

# MAINE STATE LEGISLATURE

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GRANT T. PENNOYER

EXECUTIVE DIRECTOR  
OF THE LEGISLATIVE COUNCIL



MAINE STATE LEGISLATURE

OFFICE OF THE EXECUTIVE DIRECTOR  
LEGISLATIVE COUNCIL

**127<sup>th</sup> Legislature  
Legislative Council  
JANUARY 28, 2016  
1:30 PM  
REVISED AGENDA**

<u>Page</u>	<u>Item</u>	<u>Action</u>
	<b>CALL TO ORDER</b>	
	<b>ROLL CALL</b>	
<b>1</b>	<b>SUMMARY OF THE DECEMBER 17, 2015 MEETING OF THE LEGISLATIVE COUNCIL</b>	<b>Acceptance</b>
	<b>REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS</b>	
❖ 12	• Executive Director's Report (Mr. Pennoyer)	<b>Information</b>
13	• Fiscal Report (Mr. Nolan)	<b>Information</b>
❖ 17	• Studies Update and Report (Ms. Hylan Barr)	<b>Information</b>
	<b>REPORTS FROM COUNCIL COMMITTEES</b>	
	• Personnel Committee	
	• State House Facilities Committee	
	<b>OLD BUSINESS</b>	
19	Item #1: Consideration of Pre-Cloture Bill Requests tabled from October 22 and November 19	<b>Roll Call Vote</b>
❖ 22	Item #2: Council Actions Taken By Ballot (No Action Required)	<b>Information</b>
23	Item #3: Revision of the <i>Legislative Council Policy on the Use of the Hall of Flags</i>	<b>Decision</b>

## **NEW BUSINESS**

❖ 27	Item #1:	Consideration of After Deadline Bill Requests	<b>Roll Call Vote</b>
32	Item #2:	Submission of the 2015 Annual Report on Activities and Performance, OPEGA (Ms. Ashcroft)	<b>Report and Acceptance</b>
60	Item #3:	Submission of the Report of the Commission to Study Difficult to Place Patients (December 2015)	<b>Acceptance</b>
72	Item #4:	Submission of the Report of the Joint Standing Committee on Health and Human Services Study of Allocations of the Fund for a Healthy Maine (December 2015)	<b>Acceptance</b>
77	Item #5:	Submission of the Tenth Annual Report of the Right to Know Advisory Committee (January 2016)	<b>Acceptance</b>
80	Item #6:	Submission of the Annual Report of the Midcoast Regional Redevelopment Authority (January 2016)	<b>Acceptance</b>

## **ANNOUNCEMENTS AND REMARKS**

## **ADJOURNMENT**

SEN. MICHAEL D. THIBODEAU  
CHAIR

REP. MARK W. EVES  
VICE-CHAIR

EXECUTIVE DIRECTOR  
GRANT T. PENNOYER



127<sup>TH</sup> MAINE STATE LEGISLATURE  
LEGISLATIVE COUNCIL

SEN. GARRETT P. MASON  
SEN. ANDRE E. CUSHING  
SEN. JUSTIN L. ALFOND  
SEN. DAWN HILL  
REP. JEFFREY M. MCCABE  
REP. SARA GIDEON  
REP. KENNETH W. FREDETTE  
REP. ELEANOR M. ESPLING

**LEGISLATIVE COUNCIL  
MEETING SUMMARY  
December 17, 2015**

**CALL TO ORDER**

President Thibodeau called the December 17, 2015 meeting of the Legislative Council to order at 2:30 p.m. in the Legislative Council Chamber.

**ROLL CALL**

Senators: President Thibodeau, Senator Mason, Senator Cushing, Senator Alfond and Senator Hill

Representatives: Speaker Eves, Representative McCabe, Representative Gideon, Representative Fredette and Representative Espling

Legislative Officers: Heather Priest, Secretary of the Senate  
Robert Hunt, Clerk of the House  
Jennifer McGowan, Assistant Clerk of the House  
Grant T. Pennoyer, Executive Director of the Legislative Council  
Dawna Lopatosky, Legislative Finance Director  
Jackie Little, Human Resources Director  
Marion Hylan Barr, Director, Office of Policy and Legal Analysis  
Suzanne Gresser, Revisor of Statutes  
John Barden, Director, Law and Legislative Reference Library  
Kevin Dieterich, Director, Legislative Information Technology

President Thibodeau convened the meeting at 2:30 p.m. with a quorum of members present.

**SUMMARY OF NOVEMBER 19, 2015 MEETING OF LEGISLATIVE COUNCIL**

**Motion:** That the Meeting Summary for November 19, 2015 be accepted and placed on file. Motion by Senator Mason. Second by Senator Cushing. **Motion passed unanimous (8-2, with Rep. Fredette and Espling absent).**

## REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

### Executive Director's Report

Grant Pennoyer, Executive Director, submitted the following written report:

1. Upgrade to Senate, House and Committee Web Broadcasts

We are in the final stages of implementing enhancements to the web broadcasts of Senate, House and committee proceedings through a contract with Sliq Media Technologies. These enhancements expand the options for viewing and hearing these broadcasts to include mobile devices. They will also provide the ability to view or hear archived versions of proceedings during the 2<sup>nd</sup> Regular Session of the 127<sup>th</sup> Legislature, representing a significant improvement to the accessibility and transparency of the Legislative process. We will be working closely with Senate, House and Committee Staff to make this implementation as smooth as possible and address concerns that you may have.

2. Priority Security Screening Update

We have processed to completion most of the 94 applications for low-risk priority screening access cards. As the session approaches and even after it begins, we expect a few more applications for those that somehow were not aware of this option for State House security screening.

3. Original Copper from the State House Dome – Progress Report

The recent news articles about the copper from the State House dome has increased demand this week for the mementos and rough pieces of the old copper. As of Wednesday, we have sold 106 total mementos (the plaque or the framed picture with pieces of the copper from the State House dome). We have also sold approximately 400 square feet of the copper in rough form.

4. Update on State House Heating System

Two new leaks have been identified in the State House heating system and the supply lines turned off. The first identified was in the service entrance area that caused a significant amount of water damage. The second was in the floor of the north side of the Legislative Council Chambers that was located by water running down the north wall of the Governor's Office. The south heating units are still operational in the Council Chamber so we can select a good time to schedule repairs. Despite these identified leaks having been isolated and shut off, we are still experiencing reductions in pressure in the State House heating system indicating that there are still some unidentified leaks.

5. Active Shooter Training

On Wednesday, the members of the State House evacuation team was invited to a training program offered by the Capitol Police on preparing for and reacting to an "active shooter" situation. This relatively new training is being offered to all governmental agencies. It is very clear that we could be doing a lot more to be prepared for an "active shooter" event. We will also be working on scheduling additional training opportunities for the remainder of Legislative Staff and Legislators.

## 6. 127<sup>th</sup> Legislative Council Photo

We have scheduled the photographer to take the official photograph of the 127<sup>th</sup> Legislative Council at the beginning of the January 28<sup>th</sup> meeting. Please be prompt and dress appropriately. We will send out reminders as the date approaches.

## Fiscal Report

Chris Nolan, Director, Office of Fiscal and Program Review, submitted the following written report:

### General Fund Revenue Update

Total General Fund Revenue - FY 2016 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
November	\$243.5	\$247.7	\$4.2	1.7%	\$239.2	3.5%
FYTD	\$1,377.1	\$1,388.5	\$11.4	0.8%	\$1,208.0	14.9%

General Fund revenue was over budget by \$4.2 million (1.7%) for the month of November and over budget by \$11.4 million (0.8%) for the fiscal year through November. These positive variances do not reflect the December 2015 revenue forecast, which reduced budgeted revenue by \$2.2 million in FY 2016. Individual income tax revenue was \$4.3 million over budget for the month of November and \$18.9 million over budget for the fiscal year through November. The December revenue forecast increased budgeted revenue for Individual income tax by \$10.5 million in FY 2016. Sales and use tax revenue was over budget by \$3.0 million for the month and over budget by \$6.2 million for the fiscal year to date, indicating strong sales for the month of October. Corporate income tax revenue was under budget by \$5.9 million for the month of November and by \$13.2 million for the fiscal year through November. This category was adjusted downward by \$7.5 million in the December revenue forecast.

### Highway Fund Revenue Update

Total Highway Fund Revenue - FY 2016 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
November	\$28.2	\$30.7	\$2.5	8.7%	\$29.1	5.6%
FYTD	\$141.1	\$144.8	\$3.8	2.7%	\$120.9	19.8%

Highway Fund revenue was over budget by \$2.5 million (8.7%) for the month of November and over budget by \$3.8 million (2.7%) for the fiscal year through November. These positive variances do not reflect the December 2015 revenue forecast, which increased budgeted revenue by \$20 thousand in FY 2016. Fuel taxes were over budget for the month of November by \$0.6 million while motor vehicle registration and fees were over budget by \$1.1 million. These positive variances were likely caused by October 31 receipts (Saturday) posted as November revenue.

### Cash Balances Update

The average total cash pool balance for November was \$801.8 million, a decrease from last month's average but significantly higher than both last November and the previous 10-year average balance for November. There was once again no General Fund internal borrowing from

other funds in November. July and August of this year were the first months in the nine years the State has been doing internal borrowing that such borrowing was not needed. Internal borrowing for the General Fund averaged \$6.7 million in September and \$17.4 million in October. The average Highway Fund balance increased slightly in November and is significantly greater than in October of 2014.

### **December 2015 Revenue Forecast**

The Revenue Forecasting Committee (RFC) met on November 18, 2015 to review and update the current revenue forecast and released its report on December 1<sup>st</sup> to meet the statutory deadline. The Maine Consensus Economic Forecasting Commission (CEFC) convened on October 26, 2015, to review and revise its forecast through 2019. Both the CEFC and RFC made relatively minor adjustments to their forecasts released last April and May, respectively.

### **Studies Update and Report**

Marion Hylan Barr, Director, Office of Policy and Legal Analysis, submitted the attached written report.

## **REPORTS FROM COUNCIL COMMITTEES**

### **1. Personnel Committee**

The Personnel Committee held a meeting earlier today to consider the following matters:

#### **1. Step Increase for Executive Director**

The committee reviewed the annual evaluation of and considered a step increase for Executive Director Grant Pennoyer. The committee voted unanimously to approve this step increase. No action required by the Legislative Council.

#### **2. Step Increase for OPLA Director**

The committee reviewed the annual evaluation of and considered a step increase for OPLA Director Marion Hylan Barr. The committee voted unanimously to approve this step increase. No action required by the Legislative Council.

#### **3. Step Increase for OFPR Director**

The committee reviewed the annual evaluation of and considered a step increase for OFPR Director Christopher Nolan. The committee voted unanimously to approve this step increase. No action required by the Legislative Council.

#### **4. Secretary and Clerk Step Increases**

The committee considered step increases for the Secretary of the Senate and the Clerk of the House and voted unanimously to approve these step increases. No action required by the Legislative Council.

5. Constitutional Officers' and State Auditor Step Increases

The committee considered step increases for the Constitutional Officers and the State Auditor and voted unanimously to approve these step increases. No action required by the Legislative Council.

6. Consideration of Reclassification Request

Mr. Pennoyer reviewed with the committee a request for a position reclassification in the Office of the Executive Director. The committee voted unanimously to recommend this request to the Legislative Council for approval.

**Motion:** That upon the unanimous recommendation of the Personnel Committee, the Legislative Council approve the Executive Director's proposed reclassification of one position in the Office of the Executive Director. Motion by Speaker Eves. Second by Senator Cushing. **Motion passed unanimous (10-0).**

7. Informational Updates

Mr. Pennoyer and Ms. Little reviewed for the committee updates on the following: collective bargaining implementation status, updates to the *Personnel Policies and Guidelines*, and a pilot project for potential improvements to employee work/life balance. No action was taken by the Personnel Committee at this time.

2. **State House Facilities Committee**

Senate Mason, Chair, reported that the State House Facilities Committee met earlier today to consider the following items.

1. Timing of the rebidding of Architect and Construction Manager contracts

The committee discussed the timing of the rebidding of the Architect and Construction Manager contracts, which had been planned for 2015. However, in light of the deferral of the State House roof project and State Street Sidewalk replacement, the committee decided to authorize a one-year extension for the contract with the Architect and appointed a subcommittee to review rebidding the construction manager role for projects other than the deferred projects.

2. Options for video in committee rooms

The committee also discussed the options for providing broadcast video of committee proceedings. Maine Public Broadcasting presented its plan for an integrated system to cover the Senate and House chambers and committee rooms. The committee directed Executive Director and Maine Public Broadcasting to revise the estimated costs of implementation and provide additional information to the committee in mid-January.

3. State House Security – Lane changes and other security concerns

The committee approved a plan for redesigning the security lanes to provide 2 lanes of security screening and a separate lane for low-risk priority screening that will be implemented after the 2<sup>nd</sup> Regular Session. The committee also discussed other State House security issues and security



concerns for the Cross Office Building. The Chief of Capitol Police will report back to the next committee meeting with options for enhancing security in the State House and the Cross Office Building.

4. Liberty Bell Relocation – between main entrances of the Cultural Building

The committee also directed the Executive Director to prepare a plan with estimates to relocate the Liberty Bell from the north lawn of the State House to the Cultural Building between the 2 main entrances.

5. Revisions to the *Legislative Council Policy on the Use of the Hall of Flags*

The committee discussed some proposed amendments to the Legislative Council Policy on the Use of the Hall of Flags, which is also an item on today's agenda under new business. The committee decided that they wanted more time to discuss these policies, which hadn't been updated since 2006, particularly with respect to the exemptions. The committee will be reviewing these proposals and some other issues regarding the use of the Hall of Flags at its next meeting and asking the Council to table the proposed changes on today's agenda.

Legislative Council Chair Thibodeau asked if there was any objection to taking an item out of order. There was no objection. The Chair then moved to **New Business, Item 1.**

## **NEW BUSINESS**

### **Item #1: Consideration of After Deadline Bill Requests**

The Legislative Council considered and voted on the bill requests in accordance with the established protocol. Of the 29 bill requests, the council authorized 6 requests for introduction in the 2<sup>nd</sup> Regular Session of the 127<sup>th</sup> Legislature, 8 failed to be authorized, 14 were tabled and 1 was withdrawn by the sponsor prior to the meeting. Of the 2 joint resolutions, the council tabled 1 request and 1 failed to be authorized. The Legislative Council's actions on the requests are included on the attached list.

The Legislative Council then returned to the other items on its agenda.

## **OLD BUSINESS**

### **Item #1: Consideration of Bill Requests Tabled from October 22 and November 19**

The Legislative Council moved to reconsider two bill requests (LR 2384 and LR 2324) however both failed the motion to be reconsidered and so remain tabled. No action was taken on all other previously tabled bill requests, so all remain tabled. The list can be found in the Agenda Packet.

**Item #2: Council Actions Taken by Ballot**

**Legislative Council Decisions:**

That the Legislative Council approve the request by the Commission to Study Difficult-to-Place Patients to extend its reporting deadline to December 15, 2015 and to hold an additional fifth meeting of the Commission on December 7, 2015.

Motion by: President Thibodeau  
 Second by: Speaker Eves  
 Approved: November 24, 2015  
 Vote: 7-0-0-3 in favor (with Sen. Cushing, Rep. Gideon and Rep. Fredette absent)

That the Legislative Council approve the request by the Commission to Strengthen and Align the Services Provided to Maine's Veterans to hold an additional fifth meeting of the Commission on December 17, 2015.

Motion by: President Thibodeau  
 Second by: Speaker Eves  
 Approved: December 7, 2015  
 Vote: 9-0-0-1 in favor (with Sen. Cushing absent)

**NEW BUSINESS**

**Item #2: Proposed Document Service Fee Schedule for the 127<sup>th</sup> Legislature, 2<sup>nd</sup> Regular Session**

**Motion:** That the Legislative Council approve the request by the Clerk of the House for the Document Service Fee Schedule for the 127<sup>th</sup> Legislature, 2<sup>nd</sup> Regular Session. Motion by Senator Cushing. Second by Representative Eves. **Motion passed (9-0-0-1, with Senator Alfond absent).**

**Item #3: Youth in Government Program**

The State YMCA of Maine has requested to hold the 2016 Youth in Government Program in the State House in November with suggested dates of November 11-13 or November 4-6.

**Motion:** That the Legislative Council approve the request by the State YMCA of Maine to hold the 2016 Youth in Government Program, with the dates to be determined by the Clerk and Secretary. Motion by Senator Cushing. Second by Senator Mason. **Motion passed (9-0-0-1, with Senator Alfond absent).**

**Item #4: Request from the Maine Development Foundation to hold Policy Leaders Academy Forum Breakfasts and Civil Discourse Training in 2016.**

**Motion:** That the Legislative Council approve the request by the Maine Development Foundation to hold Policy Leaders Academy Forum Breakfasts and Civil Discourse Training in 2016 with the dates to be determined by the Executive Director's office. Motion by Senator Cushing. Second by Representative McCabe. **Motion passed (9-0-0-1, with Senator Alfond absent).**

**Item #5: Request by the Maine Credit Union League to have a luncheon in the Hall of Flags on Thursday, March 31<sup>st</sup>**

Mr. Pennoyer explained that this request would be a Legislative Council approved exception to the *Legislative Council Policy on the Use of the Hall of Flags*.

**Motion:** That the Legislative Council approve the request by the Maine Credit Union League to hold a luncheon in the Hall of Flags on Thursday, March 31<sup>st</sup>. Motion by Senator Cushing. Second by Representative Fredette. **Motion passed (9-0-0-1, with Senator Alfond absent).**

**Item #6: Revision of the *Legislative Council Policy on the Use of the Hall of Flags***

**Motion:** That the Legislative Council table this item. Motion by Senator Cushing. Second by Representative Fredette. **Motion passed (9-0-0-1, with Senator Alfond absent).**

**Item #7: Submission of the Report of the Maine State Revenue Forecasting Committee**

**Motion:** That the Legislative Council accept the December 2015 Report of the Maine State Revenue Forecasting Committee and place it on file. Motion by Senator Cushing. Second by Representative Fredette. **Motion passed unanimous (10-0).**

**Item #8: Submission of the Report of the Working Group to Develop Solutions to Meet the Needs for Municipal Volunteer Personnel**

**Motion:** That the Legislative Council accept the December 2015 Report of the Working Group to Develop Solutions to Meet the Needs for Municipal Volunteer Personnel and place it on file. Motion by Senator Cushing. Second by Senator Mason. **Motion passed unanimous (10-0).**

**Item #9: Submission of the Report of the Commission to Study the Public Reserved Lands Management Fund**

**Motion:** That the Legislative Council accept the December 2015 Report of the Commission to Study the Public Reserved Lands Management Fund and place it on file. Motion by Senator Cushing. Second by Senator Mason. **Motion passed unanimous (10-0).**

**ANNOUNCEMENTS AND REMARKS**

Mr. Pennoyer brought the Members' attention to an item in his written Executive Director's Report that the official 127<sup>th</sup> Legislature Legislative Council photograph will be taken at the beginning of the January 28<sup>th</sup> Legislative Council meeting. He asked the Members to be prompt and dressed appropriately.

Senator Cushing wished happy holidays to the Members and staff.

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 3:50 p.m.

**127th Maine State Legislature  
Legislative Council  
Action Taken on  
Requests to Introduce Legislation  
Second Regular Session**

**December 17, 2015**

**AFTER DEADLINE BILL REQUESTS**

<u><b>LR #</b></u>	<u><b>Title</b></u>	<u><b>Action</b></u>
<b>SPONSOR: Sen. Justin L. Alfond</b>		
2563	An Act To Improve School Facilities	<b>WITHDRAWN by Sponsor</b>
2564	An Act To Improve College Graduation Rates	<b>FAILED</b>
2594	An Act To Facilitate the Timely Processing of Applications for Supplemental Nutrition Assistance Program Benefits	<b>TABLED</b>
2595	An Act To Prohibit the Expenditure of Any Cash-based Benefits from the State on Lottery Tickets	<b>TABLED</b>
<b>SPONSOR: Sen. Linda L. Baker</b>		
2584	An Act To Allow Municipalities the Option To Prohibit Firearms in Municipal Buildings	<b>FAILED</b>
<b>SPONSOR: Sen. Scott W. Cyrway</b>		
2578	An Act To Protect All Students in Elementary or Secondary Schools from Sexual Assault by School Officials	<b>PASSED</b>
<b>SPONSOR: Rep. Matthea Elisabeth Daughtry</b>		
2557	An Act To Amend the Laws Regarding Interference with the Custody of Children	<b>FAILED</b>
<b>SPONSOR: Sen. G. William Diamond</b>		
2573	An Act To Protect Maine Voters from Intimidating Videotaping at the Polls	<b>PASSED</b>
<b>SPONSOR: Sen. James F. Dill</b>		
2558	An Act To Provide Assistance to Laid-off Workers	<b>TABLED</b>
2575	An Act To Amend the Maine Veterinary Practice Act	<b>TABLED</b>

**SPONSOR: Rep. Michelle Ann Dunphy**

2561      An Act To Adjust the Property Tax Valuation of Old Town  
Following the Closure of the Old Town Expera Pulp Mill      **TABLED**

**SPONSOR: Rep. Robert A. Foley**

2559      An Act To Prohibit Testing as a Prerequisite for Graduation  
from Public Schools      **FAILED**

2560      An Act To Authorize the Maine Public Employees Retirement  
System To Provide Long-term Disability Insurance      **TABLED**

**SPONSOR: Rep. Kenneth W. Fredette**

2592      An Act To Create the Maine Energy Office      **TABLED**

**SPONSOR: Sen. Geoffrey M. Gratwick**

2562      An Act To Establish a Working Group To Examine State  
Practices Protecting Information      **FAILED**

**SPONSOR: Rep. Craig V. Hickman**

2586      An Act To Compensate Susan Cloutier for Damages in  
Connection with Her Vehicle Liability Claim against a State  
Employee at the Department of Labor      **FAILED**

**SPONSOR: Rep. Brian L. Hubbell**

2591      An Act To Amend Certain Education Laws      **PASSED**

**SPONSOR: Rep. Roland Danny Martin**

2583      An Act To Convey Property to the Sinclair Sanitary District      **TABLED**

**SPONSOR: Rep. Jeff M. McCabe**

2569      An Act To Establish a Commission on the Blind and Visually  
Impaired      **TABLED**

**SPONSOR: Rep. Michael D. McClellan**

2565      An Act To Ascertain the Accessibility of the Maine Legislative  
Process      **FAILED**

2566      An Act To Help Protect Social Workers      **FAILED**

2567      An Act To Provide Relief from the Construction Code for  
Campgrounds and Camps      **TABLED**

<b>SPONSOR:</b>	<b>Rep. Richard A. Pickett</b>	
2556	An Act To Allow Certain Retirees To Buy Back Lost Pay	<b>TABLED</b>
<b>SPONSOR:</b>	<b>Rep. Christine B. Powers</b>	
2582	Resolve, To Name the Naples Bay Bridge on Route 302 in Naples the Robert Neault Bridge	<b>TABLED</b>
<b>SPONSOR:</b>	<b>Rep. Diane M. Russell</b>	
2579	An Act To Encourage Roller Derby	<b>PASSED</b>
<b>SPONSOR:</b>	<b>Rep. Robert J. Saucier</b>	
2596	An Act To Amend the Laws Regarding the Operation of an All-terrain Vehicle or Snowmobile on a Controlled Access Highway	<b>TABLED</b>
<b>SPONSOR:</b>	<b>Sen. Thomas B. Saviello</b>	
2568	An Act Regarding the Educational Opportunity Tax Credit	<b>TABLED</b>
2574	An Act To Update Maine's Solid Waste Management Laws	<b>PASSED</b>
<b>SPONSOR:</b>	<b>Rep. Karen Vachon</b>	
2590	An Act To Reduce Morbidity and Mortality Related to Injected Drugs	<b>PASSED</b>

#### JOINT RESOLUTIONS

<b>SPONSOR:</b>	<b>Rep. Susan M. Austin</b>	
2168	JOINT RESOLUTION MEMORIALIZING CONGRESS TO DEFUND PLANNED PARENTHOOD AND OTHER ABORTION PROVIDERS	<b>FAILED</b>
<b>SPONSOR:</b>	<b>Rep. Henry John Bear</b>	
2163	JOINT RESOLUTION TO ALLEVIATE TRIBAL UNEMPLOYMENT AND FUND ECONOMIC DEVELOPMENT AND EMPLOYMENT PROGRAMS WITHIN THE HOULTON BAND OF MALISEET INDIANS BY URGING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO ESTABLISH A PROCESS TO PROVIDE EQUITABLE MALISEET LAND CLAIMS SETTLEMENT COMPENSATION FOR THE OCCUPATION AND LOSS OF NEARLY 5,000,000 ACRES OF MALISEET TRIBAL HOMELAND IN THE AROOSTOOK COUNTY REGION	<b>TABLED</b>

SEN. MICHAEL D. THIBODEAU  
CHAIR

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127<sup>TH</sup> MAINE STATE LEGISLATURE  
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## **Legislative Council**

### **Executive Director's Report**

### **January 28, 2016**

#### **1. Youth in Government Program – November 11 to 13**

At your last meeting, the decision on what weekend would be selected for the annual Youth in Government Program at the State House was delegated to the Secretary of the Senate and the Clerk of the House. They reached consensus that November 11<sup>th</sup> to the 13<sup>th</sup> was the best weekend this coming fall for this program.

