIONS - LEGISLATIVE COUNT	0.000	5.000
Personal Services	$0	$704,482
All Other	$0	$261,415
GENERAL FUND TOTAL	$0	$965,897

SENATE AMENDMENT

Maine Commission on Indigent Legal Services Z112

Initiative: Provides ongoing funds for a contract for online legal research access to be provided to up to 300 rostered attorneys and for annual reimbursement for written legal materials purchased by attorneys.

GENERAL FUND	**2021-22**	**2022-23**
All Other	$0	$275,580
GENERAL FUND TOTAL	$0	$275,580

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON DEPARTMENT TOTALS	**2021-22**	**2022-23**
GENERAL FUND	**$0**	**$1,241,477**
DEPARTMENT TOTAL - ALL FUNDS	**$0**	**$1,241,477**

''

Amend the amendment by striking out all of section 2.

Amend the amendment by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces Committee Amendment "A." The amendment:

1. Adds attendance at training events to the standards governing the delivery of indigent legal services;

2. Establishes public defender positions to be dispatched in the State where needed; and

3. Provides money for legal research by the Maine Commission on Indigent Legal Services attorneys.

SPONSORED BY: _____

(Senator BREEN, C.)

COUNTY: Cumberland

L.D. 1686

Date: (Filing No. H-)

MAJORITY COMMITTEE AMENDMENT

(11-3)

JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT " " to H.P. 1255, L.D. 1686, "An Act To Implement a Geographically Limited Public Defender Office"

Amend the bill by striking out all of section 2 and inserting the following:

'**Sec. 2. Appropriations and allocations.** The following appropriations and allocations are made.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: Establishes and provides funding for 4 Public Service Manager III positions, 5 Public Service Manager II positions, 2 Public Service Coordinator I positions, 2 Clinical Social Worker positions, 3 Paralegal positions and one Office Specialist II position to establish a Public Defender Office in Kennebec County. These positions begin January 1, 2022.

GENERAL FUND	**2021-22**	**2022-23**
POSITIONS - LEGISLATIVE COUNT	17.000	17.000
Personal Services	$980,636	$2,024,035
All Other	$115,719	$107,924
GENERAL FUND TOTAL	$1,096,355	$2,131,959

'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

COMMITTEE AMENDMENT

SUMMARY

This amendment is the majority report of the committee. It replaces the appropriations and allocations section to include updated All Other amounts in both years of the biennium.

FISCAL NOTE REQUIRED

(See attached)

ORIGINAL BILL

130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document **No. 1686**

H.P. 1255 House of Representatives, May 6, 2021

An Act To Implement a Geographically Limited Public Defender Office

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Reported by Representative HARNETT of Gardiner for the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 4, section 1804, subsection 3, paragraph H.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint Rule 218.

Rob B. Hunt

ROBERT B. HUNT
Clerk

Printed on recycled paper

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

Sec. 1. 4 MRSA §1804, sub-§3, ¶A, as enacted by PL 2009, c. 419, §2, is amended to read:

A. Develop and maintain a system that ~~uses~~ may employ attorneys, use appointed private attorneys~~, contracts~~ and contract with individual attorneys or groups of attorneys ~~and~~. The commission shall consider other programs necessary to provide quality and efficient indigent legal services;

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: Establishes and provides funding for 4 Public Service Manager III positions, 5 Public Service Manager II positions, 2 Public Service Coordinator I positions, 2 Clinical Social Worker positions, 3 Paralegal positions and one Office Specialist II position to establish a public defender office in Kennebec County. These positions begin January 1, 2022.

GENERAL FUND	**2021-22**	**2022-23**
POSITIONS - LEGISLATIVE COUNT	17.000	17.000
Personal Services	$980,636	$2,024,035
All Other	$157,724	$157,724
GENERAL FUND TOTAL	$1,138,360	$2,181,759

SUMMARY

This bill creates a Kennebec County public defender office, beginning January 1, 2022. As a first step in providing indigent legal services through an office of a public defender, this bill provides funding to the Maine Commission on Indigent Legal Services for positions to establish the office. The bill also authorizes the commission's system for providing indigent legal services to employ attorneys.