

MAINE STATE LEGISLATURE

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REP. ROBERT W. NUTTING
VICE-CHAIR

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DAVID E. BOULTER



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125TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

MEETING OF LEGISLATIVE COUNCIL
FEBRUARY 23, 2012
1:30 PM
REVISED AGENDA

<u>Page</u>	<u>Item</u>	<u>Action</u>
	CALL TO ORDER	
	ROLL CALL	
1	SUMMARY OF THE FEBRUARY 7, 2012 SPECIAL MEETING OF THE LEGISLATIVE COUNCIL	Acceptance
	REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS	
5	▪ Executive Director's Report (Mr. Boulter)	Information
8	▪ Fiscal Report (Mr. Pennoyer)	Information
13	▪ Status of Legislative Studies (Ms. Hylan Barr)	Information
	REPORTS FROM COUNCIL COMMITTEES	
	• Personnel Committee	Information
	• State House Facilities Committee (No Report)	
	OLD BUSINESS	
14	Item #1: Council Actions Taken By Ballot (No Action Required)	Information
	Item #2: Production of New Legislator Orientation Video Proposals (Mr. Boulter)	Status Report

NEW BUSINESS

- | | | | |
|-----------|----------|--|-----------------------|
| 15 | Item #1: | Consideration of After Deadline Bill Requests | Roll Call Vote |
| 19 | Item #2: | Submission of the Final Report of the Blue Ribbon Commission on Affordable Housing (February 2012) | Acceptance |
| 27 | Item #3: | Submission of the 2011 Annual Report on Activities and Performance from the Office of Program Evaluation and Government Accountability | Acceptance |
| 55 | Item #4: | Request to Authorize Study and Remove from Study Table (Request by Rep. Fredette, Chair, Task Force on Franco-Americans)
- New Item | Decision |

ANNOUNCEMENTS AND REMARKS

ADJOURNMENT

SEN. KEVIN L. RAYE
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125TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

MEETING SUMMARY
February 7, 2012

CALL TO ORDER

Legislative Council Chair, Senate President Raye called the February 7, 2012 Legislative Council meeting to order at 11:48 a.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Raye, Senator Courtney, and Senator Alfond
Senator Hobbins arrived shortly after the start of the meeting.
Absent: Senator Plowman

Representatives: Speaker Nutting, Representative Curtis, Representative Cushing,
Representative Cain and Representative Hayes

Legislative Officers: Joseph Carleton, Secretary of the Senate
Heather Priest, Clerk of the House
David Boulter, Executive Director
Rose Breton, Legislative Finance Director
Debra Olken, Human Resources Director
Marion Hylan Barr, Director, Office of Policy and Legal Analysis
Grant Pennoyer, Director, Office of Fiscal and Program Review
Suzanne Gresser, Revisor of Statutes
John Barden, Director, Law and Legislative Reference Library
Scott Clark, Director, Legislative Information Technology

Senate President Raye convened the meeting at 11:48 a.m. with a quorum of members present.

SUMMARY OF NOVEMBER 17, 2011 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of January 26, 2012 be accepted and placed on file. Motion by Senator Courtney. Second by Representative Hayes. **Motion passed (9-0-0-1, with Senator Plowman absent).**

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

David Boulter, Executive Director, submitted the following written report. No oral report was given.

Status of Posting of Written Public Hearing Testimony

The pilot project to post written testimony received by joint standing committees at public hearings on legislation begins this week. Written testimony received during public hearings by four committees will be scanned and posted to the Legislature's website shortly following each public hearing. The four committees in the pilot project are the joint standing committees on: Insurance and Financial Services, Marine Resources, Transportation, and Veterans and Legal Affairs.

Testimony may be found when viewing the status of a bill in committee or more generally by clicking "Committees", then "Public Hearing Testimony, by Committee" on the Legislature's homepage.

Fiscal Report

Grant Pennoyer, Director, Office of Fiscal and Program Review, submitted the following written report. No oral report was given.

Revenue Update

Preliminary data indicate that January revenue was under budget by roughly \$38 million and around \$30 million for the fiscal year through January. The table below summarizes some of the major variances based on preliminary January revenue data.

January 2012 - Major General Fund Revenue Variances

\$'s in Millions

	January	FYTD
Major Negative Variances:		
Sales and Use Tax	(\$4.0)	(\$3.3)
Services Provider Tax	(\$2.2)	(\$2.1)
Individual Income Tax	(\$23.1)	(\$22.9)
Corporate Income Tax	(\$7.1)	(\$1.5)
Cigarette and Tobacco Tax	\$1.5	(\$0.4)
Fines, Forfeits and Penalties	(\$0.3)	(\$1.2)
Tax Relief Fund Transfers	(\$3.1)	(\$3.7)
Hunting and Fishing License Fees	(\$0.9)	(\$0.9)
Major Positive Variances:		
Insurance Companies Tax	\$0.1	\$2.4
Estate Tax	\$0.4	\$0.8
Finance Industry Fees	\$0.3	\$0.4

All of the major taxes performed poorly relative to budget in January. The 4 tax categories affecting revenue sharing transfers were under budget by a combined \$36.5 million in January and \$29.7 for the fiscal year through January. Individual Income Tax had the

largest variance. However, roughly \$15 million of the negative variance is due to a large number of refunds having been processed on January 31st. The extra refunding processing day was not factored into the monthly distribution of budgeted revenue. Estimated payments in January for both individual and corporate income taxes were also substantially below budget. And finally, the initial positive performance for holiday sales tax collections in late November appears to have diminished in December.

Highway Fund Revenue Update

Highway Fund revenue was slightly over budget in January and for the fiscal year through January despite continuing negative variances in gasoline tax collections.

Revenue Forecasting Schedule

The Revenue Forecasting Committee (RFC) will meet on Wednesday, February 22nd to finalize the mid-session revenue forecast update. The RFC will need to assess and react to January's General Fund revenue performance, but not to any changes in the underlying economic forecast.

Status of Legislative Studies

Marion Hylan Barr, Director of the Office of Policy and Legal Analysis, submitted a written report on the status of legislative studies. No oral report was given.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

President Raye, Chair of the Personnel Committee, offered the following report.

The Personnel Committee met on February 7, 2012 and considered a request by a member of the Legislature's nonpartisan staff for temporary disability income benefits. The request was consistent with the provisions for temporary disability income benefits under the Legislative Council's personnel policies and guidelines. Upon the recommendation of the Executive Director, the committee voted unanimously to approve the request. No Legislative Council action is required.

2. State House Facilities Committee

No report

3. Budget Subcommittee

Speaker Nutting, Chair of the Budget Subcommittee, submitted the following report.

The Budget Subcommittee met on Friday, February 3, 2012 to consider various budget savings in legislative accounts that could be made available to help cover the current projected shortfall in the Department of Health and Human Services' budget that is being addressed through legislation pending in the Joint Standing Committee on Appropriations and Financial Affairs.

With information provided by the Office of the Executive Director, the budget subcommittee members identified potential savings in various budget lines resulting from increased efficiencies in legislative operations and other measures. Budget savings were identified in areas such as out-of-state travel, legislator in-state travel, printing and mailing costs, photocopying, advertising, legal services, salary savings in nonpartisan offices and unspent funds budgeted for legislative studies.

The Budget Subcommittee voted unanimously to recommend to the Legislative Council that the following budget savings in the noted legislative accounts totaling \$1,404,000 be transferred to the General Fund prior to June 30, 2012:

- A. Legislative Account – Study Commissions, General Fund
\$2,225 in Personal Services line category
\$5,775 in All Other line category
- B. Legislative Account – General Fund
\$304,575 in Personal Services line category
\$1,079,000 in All Other line category
- C. Legislative Account – Law and Legislative Reference Library General Fund
\$12,425 in Personal Services line category

Total: \$1,404,000

Motion: That upon the unanimous recommendation of the Budget Subcommittee, the Legislative Council approve General Fund budget savings totaling \$1,404,000 to be achieved in legislative accounts by lapsing funds to the General Fund in FY12 in accordance with the subcommittee's recommendations;

FURTHER, that the funds be transferred to the General Fund not later than June 30, 2012; and

FURTHER, that the Executive Director be directed to prepare and transmit all necessary implementing language reflecting this decision of the Legislative Council to the Joint Standing Committee on Appropriations and Financial Affairs on behalf of the Legislative Council for inclusion in the committee bill relating to streamlining and prioritizing core government services, LR 2701. Motion by Speaker Nutting. Second by Representative Cain. **Motion passed (9-0-0-1, with Senator Plowman absent).**

Legislative Council Chair Raye asked if there was any objection to tabling all other agenda items until the Legislative Council's regular monthly meeting on February 23, 2012. There was no objection. The Chair then moved to **Announcements and Remarks.**

ANNOUNCEMENTS AND REMARKS

None

The Legislative Council meeting was adjourned at 11:55 a.m. on a motion by Speaker Nutting, seconded by Representative Cushing. **Motion passed (9-0-0-1, with Senator Plowman absent).**

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125TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

Legislative Council

**Executive Director's Report D.B.
February 23, 2012**

1. Status of Posting of Public Hearing Testimony Pilot Project

The pilot project to post written testimony received by joint standing committees at public hearings on legislation is underway, having begun during the week of February 6, 2012. Written testimony received during public hearings by the joint standing committees on Insurance and Financial Services, Marine Resources, Transportation, and Veterans and Legal Affairs is posted daily. Since the project began, testimony from 100 persons testifying on 18 different bills has been received and posted on-line. To date, the process has worked smoothly, a joint effort between committee clerks and Law and Legislative Reference Library staff. A software application developed by Legislative Information Technology staff facilitates sorting and categorizing the information and posting it to the appropriate location on the Legislature's website. Testimony is sorted by committee, LD #, date of testimony, and name and affiliation of person who presented the testimony.

Viewers may locate the testimony using several search options. [See samples attached]. The pilot project will continue for the remainder of the session.

2. Front Page news link by Library

The Law and Legislative Reference Library has announced its new legislative service: *Front Page*, a webpage of news links and an RSS feed subscription service. This service provides legislators and others with the electronic version of a daily collection of news articles related to bills and other matters relevant to the Legislature. *Front Page* may be accessed from the legislature's webpage using a computer or alternatively using a mobile device by scanning the QR code (links directly to webpage).

Option 1 - From the Homepage bill search, then Status in Committee

Select Paper or LD with radio button.

LEGISLATURE PAPER ☐ LD # ☒

125th HP 1269 1716

125th 1716

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Hearings and Work Sessions

Legislative Activities Calendar
By Committee
By Sponsor

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Senate

Chamber Status, HP 1269 -- Legislative Information -- Maine Legislature

125th Maine Legislature, Second Regular Session

An Act To Require Funds for Prearranged Funerals To Be Invested Subject to the Requirements of the Maine Uniform Prudent Investor Act and To Update Related Provisions

Status In Committee

Referred to Committee on Insurance and Financial Services on Dec 23, 2011.

Latest Committee Action: VOTED, Feb 7, 2012, Ought Not to Pass

Committee Report: Feb 8, 2012, Ought Not to Pass

Public Hearings

Tuesday, January 31, 2012 1:00 PM, Room 220 Cross Building

Disclaimer: The following documents are digital reproductions of written testimony presented to joint standing committees during public hearings. The Legislature is not responsible for the content, accuracy, or appropriateness of any testimony posted herein and takes no position supporting or opposing views expressed in the testimony. The documents are posted solely for convenient viewing by interested persons; they are not official copies and may not represent a complete record of a hearing. Contact the committee clerk for additional information.

+ Public Hearing Testimony, 17 Items

Work Sessions

Tuesday, February 7, 2012 1:00 PM, Room 220 Cross Building

View upcoming public hearings and work sessions for Insurance and Financial Services.

Need a paper copy? Contact the Document Room at 287-1408 or send an e-mail with the LD or Paper number, item number and a mailing address to webmaster_house@legislature.maine.gov.

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125th HP 1269 1716

125th 1716

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Chamber Status, HP 1269 -- Legislative Information -- Maine Legislature

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- Public Hearing Testimony, 17 Items

- Barnes, Robert, *Jones, Rich and Hutchins Funeral Home*
- Beck, Henry, *Maine State Legislature*
- Cook, Tim, *Corporate Trust for Bank of Oklahoma*
- Fernald, James, *Maine Funeral Directors Association*
- Gerrity, Bruce, *BCI Services Inc.*
- Hall, Michael, *Simmons, Harrington and Hall Funeral Home*
- Keneborus, Kathy, *Maine Bankers Association*
- Lynch, James, *Pinette and Lynch Funeral Home*
- Maker, Joyce, *Maine State Legislature*
- Neal, Peter, *Crosby and Neal Funeral Homes*
- Regan, Michael, *Birmingham Funeral Home*
- Richard, Mathew, *Fortin Group*
- Robert, Dave, *Fortin Group*
- Salter, Riley, *Bank of Oklahoma*
- Shaw, Judy, *Office of Securities Maine Dept.*
- Smart, TJ, *Veilleux Funeral Home*
- Walker, Dan, *Service Corp International*

Work Sessions

Tuesday, February 7, 2012 1:00 PM, Room 220 Cross Building

View upcoming public hearings and work sessions for Insurance and Financial Services.

