

# MAINE STATE LEGISLATURE

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EXECUTIVE DIRECTOR  
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125<sup>TH</sup> MAINE STATE LEGISLATURE  
LEGISLATIVE COUNCIL

**MEETING OF LEGISLATIVE COUNCIL**  
**JUNE 28, 2012**  
**1:30 PM**  
**REVISED AGENDA**

<u>Page</u>	<u>Item</u>	<u>Action</u>
	<b>CALL TO ORDER</b>	
	<b>ROLL CALL</b>	
1	<b>SUMMARY OF THE APRIL 24, 2012 MEETING OF THE LEGISLATIVE COUNCIL</b>	<b>Acceptance</b>
	<b>REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS</b>	
12	▪ Executive Director's Report (Mr. Boulter)	<b>Information</b>
13	▪ Fiscal Report (Mr. Pennoyer)	<b>Information</b>
	<b>REPORTS FROM COUNCIL COMMITTEES</b>	
	• Personnel Committee	
	• State House Facilities Committee	
	<b>OLD BUSINESS</b>	
17	Item #1: Policy on Security Screening Protocols for Maine State House (Copy of Approved Policy)	<b>Information</b>
22	Item #2: Request to Display Fenway Park Banner on State House (John Delahanty, Red Sox ownership group)	<b>Decision</b>

## **NEW BUSINESS**

- |           |          |  |                   |
|-----------|----------|--|-------------------|
| <b>32</b> | Item #1: | Dates for New Member Orientation, 126 <sup>th</sup> Legislature  | <b>Decision</b>   |
| <b>35</b> | Item #2: | Legislator Orientation Program: Policy Forum and Economic Bus Tour<br>(Maine Development Foundation, Ed Cervone, Interim President)  | <b>Decision</b>   |
| <b>37</b> | Item #3: | Request to accept commissioned portrait of former U.S. Senator George Mitchell and place on display in State House<br>(Sen. Hobbins) | <b>Decision</b>   |
| <b>38</b> | Item #4: | Legislative Council Policy on the Use of Capitol Park<br>(Recommendation from State House Facilities Committee)                      | <b>Decision</b>   |
| <b>45</b> | Item #5: | Submission of Annual Report to the Legislature for the Year 2011<br>(Maine Bureau of Insurance, Consumer Health Care Division)       | <b>Acceptance</b> |
| <b>60</b> | Item #6: | Submission of State of Maine Management Letter for the Year 2011<br>(State Department of Audit)                                      | <b>Acceptance</b> |
|           | Item #7: | Executive Session (Collective Bargaining)  |                   |

## **ANNOUNCEMENTS AND REMARKS**

## **ADJOURNMENT**

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

**MEETING SUMMARY**  
**April 24, 2012**

**CALL TO ORDER**

Legislative Council Chair, Senate President Raye called the April 24, 2012 Legislative Council meeting to order at 3:18 p.m. in the Legislative Council Chamber.

**ROLL CALL**

Senators: President Raye, Senator Courtney, Senator Plowman, Senator Hobbins and Senator Alfond

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

Absent: Representative Hayes

Legislative Officers: Heather Priest, Clerk of the House  
David Madore, Assistant Secretary of the Senate  
David E. 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  
Beth Ashcroft, Director, Office of Program Evaluation and Government Accountability

Senate President Raye convened the meeting at 3:18 p.m. with a quorum of members present.

**SUMMARY OF MARCH 22, 2012 MEETING OF LEGISLATIVE COUNCIL**

**Motion:** That the Meeting Summary of March 22, 2012 be accepted and placed on file. Motion by Senator Courtney. Second by Representative Emily Cain. **Motion passed (9-0-0-1, with Representative Hayes absent).**

## REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

### Executive Director's Report

David Boulter, Executive Director, reported on the following:

1. Robert Indiana Painting, *First State*

The painting, *First State*, now hangs in the 2<sup>nd</sup> floor entrance atrium to the Cross Building consistent with the earlier decision by the Legislative Council. Numerous positive comments have been received on this new location for the painting. Mr. Boulter is waiting for formal approval from the artist's representative for the placement. Steps are being taken to provide appropriate security for the painting.

2. State House Fire Detection System

Earlier this month, 39 smoke detectors were replaced with heat detectors in key areas of the State House, notably where kitchenettes or food preparation equipment are located. The change in equipment should reduce or eliminate false fire alarms triggered by burned food (such as popcorn) and was recommended by the sprinkler system consultants who tested and repaired the State House fire suppression system earlier this year.

### Fiscal Report

Grant Pennoyer, Director, Office of Fiscal and Program Review, reported on the following:

#### Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
March	\$199.3	\$226.5	\$27.3	13.7%	\$203.9	11.1%
FYTD	\$1,883.9	\$1,918.9	\$35.0	1.9%	\$1,884.6	1.8%

General Fund revenue was \$27.3 million (13.7%) over budget in March and was \$35.0 million over budget through 3 quarters of FY 2012. The variances are relative to the Revenue Forecasting Committee's (RFC) March revenue forecast and new monthly distribution. March revenue also includes \$13.8 million of General Fund revenue that was received in January, but not recorded as revenue in the State's accounting system. The related revenue sharing transfers from January's revenue recorded in March will increase by \$0.7 million in April decreasing the net effect of this revenue issue to \$13.1 million.

The 2 most significant positive variances were in the Sales and Use Tax and the Corporate Income Tax, which were over budget in March by \$9.1 million and \$13.7 million, respectively. These 2 categories included the largest increases from January's revenue adjustment (\$6.6 million and \$5.2 million, respectively). Lottery revenue also had a very good month in March (\$0.7 million over) due to the record Mega Millions jackpot in the last week of March.

## Highway Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
March	\$24.3	\$23.2	(\$1.1)	-4.5%	\$23.4	-0.8%
FYTD	\$218.3	\$217.9	(\$0.4)	-0.2%	\$214.2	1.7%

Highway Fund revenue was \$1.1 million (4.5%) under budget in March and \$0.4 million (0.2%) for the first 3 quarters of FY 2012. Substantial Gasoline Tax negative revenue variances are the primary source of overall Highway Fund negative variance. With gasoline prices at roughly \$4 per gallon, consumers are responding by adjusting their driving habits. The RFC will likely make another downward adjustment to Gasoline Tax estimates when it meets at the end of April.

## Revenue Forecasting Committee

The RFC will be meeting on April 30<sup>th</sup> to discuss the effect of January revenue adjustment. The timing is such that the RFC can respond to preliminary data on April's individual income tax processing.

## MaineCare Spending Update

MaineCare weekly cycle payments remain volatile. The latest week reported, week #40, was the lowest in FY 2012 at \$28.5 million, substantially below the average and lowered the weekly average for FY 2012 to \$43.9 million down from \$44.5 million through week #39. A report on the dollar impact of the eligibility status issues will be presented to the Appropriations Committee on April 26<sup>th</sup>.

## Status Report on Bills Presented to Governor

Suzanne Gresser, Revisor of Statutes, reported on the status of bills that were presented to the Governor, and provided an overview of the line item veto procedure.

Between the Legislature's recess on April 14<sup>th</sup> and April 24<sup>th</sup>, 24 bills were signed into law, 5 became law without the Governor's signature and 2 were vetoed. Of the 24 bills, the Governor line item vetoed portions of one bill and signed the remainder into law. That legislation will be chaptered by the Revisor's office and will have an effective date of April 24<sup>th</sup>. Ms. Gresser also went on to explain various effective dates. If an emergency bill becomes law without the Governor's signature, the effective date is 10 days after it was presented to the Governor. If a non-emergency bill becomes law without the Governor's signature, as with other non-emergency bills, it takes effect on the general effective date, which will be 90 days after adjournment sine die. In response to a question from Senator Courtney, Ms. Gresser explained that bond questions are presented to the Governor for signature. In order to pass the legislature before being presented to the Governor, bond questions, unlike emergency legislation, require a vote of 2/3 of the membership present and voting. With emergency legislation, the requirement is 2/3 of the entire elected membership of the body.

## REPORTS FROM COUNCIL COMMITTEES

### 1. Personnel Committee

President Raye, Chair of the Personnel Committee, offered the following report. The Personnel Committee met April 24, 2012 to consider 2 items:

The committee received a briefing on a confidential personnel issue related to a legislative employee. No action was required by either the committee or the Legislative Council.

The committee considered a request by OPEGA Director Ashcroft for approval to establish a new, limited period principal analyst position in OPEGA to assist with meeting the workload of the office. The position would be part-time, a maximum of 24 hours per week, and would terminate in June 2013. Funds to pay for the costs of the position would come from unspent funds in the OPEGA budget, by various line transfers. The committee voted to recommend that the Legislative Council authorize the temporary position subject to certain conditions.

**Motion:** That upon the recommendation of the Personnel Committee, the Legislative Council authorize the establishment of a limited period part-time position of Principal Analyst at Grade 12 of the Legislature's salary schedule, up to 24 hours per week and ending on June 7, 2013; and further that the Legislative Council authorize the Legislative Finance Director, Office of the Executive Director, in consultation with the OPEGA Director, to make all necessary budget adjustments, including transfers of unencumbered balances and transfers from All Other to Personal Services lines in OPEGA accounts, with costs to fund the position totaling approximately \$99,524 in Personal Services and \$10,000 in All Other, all within existing funds. The position is not authorized to be established or continued in the next biennium. Motion by President Raye. Second by Representative Cain. **Motion passed (9-0-0-1, with Representative Hayes absent).**

### 2. State House Facilities Committee

Senator Courtney, Chair of the State House Facilities Committee, presented the following report. The State House Facilities Committee met April 24, 2012 to consider 2 facility-related items:

#### Draft Legislative Policy on the Use of Capitol Park

Mr. Boulter presented the committee with a draft Legislative Council policy on the use of Capitol Park for its consideration. The draft policy would establish standards and guidelines for use of Capitol Park. It would also codify long-standing practices that govern use of the park and establish, with specificity, allowed and prohibited activities. The Legislative Council has jurisdiction over Capitol Park and is empowered to set standards for its use.

The committee did not take action on the draft policy and invited review of the policy by all members of the Legislative Council. It anticipates making a recommendation on the proposal in May after it meets again to discuss the policy in detail. No action by the Legislative Council is required at this time. A copy of the draft policy will be distributed to all Legislative Council members.

The 2012 plan for maintenance and improvements to State House and Grounds

The committee reviewed the various maintenance and improvements projects proposed for this year, including roof and safety inspections, paver sealant, stairs and pavement inspection and minor repairs, painting and cosmetic upgrades in public areas of the building, continued restoration of paths and other improvements to Capitol Park, and cosmetic repairs at the high dome. The committee also discussed installation of video cameras in 3 committee rooms that would broadcast committee proceedings. It also discussed replacement of 1 or more of the doors at the West entrance to the State House. The committee voted unanimously to recommend approval of the proposed plan, with 2 exceptions: in lieu of implementing the 2 video camera projects and the door replacement, it felt that an assessment and conceptual design should be conducted that would afford the council a better sense of the design issues, feasibility and costs to implement those projects. It was felt that implementation of those projects at this time would be premature. The assessments and conceptual designs would be made available for consideration by this or the Legislative Council of the 126<sup>th</sup> Legislature.

**Motion:** That upon the unanimous recommendation of the State House Facilities Committee, the Legislative Council authorize maintenance and improvements to the State House and Grounds as described in the 2012 revision of the Multi-Year Plan, except that Projects 12.1 and 12.4 relating to installing video broadcasting capability in three committee rooms be deferred and reconsidered in the future; further, authorize the Executive Director to take all necessary measures to implement the plan in accordance with the schedules contained in the plan; and further, authorize the Executive Director to conduct an assessment and develop a conceptual design for installation of video broadcasting in the Appropriations Committee room and conduct an assessment, including cost options, for replacing 1 or more West entrance doors in the State House (Project 13.3). Motion by Senator Courtney. Second by Senator Alfond. **Motion passed (9-0-0-1, with Representative Hayes absent).**

## OLD BUSINESS

### Item #1: Legislative Council Actions Taken by Ballot

**A. LR 2880      RESOLVE, Authorizing the Executive Department to Facilitate the Closure of the Maine Energy Recovery Facility in Biddeford by Negotiating the Transfer of the Juniper Ridge Landfill and Requiring Other Actions to Improve Recycling**

Submitted by: Senator Barry Hobbins  
Approved: April 3, 2012      Vote: 6 - 4 in favor

**B. LR 2881      An Act to Allow the Town of Fort Kent to Adopt the Definition of Original Assessment Value for a Downtown Tax Increment Financing District**

Submitted by: Representative John Martin  
Approved: April 4, 2012      Vote: 8 - 2 in favor

**C. LR 2882      An Act to Encourage Responsible Teen Driving**

Submitted by: Senator William Diamond  
Approved: April 4, 2012      Vote: 8 - 2 in favor

No further action by the Legislative Council was required.



**NEW BUSINESS****Item #1: Consideration of After Deadline Bill Requests / Addendum**

The Legislative Council took no action on the 12 bill requests and 2 joint resolutions on the agenda.

**Item #2: Proposed Policy on Security Screening Protocols for the Maine State House**

Mr. Boulter reminded the Legislative Council members that security screening was initiated in January 2012 and has been operational in the State House for 3 months. Mr. Boulter felt that overall, the screening procedures have been implemented fairly smoothly, and adjustments have been made as needed to improve operations.

There are two areas where attention is needed to improve security screening operations. The first is the physical layout of the lobby where screening occurs. No changes were made to the layout of the lobby prior to the beginning of screening operations, the thinking being that the Legislative Council could gain a better sense of what changes to the layout are needed once the screening had been operational for a legislative session. The second area is establishing security screening protocols to guide screening personnel. Mr. Boulter felt that guidance from the Legislative Council, as the governing body of the Legislature, is appropriate at this time, so Capitol Police is given clear and consistent guidance in terms of what and how security protocols are to be implemented. It also would allow certain protocols to differ from the standard TSA protocols that are used in airports while still being protective of the public. Mr. Boulter stated that he reviewed the proposed policy with the Chief of Capitol Police and with the Commissioner of Public Safety, received their comments, and made changes as appropriate. Mr. Boulter then explained the key provisions of the proposed policy.

He made special mention of the section of the policy that exempts certain persons including legislators and legislative employees from undergoing security screening. He also drew members' attention to a limited exception from screening for school groups, children under the age of 12 and adults over the age of 75. Lastly, Mr. Boulter explained the provisions of the policy that provide for members of the media to be "credentialed." These provisions were generally based on those adopted by the Gallery of Congress.

Speaker Nutting asked about the prohibition of certain items. He noted that pocket or other very small knives were not listed. Chief of Capitol Police Gauvin responded by saying that he considered all knives, including pocket knives, to be "weapons" and while there is some discretion, he generally considers them to be prohibited.

Senator Alfond inquired about exempting lobbyists from the security screening measures. Mr. Boulter explained that under the proposed policy registered lobbyists as well as other lobbyists would not be exempted. Senator Alfond commented that the Legislative Council may want to consider exploring the option of creating an exemption for registered lobbyists.

President Raye commented that the policy was comprehensive and well done, but suggested one change to Section VII, that being adding the Governor's spouse as being allowed to enter the State House upon his or her personal recognizance without undergoing security screening measures.

**Motion:** That the Legislative Council adopt the Policy on Security Screening Protocols for the Maine State House as amended to include reference to the Governor's spouse in Section VII and direct the Executive Director to take all necessary measures to implement the policy, and transmit a copy of the policy to the Chief of Capitol Police and to the Secretary of State's office as provided by law. Motion by Senator Plowman. Second by Representative Cushing. **Motion passed (9-0-0-1, with Representative Hayes absent).**

**Item #3: Request to Display Fenway Park Banner on State House**

Mr. John Delahanty, Esq. of Pierce Atwood, representing the Red Sox ownership group, presented a request that a large banner (approximately 28' x 25') commemorating the 100<sup>th</sup> anniversary of Fenway Park in Boston be hung from the 3<sup>rd</sup> floor porch of the State House. Mr. Delahanty explained that the banner is now hung from the Massachusetts State House in Boston and the Red Sox ownership group is seeking to display the banner for a limited period from each State House in New England, home of the "Red Sox Nation." Mr. Delahanty drew Legislative Council members' attention to his letter that was in the council's packet. He stated that Fenway Park occupies a special place in baseball for thousands of Mainers, and he hoped that the banner could be displayed in recognition of that, and furthermore perhaps the Legislature could pass a Special Sentiment that would recognize Fenway Park's unique place in baseball history.

Speaker Nutting stated that while he is a long-term, long-suffering Red Sox fan, he was concerned about setting a precedent of displaying banners at the State House, noting that to his knowledge, only the United States and Maine flags, never banners, have been displayed from the State House. He noted that there are likely many worthy organizations, groups, facilities or alumni who would be interested in displaying their banner to give recognition to their cause or group. He said he would be very hesitant to begin the practice of allowing organizations to place banners on the state capitol.

In response to an inquiry by a member of the Legislative Council, Mr. Delahanty answered that although requests have been made, he was not aware of any other capitol in New England (other than Massachusetts' Capitol) that has agreed to display the banner.

Senator Courtney suggested that having a higher threshold for Legislative Council decisions on hanging banners, such as a unanimous vote, may be a way of limiting banner displays to truly worthy ones. Senator Plowman suggested an alternative location might be more appropriate such as on the lawn or at the Blaine House.

Representative Cain shared Speaker Nutting's concerns about the precedent, and suggested that an alternative location such as in the Hall of Flags might be more appropriate. She asked about the proposed duration of the display. Mr. Delahanty responded that there is no specific time frame, but hoped it could be displayed in April, May or June.

Speaker Nutting added that a basic objection he has to the proposal is the commercial aspect; even though Fenway Park is a popular attraction, the banner would be advertising a commercial entity on the State House, and the Speaker is reluctant to set that precedent.

Senator Alfond then suggested that in light of the members' questions, that no other state has acted on the request, and that an immediate decision is not required, the request be tabled and the Legislative Council consider the matter again at a meeting in May or June. There was general agreement to this approach.

**Motion:** That the Legislative Council table the request to display a Fenway Park commemorative banner on the State House to a future meeting of the Legislative Council. Motion by Senator Hobbins. Second by Representative Cushing. **Motion passed (9-0-0-1,** with Representative Hayes absent).

**Item #4: Suggested Protocol for Considering Proposed Legislative Studies and  
Item #5: Consideration of Proposed Legislative Studies and Study Table**

Ms. Hylan Barr, Director of OPLA, reviewed the suggested protocol for considering proposed legislative studies. She summarized it as follows:

- The Legislative Council will review study requests alphabetically by policy area.
- Voting will be by a show of hands, and each Legislative Council member's vote on each bill will be recorded. The record of each vote will be made available for public inspection following the meeting. A 2/3<sup>rd</sup> majority is required to authorize any study reporting to a subsequent Legislature.
- Committee chairs and others are welcome to observe the council's deliberations on the study requests, but discussion of the requests will be confined to council members. However, Legislative Council members may ask questions of committee chairs and other legislators regarding the proposed study if needed.
- Unless otherwise specified by the Legislative Council, authorized studies are to be drafted consistent with applicable standards and policies approved by the Council. Floor amendments to authorized studies making Council-authorized changes will be prepared in the name of the Senate Majority Leader, except for studies tabled in the House which will be in the name of the House Majority Leader.

The Legislative Council agreed to the suggested protocol and proceeded to consider and decide the requests for studies.

Ten (10) legislative study requests were reviewed and decided by the Legislative Council. The decisions of the Legislative Council are attached.

**ANNOUNCEMENTS AND REMARKS**

None

The Legislative Council meeting was adjourned at 4:58 p.m. on a motion by Senator Courtney, seconded by Representative Cain. **Motion passed (9-0-0-1,** with Representative Hayes absent).

**LEGISLATIVE COUNCIL ACTION ON  
AFTER DEADLINE REQUESTS TO INTRODUCE LEGISLATION  
SECOND REGULAR SESSION, 125<sup>th</sup> LEGISLATURE**

**As of: April 24, 2012**

		<b>Action</b>
<b>SPONSOR:</b> LR 2866	<b>Sen. Brannigan, Joseph C.</b> Resolve, To Require the Office of Program Evaluation and Government Accountability To Conduct an Independent and Internal Audit of the Operations of the Department of Health and Human Services	<b>TABLED 3/22/12</b>
<b>SPONSOR:</b> LR 2747	<b>Rep. Cebra, Richard M.</b> An Act To Enact the Liberty Preservation Act	<b>TABLED 02/23/12</b>
<b>SPONSOR:</b> LR 2836	<b>Rep. Clark, Herbert E.</b> An Act To Allow the Town of Millinocket To Sue the State To Recover the Full Amount Due to Millinocket Due to a Sudden and Severe Disruption of Valuation	<b>TABLED 3/22/12</b>
<b>SPONSOR:</b> LR 2319	<b>Sen. Courtney, Jonathan T. E.</b> An Act To Change Certain Effective Dates Regarding Guaranteed Access and the Purchase of Health Insurance from outside Maine	<b>TABLED 11/01/11</b>
<b>SPONSOR:</b> LR 2709	<b>Rep. Cushing, III, Andre E.</b> An Act To Improve the Accountability of Government Officials	<b>TABLED 01/26/12</b>
<b>SPONSOR:</b> LR 2665	<b>Sen. Goodall, Seth A.</b> An Act To Update the Laws Concerning Defects in Real Estate Transfers	<b>TABLED 01/26/12</b>
<b>SPONSOR:</b> LR 2772	<b>Sen. Jackson, Troy D.</b> An Act To Make the Forest Management and Harvest Plan Public Record	<b>TABLED 02/23/12</b>
<b>SPONSOR:</b> LR 2808	<b>Rep. Knight, L. Gary</b> An Act To Completely Exempt the Property of Houses of Religious Worship from Taxation	<b>TABLED 3/22/12</b>
<b>SPONSOR:</b> LR 2339	<b>Rep. Maloney, Maeghan</b> An Act To Limit Taxes on Pensions	<b>TABLED 11/01/11</b>

<b>SPONSOR:</b> LR 2535	<b>Rep. Martin, John L.</b> An Act To Repeal the Authority for an Insurer To Vary the Premium Rate Based on Geographic Area	<b>TABLED 11/01/11</b>
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<b>SPONSOR:</b> LR 2817	<b>Rep. Prescott, Kerri L.</b> An Act To Allow the Use of Tax Increment Financing Revenue To Fund School Costs in Brunswick and Topsham	<b>TABLED 3/22/12</b>
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<b>SPONSOR:</b> LR 2618	<b>Sen. Raye, Kevin L.</b> An Act To Clarify Municipal Budget Requirements within an Alternative Organizational Structure	<b>TABLED 11/01/11</b>
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**JOINT RESOLUTION**

<b>SPONSOR:</b> LR 2871	<b>Rep. Knight, L. Gary</b> JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ADOPT THE MARKETPLACE FAIRNESS ACT	<b>TABLED 3/22/12</b>
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**JOINT RESOLUTION**

<b>SPONSOR:</b> LR 2843	<b>Sen. Sherman, Roger L.</b> JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO ADDRESS THE ISSUE OF SALE AND DISTRIBUTION OF MEAT AND POULTRY	<b>TABLED 3/22/12</b>
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**LEGISLATIVE COUNCIL ACTION ON  
PROPOSED LEGISLATIVE STUDIES AND  
INTERIM MEETINGS OF JOINT STANDING COMMITTEES  
SECOND REGULAR SESSION, 125<sup>th</sup> LEGISLATURE**

As of: April 24, 2012

		Action
LR 1756	State Council for Juvenile Supervision (on-going)	PASSED
LR 0000	OPLA Staff Study on Creation of a Sewer District Enabling Law	PASSED
LR 1705	Task Force on the Prevention of Sexual Abuse of Children	PASSED
LR 1884	Commission to Study Allocations of the Fund for a Healthy Maine	PASSED
LR 1810	Committee on Regulatory Fairness	TABLED
LR 1675	Response Team to Facilitate the Redevelopment of Unoccupied Mills and Other Unoccupied Buildings	PASSED
LR 1897	Commission to Develop a Competitive Bidding Process for the Operation of Additional Casinos or Slot Machines in the State	PASSED
LR 1830	Interim Meetings of the Joint Standing Committee on Agriculture, Conservation and Forestry on the Establishment of the Department of Agriculture, Conservation and Forestry	PASSED
LR 950	Joint Standing Committee on Education and Cultural Affairs' Review of the Contract for an Independent Review of the Essential Programs and Services Funding Act	PASSED
LR 1882	Interim Meeting of the Joint Standing Committee on Veterans and Legal Affairs on Establishing a Presidential Primary	PASSED

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125<sup>TH</sup> MAINE STATE LEGISLATURE

LEGISLATIVE COUNCIL

**Legislative Council**

**Executive Director's Report**

**June 28, 2012**

1. Staff Retirements

Several long-term members of the nonpartisan staff are retiring.

