



REP. SARA GIDEON  
CHAIR

SEN. MICHAEL D. THIBODEAU  
VICE-CHAIR

EXECUTIVE DIRECTOR  
GRANT T. PENNOYER

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

SEN. GARRETT P. MASON  
SEN. AMY F. VOLK  
SEN. TROY D. JACKSON  
SEN. NATHAN L. LIBBY  
REP. ERIN D. HERBIG  
REP. JARED F. GOLDEN  
REP. KENNETH W. FREDETTE  
REP. ELEANOR M. ESPLING

**128<sup>th</sup> Legislature  
Legislative Council**

**February 15, 2018  
1:30 PM**

**PRELIMINARY AGENDA**

<u>Page</u>	<u>Item</u>	<u>Action</u>
	<b>CALL TO ORDER</b>	
	<b>ROLL CALL</b>	
1	<b>SUMMARY OF THE JANUARY 25, 2017 MEETING OF THE LEGISLATIVE COUNCIL</b>	<b>Decision</b>
	<b>REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS</b>	
16	• Executive Director's Report (Mr. Pennoyer)	<b>Information</b>
17	• Fiscal Report (Mr. Nolan)	<b>Information</b>
21	• Studies Report (Ms. Hylan Barr)	<b>Information</b>
	<b>REPORTS FROM COUNCIL COMMITTEES</b>	
	• Personnel Committee No report	
	• State House Facilities Committee No report	
	<b>OLD BUSINESS</b>	
23	Item #1: Consideration of Tabled Bill Requests – from October and November	<b>Roll Call Vote</b>
25	Item #2: Council Actions Taken by Ballot (No Action Required)	<b>Information</b>
26	Item #3: Task Force on Health Care Coverage Funding Update	<b>Decision</b>
	<b>NEW BUSINESS</b>	
27	Item #1: Consideration of After Deadline Bill Requests	<b>Roll Call Vote</b>
31	Item #2: Presentation of Annual Report by Beth Ashcroft, Director, OPEGA	<b>Acceptance</b>

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|-----------|----------|--|-------------------|
| <b>58</b> | Item #3: | State Audit Findings, Office of the State Auditor  | <b>Acceptance</b> |
| <b>62</b> | Item #4: | Acceptance of the Task Force to Identify Special Education Cost Drivers and Innovative Approaches to Services (January 2018) | <b>Acceptance</b> |
| <b>71</b> | Item #5: | Acceptance of the Commission to Streamline Veterans' Licensing and Certification Report (January 2018)                       | <b>Acceptance</b> |

**ANNOUNCEMENTS AND REMARKS**

**ADJOURNMENT**

REP. SARA GIDEON  
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VICE-CHAIR



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

**LEGISLATIVE COUNCIL  
MEETING SUMMARY  
January 25, 2018**

**CALL TO ORDER**

Speaker Gideon called the January 25, 2018 meeting of the Legislative Council to order at 2:02 p.m. in the Legislative Council Chamber.

**ROLL CALL**

Senators: President Thibodeau, Senator Mason, Senator Volk, and Senator Jackson and Senator Libby

Representatives: Speaker Gideon, Representative Herbig, Representative Golden, Representative Fredette and Representative Espling

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

Speaker Gideon convened the meeting at 2:02 p.m. with a quorum of members present.

**SUMMARY OF DECEMBER 14, 2017 MEETING OF LEGISLATIVE COUNCIL**

**Motion:** That the Meeting Summary for December 14, 2017 be accepted and placed on file. Motion by Representative Herbig. Second by Representative Fredette. **Motion passed unanimous (10-0).**

Legislative Council Chair Gideon asked if there was any objection to taking items out of order. There was no objection. The Chair then moved to **Old Business, Item 1.**

## **OLD BUSINESS**

### **Item #1: Consideration of the Tabled Bill Requests for Introduction in the Second Regular Session of the 128<sup>th</sup> Legislature – from October and November**

The Legislative Council proceeded to consider twelve (12) tabled bill requests in accordance with the adopted protocol. The Legislative Council authorized one (1) bill for introduction in the Second Regular Session, two bills failed and the Council took no action on the remaining nine requests. The Legislative Council's action on the bill requests is attached.

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

#### **Requests for Introduction of Legislation:**

**LR 2810      An Act to Delay Further the Implementation of Certain Portions of the Marijuana Legalization Act**

Submitted by: Senator Roger Katz  
Date: December 14, 2017  
Vote: 10-0 Passed

**LR 2847      An Act to Ensure Propane Delivery during Emergencies**

Submitted by: Senator William Diamond  
Date: January 16, 2018  
Vote: 10-0 Passed

**LR 2840      An Act to Amend the Laws Governing the Issuance of Burn Permits**

Submitted by: Senator Thomas Saviello  
Date: January 17, 2018  
Vote: 8-2 Passed (with Representatives Fredette and Espling opposed)

**LR 2855      An Act to Amend the Charter of the Lisbon Water Department**

Submitted by: Senator Garrett Mason  
Date: January 24, 2018  
Vote: 10-0 Passed

## **NEW BUSINESS**

### **Item #1: Consideration of After Deadline Bill Requests for Introduction in the Second Regular Session of the 128<sup>th</sup> Legislature**

The Legislative Council proceeded to consider and vote on forty-five (45) after deadline bill requests. The Legislative Council authorized nine (9) bills for introduction in the Second Regular Session, twelve (12) bills failed, fourteen (14) bills tabled, one (1) bill was withdrawn by the

sponsor and the Council took no action on the remaining nine (9) bill requests. The Legislative Council's action on the bill requests is attached.

## **Item #2: Issues with Bills Introduced in the Second Regular Session**

Representative O'Connor introduced concerns that she and others have about the bill appeals process in regards to its constitutionality and potential violations to the Joint Rules using as examples LR 2538 and LD 1686. Representative O'Connor requested that the Legislative Council consider making changes to its appeals process in light of these concerns. Members of the Council discussed the issue and raised several questions. Sen. Mason noted that he has heard numerous issues raised about the legislative process and invited those interested to attend the Joint Select Committee on Joint Rules meeting on Tuesday, January 30<sup>th</sup>, when an expert on legislative process from the National Conference of State Legislatures would be present to discuss several questions raised by the committee. The Speaker also noted that, if there is a potential suit being filed in court as Rep. O'Conner suggested, the courts are the appropriate venue to decide matters of constitutionality.

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

## **REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES**

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

Grant Pennoyer, Executive Director, presented the following report.

#### 1. New Employee Orientation Session

On Friday, January 19<sup>th</sup>, we held a new employee orientation that included required training on harassment and ergonomics. The harassment training segment of this orientation was opened to give those staff that missed the earlier offerings a chance to satisfy the training requirement. We had 20 new employees attend the orientation session and an additional 28 staff attended the make-up session on harassment training.

#### 2. Other Harassment Training

Jackie Little, HR Director, was invited to provide harassment training for the House Republican caucus on Tuesday, January 23<sup>rd</sup>, the House Democratic caucus and the Senate Republican caucus separately on Thursday, January 25<sup>th</sup>, and the Senate Democratic caucus on Tuesday, January 30<sup>th</sup>.

#### 3. Benefits Fair

Representatives from Employee Health & Benefits, Maine Public Employees Retirement System, WellStar ME (Health Screening), and representatives of the Deferred Compensation Plans will be in the Hall of Flags from 8:30 to Noon on Tuesday, January 30<sup>th</sup>, for a Benefits Fair. The WellStar ME staff will also be scheduling appointments for Health Screenings on Wednesday, January 31<sup>st</sup> to help meet the requirements of the Health Credit Premium Program.

#### 4. Legislator Tax Package

Each year, Dawna Lopatosky and Casey Bullock in the Executive Director's Office compile an information packet of 2017 legislative activity and related tax information to assist Legislators with the preparation of their 2017 tax returns. Packages were delivered to the Chambers on January 23<sup>rd</sup>. For those Legislators who were not present on the 23<sup>rd</sup>, another attempt was made

to deliver the packets in the Chamber on the 25<sup>th</sup>. Any remaining packets that were not distributed are mailed out to the Legislators.

#### 5. Copper Reuse Project

The first of the two art projects using the copper from the State House Dome is going to be installed in early March. This first project will be located over the Law and Legislative Reference Library Door. The second project in the exit hallway of the main entrance will be installed after the session. As noted last month, we have once again begun selling rough sheets of copper from the State House Dome. We also still have mementos for sale with pieces of the copper in either a plaque or framed picture.

### Fiscal Report

Chris Nolan, Director, Office of Fiscal and Program Review, presented the following report.

#### 1. General Fund Revenue Update

##### Total General Fund Revenue - FY2018 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
December	\$250.8	\$277.6	\$26.9	10.7%	\$274.0	1.3%
FYTD	\$1,745.3	\$1,784.9	\$39.5	2.3%	\$1,729.2	3.2%

General Fund revenue was over budget by \$26.9 million (10.7%) for the month of December and over budget by \$39.5 million (2.3%) for the fiscal year to date. These positive variances now reflect the December 2017 revenue forecast, which increased budgeted revenue by \$17.9 million in FY 2018. Individual income tax revenue was over budget by \$21.4 million for the month and fiscal year to date. Income tax withholding and estimated payments were the major contributors to this positive variance, with estimated payments over budget by \$16.6 million for the month. It is likely an increased number of taxpayers paid their January 15th estimated payments in calendar year 2017 in anticipation of the cap on federal deductions for state and local taxes beginning in 2018, included in the recently passed federal Tax Cuts and Jobs Act (TCJA). More should be known regarding this impact when January revenue data are available later this month. Sales tax revenue (November sales) was over budget by \$5.0 million for the month and \$5.2 million for the fiscal year to date. A number of other revenue lines show significant variances in revenue collected to date that are largely the result of timing issues. The Revenue Forecasting Committee will be reviewing these and all revenue lines when it meets at the end of February to prepare its March 1<sup>st</sup> report.