Option 2 – From the Committees Page

Select Session:
125th, 2011-2012 ☒



125th Maine Legislature Testimony Presented to Committees by Committee and Date

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- ◀ Hearings, Work Sessions By Committee
- ◀ Hearings, Work Sessions By Sponsor

- ◀ Legislative Activities Calendar
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Testimony, 125th Legislature

- ✦ Insurance and Financial Services
- ✦ Marine Resources
- ✦ Transportation
- ✦ Veterans and Legal Affairs

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125th, 2011-2012 ☒



125th Maine Legislature Testimony Presented to Committees by Committee and Date

Legislative Information – Maine Legislature

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- ◀ Hearings, Work Sessions By Sponsor

- ◀ Legislative Activities Calendar
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Testimony, 125th Legislature

- ✦ Insurance and Financial Services
1 / 31 / 12 2 / 8 / 12 2 / 15 / 12
- ✦ Marine Resources
- ✦ Transportation
- ✦ Veterans and Legal Affairs

Testimony for Insurance and Financial Services Hearings on Feb 15, 2012		
Eernier, Dan	Maine Insurance Agents Association	LD 1670
Chin, Ben	Maine Peoples Alliance	LD 1670
Cioppa, Eric	Bureau of Insurance	LD 1670
Courtney, Jon	Maine State Legislature	LD 1670
Martin, Garrett	Maine Center for Economic Policy	LD 1670
Stein, Mitchell	Consumers for Affordable Health Care	LD 1670
Cioppa, Eric	Bureau of Insurance	LD 1702
Ossenfort, Kristine	Anthem	LD 1702
Richardson, Weeley	Maine State Legislature	LD 1702
Stein, Mitchell	Consumers for Affordable Health Care	LD 1702

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Fiscal Briefing

Legislative Council Meeting

February 23, 2012

Prepared by the Office of Fiscal & Program Review

1. General Fund Revenue Update (see attached table)

Total General Fund Revenue - FY 2012 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
January	\$280.7	\$242.0	(\$38.7)	-13.8%	\$266.1	-9.1%
FYTD	\$1,584.5	\$1,554.7	(\$29.8)	-1.9%	\$1,549.6	0.3%

General Fund revenue was \$38.7 million (13.8%) under budget in January and \$29.8 (1.9%) for the fiscal year-to-date (FYTD). January's General Fund collections were 9.1% below collections of January 2011. All of the major taxes performed poorly relative to budget in January. The 4 tax categories affecting revenue sharing transfers were under budget by a combined \$36.5 million in January and \$29.7 for the fiscal year through January. January's Individual Income Tax revenue was \$18.8 million or 14.1% below January 2011. However, roughly \$15 million of the negative variance was due to a large batch of refunds processed on January 31st. This extra refunding processing day in January was not factored into the monthly distribution of budgeted revenue. Estimated payments in January for both individual and corporate income taxes were also substantially below budget. And finally, the initial positive performance for holiday sales tax collections in late November appears to have diminished in December.

2. Highway Fund Revenue Update

Total Highway Fund Revenue - FY 2012 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
January	\$26.2	\$26.8	\$0.6	2.1%	\$25.7	4.1%
FYTD	\$167.4	\$168.9	\$1.6	0.9%	\$165.7	2.0%

Highway Fund revenue was \$0.6 million (2.1%) over budget in January and \$1.6 million (0.9%) for the FYTD. Gasoline prices at record highs for this time of year have produced substantial negative variances in gasoline tax collections each month since begin revised in the December 2011 Forecast. Fortunately, the performance of other fuel tax categories and other Highway Fund revenue categories has been sufficient to maintain a positive variance for total Highway Fund revenue and produce 2% growth for the FYTD.

3. Cash Update

General Fund cash balances continue to decline and have fallen roughly \$25 million below last year's levels at this time, despite a \$52 million improvement in reserve balances. The total cash pool in January was \$77 million below the previous year, but still is relatively strong. The performance of Individual Income Tax refunds over the next few weeks will be the key determinant whether external cash flow borrowing may be required this fiscal year.

Fiscal Briefing (continued)

4. Revenue Forecasting Update

Provided below are the preliminary recommendations of the Revenue Forecasting Committee that were reviewed at the committee's meeting on Wednesday, February 22nd, in preparation for its March 1st reporting deadline. Although there were no changes recommended in the Consensus Economic Forecasting Commission's February update of the economic forecast, the Revenue Forecasting Committee reviewed recent revenue performance and actual 2011 economic data, which result in net downward General Fund adjustments of \$13.0 million for the 2012-2013 biennium. The sales and income taxes affecting revenue sharing are revised downward in the 2012-2013 biennium by a net amount of \$30.0 million. These downward adjustments are partially offset by other net upward revisions, the largest of which are adjustments in the Estate Tax (\$11.8 million) and recognizing the General Fund share of the recent mortgage settlement (\$5.7 million). The impact of this revenue forecast on other funds is much more modest.

Summary of March 2012 Revenue Revisions

Preliminary Recommendations

Millions of \$'s

General Fund Summary

	FY11 Actual	FY12	FY13	FY14	FY15
Current Forecast	\$2,945.0	\$2,956.3	\$3,030.3	\$2,974.1	\$3,094.6
Annual % Growth	6.9%	0.4%	2.5%	-1.9%	4.1%
Net Increase (Decrease)		(\$4.9)	(\$8.1)	(\$15.4)	(\$16.0)
Revised Forecast	\$2,945.0	\$2,951.4	\$3,022.2	\$2,958.7	\$3,078.7
Annual % Growth	6.9%	0.2%	2.4%	-2.1%	4.1%

Highway Fund Summary

	FY11 Actual	FY12	FY13	FY14	FY15
Current Forecast	\$311.4	\$317.9	\$318.9	\$321.1	\$323.2
Annual % Growth	0.1%	2.1%	0.3%	0.7%	0.6%
Net Increase (Decrease)		\$0.3	\$0.9	\$1.7	\$1.9
Revised Forecast	\$311.4	\$318.2	\$319.8	\$322.9	\$325.1
Annual % Growth	0.1%	2.2%	0.5%	1.0%	0.7%

Fund for a Healthy Maine Summary

	FY11 Actual	FY12	FY13	FY14	FY15
Current Forecast	\$54.4	\$54.5	\$54.0	\$54.3	\$53.9
Annual % Growth	-5.5%	0.3%	-1.0%	0.5%	-0.8%
Net Increase (Decrease)		(\$0.0)	(\$0.0)	(\$0.1)	(\$0.1)
Revised Forecast	\$54.4	\$54.5	\$54.0	\$54.2	\$53.8
Annual % Growth	-5.5%	0.3%	-1.0%	0.4%	-0.8%

Medicaid/MaineCare Dedicated Revenue Taxes Summary

	FY11 Actual	FY12	FY13	FY14	FY15
Current Forecast	\$148.0	\$151.8	\$154.4	\$154.4	\$154.4
Annual % Growth	5.7%	2.6%	1.7%	0.0%	0.0%
Net Increase (Decrease)		(\$0.4)	\$0.0	\$0.0	\$0.0
Revised Forecast	\$148.0	\$151.5	\$154.4	\$154.4	\$154.4
Annual % Growth	5.7%	2.3%	1.9%	0.0%	0.0%

General Fund Revenue
Fiscal Year Ending June 30, 2012 (FY 2012)
January 2012 Revenue Variance Report

Revenue Category				Fiscal Year-To-Date					FY 2012 Budgeted Totals
	January '12 Budget	January '12 Actual	January '12 Variance	Budget	Actual	Variance	Variance %	% Change from Prior Year	
Sales and Use Tax	97,165,251	93,100,609	(4,064,642)	532,433,516	529,132,271	(3,301,245)	-0.6%	4.6%	962,086,370
Service Provider Tax	6,795,025	4,568,343	(2,226,682)	26,754,538	24,627,565	(2,126,973)	-7.9%	-11.6%	53,877,680
Individual Income Tax	155,787,574	132,649,431	(23,138,143)	837,382,885	814,524,592	(22,858,293)	-2.7%	1.0%	1,451,207,209
Corporate Income Tax	12,209,077	5,088,827	(7,120,250)	116,046,560	114,530,401	(1,516,159)	-1.3%	6.0%	200,628,491
Cigarette and Tobacco Tax	10,158,469	11,660,984	1,502,515	84,990,669	84,579,178	(411,491)	-0.5%	-1.7%	142,123,350
Insurance Companies Tax	34,296	94,574	60,278	12,193,778	14,574,270	2,380,492	19.5%	22.8%	76,215,000
Estate Tax	2,555,612	3,019,330	463,718	14,759,964	15,584,617	824,653	5.6%	-26.0%	33,163,673
Other Taxes and Fees *	9,703,564	8,910,161	(793,403)	65,043,774	64,245,139	(798,635)	-1.2%	-16.3%	129,106,975
Fines, Forfeits and Penalties	2,130,483	1,870,573	(259,910)	14,735,937	13,517,776	(1,218,162)	-8.3%	-16.6%	26,665,321
Income from Investments	(1,468)	10,645	12,113	121,134	195,154	74,020	61.1%	25.6%	47,206
Transfer from Lottery Commission	3,826,430	3,882,152	55,722	29,654,834	30,571,282	916,448	3.1%	5.5%	50,700,000
Transfers to Tax Relief Programs *	(11,528,776)	(14,671,629)	(3,142,853)	(101,530,303)	(105,251,957)	(3,721,654)	-3.7%	-9.2%	(113,068,263)
Transfers for Municipal Revenue Sharing	(8,647,892)	(8,985,711)	(337,819)	(57,362,145)	(57,699,963)	(337,818)	-0.6%	-2.8%	(96,205,719)
Other Revenue *	528,229	809,201	280,972	9,277,048	11,522,880	2,245,832	24.2%	-9.6%	39,726,812
Totals	280,715,874	242,007,491	(38,708,383)	1,584,502,189	1,554,653,205	(29,848,984)	-1.9%	0.3%	2,956,274,105

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

General Fund Revenue
Fiscal Year Ending June 30, 2012 (FY 2012)
January 2012 Revenue Variance Report

Revenue Category	January '12 Budget	January '12 Actual	January '12 Variance	Fiscal Year-To-Date					FY 2012 Budgeted Totals
				Budget	Actual	Variance	Variance %	% Change from Prior Year	
Detail of Other Taxes and Fees:									
- Property Tax - Unorganized Territory	0	0	0	12,414,698	12,043,355	(371,343)	-3.0%	1.2%	13,261,016
- Real Estate Transfer Tax	945,250	747,806	(197,444)	4,802,304	4,593,642	(208,662)	-4.3%	-46.4%	9,767,309
- Liquor Taxes and Fees	1,283,834	1,478,169	194,335	11,787,114	12,359,326	572,212	4.9%	-0.3%	20,467,530
- Corporation Fees and Licenses	203,275	285,742	82,467	1,539,270	1,535,636	(3,635)	-0.2%	-3.6%	7,697,099
- Telecommunication Personal Prop. Tax	0	0	0	(2,646,902)	(2,543,388)	103,514	3.9%	-10134.1%	9,641,734
- Finance Industry Fees	2,315,501	2,645,700	330,199	13,742,987	14,188,150	445,163	3.2%	0.2%	23,265,980
- Milk Handling Fee	157,327	90,577	(66,750)	717,785	651,036	(66,749)	-9.3%	-76.0%	1,504,426
- Racino Revenue	644,157	579,997	(64,160)	5,848,323	5,734,162	(114,161)	-2.0%	3.9%	10,553,603
- Boat, ATV and Snowmobile Fees	320,105	214,338	(105,767)	2,199,300	2,093,533	(105,767)	-4.8%	-4.8%	4,763,561
- Hunting and Fishing License Fees	2,912,313	2,003,743	(908,570)	10,125,953	9,217,384	(908,569)	-9.0%	-7.9%	16,161,752
- Other Miscellaneous Taxes and Fees	921,802	864,089	(57,713)	4,512,942	4,372,303	(140,639)	-3.1%	-43.8%	12,022,965
Subtotal - Other Taxes and Fees	9,703,564	8,910,161	(793,403)	65,043,774	64,245,139	(798,635)	-1.2%	-16.3%	129,106,975
Detail of Other Revenue:									
- Liquor Sales and Operations	1,593	2,100	507	15,051	17,800	2,749	18.3%	14.2%	7,596,943
- Targeted Case Management (DHHS)	(9,447)	321,264	330,711	3,003,159	3,343,804	340,645	11.3%	-55.3%	4,868,524
- State Cost Allocation Program	1,223,332	1,171,315	(52,017)	6,994,502	7,379,746	385,244	5.5%	-11.7%	14,101,011
- Unclaimed Property Transfer	0	0	0	0	0	0	N/A	N/A	2,333,420
- Toursim Transfer	0	0	0	(9,419,745)	(9,419,745)	0	0.0%	-4.1%	(9,419,745)
- Transfer to Maine Milk Pool	(58,123)	(96,058)	(37,935)	(688,154)	(120,175)	567,979	82.5%	96.8%	(980,670)
- Transfer to STAR Transportation Fund	0	0	0	(3,196,872)	(3,196,872)	0	0.0%	-3.1%	(3,196,872)
- Other Miscellaneous Revenue	(629,126)	(589,421)	39,705	12,569,107	13,518,322	949,215	7.6%	5.8%	24,424,201
Subtotal - Other Revenue	528,229	809,201	280,972	9,277,048	11,522,880	2,245,832	24.2%	-9.6%	39,726,812
Detail of Transfers to Tax Relief Programs:									
- Me. Resident Prop. Tax Program (Circuitbreaker)	(2,200,000)	(1,717,234)	482,766	(37,411,226)	(37,400,260)	10,966	0.0%	-5.3%	(42,083,286)
- BETR - Business Equipment Tax Reimb.	(8,300,738)	(12,592,703)	(4,291,965)	(45,562,528)	(49,060,491)	(3,497,963)	-7.7%	-10.2%	(51,552,995)
- BETE - Municipal Bus. Equip. Tax Reimb.	(1,028,038)	(361,692)	666,346	(18,556,549)	(18,791,206)	(234,657)	-1.3%	-15.2%	(19,431,982)
Subtotal - Tax Relief Transfers	(11,528,776)	(14,671,629)	(3,142,853)	(101,530,303)	(105,251,957)	(3,721,654)	-3.7%	-9.2%	(113,068,263)
Inland Fisheries and Wildlife Revenue - Total	3,319,711	2,343,540	(976,171)	12,888,731	11,977,287	(911,444)	-7.1%	-6.4%	21,916,376

Highway Fund Revenue
Fiscal Year Ending June 30, 2012 (FY 2012)
January 2012 Revenue Variance Report