Jill Ippoliti, a Legislative Analyst in the Office of Policy and Legal Analysis, is retiring after 22+ years with the Legislature. Jill has staffed or co-staffed various joint standing committees and studies, including the Agriculture, Conservation & Forestry Committee which she staffed for more than a decade. She is retiring effective August 1<sup>st</sup>.

Charlene Cunningham, a Senior Secretary, also in the Office of Policy and Legal Analysis, is retiring after 23+ years with the Legislature, all of which she spent working for OPLA. She served with 5 office directors and contributed greatly to administrative functions in OPLA. She is retiring effective July 1<sup>st</sup>.

Rose Marie Breton, Legislative Finance Director in the Office of the Executive Director, is retiring after 37 years of State service, including 20 years with the Legislature. During her tenure, she worked in the Office of Fiscal & Program Review as well as in the Executive Director's office. As Legislative Finance Director, Rose oversees all functions of the Legislature's budgets and accounts. She is retiring effective August 1<sup>st</sup>.

2. Appointment of Legislative Finance Director

I am pleased to report that I have appointed Dawna J. Lopatosky of Augusta as Legislative Finance Director, effective July 9, 2012, replacing Rose Breton who is retiring. With her educational background and work experience in the budget office and other departments, Ms. Lopatosky is well suited to the position. She comes highly recommended and should be a strong asset to legislative operations.

3. Legislative Publications

The Office of Policy & Legal Analysis and the Office of Fiscal & Program Review have completed this session's compilation of enacted laws and bill summaries. A copy is being distributed to Legislative Council members this week and the document will be posted on the Legislature's website for ready access by legislators and the public.

The Revisor's office is preparing the *Laws of Maine* for the Second Regular Session of the 125<sup>th</sup> Legislature. It is under review now and should be available for paper distribution in early August. The *Laws of Maine*, when completed, will also be posted on the Legislature's website on or before the August date.

4. Legislative Employee Recognition Picnic

This year's legislative employee recognition picnic is scheduled for Wednesday, September 5<sup>th</sup> in Capitol Park. Legislative Council members and all legislative employees are invited to the picnic.

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# Fiscal Briefing

## Legislative Council Meeting

June 28, 2012

*Prepared by the Office of Fiscal & Program Review*

### 1. General Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
May	\$238.7	\$254.4	\$15.7	6.6%	\$233.4	9.0%
FYTD	\$2,521.0	\$2,545.8	\$24.9	1.0%	\$2,482.6	2.5%

General Fund revenue was \$15.7 million (6.6%) over budget in May and was \$24.9 million over budget with just one month remaining in FY 2012. General Fund revenue growth for FY 2012 through May was 2.5% compared to the same period last fiscal year. Budgeted growth for FY 2012 was forecast to be 1.7%.

While Individual Income Tax was under budget by \$4.6 million in May due to refund activity, there were few other negative variances. Large positive variances in Corporate Income Tax and Estate Tax, along with a one-time receipt of the General Fund share of the national mortgage foreclosure settlement more than offset the negative variances. A \$5.4 million positive variance in May from the mortgage settlement was budgeted for June, so May's positive variance is overstated by that amount.

### 2. Highway Fund Revenue Update

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

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
May	\$27.1	\$27.0	(\$0.2)	-0.6%	\$23.4	15.2%
FYTD	\$269.0	\$270.8	\$1.8	0.7%	\$263.3	2.8%

Highway Fund revenue was \$0.2 million under budget in May, but remained \$1.8 million (0.7%) over budget for the fiscal year-to-date (FYTD) with one month remaining. Fuel Taxes were modestly below the revised projections.

### 3. Cash Update

The average balance in the cash pool was \$68 million less in May than a year ago. However, the cash pool remains sufficiently healthy to support General Fund internal borrowing that was \$42.7 million higher than last May.

### 4. MaineCare Spending Update

MaineCare weekly cycle payments remain very volatile. The latest 2 weeks reported, weeks #48 and #49, were below \$40 million, which lowered the average weekly payment for this fiscal year to \$44.6 million. The Department of Health and Human Services warned the Appropriations Committee and providers that despite their best efforts to find and transfer resources to fully fund the final cycle payments, it is likely that the final weekly cycles may need to be "capped" (meaning payments to some providers will be delayed a week) to stay within available resources.



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

Revenue Category	May '12 Budget	May '12 Actual	May '12 Variance	Fiscal Year-To-Date					FY 2012 Budgeted Totals
				Budget	Actual	Variance	Variance %	% Change from Prior Year	
Sales and Use Tax	71,716,765	71,510,164	(206,601)	805,154,763	805,376,934	222,171	0.0%	6.0%	973,215,697
Service Provider Tax	4,514,942	4,000,599	(514,343)	40,438,070	39,908,540	(529,530)	-1.3%	-6.2%	50,366,313
Individual Income Tax	113,107,301	108,480,522	(4,626,779)	1,259,795,175	1,255,183,152	(4,612,023)	-0.4%	1.7%	1,444,897,209
Corporate Income Tax	1,297,148	6,857,688	5,560,540	185,862,400	191,226,234	5,363,834	2.9%	12.2%	218,610,460
Cigarette and Tobacco Tax	10,822,265	13,186,323	2,364,058	127,617,959	128,313,591	695,632	0.5%	-1.3%	142,123,350
Insurance Companies Tax	13,714,881	11,718,692	(1,996,190)	54,493,928	59,437,834	4,943,906	9.1%	12.3%	79,215,000
Estate Tax	3,225,380	8,524,688	5,299,308	28,703,167	35,951,702	7,248,535	25.3%	-8.7%	38,260,185
Other Taxes and Fees *	22,282,022	26,025,540	3,743,518	117,935,933	120,543,082	2,607,149	2.2%	-11.0%	132,077,778
Fines, Forfeits and Penalties	2,001,136	1,940,238	(60,898)	23,039,853	22,477,945	(561,908)	-2.4%	-12.8%	25,754,504
Income from Investments	(26,893)	(20,026)	6,867	98,252	83,173	(15,079)	-15.3%	-60.0%	106,808
Transfer from Lottery Commission	3,826,430	4,437,269	610,839	45,917,162	49,991,178	4,074,016	8.9%	8.7%	50,700,000
Transfers to Tax Relief Programs *	(1,140,470)	(1,337,609)	(197,139)	(113,408,749)	(114,177,850)	(769,101)	-0.7%	-1.6%	(114,418,263)
Transfers for Municipal Revenue Sharing	(11,321,520)	(11,278,746)	42,774	(86,826,039)	(87,169,551)	(343,512)	-0.4%	-3.0%	(96,854,505)
Other Revenue *	4,660,217	10,341,366	5,681,149	32,139,024	38,702,879	6,563,855	20.4%	-7.9%	51,390,200
<b>Totals</b>	<b>238,679,604</b>	<b>254,386,709</b>	<b>15,707,105</b>	<b>2,520,960,898</b>	<b>2,545,848,841</b>	<b>24,887,943</b>	<b>1.0%</b>	<b>2.5%</b>	<b>2,995,444,736</b>

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

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

Revenue Category	May '12 Budget	May '12 Actual	May '12 Variance	Fiscal Year-To-Date					FY 2012 Budgeted Totals
				Budget	Actual	Variance	Variance %	% Change from Prior Year	
<b>Detail of Other Taxes and Fees:</b>									
- Property Tax - Unorganized Territory	0	0	0	12,414,698	12,043,355	(371,343)	-3.0%	1.2%	13,555,547
- Real Estate Transfer Tax	643,658	689,696	46,038	7,987,174	7,209,035	(778,139)	-9.7%	-39.8%	9,767,309
- Liquor Taxes and Fees	1,952,059	1,792,929	(159,130)	18,872,185	18,936,962	64,777	0.3%	-0.2%	21,064,780
- Corporation Fees and Licenses	1,388,100	1,852,104	464,004	6,537,120	6,789,303	252,183	3.9%	13.8%	7,847,099
- Telecommunication Personal Prop. Tax	12,288,636	13,355,947	1,067,311	9,641,734	10,812,559	1,170,825	12.1%	-39.1%	9,641,734
- Finance Industry Fees	1,904,581	2,493,460	588,879	21,476,941	22,763,310	1,286,369	6.0%	1.0%	23,381,610
- Milk Handling Fee	343,448	435,640	92,192	1,719,335	1,637,947	(81,388)	-4.7%	-56.0%	2,062,785
- Racino Revenue	864,079	1,448,732	584,653	10,475,609	10,994,135	518,526	4.9%	25.0%	12,149,857
- Boat, ATV and Snowmobile Fees	739,008	42	(738,966)	3,524,754	2,982,077	(542,677)	-15.4%	-14.4%	4,620,911
- Hunting and Fishing License Fees	1,458,757	2,308,335	849,578	14,035,524	14,527,066	491,542	3.5%	7.5%	16,161,752
- Other Miscellaneous Taxes and Fees	699,696	1,648,655	948,959	11,250,859	11,847,332	596,473	5.3%	-29.4%	11,824,394
<b>Subtotal - Other Taxes and Fees</b>	<b>22,282,022</b>	<b>26,025,540</b>	<b>3,743,518</b>	<b>117,935,933</b>	<b>120,543,082</b>	<b>2,607,149</b>	<b>2.2%</b>	<b>-11.0%</b>	<b>132,077,778</b>
<b>Detail of Other Revenue:</b>									
- Liquor Sales and Operations	149,352	4,050	(145,302)	7,895,648	8,048,379	152,731	1.9%	10.1%	8,045,000
- Targeted Case Management (DHHS)	946,853	690,572	(256,281)	4,104,728	4,368,235	263,507	6.4%	-72.2%	4,095,281
- State Cost Allocation Program	1,250,473	1,700,616	450,143	12,314,973	12,532,598	217,625	1.8%	-4.6%	14,101,011
- Unclaimed Property Transfer	0	0	0	0	0	0	N/A	N/A	7,000,000
- Toursim Transfer	0	0	0	(9,419,745)	(9,419,745)	0	0.0%	-4.1%	(9,419,745)
- Transfer to Maine Milk Pool	(75,067)	(329,691)	(254,624)	(1,038,550)	(1,233,109)	(194,559)	-18.7%	71.0%	(1,375,443)
- 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	2,388,606	8,275,819	5,887,213	21,478,842	27,603,393	6,124,551	28.5%	24.1%	32,140,968
<b>Subtotal - Other Revenue</b>	<b>4,660,217</b>	<b>10,341,366</b>	<b>5,681,149</b>	<b>32,139,024</b>	<b>38,702,879</b>	<b>6,563,855</b>	<b>20.4%</b>	<b>-7.9%</b>	<b>51,390,200</b>
<b>Detail of Transfers to Tax Relief Programs:</b>									
- Me. Resident Prop. Tax Program (Circuitbreaker)	(1,002,144)	(1,333,747)	(331,603)	(41,073,773)	(42,279,876)	(1,206,103)	-2.9%	-4.6%	(42,083,286)
- BETR - Business Equipment Tax Reimb.	(138,326)	(20,447)	117,879	(52,902,994)	(52,777,953)	125,041	0.2%	4.4%	(52,902,995)
- BETE - Municipal Bus. Equip. Tax Reimb.	0	16,585	16,585	(19,431,982)	(19,120,021)	311,961	1.6%	-14.3%	(19,431,982)
<b>Subtotal - Tax Relief Transfers</b>	<b>(1,140,470)</b>	<b>(1,337,609)</b>	<b>(197,139)</b>	<b>(113,408,749)</b>	<b>(114,177,850)</b>	<b>(769,101)</b>	<b>-0.7%</b>	<b>-1.6%</b>	<b>(114,418,263)</b>
<b>Inland Fisheries and Wildlife Revenue - Total</b>	<b>2,272,572</b>	<b>2,384,490</b>	<b>111,918</b>	<b>18,485,473</b>	<b>18,532,092</b>	<b>46,619</b>	<b>0.3%</b>	<b>2.9%</b>	<b>21,767,919</b>

# **Highway Fund Revenue** **Fiscal Year Ending June 30, 2012 (FY 2012)**

## **May 2012 Revenue Variance Report**

Revenue Category	May '12 Budget	May '12 Actual	May '12 Variance	Fiscal Year-To-Date					FY 2012 Budgeted Totals
				Budget	Actual	Variance	% Variance	% Change from Prior Year	
Fuel Taxes:									
- Gasoline Tax	15,292,801	15,241,246	(51,555)	162,817,233	163,007,771	190,538	0.1%	1.9%	196,280,000
- Special Fuel and Road Use Taxes	3,515,872	3,407,768	(108,104)	37,413,857	37,632,982	219,125	0.6%	2.7%	44,500,000
- Transcap Transfers - Fuel Taxes	(1,381,968)	(1,353,016)	28,952	(16,204,451)	(16,277,961)	(73,510)	-0.5%	-1.9%	(17,682,872)
- Other Fund Gasoline Tax Distributions	(382,433)	(382,130)	303	(4,574,706)	(4,599,676)	(24,970)	-0.5%	-2.1%	(5,008,374)
Subtotal - Fuel Taxes	17,044,272	16,913,868	(130,404)	179,451,933	179,763,116	311,183	0.2%	2.0%	218,088,754
Motor Vehicle Registration and Fees:									
- Motor Vehicle Registration Fees	6,436,783	6,571,591	134,808	57,173,987	58,258,642	1,084,655	1.9%	1.3%	64,805,936
- License Plate Fees	382,943	449,694	66,751	2,886,663	3,052,866	166,203	5.8%	3.6%	3,345,309
- Long-term Trailer Registration Fees	310,616	249,700	(60,916)	9,112,891	9,051,975	(60,916)	-0.7%	-3.1%	9,384,523
- Title Fees	1,002,577	1,063,376	60,799	10,709,133	10,914,085	204,952	1.9%	7.9%	11,803,313
- Motor Vehicle Operator License Fees	735,496	748,932	13,436	7,691,483	7,623,708	(67,776)	-0.9%	39.0%	8,423,641
- Transcap Transfers - Motor Vehicle Fees	0	0	0	(10,944,985)	(10,787,725)	157,260	1.4%	-2.3%	(15,024,536)
Subtotal - Motor Vehicle Reg. & Fees	8,868,415	9,083,293	214,878	76,629,172	78,113,550	1,484,378	1.9%	4.4%	82,738,186
Motor Vehicle Inspection Fees	295,200	235,923	(59,278)	2,664,200	2,625,204	(38,996)	-1.5%	3.7%	2,982,500
Other Highway Fund Taxes and Fees	132,716	127,299	(5,417)	1,178,443	1,203,615	25,172	2.1%	1.4%	1,313,165
Fines, Forfeits and Penalties	71,813	80,550	8,737	890,833	948,870	58,037	6.5%	-10.6%	993,049
Interest Earnings	10,154	14,209	4,055	110,604	106,309	(4,295)	-3.9%	0.8%	121,761
Other Highway Fund Revenue	724,930	528,255	(196,675)	8,086,079	8,031,815	(54,264)	-0.7%	8.5%	8,734,112
<b>Totals</b>	<b>27,147,500</b>	<b>26,983,395</b>	<b>(164,105)</b>	<b>269,011,264</b>	<b>270,792,479</b>	<b>1,781,215</b>	<b>0.7%</b>	<b>2.8%</b>	<b>314,971,527</b>

SEN. KEVIN L. RAYE  
CHAIR

REP. ROBERT W. NUTTING  
VICE-CHAIR

EXECUTIVE DIRECTOR  
DAVID E. BOULTER



SEN. JONATHAN T. E. COURTNEY  
SEN. BARRY J. HOBBS  
SEN. DEBRA D. FLOWMAN  
SEN. JUSTIN L. ALFOND  
REP. PHILIP A. CURTIS  
REP. EMILY ANN CAIN  
REP. ANDRE E. CUSHING III  
REP. TERRY HAYES

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

**Legislative Council  
Policy on Security Screening  
Protocols for the Maine State House**

The Legislative Council adopts this policy on security screening in the State House to enhance measures to protect the health and safety of persons working in or having occasion to enter the Maine State House, to protect the physical integrity of the State House, and to establish protocols for implementing security screening measures.

- I. State House open to public. The State House is open to the public from 7:30 AM to 5:00 PM Monday through Friday, exclusive of state-observed holidays. The building is also open to the public after regular business hours whenever the Senate or the House of Representatives is in session and whenever a joint standing or select committee of the Legislature is holding a public meeting in the State House. The State House will ordinarily remain open for 30 minutes following the end of an after-hours session or committee meeting. Access to the State House by members of the public is limited to the West entrance and the underground connector from the Cross Building.
- II. Access card nontransferable. A person to whom a card is issued by the Legislature for access to the State House and other legislative areas or for security purposes may not lend or otherwise transfer the access card to another person, and a person who is not the holder of the card may not present the card to security personnel for the purposes of misrepresenting the person's identity, avoiding security screening or accessing an area to which the person is not authorized. A card that is misused may be confiscated by a Capitol Police officer and shall be delivered immediately to the Executive Director of the Legislative Council along with an explanation of the circumstances that gave rise to the confiscation.
- III. Security screening required. All persons entering the State House, except as provided in section VI. below, shall be subject to security screening upon entering the State House. Any person who refuses to submit to screening shall be refused access to the State House. If a person refuses to submit to security screening, the on-duty security screener shall notify the on-duty law enforcement officer of the Bureau of Capitol Police who shall make all decisions to refuse entry to the building.
- IV. Screening measures. Except as provided in section VI. below, the following measures must be employed for all persons entering the State House.
  - A. Persons must pass through a stationary magnetometer used to detect metals. Alternatively, a person may request that a handheld magnetometer be used in lieu of

passing through the stationary magnetometer. If, by reason of disability or medical condition, a person has been advised by a qualified health care provider to not be subjected to magnetometers and provides reasonable demonstration of such condition or medical advice, the person may request a hand and visual inspection ("pat down") from security personnel. Such a request may not be unreasonably denied. When requesting a pat down, the person must be afforded the opportunity for the pat down to be performed by security personnel of the same gender. However, when security personnel of the same gender is requested but not available, the on-duty law enforcement officer of the Bureau of Capitol Police may allow screening by means of a visual inspection and interview of the requester in lieu of a hand pat down.

- B. Persons must allow packages, personal belongings and other items on his or her person to be inspected by passing them through a package screening device. A person may request a visual and hand inspection if use of the package screening device may damage the contents of a package (e.g. high speed film) or if the package is too large to pass through the device.

V. Prohibition on certain items. The following items are prohibited in the State House or other legislative area, regardless of whether a person is required to undergo security screening measures:

- Weapons or ammunition of any kind
- Paint or pellet guns
- Fireworks, firecrackers, sparklers or other explosive or incendiary devices
- Compressed flammable or helium gases
- Flammable liquids
- Alcoholic beverages, unless unopened and in their original container and condition, and not to be consumed on-site
- Illegal drugs or substances

Notwithstanding this prohibition, a bona-fide military or law enforcement honor guard or military personnel in full dress uniform while participating in a formal military ceremony in the State House may be permitted to carry weapons provided all firearms have been disabled and are incapable of being discharged. Furthermore, an on-duty law enforcement officer is permitted to carry a weapon provided that the officer so discloses possession of the weapon and allow its inspection by the on-duty Capitol Police officer who shall keep a written log of all such exceptions to the prohibition.

VI. Persons excepted. The following persons who possess a valid access card allowing access to the State House are not required to undergo the building security measures upon presentation of the access card to the security screening personnel.

- A. Legislators;
- B. Legislative employees;
- C. Governor and employees of the Office of the Governor whose principal work location is in the State House;
- D. State law enforcement personnel who are assigned to State House detail;
- E. Members of the Governor's Cabinet and their appointed deputy commissioners, Constitutional Officers and the State Auditor, State Court Administrator, chair of the

State House and Capitol Park Commission, State Controller, State Budget Officer and the Deputy State Budget Officer;

- F. State House maintenance, property management and state postal service personnel, authorized by the Legislative Council's executive director, who have a regular and necessary need to enter the State House;
- G. State House Press Corps members, authorized by the Legislative Council's executive director, who lease offices in the Legislature's State House Press Corps suite, and other members of the media authorized by the Legislative Council's executive director who possess bona fide State House news media credentials;
- H. Persons who are have a medical condition or are disabled in a manner that prevents them from undergoing security screening and who have a regular and necessary need to enter the State House, authorized by the Legislative Council's executive director and for limited duration, upon documentation from a qualified medical provider that the person may not be subjected to magnetometer screening and completion of a satisfactory criminal background check performed periodically;
- I. Vendors and contractors who have a regular and necessary need to enter the State House, authorized by the Legislative Council's executive director, and for limited duration, upon completion of a satisfactory criminal background check performed periodically. Express mail and package delivery personnel and supply vendors are not eligible for exception under this section; and
- J. Persons authorized by the Legislative Council's executive director, for reasons of operational or business necessity, for limited duration.

Notwithstanding the above exceptions, The Bureau of Capitol Police may require security screening of any of the above persons if in the judgment of the Bureau of Capitol Police such screening is essential to protect the immediate health and safety of the public or prevent immediate harm to the building.