#### 2. Highway Fund Revenue Update

##### Total Highway Fund Revenue - FY2018 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
December	\$23.6	\$23.6	\$0.0	0.2%	\$24.7	-4.4%
FYTD	\$168.2	\$171.1	\$2.9	1.7%	\$171.2	-0.1%

Highway Fund revenue was on budget for the month of December but over budget by \$2.9 million (1.7%) for the fiscal year to date. These positive variances to date now reflect the December 2017 revenue forecast which decreased budgeted revenue by \$2.5 million in FY 2018. The Motor Vehicle Registrations and Fees and Fuel Taxes categories were under budget by \$0.3 million for the month, combined, while the Motor Vehicle Inspection Fees category was over budget by \$0.4 million for the month. For the fiscal year to date, motor

vehicle registrations and fees were over budget by \$2.0 million, fuel taxes by \$0.4 million and motor vehicle inspection fees by \$0.4 million.

### 3. Cash Balances Update

The average balance in the cash pool for December was \$1,084.7 million, down from November's average of \$1,120.3 million but well above both last year's average balance for December and the ten-year average for the month. General Fund internal borrowing from other funds was not needed in December. The average Highway Fund balance of \$8.3 million in December decreased from November's average of \$25.3 million. This decrease was the result of the annual payment to the Local Road Assistance program being made in December.

## Studies Report

Marion Hylan Barr, Director, Office of Policy and Legal Analysis, presented the following report. Most of the studies are either completed or almost complete. The Commission to Streamline Veterans' Licensing and Certification and the Task Force to Identify Special Education Cost Drivers and Innovative Approaches to Services have both completed their report and they are going to be printed. And the ACF Study of Conserved Lands Owned by Nonprofit Conservation Organizations just held its final meeting.

## REPORTS FROM COUNCIL COMMITTEES

### 1. Personnel Committee

Speaker Gideon reported that the Personnel Committee held a meeting earlier today to consider the following matters:

#### 1. Step Increases for the Constitutional Officers

The committee reviewed and approved step increases for the two eligible Constitutional Officers.

#### 2. Performance Evaluation and Step Increase – Suzanne Gresser

The committee reviewed the performance of and considered a step increase for Suzanne Gresser as Revisor of Statutes. The committee voted unanimously to approve this step increase.

#### 3. Performance Evaluation and Step Increase – Beth Ashcroft

The committee reviewed the performance of and considered a step increase for Beth Ashcroft as Director of OPEGA. The committee voted unanimously to approve this step increase.

#### 4. Performance Evaluation – John Barden

The committee reviewed the annual evaluation of John Barden, Director of the Law and Legislative Reference Library.

#### 5. Director Reappointment – Kevin Dieterich

The committee considered the reappointment of Kevin Dieterich as Director of Legislative Information Technology. The committee reviewed the annual evaluation of and considered a step increase for Director Dieterich. The committee voted unanimously to approve this step increase and further to recommend that the Legislative Council reappoint Mr. Dieterich.

**Motion:** That the Personnel Committee recommends that the Legislative Council appoint Kevin Dieterich as Director of Legislative Information Technology, the date of his reappointment being retroactive to January 12, 2018. Motion by Speaker Gideon. Second by Senator Volk. **Motion passed (8-0-0-2**, with President Thibodeau and Senator Jackson absent).

## 2. State House Facilities Committee

Representative Herbig reported that the State House Facilities Committee met on Tuesday, January 23<sup>rd</sup>, to consider the following items.

### 1. Status Report on the Blaine House Landscaping Project

William Lund, Friends of the Blaine House, and Barbara Claudel, Blaine House Director, provided an update on the Blaine House Landscaping Project. Although the project started later than planned, they indicated that project is progressing well. Kirk Mohny, Director of the Maine Historic Preservation Commission, and Mr. Lund presented on the Fence and Gates project that is getting underway.

### 2. Gold Star Family Memorial in Capitol Park

Mr. Pennoyer provided an overview of the committee's discussions at its last meeting of the proposal to locate a new Gold Star Family Memorial next to the Maine Vietnam Veterans Memorial in Capitol Park. Given that legislation would be required to locate the memorial in the park, Mr. Pennoyer presented a potential other location for the memorial. After some discussion, the committee decided to set aside the matter until its next meeting.

### 3. Statue of Fallen Maine Soldier

Mr. Pennoyer provided an overview of the committee's discussions at its last meeting of the proposal to locate a statue of a fallen Maine soldier in the Capitol Complex. Mr. Pennoyer presented a potential location for the statue. After some discussion, the committee decided to table the matter until its next meeting.

### 4. Killed in Action Flag

Mr. Pennoyer presented some background on the flag including how many other states are flying this flag on special occasions. Mr. Pennoyer further reported to the committee on a similar flag that several states are also flying on special occasions. After some discussion, the committee decided to set aside the matter until its next meeting.

### 5. Request for Special Lighting of the State House

Mr. Pennoyer reviewed the request by the Consulate General of Israel to light the dome blue of the State House in April in honor of the 70<sup>th</sup> Anniversary of the founding of the modern State of Israel. Mr. Pennoyer explained that previous requests to light the dome have been declined by the Legislative Council but that there is no standing policy. Mr. Maurais,



the whole Capitol Complex. These amendments appear under new business later on today's agenda.

## **NEW BUSINESS**

### **Item #3: Approval of the State House Evacuation Plan Revision**

Representative Herbig noted the State House Facilities Committee's support for the Evacuation Plan and made the following motion.

**Motion:** That upon the unanimous recommendation of the State House Facilities Committee the Legislative Council approve the revised State House Evacuation Plan. Motion by Representative Herbig. Second by Senator Libby. **Motion passed (7-0-0-3, with President Thibodeau, Senator Jackson and Representative Espling absent).**

### **Item #4-9: Acceptance of Reports**

Senator Libby asked if the Council could take the acceptance of the reports in Items 4 through 9 in one motion. There were no objections.

**Motion:** That the Legislative Council accept the following reports and place them on file. Motion by Senator Libby. Second by Senator Mason. **Motion passed (7-0-0-3, with President Thibodeau, Senator Jackson and Representative Espling absent).**

- Joint Standing Committee on Taxation Tax Expenditure Review (December 2017)
- Task Force on Maine's 21<sup>st</sup> Century Economy and Workforce Report (December 2017)
- Task Force to Address the Opioid Crisis in the State Final Report (December 2017)
- Working Group to Improve the Provision of Indigent Legal Services Report (December 2017)
- Twelfth Annual Report of the Right to Know Advisory Committee
- Annual Report of the Midcoast Regional Redevelopment Authority

## **ANNOUNCEMENTS AND REMARKS**

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 4:46 p.m.

**Legislative Council Action Taken on  
Tabled Bills Requests  
From October and November 2017**

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2481	An Act To Authorize a General Fund Bond Issue To Fund a Program of Student Debt Consolidation and Repayment	Tabled 11/30/17 FAILED

**SPONSOR: Rep. Karen A. Gerrish**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2492	An Act To Create a Full-time Drug Interdiction Unit within the State	Tabled 11/30/17

**SPONSOR: Rep. Erin D. Herbig**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2716	An Act To Attract Trained Firefighters to Maine and Provide Incentives To Retain Them	Tabled 11/30/17 PASSED

**SPONSOR: Sen. Troy D. Jackson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2506	An Act To Support Funding for Workforce Development in Maine	Tabled 10/26/17

**SPONSOR: Sen. Brian D. Langley**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2783	An Act To Extend Secondary Student Eligibility in the Competitive Skills Scholarship Program	Tabled 12/14/17

**SPONSOR: Sen. Nathan L. Libby**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2761	Resolve, To Require the Department of Labor To Receive Federal Workforce Innovation and Opportunity Act Funds	Tabled 10/26/17

**SPONSOR: Rep. Wayne R. Parry**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2562	An Act To Waive Income Restrictions for Supplemental MaineCare Coverage for Children Diagnosed with Cystic Fibrosis	Tabled 11/30/17

**SPONSOR: Rep. Anne C. Perry**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2523	An Act To Ensure Federal Funding for Job Training Services	Tabled 10/26/17

**SPONSOR: Rep. Harold L. Stewart III**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2472	An Act To Prevent Human Trafficking, Protect Children and Finance the Victims' Compensation Fund	Tabled 11/30/17

**SPONSOR: Pres. Michael D. Thibodeau**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2605	An Act To Amend the Laws Restricting Firearms on Public Lands	Tabled 11/30/17

**SPONSOR: Rep. Nathan J. Wadsworth**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2624	An Act To Ensure Fairness and Affordability in the Private Residential and Commercial Rental Markets	Tabled 11/30/17 FAILED

**SPONSOR: Rep. Dustin Michael White**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2551	An Act To Increase the Bottle Redemption Rate To Counterbalance Increases in the Minimum Wage	Tabled 11/30/17

**128th Maine State Legislature  
Legislative Council Action Taken on  
Requests to Introduce Legislation  
Second Regular Session**

1/25/18

**AFTER DEADLINE BILL REQUESTS**

**SPONSOR: Sen. Shenna Bellows**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2821	An Act To Protect Net Neutrality	FAILED

**SPONSOR: Rep. Seth A. Berry**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2836	Resolve, To Require the Public Utilities Commission To Adopt Rates for Regulated For-profit Utilities Based on the Reduction in the Federal Corporate Income Tax Rates	TABLED

**SPONSOR: Sen. Eric L. Brakey**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2831	An Act To Revise the Municipal Consolidation Referendum Process	PASSED

**SPONSOR: Sen. Andre E. Cushing III**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2866	An Act To Allow Individuals To Obtain Feline Rabies Vaccine To Vaccinate Feral Cats	TABLED

**SPONSOR: Sen. Scott W. Cyrway**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2823	An Act To Make Available the Results from a Blood Sample Related to a Fatal Motor Vehicle Accident	FAILED

**SPONSOR: Rep. Jennifer L. DeChant**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2830	An Act To Validate Certain Proceedings Authorizing the Issuance of Bonds and Notes by the City of Bath	PASSED

**SPONSOR: Rep. Jessica L. Fay**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2841	An Act To Ensure Fuel Delivery during Emergencies	TABLED

**SPONSOR: Speaker Sara Gideon**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2822	An Act To Restore Net Neutrality Protections to Consumers in Maine	TABLED