#### **2. Priority Security Screening Update**

After the Legislature convened in early January, there was another surge upward in the number of applications for priority security screening badges. Since my report in December, we have had an additional 33 applications bringing the total number to 127.

#### **3. Original Copper from the State House Dome – Progress Report**

As of Wednesday, we have sold 173 total mementos (68 plaques and 108 framed pictures). We have also sold approximately 945 square feet of the copper in rough form.

#### **4. Active Shooter Training**

After an initial training session for active shooter situations with the State House evacuation team in mid-December, we have been trying to schedule another session so that others could attend. The first session and the resulting conversations about this training and the concerns about preparing for these type of horrific events generated an outcry for additional training. We were finally able to schedule a second training session for February 17<sup>th</sup>. The State House Facilities Committee has been discussing security enhancements and will be considering some changes to improve our preparedness and emergency alert systems.

#### **5. New Employee Training and Other Training Sessions**

Over the last month, eight employee training sessions were held to meet statutory requirements for workplace harassment and video display terminal, among other important employee reminders. We will offer one additional training session to try and catch the remaining relatively small number of legislative employees that were unable to attend these past sessions. In addition, we also held a new employee orientation last Friday for the benefit of twelve recent new hires from various Legislative offices.

# Fiscal Briefing

Legislative Council Meeting – January 28, 2016

*Prepared by the Office of Fiscal & Program Review*

## 1. General Fund Revenue Update (see attached)

Total General Fund Revenue - FY 2016 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
December	\$258.2	\$284.8	\$26.7	10.3%	\$265.8	7.2%
FYTD	\$1,638.5	\$1,673.3	\$34.8	2.1%	\$1,473.7	13.5%

General Fund revenue was over budget by \$26.7 million (10.3%) for the month of December and over budget by \$34.8 million (2.1%) for the fiscal year through December. These positive variances now reflect the December 2015 revenue forecast, which reduced budgeted revenue by \$2.2 million in FY 2016. Individual income tax revenue was \$14.2 million over budget for the month of December and \$14.2 million over budget for the fiscal year through December. Estimated payments were over budget by \$3.7 million while withholding was over budget by \$9.7 million. Final estimated payments were due January 15<sup>th</sup>. The estimated payment line will be looked at closely when January revenues are posted. Historically, strong December and January estimated payments have been an indicator that April receipts may be higher than forecasted. The month of December contained an additional Thursday (five rather than four) which is likely the reason for the overage on the withholding line. Sales and use tax revenue was over budget by \$1.8 million for the month and over budget by \$5.0 million for the fiscal year to date. Car and building supply sales were both 11% higher than last fiscal year. Corporate income tax revenue was over budget by \$1.0 million for the month of December and by \$1.0 million for the fiscal year through December.

## 2. Highway Fund Revenue Update (see attached)

Total Highway Fund Revenue - FY 2016 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
December	\$24.0	\$24.2	\$0.2	0.7%	\$24.6	-1.8%
FYTD	\$165.1	\$169.0	\$3.9	2.4%	\$145.5	16.2%

Highway Fund revenue was over budget by \$0.2 million (0.7%) for the month of December and over budget by \$3.9 million (2.4%) for the fiscal year through December. These positive variances now reflect the December 2015 revenue forecast, which increased budgeted revenue by \$20 thousand in FY 2016. Fuel taxes were under budget for the month of December by \$1.2 million while motor vehicle registration and fees were over budget by \$1.0 million. Motor vehicle registrations will be reviewed before the March forecast with the possibility of being adjusted upward.

## 3. Cash Balances Update

December cash balances while down from November continue to remain strong. December's total cash balance of \$769.6 million is well above both last year's balance for December of \$585.2 million and the ten-year average for December of \$492.9 million. For the fourth month this fiscal year, there was no General Fund internal borrowing from other funds in December. The average Highway Fund balance of \$36.7 million in December decreased from November's average of \$54.4 million, with the drop-off reflecting the early December annual payment for the Local Road Assistance program.

## 4. Review and Update of Economic and Revenue Forecasts

The Consensus Economic Forecasting Commission is scheduled to meet on January 29, 2016 to review and update the economic forecast to comply with its February 1 reporting date. The Revenue Forecasting Committee (RFC) will then meet later in February to review and update the current revenue forecast to comply with its statutory reporting date of March 1<sup>st</sup>.



**General Fund Revenue**  
**Fiscal Year Ending June 30, 2016 (FY 2016)**

Updated 1/20/16

**December 2015 Revenue Variance Report**

Revenue Category				Fiscal Year-To-Date					FY 2016 Budgeted Totals
	December '15 Budget	December '15 Actual	December '15 Variance	Budget	Actual	Variance	Variance %	% Change from Prior Year	
Sales and Use Tax	90,459,303	92,254,668	1,795,365	680,168,836	685,182,625	5,013,789	0.7%	27.4%	1,255,137,966
Service Provider Tax	4,044,432	3,577,905	(466,527)	23,537,789	22,842,146	(695,643)	-3.0%	10.6%	56,073,214
Individual Income Tax	147,072,941	161,259,112	14,186,171	776,672,837	790,858,258	14,185,421	1.8%	14.9%	1,496,986,595
Corporate Income Tax	21,100,000	21,723,278	623,278	42,399,620	43,022,897	623,277	1.5%	-44.7%	142,584,603
Cigarette and Tobacco Tax	9,632,977	10,469,217	836,240	73,198,793	73,692,123	493,330	0.7%	3.5%	136,641,000
Insurance Companies Tax	33,620	11,891	(21,730)	12,813,758	12,704,421	(109,337)	-0.9%	-5.0%	82,700,000
Estate Tax	3,000,000	4,931,632	1,931,632	10,648,351	12,579,985	1,931,634	18.1%	-33.4%	26,598,740
Other Taxes and Fees *	8,430,732	9,019,802	589,070	65,619,327	67,217,552	1,598,225	2.4%	4.9%	139,292,958
Fines, Forfeits and Penalties	1,651,694	1,681,786	30,092	11,247,894	10,110,060	(1,137,834)	-10.1%	-9.4%	22,614,508
Income from Investments	60,764	89,354	28,590	437,053	465,642	28,589	6.5%	161.0%	913,279
Transfer from Lottery Commission	5,145,815	5,664,501	518,686	28,307,937	28,234,841	(73,096)	-0.3%	0.5%	54,900,000
Transfers to Tax Relief Programs *	(29,214,884)	(22,693,746)	6,521,138	(52,668,442)	(33,412,718)	19,255,724	36.6%	15.8%	(66,771,938)
Transfers for Municipal Revenue Sharing	(4,418,941)	(4,474,336)	(55,395)	(34,429,518)	(34,489,288)	(59,770)	-0.2%	-22.6%	(66,400,245)
Other Revenue *	1,176,000	1,330,056	154,056	536,535	(5,669,490)	(6,206,025)	-1156.7%	-157.2%	27,796,982
<b>Totals</b>	<b>258,174,453</b>	<b>284,845,120</b>	<b>26,670,667</b>	<b>1,638,490,770</b>	<b>1,673,339,055</b>	<b>34,848,285</b>	<b>2.1%</b>	<b>13.5%</b>	<b>3,309,067,662</b>

\* Additional detail by subcategory for these categories is presented on the following page.

**General Fund Revenue**  
**Fiscal Year Ending June 30, 2016 (FY 2016)**

Updated 1/20/16

**December 2015 Revenue Variance Report**

**Fiscal Year-To-Date**

Revenue Category	December '15 Budget	December '15 Actual	December '15 Variance	Budget	Actual	Variance	Variance %	% Change from Prior Year	FY 2016 Budgeted Totals
<b>Detail of Other Taxes and Fees:</b>									
- Property Tax - Unorganized Territory	0	0	0	11,207,189	11,207,189	(0)	0.0%	-10.0%	14,225,984
- Real Estate Transfer Tax	1,413,069	1,126,136	(286,933)	8,749,323	9,480,185	730,862	8.4%	-31.5%	15,697,389
- Liquor Taxes and Fees	1,372,519	1,643,526	271,007	11,097,947	11,753,179	655,232	5.9%	-47.1%	21,214,918
- Corporation Fees and Licenses	181,106	216,636	35,530	1,545,222	1,558,949	13,727	0.9%	-84.1%	9,088,649
- Telecommunication Excise Tax	0	0	0	0	(34,249)	(34,249)	N/A	-100.5%	7,500,000
- Finance Industry Fees	2,195,991	3,083,500	887,509	13,175,946	14,050,050	874,104	6.6%	-51.2%	26,851,990
- Milk Handling Fee	444,706	280,085	(164,621)	1,888,710	1,724,089	(164,621)	-8.7%	-21.9%	4,556,944
- Racino Revenue	539,250	724,955	185,705	4,398,317	4,557,813	159,496	3.6%	-47.3%	8,678,540
- Boat, ATV and Snowmobile Fees	174,137	108,914	(65,223)	1,737,463	1,643,336	(94,127)	-5.4%	-64.0%	4,523,561
- Hunting and Fishing License Fees	1,109,087	899,337	(209,751)	7,697,821	7,646,782	(51,039)	-0.7%	-53.6%	15,850,342
- Other Miscellaneous Taxes and Fees	1,000,867	936,714	(64,153)	4,121,389	3,630,230	(491,159)	-11.9%	-71.7%	11,104,641
<b>Subtotal - Other Taxes and Fees</b>	<b>8,430,732</b>	<b>9,019,802</b>	<b>589,070</b>	<b>65,619,327</b>	<b>67,217,552</b>	<b>1,598,225</b>	<b>2.4%</b>	<b>-51.8%</b>	<b>139,292,958</b>
<b>Detail of Other Revenue:</b>									
- Liquor Sales and Operations	1,225	2,720	1,495	13,172	16,530	3,358	25.5%	-99.9%	9,667,500
- Targeted Case Management (DHHS)	16,793	73,779	56,986	989,636	1,046,622	56,986	5.8%	-58.7%	2,640,000
- State Cost Allocation Program	1,633,389	1,557,383	(76,006)	9,103,248	9,247,308	144,060	1.6%	-58.9%	18,296,832
- Unclaimed Property Transfer	0	0	0	0	0	0	N/A	-100.0%	7,000,000
- Tourism Transfer	0	0	0	(12,854,128)	(13,112,062)	(257,934)	-2.0%	-12.8%	(12,854,128)
- Transfer to Maine Milk Pool	0	(496,398)	(496,398)	0	(6,779,920)	(6,779,920)	N/A	-72.4%	(13,239,128)
- Transfer to STAR Transportation Fund	0	0	0	(6,800,000)	(7,308,989)	(508,989)	-7.5%	-3.4%	(6,800,000)
- Other Miscellaneous Revenue	(475,407)	192,572	667,979	10,084,607	11,221,020	1,136,413	11.3%	-57.4%	23,085,906
<b>Subtotal - Other Revenue</b>	<b>1,176,000</b>	<b>1,330,056</b>	<b>154,056</b>	<b>536,535</b>	<b>(5,669,490)</b>	<b>(6,206,025)</b>	<b>-1156.7%</b>	<b>-110.9%</b>	<b>27,796,982</b>
<b>Detail of Transfers to Tax Relief Programs:</b>									
- Me. Resident Prop. Tax Program (Circuitbreaker)	0	1,304	1,304	0	2,916	2,916	N/A	-80.5%	0
- BETR - Business Equipment Tax Reimb.	(3,106,683)	(2,488,296)	618,387	(21,770,964)	(12,957,490)	8,813,474	40.5%	61.2%	(35,000,000)
- BETE - Municipal Bus. Equip. Tax Reimb.	(26,108,201)	(20,206,753)	5,901,448	(30,897,478)	(20,458,144)	10,439,334	33.8%	21.8%	(31,771,938)
<b>Subtotal - Tax Relief Transfers</b>	<b>(29,214,884)</b>	<b>(22,693,746)</b>	<b>6,521,138</b>	<b>(52,668,442)</b>	<b>(33,412,718)</b>	<b>19,255,724</b>	<b>36.6%</b>	<b>43.9%</b>	<b>(66,771,938)</b>
<b>Inland Fisheries and Wildlife Revenue - Total</b>	<b>1,403,516</b>	<b>1,081,838</b>	<b>(321,678)</b>	<b>9,936,251</b>	<b>9,766,509</b>	<b>(169,742)</b>	<b>-1.7%</b>	<b>-55.9%</b>	<b>21,447,907</b>

# Highway Fund Revenue

## Fiscal Year Ending June 30, 2016 (FY 2016)

Updated 1/20/16

### December 2015 Revenue Variance Report

Revenue Category				Fiscal Year-To-Date					FY 2016 Budgeted Totals
	December '15 Budget	December '15 Actual	December '15 Variance	Budget	Actual	Variance	% Variance	% Change from Prior Year	
Fuel Taxes:									
- Gasoline Tax	15,603,987	14,981,555	(622,432)	105,316,225	104,839,032	(477,193)	-0.5%	20.4%	197,254,300
- Special Fuel and Road Use Taxes	4,722,404	4,055,772	(666,632)	24,885,195	25,399,562	514,367	2.1%	20.5%	46,393,600
- Transcap Transfers - Fuel Taxes	(1,495,213)	(1,407,392)	87,821	(9,567,581)	(9,579,036)	(11,455)	-0.1%	-0.8%	(17,903,637)
- Other Fund Gasoline Tax Distributions	(390,209)	(375,231)	14,979	(2,633,639)	(2,622,092)	11,547	0.4%	-0.9%	(4,932,738)
Subtotal - Fuel Taxes	18,440,969	17,254,704	(1,186,265)	118,000,200	118,037,466	37,266	0.0%	22.8%	220,811,525
Motor Vehicle Registration and Fees:									
- Motor Vehicle Registration Fees	5,395,404	5,705,131	309,727	31,374,269	32,530,769	1,156,500	3.7%	0.6%	65,595,787
- License Plate Fees	298,474	322,507	24,033	1,834,262	1,924,831	90,569	4.9%	2.4%	3,458,710
- Long-term Trailer Registration Fees	816,082	1,316,249	500,167	3,400,075	4,099,396	699,321	20.6%	2.8%	9,884,523
- Title Fees	980,084	1,135,539	155,455	6,329,416	6,905,970	576,554	9.1%	8.8%	13,129,254
- Motor Vehicle Operator License Fees	576,795	709,478	132,683	3,707,554	4,156,190	448,636	12.1%	12.3%	7,425,882
- Transcap Transfers - Motor Vehicle Fees	(3,443,130)	(3,591,810)	(148,680)	(7,663,195)	(7,940,965)	(277,770)	-3.6%	-2.5%	(15,483,404)
Subtotal - Motor Vehicle Reg. & Fees	4,623,709	5,597,094	973,385	38,982,381	41,676,191	2,693,810	6.9%	2.9%	84,010,752
Motor Vehicle Inspection Fees	231,851	632,540	400,689	1,146,715	1,866,687	719,972	62.8%	54.0%	2,982,500
Other Highway Fund Taxes and Fees	102,853	125,857	23,004	663,411	695,789	32,378	4.9%	7.7%	1,293,729
Fines, Forfeits and Penalties	78,339	67,812	(10,527)	419,967	382,242	(37,725)	-9.0%	-23.9%	905,910
Interest Earnings	28,104	18,161	(9,943)	136,466	98,208	(38,258)	-28.0%	123.3%	305,087
Other Highway Fund Revenue	492,119	466,889	(25,230)	5,743,009	6,251,599	508,590	8.9%	-3.5%	9,201,412
<b>Totals</b>	<b>23,997,944</b>	<b>24,163,057</b>	<b>165,113</b>	<b>165,092,149</b>	<b>169,008,181</b>	<b>3,916,032</b>	<b>2.4%</b>	<b>16.2%</b>	<b>319,510,915</b>

# 2015-16 Interim Legislative Studies and Committee Meetings

Updated January 27, 2016

Study/Committee	Citation	2015 Meetings Authorized	2015 Meetings Held	Scheduled Next Meeting Date(s)	Report Date	Chair(s)	Status/Notes
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## NEW STUDIES

Task Force To End Student Hunger in Maine	PL 2015 c. 267 Part CCC	at least 2 and no more than 4 per year			1/10 annually	Sen. Baker Rep. Ginzler	appointments not completed; staffed by Dept. of ED; new ongoing study; did not convene
Commission to Study Difficult-to-place Patients	Resolve 2015 c. 44	4	10/26/2015 11/5/2015 11/20/2015 12/2/2015 12/7/2015		12/2/2015	Sen. Katz Rep. Gattine	report completed and posted (additional meeting and report extension previously approved)
Commission to Study the Public Reserved Lands Management Fund	Resolve 2015 c. 267 Part GGGG	4	9/5/2015 9/29/2015 10/27/2015 12/1/2015		12/5/2015	Sen. Saviello Rep. Hickman	report completed and posted
Commission to Strengthen and Align the Services Provided to Maine Veterans	Resolve 2015 c. 48	4	10/7/2015 10/28/2015 11/4/2015 12/2/2015	12/17/2015 (cancelled)	1/15/2016	Sen. Collins Rep. Golden	report completed and at printers (additional meeting request previously approved)
Working Group to Meet the Needs of Municipal Volunteer Personnel	Resolve 2015 c. 49	3	10/20/2015 11/3/2015 11/17/2015		12/2/2015	Sen. Baker Rep. Lajoie	report completed and posted
Task Force on School Leadership	Resolve 2015 c. 46	2	10/6/2015 12/1/2015		12/2/2015	Sen. Langley Rep. Kornfield	work completed; report in progress (report extension previously granted)
Maine Health Exchange Advisory Committee	SP 533 as amended by H-501	2			12/4/2015 (prelim.) 11/5/2016 (final)		appointments not completed; did not convene
Jt. Standing Committee on HHS to Study the Allocations of the Fund for a Healthy Maine	Resolve 2015 c. 47	4	9/28/2015 10/13/2015 11/9/2015 11/30/2015	10/26/2015 (cancelled)	12/2/2015	Sen. Brakey Rep. Gattine	report completed and posted (report extension previously approved)

## ON-GOING LEGISLATIVE STUDIES

State Education and Employment Outcomes Task Force	20-A MRSA Sec. 12901	no more than 4 times per year			11/1 annually		appointments not completed; did not convene
*Legislative Youth Advisory Council	3 MRSA Sec. 168-B	may hold 2 per year			2nd Friday in February in even numbered years		appointments not completed; did not convene
Right to Know Advisory Committee	1 MRSA Sec. 411	not fewer than 4 times per year	9/15/2015 10/6/2015 11/13/2015 12/1/2015		1/15 annually		report completed and posted
Citizen Trade Policy Commission	10 MRSA Sec. 11	at least 2 times per year	9/24/2015 10/27/2015 12/10/2015		annually		appointments not completed; conducting work
Judicial Compensation Commission	4 MRSA Sec. 1701	n/a funded by court system			12/15 of each even numbered year		appointments completed; did not convene in odd-numbered year

# 2015-16 Interim Legislative Studies and Committee Meetings

Updated January 27, 2016

Study/Committee	Citation	2015 Meetings Authorized	2015 Meetings Held	Scheduled Next Meeting Date(s)	Report Date	Chair(s)	Status/Notes
<b>AUTHORIZED COMMITTEE MEETINGS (other than AFA)</b>							
IFS Committee (carry over bill LD 1305 - health insurance)		4	9/16/2015 11/12/2015 11/30/2015	<del>10/5/2015</del> (cancelled)	n/a		work completed
ENR Committee (solid waste management issues)		4	9/10/2015 10/13/2015 10/28/2015 11/24/2015		n/a		work completed
EUT Committee (carry over bills LDs 466, 879, 1302 - telecommunications)		4	10/26/2015 11/18/2015		n/a		work completed
VLA Subcommittee (Resolve 2015, c. 19 (LD 74) - continuation of VLA subcommittee that began work before adjournment regarding equitable provision of services to members of the military)		2	10/13/2015 11/12/2015 12/1/2015	<del>12/28/2015</del> (cancelled)	n/a		work completed (additional request for 4th meeting previously approved)
SLG Subcommittee (carry over bill LD 1328 - ancient and family burying grounds)		3	10/27/2015 11/4/2015		n/a		work completed
ACF Committee (Tour of sustainable forestry practices; Aroostook County)		1	10/26/2015		n/a		work completed
CJPS Committee (Visit to MCC regarding LD 1447 proposal to authorize increased borrowing for MCC)		1	<del>1/13/2016</del> (cancelled)				
HHS Committee (Riverview, contracting issues, substance abuse, wait lists and other HHS-related issues)		3	11/9/2015		n/a		work completed (met on same date as last meeting regarding FHM; did not use additional meetings)

**127th Legislature - Second Regular Session  
Legislative Council Bill Requests Tabled  
October 22 and November 19, 2015**

		Action
<b>Representative Campbell of Orrington</b>		
LR 2330	An Act To Encourage the Development of Commercial Transportation Opportunities in Bucksport	<b>TABLED 11/19/15</b>
LR 2331	An Act To Encourage the Development of Electrical and Natural Gas Infrastructure in Bucksport	<b>TABLED 11/19/15</b>
<b>Representative Eyes of North Berwick</b>		
LR 2523	An Act To Support and Strengthen the Direct Care Workforce	<b>TABLED 10/22/15</b>
<b>Representative Fowle of Vassalboro</b>		
LR 2209	An Act To Amend the Public Safety Laws	<b>TABLED 10/22/15</b>
<b>Representative Fredette of Newport</b>		
LR 2343	An Act To Authorize a General Fund Bond Issue to Invest in Marine Transportation and Port Infrastructure at Mack Point to Meet the Needs of the Marine Construction and Shipping Business Sector and to Create Jobs	<b>TABLED 10/22/15</b>
<b>Representative Gattine of Westbrook</b>		
LR 2432	An Act To Promote the Success and Accountability of Welfare Reform Initiatives in Maine	<b>TABLED 10/22/15</b>
LR 2456	Resolve, To Improve Access to and the Quality of Services for Persons with Mental Illness	<b>TABLED 11/19/15</b>

**127th Legislature - Second Regular Session  
Legislative Council Bill Requests Tabled  
October 22 and November 19, 2015**