- VII. Personal recognizance. Upon their personal recognizance, the following individuals shall be allowed to enter the State House without undergoing the building screening measures: Governor and the Governor's spouse, Chief Justice of the Maine Supreme Judicial Court, members of the Legislative Council and those legislative employees who are elected to office by the Legislature or appointed to office by the Legislative Council. If security personnel are uncertain of the person's identity, they may request photo identification.
- VIII. Personally-escorted persons. Persons who are personally known to and accompanied by the Governor, Chief Justice of the Maine Supreme Judicial Court or a member of the Legislative Council and are so identified to security screening personnel are not required to undergo security screening when entering the State House. In addition, by prior arrangement with the Chief of Capitol Police, a person who is personally escorted by a State or federal law enforcement protection detail is not required to undergo security screening when entering the State House.
- IX. Special considerations for Maine school groups and bands. Security screening personnel are authorized to limit security screening measures to visual inspections of an organized group of youth entering for a tour of the State House or to play musical instruments during a legislative function if the youth are in a Maine elementary or middle school program, are accompanied by adult chaperones, and building tour or event arrangements were made with

the authorizing legislative office at least 48 hours in advance of their arrival. Adult chaperones must undergo security screening measures.

- X. Special considerations for persons in certain age-related categories. Security screening personnel are authorized to limit security screening measures to visual inspections, or modified pat-downs if a pat-down is determined to be necessary, of children 12 years of age or younger and adults 75 years of age or older.
- XI. Legislative Conference Room and Welcome Center. Legislators and legislative employees are authorized to transport equipment, supplies and other materials to and from the Legislative Conference Room and the Welcome Center on the first floor without first undergoing security screening measures for the equipment, supplies and materials.
- XII. News media credentials.
  - A. Definition
    - 1. For the purposes of this section, a "person" means an individual, or an organization with whom a person seeking news media credentials is affiliated by virtue of employment, contractual relationship or other means.
  - B. Eligibility and application
    - 1. In order for a person to be eligible for "news media credentials" in the Legislature, the person must:
      - i. be a bona fide news gatherer or reporter whose principal attention is given to or more than ½ of the person's earned income is derived from the gathering or reporting of news;
      - ii. not be engaged in the prosecution of judicial or administrative claims or appeals or the promotion or advocacy of legislation pending before the Maine Legislature, State or federal departments or agencies or independent agencies of the federal or State government;
      - iii. not be employed by any legislative or executive department or independent agency of federal or State government, or by any foreign government or representative thereof; and
      - iv. not be engaged in any lobbying activities, advertising, publicity or political advocacy for any individual or organization.
    - 2. An application for news media credentials must be accompanied by a signed and dated statement by the senior news director of the news organization with whom the person is affiliated or, if a the person is a freelancer or works for a production company, the news director of the person's primary news clients, attesting to his or her use of the person's news services and period during which the services have been used along with satisfactory evidence of such news services. The application must be submitted to the Legislative Council's executive director.
    - 3. Approval of applications may be subject to additional criteria established by the Speaker of the House or the President of the Senate for news gathering or

reporting in the chamber of the House of Representatives or the Senate Chamber.

4. Approval of news media credentials shall be for a fixed period not greater than one year but may be renewed from time to time, and shall be revoked immediately when the person no longer meets the eligibility requirements or fails to comply with any rule, policy or procedure of the legislature.

C. Limited access privileges

1. If the Legislative Council's executive director grants news media credentials to a person, the executive director will issue a STATE HOUSE NEWS MEDIA CARD to the person attesting to the person's approval of news media credentialing. The person shall present the card to security personnel upon entry into the State House. Furthermore, the person shall wear and prominently display the card at all times while in the House and Senate chambers. The card must be returned immediately upon a change in affiliation. The card is nontransferable may not be used by any person other than the person to whom the card was issued, and may be confiscated if it is misused.
2. A person who possesses State House news media credentials is not required to undergo security screening measures upon the person's entry into the State House only upon completion of a satisfactory criminal background check performed periodically and subject to terms and limitations established by the Legislative Council's executive director.
3. Only a person possessing State House news media credentials is eligible to occupy an office in the Legislature's State House Press Corps suite of offices.

XIII. Modification. The Legislative Council reserves all rights to modify this policy at any time as it deems necessary or appropriate. Nothing in this policy shall be construed to limit the authority of the Legislative Council to establish, revise and enforce policies relating to Legislators or legislative employees at any time.

Pursuant to 25 MRSA, §2904(2), the Legislative Council consulted the Commissioner of Public Safety and the commissioner was provided an opportunity to review and comment on the content and enforcement of this policy.

THIS POLICY IS ADOPTED BY THE LEGISLATIVE COUNCIL AT AUGUSTA, MAINE ON APRIL 24, 2012.

BY: David E. Boulter  
Executive Director of the Legislative Council

Authority: 3 MRSA, §162 and 25 MRSA, §2904

Effective Date: May 4, 2012



2012 JUN 25 A 11:05

Merrill's Wharf  
254 Commercial St  
Portland, ME 04101

207-791-1100 voice  
207-791-1350 fax

MEMORANDUM

VIA EMAIL AND US MAIL

TO: Senator Kevin L. Raye, Chair  
Rep. Robert W. Nutting, Vice Chair  
Members of the Legislative Council

FROM: John D. Delahanty, Esq.

CC: David E. Bolter, Executive Director

RE: Display of Fenway Park 100<sup>th</sup> Anniversary Banner at the State House

DATE: June 22, 2012

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Senator Raye, Representative Nutting, Members of the Council -

Thank you very much for your consideration during your April 24<sup>th</sup> Council meeting of my request, on behalf of the Red Sox ownership group, to have a banner displayed from the State House recognizing that iconic American sports venue Fenway Park, and home not only to the Boston Red Sox but also to numerous other athletic and cultural events, on its 100<sup>th</sup> Anniversary.

I sincerely appreciate the consideration given to this request and recognize the concerns raised by a couple of members, especially the potential for setting a precedent for banners being displayed from the State House. I won't reiterate the information previously submitted regarding the rationale for this part of "Red Sox Nation" to share in this unique recognition of Fenway Park's 100<sup>th</sup> Anniversary. This material is included with your packet from the Executive Director for the June 29<sup>th</sup> meeting. I have looked, however, at other sites in the State Capital complex but given the size of the banner and the nature of the other buildings, the Cross Building, the State Museum and the Blaine House, they just wouldn't work. Mr. Bolter has informed me that he did contact Museum personnel but they were not agreeable to entertaining this request. As for constructing a hanging frame to be erected in front of the State House, there simply isn't the budget for it.

Given the concerns that a display from the State House may set a precedent, I'd like to suggest the following.

The Red Sox have approached the states of Massachusetts, Rhode Island, New Hampshire, Vermont, and, obviously, Maine to join with them in saluting Fenway Park's 100<sup>th</sup> Anniversary. They have not approached Connecticut. As I send this memo, Massachusetts, Rhode Island, and New Hampshire all have agreed to display the banner from their respective State Houses. No word has yet been received from Vermont. In order to limit the precedent setting nature of this request, I respectfully suggest that given the unique nature of this opportunity, to recognize not only a regional but national landmark, that a motion to approve the display of the banner from the State House be conditioned upon the documented approval that three of the five states asked to display the banner from their respective State House, have approved the display of the banner. You might also consider a specific time limitation such as limiting the display for only a day or so.

This limitation of requiring regional approval would set an extremely high bar for any future request. In fact, I'm hard pressed to think of another request that would meet the requirements of regional interest and include a banner approved for display from respective State Houses.

Again, I sincerely thank you for your consideration. I would be pleased to address questions you may have.

John

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## Press Releases

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6/4/2012 **Rhode Island honors Fenway Park's 100th anniversary**

STATE HOUSE – The Rhode Island State House has become the second New England state house to hoist a banner commemorating the 100th anniversary of Fenway Park, home of the Boston Red Sox.

The banner will remain at the Smith Street entrance of the State House for two weeks.

"I'm genuinely excited that we will be able to share this special time with Rhode Islanders," Speaker of the House Gordon Fox said. "This is more than just a show of team spirit or the celebration of an American pastime that so many Rhode Islanders enjoy watching. It's a humble bow to a New England landmark that has been a symbol of pride for 100 years. The city of Boston has changed in that time, but Fenway has remained a pillar of dreams for countless individuals at the start of each season."

Massachusetts state officials hung the first commemoration banner in front of its State House in Boston. The remaining banners will be distributed to each of the New England states as a tribute to the famous field.

"I'm proud we are joining our New England colleagues in celebrating one of the national treasures of American baseball," said President of the Senate M. Teresa Paiva Weed. "I applaud the efforts to preserve the park. There's just no place in the world like Fenway."

On April 20, 1912, the Boston Red Sox played its first game at Fenway against the New York Highlanders, now known as the New York Yankees.

For more information, contact:  
Brenna McCabe, Publicist  
State House Room 20  
Providence, RI 02903  
(401) 222-2457

 Provided by  
The Legislative Press & Information Bureau

## M E M O R A N D U M

TO: David Bolter, Executive Director, Maine Legislative Council  
FROM: John D. Delahanty, Esq.  
RE: Display of Fenway Park 100 Year Anniversary Banner from State House  
DATE: April 19, 2012

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Dave,

As we discussed, through a relationship our Managing Partner has with the General Counsel for the Boston Red Sox ownership group, during the past couple of years we've done some legal work for an entity owned by the group. As a result of this relationship, the group's Deputy General Counsel contacted my partner, Jon Block, with whom he had worked on these matters, to see if we might be able to assist with gaining permission to have a specially designed Fenway Park 100<sup>th</sup> Anniversary banner displayed from the State House.

It is my understanding that the Red Sox organization is seeking to have this banner displayed from each state house in New England, the heart and soul of Red Sox Nation. As shown in the attached picture it is already being displayed at the Massachusetts State House. Requests to display at the other capitals are pending and are expected to be granted. You suggested I forward this request to you so that you could take it to the Legislative Council. I obviously respect the information you provided me with regard to restrictions on what can be displayed from the State House. I hope, however, based on the truly unique circumstances relating to Fenway Park, the Red Sox and Maine's strong connection to both, that you and the members of the Legislative Council would be willing to allow this recognition of Fenway Park, America's most beloved ballpark, to occur. I also hope that the Legislature would unanimously endorse (yes, even those who may be fans of a team to the south of Boston that wears pinstripes) a suitable proclamation recognizing Fenway Park's Anniversary and Maine's connection with both the Park and the Red Sox. Possibly this proclamation could be presented to a Red Sox official during Maine Day at Fenway in August.

Fenway Park opened on April 20, 1912. While neither you nor I nor any member of the Legislative Council were around for that opening day, I have to believe that most, if not all of us, are followers, if not ardent fans, of the Red Sox and have been so for

years. I do not know how many Maine natives have played for the Red Sox but I'm familiar with one who was a player as well as a player-manager who has a very strong Maine connection. This is William "Bill" Carrigan who was born in Lewiston, graduated from Lewiston High School, matriculated at Holy Cross but left to become a catcher with the Red Sox. He played all of his 10 seasons in the major leagues from 1906-1916 with the Red Sox. As such, this Maine native would have been at the opening of Fenway Park on April 20, 1912. Mr. Carrigan, known as "Rough", as a player-manager, led Boston to a 2<sup>nd</sup> place finish in 1914 and to two consecutive World Championships in 1915 and 1916, a record that has not been duplicated. Following the Red Sox, Mr. Carrigan returned to Lewiston where he became a banker and President of one of the banks that eventually formed People's Bank. He died in Lewiston and was posthumously elected to the Boston Red Sox Hall of Fame.

While Mr. Carrigan actually played at Fenway Park when it opened, countless thousands of Mainers have made the trip to Boston, traipsed through Kenmore Square, down Yawkey Way, and entered Fenway Park to watch hundreds of games in Fenway Park. It is now the oldest Major League baseball stadium in use. As we all know, Fenway Park certainly has its unique and quirky features including its famous Green Monster, "Pesky's Pole" and "The Triangle." Fenway Park also has the longest streak of consecutive sellouts in Major League baseball history. And while Fenway Park is primarily a baseball venue, it also has been the site of many other sporting and cultural events including professional football for the Boston Redskins and the Boston Patriots, concerts, soccer, hockey games, political and religious campaigns. Fenway also was the site where the University of Maine men's hockey team beat their arch rivals from the University of New Hampshire in a thrilling overtime victory this past January 7, 2012.

Maine also is extremely fortunate to have the Sea Dogs, the Red Sox Double A team, playing in Portland at a wonderful venue, with a mini-Green Monster, where many Mainers get to see future Red Sox stars and present players rehab. I'd also be remiss if I didn't mention the close tie to Maine the "Splendid Splinter", Ted Williams, had as he enjoyed fishing in Maine especially with Maine's iconic outdoors reporter Bud Leavitt.

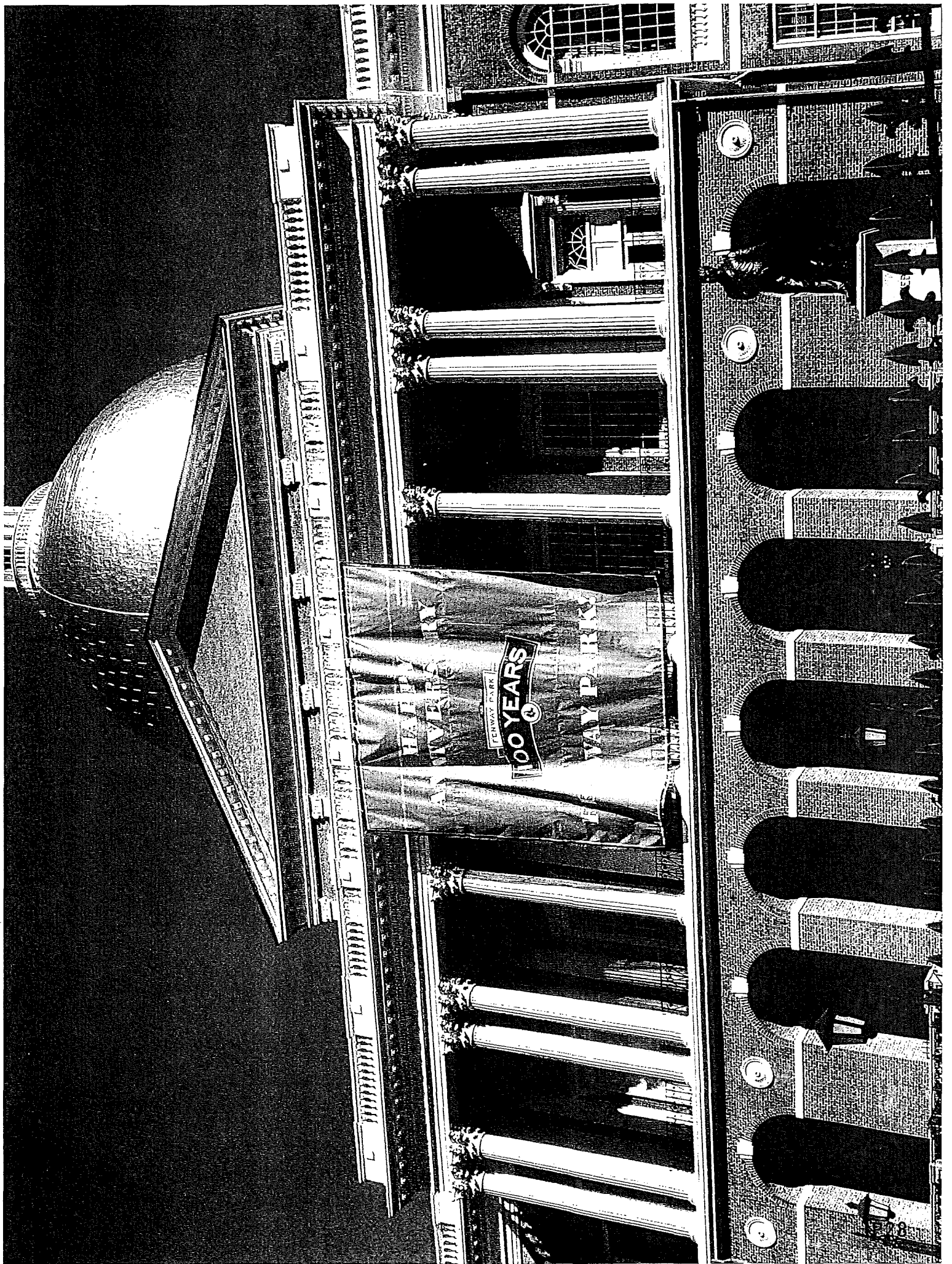
I'm certain there are many other unique and very personal ties between Maine, her citizens, Fenway Park and the Red Sox but when one thinks of Fenway Park, perhaps former Commissioner of Baseball Bart Giamatti said it best, when referring to Fenway Park as a very special place, he stated: "As I grew up, I knew that as a building it was on the level of Mount Olympus, the Pyramid of Giza, the nation's capital, the czar's winter palace, and the Louvre *except*, of course, that it was better than all those inconsequential places."

As Maine's connection with Fenway Park goes back directly to having a native son as a member of the Red Sox when Fenway Park opened, and with certainly thousands of Mainers traveling to Fenway Park each year, I'm hopeful that the request to hang the Fenway Park 100<sup>th</sup> Anniversary banner from the State House would be honored.

As for timing, although Maine Day at Fenway Park is in August, it is my understanding the Red Sox are hoping to have the banner displayed in the various state capitals between now and the end of June. It would be especially welcomed if it could be displayed for a week but if a shorter period was deemed more appropriate, they would be pleased and honored with whatever time the banner could be displayed.

I also should mention that while we have done legal work for the group in the past, as you know, lawyers at times are asked to do some *pro bono* work. This request clearly is one of my most favorite *pro bono* undertakings and hopefully it will be successful. I'd be glad to try to answer any questions and sincerely appreciate your assistance and cooperation.

Very truly yours,  
John







118 Fla. Capitol



STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND AND TWELVE  
—

JOINT RESOLUTION COMMEMORATING THE 100TH  
ANNIVERSARY OF FENWAY PARK

**WHEREAS**, April 20, 2012 marked the 100th anniversary of Fenway Park, home of Major League Baseball's Boston Red Sox; and

**WHEREAS**, the State of Maine is proud to be part of what is known as Red Sox Nation, the most loyal and devoted fan base in baseball, and Mainers attend games each season at Fenway Park in Boston in great numbers; and

**WHEREAS**, Fenway Park is near Kenmore Square in Boston and is the oldest Major League Baseball park currently in use and the oldest venue used by a professional sports team in the United States; and

**WHEREAS**, Fenway Park has had many renovations and additions over the years, resulting in unique and quirky features, including "The Triangle," "Pesky's Pole" and most notably the famous "Green Monster" in left field; and

**WHEREAS**, as the noted American author John Updike described it, Fenway Park is "a lyric little bandbox of a ballpark. Everything is painted green and seems in curiously sharp focus, like the inside of an old-fashioned peeping-type Easter egg"; and

**WHEREAS**, the Boston Red Sox have sold out every home game since May 15, 2003 and Fenway Park sold out its 456th consecutive Red Sox game in 2008, breaking a Major League Baseball record, and currently has over 700 consecutive sellouts; and

**WHEREAS**, with the 4th lowest seating capacity and 2nd lowest total capacity of any Major League Baseball venue and its narrow foul ground and close outfield fences, Fenway Park provides an intimate setting for spectators, who have watched the Red Sox post a winning record in each of the past 14 seasons; and

**WHEREAS**, on March 7, 2012, Fenway Park was added to the National Register of Historic Places; now, therefore, be it

**RESOLVED:** That We, the Members of the One Hundred and Twenty-fifth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to commemorate the 100th anniversary of Fenway Park; and be it further

**RESOLVED:** That a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to the Boston Red Sox at Fenway Park.

# State of Maine Legislature

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## Summary of SP 687

### Bill Info

#### SP 687

#### "COMMEMORATING THE 100TH ANNIVERSARY OF FENWAY PARK"

Sponsored by **President Kevin Raye**

### Status Summary

Last House Action **5/15/2012 - READ and ADOPTED.**  
In concurrence. ORDERED SENT FORTHWITH.

Last Senate Action **5/15/2012 -** On motion by Senator COURTNEY of York under unanimous consent, presented for President RAYE of Washington **READ and ADOPTED.**  
Ordered sent down forthwith for concurrence.

**Boulter, David**

---

**From:** Susan Goff <snorton@pierceatwood.com> on behalf of John Delahanty  
<jdelahanty@PierceAtwood.com>  
**Sent:** Thursday, June 28, 2012 9:20 AM  
**To:** 'senator@kevinraye.com'; Nutting, RepRobert; Courtney, SenJon; Hobbins, SenBarry; Alfond, SenJustin (FWD); Philip Curtis; Curtis, RepPhilip; 'andre@andrecushing.com'; 'mainehousewhip@gmail.com'; 'emily.cain@gmail.com'; Cain, RepEmily  
**Cc:** Boulter, David; Small, Mary; Sucy, Alison; Johanson, Diane; Potter, Ted; Bierman, Earl; Kennedy, Travis  
**Subject:** Fenway Park Banner - Maine Day Presentation of Joint Resolution and Picture on Jumbotron  
**Importance:** High

Senator Raye, Representative Nutting, Members of the Legislative Council,

Again, I sincerely appreciate your consideration of my request on behalf of the Red Sox organization to allow the Fenway Park 100<sup>th</sup> Anniversary banner to be displayed from the State House. This is just a quick addendum to my last communication dated June 22<sup>nd</sup> where I suggested setting a very high bar to any future requests of this nature by requiring at least three of the New England states asked to participate in displaying the banner, being Maine, New Hampshire, Massachusetts, Rhode Island and Vermont, also approve the display of the Fenway Park 100<sup>th</sup> Anniversary banner before Maine displays the banner.

Following my sending the June 22<sup>nd</sup> memo, we have continued to discuss matters with our Red Sox contact. I'd like to pass along two other points connected with this matter.

First, I have been told that arrangements can be made to have the Joint Resolution adopted this past Session saluting Fenway Park's 100<sup>th</sup> Anniversary presented to the Red Sox on Maine Day at Fenway on August 26<sup>th</sup>.

Second, earlier this week I emailed our Red Sox contact and asked that if the banner is displayed from the State House before Maine Day, would a picture of it be taken and, if there is, could that picture be shown on the Fenway Park jumbotron(s), or whatever they are called, during the presentation of the Joint Resolution? The reply was that a jumbotron display certain could be arranged.

I posed this question because I believe such a showing would serve as a wonderful ad for the State of Maine, just before Labor Day. It would be seen by thousands of folks who are the targets of many of the visitor ads Maine's Bureau of Tourism and countless Maine hospitality related businesses run in Massachusetts and around New England. Presentation of the Joint Resolution coupled with having the picture of the banner being displayed from the State House shown on the jumbotron would be a very tangible benefit for the State. This would be in addition to the spiritual uplifting many Maine Red Sox fans would enjoy by seeing their beloved, iconic Fenway Park honored by the State of Maine when the 100<sup>th</sup> Anniversary banner is displayed from the State House, hopefully.

I look forward to seeing you at the Council meeting.

Thank you again for your time.

