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2011 FEB -4 PM 1:04

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State of Maine
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON JUDICIARY

February 4, 2011

TO: Senator Richard W. Rosen, Senate Chair
Representative Patrick S. A. Flood, House Chair
Joint Standing Committee on Appropriations and Financial Affairs

FROM: Senator David R. Hastings III, Senate Chair
Representative Joan M. Nass, House Chair
Joint Standing Committee on Judiciary

Re: Judiciary Committee recommendations on Supplemental Budget, LD 100

Thank you for the opportunity to provide our recommendations on the Governor's Supplemental Budget for the current Fiscal Year. We appreciate the extra time to submit our report in writing.

In general, the Judiciary Committee supports the Governor's Budget, with a few exceptions. This memo outlines the exceptions and explains the minority recommendations. The work sheets required by your committee are attached, as are the drafts of proposed language.

The following members voted during the work sessions on January 27, 2011 and February 1, 2011: Senator Hastings, Senator Bliss, Senator Woodbury, Representative Nass, Representative Beaulieu, Representative Dill, Representative Foster, Representative Maloney, Representative Mitchell, Representative Moulton, Representative Priest, Representative Rochelo and Representative Waterhouse. Representative Sarty was not able to attend either work session.

Attorney General (JUD-1 and JUD-2)

The Judiciary Committee supports the Governor's proposal with one addition. We support increasing the salary range for the Deputy Chief Medical Examiner from Salary Range 56 to Salary Range 59. This is necessary to recruit a pathologist into the position to accommodate the workload of the Chief Medical Examiner's Office. We understand that the salary range change can be funded within existing resources and that the Office of the Attorney General and the Governor's Office have determined that this change will have no fiscal impact in the current biennium or the next biennium, and that the Governor's Office has no issue with including this language in the Supplemental Budget. Draft language to carry out this recommendation is attached. We appreciate the work the Office of the Attorney General has done to find the savings required in the Governor's budget.

Maine Human Rights Commission (JUD 3, JUD-4 and JUD-8)

The Judiciary Committee unanimously supports the recommendations concerning the Maine Human Rights Commission. In addition, the Committee is almost evenly split with regard to including the General Fund amount to comply with the reclassification for the five employees not covered entirely by the federal funding the Commission receives. There is an additional Federal Expenditures Fund Allocation that would accompany that General Fund addition because some of the employees are funded partially with federal funds. The Committee members not supporting this additional funding in the Supplemental Budget do not oppose funding the reclassification eventually, and recognize that the costs will have to be included in the biennial budget. All the reclassifications are retroactive to July 1, 2010, and each employee must receive the back salary plus interest when it is funded. The General Fund costs of the additional funding (Report A) are \$22,946, and the additional Federal Expenditures Fund allocation is \$3,688 for a total of \$16,518. Report A is supported by Senator Bliss, Senator Woodbury, Representative Dill, Representative Maloney, Representative Mitchell, Representative Priest and Representative Rochelo. Report B, which is the Supplemental Budget for the Maine Human Rights Commission as proposed in LD 100, is supported by Senator Hastings, Representative Nass, Representative Beaulieu, Representative Foster, Representative Moulton and Representative Waterhouse.

Maine Commission on Indigent Legal Services (JUD-5)

The Judiciary Committee initially tabled its vote on the Maine Commission on Indigent Legal Services (MCILS) to provide as much time as possible for the Commission and the Governor's Office to share information and communicate about the expectations concerning the funding of the provision of legal services when required. The Commission is new and the Governor's Office is putting together its first budget; we believe the lack of communication about the needs of the MCILS was unintentional.

The Commission and the Governor's Office came to an agreement to provide at least part of the funding the Commission requested to cover the projected shortfall. The Governor's Office has agreed to delete the reduction in funding [reference # 386, JUD-5], and provide additional funding of \$200,000. The Judiciary Committee voted 12-1 to support this proposal; Representative Waterhouse voted to retain the reduction printed in LD 100.