		Action
<b>Senator Gerzofsky of Cumberland</b>		
LR 2200	An Act To Amend and Clarify the Brunswick Naval Air Station Job Increment Financing Fund	<b>TABLED 10/22/15</b>
<b>Representative Gideon of Freeport</b>		
LR 2479	An Act To Make Maine Energy-independent	<b>TABLED 11/19/15</b>
<b>Representative Herbig of Belfast</b>		
LR 2401	An Act to Provide Job Opportunities to Families Participating in the Temporary Assistance for Needy Families Program	<b>TABLED 10/22/15</b>
<b>Senator Hill of York</b>		
LR 2408	An Act To Provide Accountability in State Government Partnerships	<b>TABLED 11/19/15</b>
<b>Representative Malaby of Hancock</b>		
LR 2384	An Act To Fix Changes Made to Maine's Provider Tax	<b>TABLED 10/22/15</b>
<b>Representative McCabe of Skowhegan</b>		
LR 2321	An Act To Amend the Maine Criminal Code to Clarify the Prohibition on the Exercise of Improper Influence	<b>TABLED 10/22/15</b>
LR 2322	An Act To Ensure the Proper Functioning of State Government by Ensuring Execution of Executive Branch Duties	<b>TABLED 11/19/15</b>

**127th Legislature - Second Regular Session  
Legislative Council Bill Requests Tabled  
October 22 and November 19, 2015**

<b>Action</b>
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**Representative Rotundo of Lewiston**

LR 2399

An Act To Fund and Implement Wage Adjustments for All State  
Correctional Employees Who Perform Direct Care or Supervision  
of Prisoners

**TABLED 11/19/15**

**Senator Saviello of Franklin**

LR 2205

An Act To Create a Battery Stewardship Program

**TABLED 11/19/15**

**Senator Thibodeau of Winterport**

LR 2417

An Act To Ensure Accountability in Maine's Welfare System

**TABLED 10/22/15**

**Representative Wadsworth of Hiram**

LR 2489

An Act To Ensure a Timely Reduction in Energy Costs for Maine  
Consumers

**TABLED 11/19/15**



**Legislative Council Actions  
Taken by Ballot Since the  
December 17, 2015 Council Meeting**

**Requests for Introduction of Legislation:**

**LR 2324      An Act to Strengthen Intragovernment Communication**

Submitted by: Senator Roger Katz

Approved: December 29, 2015      Vote: 6-3-0-1 in favor (with Sen. Mason, Sen. Cushing and Rep. Espling opposed and Rep. Fredette absent)

**LR 2596      An Act to Amend the Laws Regarding the Operation of All-terrain Vehicle or Snowmobile on a Controlled Access Highway**

Submitted by: Representative Robert Saucier

Approved: December 29, 2015      Vote: 8-0-0-2 in favor (with Sen. Mason and Rep. Fredette absent)

**LR 2596      An Act to Combat Drug Addiction through Enforcement, Treatment and Recovery**

Submitted by: Senator Michael Thibodeau

Approved: December 29, 2015      Vote: 8-0-0-2 in favor (with Sen. Mason and Rep. Fredette absent)

**LR 2614      Resolve, To Name a Bridge between Atkinson and Sebec the Captain John "Jay" Brainard Gold Star Memorial Bridge**

Submitted by: Senator Paul Davis

Approved: January 13, 2016      Vote: 9-0-0-1 in favor (with Rep. McCabe absent)

**LR 2583      An Act to Convey Property to the Sinclair Sanitary District**

Submitted by: Representative Roland Danny Martin

Approved: January 27, 2016      Vote: 9-0-0-1 in favor (with Rep. Fredette absent)

SEN. MICHAEL D. THIBODEAU  
CHAIR

REP. MARK W. EVES  
VICE-CHAIR

EXECUTIVE DIRECTOR  
GRANT T. PENNOYER



127<sup>TH</sup> MAINE STATE LEGISLATURE  
LEGISLATIVE COUNCIL

SEN. GARRETT P. MASON  
SEN. ANDRE E. CUSHING  
SEN. JUSTIN L. ALFOND  
SEN. DAWN HILL  
REP. JEFFREY M. MCCABE  
REP. SARA GIDEON  
REP. KENNETH W. FREDETTE  
REP. ELEANOR M. ESPLING

## **Legislative Council Policy On the Use of the Hall of Flags**

### **1. Introduction**

Since its construction, the Hall of Flags has had a long and distinguished tradition as a Reception room and gathering area for Legislators and the public. With its historic collection of battle flags from the Civil War forward, the Hall of Flags is a place for Maine citizens to honor and reflect upon the many Maine men and women who defended our Country and made the ultimate sacrifice defending freedom and our democratic values and way of life. It is also the most public room in the Maine State House, where members of the public, Executive and Judicial officials and Legislators freely intermingle and communicate in the course of legislative affairs.

In adopting this Hall Use Policy, the Legislative Council establishes protocols for use of the Hall of Flags that: protect the safety of the public; prohibit uses that are inappropriate in the presence of schoolchildren or others; and provide for social discourse and forums for education on governmental matters in ways that bestow respect for the Hall of Flags and honor to the people and events it symbolizes.

### **2. Authorized Uses**

The Hall of Flags may be used only for organized events that have a bona fide educational purpose relating to governmental matters, legislative affairs, legislative or gubernatorial ceremonies or other like category of activity. The Hall of Flags may not be used for any substantially private activity or event unrelated to the conduct of the public's business.

Furthermore, the Hall of Flags may not be used for acts of civil disobedience, petition signing for referenda, clemency petitions or advocacy, private events such as weddings, funerals, dinners or dances, or mercantilism. In addition, activities, including the display or distribution of materials that a person would reasonably find to be offensive, harassing, degrading or unduly disruptive or activities that are inappropriate in the presence of schoolchildren are prohibited.

### **3. Health and Safety**

Protection of the health and safety of persons in the State House takes precedence over all activities and events in the Hall of Flags. The Legislative Council authorizes the Executive Director to establish such procedures and standards as necessary to protect the health and safety of occupants in the State House at all times and to protect the integrity of the building and its contents. At a minimum: adequate clearances for safe ingress and egress must be maintained at all times in the Hall of Flags; equipment or activities that pose a risk of fire or explosion are prohibited; toxic, noxious or infectious materials are prohibited; and any activity requiring the disabling of smoke detectors, fire alarms or security devices is prohibited. Except for Pre-Legislative Conference, Swearing In Day, New Member Orientation, Legislative Employee Appreciation Day, Welcome Back Day and Maine Agriculture Day, the number of tables in the Hall of Flags may not exceed 15.

#### **4. Security**

Entities using the Hall of Flags must comply with all facility security requirements and all instructions by security personnel. The Bureau of Capitol Security Police may remove persons who are threatening, disruptive or in violation of provisions of this policy. Persons who violate this policy or who are disruptive or threatening may be denied future use of the Hall of Flags for any organized event.

#### **5. Limitation on Food Service**

The Legislature compensates legislators for some legislative expenses including meals, and legislative staff are sufficiently compensated in their work such that it is unnecessary for others to provide legislators or staff with complementary meals. Escalating levels of food service at Hall of Flag events in recent years have had the unintended but inevitable result of increasing expectations of meal service to be provided by other groups as well as increasing costs to those groups using the Hall of Flags. Furthermore, the serving of meals is unduly disruptive, increases facility maintenance costs, detracts from the overall purposes for use of the Hall of Flags and presents potential facility security risks.

Therefore, except as provided below, the offering of food and beverages in the Hall of Flags is strictly limited to refreshments such as milk, juices, coffee, tea, soda, water, doughnuts, pastries, cookies, fruit, nuts, healthy snacks, ice cream and other similar category of foods that does not constitute the offering or serving of a meal or partial meal.

Entities who use the Hall of Flags are not obligated to make available any food or beverage as a condition of their use of the hall. However, to the extent that allowable foods are offered, the proprietor of the State House cafe must be contacted by those entities for the opportunity to provide the desired food service. Furthermore, the Legislative Council encourages the use of locally grown or produced foods to the maximum extent practical when food is served in the State House.

Exceptions: The Legislative Council hereby authorizes such an exception for the following events: Welcome Back Day, New Member Orientation, the Pre-Legislative Conference, Swearing In Day, Legislative Employee Appreciation Day, Franco-American Day, and other legislative receptions hosted by the Legislature; and Maine Agriculture Day; ~~Maine Bankers Day~~; ~~Maine Community College Day~~; ~~Maine County Day(s)~~; ~~Maine Credit Union Day~~; and ~~Maine Tourism Day~~; and ~~school food service day~~.

#### **6. Equipment and Furnishings**

Equipment and furnishing such as chairs, tables, lights, podiums and sound systems used in the Hall of Flags must be those provided by the Legislative Council. However, The Legislative Council authorizes the use of LCD and slide projectors, laptop computers, tabletop displays and other such portable information presentation equipment to be provided by the entity authorized to use the Hall of Flags. Use of other equipment is not allowed unless it is consistent with the intent of this policy and is specifically authorized by the Clerk of the House when accepting hall reservations under paragraph II.

#### **7. Nonexclusive Use**

The Hall of Flags is a public hall and entities authorized to reserve and use the Hall of Flags often are expected to share the hall with other entities or coordinate activities and schedules. Accordingly, such entities should neither expect nor demand exclusive use of the Hall of Flags. Legislative uses take precedent over other uses in the Hall of Flags, regardless of whether other, non-legislative entities obtained advance reservations for its use.

#### **8. Times Held for Legislative and Visitor Use**

The Clerk of the House shall establish a reservation schedule that provides for unreserved blocks of time in the Hall of Flags each week for legislative press conferences or other unscheduled legislative activities that may arise during the course of the legislative session. In addition, the schedule must

provide for convenient times when visitors to the State House may view and reflect upon the collection of historic flags uninterrupted by organized events in the Hall of Flags.

## **9. Prohibitions**

At a minimum, the following are prohibited from the Hall of Flags:

- A. open flames except when used in a safe manner for warming dishes
- B. propane, gasoline, accelerants and other flammable materials
- C. compressed gases and helium-filled balloons
- D. toxic, noxious and infectious materials
- E. grills, frying pans and fryolators, except that table top electric cooking appliances may be used during Franco-American Day and Maine Agriculture Day
- F. alcohol
- G. animals, except for service animals
- H. noisemakers, bullhorns and other sound amplification or broadcast devices. However, bona fide members of the news media may use broadcast equipment in the course of their work
- I. strobe lights
- J. signs and banners on wooden or rigid supports that may cause injury
- K. weapons of any type except on the person of a law enforcement who is on duty and when the presence of such weapons has first been disclosed to the Bureau of Capitol Security Police
- L. altering or disabling electrical, telecommunication or security devices or wiring
- M. affixing signs, banners, displays or other materials to walls, columns, flag cases or portraits
- N. active distribution of materials or leaflets
- O. soliciting, marketing or selling of goods or services

## **10. Security Deposit and Use Agreement**

Non-legislative entities, other than the Chief Executive, Chief Justice or Constitutional Officers, who reserve and use the Hall of Flags must, at the time of reservation or prior to use, provide a security deposit of \$100 and enter into a Use Agreement accepting the terms and conditions of use of the Hall of Flags. The agreement must require such entities to immediately report and accept financial responsibility for any damages to the facility or equipment occurring during their use of the Hall of Flags. The security deposit will be returned unless the entity that uses the Hall of Flags damages legislative equipment or facilities, does not set up or remove all items in a timely fashion, including removing all litter following use, or violates the terms of the Use Agreement. The Executive Director will notify the Clerk of the House when the director believes that an entity has caused damage to the facility, improperly used the Hall of Flags or left the Hall of Flags in an improper condition.

The security deposit may be waived for those entities using the Hall of Flags that require three or fewer tables to be set up. Furthermore, the security deposit may be waived or reduced in situations where paying the deposit would result in a serious economic hardship to the entity using the Hall of Flags.

## **11. Administration**

The Clerk of the House of Representatives and the Executive Director of the Legislative Council, jointly, shall administer this policy. The Clerk is responsible for scheduling and reserving the Hall of Flags for authorized activities during regular business hours and for collecting applicable security deposits. The Executive Director is responsible for preparing the Hall for the scheduled activities and maintaining the Hall of Flags.

**12. Authority and Effective Date**

Pursuant to its authority under 3 MRSA, §162, the Legislative Council hereby adopts this Policy on the Use of the Hall of Flags on this 27<sup>th</sup> day of October, 2005.

~~This policy becomes effective on January 1, 2006.~~

BY: \_\_\_\_\_  
Maine Legislative Council

Policy Effective Date: January 1, 2006  
Amended: January 28, 2016

**127th Maine State Legislature  
Legislative Council  
Requests to Introduce Legislation  
Second Regular Session  
REVISED January 28, 2016**

**AFTER DEADLINE BILL REQUESTS**

**SPONSOR: Rep. Roberta B. Beavers**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2628	An Act To Improve Services for Persons Who Are Deaf and Hard of Hearing by Updating the Laws Governing Qualifications for Certain Members of the Telecommunications Relay Services Advisory Council	

**SPONSOR: Rep. Henry E. Beck**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2638	An Act To Tax Electronic Cigarettes	

**SPONSOR: Rep. Richard H. Campbell**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2621	An Act To Allow the Placement of Road Signs Advertising Events That Benefit Philanthropic Organizations and Allow Free Admission to Military Personnel	

**SPONSOR: Rep. Justin Mark Chenette**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2605	An Act To Establish a Recall Process for Elected Officials	

**SPONSOR: Rep. Aaron M. Frey**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2600	Resolve, To Rename the Essex Street Overpass in Bangor the Brent Cross Bridge	

**SPONSOR: Rep. Sara Gideon**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2640	An Act To Protect Maine's Wood Products Industry	

**SPONSOR: Rep. Jared F. Golden**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2617	An Act To Ensure Transparency in Government Contracting	

**SPONSOR: Rep. Barry J. Hobbins**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2642	An Act To Provide Supplemental Allocations, Appropriations and Deappropriations for the Judicial Department for the Fiscal Years Ending June 30, 2016 and June 30, 2017	

**SPONSOR: Sen. Roger J. Katz**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2630	An Act To Increase Access to Health Coverage for Drug Addiction Services and Qualify Maine for Federal Funding for Such Services	

**SPONSOR: Rep. Robert J. Saucier**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2634	An Act To Require That Public Universities in the State Give Preference to Maine Companies When Awarding Contracts Related to Fuel and Heating	

**SPONSOR: Rep. Heather W. Sirocki**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2597	An Act To Revise the Laws Regarding Dental Practices	

**SPONSOR: Rep. Arthur C. Verow**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2625	An Act Concerning Visitation Rights for Adult Children of Adults under Guardianship	

#### **TABLED BY THE LEGISLATIVE COUNCIL**

**SPONSOR: Sen. Justin L. Alfond**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2594	An Act To Facilitate the Timely Processing of Applications for Supplemental Nutrition Assistance Program Benefits	Tabled 12/17/15

2595	An Act To Prohibit the Expenditure of Any Cash-based Benefits from the State on Lottery Tickets	Tabled 12/17/15
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**SPONSOR: Sen. James F. Dill**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2558	An Act To Provide Assistance to Laid-off Workers	Tabled 12/17/15

2575	An Act To Amend the Maine Veterinary Practice Act	Tabled 12/17/15
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**SPONSOR:** Rep. Michelle Ann Dunphy

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2561	An Act To Adjust the Property Tax Valuation of Old Town Following the Closure of the Old Town Expera Pulp Mill	Tabled 12/17/15

**SPONSOR:** Rep. Robert A. Foley

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2560	An Act To Authorize the Maine Public Employees Retirement System To Provide Long-term Disability Insurance	Tabled 12/17/15 <b>WITHDRAWN BY SPONSOR</b>

**SPONSOR:** Rep. Kenneth W. Fredette

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2592	An Act To Create the Maine Energy Office	Tabled 12/17/15

**SPONSOR:** Rep. Roland Danny Martin

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2583	An Act To Convey Property to the Sinclair Sanitary District	Tabled 12/17/15 <b>APPROVED BY BALLOT 1/27/16</b>

**SPONSOR:** Rep. Jeff M. McCabe

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2569	An Act To Establish a Commission on the Blind and Visually Impaired	Tabled 12/17/15

**SPONSOR:** Rep. Michael D. McClellan

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2567	An Act To Provide Relief from the Construction Code for Campgrounds and Camps	Tabled 12/17/15

**SPONSOR:** Rep. Richard A. Pickett

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2556	An Act To Allow Certain Retirees To Buy Back Lost Pay	Tabled 12/17/15

**SPONSOR:** Rep. Christine B. Powers

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2582	Resolve, To Name the Naples Bay Bridge on Route 302 in Naples the Robert Neault Bridge	Tabled 12/17/15



**SPONSOR:** Sen. Thomas B. Saviello

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2568	An Act Regarding the Educational Opportunity Tax Credit	Tabled 12/17/15

#### JOINT RESOLUTIONS

**SPONSOR:** Rep. Henry John Bear

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2163	JOINT RESOLUTION TO ALLEVIATE TRIBAL UNEMPLOYMENT AND FUND ECONOMIC DEVELOPMENT AND EMPLOYMENT PROGRAMS WITHIN THE HOULTON BAND OF MALISEET INDIANS BY URGING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO ESTABLISH A PROCESS TO PROVIDE EQUITABLE MALISEET LAND CLAIMS SETTLEMENT COMPENSATION FOR THE OCCUPATION AND LOSS OF NEARLY 5,000,000 ACRES OF MALISEET TRIBAL HOMELAND IN THE AROOSTOOK COUNTY REGION	Tabled 12/17/15

**127th Maine State Legislature  
Addendum  
Legislative Council  
Requests to Introduce Legislation  
Second Regular Session**

**Actions Taken After January 22, 2016**

**SPONSOR: Rep. Michael Gilbert Devin**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2647	An Act To Recognize Certain Veterans Service Organizations Providing Direct Supportive Services to Veterans and Their Families Living with Service-related Post-traumatic Stress Disorder or Traumatic Brain Injury	

**SPONSOR: Rep. William R. Tuell**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2646	An Act To Continue To Provide Group Exemption Passes to State Parks for Persons with Disabilities	

**LATE-FILED MAJOR SUBSTANTIVE RULES**

**SPONSOR:**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2651	Resolve, Regarding Legislative Review of Portions of Chapter 270: Uniform Reporting System for Quality Data Sets, a Late-filed Major Substantive Rule of the Maine Health Data Organization	
2652	Resolve, Regarding Legislative Review of Portions of Chapter 26: Producer Margins, a Late-filed Major Substantive Rule of the Maine Milk Commission	



Office of Program Evaluation and  
Government Accountability

Annual Report on  
Activities and Performance

2015

a report to the  
Government Oversight Committee and the Legislature  
from the  
Office of Program Evaluation & Government Accountability  
of the Maine State Legislature

January  
**2016**

## GOVERNMENT OVERSIGHT COMMITTEE OF THE 127<sup>TH</sup> LEGISLATURE

Senator Roger J. Katz, Chair  
Senator David C. Burns  
Senator Paul T. Davis, Sr.  
Senator Christopher K. Johnson  
Senator Stan Gerzofsky  
Senator G. William Diamond

Representative Chuck Kruger, Chair  
Representative Robert S. Duchesne  
Representative Anne-Marie Mastraccio  
Representative Michael D. McClellan  
Representative Richard H. Campbell  
Representative Deborah J. Sanderson

### Committee Clerk

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Phone: (207) 287-1901  
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Email: [etta.connors@legislature.maine.gov](mailto:etta.connors@legislature.maine.gov)

### Mailing Address:

Government Oversight Committee  
82 State House Station  
Augusta, Maine 04333-0082

### Web:

<http://legislature.maine.gov/opeg/about-the-goc>

## OFFICE OF PROGRAM EVALUATION & GOVERNMENT ACCOUNTABILITY

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Requests for OPEGA reviews are considered by the Government Oversight Committee in accordance with a standard process. Requests must be made in writing and must be initiated or sponsored by a legislator. Individual legislators or citizens should review the process and FAQ that are posted on OPEGA's website at <http://legislature.maine.gov/opeg/request-for-a-review>. There is also a form there to help facilitate the GOC's consideration of the request. Legislative committees can request reviews directly through a written communication to the Government Oversight Committee.

Copies of OPEGA's reports are free.

Reports are available in electronic format at:

<http://legislature.maine.gov/opeg/opeg-reports>

Hard copies of reports may be obtained by contacting OPEGA at:

(207) 287-1901

Office of Program Evaluation & Government Accountability

82 State House Station • Augusta, ME • 04333-0082



BETH L. ASHCROFT  
DIRECTOR

MAINE STATE LEGISLATURE  
OFFICE OF PROGRAM EVALUATION AND  
GOVERNMENT ACCOUNTABILITY

January 20, 2016

The Honorable Roger J. Katz, Senate Chair  
The Honorable Chuck Kruger, House Chair  
And Members of the Government Oversight Committee  
82 State House Station  
Augusta, Maine 04333

The Honorable Michael D. Thibodeau, President of the Senate  
and Members of the 127<sup>th</sup> Maine Senate  
3 State House Station  
Augusta, Maine 04333

The Honorable Mark W. Eves, Speaker of the House  
and Members of the 127<sup>th</sup> Maine House of Representatives  
2 State House Station  
Augusta, Maine 04333

Dear Government Oversight Committee Members, Senators and Representatives:

In accordance with 3 MRSA §995.4, I respectfully submit OPEGA's Annual Report on Activities and Performance for 2015. OPEGA's service to the Legislature as a non-partisan resource is meant to provide support in overseeing and improving the performance of State government. The OPEGA staff and I are honored that Maine's legislators and legislative committees have come to view the Office as a trusted source of objective, credible information. As OPEGA begins its 12<sup>th</sup> year of service to the Legislature, we will continue to conduct our work in a manner that earns your trust and respect, as well as that of Maine's citizens. I hope our efforts and results will continue to be viewed as a worthwhile use of taxpayer dollars.

Sincerely,

A handwritten signature in cursive script that reads "Beth L. Ashcroft".

Beth L. Ashcroft  
Director

Cc: Heather J.R. Priest, Secretary of the Senate  
Robert B. Hunt, Clerk of the House

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# About OPEGA

## History:

The Office of Program Evaluation and Government Accountability (OPEGA) is a non-partisan, independent legislative office created by Public Law 2001, Chapter 702. The Office first became operational in January 2005. Its authorizing statute is 3 MRSA §§991- 997.

## Organization:

OPEGA is part of a unique organizational arrangement within the Legislature that ensures both independence and accountability. This structure is critical to ensuring that OPEGA can perform its function in an environment as free of political influence and bias as possible.

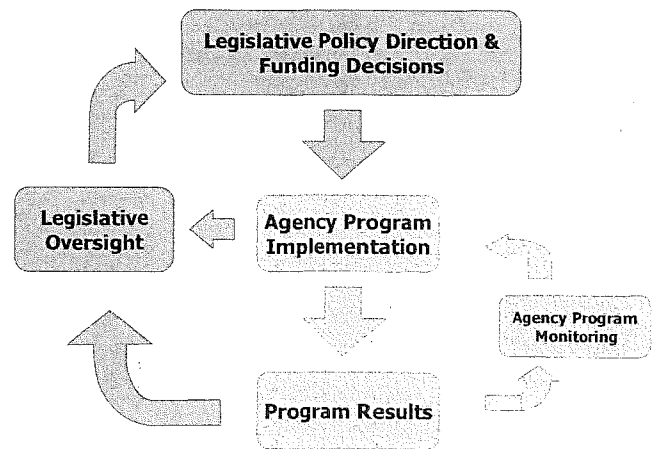
The Legislative Council appoints the Director of OPEGA for five year terms and also sets the Director's salary. OPEGA's activities are overseen by the legislative Government Oversight Committee (GOC), a 12-member bi-partisan and bi-cameral committee appointed by legislative leaders according to Joint Rule. The GOC's oversight includes approving OPEGA's budget and annual work plan, as well as monitoring OPEGA's use of resources and performance.