**SPONSOR: Rep. James R. Handy**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2824	An Act To Preserve Internet Freedom in the State by Protecting Net Neutrality in the State	FAILED

**SPONSOR: Rep. George W. Hogan**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2825	An Act To Amend the Format of Municipal Questions on Ballots	FAILED

**SPONSOR: Sen. Troy D. Jackson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2828	An Act To Amend the Law Regarding the Interest Rate for State Loans under the Potato Marketing Improvement Fund	PASSED

2846	Resolve, Directing the Public Utilities Commission To Give Final Approval for a Long-term Contract for Electricity from Experimental Floating Turbines	TABLED
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2867	An Act To Provide the State the Right of First Refusal for the Purchase of Land on Which a Subsidy Has Been Paid	PASSED
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**SPONSOR: Sen. Nathan L. Libby**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2837	An Act To Require Annual In-person Sexual Harassment Training for Legislators, Legislative Employees, Constitutional Officers and Liaisons and Registered Lobbyists	TABLED

2842	An Act To Regulate Alcohol Advertising Like Tobacco Advertising	FAILED
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2848	An Act To Provide Reasonable Exemptions from the Work Requirements for MaineCare for Persons Who Are Elderly or Disabled	TABLED
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**SPONSOR: Rep. Matthew G. Pouliot**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2863	An Act To Establish as a Class D Crime the Intentional Photographing of a Minor without Consent of the Minor's Parent or Guardian by an Individual Required To Register as a Sex Offender	PASSED

## JOINT RESOLUTIONS

**SPONSOR:** Sen. Justin Mark Chenette

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2850	JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO EXEMPT MAINE FROM THE NEW OFFSHORE DRILLING RULES PROPOSED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR	TABLED

**SPONSOR:** Rep. Michael Gilbert Devin

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2844	JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO EXCLUDE THE STATE OF MAINE FROM OFFSHORE OIL AND GAS DRILLING AND EXPLORATION ACTIVITIES, INCLUDING SEISMIC AIRGUN BLASTING	TABLED

## TABLED BY THE LEGISLATIVE COUNCIL

## AFTER DEADLINE BILL REQUESTS

**SPONSOR:** Rep. Barbara A. Cardone

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2806	An Act To Amend the Maine Uniform Trust Code	Tabled 12/14/17 PASSED

**SPONSOR:** Sen. Michael E. Carpenter

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2797	An Act To Amend the Laws Governing Indecent Conduct To Include Distribution of Photographic Images	Tabled 12/14/17 PASSED

**SPONSOR:** Rep. Owen D. Casas

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2795	RESOLUTION, AMENDING THE CONSTITUTION OF MAINE TO ALLOW FOR RANKED-CHOICE VOTING	Tabled 12/14/17

**SPONSOR:** Sen. Justin Mark Chenette

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2802	An Act To Prevent the State Take-over of Local Roads without Local Approval	Tabled 12/14/17 FAILED

2803	An Act To Reverse the Department of Transportation Take-over of Killick Pond Road in Hollis	Tabled 12/14/17 FAILED
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**SPONSOR: Sen. Scott W. Cyrway**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2799	An Act To Provide a License at No Charge to Student Plumbers for On-the-job Training	Tabled 12/14/17 FAILED
2800	An Act To Ban Drinkable Marijuana	Tabled 12/14/17 FAILED

**SPONSOR: Rep. Ryan M. Fecteau**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2796	An Act To Improve Efficiency in the Delivery of Workforce Training	Tabled 12/14/17

**SPONSOR: Rep. Scott M. Hamann**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2792	An Act To Prohibit the Purchase and Possession of Bump Stocks	Tabled 12/14/17

**SPONSOR: Rep. Gary L. Hilliard**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2794	An Act To Educate the Public Concerning Health and Safety Matters Relating to the Use of Marijuana	Tabled 12/14/17

**SPONSOR: Rep. Richard S. Malaby**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2811	Resolve, Regarding Increases in Reimbursement Rates for Certain Children's Habilitative Services under MaineCare	Tabled 12/14/17 PASSED

**SPONSOR: Pres. Michael D. Thibodeau**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2819	An Act To Require Annual Sexual Harassment Training for Legislators, Employees of the Legislature and Registered Lobbyists	Tabled 12/14/17

**SPONSOR: Sen. David Woodsome**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2812	An Act Regarding the Use by Fire Departments of Recertified Self-contained Breathing Apparatus	Tabled 12/14/17

**SPONSOR: Sen. Justin Mark Chenette**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2650	An Act To Close Loopholes in Election Laws and Ban the Use of Leadership Political Action Committees for Personal Profit	Tabled 12/14/17 TABLED

2651 An Act To Clarify the Difference between Late and Unfiled Campaign Expenditures and Expenses Reports Tabled 12/14/17  
FAILED

**SPONSOR: Sen. Andre E. Cushing III**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2754	Resolve, To Study Methods for Better Transportation for Students and Workers in Maine	Tabled 12/14/17

#### JOINT RESOLUTIONS

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2653	JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO ESTABLISH A NATIONAL REVENUE-NEUTRAL FEE ON CARBON-BASED FOSSIL FUELS	Tabled 12/14/17

2818 JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO LEAD A GLOBAL EFFORT TO PREVENT NUCLEAR WAR Tabled 12/14/17

**SPONSOR: Rep. Beth A. O'Connor**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2461	JOINT RESOLUTION MEMORIALIZING THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES TO ALLOW THE IMPORTATION OF AFFORDABLE AND SAFE PRESCRIPTION DRUGS	Tabled 12/14/17 WITHDRAWN

**SPONSOR: Rep. Maureen Fitzgerald Terry**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2469	JOINT RESOLUTION MEMORIALIZING CONGRESS TO CLARIFY THE LAWS TO ENSURE THAT NEO-NAZI GROUPS ARE LABELED AS TERRORIST ORGANIZATIONS	Tabled 12/14/17 FAILED



**128th Maine State Legislature**  
**ADDENDUM**  
**Legislative Council Action Taken on**  
**Requests to Introduce Legislation**  
**Second Regular Session**

1/25/18

**SPONSOR: Sen. Paul T. Davis, Sr.**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2882	An Act Regarding the Penalties for Hunting Deer over Bait	Approved by Ballot

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2885	An Act Regarding Financial Orders Requested by the Attorney General	TABLED

**SPONSOR: Spkr. Sara Gideon**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2875	An Act To Discourage Sexual Harassment and Assault in the Workplace	TABLED

**SPONSOR: Sen. Troy D. Jackson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2884	An Act Concerning Commercial Vehicle Weight Limit Exemptions That Are Advantageous to Canadian Truckers	TABLED

**SPONSOR: Sen. Joyce A. Maker**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2876	An Act To Include Operating a Motor Vehicle in a Parking Area to the Law Regarding Operating after Habitual Offender Revocation	TABLED

**SPONSOR: Rep. Deborah J. Sanderson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2871	An Act To Amend the Hallowell Water District Charter	FAILED

**SPONSOR: Rep. Bettyann W. Sheats**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2877	Resolve, To Designate a Bridge in Gorham the Corporal Joshua P. Barron Memorial Bridge	PASSED

REP. SARA GIDEON  
CHAIR  
SEN. MICHAEL D. THIBODEAU  
VICE-CHAIR



SEN. GARRETT P. MASON  
SEN. AMY F. VOLK  
SEN. TROY D. JACKSON  
SEN. NATHAN L. LIBBY  
REP. ERIN D. HERBIG  
REP. JARED F. GOLDEN  
REP. KENNETH W. FREDETTE  
REP. ELEANOR M. ESPLING

EXECUTIVE DIRECTOR  
GRANT T. PENNOYER

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

## **Executive Director's Report February 15, 2018**

### **1. Bill Production System Replacement Project**

The first phase of the project to replace the MELD bill production system is reaching its conclusion. This phase included an intensive review process to lay out detailed requirements for the new system starting with an in-depth review of the current process. Also included in this phase will be a refined cost estimate for the remaining work required to implement the new system based on the much more detailed requirements developed as part of the first phase. The RFP estimate was approximately \$3.2 million with substantial contingencies. The new estimate will be presented with the draft requirements document either late this week or early next week. I will inform you if the estimate deviates substantially from the estimate provided as part of the RFP process. We are also simultaneously working with Tallan to finalize contract language and develop a scope of work for the remaining project. The scope of work document includes a timeline that plans to fully implement the new bill production system for the Second Regular Session of the 129<sup>th</sup> Legislature.

### **2. Harassment Training Update**

Jackie Little, Human Resources Director, has provided training for the four major caucuses and a training session for the Independents and Green Independents is planned for Tuesday, March 13<sup>th</sup>. Ms. Little is planning an additional training session for the House Republican Caucus and has been scheduling individual training sessions for Legislators that missed the training sessions conducted in caucus meetings. Ms. Little has also provided similar training to all Legislative Staff. She will also work with any new staff that started after the rounds of training provided in December to make sure that they have this important training.

# Fiscal Briefing

February 15, 2018

*Prepared by the Office of Fiscal & Program Review*

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

**Total General Fund Revenue - FY 2018 (\$'s in Millions)**

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
January	\$325.4	\$367.6	\$42.3	13.0%	\$323.7	13.6%
FYTD	\$2,070.7	\$2,152.5	\$81.8	4.0%	\$2,052.9	4.9%

General Fund revenue was over budget by \$42.3 million (13.0%) for the month of January and over budget by \$81.8 million (4.0%) for the fiscal year to date. Individual income tax revenue was over budget by \$36.6 million for the month and \$58.0 million for the fiscal year to date. Income tax withholding and estimated payments were the major contributors to this positive variance, with estimated payments over budget by \$19.6 million for the month. It is likely the early January estimated payment receipts were a carryover from taxpayers paying their January 15th estimated payment in calendar year 2017 in anticipation of the Tax Cuts and Jobs Act (TCJA) cap on federal deductions for state and local taxes beginning in 2018. Sales tax revenue (December sales) was under budget by \$1.0 million for the month but over budget by \$4.3 million for the fiscal year to date. The cold temperatures and snow likely affected December sales. BETR transfers continue to lag behind budgeted estimates. This category was over budget (less reimbursed than budgeted) by \$9.1 million for the fiscal year to date. It is still likely this could be a timing issue. This and all revenue lines will be reviewed for the March revenue forecast.