Best regards,

John /sg

**John D. Delahanty, Esq.**  
PIERCE ATWOOD LLP

Merrill's Wharf  
254 Commercial Street  
Portland, ME 04101  
**PH** 207.791.1222

77 Winthrop Street  
Augusta, ME 04330  
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**FAX** 207.623.9367

SEN. KEVIN L. RAYE  
CHAIR

REP. ROBERT W. NUTTING  
VICE-CHAIR

EXECUTIVE DIRECTOR  
DAVID E. BOULTER



SEN. JONATHAN T. E. COURTNEY  
SEN. BARRY J. HOBBINS  
SEN. DEBRA D. PLOWMAN  
SEN. JUSTIN L. ALFOND  
REP. PHILIP A. CURTIS  
REP. EMILY ANN CAIN  
REP. ANDRE E. CUSHING III  
REP. TERRY HAYES

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

**MEMO**

To: Legislative Council Members

DB.  
From: David E. Boulter, Executive Director

Date: June 28, 2012

Re: Potential Dates for New Member Orientation, 126<sup>th</sup> Legislature

The 126<sup>th</sup> Maine Legislature will convene on Wednesday, December 5, 2012, the first Wednesday in December. As you may recall, the biennial Pre-legislative Conference is held in conjunction with the convening of the new legislature. For the 126<sup>th</sup> Legislature, the Pre-legislative Conference will be held on Monday, December 3<sup>rd</sup> through Thursday, December 6<sup>th</sup>.

Prior to the Pre-legislative Conference an initial legislative orientation session is traditionally held for members who have been newly elected. This New Member Orientation acquaints new members with information on legislator salary and benefits, security procedures, legislative resources that are available to them, committee structure and jurisdiction, and the procedure for filing legislation.

The date when the New Member Orientation is held varies from biennium to biennium based on available times between Election Day and the Pre-legislative Conference, taking into account State-observed holidays in November. Because of the dates of the election and the Pre-legislative Conference in 2012, there are 3 feasible periods when the New Member Orientation program may be held, each with advantages and disadvantages. The 3 periods are:

- **Thursday or Friday, November 15 or 16**, following the Monday, November 11<sup>th</sup> holiday – the week immediately following the General Election
- **Monday or Tuesday, November 19 or 20**, with the following Thursday (Thanksgiving Day) and Friday being holidays
- **Monday or Tuesday, November 26 or 27**, during the week prior to the Pre-legislative Conference

While any of those periods would work, I recommend that the Legislative Council seriously consider establishing November 15<sup>th</sup> or 16<sup>th</sup> as the date for New Member Orientation. While it would be during the week following the election, either of those days would avoid

Thanksgiving week when members may be traveling, and this earlier date would allow members greater opportunity to become acquainted with legislative procedures and to file bills before the cloture deadline for bill filing. Finally, the earlier date would better allow adequate time for processing of Legislator payroll and benefit information before the start of the 1<sup>st</sup> Regular Session.

The Legislative Council's selection of a date for New Member Orientation at this time would be very helpful for staff to begin the planning process for the incoming legislature so necessary arrangements can be made and materials prepared well in advance of the orientation session.

A November calendar is attached for your reference.

Thank you.

Attachment

G:\126<sup>th</sup> Legislature\New Member Orientation\MEMO to LC re establishing date of NMO 6-28-2012.docx

# November 2012

November 2012							December 2012						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3							1
4	5	6	7	8	9	10	2	3	4	5	6	7	8
11	12	13	14	15	16	17	9	10	11	12	13	14	15
18	19	20	21	22	23	24	16	17	18	19	20	21	22
25	26	27	28	29	30		23	24	25	26	27	28	29
							30	31					

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Oct 28 - Nov 3	<b>Oct 28</b>	<b>29</b>	<b>30</b>	<b>31</b>	<b>Nov 1</b>	<b>2</b>	<b>3</b>
Nov 4 - 10	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
			Election Day (United S				
Nov 11 - 17	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>
	Veteran's Day (United	Holiday observed			New Member Orientation (Option 1) Legislative Council me		
Nov 18 - 24	<b>18</b>	<b>19</b>	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>
		New Member Orientation (Option 2)			Thanksgiving Day (Un	Thanksgiving Day Frid	
Nov 25 - Dec 1	<b>25</b>	<b>26</b>	<b>27</b>	<b>28</b>	<b>29</b>	<b>30</b>	<b>Dec 1</b>
		New Member Orientation (Option 3)				Pre-Leg Conf (12/3-6)	

# MAINE DEVELOPMENT FOUNDATION

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Wednesday, June 20, 2012

To: President of the Senate Kevin Raye, Chair of the Legislative Council  
Speaker of the House Robert Nutting, Vice-Chair of the Legislative Council  
Distinguished Members of the Legislative Council

From: Edmund Cervone, Interim President, Maine Development Foundation



Re: Policy Leaders Academy – Policy Forums and Bus Tour for the 126<sup>th</sup> Maine Legislature

\*\*\*\*\*

Thank you for your continued support of the Policy Leaders Academy. The Maine Development Foundation has offered this unique educational program to Maine legislators since 1985 and we are honored to continue the tradition this year with the 126<sup>th</sup> Maine Legislature. Participation in PLA continues to be high and feedback has been excellent, helping shape the program offering as we expose policy leaders to the many amazing things happening in the Maine economy.

**I am writing to ask if we could finalize the dates for the various forums and bus tour as it is critically important to reserve meeting space, busses, hotel accommodations, and to provide all of our many tour stops with the dates and times of our visit (they try very hard to make sure that their senior leadership teams are there to host you and they sometimes arrange work schedules around your visit to ensure that the visit is comfortable, engaging and safe).** Working with David Boulter, we came up with some possible dates and would like to propose the following for your consideration:

1. **Policy Forum** – Thursday, December 6 (in conjunction with legislative orientation) – this will run from 8am to 1pm
2. **Economic Bus Tour** – either January 9-11 or January 16-18
3. **Four Policy Breakfasts** – Wednesdays in February and March (February 6, 20 and March 6, 20) – forums run from 7:30am to 9:00am and will not interfere with committee or session work

The overarching theme for Policy Leaders Academy is a “Productive Workforce”. We believe that a productive workforce is educated/trained, healthy, innovative, and engaged. The Maine Development Foundation and our planning partners will work closely with David Boulter to shape the agenda for the various forums and the bus tour around this larger theme.

Thank you for your consideration and support as we prepare for the next round of Policy Leaders Academy. We are excited to launch the detailed planning process to provide the very best training experiences possible. We look forward to working with you in the months ahead.

cc: David Boulter

# January 2013

January 2013							February 2013						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
6	7	1	2	3	4	5	3	4	5	6	7	1	2
13	14	8	9	10	11	12	10	11	12	13	14	8	9
20	21	15	16	17	18	19	17	18	19	20	21	15	16
27	28	22	23	24	25	26	24	25	26	27	28	22	23

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	<b>Dec 30</b>	<b>31</b>	<b>Jan 1, 13</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
Dec 30 - Jan 5			New Year's Day (Unite	126th Legislature			
	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>
Jan 6 - 12				12:00pm MDF Economic Development Bus Tour (Option 1) 6:00pm			
	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
Jan 13 - 19				12:00pm MDF Economic Development Bus Tour (Option 2) 6:00pm			
	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>	<b>25</b>	<b>26</b>
Jan 20 - 26		Holiday (Martin Luther					
	<b>27</b>	<b>28</b>	<b>29</b>	<b>30</b>	<b>31</b>	<b>Feb 1</b>	<b>2</b>
Jan 27 - Feb 2							



Fr: Sen. Hobbins

**From:** Pachios, Harold C.  
**Sent:** Wednesday, June 20, 2012 4:43 PM  
**To:** [bhobbins@hobbinslaw.com](mailto:bhobbins@hobbinslaw.com)  
**Subject:** George Mitchell

There is a compelling historical context to the public career of Waterville native George Mitchell. In the history of the United States Senate, he is the only person from Maine to ever lead that body as Majority Leader. He and Thomas Brackett Reed are the only Maine people to lead one or the other Houses of the United States Congress.

In 1994 President Bill Clinton asked Mitchell to replace the retiring Henry Blackmun on the Supreme Court of the United States. Mitchell declined the nomination, almost certainly the only Maine political leader ever to decline a seat on the Supreme Court, and the only American politician to do so.

With the possible exception of Joshua Chamberlain, it is difficult to identify any other Maine native that matches the breadth, depth, and dimensions of George Mitchell's career. When Time Magazine named him one of the 100 Most Influential People in the World, it noted his international leadership roles in American politics, international peacekeeping and dispute resolution, and global business.

He is the author of the Belfast Peace Agreement which brought peace to Northern Ireland; the 2001 Mitchell Report, providing a roadmap for peace in the Middle East; the Mitchell Report commissioned by the American Red Cross which provided the framework and methodology for distributing congressionally-mandated funds to families of 9/11 victims; and the Mitchell Report on Steroids in Baseball. He has served as Chairman of many other American and international dispute resolution panels.

In his third dimension, the world of business, Mitchell has served for many corporate boards including Xerox, Staples, FedEx, Unilever, Starwood, the Boston Red Sox, and for many years he was the Chairman of the Walt Disney Corporation.

George Mitchell is a founder, along with former Majority Leaders Bob Dole and Howard Baker of the Bi-Partisan Policy Center, a think tank in Washington.

President Obama appointed him as Special Envoy for Middle East Peace, a post he held until May 2011.

In 1999 he was awarded our nation's highest civilian award, the Presidential Medal of Freedom. He is also the recipient of the Liberty Medal from the National Constitution Center recognizing his leadership in pursuit of freedom joining previous recipients Tony Blair, George H.W. Bush, Bill Clinton, Kofi Annan, Mikhail Gorbachev, Bono, Sandra Day O'Connor, and Robert Gates. He was nominated for the Nobel Peace Prize, and in 1999 at a ceremony in Buckingham Palace, Queen Elizabeth made him an Honorary Knight Grand Cross of the Order of the British Empire (GBE).

George Mitchell is a true man of Maine. Born in Waterville and raised there in modest circumstances in the Head of Falls neighborhood on the banks of the Kennebec River, he graduated from Waterville High School and Bowdoin College. He now lives part of the year in Seal Harbor, Maine, and devotes much time to the George Mitchell Scholarship Institute which awards college scholarships to a graduating senior from each and every high school in the State of Maine.

Harold C. Pachios | Attorney  
**PretiFlaherty**

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In accordance with Internal Revenue Service Circular 230, we hereby advise you that if this E-mail or any attachment hereto contains any tax advice, such tax advice was not intended or written to be used, and it cannot be used, by any taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer by the Internal Revenue Service.

This E-Mail may contain information that is privileged, confidential and / or exempt from discovery or disclosure under applicable law. Unintended transmission shall not constitute waiver of the attorney-client or any other privilege. If you are not the intended recipient of this communication, and have received it in error, please do not distribute it and notify me immediately by E-mail at [amontgomery@preti.com](mailto:amontgomery@preti.com) or by telephone at 207.791.3000 and delete the original message. Unless expressly stated in this e-mail, nothing in this message or any attachment should be construed as a digital or electronic signature or as a legal opinion. **P37**

SEN. KEVIN L. RAYE  
CHAIR

REP. ROBERT W. NUTTING  
VICE-CHAIR

EXECUTIVE DIRECTOR  
DAVID E. BOULTER



SEN. JONATHAN T. E. COURTNEY  
SEN. BARRY J. HOBBS  
SEN. DEBRA D. PLOWMAN  
SEN. JUSTIN L. ALFOND  
REP. PHILIP A. CURTIS  
REP. EMILY ANN CAIN  
REP. ANDRE E. CUSHING III  
REP. TERRY HAYES

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

**Legislative Council Policy on the  
Use of Capitol Park  
Augusta, Maine**

**1. Authority**

Pursuant to 3 MRSA §162, Capitol Park is State-owned land that is under the jurisdiction of the Maine Legislative Council, Maine Legislature. The Maine Legislative Council ("Legislative Council") is authorized to establish and enforce standards and guidelines that govern all uses of Capitol Park. Pursuant to this authority and as provided in section 5 below, the Legislative Council designates the Chief of the Bureau of the Capitol Police as the Legislative Council's agent for issuing activity permits, and enforcing the standards and guidelines established for Capitol Park by authority delegated to the Chief of Capitol Police by the Commissioner of Public Safety.

**2. Location**

Capitol Park is located within the municipality of Augusta, immediately east of the Maine State House Grounds. It is bordered on the west by State Street, on the north by Capitol Street, on the south by Union Street and on the east by the Kennebec River. A State-owned road, so-called Gage Street Extension, and a railroad right-of-way cross a portion of the east end of the park. Several residences are in close proximity to the park.

**3. Park purpose**

Capitol Park was designed to enhance the State House Grounds, and the City of Augusta as Maine's Capital. Capitol Park ("the park") is established and maintained for the passive use and enjoyment of the natural environment and as an area of reflection by residents of the State and visitors. In keeping with its pastoral setting, Capitol Park is intended for non-intensive, non-commercial and non-exclusive use by individuals and groups.

## 4. Standards and guidelines established

The Maine Legislative Council establishes these standards and guidelines in order to promote the general purposes and the peaceful use of Capitol Park and to protect the public health, safety and welfare.

## 5. Administration and enforcement

- a. The Legislative Council authorizes and directs the Chief of the Bureau of Capitol Police to enforce the standards and guidelines contained in this policy, and to adopt such measures as may be necessary to enforce them. The Chief of Capitol Police shall not issue an activity permit or take any action that is inconsistent with these standards and guidelines.
- b. An Activity Permit is required for activities occurring in the park as provided in this policy. Such permit may establish reasonable conditions and limitations of use, including without limitation, period of use, activities permitted, maximum occupancy, use of sanitation facilities, limitations based on weather or condition of park grounds, and designation of areas where activity is permitted or prohibited.
- c. The Activity Permit holder is liable for any damage to the park that is attributable to the permit holder's use of the park or violation of the terms and conditions of any Activity Permit.
- d. An application for an Activity Permit may be turned down if:
  - i. The proposed use would conflict with other permitted uses or be inconsistent with purposes or authorized uses of the park;
  - ii. The applicant has egregiously or repeatedly violated the standards and guidelines for the park within the prior 24 months, failed to make restoration of any previous damage to the park or fails to meet all applicable permit application requirements; or
  - iii. The application is filed less than three (3) work days prior to the start of the proposed activity even if it would otherwise be in compliance with the standards and guidelines.
- e. The Chief of Capitol Police is authorized to issue and enforce criminal trespass orders to enforce the standards and guidelines established under this policy and activity permits issued pursuant to this policy.

## 6. Activity permit

- a. A person seeking a use of the park that requires a permit must apply for an Activity Permit by filing an application and supporting information, and applicable park use fee. The application must state with specificity the legal name and address of the person or organization conducting, sponsoring or affiliated with the activity, contact information,

anticipated attendance, the activity for which approval is sought and the date and time of the activity.

- b. The application form must be the form approved for use by the Legislative Council.
- c. An applicant must provide evidence of liability insurance if required under section 8 of this policy.
- d. An Activity Permit is non-transferrable and is valid only for the approved uses, dates and times.

#### 7. Park use fee and security deposit

- a. An applicant shall be required to tender a refundable security deposit of \$250 for every 500 participants after the first 200. However, the total amount of the deposit required may not exceed \$2,000. The security deposit shall be released within 3 work days following the permitted activity provided that the deposit is not needed to repair any damage, clean up the park or correct any noncompliance that arises directly or indirectly from the activity.
- b. An applicant shall pay a nonrefundable park use fee as follows. If a use is applicable to more than one category of fee, the larger fee applies. Fees are not cumulative.
  - i. Use that includes placement or use of a tent or other structure: \$50
  - ii. Use that includes placement or use of 2 or more tents or other structures: \$100
  - iii. Use where the anticipated or actual number of participants is between 100 and 200: \$50
  - iv. Use where the anticipated or actual number of participants is between 201 and 1,000: \$100
  - v. Use where the anticipated or actual number of participants is between 1,001 and 2,500: \$200
  - vi. Use where the anticipated or actual number of participants is between 2,501 and 4,000: \$400
  - vii. Use where the anticipated or actual number of participants more than 4,000: \$500
  - viii. For all other activities: \$0.
- c. The fee or security deposit may be reduced or waived only upon written petition and a clear and convincing demonstration of financial hardship by the applicant for a permit such that the applicant is unable to pay all or a portion of the fee or deposit. That an applicant is a nonprofit organization or unit of government does not constitute a "financial hardship." No fee or deposit may be required for park use by the Legislative Council.

## 8. Liability insurance requirement

An applicant shall be required to file a Certificate of Liability Insurance naming the State of Maine as Insured that provides general liability insurance in an amount commensurate with the proposed activities but not less than \$100,000 general aggregate, when such activities include use of energy such as electricity or propane, sale of food, an animal show or competition, or is otherwise required by the State of Maine's insurance policies.

## 9. Sanitation Facilities

For any activity involving more than 50 but less than 100 people and having a scheduled duration of more than four (4) hours or for an activity involving 100 or more people and having a scheduled duration of more than two (2) hours, the Activity Permit holder must arrange for, at his or her own expense, portable toilets or similar sanitation stations, in a quantity sufficient to accommodate the number of participants, to be on-site at an authorized location for the duration of the event.

## 10. Park hours

The customary hours when the park is open to the public are from ½ hour after sunrise to ½ hour after sunset, local time. However, the Legislative Council or its designee may close all or portions of the park at any time without prior notice for reasons of safety, weather, park conditions or maintenance.

## 11. Allowed activities without a permit

- a. The following activities are allowed without an Activity Permit issued by the Legislative Council or its designee:

- i. Walking, sitting and noncompetitive running or jogging;
- ii. Photography, bird watching and nature walking;
- iii. Reading, talking, singing, individual and family picnicking and sunbathing;
- iv. Dog walking provided the dog is on a leash and under the direct control of the person possessing the dog at all times;
- v. Bicycling, if the bicycle is equipped with on-road tires;
- vi. Holding a picnic or birthday party or providing a meal to a group where the reasonably anticipated attendance is 25 or fewer individuals; and
- vii. Gathering in the park for lunch or other similar purpose of brief duration that is part of a pre-arranged tour of the Capitol or the Maine State Museum by an organized Maine school group of elementary, middle or high school youth.

- b. The following activities are allowed upon issuance of an Activity Permit:

- i. Making any public speech or holding any rally or protest;

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An applicant shall be required to file a Certificate of Liability Insurance naming the State of Maine as Insured that provides general liability insurance in an amount commensurate with the proposed activities but not less than \$100,000 general aggregate, when such activities include use of energy such as electricity or propane, sale of food, an animal show or competition, or is otherwise required by the State of Maine's insurance policies.

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- iv. Dog walking provided the dog is on a leash and under the direct control of the person possessing the dog at all times;
- v. Bicycling, if the bicycle is equipped with on-road tires;
- vi. Holding a picnic or birthday party or providing a meal to a group where the reasonably anticipated attendance is 25 or fewer individuals; and
- vii. Gathering in the park for lunch or other similar purpose of brief duration that is part of a pre-arranged tour of the Capitol or the Maine State Museum by an organized Maine school group of elementary, middle or high school youth.

- b. The following activities are allowed upon issuance of an Activity Permit:

- i. Making any public speech or holding any rally or protest;

- ii. Parade or march;
- iii. Concert;
- iv. Distribution of any printed matter as provided herein, or the carrying of signs or bill boards. When permitted, distribution of printer matter may be confined to one or more entrances to Capitol Park;
- v. Holding a picnic or birthday party or providing a meal to a group where the reasonably anticipated attendance is more than 25 individuals;
- vi. operation of a propane grill or other food preparation equipment;
- vii. Performing a wedding ceremony or memorial service, holding a dedication, holding an awards or any other similar service or ceremony, or holding a wedding or similar reception, whether or not catered;
- viii. Holding an animal show involving 25 or fewer animals;
- ix. Erection or placement of tents, canopies or other similar structures, tables, chairs, platforms or podiums;
- x. Operation of a sound amplification system. For the purposes of this policy, a megaphone is not considered sound amplification equipment; and
- xi. Any group gathering of more than 25 individuals for whatever reason.

## 12. Prohibitions

The following are prohibited:

### a. Activities

- i. Overnight use, or habitation on a temporary or permanent basis;
- ii. Fires or other open flames, including charcoal grills
- iii. Organized sporting events, scrimmages, or team training;
- iv. Ball playing or ball games except that informal, noncompetitive individual or family ball tossing that is not disruptive of others is allowed;
- v. Golfing or hitting golf balls;
- vi. Kite-flying except in designated open areas in the park, or balloon release;
- vii. Operation of gas-powered model aircraft
- viii. Races, human or animal;
- ix. Animal shows or competitions involving more than 25 animals;
- x. Placement of political campaign signs or banners;
- xi. Commercial activities, including offering or solicitation of goods or services, except that the sale of beverages and food items that is ancillary to and occurs in conjunction with an authorized on-site festival sponsored by the city of Augusta or the Legislative Council may be permitted by special exception.
- xii. Climbing, standing or laying on or affixing objects to any monument, gate, fence, bench, table or tree
- xiii. Digging or other disturbance of soil or sod
- xiv. Skateboarding, roller blading or roller skating

- xv. Construction of monuments or memorials
- b. Behaviors
  - i. Defacing or destroying any natural feature or built structure in the park;
  - ii. Accosting any person or interfering with another person's use or enjoyment of the park;
  - iii. Public indecency;
  - iv. Panhandling or begging;
  - v. Physical or verbal abuse of others;
  - vi. Noise-making, including drumbeating or use of horns that is disruptive to another person's use or enjoyment of the park or to area residents;
  - vii. Urinating or defecating except within authorized sanitation stations;
  - viii. Allowing defecation by animals under a person's control except when the person immediately collects and properly disposes of the animal's feces. Notwithstanding the above, defecation is prohibited on any walking path.
  - ix. Disturbing any bird's nest or eggs or damaging or removing any tree, bush, plant, flower or stone;
  - x. Smoking except in clearly designated areas established by the Legislative Council;
  - xi. Littering or breaking any bottle or other article of glass;
  - xii. Entering or remaining in the park whenever the park is closed;
  - xiii. Possession or consumption of alcoholic beverages;
  - xiv. Possession or use of illegal drugs or substances;
- c. Equipment and animals
  - i. Possession or use of fireworks, firecrackers, sparklers or other explosive or incendiary devices;
  - ii. Possession or use of paint guns, ammunition or weapons, including firearms, knives, swords or Tasers. Notwithstanding this prohibition, a bona fide military or law enforcement honor guard or military personnel in full dress uniform while participating in a formal military ceremony in the park may be permitted to carry weapons provided all firearms have been disabled and are incapable of being discharged. Furthermore an on-duty law enforcement officer is permitted to carry a weapon provided that the officer is in uniform with the officer's badge displayed or an officer who is in plainclothes so discloses possession of the weapon to the Chief of Capitol Police;
  - iii. Possession or use of any combustible or compressed gas, except that bottled propane in an approved 100 pound or less container and used in connection with an outdoor grill may be allowed by permit; if a grill is permitted, the permit holder shall have one or more serviceable fire extinguishers on-site and in close proximity to the grill at all times.
  - iv. Animals, except service dogs and dogs allowed under section 11B above;
  - v. Motor vehicles, except for authorized service vehicles and equipment used for maintenance and improvement of the park, and if permitted, to transport



equipment into or out of the park. In no event, however, may such permitted vehicles travel on or cross any stone-dust path or allee;

- vi. Mechanical amusement rides;
- vii. Animal-driven wagons;
- viii. Electrical or fuel-powered heating or cooling equipment;
- ix. Electrical generators; and
- x. Cleated footwear

d. Other

Any other activities, behaviors, equipment or animals not otherwise specified herein if they may damage the park or pose a threat to public health or safety or enjoyment of the park by others.