## Staffing:

OPEGA has an authorized permanent staff of nine full-time positions including the Director and the Administrative Secretary, who also serves as the Committee Clerk for the GOC. Two of the full-time positions were added in 2015 as a result of Public Law 2015 Chapter 344 which directs OPEGA to conduct evaluations of tax expenditure programs as part of an on-going legislative review process.

## Function:

OPEGA primarily supports legislative oversight by conducting independent reviews of State government as directed by the GOC<sup>1</sup>. As legislators perform their oversight function, they often have questions about how policies are being implemented, how programs are being managed, how money is being spent and what results are being achieved.



The GOC and OPEGA address those questions from an unbiased perspective through performance audits, evaluations and studies. The independence and authorities granted by our governing statute provide the Legislature with a valuable supplement to policy committee oversight. In addition, the GOC and OPEGA are in an excellent position to examine activities that cut across State government and span the jurisdictions of multiple policy committees.

The results of OPEGA's reviews are provided to legislators and the public through formal written reports and public presentations.

<sup>1</sup> When directed to do so, OPEGA also has authority to perform audits of non-State entities that receive State funds or have been established to perform governmental functions.

## Mission

The Office of Program Evaluation and Government Accountability exists to support the Legislature in monitoring and improving the performance of State government by conducting independent, objective reviews of State programs and activities<sup>2</sup> with a focus on effectiveness, efficiency and economical use of resources.

## Vision

OPEGA is valued as a credible source of objective information that contributes to good government and benefits Maine's citizens.

## Values

OPEGA seeks to be a model for best practices in government and is committed to:

- ◆ Independence and objectivity
- ◆ Professionalism, ethics and integrity
- ◆ Participatory, collaborative approach
- ◆ Timely, effective communications
- ◆ Valuable recommendations
- ◆ Continuous improvement
- ◆ Using skilled and knowledgeable staff
- ◆ Minimizing disruption of operations
- ◆ Identifying root causes
- ◆ Measuring its own performance
- ◆ Smart use of its own resources

## Overall Goals

- A. Provide timely, relevant and useful information and recommendations.
- B. Conduct all work with objectivity and accuracy.<sup>3</sup>
- C. Communicate regularly on our activities, results and impacts.
- D. Utilize OPEGA's resources effectively, efficiently and economically.

## Indicators of Overall Outcomes

OPEGA tracks and reports on the following measures as broad indicators of the outcomes of our work:

- number of visits to OPEGA's website;
- percentage of recommendations that have been implemented or addressed affirmatively by the agencies or the Legislature; and
- estimated fiscal impact, actual or potential, associated with OPEGA recommendations.

<sup>2</sup> When directed to do so by the Government Oversight Committee, OPEGA is also authorized to perform audits of non-State entities that receive State funds or have been established to perform governmental functions.

<sup>3</sup> OPEGA adheres as fully as possible to the performance auditing standards issued by the United States Government Accountability Office (GAO), known as the *Generally Accepted Government Auditing Standards (GAGAS)* or Yellow Book standards. Adherence to professional standards assures OPEGA's work is objective and accurate and reported results are appropriately supported.



# Key Activities in 2015

## OPEGA Completed Four Projects and Conducted Substantial Work on Four Others

OPEGA's GOC-approved Work Plan for 2015-2016 currently includes 15 projects – seven of which were added in 2015. The 15 projects include 12 full performance reviews, one follow-up review and two special projects. OPEGA's Work Plan and project status are shown in Table 1 and posted on OPEGA's web site.

**Table 1. OPEGA Work Plan for 2015-2016 by Status and Date Initiated**

Project Name	Date Initiated	Scope Approved	Status	Date Completed
Follow-Up Review: Office of Information Technology	Nov 2012	Nov 2012	Completed	Aug 2015
Special Project: Tax Expenditure Programs Phase II	April 2014	April 2014	Completed	Mar 2015
DHHS Workplace Culture and Environment	July 2014	NA	Completed	April 2015
State Funding for Good Will-Hinckley	July 2015	June 2015	Completed	Sept 2015
State Lottery	Aug 2013	Dec 2013	In Progress	NA
Riverview Psychiatric Center	Sept 2014	Sept 2014	In Progress	NA
Tax Expenditure: Employment Tax Increment Financing	Oct 2015	NA	In Progress	NA
Tax Expenditure: New Markets Capital Investment Credit	Oct 2015	NA	In Progress	NA
Tax Expenditure: Pine Tree Development Zones	Oct 2015	NA	In Progress	NA
DHHS Licensing and Regulation of Child Care Providers	April 2014	NA	Suspended	NA
DHHS Audit Functions	NA	NA	Planned	NA
Northern New England Passenger Rail Authority	NA	NA	Planned	NA
Public Utilities Commission: Independent Assessments	NA	NA	Planned	NA
Special Project: Information to Support Expedited Tax Expenditure Reviews	NA	NA	Planned	NA
The Fund for A Healthy Maine	NA	NA	Planned	NA

In 2015, the Office finished its work on four projects, including three performance reviews and one special project. The DHHS Workplace Culture and Environment review, carried over from 2014 in Suspended status, was placed back In Progress and completed in April 2015. OPEGA issued an Information Brief that included suggestions on additional improvement opportunities for DHHS to consider as it continued its work on employee engagement and culture. The Follow-Up Review of the Office of Information Technology was, by design, a multi-year project during which OPEGA monitored OIT progress on strategic improvement plans for three key information technology (IT) functions. The culmination of that review was an independent assessment of OIT's progress conducted by an OPEGA-contracted consultant with IT expertise. After its review of the independent assessment, OPEGA issued a full report with recommendations in August 2015. The State Funding for Good Will-Hinckley project was a full fact-finding review added to OPEGA's Work Plan at the beginning of July 2015. OPEGA prioritized completion of

this review and issued an Information Brief in early September. The Summary of Projects and Results section beginning on page 9 contains additional detail on the results of these reviews and actions that have been taken.

OPEGA also completed the Special Project: Tax Expenditure Programs Phase II, which culminated in a formal proposal for on-going legislative review of tax expenditures submitted to the GOC and the Joint Standing Committee on Taxation in March 2015. The Legislature subsequently enacted Public Law 2015 Chapter 344 to implement the proposal. This new law tasks OPEGA with conducting Full Evaluations of certain tax expenditures each year on a GOC-approved schedule and with providing information to support the Taxation Committee in the performance of Expedited Reviews of other tax expenditures. In September 2015, the GOC approved the schedule for Full Evaluations to be completed in 2016. Those four evaluations were added to OPEGA's Work Plan and have been In Progress since October. OPEGA recently recommended removing one of those reviews based on the nature of the tax expenditure and the GOC agreed. Three Full Evaluations remain on the Work Plan: Employment Tax Increment Financing, New Markets Capital Investment Credit, and Pine Tree Development Zones. The Work Plan also includes a Special Project to support the Taxation Committee's review of other tax expenditures. That Special Project is currently in Planned status but will soon be In Progress, with a deadline of providing information to the Taxation Committee by July 1, 2016. Additional detail on the completed Tax Expenditures Phase II project can be found on page 13.

During 2015, OPEGA has continued with substantial work on the review of the Riverview Psychiatric Center (RPC). Although OPEGA initiated this review at the end of September 2014, the work on this review did not really get underway until December 2014. A number of factors have resulted in the RPC review extending over the course of 2015 and into 2016. These factors have included the need to coordinate with RPC on scheduling interviews with numerous direct care staff and on gaining access to a variety of RPC records. Questions also arose about what records RPC could allow OPEGA access to, and in what form, under various federal regulations. Both RPC and OPEGA sought assistance from the Attorney General's Office in resolving the access concerns. Work on the RPC project is nearing final stages and OPEGA expects to issue the report in the first quarter of 2016.

Also during 2015, OPEGA assisted the GOC in monitoring progress made on planned improvements in the Department of Health and Human Services' Division of Licensing and Regulatory Services (DLRS) related to the licensing and regulation of child care providers in the State. The GOC suspended an OPEGA review of DLRS that was in progress in 2014 to allow the agency time to implement a comprehensive strategic improvement plan intended to address serious known issues that were the impetus for the review. While in Suspended status, the GOC and OPEGA received several written report backs and briefings from DLRS on its progress. OPEGA plans to resume that review in 2016.

OPEGA has not had sufficient resources in 2015 to continue work on the State Lottery review. While that review is still considered to be In Progress, prioritizing the RPC review and the review of State Funding for Good Will-Hinckley has resulted in little progress being made on the State Lottery project. Similarly, OPEGA has not had the resources to begin two planned projects carried over from the 2013-2014 Work Plan - the review of DHHS Audit Functions and the review of Public Utilities Commission: Independent Assessments.

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## OPEGA Monitored Actions Taken on Past Reports

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OPEGA actively follows up with agencies on actions taken, and monitors legislative efforts when applicable, related to report recommendations. The GOC periodically reviews the implementation status of specific reports and often receives formal report backs from responsible agencies.

In 2013, the GOC adopted a procedure to govern OPEGA's follow-up on issued reports. Under that procedure, OPEGA ceases active follow-up of any outstanding recommendations for reports issued more than two years ago, unless the GOC directs that active follow-up should continue. The procedure also calls for OPEGA to report to

the GOC semi-annually on its follow-up activities, and the status of actions on related recommendations, so the GOC can determine whether additional action by the Committee is warranted.

The seven reports listed in Table 2 had outstanding recommendations and were in active follow-up status in 2015. OPEGA had limited time available for follow-up work in 2015 and concentrated its effort on two reports:

- *Economic Development Programs in Maine:* assessing the current status of outstanding recommendations in the 2006 report and assisting the GOC in its consideration of what action should be taken with regard to unaddressed recommendations from that report; and
- *Healthy Maine Partnerships' FY13 Contracts and Funding:* assisting the GOC in taking action and monitoring progress on the implementation of its own recommendations from work on this review.

Table 2. OPEGA Reports in Active Follow-up Status in 2015
Follow-Up Review of the Office of Information Technology (2015)
Maine Economic Improvement Fund (2014)
Healthy Maine Partnerships' FY13 Contracts and Funding (2013)
Public Utilities Commission (2013)
Maine State Housing Authority: Energy Assistance Programs LIHEAP and WAP (2013)
Child Development Services (2012)
Economic Development Programs in Maine (2006)

OPEGA did not, however, conduct the follow-up planned on the remaining reports in active follow-up status in 2015. Consequently, we have limited new information on the status of the recommendations that were in process of being implemented, or were not yet addressed, as of the end of 2014. OPEGA plans to conduct follow-up on these reports in early 2016, review implementation status with the GOC as warranted, and then discontinue active follow-up on any reports issued more than two years ago.

The Summary of Projects and Results section of this report, beginning on page 9, has additional description of actions OPEGA is aware of that have been taken on prior reports, including actions by the GOC as a result of the follow-up work described here. Appendix B also gives the current follow-up and implementation status of all OPEGA reports.

## OPEGA Supported GOC and Other Legislative Efforts Including Conducting Public Inquiries and Introducing New Legislation

OPEGA serves as staff for the Government Oversight Committee. Staff support includes coordinating and giving notice of meetings and agendas, developing and distributing written meeting materials, and preparing written summaries of the meetings. The GOC held 14 meetings in 2015. An archive of the Meeting Summaries from all GOC meetings is maintained on OPEGA's website.

OPEGA also performs research and gathers information to support the Committee's consideration of potential review topics. In 2015, the Office processed and/or conducted research related to six formal requests for OPEGA reviews. Five of these were requests from legislators, including one from a GOC member. The other formal request was submitted by a citizen and had a legislative sponsor as required by GOC policy.

Ultimately, the GOC actively considered all six of the formal requests, placing four of them on OPEGA's Work Plan (two were combined into one review of the Governor's actions regarding GWH).<sup>4</sup> The Committee has requested additional information on one other request; that request is still pending a final GOC determination.<sup>5</sup> The GOC determined the remaining request did not require any further action by the Committee or OPEGA.

<sup>4</sup> Four of the formal requests for reviews considered by the GOC were added to OPEGA's Work Plan as three projects – State Funding for Good Will-Hinckley, Northern New England Passenger Rail Authority and The Fund for a Healthy Maine.

<sup>5</sup> The request still pending with the GOC is for a review of the Board of Licensure for Professional Land Surveyors.

The GOC occasionally conducts its own investigatory inquiries through public meetings and OPEGA supports the Committee in those efforts. In 2015, the GOC conducted a public inquiry of former and current officials of the Department of Education, the Governor's Office, Good Will-Hinckley, the Harold Alfond Foundation, and Maine Street Solutions to explore unanswered questions still remaining following release of OPEGA's Information Brief on State Funding for Good Will-Hinckley (Info Brief). On October 15, 2015, the Committee asked questions of the GWH Board Chair during its Public Comment Period on the Info Brief and on November 12, 2015 the GOC took testimony under oath from nine individuals.

For this inquiry, OPEGA assisted the GOC in issuing subpoenas and letters requesting attendance and documents, understanding and adhering to the statutes that govern such legislative proceedings, preparing protocols to be followed, and coordinating logistics for the public meetings. Following the inquiry, OPEGA drafted, for GOC review and approval, the first GOC Addendum to an OPEGA report. The Addendum is the GOC's own report which records the actions of the GOC in response to OPEGA's GWH Info Brief, and includes a summary of additional or new information and context pertinent to the reported events gathered through the GOC's process. The GOC Addendum is posted with the OPEGA Info Brief on OPEGA's website.

In 2015, the GOC introduced two pieces of legislation stemming from follow-up work done on two OPEGA reports issued in prior years. OPEGA assisted the GOC in drafting, submitting, presenting and tracking the status of these bills:

- LD 1347, "An Act To Implement Recommendations of the Government Oversight Committee To Clarify That Competitive Bid Provisions Apply to Grant Awards" was introduced to implement one of the GOC's own recommendations stemming from its work on OPEGA's report on *Healthy Maine Partnerships' Fiscal Year 2013 Contracts and Funding*.
- LD 1395, "An Act to Implement the Recommendations of the Government Oversight Committee To Ensure Legislative Review of Reports Submitted by Quasi-independent State Agencies" was introduced to enhance the effectiveness of legislative oversight of quasi-independent state entities, particularly regarding compliance with new statutory requirements established in 2012. Those new statutory requirements were a result of GOC-introduced legislation stemming from the Committee's work on OPEGA's 2011 report on the *Maine Turnpike Authority*.

OPEGA also assisted with refining the Taxation Committee's amendment to LD 941, "An Act to Improve Tax Expenditure Transparency and Accountability." LD 941 was introduced as a Concept Draft shortly after OPEGA submitted its *Proposal for Legislative Review of Maine State Tax Expenditures* to the GOC and the Taxation Committee in March 2015. The draft legislation to implement the review process, which was included in OPEGA's Proposal, became the foundational language for the Committee Amendment to LD 941. At the request of the Taxation Committee, OPEGA worked with Maine Revenue Services and other key stakeholders to further refine the proposed language to address concerns raised by these parties. OPEGA also coordinated with the GOC, and staff and Chairs of the Taxation Committee, throughout the legislative process for this bill, including assisting in identifying OPEGA resources that could be used to cover the costs of this new effort for the first biennium.

The Summary of Projects and Results section of this report, beginning on page 9, has additional description of these and other legislative actions during 2015 related to current and prior OPEGA projects.

## OPEGA Kept Legislators and Public Informed of Activities and Impact

OPEGA strives to keep those we serve regularly apprised of the projects and other activities we are working on, our results, and the work products available on the projects we complete. We also seek to provide information about the actual impacts of our work and the recommendations we have made. Our target audience includes all legislators, not just GOC members, and the general public. OPEGA's communication efforts in 2015 included:

- posting our Work Plan (with current status) and reports, as well as GOC Meeting Agendas and Summaries, to OPEGA's website;
- distributing GOC meeting agendas in advance to an interested parties email list the Office maintains that includes media representatives, legislators and members of the public that have asked to receive such notifications;
- sending written advance notification of the scheduled public presentations of OPEGA reports, and related GOC public comment periods, to the members of legislative leadership and all joint standing committees that may have jurisdiction over, or a special interest in, the subject matter of the reports;
- distributing, immediately following release of the report, full copies of the final reports to each member of legislative leadership and each member of all joint standing committees that may have jurisdiction over, or a special interest in, the subject matter of the reports;
- notifying all legislators, within a day of the report release, that a final report is available - typically done via email with a report summary attached;
- briefing legislative joint standing committees, when requested, on our reports and results as well as actions taken on our recommendations;
- submitting the statutorily required annual report on OPEGA's activities and performance for 2014 to the Government Oversight Committee and the Legislature; and
- responding to numerous inquiries on our work from interested legislators, citizens and the media.

In 2015, as in the previous four years, there was media interest in some OPEGA reports, as well as certain topics under consideration by the GOC. OPEGA makes it a priority to respond to media inquiries, as well as those from legislators and citizens, in a timely manner – typically the same day an inquiry is made – to facilitate informing the public of GOC and OPEGA activities.

The Annual Report, presented here, is another avenue through which OPEGA provides information about its activities and impact, including recommendations implemented or affirmative addressed (page 8) and actions on past reports (page 15).

## OPEGA Stayed Within Budget and Continued to Face Staffing Challenges in 2015

OPEGA's actual expenditures have been under budget each year since beginning operations in 2005 and that trend continued in 2015. Table 3 shows OPEGA's adjusted General Fund budget and actual expenses for the past three fiscal years.

	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY2015</b>
Total General Fund budget (adjusted)	\$817,894	\$875,003	\$1,070,489
Total General Fund dollars expended	\$721,858	\$691,611	\$876,520
Dollar variance of expenditures to budget	(\$96,036)	(\$183,392)	(\$193,969)
% variance of expenditures to budget	(11.7%)	(21%)	(18%)

In FY13, OPEGA's adjusted budget included an allotment of \$20,000 from prior year balances to cover costs associated with a temporary part-time position. In some years, OPEGA's baseline budget is adjusted to meet State or legislative cost savings initiatives. OPEGA's adjusted budget for FY13 also included reductions associated with eliminating merit salary increases for employees and changes to employee benefit plans. The increase in OPEGA's adjusted budget from FY13 to FY14 was almost entirely due to increases in the rates for OPEGA's contributions to Retiree Health and Retirement Unfunded Liability accounts that are not within OPEGA's control.

The increase in the adjusted budget from FY14 to FY15 is primarily accounted for by an allotment in FY15, from prior year balances, to cover costs associated with a temporary position and anticipated consulting services needed for work on tax expenditures required by Resolves 2013 Chapter 115. OPEGA's adjusted budget for FY15 also reflected cost of living increases to salaries.

OPEGA's actual expenditures for FY15 were \$193,969, or about 18%, under the adjusted budget. The variance was primarily due to:

- vacancy in one full-time analyst position;
- actual costs for OPEGA's temporary position being less than anticipated;
- actual costs for employee training, printing, advertising and per diem payments for GOC members being lower than budgeted; and
- actual costs for consultant services being less than budgeted.

OPEGA used some of the underrun in the All Other accounts to upgrade the Office's five year old laptops.

OPEGA continued to face staffing challenges with one full-time analyst position vacant for approximately six months in calendar year 2015, due to a vacancy from 2014 that was finally filled in March 2015 and unexpected turnover of another position in late August 2015. OPEGA has been delayed in recruiting for that vacancy as it has prioritized the recruitment of two new positions, dedicated to evaluations of tax expenditure programs, authorized by the Legislature to begin in October 2015. One of those positions was filled in October. After the initial recruitment for the second position proved unsuccessful, OPEGA conducted a second recruitment and a candidate was selected who will join OPEGA in January 2016.

## Outcome Indicators

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Since 2008, OPEGA has been tracking and reporting on three measures that are broad indicators of the outcomes of our work:

- percent of recommendations implemented or affirmatively addressed, as an indicator of the significance and usefulness of our recommendations, as well as our overall effectiveness in stimulating warranted changes in State government;
- estimated potential fiscal impacts associated with OPEGA recommendations; and
- number of visits to OPEGA's website, as an indicator of overall interest in our function and work products.

While OPEGA continues to use these measures, we find ourselves with little new information to update the metrics for these indicators in 2015. There are several reasons for this.

First, as discussed on page 5, OPEGA did not complete all planned follow-up work on past reports still in active follow-up status during 2015. Consequently, we have little new information about changes in status of outstanding recommendations to update the values we last reported for the percent of recommendations implemented or affirmatively addressed. In our last annual report for 2014, we noted that OPEGA had made a cumulative total of 198 recommendations since 2005 and that 65% of them had been implemented or affirmatively addressed, with another 16% in progress of being implemented. During 2015, OPEGA made an additional 13 specific

recommendations, bringing the cumulative total of recommendations made to 211. All of the 2015 recommendations were associated with the report *Follow-Up Review of the Office of Information Technology*. Only one of them is considered to be in progress at this time.

Additionally, of the reviews OPEGA completed in 2015, the Office of Information Technology review is the only one where we anticipate potential fiscal impacts associated with OPEGA recommendations. OPEGA expects that additional fiscal resources will be required to implement some of the recommendations. However, at this time, there is no reasonable basis to estimate the dollar amount of resources that may be needed.

Lastly, data collection on website visits was interrupted in late 2014 due to changes in the URL for the Legislature's website, which also affected OPEGA's website. OPEGA only recently discovered that this change impacted the Google Analytics function we had established to track our website activity. Upon discovery, we made the necessary changes to resume Google Analytics tracking of website activity data for 2016. In past years, we have noted that the trend in website activity seems to primarily reflect the degree of media interest in released OPEGA reports and related GOC activities in any particular year. Assuming that trend held true, we expect there would have been a significant increase in website activity in 2015 given the substantial media and public interest in OPEGA's review of State Funding for Good Will-Hinckley and the related work of the GOC. We further expect the activity would have come from a broad range of Maine towns, other states and other countries as the media coverage on the issue was nationwide.

OPEGA expects to report updated figures on all three measures in our Annual Report for 2016.

## Summary of Projects and Results

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During 2015, OPEGA completed its work on three reviews and one special project: the DHHS Workplace Culture and Environment review, the Follow-Up Review of the Office of Information Technology, the State Funding for Good Will-Hinckley review and the Special Project: Tax Expenditure Programs Phase II. A listing of all 43 projects OPEGA has produced public work products on since 2005 can be found in Appendix A.

### DHHS Workplace Culture and Environment

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OPEGA conducted a review of workplace culture and environment at the Department of Health and Human Services (DHHS). This review was initiated by the GOC in response to complaints from current and former employees that raised questions about whether the workplace climate at DHHS was conducive to recruiting, retaining and engaging capable, knowledgeable and motivated employees. The complaints originated primarily from three offices within DHHS and OPEGA's review focused on the extent to which the complaints from these individual employees represented systemic issues within DHHS that warranted detailed root cause analysis. The scope of work involved analyzing the complaints, reviewing literature on organizational culture, and conducting interviews with DHHS management and stakeholders. OPEGA also analyzed data from several sources including DHHS employee survey data, grievance data maintained by the Maine State Employees Association (MSEA), and termination data maintained by the Department of Administrative and Financial Services, Bureau of Human Resources (BHR).

OPEGA's research and analyses into workplace culture and environment at DHHS suggested that the more serious concerns expressed in the individual complaints were not systemic throughout the Department. Employee climate surveys administered by DHHS in 2013 and 2014 reflected an effort by Department management to assess employee engagement and the work environment. OPEGA's analysis of the survey data indicated that, overall, DHHS employees were generally satisfied with the workplace climate, including how they were treated by their managers and coworkers. We observed somewhat lower levels of employee satisfaction with communication from management. When analyzed by DHHS office, the survey results indicated lower and/or declining satisfaction

levels in certain offices, particularly on measures of communication and management quality. These offices included two of the three offices from which complaints were received.