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

**Total Highway Fund Revenue - FY 2018 (\$'s in Millions)**

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
January	\$26.1	\$28.2	\$2.0	7.8%	\$27.0	4.1%
FYTD	\$194.3	\$199.3	\$4.9	2.5%	\$198.3	0.5%

Highway Fund revenue was over budget by \$2.0 million (7.8%) for the month of January and over budget by \$4.9 million (2.5%) for the fiscal year to date. Motor vehicle registrations and fees, in particular long-term trailer registration fees and title fees, were the main driver of this overage to date. Fuel taxes also showed a positive variance in January and for the fiscal year to date.

## 3. Cash Balances Update

The average balance in the cash pool for January was \$1,200.5 million, significantly up from December's average of \$1,084.7 million and well above both last year's average balance for December and the ten-year average for the month. General Fund internal borrowing from other funds was not needed in January (last done in April of 2016). The average Highway Fund balance of \$8.3 million in January was essentially unchanged from December. December is usually the low point in the year after the annual payment to the Local Road Assistance program.

**General Fund Revenue  
Fiscal Year Ending June 30, 2018 (FY 2018)**

**January 2018 Revenue Variance Report**

Revenue Category	January '18			Fiscal Year-To-Date			FY 2018 Budgeted Totals
	Budget	January '18 Actual	January '18 Variance	Budget	Actual	Variance	
Sales and Use Tax	130,112,969	129,247,450	(865,519)	898,191,261	902,539,532	4,348,271	0.5%
Service Provider Tax	5,466,010	4,917,656	(548,354)	35,888,866	35,219,089	(669,777)	-1.5%
Individual Income Tax	170,900,000	207,536,279	36,636,279	948,750,000	1,006,793,634	58,043,634	6.1%
Corporate Income Tax	5,500,000	7,399,135	1,899,135	79,335,000	81,272,132	1,937,132	2.4%
Cigarette and Tobacco Tax	10,615,227	12,967,711	2,352,484	74,956,949	75,635,922	678,973	0.9%
Insurance Companies Tax	51,059	136,198	85,139	15,387,516	12,591,639	(2,795,877)	-18.2%
Estate Tax	1,025,000	666,327	(358,673)	7,271,000	9,069,719	1,798,719	24.7%
Other Taxes and Fees *	10,845,829	12,149,510	1,303,681	76,342,916	79,787,115	3,444,199	4.5%
Fines, Forfeits and Penalties	1,385,843	1,268,453	(117,390)	10,708,561	9,903,416	(805,145)	-7.5%
Income from Investments	390,871	538,021	147,150	2,614,362	2,860,771	246,409	9.4%
Transfer from Lottery Commission	4,143,413	4,448,287	304,874	32,111,450	37,462,830	5,351,380	16.7%
Transfers to Tax Relief Programs *	(12,000,000)	(9,754,834)	2,245,166	(58,300,000)	(50,582,234)	7,717,766	13.2%
Transfers for Municipal Revenue Sharing	(5,287,799)	(5,813,521)	(525,722)	(39,134,190)	(40,107,211)	(973,021)	-2.5%
Other Revenue *	2,229,270	1,942,625	(286,645)	(13,403,778)	(9,915,677)	3,488,101	26.0%
<b>Totals</b>	<b>325,377,692</b>	<b>367,649,297</b>	<b>42,271,605</b>	<b>2,070,719,913</b>	<b>2,152,530,678</b>	<b>81,810,765</b>	<b>4.0%</b>
							<b>4.9%</b>

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

**General Fund Revenue  
Fiscal Year Ending June 30, 2018 (FY 2018)**

**January 2018 Revenue Variance Report**

Revenue Category	January '18			January '18			January '18			Fiscal Year-To-Date			FY 2018 Budgeted Totals
	Budget	Actual	Variance	Actual	Variance	Budget	Actual	Variance	Variance %	Variance %	% Change from Prior Year		
<b>Detail of Other Taxes and Fees:</b>													
- Property Tax - Unorganized Territory	0	0	0	0	0	12,220,827	12,220,827	(0)	0.0%	0.0%	6.3%	14,312,702	
- Real Estate Transfer Tax	1,242,565	1,450,816	208,251	208,251	9,917,833	9,917,833	64,360	0.6%	0.6%	-13.2%	14,951,635		
- Liquor Taxes and Fees	1,807,308	1,783,816	(23,492)	(23,492)	11,973,383	13,783,974	1,810,591	15.1%	15.1%	2.9%	19,086,688		
- Corporation Fees and Licenses	349,790	373,224	23,434	23,434	1,788,615	2,181,246	392,631	22.0%	22.0%	10.1%	9,538,649		
- Telecommunication Excise Tax	0	0	0	0	0	3,256	3,256	N/A	N/A	-92.4%	6,250,000		
- Finance Industry Fees	2,736,000	3,235,515	499,515	499,515	15,911,998	16,386,265	674,267	4.2%	4.2%	2.9%	26,891,990		
- Milk Handling Fee	416,751	286,345	(130,406)	(130,406)	2,150,074	2,021,920	(128,154)	-6.0%	-6.0%	-40.7%	4,408,442		
- Racino Revenue	658,395	555,379	(103,016)	(103,016)	5,088,504	4,826,376	(262,128)	-5.2%	-5.2%	-3.4%	8,535,038		
- Boat, ATV and Snowmobile Fees	472,063	417,419	(54,644)	(54,644)	2,209,526	1,945,685	(263,841)	-11.9%	-11.9%	-1.4%	4,523,561		
- Hunting and Fishing License Fees	2,213,227	2,811,097	597,870	597,870	9,911,048	10,750,118	839,070	8.5%	8.5%	-1.4%	15,882,295		
- Other Miscellaneous Taxes and Fees	949,730	1,235,898	286,168	286,168	5,171,108	5,485,256	314,148	6.1%	6.1%	-16.5%	11,200,313		
<b>Subtotal - Other Taxes and Fees</b>	<b>10,845,829</b>	<b>12,149,510</b>	<b>1,303,681</b>	<b>1,303,681</b>	<b>76,342,916</b>	<b>79,787,115</b>	<b>3,444,199</b>	<b>4.5%</b>	<b>4.5%</b>	<b>-3.2%</b>	<b>135,581,313</b>		
<b>Detail of Other Revenue:</b>													
- Liquor Sales and Operations	2,565	1,200	(1,365)	(1,365)	16,815.00	23,514	6,699	39.8%	39.8%	0.4%	28,500		
- Targeted Case Management (DHHS)	209,590	64,073	(145,517)	(145,517)	762,692	454,779	(307,913)	-40.4%	-40.4%	-58.8%	1,750,000		
- State Cost Allocation Program	1,581,048	1,493,043	(88,005)	(88,005)	10,423,704	10,284,279	(139,425)	-1.3%	-1.3%	-11.2%	17,807,410		
- Unclaimed Property Transfer	0	0	0	0	0	0	0	N/A	N/A	N/A	7,500,000		
- Tourism Transfer	0	0	0	0	(16,076,775)	(16,076,758)	17	0.0%	0.0%	-10.2%	(16,076,775)		
- Transfer to Maine Milk Pool	(1,172,446)	(1,116,361)	56,085	56,085	(7,631,044)	(7,562,021)	69,023	0.9%	0.9%	31.4%	(13,346,310)		
- Transfer to STAR Transportation Fund	0	0	0	0	(8,900,000)	(8,899,944)	56	0.0%	0.0%	-12.5%	(8,900,000)		
- Other Miscellaneous Revenue	1,608,513	1,500,670	(107,843)	(107,843)	8,000,830	11,860,474	3,859,644	48.2%	48.2%	-14.9%	18,690,212		
<b>Subtotal - Other Revenue</b>	<b>2,229,270</b>	<b>1,942,625</b>	<b>(286,645)</b>	<b>(286,645)</b>	<b>(13,403,778)</b>	<b>(9,915,677)</b>	<b>3,488,101</b>	<b>26.0%</b>	<b>26.0%</b>	<b>-44.3%</b>	<b>7,453,037</b>		
<b>Detail of Transfers to Tax Relief Programs:</b>													
- Me. Resident Prop. Tax Program (Circuitbreaker)	0	75	75	75	0	3,691	3,691	N/A	N/A	43.1%	0		
- BETR - Business Equipment Tax Reimb.	(8,000,000)	(5,418,620)	2,581,380	2,581,380	(24,300,000)	(15,216,785)	9,083,215	37.4%	37.4%	37.1%	(26,800,000)		
- BETE - Municipal Bus. Equip. Tax Reimb.	(4,000,000)	(4,336,289)	(336,289)	(336,289)	(34,000,000)	(35,369,140)	(1,369,140)	-4.0%	-4.0%	-10.7%	(37,968,101)		
<b>Subtotal - Tax Relief Transfers</b>	<b>(12,000,000)</b>	<b>(9,754,834)</b>	<b>2,245,166</b>	<b>2,245,166</b>	<b>(58,300,000)</b>	<b>(50,582,234)</b>	<b>7,717,766</b>	<b>13.2%</b>	<b>13.2%</b>	<b>9.9%</b>	<b>(64,768,101)</b>		
<b>Inland Fisheries and Wildlife Revenue - Total</b>	<b>2,793,727</b>	<b>3,316,893</b>	<b>523,166</b>	<b>523,166</b>	<b>12,799,574</b>	<b>13,430,490</b>	<b>630,916</b>	<b>4.9%</b>	<b>4.9%</b>	<b>-0.5%</b>	<b>21,497,968</b>		