13. Special Uses

Upon approval of the director of the Maine Historic Preservation Commission, the Legislative Council authorizes use of the park, subject to appropriate conditions, for historic re-enactments or commemorations of significant historical events related to Capitol Park, the State House, the State of Maine or the United States of America.

14. Modification

The Legislative Council reserves all rights to modify this policy at any time as it deems necessary or appropriate. Furthermore that Legislative Council grants authority to its Executive Director to authorize the Chief of Capitol Police to take an action that may be inconsistent with these standards and guidelines in an emergency or unusual circumstance provided that such action is in keeping with the intent of this policy and such action is limited to the duration of the emergency or unusual circumstance.

15. Effective Date

July 9, 2012

THIS POLICY IS ADOPTED BY THE MAINE LEGISLATIVE COUNCIL ON JUNE 28, 2012 AT AUGUSTA, MAINE.

BY: \_\_\_\_\_

**Maine Bureau of Insurance  
Consumer Health Care Division  
Annual Report to the Legislature for the Year 2011**

April 2012



Paul R. LePage  
Governor

Eric A. Cioppa  
Superintendent

Anne L. Head  
Commissioner

## **Maine Bureau of Insurance Consumer Health Care Division**

**Eric A. Cioppa .....Superintendent**  
**Tim Schott .....Deputy Superintendent**  
**Glenn Griswold .....Director**  
**Joanne Rawlings-Sekunda .....Deputy Director**  
**Norman Stevens .....Staff Attorney**  
**Pamela Stutch .....Staff Attorney (part-time)**  
**Violet Hyatt .....Nurse Consultant**  
**Vacant .....Senior Insurance Analyst**  
**Michael McGonigle .....Senior Insurance Analyst**  
**Linda Dion .....Senior Insurance Analyst**  
**Michael Roberts .....Insurance Analyst**  
**Debra Violette .....Insurance Analyst**  
**Patricia Woods .....Insurance Analyst**  
**Lisa Lewis .....Assistant Insurance Analyst**

### **Telephone Numbers:**

**Toll Free (in-state):           800-300-5000**  
**Out-of-state:               207-624-8475**  
**Fax:                       207-624-8599**

**Website:**    [www.maine.gov/pfr/insurance](http://www.maine.gov/pfr/insurance)  
**E-mail link:** [Insurance.PFR@maine.gov](mailto:Insurance.PFR@maine.gov)

### **Mailing Address:**

**34 State House Station  
Augusta, Maine 04333**

### **Physical Location:**

**76 Northern Avenue  
Gardiner, Maine 04345**

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## I. Overview

Pursuant to 24-A M.R.S.A. § 4321(J), this report details the 2011 activities of the Consumer Health Care Division (CHCD) at Maine's Bureau of Insurance (Bureau), within the Department of Professional and Financial Regulation (DPFR). The CHCD focuses on consumer assistance, outreach, and oversight of insurer compliance with the Insurance Code (Title 24-A) and Bureau regulations.

### A. Responsibilities

The CHCD is responsible for:

- Investigating and resolving consumer complaints related to health, disability, long-term care, and life insurance;
- Reviewing and approving the policy language of health insurance forms;
- Licensing medical utilization review entities (UREs);
- Reviewing and approving long-term care insurance forms;
- Reviewing and approving disability and life insurance forms;
- Providing oversight of the Bureau's external review process;
- Drafting and reviewing health insurance regulations;
- Bringing enforcement actions against licensed entities when violations occur;
- Reviewing managed care plans for compliance with provider network adequacy measures;
- Approving registrations for preferred provider arrangements (PPAs);
- Developing outreach and educational materials;
- Drafting reports on issues involving health policy;
- Conducting the Quality Oversight of commercial Health Maintenance Organizations (HMOs);
- Tracking, trending, and analyzing data;
- Responding to consumer inquiries;
- Analyzing consumer complaint data for trending purposes;
- Reviewing complex complaints that include determinations of medically necessary care and complex health questions;
- Conducting outreach to a variety of groups including other State agencies;
- Providing information to consumers regarding health care plan options and obtaining health care coverage and services; and
- Assisting health, disability, long-term care, and life insurance consumers in understanding their rights and responsibilities.

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"...CHCD staff have been absolutely wonderful all though this ordeal and we are extremely grateful. Patients (and their families) with mental health issues and treatments deal with shame, stigma, and cruel judgments. Consumer's daughter never felt any of those things with CHCD staff." – *Consumer, December 29, 2011*

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## **B. Consumer Assistance, Consumer Outreach, and Licensing Activities**

### **1. Consumer Assistance**

One of the most important duties of the CHCD is to provide assistance and information to consumers. Staff responds to telephone inquiries by providing information to callers, referring callers to the Bureau's website ([www.maine.gov/pfr/insurance](http://www.maine.gov/pfr/insurance)), and mailing issue-related brochures. Staff also responds to written inquiries from consumers. For topics not within the Bureau's jurisdiction, consumers are referred to the appropriate agency. For example, consumers with questions about MaineCare are referred to the Maine Department of Health and Human Services, and consumers with questions about federal laws outside the Bureau's jurisdiction are referred to the appropriate federal agency.

In addition to inquiries, staff also receives and investigates written consumer complaints. Maine consumers may file a complaint by completing a CHCD complaint form, which authorizes staff to contact insurance company representatives and health care providers in order to investigate the dispute. Consumers can file complaints electronically on the Bureau's website. In recent years, use of the Bureau's online complaint form has increased.

When a complaint is received, a staff investigator is assigned to the case. The investigator directs the insurance carrier to respond to the consumer's allegations. The carrier's response and supporting documentation are reviewed by CHCD staff to determine if the processes used by the carrier comply with the terms of the insurance policy, as well as with Maine's laws and regulations.

The complainant is kept informed of the progress of the investigation and at times may be asked to provide additional information. Complex issues related to health, life, and disability insurance coverage require significant staff time to gather facts and correspond with relevant parties when resolving complaints.

Some complaints involve allegations that the insurance company has not properly handled a consumer's appeal of a health insurance adverse decision. Under Maine law, carriers are required to provide two levels of internal appeals to the consumer. In some cases, such as those involving a question of medical necessity, the consumer also has a right to an independent external review of the case following the two levels of internal appeals. The Bureau ensures that carriers provide consumers with their appropriate appeals rights. The carrier's appeals process is separate from the Bureau's complaint investigation, and consumers are advised that they can proceed with both an appeal and a complaint with the Bureau simultaneously.

The CHCD reviews each complaint to determine the proper jurisdiction for the complaint investigation. The Bureau sometimes receives complaints involving issues over which the Bureau of Insurance does not have jurisdiction. In such cases, the jurisdictional issue is explained, and the consumer is directed to the appropriate regulatory agency.

In cases involving an urgent need for immediate assistance, CHCD staff can promptly intervene on behalf of the consumer to ensure that the carrier complies with its legal obligations.

Examples include denial of a surgical procedure or needed inpatient stay. The CHCD staff has been able to resolve many of these situations very quickly when it is evident that the carrier's denial is flawed or contrary to specific requirements in either the insurance policy or Maine law.

In cases in which the insurer has inappropriately denied a claim or otherwise acted improperly, the Bureau works to see that benefits are properly paid to the consumer. In cases in which the insurer has acted properly, the basis and rationale for this conclusion are explained to the consumer, who is informed that there was no violation of Maine law. There are also cases in which the Bureau does not have jurisdiction due to federal preemption. In those situations, staff takes the opportunity to provide consumers with information regarding insurance law, their rights and responsibilities, and the terms of their coverage.

## **2. Health Insurance External Review**

After exhausting the two level internal appeals process provided by their insurance plan, consumers have the right to request an external review for denials involving medical necessity, pre-existing conditions, experimental treatments, and denials based on a dispute in diagnosis, care, or treatment. External review appeals are coordinated by CHCD staff who assigns the appeal to an External Review Organization (ERO). The Bureau contracts with EROs having no affiliation with the insurance carrier involved in the appeal.

During the external review, the ERO has an appropriate independent medical expert review the case. For example, in a case involving a mental health issue, a psychiatrist or other appropriate mental health professional experienced with the diagnosis in question would be assigned to the case. The external review process is paid for by the insurance carrier, not the consumer. The decision of the external review is binding only on the carrier; the consumer can seek private legal action as an additional remedy.

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"The results of your sending a letter to "Insurance Carrier" were more than anticipated. They paid a total of \$958.22 to my dentist." – *Consumer, November 21, 2011*

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## **3. Outreach and Education**

An ongoing priority of the CHCD is to educate Maine consumers about their rights under Maine's insurance laws and the services available through the Bureau of Insurance. This includes public speaking engagements and CHCD participation in public forums and events throughout the year.

Public speaking and other outreach events in which the CHCD participated in 2011 included:

- Bushmaster Firearms – Windham
- Senior Outreach Session – Bath
- Public Comment Session – Orono
- Public Comment Session – Portland
- Senior Outreach Session – Livermore
- Public Comment Session – Orono
- Maine Consumer University – Financial Wellbeing – Portland

- Senior Outreach Session – Newport
- American Cancer Society's Living With Cancer Conference - Augusta
- Fostering Financial Literacy in Maine Schools – Augusta
- Senior Expo – Bangor
- Senior Outreach Session – Bucksport
- 21st Geriatrics Conference – Bar Harbor
- Senior Outreach Session – Cohen Center – Farmingdale
- Potato Blossom Festival – Fort Kent
- Blueberry Festival – Machias
- Common Ground – Unity
- SHIP Annual Meeting – Waterville
- Maine Hospital Association – Brewer
- LTC Partnership Plans – Manchester, NH
- American Association of Health Care Administrative Management – Augusta

As part of its ongoing consumer education mission, CHCD produces and updates numerous brochures on a variety of topics, including the purchase of health insurance and appealing adverse decisions by health insurance companies. CHCD brochures and other information, including answers to frequently asked questions, are also available on the Bureau's website.

#### **4. Licensing Activity**

##### *a. Medical Utilization Review*

“Medical Utilization Review” includes any program or practice by which a person, on behalf of an insurer, nonprofit service organization, third-party administrator, or employer, seeks to review the utilization, clinical necessity, appropriateness, or efficiency of health care services, procedures, providers, or facilities. Medical Utilization Review (MUR) entities are required to be licensed in Maine if they intend to conduct utilization reviews for plans that provide coverage to Maine residents. MUR applicants are, at a minimum, required to provide to the Bureau a detailed description of the medical utilization review processes used for each review program offered by the applicant, including but not limited to:

- Second opinion programs;
- Hospital pre-admissions certification;
- Pre-inpatient service eligibility determinations;
- Determinations of appropriate length of stay; and
- Notification to consumers and providers of utilization review decisions.

Licensed medical utilization review entities (UREs) must certify compliance with Maine's utilization review requirements. Licenses are issued based on the company's compliance with all applicable standards. Licenses must be renewed annually.

A list of Maine licensed UREs can be found on the Bureau's website at: [www.maine.gov/insurance/producer/utilization\\_review.htm](http://www.maine.gov/insurance/producer/utilization_review.htm) under the *Producer/Business Entity Information* link. Licensed companies can also be located by using the website's “Find a licensee” feature.



In 2011, three new UREs were licensed in Maine, bringing the total number of licensees to 70.

*b. Preferred Provider Arrangements*

The CHCD reviews and registers preferred provider arrangements (PPAs). A “preferred provider arrangement” is a contract, agreement, or arrangement between an insurance carrier or plan administrator and a provider in which the provider agrees to provide services to a health plan enrollee whose plan benefits include incentives to use the services of that provider. Preferred provider arrangements are reviewed for compliance with Maine statutes regarding accessibility, utilization review, grievance and appeal procedures, provider compensation, consumer notification, and emergency access requirements.

In 2011, 19 new arrangements applied for registration, with 11 meeting the registration requirements, bringing the total number of arrangements to 37. A list of Maine licensed preferred provider arrangements can be accessed at the Bureau’s home page under the *Producer/Entity Information* link.

*c. Managed Care Provider Networks*

The CHCD staff reviews managed care provider networks to determine if they comply with the accessibility standards of Maine law.

Managed care entities’ applications to expand their geographic service area are also reviewed by CHCD staff to determine if an adequate network of providers would be available in the expanded area. The CHCD is notified when contractual relationships between an insurance carrier and providers dissolve, creating the possibility that enrollees may not have access to a participating provider. The CHCD staff monitors the situation to assure that carriers are complying with Maine law by providing consumers with adequate notice and opportunity to find alternative providers and by ensuring that needed continuity of care is provided to consumers currently receiving medical services.

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“I would like to sincerely thank you for your time and effort addressing my complaint against “insurance company”. I received a check for the full amount of the claim plus interest in today’s mail. I’m sorry I had to take your time to solve this, but I am so thankful you were there to help.” – *Consumer, January 1, 2011*

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## **5. HMO Quality Oversight**

The Bureau of Insurance has regulatory oversight of Health Maintenance Organizations (HMOs) operating in Maine. An HMO is a health insurance plan that entitles its members to receive services from participating physicians, hospitals, and other providers in exchange for their monthly premium and cost sharing, such as copays or coinsurance. The CHCD staff conducts on-site quality review examinations of HMO offices, including reviewing sample files.

Pursuant to 24-A M.R.S.A. § 4215, the Bureau notifies each HMO to be examined that the CHCD staff will conduct a coordinated, on-site State examination of the quality of the carrier's health care and customer services. To minimize duplication of time and resources, examinations are coordinated with each HMO's triennial National Committee for Quality Assurance (NCQA) accreditation review cycle. Although participation in NCQA's accreditation and certification programs is voluntary, all HMOs operating in Maine currently participate.

Specific areas reviewed by CHCD staff include utilization review programs, provision to consumers and providers of toll-free information numbers, benefit decision notifications, and emergency room services. CHCD staff also review HMO networks for a variety of quality-related factors, including appropriate member/provider ratios, 24-hour Emergency Room access, geographic accessibility, reasonable appointment and waiting times, and coordination and continuity of care.

The CHCD exam team conducts HMO examinations using a two-part process. First, the team receives a copy of the HMO's NCQA accreditation report. The review team uses the NCQA's findings to credit the HMO for compliance with any State standards that are equivalent to NCQA standards. Second, the team returns to the HMO to assess its compliance with State-specific standards not covered by NCQA. The team then develops a report of its findings.

The Bureau works closely with NCQA on data elements and the review schedule; a CHCD staff person is a member of NCQA's Public Sector Advisory Council, along with other state and federal officials. Copies of the exam reports are posted on the Bureau's website at [www.maine.gov/pfr/insurance/hmo/index.htm](http://www.maine.gov/pfr/insurance/hmo/index.htm).

## **6. Policy Form Review**

Another vital role of the CHCD is to review and approve insurance company rate and form filings to ensure compliance with Maine laws and regulations. The CHCD receives form filings in electronic format via the System for Electronic Rate and Form Filings (SERFF). SERFF is a nationwide system developed by the National Association of Insurance Commissioners (NAIC). In 2011, CHCD received 2,533 form filings, and approved 2,519 filings.

Insurance companies now have the opportunity to file certain forms for review and approval with the Interstate Insurance Product Regulation Commission (IIPRC), better known as the "Compact." Insurance products which companies are permitted to file through IIPRC include life insurance, annuities, disability income, and long-term care insurance. IIPRC's approval of forms is recognized in 41 states, including Maine, as well as in Puerto Rico.

## II. Statistics

### A. Consumer Inquiries and Complaints

#### 1. Inquiries

The CHCD assists consumers with inquiries and complaints. An “inquiry” is a consumer call to obtain general information on insurance issues, such as a specific line of insurance or an insurance company, or to complain generally about a regulated person or entity, but not regarding any specific dispute.

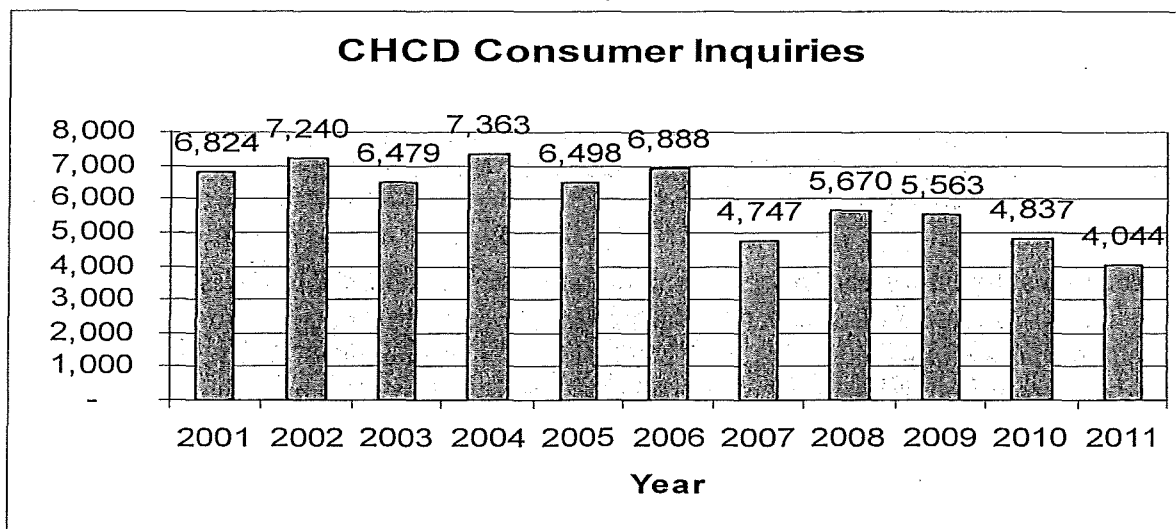
A “complaint” is defined in 24-A M.R.S.A. § 216 (2) as “any written complaint that results in the need for the Bureau to conduct further investigation or to communicate in writing with a regulated entity for a response or resolution to the complaint.” On a yearly basis, CHCD compiles a “complaint index” comparison for Maine health insurance companies. Complaints, not inquiries, are utilized in calculating complaint indices for different insurance companies. The complaint index compares the share of complaints against a company to the share of the market (premiums written). Complaint index reports are available on the Bureau’s website at [www.maine.gov/pfr/insurance/consumer/Health\\_Complaint\\_Comparison2010.htm](http://www.maine.gov/pfr/insurance/consumer/Health_Complaint_Comparison2010.htm).

CHCD staff answered 4,044 telephone and written inquiries during 2011. The most frequent inquiries related to:

- Individual insurance;
- Medicare; and
- Claim denials.

Figure 1 illustrates the number of telephone and written inquiries received from 2001 – 2011.

Figure 1



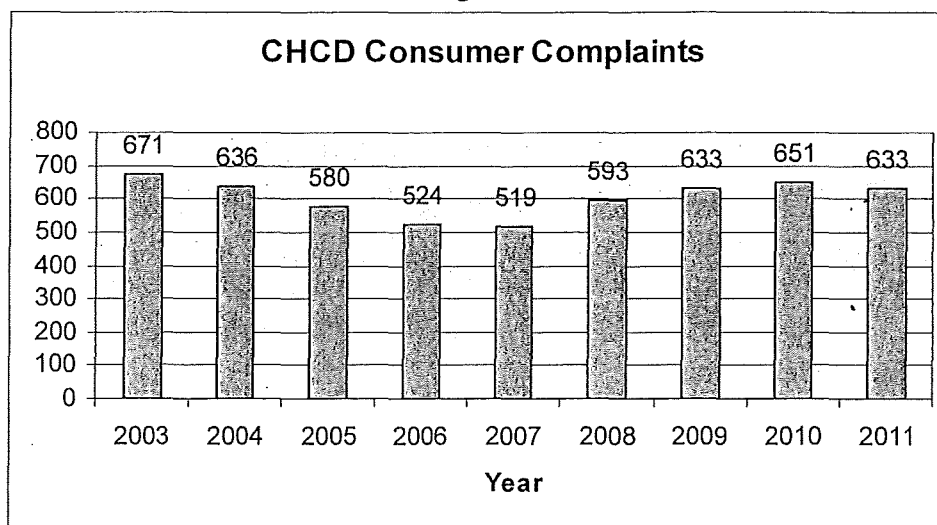
The CHCD staff answered an additional 107 requests for constituent assistance from state and federal legislative officials. Like telephone inquiries, these requests for assistance encompass a wide range of health, life and disability insurance issues.

## 2. Complaints

During 2011, the CHCD responded to 633 written health, disability, annuity, and life insurance complaints filed by health plan enrollees, policyholders, insurance producers, and health care providers. The complaints involved insurance carriers, utilization review entities, and third party administrators.

Figure 2 illustrates the number of written complaints filed with the CHCD from 2003-2011.

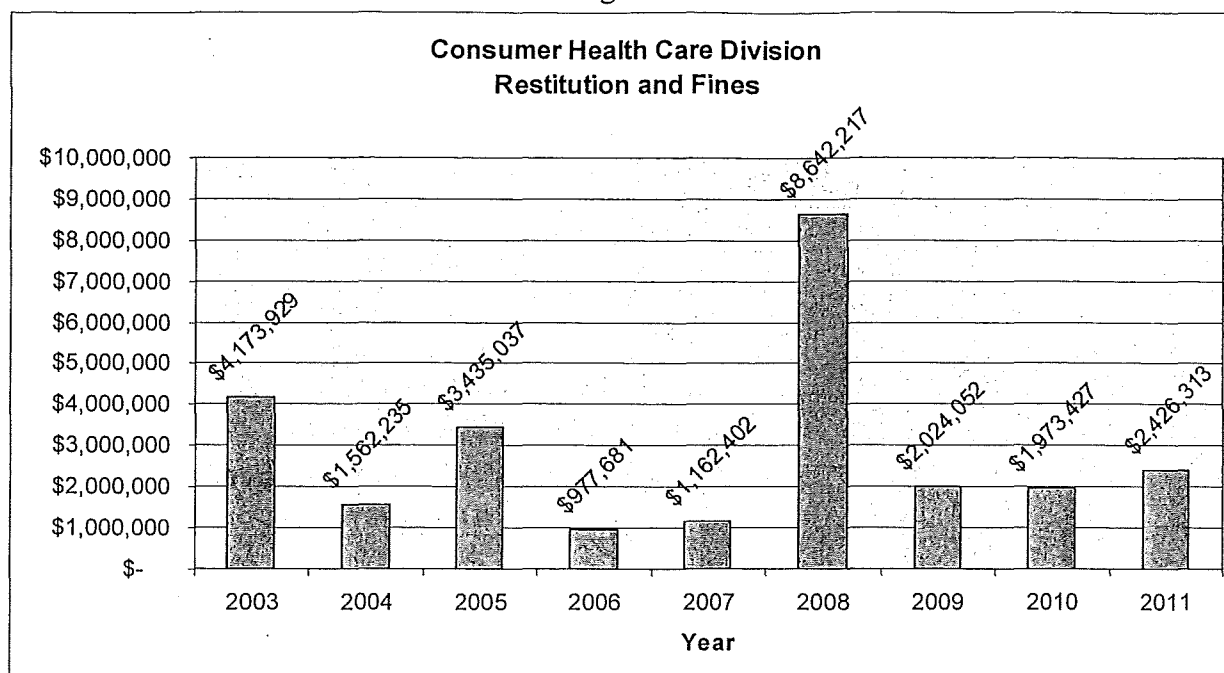
Figure 2



As part of the complaint investigation process, CHCD staff works to obtain restitution for consumers in cases in which consumers have suffered a financial loss due to improperly denied claims or claims which were not paid in accordance with the policy. During 2011, the CHCD staff obtained restitution of \$1,158,313 for complainants. Most often, the recovered funds were from previously denied claims.