OPEGA also analyzed employee grievance and termination rates at DHHS in comparison to the other Executive Branch agencies. We found that DHHS does not stand out among agencies on these high-level indicators of the work environment. However, for a subset of types of terminations and grievances OPEGA considered relevant to the complainants' concerns, DHHS is above average among State agencies.

Through interviews and reviews of documents provided by DHHS, OPEGA observed that Department leadership was taking active steps to assess and improve its organizational culture and work environment. These efforts reflected some of the recommended practices OPEGA identified in our review of literature on organizational culture and climate, including collecting and analyzing data from regular employee surveys to diagnose and assess organizational culture. If sustained over time, such efforts can be expected to result in positive change.

OPEGA made several suggestions on additional improvement opportunities for DHHS to consider as it continued its work on employee engagement and culture. DHHS was accepting of these suggestions, noting they were valid and that DHHS already planned to do some of them. DHHS also noted, however, that some of the suggestions may be more difficult to implement given the Department's structure and requirements associated with a union environment.

The GOC voted unanimously to fully endorse OPEGA's Information Brief on *DHHS Workplace Culture and Environment*.<sup>6</sup> Though OPEGA made no recommendations that require follow-up through the GOC's and OPEGA's formal follow-up process, the GOC requested a future report back from DHHS on further actions taken toward improving employee engagement and workplace culture.

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## Follow-Up Review of the Office of Information Technology

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OPEGA completed a limited scope follow-up review of the Office of Information Technology (OIT) which began in November 2012 and was, by design, a multi-year project. OPEGA first reported on the subject of information technology in State government in 2006. Since then OPEGA has periodically reported to the GOC on OIT's efforts to implement various recommendations from that report.

In 2011, the GOC considered a multifaceted request for a new review of OIT. The issues raised in that request, and other unsolicited complaints regarding OIT that OPEGA had received over the years, raised concerns about whether recommendations from the 2006 report had been completely and adequately implemented. Key problem areas were widely known at the time the GOC was considering the request and new management at OIT was attempting to address them. The purpose of OPEGA's follow-up review was to assist the Legislature in holding OIT more formally accountable for effectively addressing these known concerns going forward. The review focused specifically on ensuring OIT made acceptable progress in the following critical areas:

- project management;
- business continuity planning and disaster recovery; and
- supporting the data needs of Executive Branch departments.

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<sup>6</sup> Endorsement indicates the Committee's public approval of, and support for, OPEGA's reported results and recommendations. The GOC has the option to vote to fully endorse, endorse in part, or not endorse an OPEGA report. Generally, the Committee will fully endorse the report if it finds that:

- a. the reported results are credible, objectively derived and sufficiently relevant and complete with regard to the assigned scope for the review; and
- b. the reported recommendations are reasonable and appropriate for addressing the issue(s) identified.



During the review period, OPEGA monitored OIT progress on strategic improvement plans for these three key information technology (IT) functions. The culmination of the follow-up review was an independent assessment of OIT's effectiveness in implementing its plans and the degree of improvement achieved. The assessment was conducted by an OPEGA-contracted consultant with IT expertise and was completed in April 2015.

OPEGA and the consultant found that, overall, OIT had made significant progress in implementing the actions from its Strategic Improvement Plan that it could take unilaterally, and continued improvement in the three focus areas for this review was expected. However, several actions in OIT's Plan were contingent on the efforts of other State agencies that did not occur in the review period. Consequently, OIT had not fully implemented certain key parts of its Strategic Improvement Plan, particularly with regard to business continuity planning and disaster recovery and support for agency data needs. Progress for the State as a whole in these areas had not been as desired.

The following was specifically noted with regard to the three focus areas of this review:

- OIT made significant progress in developing its IT project management capabilities and converting to the Agile project management methodology. Continued improvement was expected as OIT continues to strengthen its project management function and there were several areas where further improvements would better align OIT with industry standard practices.
- OIT made significant progress addressing previously known gaps in business continuity planning and disaster recovery (BCP/DR). However, statewide BCP/DR efforts to date had not mitigated risks associated with potential disasters or catastrophic system failures. Business Impact Analyses (BIA) necessary for sound business continuity and disaster recovery planning within both OIT and individual agencies, had not been completed for any State agency. Agency participation is critical to BCP/DR efforts and such participation is impacted by broader organizational challenges outside of OIT's control.
- Little progress had been made in improving data governance<sup>7</sup> and analytic capabilities for Executive Branch agencies, primarily because this area is impacted by broader organizational challenges and did not receive much focus until late in the review period.

Agency participation, and effective partnerships between OIT and the agencies it serves, are required for the State to continue advancing its IT-related capabilities. Continued improvement is necessary to ensure the State is properly managing IT-related risks and in a position to capitalize on IT-related opportunities. While OIT itself can do more to promote agency participation and partnerships, we found several organizational challenges OIT does not have the authority to address on its own. These barriers include the lack of executive-level IT governance to ensure adequate funding for statewide initiatives, as well as collaboration, coordination and action by all agencies toward IT-related goals.

OPEGA reported seven recommendations, some with multiple recommendations imbedded, to address identified issues. Six of the reported recommendations require the involvement of agencies and officials within the Department of Administrative and Financial Services (DAFS), other than OIT, and/or the Governor's Office. OIT and the DAFS Commissioner generally agreed with the recommendations and felt they should go forward as they are items they are interested in pursuing, have been pursuing, and want to continue pursuing. The Commissioner noted that some are complicated issues and will take some time to resolve which is why they do not have a current plan with timeframes established for actions.

The GOC voted unanimously to fully endorse OPEGA's report *Office of Information Technology Follow-up Review*. OIT is expected to submit to the GOC, within the first quarter of 2016, an action plan with timetable for those actions OIT can take on its own. The GOC will continue to monitor DAFS progress in addressing the other recommendations and expects to receive a report back from DAFS in the fall of 2016.

<sup>7</sup> For the purposes of this report, data governance refers to the overall management of the availability, usability, integrity and security of the data employed in an organization.

## State Funding for Good Will-Hinckley

On July 1, 2015, the GOC directed OPEGA to determine the facts associated with alleged proposed changes to the State's fiscal year 2016 and 2017 Department of Education (DOE) funding for Good Will-Hinckley (GWH), and the impact of those proposed changes to the School. GWH is a non-profit organization located in Fairfield, Maine that offers educational programs for at-risk youths, one of them being a charter school. Two separate requests for a review of this subject had been submitted to the GOC by current legislators following allegations the Governor had threatened to withhold State funding because GWH had hired the current Speaker of the House of Representatives as its next President, and that those threats resulted in termination of the Speaker's employment contract.

OPEGA interviewed staff and officials from DOE, GWH, and the Harold Alfond Foundation (HAF), as well as the Maine Speaker of the House of Representatives and two lobbyists. We also collected and reviewed numerous documents provided by these entities. The Governor and his staff declined to speak with OPEGA citing pending litigation against the Governor, though some documents requested by OPEGA were provided. From these sources, OPEGA was able to report some background on GWH, its charter school, the State funding provided through DOE, a timeline of events associated with the proposed changes in State funding, explanations of actions taken by various parties and the impact of it all on GWH.

In early June 2015, the Governor learned that GWH had hired the current Speaker as its next President. Both the Governor and the current Acting DOE Commissioner objected strongly, primarily due to the Speaker having been a vocal opponent of charter schools in the past and a belief he was not qualified to successfully lead GWH. The Governor, the Acting Commissioner and one of the Governor's Senior Policy Advisors immediately began communicating to various GWH representatives and stakeholders that the Governor would have trouble supporting, or could not support, GWH with the Speaker as President. Those on the receiving end of these communications clearly understood the Governor's "support" to mean the State's \$530,000 in Center of Excellence for At-risk Students funding (COE) for the upcoming biennium which had been intended for GWH.

OPEGA found these and other events described in the Information Brief strongly suggested that the threat of GWH losing State COE funding, and the subsequent holding of a payment already in process for GWH's first quarter of FY2016, were directly linked to the Governor learning that GWH had decided to hire the Speaker as President. However, it was still unclear whether the Governor personally communicated to anyone at GWH, or the HAF, specifically that the funding would be cut when he communicated to them that GWH had lost his support. It was also still unclear whether the Acting DOE Commissioner's decision to withdraw the first quarter payment resulted from a specific directive from the Governor or was a precautionary measure he took on his own, without the Governor's prior knowledge, pending the outcome of the issue between GWH and the Governor.

OPEGA also found that the likely possibility of GWH losing the State COE funding led the Chairman of the HAF Board to exercise his fiduciary duties related to a September 2014 \$5.5 million HAF grant to GWH, \$2.75 million of which was to be paid in 2019. The HAF Board Chair sent a June 18<sup>th</sup> letter to GWH expressing the HAF's serious concerns about GWH's ability to meet the goals of the grant agreement without funding for its residential program, and its intent to conduct an independent assessment of GWH's finances. Receipt of this letter, combined with the GWH Board Chair's description of his interactions with the HAF Board Chair and the Administration, led the GWH Board to seriously assess the financial uncertainty facing the organization. The GWH Board, with the understanding that the State COE funding would remain if the Speaker were no longer President, decided that its fiduciary responsibilities left it no choice. The GWH Board offered the Speaker the opportunity to resign, which he declined, and the Board subsequently terminated his employment agreement on June 24th.

Following the presentation of OPEGA's Information Brief, the GOC held its usual Public Comment period on the report and also conducted a special public inquiry to better understand elements of some events that remained unclear. Certain individuals involved in the events were requested (and two later subpoenaed) to appear before the Committee and answer questions.

Seven members of the GOC voted to fully endorse the OPEGA Information Brief on *State Funding for Good Will-Hinckley*. Five members voted to endorse in part, stating they endorsed the entirety of the report with the exception of the portion which described GWH's selection process as "consistently adhered to" and "fair to all candidates." They noted that, from their perspective:

- GWH did not adhere consistently to the established qualifications for the position as advertised when selecting the successful candidate; and
- the involvement in the selection process of the Board Chair for GWH's charter school, who was also one of the Speaker's staffers, – even with his recusals at various points – did not make the process fair for all candidates.

The GOC produced a GOC Addendum to OPEGA's Information Brief that records the Committee's actions and vote in response to the Brief. The Addendum includes a summary of additional, or new, information and context pertinent to the events reported in the Information Brief that were gathered during the GOC's public consideration of the report. It is also available on OPEGA's website.

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## Special Project: Tax Expenditure Programs Phase II

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Legislation enacted during the second session of the 126<sup>th</sup> Maine State Legislature (Resolves 2013, Chapter 115) tasked OPEGA with developing a detailed proposal for a process to provide ongoing legislative review of the State's tax expenditures. The legislation called for the proposal to be submitted to the GOC and the Taxation Committee for consideration by March 1, 2015. The development of this proposal was an extension of OPEGA's Special Project: Tax Expenditures Phase I completed in 2014, part of which occurred concurrently with the Office's work with the special Tax Expenditure Review Task Force in 2013.

Tax expenditures are government revenue losses due to tax provisions that allow individuals, businesses, or organizations to reduce their tax burden through credits, exemptions, deductions, or other provisions, resulting in reduced State revenue. The purposes of establishing a formal ongoing legislative review process are to ensure that:

- tax expenditures are reviewed regularly according to a strategic schedule organized so that tax expenditures with similar goals are reviewed at the same time;
- reviews are rigorous in collecting and assessing relevant data, determining benefits and costs, and drawing clear conclusions based on measurable goals; and
- reviews inform the policy choices and the policymaking process.

In accordance with the Resolve, the proposal developed by OPEGA outlined three levels, or categories, of review for tax expenditures in the State of Maine:

- (A) *Full Evaluation* for tax expenditures that are intended to provide an incentive for specific behaviors, that provide a benefit to a specific group of beneficiaries, or for which measurable goals can be established;
- (B) *Expedited Review* for tax expenditures that are intended to implement broad tax policy goals that cannot be reasonably measured; and
- (C) *No Review* for tax expenditures with an impact on state revenue of less than \$50,000 or that otherwise do not warrant either a full evaluation or expedited review.

Under the proposed process, primary responsibilities for conducting Full Evaluations and Expedited Reviews lie with OPEGA and the Taxation Committee, respectively. The Taxation Committee is also responsible for considering the results of Full Evaluations and Expedited Reviews, and recommending or initiating legislative action as warranted. Other Joint Standing Committees may also participate in the review of results and recommendations for tax expenditures administered by agencies that fall within their areas of jurisdiction. The Government Oversight Committee is responsible for overseeing OPEGA's efforts, as well as the overall tax expenditure review process.

The proposal also defined and described elements to be considered in implementing an ongoing legislative review process. As required by the Resolve, it addressed the following components:

- **Classification of tax expenditures.** Assignment of each tax expenditure to one of the three review categories: (A) Full Evaluation; (B) Expedited Review; or (C) No Review.
- **Evaluation parameters for Full Evaluation (A).** Evaluation parameters for tax expenditures in category A (Full Evaluation), based on guidelines provided in the Resolve.
- **Identification of criteria for Expedited Review (B).** A description of the elements of an Expedited Review (B), based on guidelines provided in the Resolve.
- **Data and data sources.** A description of the type of data and potential data sources needed to complete Full Evaluations and Expedited Reviews, and whether this data is confidential by law.
- **Stakeholder and public comment.** Identification of options for including comments by stakeholders and members of the public in the evaluation process.
- **Schedule.** A schedule for ongoing review of tax expenditures in categories A and B.
- **Assessment of resources.** An estimate the staff and other resources needed to perform the evaluations.
- **Revisions to statute.** Draft legislation for revisions to statute needed to implement the proposed review process.

The draft legislation included in OPEGA's proposal became the foundation of LD 941 which was ultimately enacted during the first session of the 127<sup>th</sup> Legislature as Public Law 2015, Chapter 344. The legislation placed most all of the implementing language within OPEGA's enabling statute, Title 3, Chapter 37. It also established two new full-time positions for OPEGA dedicated to tax expenditure reviews, as well as some additional funds for consultants on these projects. Funds to cover these additional resources for the FY16-17 biennium were to come from unencumbered balances in legislative accounts, including OPEGA's account.

In the fall of 2015, as required by the newly enacted statute, the GOC approved OPEGA's recommended classification of tax expenditures determining which would be subject to Full Evaluations, Expedited Reviews or No Review. The GOC also approved, with minor adjustments, OPEGA's recommended multi-year schedule for Full evaluations and Expedited Reviews.

Accordingly, OPEGA began work on the four Full Evaluations scheduled for 2016 toward the goal of proposing evaluation parameters for the GOC's consideration and approval in January 2016. The tax expenditures scheduled for full evaluation in 2016 were Employment Increment Tax Financing, Pine Tree Development Zones, New Markets Capital Investment Credit and the Brunswick Naval Air Station Job Increment Financing Fund. Having learned more about the nature and purpose of these programs, OPEGA subsequently recommended, and the GOC approved, removing the Brunswick Naval Air Station Job Increment Financing Fund from the full evaluation schedule in 2016 and instead scheduling it for Expedited Review in 2018.

## Actions on Past Reports

OPEGA and the GOC continue to monitor actions taken on previously issued reports, and determine whether additional Committee action is needed to implement recommendations not yet satisfactorily addressed. Some notable actions taken on past OPEGA reports in 2015 were:

- ***Maine Economic Improvement Fund.*** In January 2015, the University of Maine System submitted to the Legislature its required annual report on the Maine Economic Improvement Fund (MEIF) for 2014. The format and content of that report was improved over prior years in response to two recommendations in OPEGA's 2014 report on the *Maine Economic Improvement Fund*. The 2014 Annual Report included a discussion of the strategic outcomes, goals and metrics UMS is going to be using for the Fund going forward that were established as part of a strategic plan approved by the University of the Maine Board of Trustees earlier in 2014. UMS had also planned to review and revise the processes used to gather the information for the MEIF metrics reported to improve consistency and accuracy in the way the metrics were calculated and reported to the Legislature. The 2014 MEIF Annual Report showed expected improvements in the contexts for, and discussion of, the metrics indicating UMS had addressed some of the issues OPEGA had raised.
- ***Maine Turnpike Authority.*** The GOC introduced LD 1395, "An Act to Implement the Recommendations of the Government Oversight Committee To Ensure Legislative Review of Reports Submitted by Quasi-independent State Agencies," which was ultimately enacted by the Legislature as Public Law 2015 Chapter 253 after the override of a gubernatorial veto. The new statutory provision, 5 MRSA §12023 sub-§3, is intended to enhance legislative oversight of quasi-independent state entities by ensuring that joint standing committees of jurisdiction are monitoring the entities' compliance with requirements in 5 MRSA §§12022 and 12023. Provisions in 5 MRSA §§12022 and 12023 establish expectations for quasi-independent state entities with regard to: procurement practices; payments for membership dues and fees, gifts, donations and sponsorships; and travel, meal and entertainment expenses. Statute also requires 24 quasi-independent State entities to submit annual reports to the Legislature on non-competitive procurements and contributions made in the prior year. The statutory provisions, including the reporting requirements, resulted from GOC-introduced legislation in 2012 that was a by-product of OPEGA's 2011 report on the *Maine Turnpike Authority*. The GOC voted to introduce LD 1395 after follow-up work by OPEGA determined that, while nearly all of the quasi-independent State entities had been submitting their annual reports, the annual reports had not been formally reviewed by the entities' legislative committees of jurisdiction. 5 MRSA §12023 sub-§3 now provides for review of the annual reports by those committees, with communication to the GOC on the results of the reviews and areas identified that should be reviewed in more depth.
- ***Economic Development Programs in Maine.*** Several actions were initiated or completed in response OPEGA's 2006 report on economic development.
  - Over the course of several meetings in 2015, the GOC considered information gathered by OPEGA in its continuing follow-up on this report. The Committee was also briefed by the Commissioner of the Department of Economic and Community Development (DECD) on the status of implementing recommendations from that report, and the current challenges associated with DECD's statutorily required biennial independent Comprehensive Evaluation of Economic Development Programs. The GOC expects to consider, in 2016, introducing legislation and other actions as necessary to further the implementation of recommendations from the 2006 report that have not yet been effectively addressed.

- With the enactment of Public Law 2015 Chapter 344 (LD 941), the Legislature established a formal ongoing review process for the State's individual tax expenditure programs, including those whose purpose is to incentivize economic development. This action relates to a recommendation made in OPEGA's 2006 report on *Economic Development Programs in Maine* that the Legislature should consider subjecting the tax incentives that were within the scope of that review to more in-depth evaluations of effectiveness, efficiency and economic use of resources. While these tax incentives have been included the scope of the independent Comprehensive Evaluation of Economic Development Programs conducted by DECD, to date those evaluations have been more of a macro-level evaluation and have not provided the in-depth assessment of individual programs that was envisioned in the original OPEGA recommendation.
- ***Healthy Maine Partnerships' FY13 Contracts and Funding.*** Several actions were initiated or completed in response to OPEGA's 2013 report and the subsequent inquiry of Maine CDC officials.
  - In 2014, the GOC requested the Attorney General (AG) review, and investigate as deemed appropriate, information gathered from the public inquiry that suggested a possible violation of the Freedom of Access Act. In response to this request, the AG asked the Deputy District Attorney (DA) for Prosecutorial District IV (Kennebec County) to follow up on OPEGA's report by investigating and examining the facts, and exercising independent judgment to pursue, or not pursue, any violations of State civil or criminal law. In early 2015, the AG made public the Deputy DA's findings. The Deputy DA determined that, though documents were destroyed, it was questionable whether there was sufficient evidence to prove that the CDC official acted intentionally and with the knowledge that she was destroying, or ordering the destruction of, public records. Given the lack of formal guidance at the State, or DHHS, level as to whether these type of documents should be retained, it was unclear whether the Deputy Director should have known. Accordingly, the Deputy DA did not believe there were provable civil or criminal violations.
  - In April 2015, the working group convened by the Attorney General and Secretary of State, at the request of the GOC, submitted a comprehensive written report back to the Committee describing the State's records management and retention framework and making recommendations for improvement. The GOC considered the working group's recommendations and accepted a plan put forth by the Secretary of State for initial actions to implement recommendations within State Archives area of responsibility, with additional actions to be taken over time. The GOC has monitored progress on these actions over the course of 2015 through monthly status updates from the Secretary of State.
  - The GOC also sent a letter to the Governor's Chief Legal Counsel in June requesting that the Governor's Office initiate efforts to address records management and retention issues raised in the working group's report that are the responsibility of Executive Branch agencies. The GOC suggested several initial steps the Governor's Office could take. The GOC received a report back from the Governor's Office in December describing the records management and retention efforts that had been in progress in the Governor's Office itself during 2015. The Governor's Office is using its experience to become familiar with complexities associated with records management and retention and intends to begin working with the communication staffs in Executive Branch agencies once their own improvement process is completed.
  - The GOC introduced LD 1347, "An Act To Implement Recommendations of the Government Oversight Committee To Clarify That Competitive Bid Provisions Apply to Grant Awards," which was enacted as Public Law 2015 Chapter 179 following the override of a gubernatorial veto. The bill added the word "grant" where applicable in 5 MRSA §§1825-A through 1825-J to clarify that the statutory provisions requiring competitive bidding, and related provisions, apply to grant awards as well as contracts.

- Additionally, the GOC sent a letter to the Department of Administrative and Financial Services' Division of Purchases recommending similar changes to Purchases' Rules, as well as its Policy on Contract Renewals and Amendments, to clarify they applied to grants as well as contracts. The GOC also recommended adding guidance to the Policy to address situations where, through renewal or amendment, there are going to be decreases or shifts in funding among multiple original awardees. The GOC's recommendation provided specifics on what the additional guidance should include. DAFS committed to giving the recommendations serious consideration.
- The Legislature considered LD 6, "Resolve, To Implement Recommendations of the Government Oversight Committee To Strengthen the Ethics Practices and Procedures for Executive Branch Employees." This bill was introduced by the GOC in late 2014 as a result of its work on OPEGA's Healthy Maine Partnerships report. The legislation also addressed a recommendation made in OPEGA's 2013 report on the *Public Utilities Commission*. LD 6, as amended, had a fiscal note for funds to cover one additional position in the DAFS Bureau of Human Resources. After passage in the House, the Senate placed LD 6 on the Special Appropriations Table and then carried it over to the second session of the 127<sup>th</sup> Legislature.
- The Maine Center for Disease Control (CDC) conducted a comprehensive process in preparing a Request for Proposals (RFP) for the next Healthy Maine Partnership initiative (HMP) funding cycle, with contracts to begin July 1, 2016 pending funding availability. Preparation for the RFP included conducting a formal Request for Information (RFI) process designed to give Maine CDC broad community input into the programming, structure, and funding distribution for the HMP initiative. According to the Department of Health and Human Services (DHHS), the RFP development process also included consideration of applicant eligibility, proposal content, and the scoring process. DHHS' Office of Continuous Quality Improvement (OCQI) was engaged in various stages of the RFP development and review process which included multiple reviews of materials, development of performance measures and the submission/ review process. Maine CDC also followed the guidance of Division of Contract Management.
- DHHS took several actions to improve its records management and retention efforts. The DHHS legal team, along with input from State Archives and the State's Public Access Ombudsman, developed a comprehensive records management training that is available online for all DHHS staff. DHHS General Counsel, along with the Public Access Ombudsman and State Archive staff, also presented this training to more than 80 senior managers at DHHS. Additionally, the Department completed inventories of active Records Officers and current records center cardholders across DHHS. New or additional Records Officers were assigned as necessary, and cardholder access was adjusted as appropriate to ensure cardholders can access only records appropriate to their work. Lastly, DHHS has been engaged in ongoing work to update records retention schedules across offices within DHHS to ensure that records are managed appropriately. According to State Archives, DHHS has made significant progress in its records management and retention efforts.
- ***Public Utilities Commission.*** The Legislature provided funding, in the enacted biennial budget for FY16 and 17, to establish a permanent Consumer Advisor position in the Office of the Public Advocate (OPA). OPA established and filled a temporary position in 2014 using existing resources and the new resources needed to make the position permanent were proposed in the Governor's biennial budget for FY 16 and 17. The position assists consumers, who want to participate in PUC proceedings "pro se," with understanding and navigating the PUC rules and processes.