## Highway Fund Revenue Fiscal Year Ending June 30, 2018 (FY 2018)

### January 2018 Revenue Variance Report

Revenue Category	January '18			January '18			Fiscal Year-To-Date			FY 2018 Budgeted Totals
	Budget	Actual	Variance	Budget	Actual	Variance	Budget	Actual	Variance	
<b>Fuel Taxes:</b>										
- Gasoline Tax	16,248,184	16,945,798	697,614	124,274,244	126,392,999	2,118,755	1.7%	1.7%	1.7%	201,172,900
- Special Fuel and Road Use Taxes	3,636,142	3,961,498	325,356	25,843,563	25,201,553	(642,010)	-2.5%	-2.5%	-12.5%	46,206,300
- Transcap Transfers - Fuel Taxes	(1,451,709)	(1,536,275)	(84,566)	(11,066,056)	(11,150,748)	(84,692)	-0.8%	-0.8%	1.5%	(18,176,136)
- Other Fund Gasoline Tax Distributions	(402,054)	(423,764)	(21,710)	(3,127,732)	(3,165,434)	(37,702)	-1.2%	-1.2%	-1.1%	(5,030,731)
Subtotal - Fuel Taxes	18,030,563	18,947,257	916,694	135,924,019	137,278,370	1,354,351	1.0%	1.0%	-1.0%	224,172,333
<b>Motor Vehicle Registration and Fees:</b>										
- Motor Vehicle Registration Fees	4,415,372	4,792,364	376,992	36,764,176	37,244,190	480,014	1.3%	1.3%	-0.6%	67,095,787
- License Plate Fees	55,986	44,072	(11,914)	1,852,666	2,016,456	163,790	8.8%	8.8%	1.3%	3,458,710
- Long-term Trailer Registration Fees	990,004	1,663,191	673,187	4,308,662	6,330,895	2,022,233	46.9%	46.9%	23.4%	9,884,523
- Title Fees	904,222	1,074,454	170,232	7,364,306	8,243,460	879,154	11.9%	11.9%	4.6%	13,366,264
- Motor Vehicle Operator License Fees	731,746	715,845	(15,901)	4,726,991	4,699,320	(27,672)	-0.6%	-0.6%	-8.3%	8,886,689
- Transcap Transfers - Motor Vehicle Fees	0	0	0	(7,703,656)	(8,058,395)	(354,739)	-4.6%	-4.6%	-1.2%	(15,570,414)
Subtotal - Motor Vehicle Reg. & Fees	7,097,330	8,289,926	1,192,596	47,313,145	50,475,925	3,162,780	6.7%	6.7%	1.7%	87,121,559
<b>Motor Vehicle Inspection Fees</b>										
Other Highway Fund Taxes and Fees	352,451	218,336	(134,116)	1,890,067	2,165,561	275,494	14.6%	14.6%	-2.0%	3,202,500
Fines, Forfeits and Penalties	82,041	90,493	8,452	748,769	836,076	87,307	11.7%	11.7%	3.6%	1,293,729
Interest Earnings	47,592	49,072	1,480	454,810	461,504	6,694	1.5%	1.5%	-1.0%	739,039
Other Highway Fund Revenue	7,100	8,800	1,700	221,825	159,596	(62,229)	-28.1%	-28.1%	-13.1%	98,168
<b>Totals</b>	<b>26,105,814</b>	<b>28,153,939</b>	<b>2,048,125</b>	<b>194,316,707</b>	<b>199,258,842</b>	<b>4,942,135</b>	<b>2.5%</b>	<b>2.5%</b>	<b>0.5%</b>	<b>327,129,488</b>

# 2017 Interim Legislative Studies and Committee Meetings

Updated February 7, 2018

Study/Committee	Citation	2017 Meetings Authorized	2017 Meetings Held	Scheduled Next Meeting Date(s)	Report Date	Chair(s)	Status/Notes
<b>NEW STUDIES</b>							
ACF Study of Conserved Lands Owned by Nonprofit Conservations Organizations	PL 2017 c. 284 TT-2	4	10/12/17 12/1/17	2/12/18	2/15/18	Sen. Paul Davis Rep. Michelle Dumphy	Work ongoing
Working Group to Improve the Provision of Indigent Legal Services	PL 2017 c. 384 UUUU-17	4	9/7/17 10/12/17 10/31/17 11/14/17 12/1/17		12/6/17	Sen. Lisa Keim Rep. Barbara Cardone	Report completed
Task Force to Address Opioid Crisis in the State	SP 210	10	9/12/17 9/27/17 10/31/17 11/13/17 11/28/17 12/12/17		12/6/17	Sen. Andre Cushing Rep. Joyce McCreight	Report completed
Task Force on Maine's 21st Century Economy and Workforce	SP 294	4	9/26/17 10/31/17 11/16/17 12/4/17		3/1/18	Sen. Brian Langley Rep. Enn Herbig	Report completed
Commission to Streamline Veterans' Licensing and Certification	Resolve 2017 c. 27	4	12/19/2017 1/12/18		1/15/18	Sen. Ronald Collins Rep. Jared Golden	Report completed
Task Force to Identify Special Education Cost Drivers and Innovative Approaches to Services	Resolve 2017 c. 26	5	10/19/17 11/16/17 12/4/17 12/19/17		12/6/17	Sen. Brian Langley Rep. Richard Farnsworth	Report completed
Task Force on Health Care Coverage for All of Maine	SP 592 (pending funding)	4	12/20/17 1/22/18	3/2/18	1/1/18 (initial may be submitted); final 11/1/18	Sen. Rodney Whittenore Rep. Heather Sanborn	Work ongoing
Maine Bicentennial Commission	Resolve 2017 c. 25	up to 5 per year	1/29/18		12/6/17, 11/7/18, 12/4/19, 11/4/20	Sen. Bill Diamond	Work ongoing; staffed by ME State Cultural Affairs Council; appointments not completed (legislative appointments are completed)
<b>ON-GOING LEGISLATIVE STUDIES</b>							
State Education and Employment Outcomes Task Force	20-A MRSA Sec. 12901	no more than 4 times per year			1/1 annually		Did not meet
Right to Know Advisory Committee	1 MRSA Sec. 411	not fewer than 4 times per year	9/6/17 9/20/17 10/12/17 11/15/17 12/5/17		1/15 annually	Sen. Lisa Keim	Report completed
Task Force To End Student Hunger in Maine	20-A MRSA Sec. 6663	at least 2 and no more than 4 per year			1/10 annually		Did not meet; staffed by DOE
Citizen Trade Policy Commission	10 MRSA Sec. 11	at least 2 times per year	9/18/17 10/24/17 11/20/17 1/24/18 (postponed)		annually	Sen. Rodney Whittenore Rep. Craig Hickman	Work ongoing
State Compensation Commission (former Judicial Compensation Commission repealed and State Compensation Commission amended by PL 2017, c. 242)	PL 2017 c. 242	not specified			5/1 of every odd-numbered year and 1/15 of every even-numbered year an interim report; 11/15 of every even-numbered year a final report		Appointments due January of odd-numbered years at 1st Regular Session of each Legislature (beginning 2019)

# 2017 Interim Legislative Studies and Committee Meetings

Updated February 7, 2018

Study/Committee	Citation	2017 Meetings Authorized	2017 Meetings Held	Scheduled Next Meeting Date(s)	Report Date	Chair(s)	Status/Notes
<b>AUTHORIZED COMMITTEE MEETINGS</b>							
Joint Select Committee on MLI	HP 96 PL 2017 c. 278	as needed	9/26/17 9/27/17 9/28/17 10/12/17		n/a	Sen. Roger Katz Rep. Teresa Pierce	PH on draft LR 09/26; WSS to follow 9/27, 9/28, language review 10/12
Legislative Staff Recodification and Revision of Title 28-A	Resolve 2017 c. 18				1/15/19	n/a	Staff work ongoing
SLG re work on CO bill LD 1588 (Roads)	approved by POs	3	9/21/17 10/30/17 11/20/17		n/a	Sen. Paul Davis Rep. R. Danny Martin	
EUT re work on CO bill LD 257 (Microgrids)	approved by POs	2	10/24/17 12/7/17		n/a	Sen. David Woodsome Rep. Seth Berry	
ENR re work on CO bills LD 1095, 1298 and 1534; Fiberright Project update; and review of DEP GEA report	approved by POs	1	11/15/17		n/a	Sen. Thomas Saviello Rep. Ralph Tucker	
VLA re LD 1446 (Ranked choice voting)	approved by POs	1	10/16/17		n/a	Sen. Garrett Mason Rep. Louis Luchini	PH and WS 10/16
AFA re LD 1649 (GIS - 1st 2 meetings); overview of RFC report and Presentation on Medicaid expansion fiscal note (3rd meeting)	approved by POs		10/13/17 10/20/17 12/13/17		n/a	Sen. James Hamper Rep. Drew Gattine	PH 10/13; WSS 10/13 and 10/20
ACF re LDs 1647 (Bureau of Parks and Lands) and 1648 (food sovereignty)	approved by POs	1	10/20/17		n/a	Sen. Paul Davis Rep. Michelle Dunphy	PHs and WSS 10/20
TAX re work on tax expenditure review	approved by POs	3	10/17/17 11/27/17			Sen. Dana Dow Rep. Ryan Tipping	Report completed



**Legislative Council**  
**Tabled Pre Cloture Bills Requests**  
**From October and November 2017**  
**As of 2/9/18**

**SPONSOR: Sen. Justin Mark Chenette**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2650	An Act To Close Loopholes in Election Laws and Ban the Use of Leadership Political Action Committees for Personal Profit	Tabled 11/30/17 Tabled 1/26/18

**SPONSOR: Sen. Andre E. Cushing III**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2754	Resolve, To Study Methods for Better Transportation for Students and Workers in Maine	Tabled 11/30/17 Tabled 12/14/17

**SPONSOR: Rep. Karen A. Gerrish**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2492	An Act To Create a Full-time Drug Interdiction Unit within the State	Tabled 11/30/17

**SPONSOR: Sen. Troy D. Jackson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2506	An Act To Support Funding for Workforce Development in Maine	Tabled 10/26/17

**SPONSOR: Sen. Brian D. Langley**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2783	An Act To Extend Secondary Student Eligibility in the Competitive Skills Scholarship Program	Tabled 11/30/17 Tabled 12/14/17

**SPONSOR: Sen. Nathan L. Libby**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2761	Resolve, To Require the Department of Labor To Receive Federal Workforce Innovation and Opportunity Act Funds	Tabled 10/26/17