The Commission and the Governor's Office are engaging in ongoing discussions to deal with the projected shortfall for the next biennium.

Judicial Branch (JUD 6 and JUD-9)

The Judiciary Committee supports the Governor's proposal with one exception. A majority of the Judiciary Committee recommends that Part X, which contains an amendment to Title 4, section 28, be struck from the bill. Part X would amend current law to provide that the \$300,000 to be set aside for capital needs of the Judicial Branch would not be available unless and until the Judicial Branch collects the total amount of fees budgeted for that fiscal year. Although we understand this concept and the need to make sure the State's revenue will cover costs, we do not think it is appropriate to tie the necessary capital funding in this manner. We understand that the issue will continue to be a topic of discussion and we hope there to be a resolution in the upcoming Biennial Budget; we understand that this change was not intended to affect this fiscal year.

Rep. Waterhouse supports a minority report that would include Part X with an amendment to the language that provides that the change applies beginning in the next biennium. Draft language to carry out this minority recommendation is attached. We appreciate the work the Judicial Branch has done to achieve the savings identified in the Governor's budget.

Pine Tree Legal Assistance (JUD-7)

The Judiciary Committee supports the Governor's proposal for Pine Tree Legal Assistance, although we recognize the significant impact even this relatively small funding cut will have on PTLA's services provided to those who can not otherwise afford legal assistance. We appreciate the tremendous work Pine Tree has done to make information and assistance available to individuals across the State.

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

Attachments:

- Worksheets
- Report back report indicating recommended changes
- Statutory language proposals

Sec. A-4. Appropriations and allocations. The following appropriations and allocations are made.

ATTORNEY GENERAL, DEPARTMENT OF THE

Administration - Attorney General 0310

Initiative: Reduces funding from savings achieved by managing vacancies.

Ref. #: 40

Committee Vote:

13-0

AFA Vote:

GENERAL FUND

2010-11

2011-12

2012-13

Personal Services

(\$7,258)

\$0

\$0

GENERAL FUND TOTAL

(\$7,258)

\$0

\$0

Justification:

Savings above and beyond the attrition savings are estimated as a result of a number of measures such as holding positions vacant for longer periods of time.

Chief Medical Examiner - Office of 0412

Initiative: Reduces funding from savings achieved by managing vacancies.

Ref. #: 44

Committee Vote:

13-0

AFA Vote:

GENERAL FUND

2010-11

2011-12

2012-13

Personal Services

(\$30,000)

\$0

\$0

GENERAL FUND TOTAL

(\$30,000)

\$0

\$0

Justification:

Savings above and beyond the attrition savings are estimated as a result of a number of measures such as holding positions vacant for longer periods of time.

See also language change.

Civil Rights 0039

Initiative: Reduces funding for the civil rights team project by reducing costs for the civil rights training activities.

Ref. #: 38

Committee Vote:

13-0

AFA Vote:

GENERAL FUND

2010-11

2011-12

2012-13

All Other

(\$20,000)

\$0

\$0

GENERAL FUND TOTAL

(\$20,000)

\$0

\$0

Justification:

Reduces funding for the Civil Rights Team Project by reducing costs through additional efficiencies in contractual services and the civil rights trainings.

District Attorneys Salaries 0409

Initiative: Reduces funding from savings achieved by managing vacancies.

Ref. #: 42

Committee Vote:

13-0

AFA Vote: _____

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	(\$80,191)	\$0	\$0
GENERAL FUND TOTAL	<u>(\$80,191)</u>	<u>\$0</u>	<u>\$0</u>

Justification:

Savings above and beyond the attrition savings are estimated as a result of a number of measures such as holding positions vacant for longer periods of time.

ATTORNEY GENERAL, DEPARTMENT OF THE

DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	(\$137,449)	\$0	\$0
DEPARTMENT TOTAL - ALL FUNDS	<u>(\$137,449)</u>	<u>\$0</u>	<u>\$0</u>

Sec. A-30. Appropriations and allocations.

The following appropriations and allocations are made.