Appendix B summarizes the current implementation and follow-up status of OPEGA's reports.

# Acknowledgements

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OPEGA would like to acknowledge and express appreciation to others in State government for the knowledge, service and other assistance they willingly contribute to OPEGA's reviews and general operations. In particular, special thanks to the:

- Office of the Executive Director of the Legislative Council;
- Office of Legislative Information Technology;
- Office of Policy and Legal Analysis;
- Office of Fiscal and Program Review;
- Law and Legislative Reference Library;
- Office of the State Controller;
- Office of the State Auditor; and
- Office of the Attorney General.



## Appendix A: Listing of Available OPEGA Work Products by Date Issued

Report Title	Date Issued	Overall Conclusion	JSCs that Received Report*
State Funding for Good Will-Hinckley	September 2015	Financial risks associated with the potential loss of State funding led the GWH Board to change course on its hiring decision for a new President.	N/A
Follow-Up Review of the Office of Information Technology	August 2015	Progress has been made in implementing a strategic improvement plan. There are broader issues that need Executive attention for the State to advance further.	AFA SLG
DHHS Workplace Culture and Environment	April 2015	Survey results show employees are generally satisfied with climate and work environment. Organizational issues are present in some offices, and DHHS is engaged in culture change efforts.	
Special Project: Tax Expenditure Programs Phase II	March 2015	Proposed process for on-going legislative review of tax expenditures, with GOC oversight. Proposal outlines three categories of review: full, expedited, and no review. Taxation would consider OPEGA evaluation results and determine whether action should be taken to implement recommendations.	TAX
Follow Up Review of Health Care in the State Correctional System	November 2014	No systemic deficiencies identified in the vendor's provision of health care services. Inaccurate information and disagreements over MDOC policy are the primary causes of the prisoner complaints reviewed.	AFA CJPS HHS
Maine Economic Improvement Fund	June 2014	Allocations of the Fund and expenses supported by the Fund are consistent with statutory intent. Improvements are needed in performance reporting and fiscal monitoring associated with the Fund.	AFA LCRED
Special Project: Tax Expenditure Programs Phase I	March 2014	Proposed process for on-going legislative review of tax expenditures involved OPEGA conducting full evaluations of certain categories of expenditures, with GOC oversight, as well as supporting Taxation Committee in expedited reviews of other categories of expenditures. Taxation would consider OPEGA evaluation results and determine whether action should be taken to implement recommendations.	TAX
Healthy Maine Partnerships' FY13 Contracts and Funding	December 2013	Approach to selecting HMP lead agencies appropriate but the process was poorly implemented and allowed for manipulation of outcomes. Funding was consistent across HMPs based on role. Documentation maintained was insufficient to support key decisions in the selection process.	AFA HHS
Public Utilities Commission	September 2013	Improvements can be made in accessibility and responsiveness of avenues available for consumers to raise utility-related concerns. Risk of actual and perceived bias on the part of the PUC persists.	EUT

Report Title	Date Issued	Overall Conclusion	JSCs that Received Report*
Maine State Housing Authority: Energy Assistance Programs LIHEAP and WAP	July 2013	Both programs administered well overall but LIHEAP controls should be improved and ongoing efforts to strengthen WAP program operations should be continued.	LCRED
Communications Regarding a Computer System Weakness Resulting in MaineCare Claims Payments for Ineligible Individuals	November 2012	DHHS MIHMS project staff knew of the issue in 2010, but executive management knowledge of the issue and its impact was limited until early 2012. Several factors contributed to the system weakness not being highly prioritized or reported to the DHHS Commissioner earlier.	AFA HHS
Child Development Services	July 2012	Implementing comprehensive program management, encouraging responsible stewardship of resources, and developing data to support management decisions could improve efficiency and cost effectiveness.	AFA EDUC
Cost Per Prisoner in the State Correctional System	June 2012	MDOC's methodology for calculating the cost per prisoner is reasonable but the statistic is of limited use in comparing states to one another due to a number of variables.	AFA CJPS
Maine State Housing Authority: Review of Certain Expenditures	May 2012	Most expenses reviewed were connected to MaineHousing's mission. Some expense types or amounts may be unnecessary and should be reconsidered.	AFA LCRED
Health Care Services in State Correctional Facilities	November 2011	Weaknesses exist in MDOC's monitoring of contractor compliance and performance. Contractor not compliant with some MDOC policies and professional standards. New administration is undertaking systemic changes.	AFA CJPS
Sales of State Real Estate	October 2011	Process is inconsistent across departments. Public notice on real estate sales is limited.	
GOC Special Project: Investigation into Sale of Real Estate to Maine State Prison Warden	August 2011	GOC questioned judgment of State officials in allowing sale to proceed but found no intentional misdealings.	
Maine Green Energy Alliance	August 2011	Weak controls and informal practices created high risk for misuse of funds and non-compliance. No inappropriate funding uses identified, but compliance issues were noted.	EUT
Certificate of Need	May 2011	Process appears clear, consistent and transparent. Opportunity for better documentation exists.	HHS
Health Care Services in State Correctional Facilities: Opportunities to Contain Costs and Achieve Efficiencies	April 2011	Opportunities exist to better manage costs of health care in State correctional facilities by restructuring contracts with providers and implementing electronic medical records.	AFA CJPS HHS
GOC Special Project: Investigation into MTA's Purchase of Gift Cards	April 2011	GOC determined there was sufficient evidence of potential misuse of funds to request an investigation by the Attorney General's Office.	

Report Title	Date Issued	Overall Conclusion	JSCs that Received Report*
Maine Turnpike Authority	January 2011	Strong planning process drives bond and toll decisions. Some contracting practices and expenditure controls should be improved. Additional clarity needed around surplus transfer and operating expenses.	TRANS
Emergency Communications in Kennebec County	February 2010	Fragmented PSAP and dispatch network presents challenges. Quality and rate issues need to be addressed to optimize public safety.	EUT CJPS
Special Project: Professional and Administrative Contracts	February 2010	Opportunities exist to reduce FY11 General Fund costs for professional and administrative contracts by temporarily suspending some contracts. Potential also exists to reduce costs of on-going agreements.	AFA
Fund for a Healthy Maine Programs	October 2009	Adequate frameworks exist to ensure cost-effectiveness of specific activities. Allocations should be reassessed and changes should be made to improve financial transparency.	AFA HHS
MaineCare Durable Medical Equipment and Medical Supplies	July 2009	Prevention and detection of unnecessary or inappropriate claims should be strengthened to better contain costs.	AFA HHS
Maine State Prison Management Issues	June 2009	The workplace culture of Maine State Prison may be exposing employees and the State to unacceptable risks and needs continued attention.	CJPS
MaineCare Children's Outpatient Mental Health Services	February 2009	8% of funds spent support DHHS's administrative costs. Primary drivers are a contract with the ASO and costs incurred in processing provider claims. Another 19% of expenses can be attributed to providers' administrative costs.	AFA HHS
Fund For A Healthy Maine Programs: A Comparison of Maine's Allocations to Other States and a Summary of Programs	February 2009	Maine consistently prioritized preventive health services more than other states.	AFA HHS
State Contracting for Professional Services: Procurement Process	September 2008	Practices generally adequate to minimize cost-related risks; controls should be strengthened to promote accountability.	AFA
DHHS Contracting for Cost-Shared Non-MaineCare Human Services	July 2008	Cash management needs improvement to assure best use of resources.	AFA HHS
State Administration Staffing	May 2008	Better information needed to objectively assess possible savings opportunities.	AFA
State Boards, Committees, Commissions and Councils	February 2008	Opportunities may exist to improve State's fiscal position and increase efficiency.	AFA SLG ENR
Bureau of Rehabilitation Services: Procurements for Consumers	December 2007	Weak controls allow misuse of funds, affecting resources available to serve all consumers.	AFA LCRED

Report Title	Date Issued	Overall Conclusion	JSCs that Received Report*
Riverview Psychiatric Center: An Analysis of Requests for Admission	August 2007	Majority seeking admission not admitted for lack of capacity but appear to have received care through other avenues; a smaller group seemed harder to place in community hospitals.	CJPS HHS
Urban-Rural Initiative Program	July 2007	Program well managed; data on use of funds should be collected.	TRANS
Highway Fund Eligibility at the Department of Public Safety	January 2007	The absence of a clear definition of HF eligibility and reliable activity data prevent a full and exact determination of which DPS activities are eligible to receive HF.	AFA CJPS TRANS
Economic Development Programs in Maine	December 2006	EDPs still lack elements critical for performance evaluation and public accountability.	AFA ACF LCRED TAX
Guardians <i>ad Litem</i> for Children in Child Protection Cases	July 2006	Program management controls needed to improve quality of guardian ad litem services and assure effective advocacy of children's best interests.	HHS JUD
Bed Capacity at Riverview Psychiatric Center	April 2006	RPC referral data is unreliable; other factors should be considered before deciding whether to expand.	CJPS HHS
State-wide Information Technology Planning and Management	January 2006	State is at risk from fragmented practices; enterprise transformation underway and needs steadfast support.	AFA SLG
Review of MECMS Stabilization Reporting	December 2005	Reporting to Legislature provides realistic picture of situation; effective oversight requires focus on challenges and risks.	AFA HHS
Title IV-E Adoption Assistance Compliance Efforts	November 2005	Maine DHHS has made progress in addressing compliance issues; additional efforts warranted.	HHS

\*Acronyms for Legislative Joint Standing Committees (JSC) that OPEGA's reports were distributed to:

AFA – Appropriations and Financial Affairs

ACF – Agriculture, Conservation and Forestry

CJPS – Criminal Justice and Public Safety

EDUC – Education

ENR – Environment and Natural Resources

EUT – Energy, Utilities and Technology

HHS – Health and Human Services

JUD – Judiciary

LCRED – Labor, Commerce, Research and Economic Development

SLG – State and Local Government

TAX – Taxation

TRANS – Transportation

N/A – Not Applicable

**Appendix B: Summary of Implementation and Follow-Up Status on Issued Reports**  
 (Implementation status based on information gathered by OPEGA as of 12-31-15)

Report Title	Date Issued	Implementation Status
<b>Reports Still in Active Follow-Up Status (by date of issuance)</b>		
Follow-Up Review of the Office of Information Technology	August 2015	Limited Implementation (Activity in Progress)
Maine Economic Improvement Fund	June 2014	Partially Implemented (Activity in Progress)
Healthy Maine Partnerships' FY13 Contracts and Funding	December 2013	Limited Implementation (Activity in Progress)
Public Utilities Commission	September 2013	Partially Implemented (Activity in Progress)
Maine State Housing Authority: Energy Assistance Programs LIHEAP and WAP	July 2013	Partially Implemented (Activity in Progress)
Child Development Services	July 2012	Mostly Implemented (Activity in Progress)
Economic Development Programs in Maine)	December 2006	Partially Implemented (Activity in Progress)
<b>Reports No Longer in Active Follow-Up Status (by date of issuance)</b>		
Maine State Housing Authority: Review of Certain Expenditures	May 2012	Fully Implemented
Health Care Services in State Correctional Facilities	November 2011	Fully Implemented
Maine Green Energy Alliance	August 2011	Partially Implemented
Maine Turnpike Authority	January 2011	Fully Implemented
Emergency Communications in Kennebec County	February 2010	Mostly Implemented
OPEGA's Special Project on Professional and Administrative Contracts	February 2010	Partially Implemented
Fund for a Healthy Maine Programs	October 2009	Mostly Implemented
MaineCare Durable Medical Equipment and Medical Supplies	July 2009	Mostly Implemented
Maine State Prison Management Issues	June 2009	Fully Implemented
MaineCare Children's Outpatient Mental Health Services	February 2009	Limited Implementation
State Contracting for Professional Services: Procurement Process	September 2008	Fully Implemented

Report Title	Date Issued	Implementation Status
DHHS Contracting for Cost-Shared Non-MaineCare Human Services	July 2008	Fully Implemented
State Administration Staffing	May 2008	Partially Implemented
State Boards, Committees, Commissions and Councils	February 2008	Limited Implementation
Bureau of Rehabilitation Services: Procurements for Consumers	December 2007	Fully Implemented
Urban-Rural Initiative Program	July 2007	Fully Implemented
Guardians <i>ad Litem</i> for Children in Child Protection Cases	July 2006	Partially Implemented
Bed Capacity at Riverview Psychiatric Center	April 2006	Fully Implemented
State-wide Information Technology Planning and Management	January 2006	Partially Implemented
Review of MECMS Stabilization Reporting	December 2005	Mostly Implemented
Title IV-E Adoption Assistance Compliance Efforts	November 2005	Fully Implemented

Note: Implementation and follow-up are not applicable for the following OPEGA study reports as they did not contain recommendations: State Funding for Good Will-Hinckley; DHHS Workplace Culture and Environment; Special Projects: Tax Expenditure Programs Phase I and II; Follow Up Review of Health Care in State Correctional System; Communications Regarding Computer System Weakness, Cost Per Prisoner in the State Correctional System, Sales of State Real Estate; Certificate of Need; Health Care Services in State Correctional Facilities: Opportunities to Contain Costs and Achieve Efficiencies; Riverview Psychiatric Center: An Analysis of Requests for Admissions; Highway Fund Eligibility for the Department of Public Safety; and, Fund For A Healthy Maine Programs: A Comparison of Maine's Allocations to Other States and a Summary of Programs.



**STATE OF MAINE  
127th LEGISLATURE  
FIRST REGULAR SESSION**

**Commission to Study Difficult-to-Place Patients**

**December 2015**

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Melvin Clarrage  
Richard A. Erb  
Brenda C. Gallant  
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- D. Draft legislation, Long-term Care Ombudsman statutory amendment
- E. Draft legislation, DHHS demonstration project for enhanced rates for home care services
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- I. Information regarding DHHS request for information (RFI)

## Executive Summary

The Commission to Study Difficult-to-place Patients (hereinafter “the Commission”) was created during the First Regular Session of the 127th Legislature to address the challenge of ensuring the availability of appropriate treatment options in the State for patients with complex medical conditions and the feasibility of making policy changes to the long-term care system for those patients.

The Commission was established by Resolve 2015, Chapter 44 (for a copy of that resolve, see Appendix A) and was composed of two members of the Senate, three members of the House of Representatives and nine public members.<sup>1</sup> A list of Commission members is included as Appendix B. The Commission’s duties are set forth in the enacting legislation and include the following.

- Identification of categories of patients with complex medical and mental health conditions unable to be discharged from hospitals because no facilities or providers are able to care for them or accept them for care;
- Determination of how these patients are placed currently and primary barriers to placement of these patients;
- Review of the facilities in which these patients are currently placed, including the location of these facilities and the facility costs associated with these patients’ care;
- Identification of options for increasing availability of residential and long-term care facilities for specialized populations that are difficult to place for care, such as ventilator-dependent patients, geropsychiatric patients and bariatric patients; and
- Determination of rates of reimbursement necessary to operate facilities to manage patients with complex medical conditions.

The Commission held five public meetings in Augusta on October 26, November 5, November 20, December 2 and December 7. All meetings were open to the public and were broadcast by audio transmission over the Internet. Although this report contains several appendices, additional resources and background materials, including materials distributed at Commission meetings, are available at: [www.maine.gov/legis/opla/difficulttoplacepatients.htm](http://www.maine.gov/legis/opla/difficulttoplacepatients.htm).

Due to the broad nature of its duties, as set forth in the enacting legislation, the Commission relied upon the guidance and expertise of its members, as well as other individuals and organizations who participated in and provided valuable information and insight at its meetings. Section III of this report provides an overview of the Commission process, as well as a description of the participants and information received at each Commission meeting.

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<sup>1</sup> Michael Lemieux was appointed to the Commission by the Governor to represent an individual or a family member of an individual with a complex medical condition but resigned his seat on the Commission. No replacement was appointed in his place.

The Commission's final recommendations include proposals for immediate legislative action during the Second Regular Session of the 127th Legislature, as well as proposals to be addressed through the establishment of the Commission To Continue the Study of Difficult-to-place Patients (for proposed legislation establishing this new commission, see Appendix C). Specific recommendations, supported by 11 of 12 Commission members,<sup>2</sup> are as follows:

### **1. Expand geropsychiatric facility capacity in the State**

At present, there are only 3 facilities in Maine that specialize in the long-term residential care of geropsychiatric<sup>3</sup> patients. Hawthorne House in Freeport and Gorham House in Gorham provide geropsychiatric services in a nursing facility setting, while Mount Saint Joseph in Waterville provides similar services in a private non-medical institution (PNMI)<sup>4</sup> setting. In total at these 3 facilities, there are 51 geropsychiatric beds. Testimony received by the Commission indicated that these beds are in high demand and rarely vacant, suggesting an immediate need for additional capacity in the State. Moreover, the Commission understands that there has been no expansion of geropsychiatric facility capacity in Maine in the last 25 years.

Under the existing State Certificate of Need (CON) statutory provisions, CON unit approval from the Department of Health and Human Services (DHHS) is required for new nursing facility services including expansion of capacity, relocation of beds from one nursing facility to another, replacement nursing facilities, changes in ownership and control of nursing facilities and building modifications and capital expenditures by nursing facilities. Criteria for a CON application are established in 22 M.R.S.A. §335 as well as in DHHS' applicable rules. The CON process and criteria focus only on the need in the area where the beds were previously located. In order to increase the overall number of beds, the nursing facility MaineCare funding pool would have to be increased. Additionally, the Commission understands that DHHS currently interprets its statutory and regulatory authority to require so-called MaineCare neutrality fulfillment for any addition of facility capacity in the State.<sup>5</sup>

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<sup>2</sup> All Commission members except Ricker Hamilton voted to accept the final report and recommendations as a single package. Mr. Hamilton supported some proposals in the report and described his opposition to the other proposals at the final meeting. For more detail regarding his positions, see fifth Commission meeting summary.

<sup>3</sup> Geriatric psychiatry or geropsychiatry involves the study, prevention and treatment of mental illness in elderly and aging populations.

<sup>4</sup> DHHS defines a PNMI as "...an agency or facility that is not, as a matter of regular business, a health insuring organization, hospital, nursing home, or a community health care center, that provides food, shelter, personal care, and treatment services to four or more residents in single or multiple facilities or scattered site facilities...." 10-144-101 ME. CODE R. §97.01-9 (MaineCare Benefits Manual, Chapter II, section 97). There are five categories of PNMI's in Maine, each based upon a different appendix to the MaineCare Benefits Manual, chapter II, section 97: Appendix B (substance abuse treatment facilities), C (medical and remedial services facilities), D (child care facilities/intensive temporary residential treatment services facilities), E (community residences for persons with mental illness) and F (non-case mixed medical and remedial facilities). *Id.*

<sup>5</sup> To put it another way, DHHS requires that an expanding facility acquire MaineCare revenue stream resources by purchasing these from another facility or relocating resources within its own system; i.e., you can't add a MaineCare bed without removing another MaineCare bed (or equivalent MaineCare resources) elsewhere in the State.

The Commission's recommendation to address current unmet demand for geropsychiatric facility care is to expand available geropsychiatric facility capacity in the State. We recognize that this proposal, if resulting in additional geropsychiatric nursing facility beds, will require an exemption from the CON statutory requirements. The Commission further recognizes that regardless of whether additional nursing facility or PNMI geropsychiatric beds, or a combination thereof, are added, this proposal will also require an exemption from so-called MaineCare neutrality fulfillment requirements.

While the Commission will not speculate as to whether this expansion would be best accomplished in the nursing facility or PNMI context, or both, the Commission does recommend that total approved expansion not exceed a maximum of 25 new geropsychiatric beds. This expansion need not be restricted to a single new or expanded facility but could represent expansion of capacity in multiple facilities and/or locations around the State. This Commission also recognizes that with existing geropsychiatric facilities located in Gorham, Freeport and Waterville, there is a specific lack of geropsychiatric capacity in Northern and Down East Maine. As such, we recommend that any expansion of geropsychiatric facility capacity give highest priority to proposals to add new beds located north and/or east of Waterville.

The Commission recognizes that expansion of geropsychiatric capacity will result in additional fiscal costs for the State. Testimony received by the Commission indicated that existing nursing facility geropsychiatric beds receive daily reimbursement rates averaging \$328 to \$344 per day, a rate that includes the cost for a private room, while existing PNMI geropsychiatric beds receive a rate of \$227 per day. If the Commission assumes an expansion of 25 beds, with all new beds located in nursing facilities and uses a high estimated reimbursement rate of \$350 per bed per day, the total cost for this proposed expansion would be \$3,193,750 (\$350 per bed per day x 365 days per year x 25 new beds). Accordingly, consistent with the Medicaid cost-sharing Federal Medicaid Assistance Percentage (FMAP),<sup>6</sup> the State's share of that cost would be \$1,192,227, and this Commission recommends approval of State funding in that amount to support the above-described expansion of geropsychiatric facility capacity in Maine.

## **2. Expand the State's Long-term Care Ombudsman program**

Testimony received by the Commission indicated that the Long-term Care Ombudsman program provides invaluable assistance to patients, families and providers in facilitating the successful and appropriate placement of patients with complex medical conditions. The Ombudsman expressed an interest in expanding the program's provision of these services, but indicated that additional staff would be necessary, as the program currently has no staff specifically dedicated to provide these services. The Ombudsman estimated that the total cost of adding these two additional staff to her office would be roughly \$150,000. That total would include staff salaries, as well as all applicable taxes, benefits, mileage reimbursements and other costs.

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<sup>6</sup> For the current fiscal year (federal FY2016, which is October 1, 2015 through September 30, 2016), the FMAP for Maine is 62.67%. In other words, for eligible Medicaid costs, the State's share of the total cost is 37.33%. See FY2016 Federal Medical Assistance Percentages, United States Department of Health & Human Services, Office of the Assistant Secretary For Planning and Evaluation (December 2, 2014), *available at* <https://aspe.hhs.gov/basic-report/fy2015-federal-medical-assistance-percentages>.

The Commission's recommendation on this matter is to provide sufficient funding, estimated at \$150,000, to support two additional full-time equivalent (FTE) staff for the Ombudsman program to provide assistance in placement of patients with complex medical conditions, including assistance to facilities post-placement.

The Commission also recommends that the Ombudsman's statutory authority set forth at 22 M.R.S.A. §5107-A be amended to reflect these additional duties relating to assistance in the placement of patients with complex medical conditions.

See Appendix D for draft legislation relating to the proposed statutory changes.

### **3. Expand resources provided by the Department of Health and Human Services**

Testimony received by the Commission indicated that the nurse education consultant position at DHHS is an important resource for many facilities in the State. This individual, who is a trained nurse, visits facilities to assess patients and meet with staff to consult on and make recommendations for patient care as well as assist in medication changes. Information provided by DHHS indicated that the estimated total costs of an additional nurse education consultant position would include \$57,304 in salary, \$30,888 in benefits and \$6,278 all other costs, for a total cost of \$94,470. According to DHHS, costs for this position are split 50/50 with Medicaid.

As such, the Commission's recommendation on this matter is to provide State funding in the amount of \$47,235 (based on a 50% cost-share of this position with Medicaid) to support one additional FTE nurse education consultant position at DHHS.

### **4. Examine feasibility of providing enhanced rates for home care services**

Testimony received by the Commission indicated that a major barrier to community placement of patients with complex (and non-complex) medical conditions is lack of home care staffing support, both in terms of staff training and staff availability. State reimbursement for home care services is currently a low, flat rate that does not account for each patient's particular needs.