In addition to restitution for consumers, in appropriate cases, the Bureau imposes civil penalties against violators. Figure 3 illustrates the total amounts of restitution obtained for consumers and civil penalties imposed by the Bureau from 2003 – 2011. The amounts of restitution and civil penalties vary from year to year depending upon specific losses to consumers and violations committed by licensed entities and individuals.

Figure 3



Note: The 2008 total includes \$1,000,000 in civil penalties and \$6,206,469 in refunds and interest payments to Maine policy holders ordered against MEGA Life and Health Insurance Company.

In addition to investigating consumer complaints and referring appropriate cases for enforcement actions, CHCD staff works proactively with insurance carriers to identify trends in consumer complaints in an effort to remedy problems before they result in violations of the Insurance Code. The CHCD holds quarterly meetings with several insurance carriers that are either domiciled in Maine or write a significant volume of coverage for Maine residents. CHCD staff meets with insurers who were subject to regulatory actions for significant violations of Maine law to help the insurers identify and correct problems at an early stage, before becoming systemic.

## B. External Review

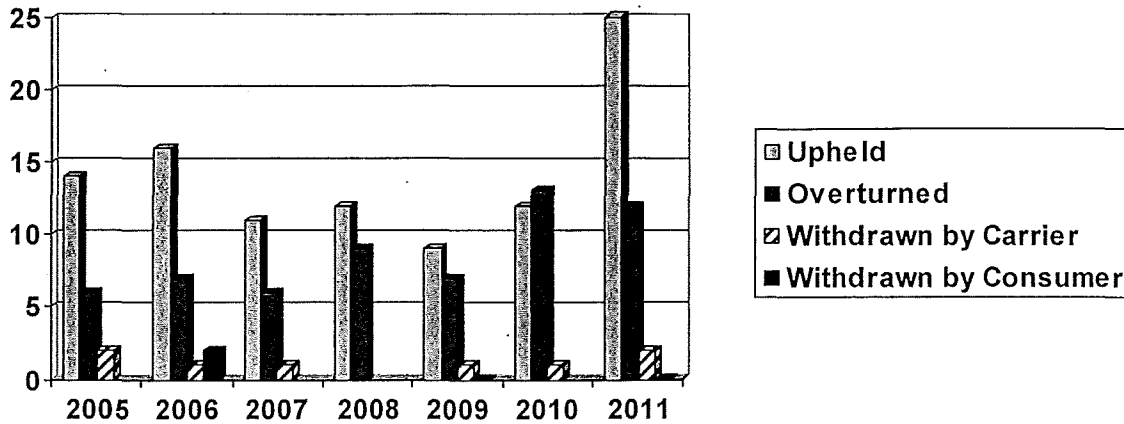
The CHCD contracted with four independent external review organizations in 2011: IMX Medical Management Services, Island Peer Review Organization (IPRO), Medwork Independent Review, and Maximus Federal Services.

The CHCD processed 39 qualified requests for external review during 2011. The carrier's original decision to deny coverage was completely or partially overturned in 12 cases (31%), and upheld in 25 cases (64%). Two reviews were withdrawn because the carrier reversed its earlier decision and provided coverage.

The CHCD received additional requests for external review that did not qualify under the statute, either because the consumer had not exhausted the carrier's internal appeal process or because the denial was based on issues other than validity of the carrier's medical decisions.

Figure 4 illustrates the number of external reviews overturned, upheld, or withdrawn by either the carrier or consumer prior to the review for the years 2005 – 2011.

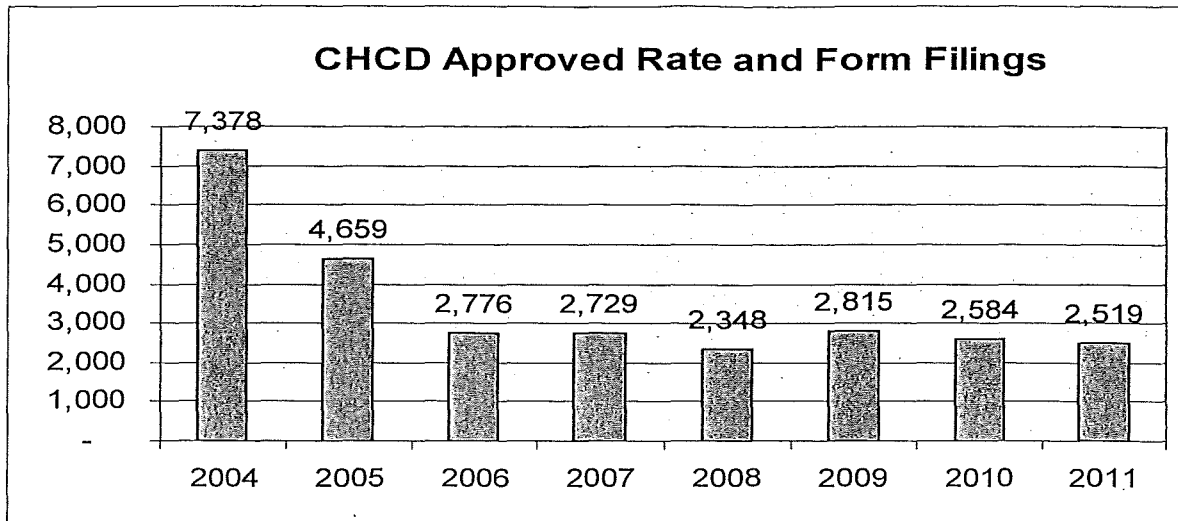
Figure 4  
**External Review Outcomes**



### C. Policy Form and Rate Review

During 2011, the CHCD approved 2,519 rate and form filings. The Bureau received a total of 2,533 rate and form filings. Some filings were disapproved, placed on file for information, or withdrawn by the insurance company. There were 282 filings approved by the Interstate Insurance Product Regulation Commission (Interstate Compact) for use in Maine. Those filings were not reviewed by the Bureau and are not included in Figure 5.

Figure 5



### III. Legislative and Regulatory Activities

#### A. Implementation of Public Law 90

This year was particularly busy with the implementation of provisions of Public Law 90, enacted in the last legislative session. Additional changes were needed to rules to comport with the provisions of the federal Affordable Care Act. The Bureau staff held public meetings of interested parties during the summer months to take comments as the Bureau amended Rules 850 and 940. Updates to the form and rate checklists utilized by insurance companies in the filing process were completed to ensure that companies' policy forms and contracts comply with regulatory changes at both the State and federal levels.

#### B. Long-Term Care Partnership Project

Maine's Long-Term Care Partnership Program, established by Title 22 M.R.S.A. § 3174-GG, was launched with a retroactive effective date of July 1, 2009, following approval from the Centers for Medicare and Medicaid Services (CMS) on November 10, 2009. The Bureau updated the Long-Term Care Form Filing Certification and Checklist for insurance companies filing both Partnership and non-Partnership form filings. During 2011, the Bureau reviewed and approved 27 Partnership policies.

The Partnership Program operates under the direction of the Maine Department of Health and Human Services in consultation with the Bureau. It is intended to encourage the purchase of long-term care insurance policies so persons will be less reliant on MaineCare if long-term care services are needed. Under the Partnership Program, individuals who purchase policies meeting certain requirements can apply for MaineCare assistance under special rules determining financial eligibility and estate recoveries. These rules generally allow an individual to protect assets equal to the insurance benefits received from a Partnership policy so that such assets will

not be taken into account in determining MaineCare financial eligibility and will not be subject to MaineCare liens and recoveries.

### **C. NAIC Committee Participation**

CHCD staff actively participates in several working groups and task forces of the NAIC, including the Annuity Disclosures Working Group, the Suitability of Annuity Sales Working Group, the Senior Issues Task Force, and the Consumer Disclosures Working Group. The Annuity Disclosures Working Group seeks to improve consumer information about annuity products. The Suitability of Annuity Sales Working Group considers ways to improve regulations to protect consumers against unsuitable and abusive sales and marketing practices which can be associated with annuity sales. The Senior Issues Task Force considers policy issues and develops regulatory standards and consumer information for insurance issues specifically affecting older Americans. The Consumer Disclosures Working Group has sought to develop best practices and guidelines for use by state insurance regulators in developing information disclosures to consumers.

## **IV. Conclusion**

The CHCD analyzes consumer complaints and inquiries to identify complaint patterns and carrier-specific complaint trends. When trends are identified, the Bureau works to ensure that carriers operate in compliance with Maine law. The CHCD staff are in regular communication with insurance carriers during complaint investigations, quarterly meetings, and when providing regulatory interpretations of the Insurance Code.

Finally, as is the case across the United States, health insurance costs in Maine continue to escalate at a rate exceeding the consumer price index. These costs are driven by a number of factors, which makes dealing with the problem extremely complicated. The CHCD is committed to assisting consumers and carriers with these complex issues.

For additional information, please contact the Consumer Health Care Division at the Maine Bureau of Insurance by calling toll free 1-800-300-5000 or by visiting the Bureau's website at [www.maine.gov/pfr/insurance](http://www.maine.gov/pfr/insurance).



EXECUTIVE DIRECTOR'S  
OFFICE

2012 JUN 22 P 12:07

**STATE OF MAINE  
MANAGEMENT LETTER**

**For the Year Ended  
June 30, 2011**



**State of Maine Department of Audit  
Neria R. Douglass, JD, CIA  
State Auditor**

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DIRECTOR OF AUDIT AND ADMINISTRATION

**NERIA R. DOUGLASS, JD, CIA**  
STATE AUDITOR

**LETTER OF TRANSMITTAL**

Honorable Kevin L. Raye  
President of the Senate

Honorable Robert W. Nutting  
Speaker of the House of Representatives

Honorable Paul R. LePage  
Governor of Maine

I am pleased to submit the State of Maine Management Letter for the year ended June 30, 2011. In the course of conducting the Single Audit of the State of Maine we became aware of matters that offer opportunities for our government to improve its operations. Audit findings and recommendations on these matters accompany the Management Letter as Management Letter Comments.

Please feel free to contact me with any questions that you may have. Like you, we are committed to improving our State government for the benefit of our citizens. Healthy discussion of problems found, and solutions considered, is part of a dialogue that aims at improvement. I welcome your thoughts and inquiries on these matters.

Respectfully submitted,



Neria R. Douglass, JD, CIA  
State Auditor

June 14, 2012

State of Maine  
Management Letter for the Year Ended  
June 30, 2011

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**MANAGEMENT LETTER**


In planning and performing the Single Audit of the State of Maine for the year ended June 30, 2011, we considered the State of Maine's internal control. We did so to determine our auditing procedures for the purpose of expressing an opinion on the financial statements and federal program compliance, but not for expressing our opinion on the effectiveness of the State of Maine's internal control over financial reporting or compliance.

During our audit we became aware of several matters referred to as "management letter comments" that offer opportunities for strengthening internal control and improving operating procedures of the State. The following pages summarize our comments and suggestions on those matters and are in addition to the more significant issues addressed in the following reports included in Maine's 2011 Single Audit Report.

- Independent Auditor's Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*
- Independent Auditor's Report on Compliance With Requirements That Could Have a Direct and Material Effect on Each Major Program and on Internal Control Over Compliance in Accordance with OMB Circular A-133

This report is intended solely for the information and use of the Governor, management, others within the entity, the Legislature, and federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

Included with the management letter comments are the audited agencies' responses. We would be pleased to discuss these management letter comments in further detail at your convenience.



Neria R. Douglass, JD, CIA  
State Auditor

June 14, 2012

# 2011 Management Letter Comments

## *Department of Administrative and Financial Services*

(ML11-0203-02)

### **Collection of billed receivables needs improvement**

**Prior Year Finding:** No

**State Bureau:** Health and Human Services Service Center

**Condition:** The Department of Health and Human Services Service Center did not have an adequate process in place for administering billed receivables. Personnel responsible for receivables did not always update the subsidiary ledger when new receivables were created, or when amounts owed were appealed or paid.

**Context:** As of June 30, 2011, DHHS' billed receivables balance was \$2.3 million.

**Cause:**

- Lack of communication between staff members responsible for various aspects of the billed receivables process
- Insufficient procedures related to the subsidiary ledger

**Effect:** Funds owed to the State may not be collected; billed receivable balance may be inaccurate

**Recommendation:** We recommend the Department improve their internal controls so that the billed receivables are regularly monitored to ensure adequate and accurate accounting.

**Management's Response/Corrective Action Plan:** *The Department of Health and Human Service's Service Center agrees with the finding.*

*The Department will implement corrective action within 30 days of this response. The Department's corrective action plan will include: (1) proper administration of the receivable collections on a monthly basis, and (2) the implementation of a reconciliation process between the receivable subsidiary ledger and the State's accounting system.*

**Contact:** *Raymond Girouard, Director, Health and Human Services Service Center, Administrative and Financial Services, 287-8888*

(ML11-0203-03)

**Improper recognition of revenue in fiscal year 2011**

**Prior Year Finding:** No

**State Bureau:** Health and Human Services Service Center

**Condition:** The Health and Human Services Service Center recognized revenue earned in prior years as current year revenue. Approximately \$9.7 million in Federal funds were drawn to cover previously approved CHIP health service initiative expenditures. Of this amount, \$7.85 million was attributable to expenditures from prior years, yet the entire amount was recognized in fiscal year 2011.

**Context:** Total Federal revenue was \$3 billion in fiscal year 2011.

**Cause:** Untimely request for reimbursement for prior years' expenditures.

**Effect:** Federal revenue was overstated and, correspondingly, beginning fund balance was understated for fiscal year 2011.

**Recommendation:** We recommend that the Health and Human Services Service Center provide information to the State Controller during the financial closing process so that the State's financial statements properly reflect financial condition and activity of the current fiscal year. In addition, we recommend that the service center draw Federal funds when earned or available.

**Management's Response/Corrective Action Plan:** *The Department of Administrative and Financial Services did not draw earned Federal revenue in a timely manner. To address the underlying cause of this finding, the Department implemented internal controls in State fiscal year 2011 (May 2011) to ensure that draws are processed timely. Additionally, the Department established an Other Special Revenue account in State fiscal year 2012, to isolate and properly account for, this specific earned Federal revenue funding. In conclusion, the Department has implemented effective corrective action to ensure that Federal cash is drawn in a timely manner.*

**Contact:** Colin D. Lindley, Director of MaineCare Finance, 287-1855

(ML11-0204-01)

**Controls over the proper valuation of taxes receivables needs improvement**

**Prior Year Finding:** ML10-0204-01

**State Bureau:** Maine Revenue Services

**Condition:** The procedure used to calculate the Allowance for Uncollectible Taxes Receivable is not sufficient to ensure the proper valuation of Taxes Receivable. The Department does not base their estimate on a quantitative or historical analysis; standard percentages are utilized instead.

**Context:** Fiscal year-end taxes receivable has averaged \$578 million in the last two fiscal years and the corresponding Allowance for Uncollectible Taxes Receivable averaged \$143 million for this same period.

**Cause:** The percentages used to value the allowance account for each of the major tax types is based on percentages developed for generic statewide use.

**Effect:** The valuation of Taxes Receivable could be inaccurate in the State's financial statements and related notes.

**Recommendation:** We recommend that the Department develop a methodology for establishing the allowance account for taxes receivable that is based on quantitative and analytical procedures that considers past, current, and predicted future trends as well as the age of receivables.

**Management's Response/Corrective Action Plan:** *Maine Revenue Services (MRS) agrees with this finding.*

*MRS accounting staff is working with OIT computer analysts to develop computer generated receivables activity reports that will identify actual collections applied to year-end receivables. Collections data will be tracked for each of the last 10 consecutive fiscal year-end receivables balances. A corresponding write-off analysis report will be developed to identify reductions to account balances for each of the same 10 consecutive fiscal year-end receivables balances. The data provided by these reports will be used to analyze collection and write-off activity trends and substantiate the allowance for uncollectible tax receivables. Analytical review of account activity will continue to be provided by Compliance Division personnel and utilized as necessary in developing an appropriate valuation of the bureau's receivables. Although new reports are expected to be in place by June 30, 2012, this will obviously be a work in progress for a few years as we prospectively gather collection data.*

**Contact:** Christopher P. Batson, PSMT, Maine Revenue Services, 624-9607

(ML11-0305-01)

### **Controls over accounts receivable need improvement**

**Prior Year Finding:** 10-0305-01

**State Bureau:** Division of Financial and Personnel Services (DFPS)

**Condition:** Lottery Fund accounts receivable balance was not supported by detail records. No subsidiary ledger of accounts receivable was maintained. DFPS did not perform alternative procedures to corroborate the balance.

**Context:** At fiscal year end the accounts receivable balance was \$18.6 million. Although the auditor could not perform tests of the detail, we were able to determine that the balance appeared reasonable.

**Cause:** The State's on-line and instant lottery games service provider cannot produce a report providing accounts receivable balances by lottery agent.

**Effect:**

- A possibility that the State's financial statements are misstated.
- A possibility that the State does not have an accurate account of the actual receivable from the lottery agents.

**Recommendation:** We recommend that the Department work with the service provider to produce a report which provides accounts receivable balances by lottery agent.

**Management's Response/Corrective Action Plan:** *DFPS agrees with the management letter even though we have persistently insisted that the service provider supply the State of Maine an accounts receivable report for reconciling and verification of our accounts. The Request for Proposal is in process for a service provider; and, the subsequent agreement will require that an accounts receivable report be available by the provider so that this issue will be addressed.*

**Contact:** *Deanna Lefebvre, General Government Service Center Managing Staff Accountant, 624-7385*

(ML11-0309-01)

### **Inappropriate reporting of Dirigo Health Fund transfer**

**Prior Year Finding:** No

**State Department:** Office of the State Controller

**Condition:** The Department did not properly account for the transfer of funds between Dirigo Health Fund and the Fund for a Healthy Maine. This activity was accounted for as a reduction of expenses (reimbursement) rather than a transfer (non-operating revenue).

**Context:** An audit adjustment totaling \$4.4 million was proposed to ensure the financial statements were reasonably stated. The adjustment, however, was not posted to the financial statements.

**Cause:** Based on differing professional opinions, a management decision was made to account for the transaction as a reimbursement.

**Effect:** Understatement by \$4.4 million of both non-operating revenues and operating expenses within the Enterprise fund set up to account for the activity of the Dirigo Health Program.

**Recommendation:** We recommend that the Department ensure that non-routine accounting transactions are properly recorded.



**Management's Response/Corrective Action Plan:** *The Department of Administrative and Financial Services disagrees that these transactions were incorrectly reported in the State's financial statements. The Office of the State Controller has procedures in place to analyze and review non-recurring, significant and unusual transaction activity for proper presentation in our financial statements. We were aware of these transactions and we believe they were properly reported as a reimbursement within the operating activities of our Proprietary Fund financial statements.*

**Contact:** Heidi McDonald, Manager, Financial Reporting and Analysis, 626-8437

**Auditor's Conclusion:** According to MRSA Title 24 §6916, "the Dirigo Health Enterprise Fund is created as an enterprise fund for the deposit of...any funds received from any public or private source." The Department of Audit believes that this includes funding provided by the State's Fund for a Healthy Maine, the source of the \$4.4 million described in the finding.

Our finding remains as stated.

(ML11-0320-01)

**Transportation Facilities Fund capital assets overstated by \$7.9 million**

**Prior Year Finding:** No

**State Bureau:** DOT Service Center

**Criteria:** GASB 34 "Reporting Capital Assets" §18-22

**Condition:** Transportation Facilities Fund buildings with a cost basis of \$7.9 million were reported twice. Although the Department identified this double counting, the overstatement was not corrected in time to be properly reflected on the State's financial statements.

**Context:** Transportation Facilities Fund capital assets, net of depreciation, totaled \$24 million.

**Cause:** The service center was unable to correct the double counting within the fixed asset system in time for the change to be reflected on the State's financial statements.

**Effect:** Transportation Facilities fund capital assets were overstated on the State's financials and related notes.

**Recommendation:** We recommend that the service center inform the State Controller's office of any adjustments necessary to ensure accurate financial reporting.

**Management's Response/Corrective Action Plan:** *The Department of Administrative and Financial Services (DAFS) agrees that buildings valued at \$7.9 million were reported twice in the Transportation Facilities Fund.*

*A reconciliation of the Fund was prepared as part of the Department's control process and through the completion of this control step, the Department identified the duplicate entry; however, the Department was unable to correct the issue in a timely manner. In the future, the Department will inform the State Controller's office of any adjustments necessary to ensure accurate financial reporting.*

**Contact:** Dennis Corliss, Transportation Service Center Director, 623-6701

(ML11-0320-02)

**Information Services Fund capital assets overstated by \$5.3 million**

**Prior Year Finding:** No

**State Bureau:** General Government Service Center

**Criteria:** GASB 34 "Reporting Capital Assets" §18-22

**Condition:** Information Services Fund capital assets included equipment valued at \$5.3 million that was not in service. According to agency personnel responsible for Information Services Fund fixed assets, this amount should be removed for financial statement reporting purposes. This amount is associated with the Bull system, valued at \$3.8 million, which was retired on June 30, 2011. The remaining \$1.5 million relates to assets accounted for in a unit which is utilized for assets which were purchased for resale to another agency and are not capital assets of the Information Services Fund.

**Context:** Information Services Fund capital assets, net of depreciation, totaled \$24.9 as of June 30, 2011.

**Cause:** The fixed asset system was not updated to reflect these retirements in time for the change to be incorporated into the State's financial statement.

**Effect:** Information Services Fund capital assets were overstated on the State's financial statements.

**Recommendation:** We recommend that personnel responsible for fixed assets accounting for the Information Services fund inform the State Controller's office of any adjustments necessary to ensure accurate financial reporting.

**Management's Response/Corrective Action Plan:** *The Department of Administrative and Financial Services (DAFS) agrees that since physical inventories of the Information Services Fund were not performed in recent years, the Department could not readily determine if the \$1.5 million in assets mentioned above were no longer in service.*

*These assets were thought to be no longer in service based solely on their age. DAFS is currently working with the agency to reconcile all inventories and make adjustments to the assets as needed. Additionally, while a certification was signed on June 30, 2011 signifying that the*

*\$3.8 million Bull System was no longer being used by the agency, the standard process necessary to remove this asset from the State's fixed asset system takes time, and therefore was not complete as of that date, causing the asset to remain on the State's financial statements as of June 30, 2011.*

**Contact:** Billy Joe Ladd, Managing Staff Accountant, 624-7383

**Auditor's Conclusion:** The respondent indicated that because the \$3.8 million Bull System was disposed of at year end, the process did not allow time for the asset to be removed from the accounting records. Because the accounting records did not reflect this disposition, the information should have been provided to the State Controller's office so that the accounting information could be adjusted for financial reporting purposes.

