



Matthew Dunlap  
Secretary of State

*Department of the Secretary of State*  
*Bureau of Corporations, Elections and Commissions*

Julie L. Flynn  
Deputy Secretary of State

October 19, 2015

Hon. Richard A. Bennett  
75 Bennett Lane  
Oxford, ME 04270

Dear Mr. Bennett:

On September 23, 2015, this office received your application for a citizen initiative petition. We promptly forwarded it to the Office of the Revisor of Statutes for review and assistance in bringing the proposed legislation into conformity with the drafting conventions used in the Maine Revised Statutes, pursuant to 21-A M.R.S. § 901(3-A). On October 9, 2015, we received a letter from you requesting three changes to the text of the legislation attached to your application. We asked the Revisor's Office to address the revised proposal as well. Although a subsequent draft of the legislation technically starts a new 10-business day time period for review pursuant to 21-A M.R.S. § 901(3-A), in response to your request, the Revisor's Office and our office have endeavored to process the proposed changes as expeditiously as possible without taking the full time allotted for review.

This initiative is unusual in that it encompasses two distinct and unrelated subject areas – welfare reform and income tax rate reductions. In the legislative process, these would normally be submitted as two separate bills, which would be referred to two separate standing committees of the Legislature for review. Indeed, in the history of initiative and referendum process in Maine, we have not found another example of a direct initiative combining two such distinct and unrelated subjects. The Maine Constitution does not expressly restrict initiatives to a single subject, however, in contrast to many other states. Accordingly, even though we strongly encourage you to split this into two separate direct initiatives in order to assist the voters as well as the Legislature if it considers any competing measures, the Secretary of State does not have authority under the election laws to require you to do so.

Maine's election laws governing the drafting of ballot questions set forth very clear criteria for presenting initiatives to the voters when and if the legislation is referred to the voters for approval or disapproval. Pursuant to 21-A M.R.S. § 906(6), the Secretary is required to "advise petitioners that the proper suggested format for an initiative question is a separate question for each issue." The considerations involved in determining whether an initiative presents more than one issue include whether:

- 1) A voter would reasonably have different opinions on the different issues;
- 2) Having more than one question would help voters to better understand the subject matter; and
- 3) The questions are severable and can be enacted or rejected separately without negating the intent of the petitioners.

Under these criteria, there should be two separate questions for your proposed initiative: one for the welfare benefits-related proposals, which amend various provisions of Title 22, and one for the individual income tax rate reductions and related income tax provisions in Titles 5, 30-A and 36. For this reason, the sections of the initiated legislation have been re-organized into a Part A and a Part B that would correspond to each question presented to the voters. This will enable the Revisor's Office to accurately codify the law resulting from a statewide vote on each question.

The process of drafting questions and proposing them for comment does not occur until after adjournment of the legislative session at which petitioners present the initiated legislation – i.e., if petitioners first collect enough valid signatures and if the Legislature does not enact the legislation as proposed without change. 21-A M.R.S. §§ 901(4) and 905-A. The petitioners and any other interested parties or members of the public would have a full opportunity to review and comment on the Secretary's draft ballot questions at that time.

Attached is the draft legislation prepared with the assistance of the Office of the Revisor of Statutes. The initiated bill will be entitled "*An Act to Amend the Laws Governing Welfare, to Lower the Individual Income Tax Rate to 4 Percent and to Dedicate Funds to Further Reduce the Income Tax until It Is Eliminated.*" The proposed legislation has been edited to bring it into conformity with the drafting conventions used in the Maine Revised Statutes while endeavoring to retain the full substance of your proposal. Here are specific comments explaining the changes that have been made or are recommended:

1. As noted above, the sections of the initiated bill have been divided into two separate parts: Part A contains the benefits-related provisions, and Part B contains the income tax-related provisions;
2. In the Maine Revised Statutes, Title 22, section 3762, subsection 20, reference is made to both applicants for and recipients of TANF assistance in connection with the denial of assistance based on a drug test. The wording of subsection 20 has been changed to include consistently both applicants and recipients;
3. In Title 22, section 3762, subsection 20, the phrase "pursuant to this subsection" was added at the end of paragraph N, subparagraphs (2) and (3);
4. In Title 22, section 3762, subsection 21, the subsection headnote is changed to reflect the content of the subsection;
5. In Title 22, section 3763, subsection 12, paragraph G, the cross-reference to the definition of "travel agent" is corrected and in paragraph H, the cross-reference to the

definition of “money transmission” is made more specific with the addition of a reference to subsection 10;

6. Title 22, section 3785 is repealed and replaced;
7. In Title 22, section 3785, first paragraph, the phrase “good cause” is retained to be consistent with the use of this phrase later in the same paragraph;
8. The unallocated language presented as change #3 in your revised proposal of October 9 has been added as a new section at the end of Part A with a proposed headnote, and the phrase “Sections 3 through 28” has been replaced with a reference to “this Part”. The word “shall” has been changed to “must”, the phrase “the Maine Revised Statutes” has been added before “Title 5” and the words “The” and “Section” have been changed to lower case. We note that it is unclear who would determine the amount of savings, if any, from the statutory changes proposed in Part A, or how this determination would be made.
9. In Title 5, section 1518-A, subsection 1-A, paragraph A (as presented in your revised proposal of October 9), the word “rates” in the existing statute is retained. The word “subsections” is also retained. It appears that a cross-reference to subsection 3-H was omitted in your revised proposal, so it has been inserted and the subsections listed in numerical order to read: 1-G, 1-H, 1-I, 2-G, 2-H, 2-I, 3-G, 3-H, 3-I and 6. In the first portion of the second sentence, the first occurrence of the word “reductions” has been retained. The word “rates” in paragraphs B and C has also been retained.
10. It is unclear what effect the language of Title 36, section 5111, subsection 7 in your October 9 proposal would have, as it is not apparent to whom or how this language applies. Is it an attempt to bind future legislatures by specifying that the rates set forth in section 5111 may not be exceeded? If so, that would not be enforceable. If you meant something else, it is not clear. In any event, your proposed language is included in this revised draft with the following technical corrections: the enacting clause encompasses both subsections 6 and 7; the word “Tax” in the headnote and the word “Taxable” in the text have been changed to lower-case; the word “shall” has been changed to “may”; and the word “the” before “each tax year” has been removed.

Please review the draft legislation and advise me in writing if you accept it as presented or if there are additional changes you wish to make. Once this office receives written consent to the final language of the proposed law, the Office of Fiscal and Program Review must prepare an estimate of the fiscal impact of the legislation within 15 business days. The fiscal statement will

be printed as part of the petition form that will be provided to you for circulation. You may reach me by telephone at 624-7650, by fax at 287-5428 or by email at [Melissa.packard@maine.gov](mailto:Melissa.packard@maine.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Melissa K. Packard". The signature is fluid and cursive, with a long horizontal stroke at the end.

Melissa K. Packard  
Director of Elections

Enclosure

cc: Hon. Eric Brakey, Alexander Willette, Jason Savage, Paula Sutton, Rebecca Telega