HUMAN RIGHTS COMMISSION, MAINE

Human Rights Commission - Regulation 0150

Initiative: Provides funding due to increased revenues projected from the Equal Employment Opportunity Commission's Federal Expenditures Fund.

Ref. #: 259

Committee Vote:

13-0

AFA Vote:

FEDERAL EXPENDITURES FUND

2010-11

2011-12

2012-13

All Other

\$1,945

\$0

\$0

FEDERAL EXPENDITURES FUND TOTAL

\$1,945

\$0

\$0

Justification:

The United States Equal Employment Opportunity Commission has increased the contract amount for fiscal year 2010-11.

Human Rights Commission - Regulation 0150

Initiative: Reduces funding by recognizing a one-time decrease in rents.

Ref. #: 260

Committee Vote:

13-0

AFA Vote:

GENERAL FUND

2010-11

2011-12

2012-13

All Other

(\$211)

\$0

\$0

GENERAL FUND TOTAL

(\$211)

\$0

\$0

Justification:

The commission holds ten meetings per year. The costs for facility rental will be lower in fiscal year 2010-11. The commission will hold the last meeting of fiscal year 2010-11 at a state-owned facility. The estimated savings is based on the cost the commission is currently paying for one half-day meeting.

Human Rights Commission - Regulation 0150

Initiative: Provides funding due to increased revenues projected from registration fees.

Ref. #: 261

Committee Vote:

13-0

AFA Vote:

OTHER SPECIAL REVENUE FUNDS

2010-11

2011-12

2012-13

All Other

\$5,000

\$0

\$0

OTHER SPECIAL REVENUE FUNDS TOTAL

\$5,000

\$0

\$0

Justification:

Registration fees will increase due to a training conference being held in fiscal year 2010-11.

Human Rights Commission - Regulation 0150

Initiative: Reallocates funding for technology from the General Fund to the Federal Expenditures Fund within the same program and reduces funding for general operations and equipment in the Federal Expenditures Fund. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

Ref. #: 262

Committee Vote:

13-0

AFA Vote: _____

GENERAL FUND	2010-11	2011-12	2012-13
All Other	(\$4,772)	\$0	\$0
GENERAL FUND TOTAL	(\$4,772)	\$0	\$0

Justification:

Reallocate General Fund technology expenditures by decreasing General Fund technology expenditures and increasing U.S. Department of Housing and Urban Development and U.S. Equal Employment Opportunity Commission by reducing general operating expenditures, equipment expenditures and increasing technology expenditures.

HUMAN RIGHTS COMMISSION, MAINE

DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	(\$4,983)	\$0	\$0
FEDERAL EXPENDITURES FUND	\$1,945	\$0	\$0
OTHER SPECIAL REVENUE FUNDS	\$5,000	\$0	\$0
DEPARTMENT TOTAL - ALL FUNDS	\$1,962	\$0	\$0

Sec. A-32. Appropriations and allocations. The following appropriations and allocations are made.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: Reduces funding to bring the budget in line with available resources.

Ref. #: 368	Committee Vote: _____	AFA Vote: _____		
GENERAL FUND	<i>amended</i>	2010-11	2011-12	2012-13
All Other		(\$98,840)	\$0	\$0
GENERAL FUND TOTAL		(\$98,840)	\$0	\$0

Justification:

This reduction will reduce the amount of funds available to pay court appointed attorneys. Accordingly, the reduction could prevent the commission from meeting the State's constitutional obligation to provide indigent legal services.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	(\$98,840)	\$0	\$0
DEPARTMENT TOTAL - ALL FUNDS	(\$98,840)	\$0	\$0

Sec. A-34. Appropriations and allocations.

The following appropriations and allocations are made.

JUDICIAL DEPARTMENT

Courts - Supreme, Superior and District 0063

Initiative: Reduces funding to reflect savings from vacant positions. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

Ref. #: 379

Committee Vote: 13-0 AFA Vote: _____

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	(\$85,500)	\$0	\$0
GENERAL FUND TOTAL	(\$85,500)	\$0	\$0

Justification:

Current judicial officer vacancies have generated \$85,500 in savings for personnel services.