**SPONSOR: Rep. Wayne R. Parry**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2562	An Act To Waive Income Restrictions for Supplemental MaineCare Coverage for Children Diagnosed with Cystic Fibrosis	Tabled 11/30/17

**SPONSOR: Rep. Anne C. Perry**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2523	An Act To Ensure Federal Funding for Job Training Services	Tabled 10/26/17

**SPONSOR: Rep. Harold L. Stewart III**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2472	An Act To Prevent Human Trafficking, Protect Children and Finance the Victims' Compensation Fund	Tabled 11/30/17

**SPONSOR: President Michael D. Thibodeau**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2605	An Act To Amend the Laws Restricting Firearms on Public Lands	Tabled 11/30/17

**SPONSOR: Rep. Dustin Michael White**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2551	An Act To Increase the Bottle Redemption Rate To Counterbalance Increases in the Minimum Wage	Tabled 11/30/17

**Legislative Council Actions  
Taken by Ballot Since the  
January 25, 2018 Council Meeting**

**Requests for Introduction of Legislation:**

**LR 2882      An Act Regarding the Penalties for Hunting Deer over Bait**

Submitted by: Senator Paul Davis, Sr.  
Date: January 25, 2018  
Vote: 10-0 Passed

**LR 2888      An Act to Allow Cash Prizes for Certain Raffles Conducted by Charitable Organizations**

Submitted by: Senator Roger Katz  
Date: January 30, 2018  
Vote: 8-1-1-0 Passed (with Representative Espling opposed and Representative Fredette abstained)

**LR 2895      An Act to Amend the Anson and Madison Water District Charter**

Submitted by: Representative Bradlee Farrin  
Date: February 5, 2018  
Vote: 10-0 Passed

**LR 2844      JOINT RESOLUTION Memorializing the President of the United States and the United States Congress to Exclude the State of Maine from Offshore Oil and Gas Drilling and Exploration Activities, Including Seismic Airgun Blasting**


Submitted by: Representative Michael Devin  
Date: February 7, 2018  
Vote: 7-3-0-0 Passed (with Senator Mason, Representatives Fredette and Espling opposed)

GRANT T. PENNOYER  
EXECUTIVE DIRECTOR  
OF THE LEGISLATIVE COUNCIL



MAINE STATE LEGISLATURE  
OFFICE OF THE EXECUTIVE DIRECTOR  
LEGISLATIVE COUNCIL

**MEMO**

To: Members of the Legislative Council  
From: Grant T. Pennoyer   
Date: February 12, 2018  
Re: Task Force on Health Care Coverage for All of Maine Update

The projected cost for the Task Force on Health Care Coverage for All of Maine was \$4,682 per year, for a total of \$9,364. \$7,379 of this amount has been received and accepted by the Legislative Council, leaving a shortfall of \$1,985, no additional amounts have been contributed since the amounts approved at your October meeting. At the September meeting, you authorized the task force to begin its work and continue through June 30, 2018. The task force must raise the additional amount of \$1,985 to conduct business after June 30, 2018.

The task force has held two meetings so far and has planned a third for March 2<sup>nd</sup>. If the fourth meeting in FY 2018 is scheduled while the Legislature is still in session, the task force will have enough funding based on current approved contributions to conduct four additional meetings during the interim. At this point, I do not believe the task force has determined how many meetings will be required to complete its work. Depending on attendance and the other costs of the meetings held during the interim, it is uncertain whether current contributions are sufficient to fund a fifth meeting.

Based on the projected status of currently planned work and the balance available in the current fiscal year, the Legislative Council could authorize the task force to hold up to four additional meetings after the Second Regular Session. If additional meetings are required the task force must seek prior approval and potentially raise additional outside funding to continue beyond the four interim meetings.

**128th Maine State Legislature  
Legislative Council  
Requests to Introduce Legislation  
Second Regular Session  
As of: 2/9/2018**

**AFTER DEADLINE BILL REQUESTS**

**SPONSOR: Sen. Troy D. Jackson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2911	An Act Regarding the Placement of Children in Foster Care	

**SPONSOR: Rep. Louis J. Luchini**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2910	An Act To Increase Transparency in the Direct Initiative Process	

**SPONSOR: Rep. Colleen M. Madigan**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2909	An Act To Increase Funding for Evidence-based Therapies for Treating Emotional and Behavioral Problems in Children	

**SPONSOR: Sen. David R. Miramant**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2907	An Act To Ensure Nondiscriminatory Treatment of Public, Educational and Governmental Access Channels by Cable Television Operators	

**SPONSOR: Rep. Matthew G. Pouliot**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2899	An Act To Authorize the Treasurer of State To Facilitate the Establishment of ABLE Accounts for Qualified Persons	

**SPONSOR: Rep. Deborah J. Sanderson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2913	An Act Regarding the Membership of the Board of Directors of the Hallowell Water District	

**TABLED BY THE LEGISLATIVE COUNCIL**

**AFTER DEADLINE BILL REQUESTS**

**SPONSOR: Rep. Seth A. Berry**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2836	Resolve, To Require the Public Utilities Commission To Adopt Rates for Regulated For-profit Utilities Based on the Reduction in the Federal Corporate Income Tax Rates	Tabled 1/25/18

**SPONSOR: Rep. Owen D. Casas**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2795	RESOLUTION, AMENDING THE CONSTITUTION OF MAINE TO ALLOW FOR RANKED-CHOICE VOTING	Tabled 12/14/17

**SPONSOR: Sen. Andre E. Cushing III**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2866	An Act To Allow Individuals To Obtain Feline Rabies Vaccine To Vaccinate Feral Cats	Tabled 1/25/18

**SPONSOR: Rep. Jessica L. Fay**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2841	An Act To Ensure Fuel Delivery during Emergencies	Tabled 1/25/18

**SPONSOR: Rep. Ryan M. Fecteau**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2796	An Act To Improve Efficiency in the Delivery of Workforce Training	Tabled 12/14/17

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2885	An Act Regarding Financial Orders Requested by the Attorney General	Tabled 1/25/18

**SPONSOR: Speaker Sara Gideon**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2822	An Act To Restore Net Neutrality Protections to Consumers in Maine	Tabled 1/25/18

2875	An Act To Discourage Sexual Harassment and Assault in the Workplace	Tabled 1/25/18
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**SPONSOR: Rep. Scott M. Hamann**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2792	An Act To Prohibit the Purchase and Possession of Bump Stocks	Tabled 12/14/17

**SPONSOR: Rep. Gary L. Hilliard**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2794	An Act To Educate the Public Concerning Health and Safety Matters Relating to the Use of Marijuana	Tabled 12/14/17

**SPONSOR: Sen. Troy D. Jackson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2846	Resolve, Directing the Public Utilities Commission To Give Final Approval for a Long-term Contract for Electricity from Experimental Floating Turbines	Tabled 1/25/18

2884	An Act Concerning Commercial Vehicle Weight Limit Exemptions That Are Advantageous to Canadian Truckers	Tabled 1/25/18
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**SPONSOR: Sen. Nathan L. Libby**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2837	An Act To Require Annual In-person Sexual Harassment Training for Legislators, Legislative Employees, Constitutional Officers and Liaisons and Registered Lobbyists	Tabled 1/25/18

2848	An Act To Provide Reasonable Exemptions from the Work Requirements for MaineCare for Persons Who Are Elderly or Disabled	Tabled 1/25/18
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**SPONSOR: Sen. Joyce A. Maker**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2876	An Act To Include Operating a Motor Vehicle in a Parking Area to the Law Regarding Operating after Habitual Offender Revocation	Tabled 1/25/18

**SPONSOR: President Michael D. Thibodeau**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2819	An Act To Require Annual Sexual Harassment Training for Legislators, Employees of the Legislature and Registered Lobbyists	Tabled 12/14/17

**SPONSOR: Sen. David Woodsome**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2812	An Act Regarding the Use by Fire Departments of Recertified Self-contained Breathing Apparatus	Tabled 12/14/17

**JOINT RESOLUTIONS**

**SPONSOR: Sen. Justin Mark Chenette**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2850	JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO EXEMPT MAINE FROM THE NEW OFFSHORE DRILLING RULES PROPOSED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR	Tabled 1/26/18

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2653	JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO ESTABLISH A NATIONAL REVENUE-NEUTRAL FEE ON CARBON-BASED FOSSIL FUELS	Tabled 12/14/17
2818	JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO LEAD A GLOBAL EFFORT TO PREVENT NUCLEAR WAR	Tabled 12/14/17





**Office of Program Evaluation and  
Government Accountability**

**Annual Report on  
Activities and Performance**

**2017**

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

February  
**2018**

## GOVERNMENT OVERSIGHT COMMITTEE OF THE 128<sup>TH</sup> LEGISLATURE

Senator Roger J. Katz, Chair  
Senator Nathan L. Libby  
Senator Paul T. Davis, Sr.  
Senator G. William Diamond  
Senator Geoffrey M. Gratwick  
Senator Thomas B. Saviello

Representative Anne-Marie Mastraccio, Chair  
Representative Jeffrey K. Pierce  
Representative Jennifer L. DeChant  
Representative Matthew A. Harrington  
Representative Deane Rykerson  
Representative Paula G. Sutton

### Committee Clerk

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

Web:  
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## OFFICE OF PROGRAM EVALUATION & GOVERNMENT ACCOUNTABILITY

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

Copies of OPEGA's reports are free.  
Reports are available in electronic format at:  
<http://legislature.maine.gov/opega/opega-reports>

Hard copies of reports may be obtained by contacting OPEGA at:  
(207) 287-1901

Office of Program Evaluation & Government Accountability  
82 State House Station • Augusta, ME • 04333-0082



BETH L. ASHCROFT  
DIRECTOR

MAINE STATE LEGISLATURE  
OFFICE OF PROGRAM EVALUATION AND  
GOVERNMENT ACCOUNTABILITY

February 12, 2018

The Honorable Roger J. Katz, Senate Chair  
The Honorable Anne-Marie Mastraccio, House Chair  
And Members of the Government Oversight Committee  
82 State House Station  
Augusta, Maine 04333

The Honorable Michael D. Thibodeau, President of the Senate  
and Members of the 128<sup>th</sup> Maine Senate  
3 State House Station  
Augusta, Maine 04333

The Honorable Sara Gideon, Speaker of the House  
and Members of the 128<sup>th</sup> Maine House of Representatives  
2 State House Station  
Augusta, Maine 04333

Dear Government Oversight Committee Members, Senators and Representatives:

In accordance with 3 M.R.S.A. § 995.4, I respectfully submit OPEGA's Annual Report on Activities and Performance for 2017. OPEGA's service to the Legislature as a non-partisan resource is meant to provide support in overseeing and improving the performance of State government. The OPEGA staff and I are committed to continuing to earn the trust and respect of Maine's legislators and citizens as a trusted source of objective, credible information.