Our finding remains as stated.

(ML11-0320-03)

**Accounting for capital assets attributable to the State Radio & Network Services Fund is not complete**

**Prior Year Finding:** No

**State Bureau:** General Government Service Center

**Criteria:** GASB 34 "Reporting Capital Assets" §18-22

**Condition:** A record of assets attributable to the State Radio & Network Services Fund is not complete. Certain new assets that have been placed into service are not reported as depreciable assets. Some assets transferred from other agencies are not reported at all. Additionally, the amount reported in construction in progress does not represent the value of projects that are currently under construction.

**Context:** State Radio & Network System Fund capital assets reported on the State's financial statements consist solely of \$13.6 million reported in the non-depreciable construction in progress category.

**Cause:** General Government Service Center personnel responsible for the Statewide Radio & Network Fund capital asset accounting are working with the State Controller's office to properly report capital assets. However, because of the complexity involved not all decisions necessary for proper reporting have been made.

**Effect:** State Radio & Network Services Fund capital assets are understated and not properly categorized on the State's financial statements.

**Recommendation:** We recommend that the General Government Service Center continue to work with the State Controller's office so that the proper reporting of these assets can be

accomplished as soon as possible. In addition, we recommend that all assets of the fund be added to the fixed asset system so that they are included in future financial statements.

**Management's Response/Corrective Action Plan:** *The Department of Administrative and Financial Services (DAFS) disagrees that a record of assets attributable to the State Radio & Network Services Fund is incomplete and further disagrees that certain new assets placed in service need to be reported as depreciable assets. However, we agree that at the time of the audit the analysis and transfer of assets from other agencies was incomplete and that the construction in progress account contained certain expenditures that will not ultimately be capitalized.*

*DAFS is developing and commissioning a statewide land mobile radio network. This complex project requires: the consolidation of current operations, upgrades to existing property, the development of new construction, and the purchase of new equipment. This project is ongoing and the Department continues to review and coordinate with the Office of the State Controller to ensure that costs are accurately and appropriately capitalized as the project progresses. The issues identified in this finding were not the result of oversight, but instead, timing of the audit as well as allowable and appropriate management decisions.*

- Only a small portion of new construction has been placed into service but those sites are still not 100% complete therefore the department has not moved any of those assets out of construction in progress to be reported as depreciable assets.*
- Certain assets needed to be transferred between agencies in the State's subsidiary fixed asset system. The assets that needed to be transferred were fully depreciated and many did not meet the State's capitalization threshold. As a result, the Department decided to transfer only those assets that would be retained with the new communication network. This analysis was still in progress at the time of the audit.*
- At the time of the audit, the Department was (and still is) in the process of analyzing all expenditures related to this project to ensure that amounts reported in construction in progress are capital costs.*

**Contact:** *Billy Joe Ladd, Managing Staff Accountant, 624-7383*

**Auditor's Conclusion:** Although the respondent disagrees with the finding in the opening paragraph, the respondent admits to many of the conditions that were the basis of the finding in subsequent paragraphs. Assets are being constructed and placed into service to support the existing radio networks but they are not being depreciated even though their useful lives are being depleted. Additionally, the requirements for tracking and reporting these fixed assets have been in place for years as have many of the assets in question.

Our finding remains as stated.

(ML11-0600-01)

**Title:** Buildings that had been placed into service were incorrectly categorized as construction in progress

**Prior Year Finding:** No

**State Bureau:** Office of the State Controller

**Criteria:** GASB 34 paragraphs 20, 21 & 22, *Reporting Capital Assets*; State Administrative and Accounting Manual, Chapter 30.20.20, *When to Capitalize Assets*

**Condition:** The State Controller's office did not properly categorize all capital assets. Construction in progress, related to the governmental funds, included buildings totaling \$41.3 million that had been completed and placed into service before the end of the fiscal year. These buildings should have been transferred to a depreciable asset category.

**Context:** Governmental activities construction in progress reported on the State's financial statements totaled \$119.4 million, of which \$86.9 was related to the governmental funds.

**Cause:** Because of the complexities inherent in the spreadsheet utilized for financial statement reporting purposes, the State Controller's office did not complete the analysis of the construction in progress account before completion of the financial statements.

**Effect:** Construction in progress was overstated and depreciable assets were understated in the State's financial statements.

**Recommendation:** We recommend that the State Controller's office continue with their efforts to properly classify all capital assets on the financial statements.

**Management's Response/Corrective Action Plan:** *The Department of Administrative and Financial Services agrees that certain buildings reported as non-depreciable assets in the State's financial statements for fiscal year 2011 had been placed in service. However, a decision was made to continue reporting these assets as construction in progress by weighing the circumstances that existed at year end and the nominal impact that decision would have on the State's financial statements. The entire \$41.3 million was reported as an asset in the State's Statement of Net Assets. Furthermore, we passed on the proposed audit adjustment since the circumstances and resulting impact on which we based our initial decision was unchanged.*

**Contact:** Heidi McDonald, Manager, Financial Reporting and Analysis, 626-8437

**Auditor's Conclusion:** The respondent indicates that a decision was made not to categorize completed buildings totaling \$41.3 million as depreciable capital assets, resulting in a misclassification on the State's financial statements. In addition, depreciation was not being recognized even though the useful life was being depleted. Depreciation of assets should commence when the asset has been placed into service. Several of these buildings have been in use for a year or more.

Our finding remains as stated.

(ML11-0600-02)

The new Medicaid management information system was incorrectly categorized as construction in progress

**Prior Year Finding:** No

**State Bureau:** Office of the State Controller

**Criteria:** GASB 34 paragraphs 20, 21 & 22, *Reporting Capital Assets*; State Administrative and Accounting Manual, Chapter 30.20.20, *When to capitalize assets*; GASB 51.

**Condition:** The State Controller's office did not properly categorize all capital assets. Construction in progress, related to the governmental funds, included the new Medicaid management information system, valued at \$27.6 million, even though claims processing began in October 2010. The system should have been transferred to a depreciable asset category.

**Context:** Governmental activities construction in progress reported on the State's financial statements totaled \$119.4 million of which \$86.9 was related to the governmental funds.

**Cause:** Because elements of the system were not completed, the State Controller's office did not believe that the system should be move to a depreciable asset category.

**Effect:** Construction in progress was overstated and depreciable assets were understated in the State's financial statements.

**Recommendation:** We recommend that the State Controller's office continue with their efforts to properly classify all capital assets on the financial statements.

**Management's Response/Corrective Action Plan:** *The Department of Administrative and Financial Services does not agree with this finding. The State's new Medicaid Claims Processing System was still in active construction during fiscal year 2011 and was not federally certified until fiscal year 2012; therefore we disagree that the asset should be considered fully constructed and complete. The entire \$27.6 million was properly reported as an asset in the State's Statement of Net Assets.*

**Contact:** Heidi McDonald, Manager, Financial Reporting and Analysis, 626-8437

**Auditor's Conclusion:** All Medicaid claims were being processed by the new system by March 31, 2011. By the end of the fiscal year, \$1.8 billion in claims had been processed by this system. Because the system had been placed into service, it should have been transferred from a non-depreciable to a depreciable asset category by the end of the fiscal year. Additional modifications that result in increased functionality of the system should be capitalized as incurred.

Our finding remains as stated.

(ML11-0903-02)

**Information technology procedures need to be improved**

**State Bureau:** Office of Information Technology

**Condition:** During an audit of general and application controls over information technology, we noted weaknesses related to security and disaster recovery. In addition, we identified control weaknesses specific to certain information technology systems. We are not disclosing details of the issues in this report to avoid the possibility of compromising the State's data and information technology resources. However, we have discussed the issues in detail with agency personnel.

**Context:** We reviewed information systems general controls related to the State of Maine's information technology infrastructure and application controls related specifically to the DATHUB, MACWIS, and ACES systems.

**Causes:**

- Lack of resources
- Inadequate consideration of IT security principles and OIT's IT Security Policy.

**Effects:**

- Possible inappropriate access, modification and/or disclosure of confidential or sensitive information
- Risk of disruption of government services

**Recommendations:** We recommend that the Office of Information Technology and other State agencies implement effective IT controls that will ensure compliance with OIT's Information Technology policies and standards.

**Management's Response/Corrective Action Plan:** *OIT agrees with the audit findings related to this management letter, and commits to working with all concerned parties to improve controls and safeguards within calendar year 2012.*

**Contact:** Greg McNeal, Chief Technology Officer, 624-7568

(ML11-1103-02)

**Procedures related to cost allocation plans need to be improved**

**Prior Year Finding:** 10-1103-02

**State Bureau:** Health and Human Services Service Center

**Criteria:** General Administration – Cost Allocation Plans (45 CFR §95.507, §95.519)

**Condition:** The Department did not allocate all costs in accordance with the Department of Health and Human Services' and Office of Child and Family Services' (OCFS) revised Cost Allocation Plans. We tested the costs allocated for one quarter of the fiscal year and found that certain allocation statistics were based on erroneous data. This resulted in various programs being overcharged amounts ranging from \$13 to \$8,242 and various programs being undercharged amounts ranging from \$2 to \$13,810. In addition, we noted that three programs were not reconciling their respective final receiver reports to the State's accounting records.

**Context:** The DHHS Cost Allocation Plan (DCAP) and the OCFS Cost Allocation Plan allocated \$96.6 million to various DHHS programs using approximately 42 different allocation methods.

**Cause:**

- Human error
- Lack of communication and training
- Insufficient data for cost allocation

**Effect:** Not properly allocating costs could result in the following issues with Federal assistance programs:

- Inaccurate financial reports
- Cash shortages or overages
- Potential unallowable costs claimed
- Possible match deficiencies
- Programs may not be charged their fair share of allocated costs

**Recommendation:** We recommend that the Department continue in its efforts to allocate costs utilizing proper statistical data. We further recommend that final receiver reports are reconciled to accounting records on a quarterly basis for all programs.

**Management's Response/Corrective Action Plan:** *The Department of Health and Human Services and its Service Center agree with the finding.*

*In July 2011, several changes were made to reduce the potential for errors. Queries were mostly redesigned to remedy a problem discovered in the Data Warehouse. A database is being developed to help with the calculation of Walk-In Counts and the Receptionist have been provided with more training on what type of individuals should be included in the walk-in count information. In addition, procedures were changed to ensure that all formulas are double-checked for accuracy before being entered into the cost allocation model. In December 2011 and February 2012 training was established for the Senior Accountants on the Cost Allocation to be more informed of how the process works and the expectations.*

**Contact:** Douglas Averill, Deputy Director, 557-3082



(ML11-1103-03)

**Division of Licensing and Regulatory Services (DLRS) costs not allocated correctly**

**Prior Year Finding:** 10-1103-02

**State Bureau:** Health and Human Services Service Center

**Criteria:** General Administration – Cost Allocation Plans (45 CFR §95.507, §95.519)

**Condition:** The Department did not allocate DLRS costs using the correct data. DLRS costs are allocated based on employee time performing tasks associated the various DHHS programs. We noted instances where employee hours were not included and other instances where employee hours were duplicated. The use of incorrect data resulted in the following:

- The Medicaid program was over allocated approximately \$12 thousand of which \$6 thousand was reimbursed with Federal funds
- The Foster Care program was under allocated \$17,185.
- The Child Care and Development Fund (CCDF) was under allocated \$95,012.

**Context:** DLRS costs of \$7.7 million are allocated through the DHHS Cost Allocation Plan and the OCFS Cost Allocation Plan to various DHHS programs using the services of the Division.

**Cause:** Data queries were inaccurate

**Effect:** Not properly allocating costs could result in the following issues with Federal assistance programs:

- Inaccurate financial reports
- Potential unallowable costs claimed
- Possible match deficiencies
- Programs may not be charged their fair share of allocated costs

**Recommendation:** We recommend that a review be completed of the queries performed to compile DLRS employee time data to ensure that costs are accurately allocated.

**Management's Response/Corrective Action Plan:** *The Department of Health and Human Services and its Service Center agree with the finding.*

*The queries for DLRS have been redesigned in October 2011 to alleviate the issues that were discovered in the Data Warehouse. In July 2012, an upgraded model is being implemented, which will allow for the data to be pulled automatically helping to reduce the possibilities of human error in the cost allocation model. An additional step was also added in October 2011, where a double check is done of every individual's hours per pay period to ensure the hours are reasonable. If the information varies from what appears reasonable then the issue is researched and adjustments made to the queries to eliminate the issue before the information is entered in the model.*

**Contact:** Douglas Averill, Deputy Director, 557-3082

(ML11-1106-18)

**Procedures to ensure accurate financial reporting need improvement**

**Prior Year Finding:** No

**State Bureau:** Health and Human Services Service Center

**Condition:** The State's Medicaid and Medicaid Expansion programs are reported on the CMS-64 report and the Cubcare program is reported on the CMS-21 report. A review of each program's respective reports noted the following errors:

- During the implementation of the new claims processing system the State paid "bridge" payments to providers and recorded claims in a miscellaneous object code. Subsequent claim submissions related to the bridge payments did not always result in the claim being appropriately debited to the correct object code ("zero-pay" claims). This resulted in incorrect detail being reported on the CMS-64 report.
- The third quarter ending September 30, 2010 CMS-64 report understated expenditures by approximately \$1 million.
- Mental Health Facility expenditures were not correctly reported for the Medicaid Expansion program on the CMS-64 report, or the Cubcare program on the CMS-21 report, for quarters ending September 30, 2010 and June 30, 2011.

**Context:** Medicaid and CHIP are Federal/State-funded programs totaling \$2.5 billion in fiscal year 2011.

**Cause:**

- Personnel were not aware of the impact on reporting
- Isolated reporting errors

**Effect:** Programmatic decisions could be based on inaccurate data.

**Recommendation:** We recommend that the Department:

- Develop procedures to ensure accurate financial reporting related to the bridge payment process
- Correct identified errors and resubmit required reports

**Management's Response/Corrective Action Plan:** *The Department agrees with this finding.*

- Bridge payments: *We are aware of the issue and are working with Molina to free up the zero pay documents from Flexi.*
- Correct identified errors and resubmit required reports: *The error for quarter ending 9/30/2010 has been identified and will be corrected as a prior quarter adjustment on the CMS-64 submitted for quarter ending 3/31/2012. After being notified of the error in the*

*reporting of the mental health PIP allocation to CHIP inpatient and outpatient we corrected the issue starting with quarter ending 9/30/2011.*

**Contact:** Colin Lindley, Director, MaineCare Finance, 287-1855

**(ML11-1108-01)**

**Inaccurate financial reporting**

**Prior Year Finding:** No

**State Bureau:** Health and Human Services Service Center

**Compliance Area:** Reporting

**Criteria:** Funding (7 CFR 277.4(d))

**Condition:** During fiscal year 2011, the Department submitted a revised Financial Status Report. Included in this report were \$447 thousand of excess in kind contributions for nutrition education reported as Federal expenditures. Federal regulations allow in-kind contributions only as part of the State agency share of program costs.

**Context:** The Department reported nutrition education expenditures of approximately \$4.3 million.

**Cause:** Use of incorrect methodology in calculating Federal share of nutrition education expenditures

**Effect:** Inaccurate financial information reported

**Recommendation:** We recommend that the Department revise the SF 269 Financial Status report to accurately reflect Federal funds expended.

**Management's Response/Corrective Action Plan:** *The Department of Health and Human Services and its Service Center agree with the finding.*

*Effective March 2012, the SF269 for Federal fiscal years 2009 and 2010 will be revised to accurately reflect the Federal funds expended and the associated match. Starting Federal fiscal year 2011, the match requirement for nutrition education was eliminated from the grant; therefore in-kind contributions are not claimed.*

**Contact:** Veronica Robichaud, Managing Staff Accountant, 287-4835

(ML11-1114-02)

**Noncompliance with subrecipient cash management requirements**

**Prior Year Finding:** No

**State Bureau:** Health and Human Services Service Center

**Compliance Area:** Cash management

**Criteria:** Uniform administrative requirements for grants and cooperative agreements to State and Local Governments (45 CFR §92.37 & 92.20)

**Condition:** The Department did not have adequate procedures in place to monitor cash balances of subrecipients receiving funds in advance to ensure that they minimize the time between receipt and disbursement of funds. Of the six subrecipients selected, all six reported cash balances in excess of amounts considered reasonable for immediate cash needs.

**Context:** During fiscal year 2011, \$10.5 million was passed through to 63 subrecipients.

**Cause:** Ineffective design of procedures to monitor subrecipients' compliance with cash management requirements

**Effect:** The Federal government could impose more stringent cash management requirements on programs that do not comply with applicable regulations.

**Recommendation:** No recommendation is necessary because CCDF funds are no longer being disbursed in advance; instead providers are paid on a reimbursement basis only.

**Management's Response/Corrective Action Plan:** *The issue has been noted. No action is necessary as noted in the recommendation above.*

**Contact:** *Stephen Turner, Director, Division of Purchased Services, 287-3774*

*Department of Administrative and Financial Services and  
Department of Education*

(ML11-1200-02)

**Management decisions on subrecipient audit findings need to be more timely**

**Prior Year Finding:** 10-1200-02

**State Bureau:** Support Systems Team—Education Finance

**Criteria:** OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations § \_\_.400(d), § \_\_.405

**Condition:** The Department did not issue management decision letters to subrecipients in a timely manner. In a sample of ten subrecipients, two management decision letters were not issued within six months of receiving the subrecipients audit report as required by Federal regulations.

**Context:** Forty-two subrecipients had audit findings disclosed in their reports.

**Cause:** Staff turnover

**Effect:** Subrecipients may not be able to take corrective action on a timely basis.

**Recommendation:** We recommend that the Department continue to utilize the newly developed procedures for identifying and tracking the due dates for management decision letters. In the latter part of fiscal year 2011 the department had implemented new procedures that address timely management decisions.

**Management's Response/Corrective Action Plan:** *The Department agrees with this finding.*

*The Department has implemented a new tracking system in an Access database in which we track the audit review process including the issuance of management decision letters. We are now able to run queries to determine if there are any SAUs missing a management decision letter and we are able to address the issue in a timely fashion to meet all Federal requirements. The new Access Database was implemented November 2011 and has helped eliminate untimely responses.*

**Contact:** Heather Neal, Supervisor of Audit, Department of Education, 624-6863

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***Department of Administrative and Financial Services and  
Department of Health and Human Services***

(ML11-1106-09)

**Automated Data Processing (ADP) risk analysis and system security reviews performed by personnel not organizationally independent**

**Prior Year Finding:** No

**State Bureau:** Health and Human Services Service Center  
Office of Information Technology  
Office of MaineCare Services

**Criteria:** Title 45 CFR §95.621, Internal Audit Policy, A-133 Compliance Supplement

**Condition:** The IT auditor conducting the ADP risk analysis and system security reviews is not organizationally independent from the ADP systems being reviewed.

**Context:** The IT auditor reports to the Chief Information Officer, who is also responsible for the State's ADP systems.

**Cause:** Oversight of the IT auditor is no longer provided by the Office of State Controller

**Effect:** The Department is placing reliance on risk assessment and system security reviews that do not satisfy the Federal regulation requiring organizational independence.

**Recommendation:** We recommend that ADP risk analysis and system security reviews be performed by personnel who are organizationally independent, in accordance with Federal regulations.

**Management's Response/Corrective Action Plan:** *OIT disagrees with this finding.*

*The OIT Internal Auditor is never the final word in any security audit. In fact, OIT (and by extension, OIT-DHHS) routinely undergoes several Federal and State audits every year. The OIT Internal Auditor helps OIT track and mitigate the findings of the Federal and State audits. The organizational independence of the OIT Internal Auditor is moot because OIT does not rely on its Internal Auditor for the actual audit findings.*

**Contact:** Greg McNeal, Chief Technology Officer, 624-7568

**Auditor's Conclusion:** According to OMB circular A-133, consideration of the appropriateness and extent of reliance on ADP risk analysis and system security reviews is based on qualifications of the personnel performing the reviews and their organizational independence from the ADP systems. In addition, Government Auditing Standards Chapter 3.31 C states that internal auditors are considered independent if the auditor is located organizationally outside the

staff or line-management function of the unit under audit. The IT internal auditor reports to the Chief Information Officer who oversees the IT function under review.

Our finding remains as stated.



***Department of Administrative and Financial Services and  
Department of Labor***

(ML11-1302-01)

**Disaster recovery and business continuity plan related to Unemployment Insurance (UI) program needs to be developed**

**Prior Year Finding:** No

**State Bureau:** Unemployment Compensation  
Office of Information Technology

**Criteria:** 5 MRSA, chapter 163 § 1971-2011 State Information Technology (IT) Security policies, procedures and guidelines, section 11 Disaster Recovery and Business Continuity; National Institute of Standards and Technology (NIST) Special Publication (SP) 800-34, Contingency Planning for IT Systems; UI Program Letter (UIPL) Number 24-04

**Condition:** Plans to ensure the continued operation of UI claims system in the event of a disaster or system interruption need improvement. We are not disclosing specific details of the issues in this report to avoid the possibility of compromising the Department's data and IT resources. However, we have notified appropriate Department management of the specific issues.

**Context:** The State provided \$395 million in UI benefits to approximately 70 thousand claimants. The State UI program contributed approximately half of these benefits, with the remainder being funded by temporary Federal UI programs.

**Cause:** Lack of procedures and funding.

**Effect:** In the event of a system failure the Bureau may not be able to provide timely unemployment compensation payments to individuals who are unemployed.

**Recommendation:** We recommend the Department continue to implement a UI System IT Contingency Plan which, at a minimum, incorporates line of succession, detailed recovery procedures, reconstitution phase procedures and the contact information of contingency planning teams.

**Management's Response/Corrective Action Plan:** *The Department agrees with the finding.*

*The Bureau of Unemployment Compensation and the Office of Information Technology began developing a Business Continuity and Disaster Recovery plan during the audit period. Since then, the Disaster Recovery plans have been tested twice and the Business Continuity Plan will be completed in 2012.*

**Contact:** Kimberly Smith, Deputy Director, Bureau of Unemployment Compensation, 621-5161

(ML11-1302-03)

**Procedures related to data exchanges to and from unemployment insurance tax and benefits systems need to be implemented**

**Prior Year Finding:** No

**State Bureau:** Unemployment Compensation (BUC)  
Office of Information Technology (OIT)

**Criteria:** ETA Handbook no. 336, 18<sup>th</sup> edition, the UI State Quality Service Plan (SQSP) Planning and Reporting Guidelines, chapter 1, section VI, C, Supplemental Budget Requests (SBRs) and Chapter 1. Section VII, J, Assurance of automated Information system Security; UI Program Letter (UIPL) no. 24-04, Changes 1 to 5; FIPS Publication 200; NIST SP 800-53 and NIST SP 800-53A; Social Security Act (SSA) of 1935, §453; Federal Information Security Management Act (FISMA) of 2002 (Homeland Security Act of 2002), Title X (P.L. 107-347); Common Rule, §20 Standards for Financial Management Systems; State Information Technology (IT) Security policies, procedures and guidelines; Maine Revised Statute Annotated (MRSA) Title 5, Chapter 163 §1971-2011

**Condition:** Procedures related to data exchanges to and from UI tax and benefits systems are not appropriate. We are not disclosing specific details of the issues in this report to avoid the possibility of compromising the Department's data and IT resources. However we have notified appropriate Department management of the specific issues.