Revenue Category	January '12 Budget	January '12 Actual	January '12 Variance	Fiscal Year-To-Date					FY 2012 Budgeted Totals
				Budget	Actual	Variance	% Variance	% Change from Prior Year	
Fuel Taxes:									
- Gasoline Tax	16,547,228	15,943,757	(603,471)	105,370,954	104,150,638	(1,220,316)	-1.2%	-0.4%	200,580,000
- Special Fuel and Road Use Taxes	3,306,529	4,239,400	932,871	22,629,250	23,438,894	809,644	3.6%	3.8%	44,200,000
- Transcap Transfers - Fuel Taxes	(1,457,997)	(1,483,781)	(25,784)	(10,894,879)	(10,904,170)	(9,291)	-0.1%	-0.6%	(17,974,807)
- Other Fund Gasoline Tax Distributions	(413,802)	(398,692)	15,110	(3,138,124)	(3,125,849)	12,275	0.4%	-0.3%	(5,115,905)
Subtotal - Fuel Taxes	17,981,958	18,300,685	318,727	113,967,201	113,559,512	(407,689)	-0.4%	0.4%	221,689,288
Motor Vehicle Registration and Fees:									
- Motor Vehicle Registration Fees	4,534,309	4,639,264	104,955	35,600,501	36,207,228	606,727	1.7%	1.2%	64,805,936
- License Plate Fees	108,333	39,204	(69,129)	1,770,660	1,839,683	69,023	3.9%	2.9%	3,345,309
- Long-term Trailer Registration Fees	995,163	1,227,932	232,769	3,676,874	4,529,076	852,202	23.2%	16.0%	8,884,523
- Title Fees	831,792	918,297	86,505	6,220,650	6,680,185	459,535	7.4%	6.6%	11,044,291
- Motor Vehicle Operator License Fees	700,688	636,152	(64,537)	5,130,514	4,709,325	(421,189)	-8.2%	39.1%	9,124,826
- Transcap Transfers - Motor Vehicle Fees	0	0	0	(7,622,416)	(7,553,821)	68,595	0.9%	-2.4%	(14,844,300)
Subtotal - Motor Vehicle Reg. & Fees	7,170,285	7,460,848	290,563	44,776,783	46,411,676	1,634,893	3.7%	6.1%	82,360,585
Motor Vehicle Inspection Fees	267,700	341,958	74,258	1,804,400	1,818,556	14,156	0.8%	-10.4%	2,982,500
Other Highway Fund Taxes and Fees	74,151	71,574	(2,577)	764,202	752,895	(11,307)	-1.5%	-1.3%	1,313,165
Fines, Forfeits and Penalties	88,755	87,341	(1,414)	595,998	574,779	(21,219)	-3.6%	-21.4%	1,103,049
Interest Earnings	8,704	8,023	(681)	53,454	57,204	3,750	7.0%	-23.7%	97,701
Other Highway Fund Revenue	615,834	498,122	(117,712)	5,412,566	5,768,018	355,452	6.6%	10.7%	8,388,443
Totals	26,207,387	26,768,550	561,163	167,374,604	168,942,639	1,568,035	0.9%	2.0%	317,934,731

LEGISLATIVE COUNCIL REPORT: 2011 Interim Legislative Studies and Council-Authorized Committee Meetings

Updated February 15, 2012

Study Name	2011 Meetings Authorized	2011 Meetings Held	Scheduled Next Meeting Date(s)	Report Date	Chairs	Status
AUTHORIZED COMMITTEE MEETINGS						
ACF committee meeting with the Commission on Reform of the Governance of LURC (Resolve 2011, c. 113, eff. date 9/28/11)	1	1	none	n/a	Sen. Sherman Rep. Edgecomb	meeting held
IFS committee meetings with the Advisory Committee on Maine's Health Insurance Exchange (Resolve 2011, c. 105, eff. date 7/6/11)	3	2	none	n/a	Sen. Whittemore Rep. W. Richardson	meetings held
VLA committee meetings to review report on Maine Clean Elections Act (Resolve 2011, c. 103, eff. date 9/28/11)	2	2	none	(auth to rpt bill to 2nd Reg Sess by 12/1/11)	Sen. Farnham and Rep. Beaulieu	meetings held
TAX committee meetings to review the tax code for reform	4	4	none	n/a	Sen. Trahan and Rep. Knight	meetings held
TRA committee funding in the Hwy budget to meet monthly (PL 2011, c. 392 sections A-3, L1, L-2, eff. date 6/21/11)	monthly	1	none	n/a	Sen. Collins and Rep. Cebra	meeting held
NEW STUDY LEGISLATIVE COMMISSIONS/COMMITTEES						
Franco-American Task Force (Resolve 2011, c. 102, eff. date 7/6/11)	4	0	No meetings this interim	interim rpt-12/7/11; final rpt-1/7/12	Sen. Martin and Rep. Fredette	Not authorized: funding not received by 8/5/11 deadline; Rep. Fredette sponsored LD 1601 - amends Study (begin during session w/ Franco American Center staff)
Commission to Study Allocations of the Fund for a Healthy Maine (Resolve 2011, c. 112, eff. date 9/28/11)	6	3	none	12/7/2011	Sen. McCormick Rep. Sanderson	Report printed
Commission to Study Priorities and Timing of Judicial Proceedings in State Courts (Resolve 2011, c. 104, eff. date 9/28/11)	3	2	none	12/15/11	Sen. Hastings and Rep. Waterhouse	Report printed
Committee to Review Issues Dealing with Regulatory Takings (Resolve 2011, c. 111, eff. date 7/8/11)	3	3	none	12/7/2011	Sen. Thibodeau and Rep. Cushing	Report printed
Blue Ribbon Commission on Affordable Housing (Resolve 2011, c. 108, eff. date 9/28/11)	4	3	none	2/15/2012	Sen. Martin and Rep. Cushing	Report printed
ON-GOING LEGISLATIVE STUDIES						
Citizen Trade Policy Commission (10 MRSA section 11)	8 in FY 11-12	2	2/10/2012	annually	Sen. Sherman and Rep. Maker	Report printed
Legislative Youth Advisory Council (3 MRSA, section 168-B)	2 per year	1	none	2nd Fri., Feb., even numbered years	Sen. Mason and Rep. Willette	Report printed
Right to Know Advisory Committee (1 MRSA section 411)	4 budgeted for 2011	4	none	1/15 annually	Sen. Hastings	Report printed

**Legislative Council Actions
Taken by Ballot Since the
February 7, 2012 Council Meeting**

Request for Introduction of Legislation

- A. LR 2745 **An Act to Require Forfeiture of Public Retirement System Benefits for Persons
Convicted of Certain Crimes**

Submitted by: Representative Leslie Fossel
Approved: February 8, 2012 Vote: 6 - 4 in favor

- B. LR 2777 **An Act to Require Notification of All Affected Facilities When Amending a
Certificate of Need**

Submitted by: Senator Kevin Raye
Approved: February 14, 2012 Vote: 10 - 0 in favor

- C. LR 2762 **An Act to Establish the Dairy Improvement Fund**

Submitted by: Senator Debra Plowman
Approved: February 14, 2012 Vote: 10 - 0 in favor

- D. LR 2754 **JOINT RESOLUTION Memorializing the President of the United State and the
United States Congress to Adequately Fund the Low-Income Home Energy
Assistance Program**

Submitted by: Senator Kevin Raye
Approved: February 8, 2012 Vote: 9 - 0 - 0 - 1 in favor

LEGISLATIVE COUNCIL
AFTER DEADLINE REQUESTS TO INTRODUCE LEGISLATION
SECOND REGULAR SESSION 125th LEGISLATURE
As of: February 16, 2012

Action

SPONSOR: LR 2770	Sen. Bartlett, II, Philip L. An Act To Expand the Authorized Use of Emergency Preemptive Traffic Light Devices To Include Plow Trucks
SPONSOR: LR 2747	Rep. Cebra, Richard M. An Act To Enact the Liberty Preservation Act
SPONSOR: LR 2769	Rep. Cornell du Houx, Alexander M. An Act To Protect School Funding for Municipalities That Experience a Sudden and Severe Loss of Student Population
SPONSOR: LR 2779	Rep. Dunphy, Larry C. An Act To Amend the Bingham Water District
SPONSOR: LR 2746	Rep. Fossel, Leslie T. An Act To Treat Party Formation Committees the Same as Ballot Question Committees for Purposes of the Campaign Finance Laws
SPONSOR: LR 2750	Rep. Graham, Anne P. An Act To Allow a Property Tax Abatement When a Building on That Property Is Destroyed by Fire
SPONSOR: LR 2772	Sen. Jackson, Troy D. An Act To Make the Forest Management and Harvest Plan Public Record
SPONSOR: LR 2751	Sen. Katz, Roger J. An Act To Establish a Mechanism for the Forfeiture of a Person's Public Pension Benefits When that Person Is Convicted of a Felony Arising out of a Violation of the Public Trust
SPONSOR: LR 2760	Rep. Keschl, Dennis L. Resolve, Establishing Surface Use Restrictions on Great Meadow Stream and the Northern Portion of North Bay on Great Pond

SPONSOR: **Rep. Russell, Diane**
LR 2743 An Act To Clarify the Voting Rights of People Who Are Not Natural-born

SPONSOR: **Rep. Shaw, Michael A.**
LR 2782 An Act To Protect Firearm Ownership during Times of Emergency

SPONSOR: **Rep. Soetomah, Madonna M.**
LR 2788 ~~An Act To Ensure the Genuineness of Products Reported To Be Crafted by Native Americans~~

WITHDRAWN

SPONSOR: **Rep. Strang Burgess, Meredith N.**
LR 2789 An Act To Amend the Laws Concerning Municipal Inspections of Establishments

SPONSOR: **Sen. Thomas, Douglas A.**
LR 2780 An Act To Protect Native Landlocked Salmon Fisheries from Invasive Fish Species

JOINT RESOLUTION

SPONSOR: **Rep. Cebra, Richard M.**
LR 2744 JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO REPEAL PORTIONS OF THE NATIONAL DEFENSE AUTHORIZATION ACT CONCERNING THE INDEFINITE DETENTION OF UNITED STATES CITIZENS

TABLED BY THE LEGISLATIVE COUNCIL

SPONSOR: **Sen. Alfond, Justin L.**
LR 2731 An Act To Define Cost Responsibility for Transporting Deaf and Hard-of-hearing Students to the Governor Baxter School for the Deaf

Action
TABLED 01/26/12

SPONSOR: **Rep. Berry, Seth A.**
LR 2706 An Act To Prohibit Tax Credits and Exemptions for Businesses That Outsource Jobs to Another Country

TABLED 01/26/12

SPONSOR: **Rep. Cushing, III, Andre E.**
LR 2709 An Act To Improve the Accountability of Government Officials

TABLED 01/26/12

SPONSOR: **Sen. Goodall, Seth A.**
LR 2665 An Act To Update the Laws Concerning Defects in Real Estate Transfers

TABLED 01/26/12

SPONSOR: LR 2319	Sen. Courtney, Jonathan T. E. An Act To Change Certain Effective Dates Regarding Guaranteed Access and the Purchase of Health Insurance from outside Maine	TABLED 11/01/11
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SPONSOR: LR 2339	Rep. Maloney, Maeghan An Act To Limit Taxes on Pensions	TABLED 11/01/11
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SPONSOR: LR 2535	Rep. Martin, John L. An Act To Repeal the Authority for an Insurer To Vary the Premium Rate Based on Geographic Area	TABLED 11/01/11
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SPONSOR: LR 2618	Sen. Raye, Kevin L. An Act To Clarify Municipal Budget Requirements within an Alternative Organizational Structure	TABLED 11/01/11
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SPONSOR: LR 2357	Rep. Sirocki, Heather W. An Act To Improve Well Water Testing at Licensed Child Care Facilities	TABLED 11/01/11 WITHDRAWN
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JOINT RESOLUTION

SPONSOR: LR 2408	Rep. Keschl, Dennis L. JOINT RESOLUTION, MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO TAKE ALL STEPS NECESSARY TO BECOME ENERGY INDEPENDENT	TABLED 01/26/12
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ADDENDUM
LEGISLATIVE COUNCIL
AFTER DEADLINE REQUEST TO INTRODUCE LEGISLATION
SECOND REGULAR SESSION 125th LEGISLATURE
After: February 16, 2012

Action

SPONSOR: LR 2809	Rep. Beavers, Roberta B. An Act To Ban the Sale and Use of Synthetic Drugs
SPONSOR: LR 2802	Rep. Curtis, Philip A. An Act Regarding the Regulation of Consumer Finance Companies
SPONSOR: LR 2803	Rep. Espling, Eleanor M. An Act To Strengthen the Procedures Regarding Parental Consent to Adoption
SPONSOR: LR 2804	Sen. Katz, Roger J. Resolve, Authorizing the Lease of the Guy P. Gannett House in Augusta to a Nonprofit Organization for Use as a Museum
SPONSOR: LR 2808	Rep. Knight, L. Gary An Act To Completely Exempt the Property of Houses of Religious Worship from Taxation
SPONSOR: LR 2806	Sen. Saviello, Thomas B. An Act Regarding Eligibility for General Assistance
SPONSOR: LR 2807	Sen. Saviello, Thomas B. Resolve, Directing the Department of Environmental Protection To Adopt Rules Pertaining to Petroleum Storage and Gravel Pits
SPONSOR: LR 2792	Rep. Tilton, Dianne C. An Act To Amend the Laws Pertaining to the Maine Economic Improvement Fund

JOINT RESOLUTION

SPONSOR: LR 2810	Sen. Courtney, Jonathan T. E. JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO REQUEST APPROVAL OF THE KEYSTONE XL PIPELINE PROJECT
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**STATE OF MAINE
125th LEGISLATURE
FIRST REGULAR SESSION**

**Final Report
of the
BLUE RIBBON COMMISSION ON
AFFORDABLE HOUSING**

February 2012

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Rep. Andre E. Cushing, III, Chair
Sen. Nancy B. Sullivan
Rep. Robert B. Hunt
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Denise Garland
Jonathan P. LaBonte
Patti E. Lawton
Dennis Marble
Dale McCormick
Charles Newton
Clinton Wesley Phinney, Jr.
Randall Poulton
Dana Totman
Julia Wilcock
Wayne Wright**

Executive Summary

The Blue Ribbon Commission on Affordable Housing was established by Resolve 2011, chapter 108 (Appendix A). The Commission consists of 17 members: eight appointed by the President of the Senate, seven appointed by the Speaker of the House, the Director of the Maine State Housing Authority, and the Commissioner of Economic and Community Development. A list of Commission members is included as Appendix B. The resolve directs the Commission to seek funding contributions to fully fund the costs of the study. Outside funding was provided by the Maine Affordable Housing Coalition (MAHC), a statewide nonprofit organization.