The Commission's recommendation on this matter is to direct DHHS, Office of Aging and Disability Services to develop and implement a demonstration project to allow enhanced rates for home care services, with participation limited to patients with complex medical needs currently enrolled in the Homeward Bound program. These enhanced rates must provide additional reimbursement for services provided by Personal Support Specialists (PSS) and for on-site training of PSS staff prior to the commencement of services to promote quality of care and retention of staff. DHHS should be directed, following the completion of the demonstration project, to report back to the Legislature regarding its findings and recommendations regarding the expansion of enhanced rates for home care services.

See Appendix E for draft legislation directing this demonstration project.

## **5. Review adequacy of home care services**

As stated in the previous recommendation, a major barrier to community placement is lack or inadequacy of available home care services. To ensure a complete understanding of the current state of home care services available in Maine, the Commission recommends that DHHS, Office of Aging and Disability Services, Home Care Quality Review Committee review the adequacy of home care services provided for individuals with complex needs under the MaineCare Benefits Manual, Chapter II, section 19, Home and Community Benefits for the Elderly and Adults with Disabilities. This review shall include, at a minimum, consideration of quality of care, emergency department visits and hospital admissions by individuals receiving services under section 19. In conducting this review, the Home Care Quality Review Committee should be directed to request input, at a minimum, from consumers, care coordination agencies, patient advocacy organizations and home care agencies. DHHS should be directed, following the completion of this review, to report back to the Legislature regarding its findings and recommendations regarding the adequacy of home care services provided under section 19.

See Appendix F for draft legislation directing this review.

## **6. Facilitate reporting of data regarding facility refusal of placement**

When a patient with complex medical conditions is refused placement at a medical care facility, that facility's basis for refusing placement is often not communicated to the patient, the patient's providers or the State. The reasons a facility may refuse placement of a patient may relate to a lack of an available bed, but could also relate to a lack of appropriate staffing, specialized equipment or other resources. An understanding of the basis for refusal of placement is critical to identifying and removing barriers to placement for patients with complex medical conditions.

Following Commission discussions on these matters, several commission members volunteered to work together to identify a process for the Office of the Long-term Care Ombudsman to receive and track information relating to a facility's decision to deny placement to a patient with complex medical needs, as well as a method for appropriately maintaining and distributing this collected data to interested agencies, organizations, individuals and the Legislature. The parties that have agreed to work on further development of this proposal include the State's Long-term Care Ombudsman, the Maine Health Care Association, the Maine Hospital Association, DHHS, the Consumer Council System of Maine and Disability Rights Maine. The Commission appreciates the initiative taken by these parties and requests that stakeholders submit any recommendations relating to these matters to the Joint Standing Committee on Health and Human Services (HHS Committee) during the Second Regular Session of the 127th Legislature.

## **7. Support financial exploitation prosecutions**

A MaineCare eligibility determination involves a DHHS review of an applicant's financial assets. In most situations where an applicant's family members or relatives have improperly taken that applicant's assets prior to the filing of the application, the applicant will be denied for

failing to meet MaineCare's asset limits.<sup>7</sup> This financial exploitation by family members or relatives can often be prosecuted as elder abuse; however, for a number of reasons, including unwillingness on the part of many victims to support prosecution of a family member or relative, these cases are often not prosecuted.

The Commission understands that DHHS, Office of Aging and Disability Services is in the process of creating a Financial Abuse Specialist Team (FAST), which will be operational in the very near future. This team will be dedicated to working with community partners to increase prosecution of financial crimes against older persons and persons with disabilities, with primary goals of increasing the financial security of all older and vulnerable adults living in Maine by recovering assets that are stolen, mismanaged or misappropriated against the person's wishes; holding perpetrators of financial crimes accountable for their actions; and developing preventive options that will deter financial exploitation of Maine's older and vulnerable adult population.

The Commission's recommendation on this matter is to direct DHHS, Office of Aging and Disability Services, FAST to convene a stakeholder group to review the State's criminal statutes, the Maine Adult Protective Services Act (Title 22, Chapter 958-A) and any other relevant State statutes to identify amendments to enable and support criminal prosecution of crimes against the elderly and persons with disabilities, including enhancement of penalties for such crimes. FAST should be directed to invite as participants in the stakeholder group the Office of the Attorney General, including representatives of the Healthcare Crimes Unit; the Maine Sheriffs' Association; the Maine Chiefs of Police Association; the Maine State Police; the Maine Prosecutors' Association; the Maine Health Care Association; the State's Long-term Care Ombudsman; Legal Services for the Elderly; and the Maine Office of Securities. DHHS should be directed, following completion of the stakeholder group review, to report to the Legislature regarding its findings and recommendations regarding changes to the State's laws to enable and support criminal prosecution of crimes against the elderly and persons with disabilities.

See Appendix G for draft legislation directing the formation of this stakeholder group.

## **8. Pay hospitals a "days awaiting placement" rate**

Throughout its meetings, the Commission heard testimony regarding hospitalized patients who meet all medical criteria for hospital discharge, but remain hospitalized due to the lack of an appropriate or available placement to which the patient can be discharged. Once discharge criteria are met, hospitals are no longer eligible for reimbursement for medical care provided to the patient despite the patient having to be cared for by the hospital in the manner of a nursing facility (or specialized nursing facility). Under the current MaineCare Benefits Manual, critical access hospitals are paid a "days awaiting placement" rate under very similar circumstances.<sup>8</sup>

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<sup>7</sup> Depending on a MaineCare applicant's circumstances, different asset limits/tests will apply. *See generally* 10-144-332 ME. CODE R. (MaineCare Eligibility Manual). Generally speaking, if an applicant's assets have been transferred out of their control within a 60-month "look back period," a transfer penalty will be imposed, delaying MaineCare eligibility. *See id.* pt. 15.

<sup>8</sup> Under the MaineCare Benefits Manual, Chapter III, section 45, critical access hospitals are eligible for prospective reimbursement of care costs provided to a patient awaiting placement at a nursing facility. Reimbursement is based on the statewide average daily rate for nursing facility services. *See* 10-144-101 ME. CODE R. §45.04.

The Commission's recommendation on this matter is to implement a "days awaiting placement" reimbursement rate for prospective payment system (PPS)<sup>9</sup> hospitals for Medicaid-eligible patients awaiting discharge after meeting applicable hospital discharge criteria. For Medicaid-eligible patients, the State's cost share, as based on the FMAP, is 37.33% of eligible care costs; the federal Medicaid program covers the remainder of the costs. This "days awaiting placement rate" would be the same that is currently paid to critical access hospitals under the MaineCare Benefits Manual, which is the statewide average nursing facility rate (currently just under \$200 per day). DHHS should be directed to amend its rules relating to hospital reimbursements to implement this rate and should be directed to provide for reimbursement of this new rate for a period of time not to exceed 5 years.<sup>10</sup> For the fiscal year in which this new rate is first implemented, total reimbursements to all eligible hospitals should be capped at \$500,000, resulting in a total cost to the State of \$186,650.<sup>11</sup> This Commission accordingly recommends continued funding in the amount of \$186,650 per fiscal year for a 5-year period to fund provision of this new days awaiting placement rate by DHHS.

See Appendix H for draft legislation directing implementation of this new reimbursement rate.

## **9. Establish Commission To Continue the Study of Difficult-to-place Patients**

In its work, the Commission identified a number of additional important issues relating to the placement and care of medically complex patients but recognized that solutions to these particular problems would require further study and consideration than the Commission could accomplish during its short existence. To solve these additional complex issues, input from various stakeholder groups is necessary and the Commission recommends continuation of its work through the creation of a Commission To Continue the Study of Difficult-to-place Patients.

As set forth in the draft legislation contained in Appendix C, the issues and solutions to be considered by this new commission include the following.

- With input from the Department of Labor, identification of medical staffing needs in the State and the barriers to and solutions for increasing the availability of trained staff across the spectrum of care;
- With input from DHHS and the Board of Nursing, an examination of the feasibility of implementing in-house staff certification programs by medical providers, such as a certified nursing assistant training program;

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<sup>9</sup> According to the federal Centers for Medicare and Medicaid Services, a PPS "...is a method of reimbursement in which Medicare payment is made based on a predetermined, fixed amount. The payment amount for a particular service is derived based on the classification system of that service...." Prospective Payment Systems – General Information, Centers for Medicare and Medicaid Services, *available at* <https://www.cms.gov/medicare/medicare-fee-for-service-payment/prospmedicarefeesvcpgmtgen/index.html>.

<sup>10</sup> In other words, it is the Commission's intent that DHHS implement rules on this matter in a manner that would terminate reimbursement of this rate after a 5-year period of eligibility.

<sup>11</sup> Consistent with the FMAP state cost share of 37.33%.



- Determination of existing capacity and demand for additional capacity in appendix C PNMI<sup>12</sup> in the State and options for expanding or reconfiguring the State's appendix C PNMI system to better meet identified demands;
- Examination of the feasibility of implementing a presumptive eligibility option whereby a medical facility would be authorized to presume a patient's eligibility for MaineCare and receive reimbursement for the patient's eligible care costs prior to final approval of eligibility by DHHS;
- With input from DHHS, identification of efficiencies that can be implemented to expedite the MaineCare application process for patients currently being cared for in a facility;
- Review of options for amending the MaineCare application process to better address financial exploitation of an applicant by a family member or relative of the applicant;
- Examination of methods of expediting the DHHS placement process for open geropsychiatric beds, including a review of the application of the Preadmission Screening and Resident Review (PASRR)<sup>13</sup> process within the geropsychiatric placement process and the application of the geropsychiatric placement criterion that a patient have a long history of mental illness;
- Determination of existing need for medical facility "step-down" options for geropsychiatric and other patients who no longer require the level or type of care they are receiving at a specialized facility, as well as addressing issues relating to geropsychiatric patients that develop dementia, expansion of residential care options at facilities that offer geropsychiatric services and a discussion of applicable assessment criteria for admission and discharge at geropsychiatric facilities;
- Evaluation of the feasibility of facilitating and funding long-term care contracts for behavioral health support at long-term care facilities for care plan consults, treatment and staff education; and

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<sup>12</sup> Under the MaineCare Benefits Manual, appendix C PNMI are medical and remedial services facilities providing long-term care services at a lower level of care than nursing facilities, primarily for frail, elderly patients. These facilities constitute a less restrictive setting than nursing facilities and allow aging-in-place in a more home-like setting. See 10-144-101 ME. CODE R. §97.01-9 (MaineCare Benefits Manual, chapter II, section 97); PNMI Presentation to Maine State Legislature-Appropriations and Health and Human Services Committees, 7 (January 3, 2012), available at [http://www.maine.gov/dhhs/oms/pdfs\\_doc/pnmi/pnmi\\_presnt\\_010312.pdf](http://www.maine.gov/dhhs/oms/pdfs_doc/pnmi/pnmi_presnt_010312.pdf).

<sup>13</sup> According to Medicaid.gov, PASRR "...is a federal requirement to help ensure that individuals are not inappropriately placed in nursing homes for long term care. PASRR requires that 1) all applicants to a Medicaid-certified nursing facility be evaluated for mental illness and/or intellectual disability; 2) be offered the most appropriate setting for their needs (in the community, a nursing facility, or acute care settings); and 3) receive the services they need in those settings...." Preadmission Screening and Resident Review (PASRR), available at <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Delivery-Systems/Institutional-Care/Preadmission-Screening-and-Resident-Review-PASRR.html>.

- Review of DHHS' adult protective services and public guardianship processes to identify efficiencies that can be implemented to facilitate more expedient resolutions, and to evaluate, with input from representatives of the State's judiciary, the feasibility of implementing a temporary guardianship process to facilitate hospital discharge for patients awaiting guardianship.



**STATE OF MAINE  
127th LEGISLATURE  
FIRST REGULAR SESSION**

**Joint Standing Committee on Health and Human Services**

**Study of Allocations of the Fund for a Healthy Maine**

**December 2015**

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## Executive Summary

The Joint Standing Committee on Health and Human Services (herein referred to as “the Committee”) was authorized by the Maine Legislature to study allocations of the Fund for a Healthy Maine through the passage of Resolve 2015, chapter 47.<sup>1</sup> The bill that authorized the study, LD 905, was presented to the Legislature in response to recommendations of the 2011 Commission to Study Allocations of the Fund for a Healthy Maine. The 2011 Commission recommended the creation of a permanent commission to review the allocations of the Fund for a Healthy Maine (FHM) every four years but the recommendation was not enacted by the Legislature in 2012. However, the Committee, while considering LD 905, determined that another review of FHM allocations was appropriate but recommended that the Committee undertake it rather than a commission. Resolve 2015, chapter 47 directed the Committee to review the alignment of allocations from the FHM and report its findings and recommendations, including suggested legislation, for presentation to the Second Regular Session of the 127<sup>th</sup> Legislature. Specifically, the resolve directed the Committee to gather information and data from public and private entities as necessary to:

1. Identify or review the State’s current public health care and preventative health priorities and goals;
2. Identify or review strategies for addressing priorities and goals and potential effectiveness of those strategies;
3. Assess the level of resources needed to properly pursue the strategies identified above;
4. Make recommendations for how FHM funds should be allocated to most effectively support the State’s current public health and preventative health priorities, goals and strategies; and
5. Make recommendations for processes to be used to ensure that FHM allocations stay aligned with the State’s health priorities and goals.

The Committee conducted four public meetings in the fall of 2015 to review the FHM allocations. Personnel from the Department of Health and Human Services (DHHS) did not attend any of these Committee meetings which made it difficult for the Committee to determine specific findings on which to base recommendations. In order to complete their duties, the Committee relied on three information sources. The Legislature’s Office of Fiscal and Program Review (OFPR) provided overall revenue and allocation information. Contractors and vendors who contract with the State using FHM allocations briefed the Committee on their activities. These presentations were limited to those contractors and vendors who were aware that the study was taking place and were available and willing to brief the Committee. DHHS provided written presentations including some that had been previously provided to the Legislature in a different forum. The following recommendations were made unanimously by those Committee members present at the final meeting.<sup>2</sup>

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<sup>1</sup> See Appendix A for Resolve 2011, chapter 47.

<sup>2</sup> Nine members of the Committee were present at the final meeting; one absent member of the committee added his support to the unanimous recommendations.

1. **No recommendation to change allocations to the FHM.** The Committee makes no recommendation to change the allocations that currently go to FHM programs. Committee members are not in a position to recommend any changes to programs due to a lack of available information on how FHM funding is currently spent.
2. **Annual report from the Department of Health and Human Services on the FHM.** Require the Department to submit an annual report on the FHM to the Joint Standing Committee on Health and Human Services and the Joint Standing Committee on Appropriations and Financial Affairs that is similar to the 2008 report of DHHS, "Challenges, results: an overview of Maine Department of Health and Human Services, Maine Center for Disease Control and Prevention, Tobacco Settlement Fund (Fund for a Healthy Maine) allocations SFY 08 and SFY09."

The report should include the following information:

- Detailed spending of FHM funding showing annual expenditures on each program;
- Progress that DHHS is making towards the health priorities contained in the Maine State Health Improvement Plan 2013-2017 (SHIP);
- Any information regarding audits conducted in the previous year by DHHS, the Department of Administrative and Financial Services (DAFS) or the Office of the State Auditor of programs funded using FHM funding either directly by executive departments or through contracts with vendors. This includes summary information, frequency of audits, the level of detail of audits, how often an agency or vendor is out of compliance and how often corrective action plans are developed and applied; and
- Data submitted to DAFS pursuant to Public Law 2011, chapter 701 that provides a description of how FHM funds in the prior state fiscal year were targeted to the prevention and health-related purposes listed in Title 22, section 1511, subsection 6.

As part of this recommendation, the Committee believes it would be useful to examine the list of reports due to the Committee from DHHS and repeal any requirements for existing reports that are not helpful to the Legislature (with a minimum of two reports to be eliminated). The Committee does not wish to increase the number of reports DHHS compiles absent a compelling reason.

3. **Support the task on the Office of Program Evaluation and Government Accountability work plan to study the Department of Health and Human Services auditing functions.** Send a letter to the Government Oversight Committee expressing support for the Office of Program Evaluation and Government Accountability's planned work to study the effectiveness of the audit functions in DHHS for identifying and addressing fraud, waste and abuse in programs administered by DHHS. The letter will also convey the Committee's conversations about auditing specifically related to FHM funding.

4. **Fully implement certain provisions from the 2011 Commission.** Send a letter to the Commissioner of Administrative and Financial Services requesting an update on the progress implementing certain provisions of Public Law 2011, chapters 617 and 701. Section 2 of Public Law 2011, chapter 617 requires DAFS to create a separate budget entry or new account for prevention, education and treatment activities concerning unhealthy weight and obesity. Section 2 of Public Law 2011, chapter 701 enacted Title 22, section 1511, subsection 13 requiring state agencies, contractors and vendors receiving funding from the FHM to describe how those funds were targeted to the prevention and health promotion purposes listed in Title 22, section 1511, subsection 6.
5. **Issue a statement of support regarding the principles of the FHM statute for the expenditure of the State's Master Settlement Agreement dollars.** The Committee recommends issuing a statement of support for the principles of the FHM statute. Specifically, the Committee supports the State's use of Master Settlement Agreement dollars from tobacco companies through the FHM for prevention and health promotion purposes. The Committee also reinforces support for the provision in the statute that requires FHM dollars to be used to supplement, not supplant, appropriations from the General Fund.
6. **Request regular updates for information from the Department of Health and Human Services on the Request for Proposals that are expected to be issued in the near future for Healthy Maine Partnership contracts.** Send a letter to DHHS requesting regular updates during session for information in order to keep the Committee apprised of the progress and content of the Requests for Proposals that will be issued in the near future for Healthy Maine Partnership contracts, replacing those that will end on June 30, 2016.



**STATE OF MAINE  
127th LEGISLATURE  
SECOND REGULAR SESSION**

**Tenth Annual Report  
of the  
Right to Know Advisory Committee**

**January 2016**

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## EXECUTIVE SUMMARY

This is the tenth annual report of the Right to Know Advisory Committee. The Right to Know Advisory Committee was created by Public Law 2005, chapter 631 as a permanent advisory council with oversight authority and responsibility for a broad range of activities associated with the purposes and principles underlying Maine's freedom of access laws. The 17 members are appointed by the Governor, the Chief Justice of the Supreme Judicial Court, the Attorney General, the President of the Senate and the Speaker of the House of Representatives. More information is available on the Advisory Committee's website located at [www.maine.gov/legis/opla/righttoknow.htm](http://www.maine.gov/legis/opla/righttoknow.htm). The Office of Policy and Legal Analysis provides staffing to the Advisory Committee while the Legislature is not in session.

By law, the Advisory Committee must meet at least four times per year. During 2015, the Advisory Committee met on September 15, October 6, November 13 and December 1.

As in previous annual reports, this report includes a brief summary of the legislative actions taken in response to the Advisory Committee's January 2015 recommendations and a summary of relevant Maine court decisions from 2014 and 2015 on the freedom of access laws.

For its tenth annual report, the Advisory Committee makes the following unanimous recommendations:

- ☐ **Enact legislation authorizing the use of technology to permit remote participation in public proceedings by non-elected members of public bodies; and**
- ☐ **Continue without modification 24 existing public records exceptions enacted after 2004 and before 2013.**

In 2016, the Right to Know Advisory Committee will continue to provide assistance to the Judiciary Committee relating to proposed legislation affecting public access and will continue its review of existing public records exceptions enacted from 2005 through 2012.



January 12, 2016

The Honorable Paul LePage  
Governor of the State of Maine  
State House Station #1  
Augusta, Maine 04330

Subject: Annual Report of MRRA for the year ending December 31, 2015

Dear Governor LePage:

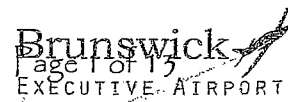
Pursuant to 5 MRSA §13083-S, I am writing to advise you of the activities of the Midcoast Regional Redevelopment Authority (MRRA) for the year ending December 31, 2015.

Since the closure of the base in May of 2011, the net positive economic impacts from the redevelopment include, but are not limited to the following:

- ❑ There are now over 82 entities doing business at Brunswick Landing and the Topsham Commerce Park, who employ 822 individuals (exceeding the short-term economic goal established by the Maine Legislature).
- ❑ MRRA has awarded over \$50 million dollars in contracts for property improvements, building construction/reconstruction and airport and utility infrastructure since 2008.
- ❑ Brunswick Landing and Topsham Commerce Park have realized over \$200 million in new private sector investment.
- ❑ Over \$74,523,100 in new property valuation has been added to the property tax rolls in the town of Brunswick and \$2,465,000 in Topsham generating new property tax revenues for FY 2016 in Brunswick of \$2,113,475 and \$44,271 in Topsham.
- ❑ Since the approvals of the Public Benefit and Economic Development Conveyances in 2011, the Navy has transferred approximately 1,761.41 acres of the 2,114.6 acres we are slated to receive. MRRA has received 778.72 (70%) of the 1,112 acres of the non-airport property and 982.69 (98%) of the 1,002.6 acres of airport land. Of the 777.55 acres of EDC property received to date, MRRA has sold 375.41, nearly half, leaving 1,386 under management.

#### A. Description of the Authority's Operations

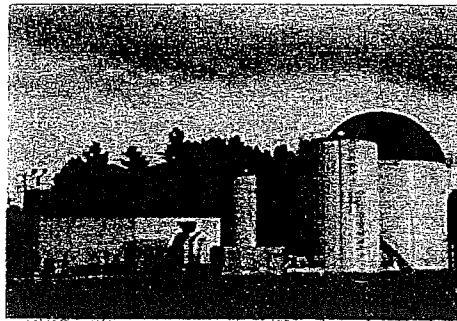
The year 2015 was another busy, challenging and successful year for MRRA. MRRA continues to work hard to enhance the redevelopment of Brunswick Landing and Topsham Commerce Park and to be a catalyst for the State's economic growth. Our business development efforts continue to



focus on quality job creation in several targeted industries: aviation/aeronautics, renewable energy, composites, information technology, biotechnology, and education. This past year, MRRA significantly increased its international marketing effort to promote Maine and the available opportunities at Brunswick Landing and the Topsham Commerce Park to promote our targeted industry sectors.

The Midcoast Regional Redevelopment Authority reached a number of important milestones in 2015, just fifty-four months following the disestablishment ceremony by the United States Navy. This past year's more important accomplishments include:

- ❑ On January 28, 2015, the Board of Trustees adopted the 2015 Business Plan. The purpose of this business plan is to articulate the business operational aspects of the base redevelopment process and MRRA business activities into one concise document. A new work plan for FY 2016 was developed as an outgrowth of the Business Plan and submitted to the Federal Office of Economic Adjustment (OEA) on April 27 with our FY 2016 budget and grant request.
- ❑ In March Sunray Animal Clinic opened on Admiral Fitch Avenue in a new building constructed by the Priority Group. They have fifteen employees.
- ❑ We were notified this spring by the Maine International Trade Center (MITC) that we were successful in our \$50,000 *Invest in Maine* grant application. This grant is designed to increase foreign direct investment in Maine to finance growing companies and to encourage new business ventures that will create jobs and support economic growth. Funds have been used to make direct contact with international business leaders.
- ❑ This summer Village Green Ventures began construction of a \$10 million 1.0 megawatt anaerobic digester power generation project at Brunswick Landing. It will be the second privately operated power plant of its kind in Maine. This power plant produce enough power needed to meet the energy needs of 1,000 homes. The expectation is that the new facility will produce enough energy to serve about half the needs of Brunswick Landing businesses during peak hours. We will begin receiving power generated from biogas created by anaerobic digestion of organic waste materials, to our grid in January 2016. This exciting project is consistent with the reuse plan's goals of renewable energy generation. It will allow MRRA to continue to provide stable electricity prices from 100 percent green energy sources that are lower than market price.
- ❑ This year Rousseau Enterprises transformed the former Navy Hotel (Building 750) into a senior apartment and assisted living facility for the elderly known as *Coastal Landing*. The 115,000 square foot building underwent extensive renovations, including a new portico, a family room, multi-media game room and cafeteria, and a new elevator. *Coastal Landing* opened its doors in September.