Sincerely,

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

Beth L. Ashcroft  
Director

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

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# About OPEGA

## History:

The Office of Program Evaluation and Government Accountability (OPEGA) is a non-partisan, independent legislative office created by Public Law 2001, Chapter 702. The Office first became operational in January 2005. Its authorizing statute is 3 M.R.S.A. §§ 991-1001.

## Organization:

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

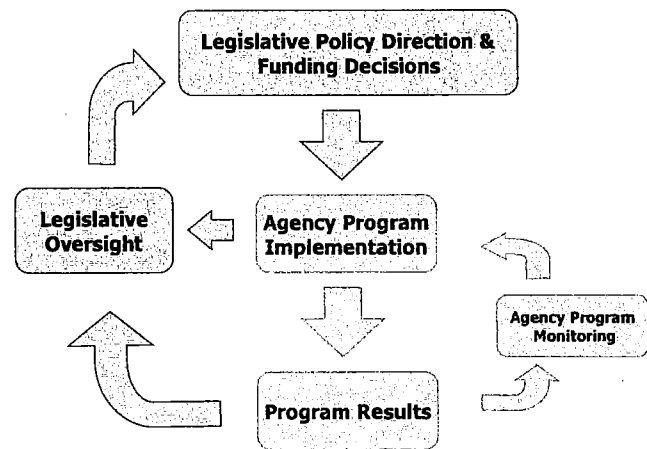
The Legislative Council appoints the Director of OPEGA for five year terms and also sets the Director's salary. OPEGA's activities are overseen by the legislative Government Oversight Committee (GOC), a 12-member bi-partisan and bi-cameral committee appointed by legislative leaders according to Joint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

## Staffing:

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

## Function:

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



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

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

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

## Mission

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

## Vision

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

## Values

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

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

## Overall Goals

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

## Indicator of Overall Outcomes

OPEGA tracks and reports on the percentage of our recommendations that have been implemented or affirmatively addressed by agencies or the Legislature as a measure of our effectiveness in facilitating change in State government.

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

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

# Key Activities in 2017

## OPEGA Completed Five Projects and Conducted Substantial Work on Seven Others

In early 2017, the GOC of the 128<sup>th</sup> Legislature revisited OPEGA's Work Plan for 2015-2016 and made adjustments for the next biennium. OPEGA's GOC-approved Work Plan for 2017-2018 currently includes 14 projects six of which were carried over from the 2015-2016 Work Plan. Of the remaining eight projects, three were added in accordance with the established schedule for tax expenditure reviews and the GOC voted to add four others. The final special project was added pursuant to Public Law 2017, Chapter 297 which required OPEGA to perform a design evaluation on a new tax credit enacted at the end of the First Regular Session. OPEGA's Work Plan and project status are shown in Table 1 and posted on OPEGA's web site.

Project Name	Date Initiated	Scope Approved	Status	Date Completed
Maine State Lottery	Aug 2013	Dec 2013	Completed	April 2017
Tax Expenditure: New Markets Capital Investment Credit	Oct 2015	Jan 2016	Completed	March 2017
Tax Expenditure: Pine Tree Development Zones	Oct 2015	Jan 2016	Completed	Aug 2017
Child Care Licensing and Regulation	March 2016	May 2016	Completed	March 2017
Special Project: Tax Expenditure Expedited Reviews - Tax Fairness	March 2017	Scope per statute	Completed	July 2017
Tax Expenditure: Employment Tax Increment Financing	Oct 2015	Jan 2016	In Progress	
Tax Expenditure: Maine Capital Investment Credit	Feb 2017	May 2017	In Progress	
Tax Expenditure: Business Equipment Tax Reimbursement and Business Equipment Tax Exemption	March 2017	May 2017	In Progress	
Beverage Container Recycling Program	May 2017	Aug 2017	In Progress	
Temporary Assistance for Needy Families	May 2017	Oct 2017	In Progress	
Special Project: Design Evaluation for Major Corporate Headquarters Expansion Credit	July 2017	Scope per P.L. 2017, ch. 297	In Progress	
Maine's Citizen Initiative Process	Nov 2017	Jan 2018	In Progress	
DHHS Audit Functions	NA	NA	Planned	
Substance Abuse Treatment Programs in the Corrections System	NA	NA	Planned	

In 2017, the Office finished its work on five projects, four of which were performance reviews.

***Maine State Lottery.*** Review of the State Lottery began in August 2013 but was effectively delayed for a lengthy period due to the GOC assigning OPEGA other priority projects. OPEGA resumed work on the State Lottery review in March 2016. Prior to resuming this work, the GOC reconsidered and revised the approved scope questions for the review in light of concerns raised in a recent study reported by the Maine Center of Public Interest Reporting. The GOC received an atypical interim briefing on OPEGA's results to date in November 2016 to accommodate interested GOC members who would not be returning to legislative service in the 128<sup>th</sup> Legislature. OPEGA's final report was issued in April 2017 and contained two recommendations. A summary of review results is on page 9.

***Child Care Licensing and Regulation.*** OPEGA began a review of the Department of Health and Human Services' child care licensing and regulation unit in April 2014. Following completion of the preliminary research phase of this review, the GOC suspended it to allow the agency time to implement a comprehensive strategic improvement plan intended to address serious known issues that were the impetus for the review. The GOC and OPEGA received several written report backs and briefings from DHHS on its progress while the review was in suspended status. OPEGA re-initiated this review in March 2016 and released the final report in March 2017. The report contained five recommendations. The review is summarized on page 8.

***New Markets Capital Investment Credit (NMTC) and Pine Tree Development Zone Program (PTDZ).*** OPEGA's dedicated team of two full-time resources conducted the evaluations of these tax expenditure programs in accordance with Title 3 § 999. The projects were both initiated in October 2015 and ran concurrently throughout 2016 with the GOC approving the scope for each of them in January 2016. OPEGA contracted with a consultant for assistance with the economic impact modeling desired for these projects. While conducting these projects, the team was also evaluating a third tax expenditure and completing the special project research work to provide the Joint Standing Committee on Taxation (TAX) with information for two rounds of Expedited Reviews, one in 2016 and one in 2017. This workload and the complexity of the NMTC and PTDZ programs contributed to the length of time it took to complete these reviews, as did the challenges OPEGA dealt with in gaining access to the necessary data. The final report on NMTC was released in March 2017 and contained four recommendations. The PTDZ report issued in August 2017 also contained four recommendations. The NMTC and PTDZ reviews are summarized on pages 11 and 12 respectively.

***Special Project: Tax Expenditure Expedited Review-Tax Fairness.*** In accordance with 3 M.R.S.A. § 1000, OPEGA collected and prepared certain information on 15 tax expenditures. These included eight sales and use tax exemptions, four income tax credits or deductions, two excise tax refunds and a real estate tax exemption that were associated with a general policy of "tax fairness". OPEGA presented the information to TAX in July 2017 and TAX used it to conduct the statutorily-required Expedited Reviews. This OPEGA project is summarized on page 14.

During 2017, OPEGA conducted substantial work on seven other performance reviews that are in various stages of completion:

- Beverage Container Redemption Program;
- Temporary Assistance for Needy Families;
- Maine's Citizen Initiative Process;
- Employment Tax Increment Financing;
- Maine Capital Investment Credit; and
- Special Project: Design Evaluation of Major Corporate Headquarters Expansion Credit.



## OPEGA Monitored Actions Taken on Past Reports

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

Under the established follow-up procedure, OPEGA ceases active follow-up of any outstanding recommendations for reports issued more than two years ago, unless the GOC directs that active follow-up should continue. The procedure also calls for OPEGA to report to the GOC semi-annually on its follow-up activities, and the status of actions on related recommendations, so the GOC can determine whether additional action by the Committee is warranted.

The six reports listed in Table 2 had outstanding recommendations and were in active follow-up status in 2017. Three of those are reports OPEGA released in early 2017 and the Office has monitored action taken on those recommendations over the course of 2017.

OPEGA also worked closely with the GOC in the First Regular Session as the Committee introduced two pieces of legislation to improve upon measures that had previously been implemented in response to recommendations from the 2006 review of economic development programs in Maine. Active follow-up on that report will cease in 2018.

OPEGA did not conduct any formal follow-up on the Office of Information Technology or Riverview Psychiatric Center reviews in 2017. Those reviews will remain in active follow-up status in 2018.

**Table 2. OPEGA Reports in Active Follow-up Status in 2017**

Maine State Lottery (2017)
Children's Licensing and Investigation Services (2017)
New Markets Capital Investment Program (2017)
Riverview Psychiatric Center (2016)
Follow-Up Review of the Office of Information Technology (2015)
Economic Development Programs in Maine (2006)

The Summary of Projects and Results section of this report, beginning on page 8, has additional description of actions OPEGA is aware of that have been taken on prior reports, including actions by the GOC as a result of the follow-up work described here. Appendix B also gives the current follow-up and implementation status of all OPEGA reports.

## Percent of Recommendations Implemented or Affirmatively Addressed

OPEGA tracks how often action is taken by agencies, or the Legislature, to address the specific issues identified in our reviews. Those issues may be addressed either through implementation of our recommended action or through alternative actions reasonably expected to improve the situation we identified. Tracking this data gives us insight into the significance and usefulness of our recommendations, as well as the overall effectiveness of our ability to stimulate warranted changes in State government.