The duties of the Commission are set forth in Resolve 2011, chapter 108 (Appendix A). The duties include the following:

- Review current data and research on affordable housing among the New England states and nationally;
- Assess the economic impact of affordable housing in this State;
- Review innovative affordable housing programs in other states;
- Identify regulatory barriers to affordable housing; and
- Submit a report, with findings and recommendations, to the Maine Legislature by February 15, 2012.

The Blue Ribbon Commission on Affordable Housing met four times and reached agreement on the following findings and recommendations.

The Commission's deliberations were guided by the fundamental principle that affordable housing is critical to the well-being of all Maine families and that all Maine people should have access to decent and safe affordable housing. Due to the breadth and complexity of both federal and State housing laws and funding sources, the Commission determined that it had insufficient time to perform an in-depth review of certain aspects of housing policy, including the identification of cost drivers associated with affordable housing development. However, the Commission believes that affordable housing plays a vital role in helping to meet the essential needs of low- and moderate-income families, the elderly and special needs populations, as well as young adults within Maine communities.

A. Multi-family Housing

Federal issues

- **Finding #1:** The Commission recognizes the significant impact that federal resources have on Maine's ability to provide affordable housing assistance to low-income families. In addition, the federal government authorizes state and local governments to use the proceeds from the sale of tax-exempt private activity bonds to fund affordable housing activities in their respective states. The Commission finds that tax-exempt private activity bonds are a critical funding source for affordable housing in Maine.

- **Recommendation #1:** The Commission recommends sending a letter to Maine's federal delegation that advocates for the continuation and preservation of federal housing assistance programs and incentives at existing funding levels in recognition of the significant demand for affordable housing in Maine.
- **Recommendation #1-A:** The Commission also recommends sending a letter to Maine's federal delegation that advocates for the federal government to preserve the authority for the State and local governments to issue tax-exempt private activity bonds that allow the proceeds of the bond sale to finance mortgages for multi-family housing. The Commission recommends that the State and local governments promote the use of this valuable resource to the maximum extent possible.

State and local issues

- **Finding #1:** In order to streamline the regulatory process, the Maine State Housing Authority's (MSHA's) regulations for the production and preservation of affordable housing, to the maximum extent possible, should not be more restrictive than the applicable federal and State program requirements.
- **Recommendation #1:** The Commission recommends that MSHA review its regulatory requirements for affordable housing programs to ensure that they meet, but do not exceed minimum federal standards for these programs and are also consistent with State policy.
- **Finding #2:** The Commission finds that quality, multi-family housing is costly to develop due to the applicable building codes and life-safety requirements, and improvements that are necessary to ensure a positive quality of life for the individuals and families residing in these units. The Commission also finds that there are long-term benefits and cost savings related to energy efficiency building standards for these units, which may also include assisting MSHA with participation in the voluntary carbon market and energy conservation.
- **Recommendation #2:** The Commission recommends that MSHA explore innovative ways to provide rewards to developers of affordable housing who are able to assist MSHA with achieving energy efficiency savings or innovative solutions to reduce costs and maintain the benefits in affordable housing developments. This also includes assisting MSHA with their participation in the voluntary carbon market. The Commission also recommends that MSHA seek a balance using a proportional allocation of weatherization funds and program services for both single-family and multi-family housing on similar terms.

B. Single-family Housing

Federal issues

- **Finding #1:** The Commission is concerned about the high number of Maine homes that are in danger of foreclosure, and the impact this may have on the State's ability to meet the need for affordable housing. Federal resources are available for mortgage delinquency and foreclosure prevention counseling services, which the Commission finds are important in helping to address Maine's high rate of foreclosures.

- **Recommendation #1:** The Commission recommends continued support of federal funding for federal foreclosure prevention and delinquency counseling programs through agencies like HUD and *NeighborWorks America* (community-focused affordable housing programs and services).
- **Finding #2:** The Commission finds that changing employment patterns and economic conditions in Maine have significantly affected housing affordability. The Commission finds that providing workforce housing should be a focus of federal and State housing programs.
- **Recommendation #2:** The Commission recommends sending a letter to Maine's federal delegation advocating for changes in federal law that would allow MSHA to use its first-time homebuyer program for mortgage assistance to a broader array of Maine families that are in need of workforce housing.

State and local issues

- **Finding #1:** Maine does not receive dedicated federal funding for single-family housing. However, the federal government authorizes state and local governments to issue tax-exempt private activity bonds, and allows the proceeds to be used to fund affordable housing for first-time homebuyers. The Commission finds that this is a critical source of revenue for the State, which provides valuable mortgage assistance for first-time homebuyers and financing for the construction of affordable housing.
- **Recommendation #1:** The Commission recommends that the State resume the use of tax-exempt private activity bonds, as authorized by the federal government, in order to generate valuable revenue to finance mortgages for first-time homebuyers.
- **Finding #2:** The Commission finds that the judicial foreclosure process in Maine is a lengthy process and the State should support efforts to streamline the process, in order to assist those homeowners who are interested in a more expeditious foreclosure process. Since June 15, 2010, real estate transfer taxes have been imposed on the purchase and sale of foreclosure properties, which, in turn, have been dedicated to the Department of Professional and Financial Regulation (DPFR) Bureau of Consumer Credit Protection to fund statewide outreach and housing counseling services.
- **Recommendation #2:** The Commission recommends sending a letter to the Joint Standing Committee on Labor, Commerce, Research and Economic Development, with a copy to the Joint Standing Committee on Appropriations and Financial Affairs, advocating for the Legislature to continue State funding through the Real Estate Transfer Tax (from the purchase and sale of foreclosed properties) of the foreclosure prevention program at the Bureau of Consumer Credit Protection.
- **Finding #3:** The Commission finds that home rehabilitation and repair loans and grants to low-income homeowners may be the least expensive way to address many housing issues in both urban and rural areas. Helping homeowners address health and safety issues, through rehabilitation or weatherization, costs considerably less than new home construction.

- **Recommendation #3:** MSHA should continue to focus its efforts on providing low-interest home improvement loans to homeowners so that homes remain more affordable for the long term. The Commission recommends continued efforts to improve existing housing stock, such as the array of federal rehabilitation and weatherization programs that provide critical assistance to low-income families for energy efficiency improvements, energy assistance, appliance replacement, and other related goals [through the Low Income Home Energy Assistance Program (LIHEAP), Weatherization Assistance Program, Community Housing Improvement Program (CHIP), Appliance Replacement Program, Regional Employer-Assisted Collaboration for Housing (REACH)]. The Commission also recommends continued support of Efficiency Maine's Property Assessed Clean Energy (PACE) program that assists homeowners with obtaining low-interest weatherization home improvement loans (up to \$15,000) to help reduce energy costs and make homes more comfortable and affordable. These loans can either be paid back by the homeowner over a 15-year period or, if the home is sold, the loan can either be paid off or the remaining balance can be transferred in the loan to the next owner. The Commission also recommends grants in this area for low-income families who may be unable to qualify for a loan or afford loan payments.
- **Finding #4:** The Commission finds that zoning and land use requirements have a significant impact on the affordability of housing.
- **Recommendation #4:** The Commission recommends that the Joint Standing Committee on Labor, Commerce, Research and Economic Development and the Joint Standing Committee on State and Local Government review successful zoning and land use programs in other states that encourage single-family and multi-family developments, include plans to have an affordability component, including for workforce housing, and focus on smart-growth principles. The Commission recommends the use of mixed-use zoning ordinances that support the development of buildings that serve a combination of residential and commercial development purposes. The Commission also recommends the creation of a model voluntary incentive program for municipalities to adopt to help enhance the development of affordable housing for moderate- and low-income families, especially in communities that are close to jobs and transportation where there is a significant demand for affordable housing.
- **Finding #5:** The Commission finds that manufactured homes offer a positive alternative for those in need of affordable housing and looking for a means of entry into homeownership.
- **Recommendation #5:** The Commission recommends that MSHA continue to provide low-interest loans for first-time homebuyers that are interested in purchasing a qualifying HUD-certified manufactured home.

C. Special Needs and the Elderly

Federal issues

- **Finding #1:** The Commission finds that there is a dramatic need for Section 8 vouchers across the nation and in Maine. There are significant waiting lists for subsidized housing and the Section 8 voucher program across the State and federal funding does not meet the significant demand for this type of housing in Maine. Additionally, the Private Non-Medical Institutions (PNMIs) may undergo significant changes as they relate to Medicaid reimbursement, which may result in discharges for some residents from these facilities and a greater need for affordable, barrier-free housing.
- **Recommendation #1-A:** The Commission recommends that Maine's federal delegation prioritize funding to increase by four times the number of Section 8 housing vouchers than is currently provided to the State of Maine.
- **Recommendation #1-B:** In response to the changes in federal Medicaid reimbursement for PNMIs, the Commission recommends that the Department of Health and Human Services (DHHS) explore other programs that are non-PNMI based that could provide alternative sources of funding for affordable subsidized housing for the elderly and those with special needs.

State and local issues

- **Finding #1:** The Commission finds that Maine's demographics and limited resources require significant planning in order to ensure that affordable housing projects meet the needs specific to each region of the State. Coordination between the developers of affordable barrier-free housing for Maine's special needs and elderly populations, and the providers of State services must be improved. The Commission finds that moving the elderly and individuals with special needs out of PNMI-based affordable housing has a ripple effect on all parties involved. Moving affects the individuals in need of the housing and also affects MSHA when it has issued the debt to build the affordable housing and the developers that own and operate the housing. If funds are no longer provided by DHHS to the developer to pay for the mortgage and services provided for in this type of housing, then the mortgage is not paid and MSHA is then unable to pay the bond service, which could result in default.
- **Recommendation #1:** The Commission recommends that the Joint Standing Committee on Labor, Commerce, Research and Economic Development direct the creation of a stakeholder group convened by the Office of Elder Services with MSHA, in cooperation with the Office of Cognitive and Physical Disability Services, the Office of Adult Mental Health Services, Licensing and Regulatory Services, the Statewide Homeless Council and any other interested parties to develop a comprehensive, coordinated plan to address the housing and service needs of Maine's low-income elders, adults with disabilities and the homeless. The stakeholder group should consider the creation of memorandums of understanding between MSHA and DHHS regarding expectations for both groups in the development of housing and services. The Commission recommends that this stakeholder group further explore the idea that PNMI services be tied to the affordable

housing unit, rather than to the individual who receives the services. This will ensure that the affordable housing development receives a more consistent flow of funding to cover the length of the mortgage required to finance these units, so valuable services and assistance can continue to be provided to the elderly and individuals with special needs over the long term.

- **Finding #2:** The Commission finds that one of MSHA's primary roles is to provide safe, affordable housing for special needs populations, but housing will fail if DHHS or some other resource does not provide reliable, long-term funding for supportive services that these populations need.
- **Recommendation #2:** The Commission recommends that DHHS prioritize funding to ensure that services will be available to low-income elderly homeowners and individuals with special needs so that they can remain independent in their own homes for as long as they are able to do so. The Commission also recommends that funding be provided to increase the availability of long term care services and support for low-income elderly and individuals with special needs so that they can remain independent in their homes within their communities.
- **Finding #3:** The Commission finds that efforts to provide safe housing for the elderly, increase the quality of Maine's housing stock, and help reduce the State's overall nursing home cost are essential. The Commission finds that the rehabilitation and weatherization of older housing stock and multi-unit affordable housing projects for the elderly and other special needs populations are important steps toward addressing housing affordability issues.
- **Recommendation #3:** The Commission recommends continued support for programs across the State that provide services to assist low-income elderly homeowners to remain in their homes by providing home repairs, home accessibility modifications, energy conservation improvements, and other related services to help people age in place.
- **Finding #4:** The Commission finds that greater collaboration among State and federal agencies is critical to ensure the greatest return from limited resources. The Commission finds that the DHHS and the Department of Defense, Veterans and Emergency Management (DVEM) could benefit from collaborative efforts during the planning stage in the creation of multi-family affordable housing units for homeless veterans and recognizes the success of such collaboration during previous years.
- **Recommendation #4:** The Commission recommends that a letter be sent to MSHA requesting that MSHA work with DVEM, Bureau of Veterans' Services and DHHS to maintain outreach efforts with homeless veterans and to collaborate in efforts to develop multi-family affordable housing units for homeless veterans.
- **Recommendation #4-A:** The Commission recommends a letter be sent to the Joint Standing Committee on Labor, Commerce, Research and Economic Development requesting that the Statewide Homeless Council provide an annual report to the Committee summarizing its progress and the collaboration that has occurred between the relevant State and local agencies and regional councils appointed to the Statewide Homeless Council (30-A MRSA § 5047). The Commission supports the Council's current efforts to coordinate homeless assistance services as well as funding resources.

The Commission recommends that these efforts be strengthened with increased participation by the pertinent State agencies, including at least quarterly attendance at Council meetings by appointees.



Office of Program Evaluation and
Government Accountability

Annual Report on
Activities and Performance

2011

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

February
2012

GOVERNMENT OVERSIGHT COMMITTEE OF THE 125TH LEGISLATURE – 2ND SESSION

Senator Roger J. Katz, Chair
Senator Margaret M. Craven
Senator Bill Diamond
Senator Garrett P. Mason
Senator Earle L. McCormick
Senator Nancy B. Sullivan

Representative David C. Burns, Chair
Representative Andrea M. Boland
Representative Joyce A. Fitzpatrick
Representative Leslie T. Fossel
Representative Chuck Kruger
Representative Donald E. Pilon

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Requests for OPEGA reviews are considered by the Governor 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://www.maine.gov/legis/opegas/ProcessProducts.html>. 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://www.maine.gov/legis/opegas/Reports.html>

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

February 10, 2012

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

The Honorable Kevin L. Raye, President of the Senate
and Members of the 125th Maine Senate
3 State House Station
Augusta, Maine 04333

The Honorable Robert W. Nutting, Speaker of the House
and Members of the 125th 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 2011. 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. I hope that you and Maine's citizens continue to view our efforts and results as a worthwhile use of taxpayer dollars as we continue working to increase our value to you.

Sincerely,

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

Beth L. Ashcroft
Director

Cc: Joseph G. Carlton, Jr., Secretary of the Senate
Heather J. R. Priest, 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 assuring that OPEGA can perform its function in an environment that is as free of political influence and bias as possible.