- ❑ In May, MRRA sold the former fire station in Topsham to Firehouse Realty conducting business as Firehouse Tumbling, which redeveloped the building into a cheerleading and gymnastics studio. They opened their doors this summer.
- ❑ In March, the State of Maine Joint Committee on Labor, Commerce, Research and Economic Development visited Brunswick Landing and toured *TechPlace*, Molnlycke Healthcare and Southern Maine Community College.
- ❑ In June, the Midcoast Economic Development District prioritized the expansion of *TechPlace* and building upgrades and tenant fit-ups as its two highest regional economic development projects in northern Cumberland, Sagadahoc, Lincoln and Hancock counties, making them available for EDA funding.
- ❑ On April 2, 2014, MRRA signed a lease with Brunswick Landing Realty Development Corporation (BLRDC) for building 250 to house *TechPlace*. Construction at *TechPlace* was completed in January. Tenants began moving into *TechPlace* in February. On May 28, 2015, MRRA held a *Grand Opening* for *TechPlace* which was attended by the Governor, Senator Stan Gersofsky and letters presented from the entire Maine Congressional Delegation



At the end of December 2015, *TechPlace* has signed User Agreements with the following businesses and organizations:

- |  |                                |
|--|--------------------------------|
| ❑ Aerotech Surgical                          | ❑ Kenway/Harbor Technologies   |
| ❑ Atayne                                     | ❑ Krolak Enterprises           |
| ❑ Bourgeois Guitars                          | ❑ Maine Composites Alliance    |
| ❑ Composites Engineering Research Laboratory | ❑ Maine MEP                    |
| ❑ Composites Technology Ctr.                 | ❑ Maritime Surveillance Assoc. |
| ❑ Drummond Woodsum                           | ❑ MVP Aero Inc.                |
| ❑ GHG Underground                            | ❑ STARC Systems                |
| ❑ Greisen Aerospace                          | ❑ University of Maine          |
| ❑ Griffin LLC                                | ❑ Village Green BL             |
| ❑ Harbor Digital                             | ❑ Wireless Sensors             |
| ❑ InSphero                                   |                                |
- ❑ MRRA entered a lease with Smarter Risk at a former sensitive compartmented information facility (building 554) for a cyber security consulting firm and data center in September. The University of Southern Maine also announced its intent to partner with Smarter Risk in concert with its new Bachelor's degree program in cyber security at this location.

- ❑ MRRA entered into a lease with Brilliant and Sons, Inc., an automotive repair service at the former NEX Service Station. They have three employees.
- ❑ In June, MRRA was notified of two successful grant applications; a \$299,040 grant from the Maine Technology Institute to purchase bio-tech laboratory and maker space equipment for *TechPlace* and a \$149,900 grant from Efficiency Maine to support investments in energy saving fixtures in hangars 4, 5 and 6.
- ❑ This fall, MRRA completed the upgrade and improvements to the Fire Suppression Water Reserve and Pump House building and began the construction on the Airport Snow Removal Equipment Maintenance building. Construction on that building is expected to be completed in February.
- ❑ Work has been completed on the Bowdoin College solar project adjacent to Brunswick Executive Airport. The college is using land it acquired from the Navy via a Public Benefit Conveyance to build a massive solar array with 4,500 solar panels and capability to generate 1.2 megawatts of power at full capacity. Bowdoin's solar array is largest solar project in the State of Maine.
- ❑ On September 25, MRRA sold the gymnasium and car wash buildings and 4.7 acres to TBW, LLC. TBW in turn leased the gymnasium to the Bath YMCA. The new YMCA will open its doors in January.
- ❑ In October, MRRA received its audited Financial Statements for the period ending June 30, 2015. The audit was conducted by Runyon Kersteen and Ouellette. MRRA, once again received an unmodified (clean audit) opinion letter for an eighth consecutive year.
- ❑ In October MRRA sold 13.64 acres to the Priority Group who is the general contractor for the \$10 million Avita Memory Care Facility. Avita is a partnership between the Portland based Sandy River Company and the Northbridge Companies of Burlington, Massachusetts. The 74 bed memory care facility which will open in the fall of 2016 will offer services tailored to residents with memory loss, Alzheimer's disease and other forms of dementia. Common features include 24-hour supervision, medication management and secure areas to prevent residents from wandering away.
- ❑ Southern Maine Community College (SMCC) and University College collectively now have more than 900 students enrolled in classes at the Brunswick Landing campus. Many of our companies are already taking advantage of the workforce training programs SMCC offers to train their workers in specialized fields. In December SMCC dedicated the new L.L. Bean Learning Commons and Health Science Center, a renovation of the former Navy Health Services building.



- ❑ At its annual dinner in November, MRRRA recognized two Brunswick Landing companies for innovative business practices. The dinner was attended by more than 140, including Brunswick Landing businesses and MRRRA strategic partners and friends. The Rollease Innovation Center, a division of Rollease Acmeda, was named the most innovative business in the larger company category (10 employees, or more), while STARC Systems, located at TechPlace, and was honored as most innovative micro business.



- ❑ Recently completed projects include:
- ❖ Rehabilitation of Hangars 4 and 5 to make the facilities more energy efficient and comply with current building codes. Improvements included additional insulation of hangar doors, new roof on Hangar 4 and installation of energy efficient LED lighting in both hangars.
  - ❖ Concrete and joint repairs were completed on the primary runway and taxiways.
  - ❖ Storm water drainage improvements and repairs to several areas of failed drainage systems and replacement of a failing culvert on the perimeter road.
  - ❖ The fire protection systems for Hangars 4, 5 and 6 were upgraded and brought into compliance with current code requirements.
- ❑ Current projects include:
- ❖ A new snow removal equipment (SRE) maintenance building is under construction at BXM.
  - ❖ Energy efficient radiant heat will be installed in Hangars 4 and 5.
  - ❖ The glycol capture system will be re-commissioned to capture and recycle all aircraft deicing fluids.
  - ❖ Hangar 6 doors will be refurbished to improve safety and reliability.
  - ❖ Runway 1R/19L centerline lights are being removed to decrease airport operating and maintenance costs.
- ❑ New private and public construction activity in 2015 totaling nearly \$50 million at Brunswick Landing and the Topsham Commerce Park include:
- ❖ the construction of the new Sun Ray veterinarian clinic on Admiral Fitch Avenue by the Priority Group;
  - ❖ a major renovation to the former Navy Hotel to complete Coastal Landing, a senior housing complex, by Rousseau Enterprises;
  - ❖ the construction of the anaerobic digester facility by Village Green Ventures;
  - ❖ the commencement of construction of a 50,000 square foot memory care facility by Avita Brunswick;

- ❖ the sale and renovation of the former Topsham Fire Station by Firehouse Tumbling;
  - ❖ the renovation of the former Night Flight building by George Schott;
  - ❖ the renovation of the former Navy fitness center by Thomas Wright and lease to the Bath area YMCA;
  - ❖ the construction of a new snow removal equipment (SRE) maintenance building by MRRA;
  - ❖ TechPlace renovations by MRRA;
  - ❖ energy improvements and renovations to Hangars 4 and 5;
  - ❖ renovations to the airport fire pump house facility by MRRA; and
  - ❖ Airfield drainage improvements.
- ❑ In August, MRRA signed a new Grant Agreement with the Office of Economic Adjustment within the Department of Defense for FY 2016 to fund about half of the wages and benefits for ten of MRRA's twelve staff positions. The total budget is \$1,295,500 with an OEA grant of \$640,800.
  - ❑ This year, MRRA worked with a private company, Air Show Network, to host the 3<sup>rd</sup> Great State of Maine Air Show featuring the Blue Angels on September 5 and 6 since the closure of NAS Brunswick. This event brought over 100,000 people to Brunswick that weekend with an estimated economic impact of over \$5 million.
  - ❑ In March of 2013, the Town of Brunswick designed two Tax Increment Financing Districts; the Brunswick Executive Airport TIF District and the Brunswick Landing TIF District. One district serves the properties within the confines of the airport and a second district in the non-aviation area of the campus. In September of this year, MRRA and the Town of Brunswick negotiated a slightly modified TIF Agreement that would split revenues on a 50/50 basis up to \$15 million but recognize the aviation uses through a credit enhancement agreement.
  - ❑ BXM is also one of twelve Maine airports participating in the *Maine Flying Trail*, which was initiated by MRRA two years ago. The program offers pilots two free lobsters to those visiting five Maine airports.
  - ❑ Our fixed based operator, FlightLevel Aviation, initiated an extensive mail and social media marketing campaign to increase interest in BXM with some success. Last year there were more than 13,500 landings and take offs at BXM and FlightLevel Aviation sold 238,576 gallons of fuel. Those figures should be easily toppled this coming year as more pilots discover the convenience of BXM.
  - ❑ The Brunswick Executive Airport has 27 based aircraft, up from 19 in 2012.
  - ❑ On June 24, Executive Director, Steven Levesque was presented with the prestigious *Community Leadership Award* by the Association of Defense Communities at its annual conference in Washington, D.C. for his outstanding leadership and success on the



redevelopment of NAS Brunswick. This was the second time that Steve has received this award.

- ❑ On October 6<sup>th</sup>, the Brunswick Planning Board approved a subdivision plan that included properties added in recent conveyances adjacent to the former police station and Frosty's. This will permit the acquisition of the buildings currently leased by Frosty's and a second leased by New England Tent and Awning.
- ❑ In October, MRRA provided a payment of \$1,966,462 to the United States Treasurer which represents 25.0% of the lease and sale revenue generated by MRRA over the last fiscal year. To date, MRRA has paid the United States Government over \$6.5 million under the EDC Conveyance Agreement MRRA signed with the Navy.
- ❑ As of December 31, Affordable Mid Coast Housing has closed on 177 of the 231 housing units in the McKeen Street neighborhood. By our agreement with AMH, after the first \$5,000,000 in property sales have been realized MRRA receives 5% of the purchase price of each unit sold. Property sales now total over \$23 million and MRRA has received \$902,283.50 to date for its agreed share.
- ❑ On December 17, the Federal Aviation Administration released 12.07 acres of airport property at Brunswick Executive Airport that encompassed the former fuel farm site and is now leased to L. L. Bean of Freeport, Maine as a secured location for material and supplies supporting its Brunswick manufacturing operation.
- ❑ In December MRRA closed on the transfer of the former Chapel to a local not for profit organization called the Brunswick Naval Museum and Memorial Gardens, which has operated a Naval Museum on site for just over a year.
- ❑ MRRA also sold lots 11 and 12 (total of 4.5 acres) on Admiral Fitch Avenue to the Priority Real Estate Group for commercial development.
- ❑ On December 29, we were notified that *TechPlace* had been chosen as the Best New Business by the Southern Midcoast Chamber of Commerce and will be presented the award at the Annual Dinner on January 15.
- ❑ As of December 31, 2015 there are 822 individuals employed by the 82 business entities located at Brunswick Landing or the Topsham Commerce Park. In 2009 our EDC business plan projected that by this time in 2015, Brunswick Landing would employ 375 individuals. Our current employment figures exceed the projections by 443 additional jobs. It should also be noted that there are 160 Maine Army National Guard members and 124 Marine Corps Reservists assigned to their units at Brunswick Landing. In addition, the new L.L. Bean project at Brunswick Landing will result in the creation of up to 75 new jobs at the off-site Brunswick manufacturing facility.

**B. An accounting of the Authority's receipts and expenditures, assets and liabilities at the end of its fiscal year**

Please find attached an Unaudited Financial Report for the period ending December 31, 2015, including a balance sheet and budget report. Also please find attached a copy of the audited Financial Statements for the period ending June 30, 2015. The audit was conducted by Runyon Kersteen and Ouellette. These documents were presented to office of the State Controller for inclusion in the State financial statements for the period ending June 30, 2015. MRRA, once again received an unmodified (clean audit) opinion letter for an eighth consecutive year.

It should be noted that MRRA does not receive a state appropriation as part of the General Fund Budget. MRRA's funds come from a combination of funds from the Office of Economic Adjustment within the United States Department of Defense, and revenues from leases and property sales. Capital improvements projects are funded from a combination of aviation capital improvement funds from Maine DOT, the Federal Aviation Administration, the federal Economic Development Administration within the Department of Commerce and our own funds.

**C. A listing of all property transactions pursuant to Section 13083-K**

On February 7, 2011 the Navy and MRRA signed the airport Public Benefit Conveyance (PBC) Agreement for 992.2 acres, including three large hangars, a number of aviation-related support buildings and revenue-producing facilities for the airport. The conveyance of title will come over time as properties that are determined to be "clean" through a Finding of Suitability to Transfer (FOST) and are then deed from the Navy. Accordingly, not all the properties can conveyed at the same time, but in phases as clean-up continues and FOSTs are issued. As of December 31, 2015, MRRA has received a total of 982.59 acres of airfield property and 32 buildings, 21 of which will be used by MRRA. Eleven of the buildings were demolished. As a condition of transfer from the Federal Aviation Administration and the Navy, land and buildings within the Airport property cannot be sold. The Navy did not transfer any PBC property in 2015.

On September 14, 2011 the Navy signed a *Non-Binding Summary of the Acquisition Terms and Conditions for the Naval Air Station Brunswick, Maine by and between the United States of America and the Midcoast Regional Redevelopment Authority* (i.e. term sheet) for a total of 1,098 acres which would be transferred through an Economic Development Conveyance (EDC). The Navy did not transfer any EDC property in 2015.

As part of the EDC Agreement, MRRA agreed to share annually with the Navy twenty-five percent of gross revenues from the sale or lease of EDC property after the receipt of the first \$7.0 million. The revenue share remains in place until gross revenues reach \$37.4 million. There is no revenue sharing in excess of \$37.4 million and less than \$42.4 million. The Authority is required to pay the United States Government 50.0% of gross real estate proceeds in excess of \$42.4 million until September 29, 2034. Property sales and lease revenues during the last fiscal year required a payment of \$1,966,462. To date, MRRA has paid the United States Government over \$6.5 million.

As of December 31, 2015, MRRA has received a total of 63 reusable buildings and 777.55 acres (70.8%) of the 1,112 acres of the non-airport property through the EDC transfer. A number of buildings, largely former security buildings, sheds and functionally obsolete buildings have been demolished through a grant from the Economic Development Administration. To date MRRA has sold a total of

38 buildings (490,300 square feet) and 375.41 acres of land to seven private sector developers for the redevelopment activity described above.

	<i>Leasable Property</i>	<i>Utility Buildings</i>	<i>Sold</i>	<i>Total</i>
Public Benefit Conveyance	15	6	0	21
Economic Development Conveyance	21	4	38	63
	36	10	38	84

The covenants of the Economic Development and Public Benefit Conveyances from the United States Government require all sales and leases of property must be at market rate.

In summary, MRRA currently manages a total of 36 buildings with 756,818 square feet of commercial, industrial and professional office space for lease along with another 10 utility buildings and all of the associated utilities serving those buildings, including – streets and sidewalks, street lights, traffic signals, electricity, water, sewer and stormwater utilities.

In 2015, MRRA sold the following land:

<i>Description</i>	<i>Acreage</i>	<i>Sale Date</i>
Lot 24 to the Priority Real Estate Group, LLC	2.00	March 20, 2015
Lot 32 to the Priority Real Estate Group, LLC	12.26	October 16, 2015
Lot 30 to the Priority Real Estate Group, LLC	1.38	October 16, 2015
Lot 11 to the Priority Real Estate Group, LLC	2.58	December 29, 2015
Lot 12 to the Priority Real Estate Group, LLC	1.96	December 29, 2015
<b>Total</b>	<b>20.18</b>	

and the following buildings:

<i>Description</i>	<i>Purchaser</i>	<i>Square Footage</i>	<i>Acreage</i>	<i>Sale Date</i>
Executive Officer's Home - 9 Captains Way	Affordable Midcoast Housing	2,585	2.54	February 17, 2015
Captain's Home - 10 Captains Way	Affordable Midcoast Housing	3,387	2.54	February 17, 2015
Topsham Annex Fire Station	Fire House Realty for a gymnastics school	2,651	0.75	June 3, 2015
Station Quarters - 93 Admiral Fitch Avenue	Priority Real Estate Group	2,721	1.24	August 26, 2015
Station Quarters - 97 Admiral Fitch Avenue	Priority Real Estate Group	2,721	1.24	August 26, 2015
Gymnasium	TBW, LLC (and now leased to the Bath Area YMCA)	22,885	2.47	September 25, 2015
Car wash - now post office	TBW, LLC	1,335	2.23	September 25, 2015
Chapel	Brunswick Navy Museum and Memorial Gardens	13,610	2.30	December 29, 2015
		51,895	15.29	

Sales totaled \$2,074,500.

***D. An accounting of all activities of any special utility district formed under Section 13083-L***

In September of 2011, the Navy transferred all utilities on the base, including the potable water distribution system, the sewer collection and pump station assets, stormwater collection system and the electrical distribution system. We have inherited the Navy's utility systems, but without the financial wherewithal of the federal government. We are faced with the major challenges associated with providing and maintaining services to the businesses, organizations and residential properties located on our properties and securing sufficient funding needed to maintain and repair the utility system at Brunswick Landing. On October 1, 2011, MRRA began providing electrical distribution services, water and sewer/stormwater services to our tenants and property owners at Brunswick Landing.

This year also marked MRRA's fifth year of operating a regional general aviation airport, which is becoming a great asset for the Midcoast region, with over 15,000 takeoffs and landings, just this year. With the inclusion of the Brunswick Executive Airport in the FAA's Military Airport Program (MAP), the federal government, in partnership with the State of Maine and MRRA, made substantial investments this year at the airport including:

FAA Military Airport Program - Grant 013 Rehabilitate Building 295 - Fire Protection Building	\$433,224
FAA Military Airport Program - Grant 014 Improve Airport drainage	\$748,818
FAA Military Airport Program - Grant 015 Crack sealing 01R/19L	\$150,000
FAA Military Airport Program - Grant 016 Rehabilitate Hangars 4 and 5	\$1,662,930
FAA Military Airport Program - Grant 017 Construct Snow Removal Equipment Building	\$1,521,270
FAA Military Airport Program - Grant 018 Air Field Pavement and Repair	\$150,000
FAA Military Airport Program - Grant 019 Hangar 6 Door Improvements	\$1,049,364
FAA Military Airport Program - Grant 020 Center Line Light Removal 1R-19L	\$1,600,000
FAA Military Airport Program - Grant 021 Glycol Recovery Tank Repair and Heating Hangars 4 and 5	\$1,700,000
	<hr/> \$9,015,606

These funds were matched by a contribution from the MaineDOT of \$500,867 and a local match from MRRA of \$500,867.

**E. A listing of any property acquired by eminent domain under Section 13083-N**

No property was acquired by MRRA through its powers of eminent domain.

**F. A listing of any bonds issued during the fiscal year under section 13083-I**

MRRA did not issue any bonds during 2015.

The voters of Maine, however, approved a state transportation improvement bond back in 2009 that included \$500,000 for investment in aviation facilities at the airport facility in Brunswick. These funds were used as the local match for FAA Military Airport Program investments at Brunswick Executive Airport. Each dollar of state investment leverages \$18 from the FAA and another \$1 from MRRA.

The State Legislature and the voters of Maine also approved a bond referendum for \$3.25 million to address Americans with Disabilities Act deficiencies for buildings, utility meter upgrades, building removals and other public improvements to support base redevelopment and job creation. As of June 30, 2013, all funds had been drawn down by MRRA from the State of Maine.

While not a bond, MRRA, through one its affiliates, the Brunswick Landing MHC USA LLC, borrowed \$10.3 million from Bangor Savings Bank and a new market tax credit investment of \$4.0 from Wells Fargo Bank two years ago (December 29, 2011) to finance the construction of an 79,600 square foot “build to suit” manufacturing facility for Mölnlycke Healthcare at Brunswick Landing. The building was completed in March of 2013 and now employs 48.

**G. A statement of the Authority's proposed and projected activities for the ensuing year**

Please find attached a copy of MRRA's Business Plan.

**H. Recommendations regarding further actions that may be suitable for achieving the purposes of this article**

Finally, the actual realization of new jobs and the timing of such at NASB will be dependent on several factors, including, but not limited to: receipt of successful and timely conveyances from the Navy for the remaining buildings and land, the condition and stability of the national and local economic markets; and the availability of sufficient financial resources for property management, security and operations, infrastructure, property improvements and marketing.

Successful redevelopment of closed bases is a very long-term proposition, which requires substantial public and private resources and patience. A key element in successful base redevelopment efforts is the level of support provided by the local, state and federal governments.

With the leadership and broad support of the Maine Legislature, the voters of Maine approved an \$8.0 million bond issue back in 2009 to support the redevelopment effort. This bond included \$3.25 million to support investment in infrastructure replacement/upgrades and building upgrades to meet civilian reuse and \$4.75 million for Southern Maine Community College to rehab buildings. The bond has been an important key this past year to our ability to bring new businesses to Brunswick Landing.

In addition to the bond issue for capital projects, the State of Maine adopted two additional pieces of legislation that will be key to ensuring the rapid and successful redevelopment of NAS Brunswick. The first is the Brunswick Naval Air Station Job Increment Financing Fund that was established in 2009 to direct a portion of new state income taxes from jobs created at the former NAS Brunswick and Topsham Annex back to MRRA and Southern Maine Community College. This economic development tool is a performance based tool; meaning that the greater the number of job created and the higher the incomes of those jobs, the greater the revenue to support base redevelopment and expansion of the programming at the Brunswick campus of SMCC. This year, MRRA received just over \$53,000 from the J-TIF program.

The second new tool, which already has had a significant statewide impact, is the Legislature's decision to exempt all aircraft and repair parts for aircraft for the period of July 1, 2011 through June 30, 2015. The State's previous policy created a "black mark" on the State of Maine by the aviation community as place to avoid as an aviation destination or to conduct business. This decision has had a statewide impact on growth in the aviation sector. This change in the law has also provided the impetus for the Brunswick Executive Airport to lead an initiative, with supportive funding from the Maine Office of Tourism, to develop the Maine Flying Trail to help promote Maine to the flying public as an aviation destination. Without this change in legislation, Tempus Jets would not have relocated its operation from Virginia to Maine.

Finally, MRRA would encourage the Governor and Legislature to evaluate the state's business assistance program in an effort to keep pace with the economy and the changing needs of businesses, including, but not limited to, workforce development and capital assistance.

***I. A description of the MRRA's progress toward achieving the goals set forth in Section 13083-G:***

1. **Short-term goal.** Recover civilian job losses in the primary impact community resulting from the base closure; **Accomplished in 2015**
2. **Intermediate goal.** Recover economic losses and total job losses in the primary impact community resulting from the base closure; and
3. **Long-term goal.** Facilitate the maximum redevelopment of base properties.

Naval Air Station Brunswick employed 714 civilians at its Brunswick and Topsham sites at the time of the base closure announcement. After just 54 months from the official date of closing the base in May of 2011, there are over 822 individuals working at Brunswick Landing; up from 527 last year, with an expectation and commitment to grow that number to upwards of 1,500 by the end of 2016.

Thank you for your interest and support of this important economic development project for the State of Maine.

Sincerely,

  
Steven H. Levesque  
Executive Director

cc. John Butera, Governor's Office  
George Gervais, Commissioner, MaineDECD  
Grant Pennoyer, Executive Director, Legislative Council  
Joint Standing Committee on Labor, Commerce, Research and Economic Development  
Brunswick Legislative Delegation  
Brunswick Town Council  
Topsham Board of Selectman  
John Eldridge, Brunswick Town Manager  
Rich Roedner, Topsham Town Manager  
MRRRA Board of Trustees  
Jeffrey K. Jordan, Deputy Executive Director