JUDICIAL DEPARTMENT

DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	(\$85,500)	\$0	\$0
DEPARTMENT TOTAL - ALL FUNDS	(\$85,500)	\$0	\$0

Sec. A-42. Appropriations and allocations.

The following appropriations and allocations are made.

PINE TREE LEGAL ASSISTANCE

Legal Assistance 0553

Initiative: Reduces funding to maintain costs within available resources.

Ref. #: 428

Committee Vote:

13-0

AFA Vote: _____

GENERAL FUND	2010-11	2011-12	2012-13
All Other	(\$2,526)	\$0	\$0
GENERAL FUND TOTAL	(\$2,526)	\$0	\$0

Justification:

Demand for legal help has increased tremendously in the last two years, while funding has declined. Pine Tree now faces a projected operating deficit of \$1.27 million in fiscal year 2010-11. Unless funding is restored, thousands of Maine families will go without legal help that could prevent far more serious problems in the future.

PINE TREE LEGAL ASSISTANCE

DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	(\$2,526)	\$0	\$0
DEPARTMENT TOTAL - ALL FUNDS	(\$2,526)	\$0	\$0

Sec. B-1. Appropriations and allocations.

The following appropriations and allocations are made.

HUMAN RIGHTS COMMISSION, MAINE

Human Rights Commission - Regulation 0150

Initiative: RECLASSIFICATIONS

Ref. #: 263

Committee Vote: 13-0 AFA Vote: _____

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
Personal Services	\$12,830	\$0	\$0
FEDERAL EXPENDITURES FUND TOTAL	\$12,830	\$0	\$0

HUMAN RIGHTS COMMISSION, MAINE

DEPARTMENT TOTALS	2010-11	2011-12	2012-13
FEDERAL EXPENDITURES FUND	\$12,830	\$0	\$0
DEPARTMENT TOTAL - ALL FUNDS	\$12,830	\$0	\$0

but see additional
Federal Expenditures
Fund
and new General Fund
(divided report)

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

2 **PART X**

3 Sec. X-1. 4 MRSA §28, as enacted by PL 2009, c. 213, Pt. QQ, §2, is amended to
4 read:

5 **§28. Additional fee revenue dedicated**

6 The judicial branch may credit up to \$300,000 per fiscal year of fee revenue collected
7 pursuant to administrative orders of the court to a nonlapsing Other Special Revenue
8 Funds account to support the capital expenses of the judicial branch only after the judicial
9 branch has collected and deposited all fee revenue budgeted as undedicated revenue to
10 the General Fund.

11 **SUMMARY**

12 **PART X**

13 This Part allows the judicial branch to transfer up to \$300,000 of fee revenue to
14 support the branch's capital expenses only after it has collected and deposited all fee
15 revenue budgeted as undedicated revenue to the General Fund in each fiscal year.

JUD vote : out = 12
amend = 1

Committee ADDITIONAL Recommendations for Governor's SUPPLEMENTAL Budget Proposal (Majority)

Name of Committee: JUDICIARY

LD: 100 Date of Report: February 4, 2011

GF Cost (Savings)		Change in Headcount (All Funds)		Vote
FY11		FY 11		

Governor's GF Budget Initiatives Net Cost (Savings)	(\$329,298)	0.0	
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Initiatives Rejected by Committee & Effect on Net GF Cost or Savings

MAINE COMMISSION ON INDIGENT LEGAL SERVCIES				
Page	Reference/ Part	Summary of Initiative		
JUD-5	368	Eliminate proposed reduction.	\$98,840	12-1
Total Cost (Savings) From Rejected Initiatives			\$98,840	0.0

JUDICIAL DEPARTMENT				
Page	Reference/ Part	Summary of Initiative		
JUD - 9	Part X	Part X - changes procedure for transferring \$300,000 of fee revenue to the Judicial Branch's capital expense account. MAJORITY: Delete Part X.	\$0	12-1
Total Cost (Savings) From Rejected Initiatives			\$0	0.0