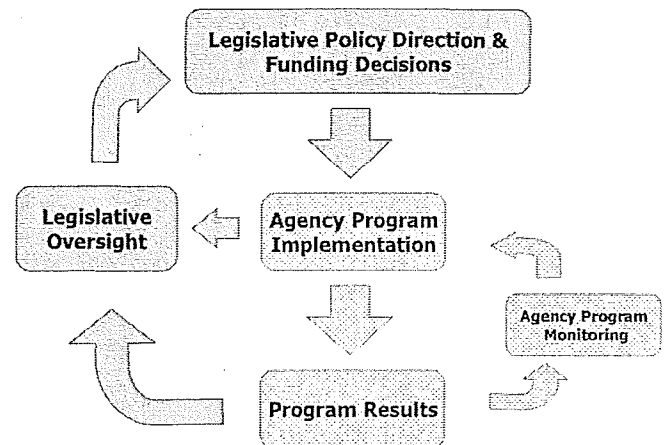
The Legislative Council appoints the Director of OPEGA for five year terms and also sets the Director's salary. OPEGA's activities are overseen by the legislative Government Oversight Committee (GOC), a 12-member bi-partisan and bi-cameral committee appointed by legislative leaders according to Joint 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 staff of seven professionals including the Director and the Administrative Secretary, who also serves as the Committee Clerk for the GOC.

Function:

OPEGA primarily supports legislative oversight by conducting independent reviews of State government as directed by the GOC¹. 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 their 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.

¹ 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.

Key OPEGA Activities

During 2011, OPEGA:

- Developed an annual work plan for 2011 in conjunction with the Government Oversight Committee (GOC).
- Completed five performance reviews and two special investigative projects for the Government Oversight Committee. Issued three standard written reports, three information briefs and a series of memos on results related to those projects and also gave oral presentations in conjunction with the release of those documents. For a listing of all reports issued by the Office since 2005, see Appendix B.
- Coordinated and prepared the GOC for a public investigatory proceeding involving the questioning of Maine Turnpike Authority officials on April 15, 2011. The proceeding concluded with a request for further investigation by the Maine Attorney General. Provided information and support to the Attorney General's Office as requested over the course of that investigation.
- Initiated and conducted work on two other reviews. Reports on both will likely be submitted to the GOC within the first quarter of 2012.
- Monitored the status of management and legislative actions taken to address the findings and recommendations from previously issued reports.
- At the direction of the GOC, drafted legislation to implement recommendations from two of OPEGA's reports. One bill was introduced in the first regular session of the 125th Legislature and was passed by the Legislature. It resulted in a special study commission on allocations of the Fund for a Healthy Maine that convened and completed its work in late fall 2011. Another bill affecting quasi-independent State agencies is expected to be introduced during the second session.
- Conducted research related to eight requests for OPEGA reviews. Presented seven of the requested topics to the GOC for consideration in 2011. The remaining one will be presented to the GOC in early 2012.
- Coordinated, prepared for and staffed 18 GOC meetings including preparing written meeting materials and meeting summaries.
- Provided briefings on reports, or other information, as requested to various legislative policy committees including the Joint Standing Committees on: Taxation; Transportation; and Energy, Utilities and Technology.
- Conducted orientation sessions for new legislators and policy committee Chairs and Leads to educate legislators about OPEGA's function and how OPEGA could be of assistance to them. Also solicited legislator input on topics of interest for potential OPEGA reviews through multiple avenues.
- Maintained the OPEGA/GOC website, including regularly posting OPEGA reports and related documents as well as GOC meeting agendas and summaries.
- Submitted the statutorily required annual report on OPEGA's activities and performance for 2010 to the Government Oversight Committee and the Legislature.

Performance on Strategic Plan Objectives

Since 2009, OPEGA has been measuring and reporting its performance against the goals and objectives established in a GOC-approved Strategic Plan. The specific objectives in that Plan were for a two year time period covering 2009 and 2010. OPEGA is, however, reporting performance against the relevant objectives in that Plan again this year while working to update the Plan for 2012.

OPEGA Strategic Plan

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 activities² 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

Indicators of Overall Outcomes

In addition to tracking performance measures specifically related to achievement of our stated objectives, OPEGA also tracks and reports on other measures that are broad indicators of the outcomes of our work. These include:

- 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.

² 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.

Specific Goals, Objectives and Performance Measures

Goal A: Provide timely, relevant and useful information and recommendations.	
Objective	Performance Measure & Target
A.1 Conduct performance audits and studies on topics that are of interest to the Legislature.	% of reports actively considered by Legislature within one year of report release. See Appendix A for "actively considered" criteria. <i>Target = 75% by December 31, 2011</i>
A.2 Complete projects by established due dates.	% of projects completed by due date. <i>Target = 75% by December 31, 2011</i>
A.3 Issue average of two reports per analyst for each biennium.	Average # of reports released per analyst. <i>Target = 2 per analyst by December 31, 2011</i>
A.4 Present recommendations that, if implemented, will improve the short-term or long-term performance of State government.	% of reported recommendations that meet one or more criteria for performance improvement. See Appendix A for criteria. <i>Target = 100% annually</i>
Goal B: Conduct all work with objectivity and accuracy.	
Objective	Performance Measure & Target
B.1 Adhere to internal quality assurance process on all performance audits and analytical studies.	% of projects where key quality assurance points are completed prior to report release. See Appendix A for key QA points. <i>Target = 100% annually</i>
B.2 Produce reports that legislators recognize as credible.	% of reports fully endorsed by vote of the Government Oversight Committee. <i>Target = 100% annually</i>
Goal C: Communicate regularly on our activities, results and impacts.	
Objective	Performance Measure & Target
C.1 Keep Legislature apprised of current and planned OPEGA activities on a quarterly basis.	# of activity updates provided to Legislative Council. <i>Target = 1 per quarter by end of each quarter</i>
Goal D: Utilize OPEGA's resources effectively, efficiently and economically.	
Objective	Performance Measure & Target
D.1 Maintain staff training at level required by the <i>Generally Accepted Government Auditing Standards (GAGAS)</i> for performance auditors.	% of staff meeting training requirements in GAGAS Standard 3.46. <i>Target = 100% by December 31, 2011</i>
D.2 Stay within appropriated budget.	% variance of FY actual to budget. <i>Target = 0% or less by end of each fiscal year</i>

Over the course of 2010 and 2011, OPEGA's work and work products for the Legislature have evolved to include more than the full performance audits and evaluations that typically result in formal, written reports. OPEGA's work products also now include written Information Briefs resulting from research OPEGA has performed on topics of interest to legislators. These Briefs are more informational in nature and do not usually include findings that require corrective action.

OPEGA has also been tasked with several "special projects" including working for the Appropriations and Financial Affairs Committee on State contracts for professional and administrative services in 2010 and assisting the GOC with two investigatory type projects in 2011³. OPEGA has typically communicated the results of its work on these special projects through written memos or briefing documents for the legislative committees OPEGA is assisting. The results may or may not include suggestions for legislative or agency actions.

Following is a snapshot of performance for the past three years, including 2011, as related to the objective-specific measures that were established in OPEGA's Strategic Plan for 2009 - 2010. For the purposes of reporting on these measures, OPEGA is counting each assigned project (regardless of its nature) as a performance audit or study and the resulting written communication on those projects (regardless of the form) as a report. Under this definition, OPEGA completed 7 projects and issued 8 reports in 2011 as both an Information Brief and Final Report were issued for one project. The expanded nature of OPEGA's work and work products for the Legislature will be taken into consideration as we develop performance objectives and measures for 2012 and beyond.

Goal A: Provide timely, relevant and useful information and recommendations.

Obj. A.1: Conduct performance audits and studies on topics that are of interest to the Legislature.				
Measure: Percent of reports actively considered by Legislature within one year of report release.				
	2009	2010	2011	2009 -2011
# of reports issued	5	2	8	15
# of reports actively considered by Legislature within one year of release	3	2	5	10
% of reports actively considered by Legislature within one year of release	60%	100%	63%	67%
<i>Performance Target = 75% by December 31, 2011</i>				

The criteria used to determine whether a report has been "actively considered" are included in Appendix A. This year OPEGA released a wide variety of reports spread out over the course of the year. The majority of them received active consideration from the Legislature shortly after their release. This consideration included requests that OPEGA, or the audited agency, gather additional information regarding points raised in the reports, initiation of legislation to address OPEGA's findings, referral of an issue uncovered by OPEGA to the Attorney General's Office, and a request for OPEGA to present its results to a joint standing committee.

Three reports released in 2011 did not meet OPEGA's established criteria for "actively considered" yet still seemed to be of interest to the Legislature at the time of their release. Two of these were the Information Briefs issued on the Certificate of Need program and Opportunities to Contain Costs and Achieve Efficiencies in Correctional Health Care Services. It is OPEGA's observation that although legislators have responded positively to short format, informational reports like these, they do not often prompt immediate action by legislators as they typically do not identify problems of an urgent nature. OPEGA believes such written products are still of value as the information they contain can educate legislators and be used to support their decision making. For example, the Information Brief on Certificate of Need was issued while the Legislature was still considering bills on this

³ OPEGA assisted the GOC in investigating the uses of gift cards purchased with Maine Turnpike Authority funds and the sale of State property to the Warden of the Maine State Prison.

topic. The GOC Chair suggested sending the Brief to all legislators so they could be better prepared to vote on the pending bills.

The full report on Health Care Services in the Correctional System is the third report that has not yet met the criteria OPEGA established for this performance measure at the time of this Annual Report. This report was not released until November of 2011 and there was little time for any legislative action before year's end. The Government Oversight Committee held its public comment period on this report early in January 2012 where there appeared to be a significant degree of public and legislative interest in OPEGA's results. If this report meets the "actively considered" criteria by November 2012, then the percentage of reports meeting this performance measure would be 75% for 2011 and 73% for the period 2009 – 2011.

Obj. A.2: Complete projects by established due dates.		
Measure: Percent of projects completed by due date.		
	2010	2011
# of projects completed	2	7 ⁴
# of projects completed by established due dates	2	5
% of projects completed by established due dates	100%	71%
<i>Performance Target = 75% by December 31, 2011</i>		

This measure was challenging to track and meet during 2011 due to the nature and timing of the projects the GOC assigned to OPEGA. Throughout the year, OPEGA juggled competing priorities in order to be responsive to time-sensitive legislative needs and emerging concerns. In addition, very few of these projects had specific deadlines attached to them, which provided no set benchmark to gauge whether the project had been completed on time.

Despite the absence of specific deadlines, OPEGA had committed to completing four of the seven projects within a particular timeframe. We completed two of those four projects within the expected timeframe, but were delayed in completing the two large projects – Maine Turnpike Authority and Healthcare Services in the Correctional System. The Maine Turnpike Authority review was originally expected to be completed in the fall of 2010, but was not done until December 2010 with the final report being released in January 2011. Similarly, we had expected to complete the Healthcare Services in the Correctional System project in the first quarter of 2011 but the final report was not released until November 2011. When it became evident that we were not going to have that review finalized in the first quarter of 2011, we issued an Information Brief in April covering topics related to efficiencies and cost containment opportunities so that the agency and legislative committees could consider them while the Legislature was in session.

Two of the remaining three projects involved OPEGA supporting the GOC in Committee-led inquiries into the use of gift cards purchased with Maine Turnpike Authority funds and the sale of State real estate to the Maine State Prison Warden. OPEGA provided the results of research and analyses on these projects within timeframes necessary for the GOC's proceedings. We delivered the results on the last project, review of State real estate sales for the past five years, within three months of when it was assigned by the GOC and, consequently, we are counting it as a project that we delivered within expected timeframes.

Obj. A.3: Issue average of two reports per analyst during the period Jan. 2011 – Dec. 2012.		
Measure: Average number of reports released per analyst.		
	2009-2010	2011
# of reports issued	7	8
# of analysts on staff (full-time equivalents)	4.5	4
Average # reports released per analyst	1.6	2

⁴ OPEGA released both an Information Brief (April 2011) and a Final Report (November 2011) related to the project on Healthcare Services in the Correctional System.

Performance Target = 2 per analyst by December 31, 2012

In 2011 OPEGA released eight reports on seven projects with four full-time equivalents. As a result, the Office has already met its goal of producing two reports per analyst over the 2011-2012 biennium. OPEGA has five authorized full-time analyst positions. However, one position was vacant for seven months and another analyst had a combination of paid leave and part-time hours over the course of six months. In order to meet the assigned workload, OPEGA's Director took primary responsibility for completing the work necessary on the two special projects involving GOC investigations.

Obj. A.4: Present recommendations that, if implemented, will improve the short-term or long-term performance of State government.

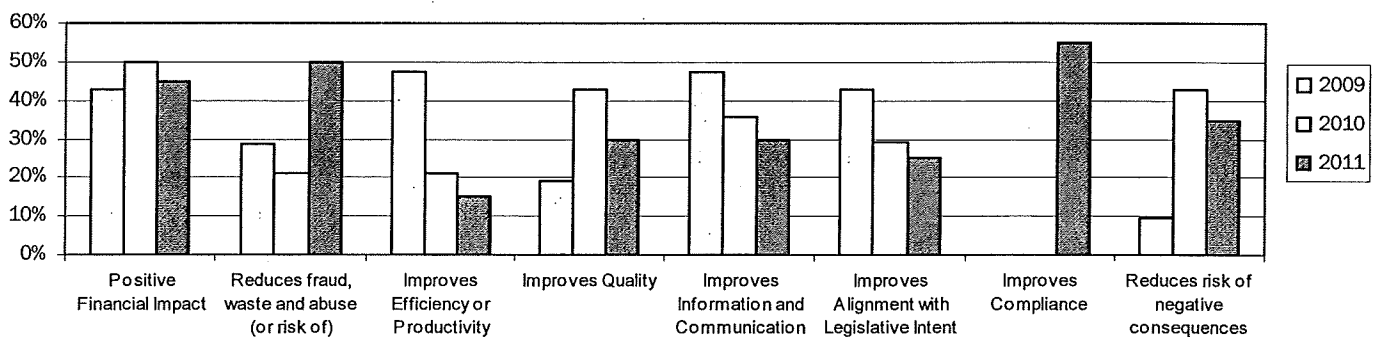
Measure: Percent of recommendations that meet one or more criteria for performance improvement.

