

Kevin M. Lamoreau
600 Riverside Drive, Unit 22, Augusta, ME 04330

Testimony in favor of LD 1454 (2025)
(Re: Definition of "Term" re: Term Limits)

Senator Baldacci, Representative Salisbury and distinguished members of the Joint Standing Committee on State and Local Government,

I'm Kevin Lamoreau, a CAD Data input person at a steel fabrication plant here in Augusta and, of much more relevance here, an elections and election law enthusiast from Augusta, Maine. I'd like to thank my State Senator, Senator Bradstreet, for putting in a bill on this issue at my urging. While the text of this bill is somewhat different from my original suggestion, the chance for this committee and, if there's any support here, both chambers of the full Legislature to take a second look at this issue, and one focused on the non-Legislative offices covered by Maine's term limits laws, is something I am very much in favor of.

From when term limits for Legislators and the four other positions covered by those same term limits went into effect in 1996 until 2023, any part of a term counted the same as a whole term under Maine's term limits law (although that apparently didn't apply to provisional service by someone who ultimately was determined to have lost, since by that standard former State Rep. Michael Shaw of Standish served in the House in the 103rd (just in December 2006 and maybe January 2007), 104th, 105th, 106th and 107th Legislatures before resigning mid-term in 2015). In 2023, perhaps not coincidentally shortly after a special election for the Maine Senate in June 2022 after most of the business of the 130th Legislature had concluded (although there was a confirmation session that fall), the law was changed to set a "cutoff day" where a partial term beginning before that date would count as a term while one beginning on or after that date would not. While there was a divided report in committee on that bill concerning whether constitutional officers would be covered by the change, it still seems likely that Legislators considering that bill were thinking more about when Senator Nicole Grohowski, Representative Richard Mason, etc. would be term-limited then when State Auditor Matt Dunlap would be term-limited.

The "cutoff day" for all offices covered by Maine's term limits law was set as (and presently is) "the 3rd Wednesday in June in an odd-numbered year served by an elected official in an office subject to the provisions of this chapter," although all the language after "odd-numbered year" was already in the law. My original idea for this bill was not to move the "cutoff day" within a given year for any offices but to add clarity to the year in which that "cutoff day" lied. There is only one odd-numbered year served in a given term by any Legislator (other than the Representative of the Passamaquoddy Tribe, who serves a four-year term, but that Representative is not subject to this law although there has in the past at least been tribal law or rule that required alternation in the seat between the two Passamaquoddy reservations which would have resulted in a limit in consecutive service unless the elected Representative moved back and forth between the two reservations), so there's no ambiguity there. Terms for the constitutional offices of Secretary of State, Treasurer of State and Attorney General and the similarly elected statutory office of State Auditor, however, terms don't begin and end until early January of the year following the election of those officers, so there are technically two odd years that are both partly within the term. While it's unlikely anyone would claim that the "odd-numbered year" referred to for the first three of those positions was anything other than their first year in office, for State Auditor there is the additional complication of the term being four years. You could think of a State Auditor's term as being a "double term" for term limits purposes, as I doubt it was an accident that the term limit was originally set as two terms for that office as opposed to four terms for all other offices

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covered. There are three odd-numbered years in a State Auditor's term, the year term begins in January following the Auditor's election the previous December which is mostly covered by the term, the year two years after that which is the middle year of the three calendar years which lie entirely within the term, and the year two years after that when the term ends in early January, but some time after New Year's Day. The last of those years can likely be ruled out as one referred to in the current definition of a term, just like with the three constitutional offices covered, as the "cutoff day" in the law is well after the small portion of that year that is covered by the term. But what if a partial term for State Auditor begins after the "cutoff day" the first odd-numbered year in the term (the first year of the term) but before the "cutoff day" the second odd-numbered year (the third year of the term). Setting the cutoff at the second odd-numbered year would seem consistent with the other offices (alluding back to that idea of a State Auditor's term being a "double term") and may be how the law is currently interpreted, since a term beginning between the "cutoff days" in those two years would begin before the "cutoff day" in "an odd-numbered year" within the term. But given that the "cutoff day" for all the other offices covered by Maine's term limits law is within the first year of the term, one could possibly make a credible argument that the "cutoff day" for State Auditor is within that first year as well. That would mean that a State Auditor could theoretically serve over 11½ years in office consecutively before being term-limited, as opposed to about 9½ years consecutively being the maximum amount for the other offices covered.

It happens that our current State Auditor's current stint in office began in what would barring any vacancy have been the second year of the term, between those two "cutoff days" in his first term both under current law and in the present language of LD 1454. Our current State Auditor also served a part of that same term beginning at the scheduled beginning of the term, well before both possible "cutoff days," but whether the two parts of the same term served by the same person would count as the same term or count separately, with the first one not counting, it may not be crystal clear. The law could be amended in that respect, but that was not my intention when I proposed this bill. What I suggested originally was to, for all offices, replace "an odd numbered year" with "the second-to-last calendar year in which the month of June lies within the term" (since the "cutoff day" mentioned was in June). The first year of a two-year term is also the second-to-last year. I was trying to write it in such a way that would cover all offices but would have an effect of the "cutoff day" being in the third year for State Auditor which I felt made the term limit for that office consistent with that of the other offices covered. I guess the Revisor's office wasn't keen on that language, and I can understand why.

I think it's admirable that Hon. Matthew Dunlap persevered in attaining the required certification to be State Auditor more than just provisionally, regardless of whether he had any idea when that seat would next be open or even if he would be considered for it. But I don't think he should be able to get another four years at the end of his current stint before being term-limited, or another roughly three years net (since I believe it was about a year, maybe a little less, between when he resigned as State Auditor in 2021 and when he resumed that role in 2022) for failing to initially attaining the necessary credentials by the initial deadline. Perhaps it's already clear that the "cutoff day" for State Auditor is in the third year of the term and that no change to the law is necessary. But I thought a "second look" at this issue with a particular focus on the non-Legislative positions covered (especially State Auditor) might be worthwhile.

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Thank you for the opportunity to testify on this issue. I am happy to answer any questions.

Sincerely,

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Augusta, Maine

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