Initiatives Added by Committee & Effect on Net GF Cost or Savings

ATTORNEY GENERAL				
Page	Reference/ Part	Summary of Initiative		
NEW		Statutory amendment to 22 MRSA 3022. sub-2 (language attached)	\$0	13-0
Total Cost (Savings) From Additional Initiatives			\$0	0.0

MAINE HUMAN RIGHTS COMMISSION				
Page	Reference/ Part	Summary of Initiative		
NEW		Reclassification of the remaining 5 of 8 employees (see #263 on JUD-8)	\$22,946	7-6
JUD-8	263	FEDERAL: increase federal allocation by \$3,688 for a total of \$16,518		7-6
Total Cost (Savings) From Additional Initiatives			\$22,946	0.0

MAINE COMMISSION ON INDIGENT LEGAL SERVCIES				
Page	Reference/ Part	Summary of Initiative		
NEW		Provide additional funding for the Maine Commission on Indigent Legal Services	\$200,000	12-1
Total Cost (Savings) From Additional Initiatives			\$200,000	0.0

Total Additions to or Subtraction from Governor's Net Total	\$321,786	0.0	
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POLICY COMMITTEE'S GF Budget Initiatives Net Cost (Savings)	(\$7,512)	0.0	
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Committee Recommendations for Changes to Governor's Budget Proposal (Minority)

Name of Committee: JUDICIARY

LD: 100 Date of Report: February 4, 2011

	GF Cost (Savings)		Change in Headcount (All Funds)		Vote
	FY11		FY 11		
Governor's GF Budget Initiatives Net Cost (Savings)	(\$329,298)		0.0		

Initiatives Rejected by Committee & Effect on Net GF Cost or Savings

JUDICIAL DEPARTMENT

Page	Reference/ Part	Summary of Initiative				
JUD - 9	X	Part X - changes procedure for transferring \$300,000 of fee revenue to the Judicial Branch's capital expense account. MINORITY: Amend Part X to add a July 1, 2011 effective date.	\$0		0.0	1-12
Total Cost (Savings) From Additional Initiatives			\$0		0.0	

Sec. 1. 22 MRSA §3022, sub-§ 2 is amended to read:

2. Appointment and qualifications of the Deputy Chief Medical Examiner.

The Chief Medical Examiner may select one or more of the medical examiners to serve as deputy chief medical examiners. The Deputy Chief Medical Examiner serves at the pleasure of the Chief Medical Examiner and, if salaried, is unclassified. The salary of the Deputy Chief Medical Examiner must be set in salary range ~~56~~ 59 of the Standard Salary Schedule for Medical Personnel as published by the Bureau of Human Resources. In the event of the Deputy Chief Medical Examiner's temporary absence, the Chief Medical Examiner or, if the Chief Medical Examiner is unavailable, the Attorney General may designate one of the deputy chief medical examiners to serve as acting Chief Medical Examiner. The acting Chief Medical Examiner has all of the powers and responsibilities of the Chief Medical Examiner.

SUMMARY

This amendment changes the salary range for the position of Deputy Chief Medical Examiner from range 56 to range 59.

PART X

Sec. X-1. 4 MRSA §28, as enacted by PL 2009, c. 213, Pt. QQ, §2, is amended to read:

§ 28. Additional fee revenue dedicated

The judicial branch may credit up to \$300,000 per fiscal year of fee revenue collected pursuant to administrative orders of the court to a nonlapsing Other Special Revenue Funds account to support the capital expenses of the judicial branch only after the judicial branch has collected and deposited all fee revenue budgeted as undedicated revenue to the General Fund.

Sec. X-2. Effective date. This Part takes effect July 1, 2011.

SUMMARY

This amendment adds an effective date to provide that Part X takes effect July 1, 2011. The requirement that fee revenue meet the amount budgeted for total fee collections before any funds are credited to the Judicial Branch's capital account will not apply until FY12.