	2009	2010	2011
# of recommendations made	21	14	20
# of recommendations meeting one or more criteria	21	14	20
% of recommendations meeting one or more criteria	100%	100%	100%
Performance Target = 100% annually			

The number of recommendations made in a year is reflective of the scope of the reviews OPEGA is assigned and the state of the activities and entities subject to the review. Appendix B contains a listing of all reports and a summary of the overall conclusion for each. As illustrated in Figure 1, the potential benefits from implementing recommendations made by OPEGA can vary from year to year as a function of the topics selected for review and the scope of the review as approved by the GOC. There is more than one expected benefit associated with most recommendations.

In recent years, OPEGA's reports have focused on recommendations that, if implemented, could be expected to produce a positive financial impact like reduced costs or improved cash flow. This continued to be a focus in 2011, however, there was also a significant increase in the number of recommendations focused on reducing fraud, waste and abuse and on improving compliance. The recommendations that could reduce risk of fraud, waste and abuse came mainly from the Maine Turnpike Authority and Maine Green Energy Alliance reports. The recommendations that could result in improved compliance came primarily from the reports on the Maine Turnpike Authority and Healthcare Services in the Correctional System. The considerations used to determine whether a recommendation met the criteria for performance improvement are described in Appendix A.

Figure 1. Expected Benefits of OPEGA Recommendations from Reports Issued 2009 - 2011



Goal B: Conduct all work with objectivity and accuracy.

Obj. B.1: Adhere to internal quality assurance process on all performance audits and analytical studies.		
Measure: Percent of projects where key quality assurance points are completed prior to report release.		
	2010	2011
# of projects completed	2	7
# of projects where adherence to all applicable quality assurance points was expected	1	5
# of projects with all applicable quality assurance points met	1	1
% of projects with all applicable key quality assurance points met	100%	20%
Performance Target = 100% annually		

Since beginning operations in 2005, OPEGA has adhered 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 that OPEGA's work is objective and accurate and that reported results are appropriately supported by that work. Since 2009, OPEGA has been tracking completion of key quality assurance (QA) points incorporated into our internal processes that we believe are most critical to ensuring adherence to the professional standards.

The eight specific key quality assurance points that OPEGA tracks are described in Appendix A. We only count a quality assurance point as being met if we have documentary evidence that the required action was performed within the specified timeframe. In 2011, we did not meet, or did not have adequate documentary support for, one or two QA points on four of the five projects those points applied to. This is the first time since we began tracking this performance measure in 2009 that we have not met the target of 100%.

On three projects we did not meet the requirement for all project team members and the Director to complete conflict of interest statements prior to the Director's approval of the fieldwork plan. The conflict of interest statements were completed shortly after approval of the fieldwork plan on the MTA project. They were not completed at all on two projects that resulted in Information Briefs from OPEGA's research of the Certificate of Need process and the sales of State real estate for the past five years. This was primarily due to a lack of clarity as to whether the nature of the work on these projects required staff conflict of interest statements and the fact that specific responsibility for assuring the statements got completed had not been assigned to particular team members on those projects. While the requirement for written conflict of interest statements was not met on these projects, all OPEGA staff know they are expected to immediately disclose any potential situations that could impair, or be perceived to impair, their objectivity on any review. No such situations were disclosed on these projects.

There were also three projects where we did not meet the requirement for the work on all fieldwork steps to be reviewed prior to the Director's approval of draft findings and recommendations. We are confident that all work was sufficiently reviewed to assure objectivity and accuracy of our results prior to release of our final reports or Information Briefs on those projects. However, there was not adequate evidence that all the work was reviewed prior to the Director approving the draft findings and recommendations. The primary reasons for missing this QA point on these projects are:

- OPEGA striving to complete more projects with quicker turnaround times;
- the timing of when the formal documentation on the work was being completed in relation to the timing of exit conferences and discussion of findings and recommendations with agencies; and
- lack of a standardized OPEGA tool or process for tracking the completion of QA points throughout the project.

We plan to address these causes by re-assessing what QA points are most important and the appropriate timing of them within a project. We also intend to develop and implement a QA point tracking and sign off tool.

Two projects OPEGA completed in 2011 were not conducted according to our typical review and reporting process. These projects involved supporting the GOC in committee-led investigations of the sale of real estate to the Maine State Prison Warden and the investigation into the Maine Turnpike Authority's purchase of gift cards. Due to the nature of the work and work products involved in these projects, many of OPEGA's standard quality assurance points did not apply. We did, however, take prudent measures to assure our results were objective and as accurate as practicable given the circumstances of the project.

Obj. B.2: Produce reports that legislators recognize as credible.			
Measure: Percent of reports fully endorsed by vote of the Government Oversight Committee.			
	2009	2010	2011
# of reports issued	5	2	8
# of reports subject to GOC endorsement vote	3	1	3
# of reports subject to endorsement vote that were fully endorsed by the GOC	3	1	2
% of reports subject to endorsement vote that were fully endorsed by the GOC	100%	100%	67%
<i>Performance Target = 100% annually</i>			

In accordance with statute, the GOC typically votes on whether to endorse, endorse in part, or decline to endorse reports submitted by OPEGA. These votes signal whether the GOC is comfortable with the credibility of OPEGA's work and whether the issues and recommendations warrant consideration and action, as appropriate, by the Legislature and/or the responsible agency.

Only three of the eight reports released during 2011 were reports on full performance reviews and were, therefore, subject to an endorsement vote of the GOC. Of those three, two were fully endorsed by unanimous vote. The third report was released late in the fall and had not yet been voted on as of year's end.

Goal C: Communicate regularly on our activities, results and impacts.

Obj. C.1: Keep Legislature apprised of current and planned OPEGA activities on a quarterly basis.		
Measure: Number of activity updates provided to the Legislative Council.		
	2010	2011
1 st quarter activity updates provided to the Council	1	0
2 nd quarter activity updates provided to the Council	1	0
3 rd quarter activity updates provided to the Council	0	1
4 th quarter activity updates provided to the Council	0	0
# quarters in which activity updates were presented to the Legislative Council	2	1
<i>Performance Target = 1 per quarter by end of each quarter</i>		

The purpose of this objective and related performance measure was to help assure that the larger legislative community, beyond just GOC members, was kept informed of OPEGA's activities. For several reasons, we have failed to meet our target of quarterly briefings at Legislative Council meetings in any year since establishing this performance measure in 2009 nor has the Council been requesting such briefings. We intend to re-assess whether this objective and performance measure are meaningful or should be changed when we update our Strategic Plan.

Despite failing to meet the specific performance measure on this objective, OPEGA has worked toward meeting the intent behind it by keeping legislators informed in the following ways:

- written advance notification of the scheduled public presentation 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;

- distribution of full copies of the final reports to each member of legislative leadership and all joint standing committees that may have jurisdiction over, or a special interest in, the subject matter of the reports immediately following release of the report;
- email notification to all legislators that a final report has been released and is available, typically with a report summary attached; and
- posting of OPEGA reports, work plans and GOC Meeting Agendas and Summaries to OPEGA's website.

Goal D: Utilize OPEGA's resources effectively, efficiently and economically.

Obj. D.1: Maintain staff training at level required by the <i>Generally Accepted Government Auditing Standards (GAGAS)</i> for performance auditors.		
Measure: Percent of staff meeting training requirements in GAGAS Standard 3.46.		
	2009 – 2010	2011-2012
# of staff with training requirements per the <i>Generally Accepted Government Auditing Standards (GAGAS)</i>	5	6
# of staff who completed training as required for the two year period	5	6
% of staff meeting training requirements	100%	100%
<i>Performance Target = 100% by December 31, 2011</i>		

As previously mentioned, OPEGA's work is guided primarily by the *Generally Accepted Government Auditing Standards (GAGAS)*. GAGAS Standard 3.46 requires performance auditors to meet continuing professional education (CPE) requirements. Every two years each auditor must complete a total of 80 CPE hours, with at least 20 CPE being completed in each year and at least 24 of the total 80 hours of CPE being directly related to government auditing or the government environment.

The six OPEGA professionals to whom these CPE requirements applied in 2011 met the training requirements for the year. Budgetary constraints have made it increasingly challenging to obtain the necessary CPE hours through quality, effective training that has real value for improving OPEGA staff skills and knowledge. We take advantage of free or inexpensive training opportunities that are at least relevant to our work whenever possible.

Obj. D.2: Stay within appropriated budget.			
Measure: Percent variance of fiscal year actual expenditures to budget (General Fund).			
	FY 2009	FY 2010	FY 2011
Total General Fund dollars appropriated	\$981,663	\$836,385	\$962,048
Total General Fund dollars expended	\$717,336	\$708,850	\$780,173
Dollar variance of expenditures to appropriations	(\$264,327)	(\$127,535)	(\$181,875)
% variance of expenditures to appropriations	(27%)	(15%)	(19%)
<i>Target = 0% or less by end of each fiscal year</i>			

OPEGA has been under budget each year since beginning operations in 2005. Consequently, the Director requested a reduced appropriation for the 2010 – 2011 biennial budget to better align the appropriation level with current resource needs. The 124th Legislature chose to further reduce OPEGA's budget for the FY10 – FY11 biennium to help address the State's continuing fiscal challenges. As a result, OPEGA's appropriations for FY10 were 14.8% lower than in FY09.

The increase in OPEGA's appropriated budget from FY10 to FY11 is the result of a transfer, at the beginning of FY11, of \$147,268 in OPEGA's unencumbered balances remaining from fiscal years 2008 – 2010⁵. This balance was transferred into OPEGA's All Other budget for FY11 to cover the anticipated costs of consultants needed on the Maine Turnpike Authority and Correctional Healthcare Services projects. Without this transfer, OPEGA's adjusted budget for FY11 would have been \$814,780.

Despite the reduced appropriations from prior years, OPEGA continued to come in under budget in both FY10 and FY11. This is primarily due to an analyst position that was vacant for a portion of both those years. In addition, the actual costs for printing and advertising in both years were lower than budgeted.

Overall Indicators of Outcomes

In addition to measuring our performance against specific objectives, we also track data on three measures that are broad indicators of the outcomes of our work. These are:

- number of visits to OPEGA's website;
- percentage of recommendations implemented or affirmatively addressed; and
- estimated potential fiscal impacts associated with OPEGA recommendations.

Outcomes associated with OPEGA's work are affected by many factors beyond OPEGA's control. For example, the nature of the review topics assigned to OPEGA by the Government Oversight Committee can vary considerably from year to year and not all are primarily focused on cost savings. The ability to calculate estimated savings also varies based on the exact nature of the recommendations made and data available. Nonetheless, OPEGA is committed to identifying and documenting opportunities to improve the State's fiscal situation, where applicable, within the study areas determined by the GOC.

Similarly, while OPEGA is committed to offering recommendations that are actionable and make sense for the State, there are many factors outside our control that affect whether those recommendations are implemented. Such factors include agency priorities, the nature and availability of resources needed to accomplish the implementation and political considerations. Some of our recommendations also call for actions that lay the ground work, or nurture support, for longer term improvements that may take time to implement and may not show their full benefits for years to come.

Number of Visits to OPEGA's Website

We track this measure as an indicator of the overall interest in our function and our work products. As shown in Table 1, our website traffic in 2011 substantially increased from 2010. We believe this likely reflects the fact that several of OPEGA's projects in 2011 were of significant general interest to Maine's citizens and were well covered by Maine's media. We know that the OPEGA report on the Maine Turnpike Authority, the GOC's subsequent investigation into the use of gift cards and the resignation of the MTA's Executive Director also received national, and possibly international, coverage in some trade publications.

⁵ Unencumbered balances that had accumulated from OPEGA's expenditure variances over the years have gradually been reduced to cover unbudgeted cost-of-living adjustments to salaries and, as approved by the Legislative Council, to help address the State's continuing fiscal deficits. In total, about \$1.4 million of appropriations made to OPEGA in fiscal years 2010 and prior were lapsed back to the General Fund.

Table 1. Details of OPEGA Website Traffic for 2010 and 2011

2010	2011
5,634 total visits to OPEGA's website	10,845 total visits to OPEGA's website
<ul style="list-style-type: none"> • 4,256 visits from 110 Maine towns 	<ul style="list-style-type: none"> • 8,761 visits from 133 Maine towns
<ul style="list-style-type: none"> • 861 visits from 47 other states and Dist. of Columbia 	<ul style="list-style-type: none"> • 1,439 visits from the 49 other states and Dist. of
<ul style="list-style-type: none"> • 517 visits from 70 countries other than the USA 	<ul style="list-style-type: none"> • 645 visits from 83 countries other than the USA

For the period 2008 – 2011, there were a total of 31,798 visits to the website including:

25,467 visits from 366 Maine towns;

4,143 visits from the 49 other states and the District of Columbia; and

2,188 visits from 118 countries other than the USA.

Percent of Recommendations Implemented or Affirmatively Addressed

This is a measure of how often action is taken by agencies or the Legislature to address the specific issues identified in our reviews, either through implementation of our recommended action or through alternative actions reasonably expected to improve the situation we identified. Tracking this data gives us insight into the significance and usefulness of our results and recommendations, as well as the overall effectiveness of our function in facilitating warranted changes in State government.

For the period January 2005 through December 2011 (based on OPEGA's follow up to date) 53% of all recommendations made (88 of 166) have now been implemented or affirmatively addressed including:

- 58.1% of the recommendations directed to management (61 of 105); and
- 44.3% of recommendations directed to the Legislature (27 of 61).

OPEGA is aware of activity in progress that, if successfully completed, could result in implementation of another 22 recommendations, 14 of which had been directed to management and eight to the Legislature. This would increase the percentage of recommendations implemented to 66.3% overall – representing 71.4% and 57.4% of those directed to management and the Legislature, respectively.

In 2011, due to limited resources, we conducted limited or no follow-up on six of eight projects completed prior to 2010 that are still in active followup status. Consequently, action may have been taken on recommendations we are not yet aware of or have not confirmed as complete. We also note that as of 2011, we were no longer actively following up on four older reports that, at the time of our final follow up, had a total of 21 recommendations (16 to management and 5 to the Legislature) that had not been fully acted on.

