

**TESTIMONY OF THE
DEPARTMENT OF INLAND FISHERIES AND WILDLIFE**

**BEFORE THE JOINT STANDING COMMITTEE ON INLAND FISHERIES AND
WILDLIFE**

IN SUPPORT OF L.D. 101

**“An Act Regarding Public Records and Fees for Requesting Public
Records from the Department of Inland Fisheries and Wildlife”**

SPONSORED BY: Representative ROBERTS of South Berwick.

DATE OF HEARING: February 5, 2025

Good afternoon, Senator Baldacci, Representative Roberts and members of the Inland Fisheries and Wildlife Committee. I am Timothy Peabody, Deputy Commissioner at the Department of Inland Fisheries and Wildlife, speaking on behalf of the Department, in support of LD 101, An Act Regarding Public Records and Fees for Requesting Public Records from the Department of Inland Fisheries and Wildlife.

This bill suggests a number of changes/reorganizations to the Commissioners duties related to record keeping and retention along with proposing an exception from the provisions of the Freedom of Access Act (FOAA) that governs the fees that an agency may charge to a person requesting certain public records. The bill also addresses sales tax law associated with any sale of certain department data.

This bill is the result of a 2024 challenge to the Department’s current Freedom of Access Act Policy which was enacted in 2016. A person had requested a list of moose permit auction winners for 2024. The list contains the name, address and bid amount of permit winners. Department staff processed the request by policy as a non FOAA data request and applied the minimum list charge of \$25 as prescribed in policy. The requestor challenged the Department’s ability to charge that fee amount for a public record. The request was ultimately fulfilled at no charge.

The purpose of this bill is to provide direction to the Department using the scenario I mentioned as a basis for discussion. Recognizing that the bill will need to be amended as written, our hope is that it will provide our department the following:

1. The ability to understand that not all requests for information are Freedom of Access Act requests and determine which ones are not.

2. Have clear legal authority (or not) to charge a price for Maine Warden Service recreational vehicle crash reports held in a central database with many other law enforcement agency crash reports.
3. Have authority in law or ability to place in rule and policy (or not) to charge for requests of bulk data sets or lists. For example:
 - a. We would request to allow our agency to charge per name for bulk lists of hunting, fishing, and trapping license holders and recreational vehicle registration holders. (our current practice).
 - b. We would also like this proposal to allow the agency to charge per copy (either electronically or physically) for any license or registration. This has also our practice for over 25 years.

In terms of any suggested amendments, we would ask that any reference to charging sales tax within Sections 2, 4, 5 and 6 of the bill, be removed. Further investigation raised the question of whether these requests were appropriate to apply Maine sales tax law.

Amendments to the remainder of the bill (primarily Section 2 paragraphs D, E, F, regarding fees charged will be based on discussions and requests of the Committee.

This concludes my testimony. I look forward to the discussion and hopefully resolution to this important issue.