**Context:** Tax and benefit systems processed tax receipts of \$178.7 million and claims of \$395 million during fiscal year 2011.

**Cause:** Lack of procedures and resources

**Effect:** Risk of inappropriate activity

**Recommendation:** We recommend that the Department be provided with sufficient resources and additional permanent staff to allow for successful implementation of corrective action. In addition, we recommend that the Department implement a process to assess the risks related to claimant and employer information exchanges and discontinue those found to be inappropriate.

**Management's Response/Corrective Action Plan:** *The Department agrees that processes could be improved.*

*The sharing of data between agencies provides important information that supports eligibility decisions and helps ensure that program requirements are met and laws are followed. As part of its business continuity planning, the Bureau of Unemployment Compensation has been updating existing agreements and procedures with its partner agencies. This will be completed in 2012. Electronic data sharing is becoming more prevalent, and process and security will be reviewed with each new agreement.*

**Contact:** Kimberly Smith, Deputy Director, Bureau of Unemployment Compensation, 621-5161

(ML11-1302-04)

**Procedures related to Federal financial reporting need improvement**

**Prior Year Finding:** No

**State Bureau:** Unemployment Compensation (BUC)  
Security and Employment Service Center (SESC)

**Criteria:** Federal (OMB Circular A-133, part IV)

**Condition:** Procedures related to Federal financial reporting are not adequate. Three reports (ETA 191, ETA 581, and ETA 227) are not subject to supervisory review to ensure the accuracy of information prior to transmission to the US DOL-ETA. In addition, the ETA 2112, ETA 581, and ETA 227 reports were prepared and submitted by the same individual.

**Context:** The Department is required to submit several reports to the Federal government. Some reports are required to be submitted monthly, one is required quarterly, and others are required to be submitted annually.

**Cause:** High rate of employee turnover within the Department of Labor and the Employment and Security Service Center.

**Effect:** Inaccurate information may be reported to the U.S. Department of Labor.

**Recommendation:** We recommend that the Department segregate reporting responsibilities and institute supervisory reviews to better ensure that accurate reports are submitted to the Federal government.

**Management's Response/Corrective Action Plan:** *While no errors were found in submitted reports, the Department agrees that the reports should be reviewed prior to submission. Going forward, the Department intends that all reports will have received appropriate supervisory review prior to submission.*

**Contact:** *Kimberly Smith, Deputy Director, Bureau of Unemployment Compensation, 621-5161*

(ML11-1302-05)

**Inadequate controls over Unemployment Insurance system access**

**Prior Year Finding:** ML10-1302-04

**State Bureau:** Unemployment Compensation (BUC);  
Office of Information Technology (OIT)

**Criteria:** State Information Technology (IT) Security policies, procedures and guidelines, section 9.2.1 Access Authorization; Maine Revised Statute Annotated (MRSA) Title 5, Chapter 163 § 1971-2011; NIST SP 800-53 pertaining to Separation of Duties (AC-5)

**Condition:** Access to the Unemployment Insurance benefit system was allowed for individuals not requiring access. We are not disclosing specific details of the issues in this report to avoid the possibility of compromising the Department's data and IT resources. However we have notified appropriate Department management of the specific issues.

**Context:** The State provided \$395 million in UI benefits to approximately 70 thousand claimants. The State UI program contributed approximately half of these benefits, with the remainder being funded by temporary Federal UI programs.

**Cause:** Lack of procedures and resources

**Effect:** Inappropriate access to information and risk of inappropriate activity

**Recommendation:** We recommend that the Department and OIT continue with their current strategic plan to remediate these issues relating to non-compliance with NIST Standards and the State IT Security policies, procedures, and guidelines related to providing system access.

**Management's Response/Corrective Action Plan:** *While compensating controls are in place, the Department agrees that further action would improve security over data access. Changes will be completed in 2012.*

**Contact:** Kimberly Smith, Deputy Director, Bureau of Unemployment Compensation, 621-5161

## ***Department of Defense, Veterans and Emergency Management***

(ML11-1500-01)

**Procedures related to drawing administrative awards need improvement**

**Prior Year Finding:** 10-1500-01

**State Bureau:** Maine Emergency Management Agency (MEMA)

**Criteria:** Cost Principles for State, Local and Indian Tribal Governments (2 CFR §225 – A-87); Rules and Procedures for Efficient Federal-State Funds Transfers (31 CFR §205)

**Condition:** The Maine Emergency Management Agency had \$896 thousand of unspent Federal cash on hand relating to prior year grant awards. The entire administrative component of previous awards was drawn down even though actual administrative costs were less than the administrative award.

**Context:** This balance appears to have built up over a period of time.

**Cause:** MEMA erroneously drew entire administrative awards rather than only amount necessary to cover actual costs incurred.

**Effect:** \$896 thousand had to be returned to the Federal government

**Recommendation:** The Department has already taken corrective action and returned the funds to the Federal Emergency Management Agency in August 2011. However, we recommend that the Department establish procedures to prevent drawing down funds in excess of actual costs.

**Management's Response/Corrective Action Plan:** *The Agency agrees with this finding.*

*Since at least January 2006, the Agency has operated in strict accordance with Federal Regulations with regard to the drawdown of funds. On February 16, 2012 the Agency, modified our Administrative Plan to include some additional clarification resulting in the following procedures:*

### **F. Management Costs and Direct Administrative Costs**

*The State of Maine submits that management costs will not be requested in excess of 3.34 percent of the Federal share of projected eligible costs. Direct Administrative Costs will be submitted in accordance with applicable policies and procedures for reimbursement. No funds will be drawn down for purposes of Management Costs and Direct Administrative Costs unless reimbursing admin costs paid in advance by the State of Maine. The State of Maine will not pass through any management cost or direct administrative costs to subgrantee's. Upon receipt of the Initial Lock-in notice, MEMA will request 25% funding of management costs identified in that notice. Administrative Costs will remain in Smartlink until funds are requested to cover expenditures paid in advance or until Management Costs are reconciled when the applicable disaster is closed. Any unused Management Costs will be de-obligated and returned to FEMA's*

*Disaster Relief Fund. When the Final Lock-In amount is established, MEMA will request 100% of Management Costs available if needed.*

**Contact:** Robert P. McAleer, Director of MEMA, 624-4401

## *Department of Health and Human Services*

(ML11-0906-01)

**Inadequate backup of Maine Integrated Health Management Solution (MIHMS) system documentation**

**Prior Year Finding:** No

**State Bureau:** Office of MaineCare Services

**Criteria:** State of Maine, Office of Information Technology, Software Development Lifecycle Policy and Procedure, MaineCare internal control procedures

**Condition:** The Department did not obtain and did not follow-up when quarterly backup of system related documentation was not received from the fiscal agent for quarters ending March 31 and June 30, 2011.

**Context:** The MIHMS system processes Medicaid claims totaling approximately \$2.4 billion per year. It is a high risk and complex information system that connects various commercial-off-the-shelf software.

**Cause:** Competing priorities associated with the Federal certification process

**Effect:** The lack of system documentation at DHHS could have a negative effect on the life expectancy of the system, vendor monitoring, training, and business continuity.

**Recommendation:** We recommend that the Department work with the fiscal agent to ensure that appropriate up-to-date documentation is readily accessible to DHHS and other personnel.

**Management's Response/Corrective Action Plan:** *The Department of Health and Human Services agrees with this finding.*

*The Department has corrected the problem and changed the process to prevent a recurrence. DHHS and OIT now both have copies of the backups for these quarters. Those were the only two quarters where this problem occurred.*

*We believe that this oversight occurred when both the State and Molina had turnover in their project manager roles. As soon as this issue was brought to the State contract administrator's attention, she obtained the back-up for both quarters from Molina. She reviewed them to confirm that they were readable and complete, then stored one in the OIT legal library and provided the other to DHHS. She is now the designated receiver of this quarterly file, and follows this process each quarter of ensuring readability and completeness. We do not anticipate a recurrence of this situation.*

**Contact:** Stephanie Nadeau, Director, MaineCare Services, 287-2093

(ML11-0906-02)

**Access controls over Maine Integrated Health Management Solution (MIHMS) should be improved**

**Prior Year Finding:** No

**State Bureau:** Office of MaineCare Services

**Criteria:** HIPAA, 45 CFR Part 164, Subpart C, Paragraph 308.  
State of Maine Information Technology Security Policy Section 9

**Condition:** Access controls over MIHMS should be improved. We are not disclosing specific issues in this report to avoid the possibility of compromising the Department's data and information technology resources. We have notified appropriate Department management regarding the specific issues.

**Context:** The MIHMS system processes Medicaid claims totaling approximately \$2.4 billion per year. It is a high risk and complex information system that connects various commercial-off-the-shelf software.

**Cause:** Rapid change in the MaineCare business environment due to the failure of MECMS, and high turnover of MaineCare personnel

**Effect:** Lack of proper control could potentially lead to fraud, abuse, disclosure of personal health insurance, or other unintentional errors.

**Recommendation:** We recommend that MaineCare personnel work with the fiscal agent to improve access controls within the MIHMS system.

**Management's Response/Corrective Action Plan:** *The Department of Health and Human Services agrees with this finding.*

*System access is based on a "role matrix" which was developed by the State and Molina with input and approval from State operations managers. The matrix was developed with broad access built into most roles. The Department has begun reviewing the matrix to revise areas where it is agreed that access can be streamlined without affecting the user's ability to perform his/her job appropriately. The estimated corrective action completion date is November 2012.*

*Both the Department and Molina also strive to prevent disclosure of Protected Health Information (PHI) through training and signed confidentiality agreements.*

**Contact:** *Stephanie Nadeau, Director, MaineCare Services, 287-2093*



(ML11-0906-04)

**Assertions should be tested by the fiscal agent's service auditor**

**Prior Year Finding:** No

**State Bureau:** Office of MaineCare Services

**Criteria:** Maine Integrated Health Management Solution (MIHMS) Project, Security Specification Document Version 1.0, page 6 of 79

**Condition:** The fiscal agent's assertions subjected to annual testing by the service auditor did not include the following critical areas explicitly required by the Security Specification Document:

- security of electronic information in transit
- Adherence with the State of Maine Policy to govern public key infrastructure (PKI) security requirements and certification requirements
- disaster recovery
- contingency planning

**Context:** The MIHMS system processes Medicaid claims totaling approximately \$2.4 billion per year. The operation and management of the system has been contracted-out to a fiscal agent. It is the fiscal agent's responsibility to annually engage a certified public accounting firm to evaluate and test controls that are critical to processing Medicaid transactions.

**Cause:** The State's relationship with MaineCare's first fiscal agent is relatively new, and the service auditor report for fiscal year 2011 is the first to be due and available. As State personnel become more knowledgeable about the requirements and potential value of the service auditor's report, it will become less likely that critical areas will not be included.

**Effect:** Lack of proper control could potentially lead to fraud, abuse, disclosure of personal health insurance, unintentional errors, disruption of claims processing, or disruption of payments to vendors.

**Recommendation:** We recommend that MaineCare personnel work with the fiscal agent to explicitly include these additional areas in the evaluation and testing of controls contained in the service auditor's report.

**Management's Response/Corrective Action Plan:** *The Department of Health and Human Services agrees with this finding.*

*The State will direct Molina to ensure that the areas mentioned in this finding are explicitly tested in their annual Service Auditor's review and report.*

*The State and Molina are working closely together to create strong and well-managed work processes. Part of this effort includes tests and reviews to ensure the security of MaineCare systems and information. A Disaster Recovery test is being prepared for March 2012.*

**Contact:** Stephanie Nadeau, Director, MaineCare Services, 287-2093

(ML11-1106-15)

**State's Program Integrity function needs to obtain the services of professional health personnel**

**Prior Year Finding:** No

**State Bureau:** Division of Program Integrity

**Criteria:** Statewide Surveillance and Utilization Control Program (42 CFR §456.3)

**Condition:** The Division of Program Integrity did not conduct clinical reviews in order to assess the medical necessity of services for all provider types. While the State agency has a medical director, it does not have professional health personnel in the areas of dental, psychological or pharmacological services. According to Federal regulations (42 CFR §456.3), each Medicaid agency must implement a statewide surveillance and utilization control program that safeguards against unnecessary or inappropriate use of Medicaid services and against excess payments.

**Context:** During fiscal year 2011, the State's Medicaid program reimbursed providers approximately \$1.8 billion.

**Cause:** Lack of funding to hire or contract with the full spectrum of medical professionals necessary to cover all types of providers subject to utilization reviews.

**Effect:**

- Increased potential for paying claims for medically unnecessary services;
- Not achieving optimal program management relative to the identification of potential overpayments.

**Recommendation:** We recommend that the Department obtain the services of professional health personnel in order to facilitate the Division of Program Integrity's ability to verify whether all reimbursed services were medically necessary and met professionally recognized standards for health care.

**Management's Response/Corrective Action Plan:** *The Department of Health and Human Services agrees with this finding:*

*The Program Integrity Unit had one licensed clinician and one certified coder on staff during the review period. A limited number of clinical reviews were performed; attributable to the on staff clinician's focus is primarily on the restriction program. Therefore availability for clinical reviews was utilized in a limited capacity.*

*As required under the Patient Protection and Affordable Care Act, the Department is in the process of contracting with a recovery audit contractor to conduct reviews on behalf of Program Integrity. The contract will require that the RAC have qualified clinical professionals available to conduct record reviews for medical necessity. The contract is expected to be executed by April 2012.*

**Contact:** Greg Nadeau, Manager Program Integrity, 287-9280

(ML11-1111-03)

**Internal controls over supplemental payments need improvement**

**Prior Year Finding:** No

**State Bureau:** Office for Family Independence

**Criteria:** Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87)

**Condition:** Eligibility Specialists are authorized to issue supplemental (or corrective) payments to clients in the event of an underpayment. Neither the ACES nor the EBT payment systems have delimiters which cap a particular payment amount for these supplemental payments. Supplemental payments are not subject to supervisory review or management oversight.

**Context:** There were approximately 6200 supplemental payments totaling \$1.4 million in fiscal year 2011. We reviewed all clients receiving supplemental payments exceeding \$2400.

**Cause:** The program did not have procedures in place to ensure proper oversight of supplemental payments.

**Effect:** Potential erroneous or fraudulent payments

**Recommendation:** We recommend that a cap amount be established in ACES for supplemental payments. We further recommend that the Department require supervisory approval and management monitoring of supplemental payments exceeding established thresholds.

**Management's Response/Corrective Action Plan:** *The Department of Health and Human Services agrees in part with this finding.*

*Eligibility Specialists are extensively trained with the expectation of authorizing benefits to clients without requiring supervisor approval. Supervisors are trained and expected to review eligibility determinations and benefit issuances using the Automated Case Review Tool. The Quality Assurance unit is federally mandated to review and report monthly benefit determinations and issuance amounts. The Electronic Benefit Transfer unit reviews a weekly supplement report of issuances over a set amount and any unjustified issuances are further reviewed by the Payment Accuracy Team.*

*This finding did not result in any reported erroneous or fraudulent payments due to improper oversight of supplement payments.*

*In order to increase program integrity, the Department will ascertain and implement an issuance cap on supplement payments by August 31, 2012.*

**Contact:** Anthony Pelotte, Director, MIS, QA & EBT, 287-3460

**Auditor's Conclusion:** Supervisory approval of supplemental payments is a sound control practice that should be implemented. This procedure will minimize the potential for erroneous payments, as well as the opportunity for fraudulent payments to be perpetrated.

Our finding remains as stated.

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***Office of the State Fire Marshall and  
Division of Licensing and Regulatory Services***

(ML11-1106-17)

**Life safety code surveys not completed in a timely manner**

**Condition:** Two of 11 facilities tested did not receive a life safety code survey in a timely manner. The Fire Marshal's Office is responsible for completing a life safety code survey for nursing and intermediate care facilities for the mentally retarded (ICF/MR) either at the time of the health care surveys or within 12 days.

**Context:** 115 nursing facilities and 17 ICF/MRs received Medicaid funding in fiscal year 2011.

**Cause:** Lack of staff

**Effect:** Potential safety risk to residents residing in nursing or ICF/MR facilities

**Recommendation:** We recommend the Department ensure life safety code surveys are performed more timely.

**Management's Response/Corrective Action Plan:** *The Department of Health and Human Services agrees with this finding.*

*Although the State Plan requires that Life Safety Code surveys are done within twelve calendar days, Federal regulations require thirty days. We will correct the State Plan to agree with Federal regulations.*

**Regulatory Citation:**

**2472C - Coordinating Life Safety Code Survey  
(Rev. 1, 05-21-04)**

*In most cases, the SA schedules the LSC survey to coincide with the health survey; however, the timing of the LSC is left to the discretion of the SAs. The SA determines whether the LSC survey is to occur before, after, or simultaneously with the health survey. If the health survey and the LSC survey are conducted at different times, data entry into OSCAR must be deferred until both surveys are completed, and the data of the latest segment of the total survey (the health portion or the LSC portion) is used for OSCAR purposes. In order to complete data submissions in a timely manner, input of the life safety code survey data of long term care facilities should take place not later than 60 days after the conclusion of the long term care survey. Most States require an initial LSC survey before admitting patients prior to becoming operational. Regardless of the timing of the LSC survey, the SA should schedule it so that all certification actions are completed timely.*

*The Division of Licensing and Regulatory Services will enhance coordination and communications with the State Fire Marshal's Office to ensure compliance with timely Life Safety Code (LSC) surveys. The following process clarifications and changes will be coordinated with the appropriate staff at the SFMO, and all involved Office Associates and program*

*supervisors will be informed and trained on the following process to include the tracking activities indicated below. Implementation of the following protocol shall not exceed the date of June 1, 2012.*

*The State Fire Marshal's Office will be informed of the planned survey workload on a quarterly basis. Any necessary interim adjustments will be communicated by the program supervisor or designee to the SFMO by electronic mail. Urgent changes to the proposed schedule will be communicated via a direct phone call to the SFMO designee.*

### ***Standard Guidelines and Tracking***

*Life Safety Code surveys must be performed within 30 days from the Health Survey exit so that the report processing and data entry notifications to CMS can meet all Federal guidelines.*

*Paperwork/data entry in Aspen Central Office (ACO), including (1) Statement of Deficiency (SOD); (2) an acceptable Plan of Correction (POC); and (3) the 2586 LSC forms, shall be completed and forwarded to DLRS by the 60<sup>th</sup> day following the Health Survey Exit.*

*The SFMO must notify DLRS of any Informal Dispute Resolution requests.*

*DLRS will institute an internal tracking protocol to ensure compliance with the above plan, which protocol shall include the following:*

- 1. Fourteen (14) days from exit date of the Health Survey, the DLRS Office Associate or designee will check ACO to see if a LSC survey has been conducted and entered into ACO.
  - a. If yes, the process will be put into a pending status awaiting the completion of paperwork and data entry. By day 30 of the health survey exit, if not already received, the DLRS Office Associate will contact the SFMO to coordinate the receipt of this information.*
  - b. If no, SFMO will be contacted immediately to find out if the survey has been completed but not yet entered into ACO, or to ascertain when the LSC survey is scheduled.**
- 2. All additional data entry of the SFMO information and the supporting paperwork (due to revisits and SOD/POC or waiver activity) needs to be completed by the SFMO and data entered into ACO and forwarded to DLRS by day 90 from the Health Survey Exit unless there are pending enforcement actions.
  - a. If information not in ACO or received by DLRS, the Office Associate will contact SFMO for a status report.**

**Contact:** *Kenneth Albert, RN, Esq., Director, Division of Licensing & Regulatory Services, 287-9330*

## *Workers' Compensation Board*

(ML11-0203-01)

### **Accounts receivable process needs improvement**

**Prior Year Finding:** 10-203-01

**Condition:** The Worker's Compensation Board (WCB) did not actively pursue collection of older accounts receivable during fiscal year 2011. During fiscal year 2012, however, a process was implemented to actively collect these older amounts due.

**Context:** As of June 30, 2011, the WCB accounts receivable balance was approximately \$1.4 million. The balance is comprised primarily of penalties assessed against employers for noncompliance with worker's compensation insurance requirements.

**Cause:** Inadequate procedures for collection of older accounts receivable

**Effect:** Amounts due to the WCB may not be collected.

**Recommendation:** We recommend that the Board continue its efforts to actively manage collections of older accounts receivable.

**Management's Response/Corrective Action Plan:** *The Workers' Compensation Board (WCB) agrees with the finding.*

*The WCB notes that \$400,000 of the \$1.4 million outstanding as of June 30, 2011 had been submitted for charge off in April 2011; these are debts primarily of businesses no longer operating or for which there was no legal liability against the business owners leaving nothing to collect against. These debts had all been submitted to Maine Revenue Services for setoff, some multiple years, with little success. WCB was notified in August 2011 that all the debts submitted were being rejected pending the publication of guidelines for charge offs from the Controller's Office; the guidelines were received on February 9, 2012 and the WCB expects to resubmitting these debts, with others that meet the guidelines, to the Controller's Office for charge off in fiscal year 2012.*

*During fiscal year 2011, the WCB implemented a corrective action plan to address collection of older accounts receivable. The WCB expanded computer research to identify information needed for collection. Standard operating procedures ("SOP"s) were put in place to receive AdvantageME report AR03D monthly and for supervisory staff to use the report to manage collection efforts. New SOP's also include: (1) a sequential system of invoices moving debts from "past due" to "enforcement"; (2) adding a "demand letter" notifying debtors accounts will be sent to collection within 14 days; (3) capping installment payments at 90 days (down from 1 year) unless there is written approval from a supervisor; (4) establishing automatic triggers to initiate collection; (5) centralization & oversight of collection by administrative support personnel; (6) reducing the waiting period before initiation of license/charter suspension &/or revocation (granted by statutory authority) as an early collection response rather than a "last*

chance" response; and (7) prompt and regular referral of eligible debts (see below) to the Attorney General's ("AG's") office for collection.

*The WCB has worked with various State agencies to collect past due amounts and will continue to seek help from these agencies. The WCB has reached an agreement with the AG's office to relax the criteria for accepting cases for collection, eliminating the requirement that debts be no more than 3 years old, and reducing the amount eligible for collection to \$500 or less in specific instances. The WCB expects to pursue discussions to contract with private attorneys and aggressively pursue collection of its older accounts receivable debts.*

*The WCB also continues to submit outstanding accounts to Maine Revenue Services annually for setoff. And the WCB also expects to complete upgrades to its database case management system to facilitate systematic invoicing and tracking of accounts receivable in fiscal year 2012.*

**Contact:** Paul H. Sighinolfi, Esq., Executive Director & Chair, Maine Workers' Compensation Board, 287-7086.