Estimated Potential Fiscal Impact Associated with OPEGA Recommendations

The fiscal impacts associated with issues and recommendations reported by OPEGA for the period January 2005 through December 2011 are summarized below. Fiscal impacts associated with OPEGA's 2011 reports are included in the figures for unnecessary expenditures, confirmed misuse of funds, actual reduced costs and additional resources needed. These impacts are described in more detail in the Summary of Reports and Results section of this report. Supporting information about the fiscal impacts estimated for older reports can be found in OPEGA's prior annual reports.

As a result of identified weaknesses documented through OPEGA's work, there was at least:

- \$20.3 million in unplanned costs that could have been avoided;
- \$4.12 million in overpayments and other unnecessary expenditures;
- \$597,806 in confirmed misuse of funds and fraud; and
- other inefficiencies, reduced productivity and opportunities for increase revenue that could not be readily quantified.

Correcting these deficiencies, as recommended by OPEGA, should help ensure that such negative fiscal impacts are not incurred in the future. Additionally, in 2011, the Maine Turnpike Authority was able to recover \$430,000 associated with misspent funds and fraud by its executive director.

Other OPEGA recommendations for longer term or more structural changes have offered the potential for avoiding or reducing costs on a more significant level. For most of these, there was no reasonable basis for readily developing realistic, quantifiable estimates of what those positive fiscal impacts might be. In the few instances where sufficient information was available, we conservatively estimated **at least**:

- \$766,834 in actual reduced costs on an annual basis;
- \$190,700 in potential reduced costs on an annual basis;
- \$4,132,907 in potential reduced costs on a one-time basis; and
- 5,612 hours of State employee time (the equivalent of nearly 3 full-time positions) that could be saved or redirected.

Additional resources needed to implement recommendations made (including those meant to improve quality of services) are estimated to be at least:

- \$1,218,744 in one time expenditures; and
- \$539,665 in annual expenditures.

An example of OPEGA recommendations for structural change that could have significant positive fiscal impacts are those associated with our project on Health Care Services in the Correctional System. Re-bidding health care services contracts and incorporating risk sharing provisions into the terms of new contracts have the potential for better containing, if not significantly reducing, health costs over the long term.

Sometimes the structural changes OPEGA recommends require additional resources to implement that are later off-set by decreased costs or increased efficiencies. An example of this is the addition of engineering staff at the Maine Turnpike Authority that is expected to reduce costs related to contracted services directly through doing more work in house and indirectly through being able to manage competitive bidding for more engineering projects. While the cost of additional staff is known, it is difficult to estimate how much could ultimately be saved.

Summary of Reports and Results

During 2011, OPEGA reported on seven projects bringing the total reports published by OPEGA since 2005 to 29. A listing of those reports can be found in Appendix B.

Maine Turnpike Authority

OPEGA found that the Maine Turnpike Authority's (MTA) decisions on bonding and tolling were driven and supported by a strong planning process, but that some contracting practices and expenditure controls needed improvement. Additional clarity was also needed around the statutory requirement for a transfer of surplus to Maine Department of Transportation and what was included in the operating expense budget MTA presented to the Legislature for approval. Specific issues addressed in the report were:

- Current Definition of Operating Surplus Makes Transfers to MaineDOT Unlikely
- Nature of MTA's Relationship with Contracted Engineering Firm has Implications for Capital Program and Bondholder Protections
- Management of Services Contracts Often More Informal than Prudent
- MTA is Sole Sourcing Services that Could be Competitively Bid
- MTA's Operating Budget Does Not Include All Operating Expenses
- MTA's Sponsorships and Donations Suggest Expansion of Mission and Present Risk of Inappropriate Expenditures
- Policies Governing Expense Approvals, Required Documentation and Allowable Expenses Not Effectively Implemented, Particularly for Travel and Meal Expenses

OPEGA also reported on a number of MTA expenditures that legislators might question as reasonable, necessary or appropriate. This included \$297,238 in expenses for sponsorships or donations to charitable and non-charitable non-profit organizations and more than \$157,000 in purchases of gift certificates that MTA claimed were donated to a variety of organizations, but could provide no formal records of those donations.

MTA committed to, and immediately began taking, corrective action on those issues it could address. This included initial steps to restructure its relationship with its long-time, sole sourced, engineering services consultant and to meet more of its needs through competitively bid contracts or internal staff. MTA also improved its fiscal reporting to the Legislature and re-evaluated its policies and level of expenditures in the areas OPEGA had questioned.

MTA recently reported to OPEGA that through its actions on OPEGA's recommendations it had reduced its annual expenditures by a total of \$766,834. These savings are expected to be on-going each year. MTA also reported \$105,665 in additional on-going annual costs for added engineering positions and implementing quarterly compliance audits and a whistleblower hotline service. It is expected that the cost of engineering positions will eventually be off-set and exceeded by reductions in contracted engineering services.

Legislative action was also taken as a result of the report. The House Chair of the Joint Standing Committee on Transportation introduced LD 1538 to clarify the amount of annual fiscal support MTA is to provide to MaineDOT and address other policy and governance matters specific to MTA. That legislation was approved by the Legislature and signed into law by the Governor in June 2011. The Government Oversight Committee also voted to introduce legislation aimed at improving the transparency, accountability, governance and financial practices in several specified areas for all substantial existing and future quasi-independent state entities. The OPEGA Director is currently working with the GOC on that legislation which will be introduced in the second session of the 125th Legislature.

Lastly, the GOC undertook a special investigation into the \$157,000 in gift certificate purchases that MTA claimed were donated to various charitable and professional organizations. OPEGA provided the staff support for the GOC investigation as a special project described below.

GOC Special Project: Investigation into MTA's Purchase of Gift Cards

In early 2011, the Government Oversight Committee took on the role of a legislative investigatory committee in an effort to determine what had become of the \$157,000 in gift certificates purchased by the MTA Executive Director with MTA funds. MTA had no records of the donations of these gift certificates, but the Executive Director had provided a list of organizations that he recalled had received the majority of the donations. The GOC requested records, using its statutory subpoena powers as necessary, from seventeen vendors the gift certificates were purchased from, eight organizations that purportedly received the gift certificates as donations and five MTA officials. OPEGA provided staff support to the GOC in requesting, obtaining, reviewing and analyzing the information received from these parties, as well as in coordinating the GOC's public questioning, under oath, of ten MTA board members, managers and staff at its meeting on April 15, 2011.

In the midst of the GOC's investigation, the MTA's Executive Director resigned and an interim director was selected by the MTA Board. The Board also initiated its own forensic audit of MTA's travel, meal and credit card expenditures as well as other purchases and activities of the former Executive Director. Information from that on-going forensic audit was also shared with OPEGA.

OPEGA's analysis of the information gathered through the GOC's records request and MTA's forensic audit found that:

- gift certificate purchases by the Executive Director dated back as far as the year 2000;
- no more than 11% of the gift certificates had actually been donated to the organizations MTA had identified;
- a number of gift certificates had, in fact, been redeemed by the Executive Director himself for what did not appear to be for business purposes; and
- it was highly possible he had used many others for non-business purposes as well.

These results, and the testimony that was provided during the GOC's April 15th meeting, resulted in the GOC formally requesting further investigation into the matter by the Attorney General's Office.

Based on the results of its forensic audit, MTA filed a civil suit for theft of funds against the former Executive Director and has since recouped \$430,000 from him and the MTA's fidelity insurance companies. MTA incurred a one-time cost of \$42,350 for this audit. The Attorney General's investigation recently resulted in the filing of criminal charges against the former Executive Director and he has pled guilty to those charges. Sentencing is expected to take place in spring 2012.

Certificate of Need

Statute requires State approval of certain initiatives proposed by health care and nursing facilities through a defined Certificate of Need (CON) process. Those initiatives include the expansion of facilities and equipment, the provision of new services, and transfers of ownership and control.

OPEGA's limited review of this subject found that, overall, Maine's Certificate of Need application review and determination process is clear, systematic and transparent. The Certificate of Need Unit within the Department of Health and Human Services consistently follows the prescribed process and considers each aspect of an application for approval separately. The Commissioner's determinations appear to be consistent with the staff's recommendations and most approved applications contain conditions intended to assure the initiative complies with the purposes of the Certificate of Need program.

Consequently, the review did not result in OPEGA recommendations for any corrective action. The Information Brief issued from this review included a detailed description of the CON requirements and process. It was shared with all legislators to provide them with additional context at the time the Legislature was considering bills proposing changes to CON requirements.

Maine Green Energy Alliance

The GOC assigned this review to OPEGA as a rapid response following a request received from the Legislature's Joint Standing Committee on Energy Utilities and Technology. Questions had been raised publicly about how Maine Green Energy Alliance (MGEA) had come to be a sub-grantee on a grant administered by the Efficiency Maine Trust (EMT), whether MGEA had been spending its federal dollars appropriately and whether there were issues with legislators and legislative candidates being employed by MGEA. MGEA was a start-up organization at the time it received grant money and, at the time of our review, was being disbanded as its Board and the EMT Board had agreed that the results it was achieving were not as expected.

OPEGA found that MGEA had weak financial and administrative controls and was using informal business practices that created high risk for misuse of grant funds and non-compliance with law and regulations. No inappropriate funding uses were identified, but compliance issues were noted. Specific issues discussed in this report were:--

- MGEA Operated with Weak Financial Controls and Informal Business Practices
- MGEA Not Compliant with Some Federal Regulations and Contract Requirements
- MGEA Board Ineffective and Not Compliant with State Law for Public Benefit Corporations
- MGEA's Engagement with Its Legal Firm Represented Apparent Conflict of Interest
- Some Costs Incurred Could Have Been Avoided or Reduced with Better Planning
- Lobbyist Disclosure Forms Filed by Federle Mahoney, LLC for Services Rendered to MGEA Did Not Include Original Source of Payments
- EMT Did Not Ensure MGEA had Capacity and Controls to Properly Administer Funds

While OPEGA found no inappropriate uses of funding, we did identify \$10,990 in costs incurred may have been unnecessary with better planning on the part of MGEA. There was also an additional \$8,818 in expenditures made by the MGEA Executive Director for which there was insufficient documentation for OPEGA to determine the reasonableness or necessity of the expenditure.

Since MGEA was being disbanded, OPEGA's recommendations were made to EMT to establish policies and procedures to help ensure that such a high risk situation with a sub-grantee or contractor would not occur again in the future. EMT has since developed such policies and procedures which were adopted by the EMT Board.

OPEGA also recommended that the Legislature consider whether to establish statutory requirements addressing steps all agencies should take to guard against having sub-grantees or contractors that had unacceptably high levels of financial or performance risk associated with them. The GOC voted to introduce legislation to implement these recommendations and OPEGA will be working with the GOC to draft that legislation.

GOC Special Project: Investigation into Sale of Real Estate to Maine State Prison Warden

In July 2011, the Joint Standing Committee on Criminal Justice and Public Safety requested an OPEGA review of a recent sale of State property and buildings in Thomaston, Maine to the current Warden of the Maine State Prison. Concerns about this transaction had already been raised publicly.

The GOC considered the review request at its meeting on July 19, 2011. At that meeting, OPEGA also presented a summary of initial research performed based on documents obtained from the State's Bureau of General Services. The GOC assigned OPEGA additional follow-up research on how the broker involved in this transaction was selected and also requested that OPEGA schedule former State employees and other individuals who participated in the transaction to come before them at a meeting on August 16, 2011. OPEGA provided the results of its additional research at the August 16th meeting and the GOC questioned seven individuals.

The GOC found the judgment used by State officials lacking in allowing the sale to proceed, and supported the effort currently underway to undo the transaction, but otherwise found no intentional misdealings. This situation and issues raised about other real estate sales in the past few years prompted the GOC to direct OPEGA to review all sales of State real estate in the past five years. That project is described below.

Sales of State Real Estate

The concerns voiced in response to the sale of the Ship Street Circle property in Thomaston to the Warden of the Maine State Prison suggested that legislators expected the State to carry out real estate sales in a manner that ensures best value to the State and transparency to the public. OPEGA's review of 49 sales of State-owned real estate over the last five years found that these sales were carried out in an inconsistent manner that may not meet the expressed legislative expectations, particularly with regard to public transparency.

OPEGA identified four departments that conducted a total of 49 real estate sales: the Department of Administrative and Financial Services (DAFS), the Department of Transportation (MaineDOT), the Department of Inland Fisheries and Wildlife (IFW), and the Department of Conservation (CON). No uniform process for conducting real estate sales exists across these departments. Real estate sales were infrequent for all departments except MaineDOT, which is the only department with well-established, formal policies and procedures for conducting real estate transactions. Statutes governing real estate sales vary by department and provide limited direction.

The Department of Administrative and Financial Services has since developed and implemented a specific policy and procedure to be followed in sales of State real estate being conducted by that Department. The GOC has reviewed the policy and found it to be reflective of their expectations. There is continuing discussion about whether the GOC should introduce legislation to require that the policy take the form of technical or major substantive rules, as well as how to assure that sales conducted by other State agencies also conform to the expectations for public notice, marketing and assuring best value.

Health Care Services in the Correctional System

This review focused on health care services delivered to prisoners in the State's adult and juvenile facilities by the primary private correctional care providers under contracts with the Department of Corrections (MDOC). OPEGA contracted a consultant with correctional health care expertise to conduct most of the fieldwork for this review. The consultant found that weaknesses existed in MDOC's monitoring of contractor compliance and performance and that the contractor was not compliant with some MDOC policies and professional standards. OPEGA's report also discussed the systemic changes in the administration and delivery of health care services that the new MDOC administration had been undertaking since the fieldwork on this project was completed. Specific issues discussed in the report were:

- Medications Not Properly Administered and/or Recorded
- Medical Files Not Complete or Consistently Maintained
- Required Annual Health Exams Not Consistently Tracked and Sometimes Not Performed
- Response to Sick Calls Not Timely and/or Inadequately Documented
- Staff Training Insufficient and Poorly Documented
- MDOC Systems for Monitoring Contractor Performance Inadequate
- MDOC Contracts Not Structured to Help Contain Health Care Costs

In April 2011, prior to releasing the final report on this review, OPEGA issued an Information Brief to the Legislature detailing suggestions the consultant had offered for containing future correctional health care costs and achieving efficiencies, while maintaining or improving the quality of care available to prisoners. These suggestions included re-bidding the contracts for services with various changes to the RFP requirements and structure of the contract; and using data to better monitor utilization and improve planning.

Since the release of OPEGA's final report in November 2011, MDOC has issued a Request for Proposals for the delivery of health care services and is on track to have new contracts in place by July 2012. MDOC also took steps to incorporate some risk sharing provisions for off-site medical services suggested by OPEGA's consultant into its FY12 contract with the current vendor. MDOC reported that as of November 2011, emergency room visits were down 88%, inpatient days were down 66% and outpatient referrals were down 55%. The actual costs savings that might be associated with this have not yet been calculated and there is potential for the re-bidding of the contract to also achieve savings. The RFP includes seeking proposals for implementing the recommended electronic medical records system which MDOC estimates will cost \$800,000 to \$1 million. DOC will evaluate when the bids are received whether it can afford to implement this system.

Action 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. In 2011, as a result of follow up efforts on past reports, the GOC:

- Received regular report backs from the Commissioner of Corrections and Warden of Maine State Prison on efforts to change culture at MSP. Changing the culture and strengthening lines of communication to assure serious staff issues and concerns are addressed in an appropriate and timely way, without fear of retribution, are key to addressing root causes of issues OPEGA reported in the Maine State Prison Management Issues report in 2009. The report backs revealed that not much had really been done up until the change in administration in March 2011. Since that time, MSP has engaged in many different efforts aimed at producing culture change including some reorganization and elimination of positions, culture surveys of employees, hotlines to the Commissioner and Warden, and re-establishing a training program for new corrections officers.
- Introduced legislation calling for a special study commission to review the allocations from the Fund for a Healthy Maine, established 11 years ago, to assure that those allocations were appropriately aligned with the State's current public and preventive health goals, strategies and emerging health issues. The Legislature passed the bill and the study commission conducted its work during the fall of 2011. The final report from the effort was submitted to the Legislature's Joint Standing Committee on Health and Human Services and included recommended legislation aimed at a) recognizing obesity as a specific health priority that was receiving FHM support and b) increasing transparency and accountability for those programs receiving FHM allocations. That report is currently being considered by the Joint Standing Committee on Health and Human Services.
- Decided to introduce legislation to implement any relevant, unaddressed recommendations from the 2006 report on Economic Development Programs in Maine. OPEGA will be working with the GOC to draft that legislation after determining the status of actions that have been completed, or initiated, to address the reported issues.

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

Acknowledgements

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 Legislature;
- 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;
- State Audit Department; and
- Office of the Attorney General.

Appendix A: Additional Detail Related to Select Performance Measures

Measure	Details
A.1 % reports actively considered by Legislature within one year of report release.	<p>We consider a report to meet the criteria for “actively considered” if one or more of the following has occurred:</p> <ul style="list-style-type: none"> • OPEGA was asked to present report to a legislative body other than the GOC; • a legislative body other than the GOC discussed the report and/or whether to take action on the report; • a legislative body initiated some action to directly address the report results; • legislation was introduced to address report results; • individual legislators, other than GOC members, sought additional information or explanation on report contents from OPEGA; • the GOC sent a specific and direct communication to another legislative body about report results; • the GOC invoked its statutory powers to get more information from an agency or individual; or • the GOC requested specific additional work or information of OPEGA or an agency as a result of report.
A.4 % of reported recommendations that meet one or more criteria for performance improvement.	<p>We consider a recommendation to have met the criteria for performance improvement if effective implementation of it could be expected to produce one or more of the following results:</p> <ul style="list-style-type: none"> • positive financial impact; • reduction in fraud, waste and abuse (or risk of); • improvement in efficiency or productivity; • improvement in quality; • improvement in information and communication; • improvement in alignment with legislative intent; • improvement in compliance; or • reduction in risk of negative consequences.
B.1 % of projects where key quality assurance points are completed prior to report release.	<p>The key quality assurance points we have identified in our current process include:</p> <ul style="list-style-type: none"> • conflict of interest statements are completed by all team members and Director prior to approval of fieldwork plan or as soon as a member is assigned to the team in the fieldwork phase of a review; • Director approves project direction recommendation statement prior to submission to the GOC; • Director approves fieldwork plan – audit objectives, scope and work steps – prior to completion of substantial additional work; • all fieldwork steps and workpapers receive at least one level of review beyond preparer prior to Director approval of draft findings and recommendations; • Director approves draft findings and recommendations prior to formal exit conference with auditee; • Director approves final draft report prior to distribution to auditee for the 15 day comment period; • draft report is distributed in timeframe that allows auditee 15 day comment period before presentation to GOC; and • Director approves final report and other related documents prior to presentation to GOC.

Appendix B: Listing of Available OPEGA Reports by Date Issued

Report Title	Date Issued	Overall Conclusion	JSC's that Received Report
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 CJ&PS
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.	EU&T
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 CJ&PS 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.	
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.	Transportation
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.	EU&T CJ&PS
OPEGA's Special Project on 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

Report Title	Date Issued	Overall Conclusion	JSC's that Received Report
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.	CJ&PS
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 State & Local Nat. Resources
Bureau of Rehabilitation Services: Procurements for Consumers	December 2007	Weak controls allow misuse of funds, affecting resources available to serve all consumers.	AFA Labor
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.	CJ&PS HHS
Urban-Rural Initiative Program	July 2007	Program well managed; data on use of funds should be collected.	Transportation
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 CJ&PS Transportation
Economic Development Programs in Maine	December 2006	EDPs still lack elements critical for performance evaluation and public accountability.	AFA Agriculture BRED Taxation
Guardians ad litem 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 Judiciary
Bed Capacity at Riverview Psychiatric Center	April 2006	RPC referral data is unreliable; other factors should be considered before deciding whether to expand.	CJ&PS HHS

Report Title	Date Issued	Overall Conclusion	JSC's that Received Report
State-wide Information Technology Planning and Management	January 2006	State is at risk from fragmented practices; enterprise transformation underway and needs steadfast support.	AFA State & Local
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

Appendix C: Summary of Implementation and Follow Up Status on Issued Reports
 (Implementation status based on information gathered by OPEGA as of 1-31-12)

Report Title (Date)	Implementation Status	Follow up Status
Health Care Services in State Correctional Facilities (November 2011)	Partially Implemented (Activity in Progress)	Follow-up continuing
Maine Green Energy Alliance (August 2011)	Partially Implemented (Activity in Progress)	Follow-up continuing
Maine Turnpike Authority (January 2011)	Mostly Implemented (Activity in Progress)	Follow-up continuing
Emergency Communications in Kennebec County (February 2010)	Mostly Implemented (Activity in Progress)	Follow-up continuing
OPEGA's Special Project on Professional and Administrative Contracts (February 2010)	Partially Implemented	No further active follow up
Fund for a Healthy Maine Programs (October 2009)	Partially Implemented (Activity in Progress)	Follow-up continuing
MaineCare Durable Medical Equipment and Medical Supplies (July 2009)	Partially Implemented (Activity in Progress)	Follow-up continuing (No FU conducted in 2011)
Maine State Prison Management Issues (June 2009)	Partially Implemented (Activity in Progress)	Follow-up continuing
MaineCare Children's Outpatient Mental Health Services (February 2009)	Not Implemented	Follow-up continuing (No FU conducted in 2011)
State Contracting for Professional Services: Procurement Process (September 2008)	Fully Implemented	No further active follow up
DHHS Contracting for Cost-Shared Non-MaineCare Human Services (July 2008)	Partially Implemented	Follow-up continuing (No FU conducted in 2011)
State Administration Staffing (May 2008)	Partially Implemented	Follow-up continuing (No FU conducted in 2011)
State Boards, Committees, Commissions and Councils (February 2008)	Limited Implementation	Follow-up continuing (No FU conducted in 2011)
Bureau of Rehabilitation Services: Procurements for Consumers (December 2007)	Fully Implemented	No further active follow up
Urban-Rural Initiative Program (July 2007)	Fully Implemented	No further active follow up
Economic Development Programs in Maine (December 2006)	Partially Implemented	Follow-up continuing (FU in 2011 was limited)
Guardians ad litem for Children in Child Protection Cases (July 2006)	Partially Implemented	No further active follow up
Bed Capacity at Riverview Psychiatric Center (April 2006)	Fully Implemented	No further active follow up
State-wide Information Technology Planning and Management (January 2006)	Partially Implemented	No further active follow up
Review of MECMS Stabilization Reporting (December 2005)	Mostly Implemented	No further active follow up
Title IV-E Adoption Assistance Compliance Efforts (November 2005)	Fully Implemented	No further active follow up

Note: Implementation and follow up are not applicable for the following OPEGA study reports as they did not contain recommendations: 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

IN THE YEAR OF OUR LORD
TWO THOUSAND AND TWELVE

H.P. 1209 - L.D. 1601

Resolve, To Amend the Resolve Establishing the Task Force on Franco-Americans

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Task Force on Franco-Americans was established by Resolve 2011, chapter 102 to find ways to promote and preserve the Franco-American heritage that is shared by a great number of Maine citizens; and

Whereas, the study must be initiated before the 90-day period expires in order that the study may be convened and completed and a report prepared in time for submission to the next legislative session; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Resolve 2011, c. 102, §4, amended. Resolved: That Resolve 2011, c. 102, §4 is amended to read:

Sec. 4. Appointments; convening of task force. Resolved: That ~~all appointments must be made no later than 30 days following the effective date of this resolve. The~~ the appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the task force. The chairs may call and convene the first meeting of the task force during the Second Regular Session or any subsequent special session of the 125th Legislature. If 30 days or more after the effective date of this resolve adjournment of the Second Regular Session or any subsequent special session of the 125th Legislature a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the task force to meet and conduct its business; and be it further

; and be it further

Sec. 2. Resolve 2011, c. 102, §6, amended. Resolved: That Resolve 2011, c. 102, §6 is amended to read:

Sec. 6. Staff assistance. Resolved: That, notwithstanding Joint Rule 353, the Legislative Council shall provide necessary staffing services to the task force, except that the Legislative Council staff support is not authorized when the Legislature is in regular or special session. The Franco-American Center at the University of Maine shall provide necessary staffing services to the task force when the Legislature is in regular or special session; and be it further

; and be it further

Sec. 3. Resolve 2011, c. 102, §7, amended. Resolved: That Resolve 2011, c. 102, §7 is amended to read:

Sec. 7. Report. Resolved: That, ~~no later than December 7, 2011, the task force shall provide a preliminary report with draft recommendations to the Second Regular Session of the 125th Legislature. The notwithstanding Joint Rule 353, the final report, including findings and recommendations, must be submitted to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by November 7 December 15, 2012.~~ That joint standing committee is authorized to introduce a bill to the First Regular Session of the 126th Legislature related to the subject matter of the report; and be it further

; and be it further

Sec. 4. Resolve 2011, c. 102, §8, amended. Resolved: That Resolve 2011, c. 102, §8 is amended to read:

Sec. 8. Meetings; outside funding. Resolved: That the task force is authorized to hold 4 meetings. The task force shall seek funding contributions to fully fund the costs of the study. All funding is subject to approval by the Legislative Council in accordance with its policies. If sufficient contributions to fund the study have not been received within 30 days after the effective date of this resolve, no meetings are authorized and no expenses of any kind may be incurred or reimbursed; and be it further

; and be it further

Sec. 5. Retroactivity. Resolved: That this resolve applies retroactively to July 6, 2011.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

JUL 06 '11

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BY GOVERNOR

RESOLVES

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND ELEVEN

H.P. 486 - L.D. 656

Resolve, To Establish a Task Force on Franco-Americans

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Task Force on Franco-Americans is established to find ways to promote and preserve the Franco-American heritage that is shared by a great number of Maine citizens; and

Whereas, the study must be initiated before the 90-day period expires in order that the study may be completed and a report prepared in time for submission to the next legislative session; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Task force established. Resolved: That, notwithstanding Joint Rule 353, the Task Force on Franco-Americans, referred to in this resolve as "the task force," is established; and be it further

Sec. 2. Task force membership. Resolved: That the task force consists of 13 members appointed as follows:

1. Four members of the public appointed by the Governor;
2. Four members appointed by the President of the Senate as follows:
 - A. One Senator; and
 - B. Three members of the public; and
3. Five members appointed by the Speaker of the House as follows:
 - A. Two members of the House of Representatives; and

B. Three members of the public; and be it further

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the task force; and be it further

Sec. 4. Appointments; convening of task force. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the task force. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the task force to meet and conduct its business; and be it further

Sec. 5. Duties. Resolved: That the task force, upon determining a definition for who is a Franco-American, shall gather basic data about Franco-Americans, including, but not limited to, how many Franco-Americans reside in the State, the percentage of the State's population that is Franco-American, if they speak French, their educational achievement, their annual income and where they live, and shall find ways to promote and preserve the Franco-American heritage that is shared by a great number of Maine citizens. The Franco-American Center at the University of Maine shall work in conjunction with the task force in fulfilling the duties of the task force. The task force may also work with individuals or nonprofit or charitable organizations toward the completion of its duties and responsibilities; and be it further

Sec. 6. Staff assistance. Resolved: That, notwithstanding Joint Rule 353, the Legislative Council shall provide necessary staffing services to the task force; and be it further

Sec. 7. Report. Resolved: That, no later than December 7, 2011, the task force shall provide a preliminary report with draft recommendations to the Second Regular Session of the 125th Legislature. The final report, including findings and recommendations, must be submitted to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by November 7, 2012. That joint standing committee is authorized to introduce a bill to the First Regular Session of the 126th Legislature related to the subject matter of the report; and be it further

Sec. 8. Outside funding. Resolved: That the task force shall seek funding contributions to fully fund the costs of the study. All funding is subject to approval by the Legislative Council in accordance with its policies. If sufficient contributions to fund the study have not been received within 30 days after the effective date of this resolve, no meetings are authorized and no expenses of any kind may be incurred or reimbursed; and be it further

Sec. 9. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

LEGISLATURE

Study Commissions - Funding 0444

Initiative: Provides allocations to authorize expenditures for the Task Force on Franco-Americans in the event that funding for the task force is received by the Legislature from outside sources.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$660	\$660
All Other	\$3,485	\$3,485
OTHER SPECIAL REVENUE FUNDS TOTAL	\$4,145	\$4,145

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.