Table 3 shows the cumulative number of recommendations made, with a breakdown by implementation status, for each year since 2010. For the period January 2005 through December 2017 (based on OPEGA's follow-up to date), 61% of all recommendations made (146 of 239) have been implemented or affirmatively addressed including:

- 66% of the recommendations directed to management (110 of 167); and
- 50% of recommendations directed to the Legislature (36 of 72).

OPEGA is aware of activities in progress that, if successfully completed, could result in implementation of another 42 recommendations. Thirty-one of these were directed to management and 11 to the Legislature.

**Table 3. Number of Recommendations by Status and Year**

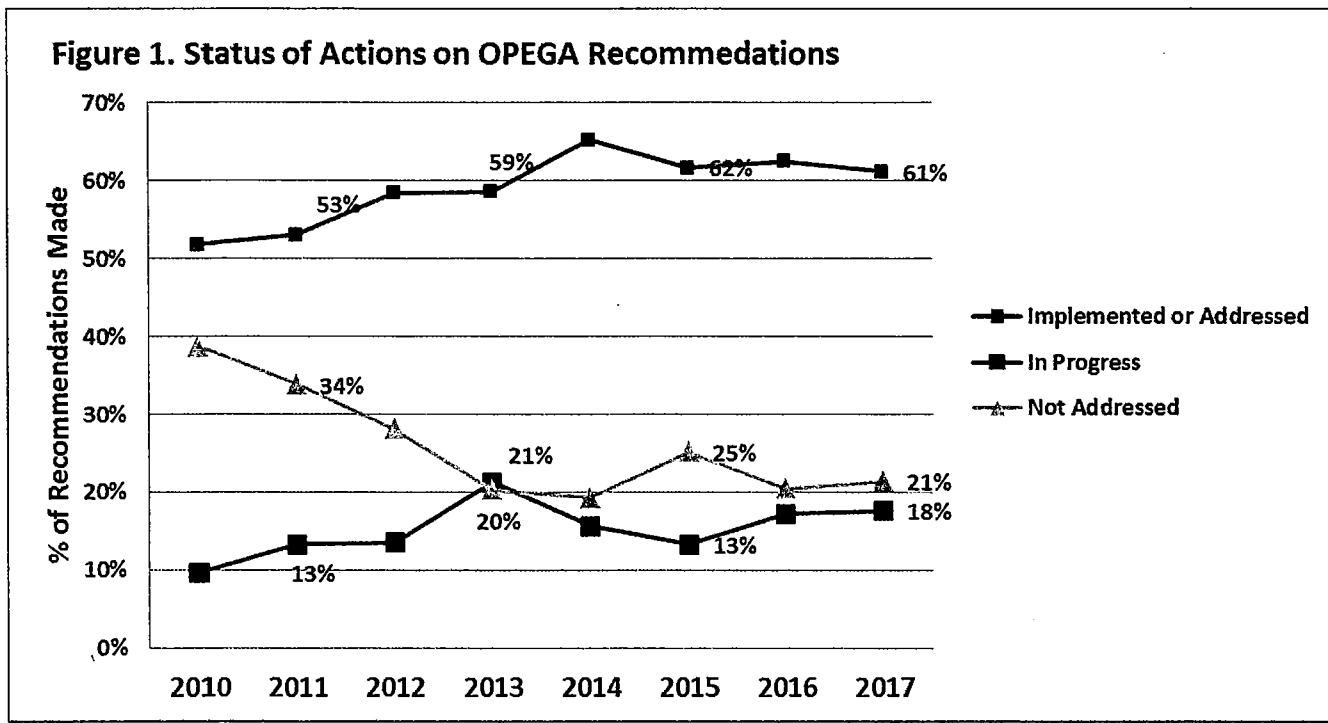
Status	2010	2011	2012	2013	2014	2015	2016	2017
Implemented or Affirmatively Addressed	75	88	104	113	129	130	138	146
In Progress	14	22	24	41	31	28	38	42
Not Addressed as of Last Follow-Up	56	56	50	39	38	53	45	51
<b>Cumulative Total of Recommendations Made</b>	<b>145</b>	<b>166</b>	<b>178</b>	<b>193</b>	<b>198</b>	<b>211</b>	<b>221</b>	<b>239</b>

Of the 51 recommendations that had not been addressed as of OPEGA's last follow up, 41 are from 11 OPEGA reports that the Office and GOC are no longer conducting active follow-up on. Of the remaining 10, four are from a report released in 2017. Another four are from reports released in 2015 and 2016 that OPEGA did not complete follow-up efforts for in 2017 and which may have been acted on. OPEGA follow-up on these two reports is currently in progress for 2018. The last two recommendations that have not been addressed are from the 2006 report on Economic Development Programs in Maine which OPEGA has ceased any further active follow-up on as of the end of 2017.

Nearly half of the recommendations unaddressed are from the reports OPEGA issued in 2006 on State-wide Information Technology Planning and Management and Guardians ad litem for Children in Child Protection Cases. In both instances, the responsible agencies had noted resource constraints or the need for additional resources as barriers to implementing OPEGA's recommendations or otherwise addressing the issues reported. In 2012, the GOC directed OPEGA to conduct a two year follow-up review of the Office of Information Technology. The follow-up report highlighted root causes for why many of the previous recommendations had not been addressed and implementing recommendations from the follow-up review should eventually result in progress on resolving issues identified in the initial information technology review. In 2013, legislators and citizens initiated action on concerns with Guardians ad litem which resulted in enacting legislation directing the Judicial Branch to take actions that addressed some of the key recommendations made in OPEGA's 2006 report. Even with this progress, however, to OPEGA's knowledge, nine recommendations in that report remain unaddressed.

Another eight of the unaddressed recommendations were made to the Legislature in OPEGA's 2008 report on State Boards, Committees, Commissions and Councils. While individual legislators have expressed interest in addressing some of the issues raised from time to time, there has been no formalized or concerted effort to address the report – likely because jurisdiction for these Boards is split among a number of different joint standing committees and the level of State funding to these entities is typically minimal.

As Figure 1 shows, the percentage of total OPEGA recommendations implemented or affirmatively addressed has generally increased since 2010. We believe this trend reflects increased willingness of agencies to act on issues identified by OPEGA, even while reviews are in progress, and the initiative of the GOC and individual legislators to introduce legislation as a means to implement recommendations when appropriate. OPEGA expects that the slight drop in percentage of recommendations implemented since 2014, with corresponding increases in the percent in progress or unaddressed, is primarily due to two reports released in 2015 and 2016 that OPEGA has been delayed in following up on. In both cases, there are a number of actions we believe to be in progress, but which we have not yet verified as completed. OPEGA and the GOC are continuing to monitor actions taken on these reports as well as reports released in 2017.



## OPEGA Supported GOC and Other Legislative Efforts

OPEGA serves as staff for the Government Oversight Committee. Staff support includes coordinating and giving notice of meetings and agendas, developing and distributing written meeting materials, and preparing written summaries of the meetings. The GOC held 12 meetings in 2017. An archive of the Meeting Summaries from all GOC meetings is maintained on OPEGA’s website.

OPEGA also performs research and gathers information to support the Committee’s consideration of potential review topics. In 2017, the Office processed and/or conducted research related to seven formal requests for OPEGA reviews. The GOC actively considered all requests. The Committee placed two, Temporary Assistance for Needy Families and Maine’s Citizen Initiative Process, on OPEGA’s Work Plan for 2017 – 2018. Three other topics were placed on the GOC’s On Deck list for possible future review. These topics were: Maine Power Options Program, Commission on Indigent Legal Services and State Law Enforcement Agencies’ Undercover Operations Practices. The Committee voted to take no further action on the remaining two requests. In 2017, OPEGA also fielded contacts from 16 citizens inquiring about the potential for an OPEGA review on a variety of topics. These discussions did not result in formal requests for reviews but did involve telephone conversations, e-mail or other written correspondence.

During the First Regular Session, the GOC introduced three bills for the Legislature’s consideration. LD 367 and LD 1217 were complementary bills intended to provide for comprehensive assessments of the State’s economic development activities against the goals and objectives of an established long-range plan. The GOC also introduced LD 1572 to make changes to the law to improve the efficiency and effectiveness of tax expenditure evaluations conducted by OPEGA for the Legislature. OPEGA assisted the Committee in drafting the three bills, interfacing with affected agencies, and providing information to the joint standing committees that worked the bills. LD 1217 and LD 1572 were enacted by the Legislature and LD 367 was carried over on the Appropriations Table to the Second Regular Session.

OPEGA also assisted TAX with that committee's Expedited Reviews of 15 tax expenditures, as well as its consideration of the recommendations contained in OPEGA's NMTC and PTDZ Program reports. Under 3 M.R.S.A. § 999 sub-§ 4, TAX has responsibility for reviewing the results of tax expenditure evaluations conducted by the Office and making such recommendations to the Legislature as may result from that review.

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## OPEGA Stayed Within Budget Again in 2017

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OPEGA's actual expenditures have been under budget each year since beginning operations in 2005 and that trend continued in 2017. Table 4 shows OPEGA's adjusted General Fund budget and actual expenses for the past three fiscal years.

	FY2015	FY2016	FY2017
Total General Fund budget (adjusted)	\$1,070,489	\$1,145,264	\$1,208,880
Total General Fund dollars expended	\$876,520	\$912,438	\$1,074,266
Dollar variance of expenditures to budget	(\$193,969)	(\$232,826)	(\$134,614)
% variance of expenditures to budget	(18%)	(20%)	(11%)

OPEGA's adjusted budget for FY16 and FY17 reflects additional funding to cover costs associated with two additional full-time resources, and consulting expenses, dedicated to tax expenditure evaluations newly assigned to OPEGA by Public Law 2015 Chapter 344. FY16 included a partial year of those new expenses while FY17 was a full year. About 70% of the total General Funds added to OPEGA's budget in FY16 and FY17 for these purposes were offset through allotments from OPEGA's prior year balances.

OPEGA's actual expenditures for FY17 were under adjusted budget by \$134,614, or about 11%. The variance was primarily due to:

- four month vacancy in one full-time analyst position;
- actual costs for employee training, printing, and advertising being lower than budgeted; and
- actual costs for consultant services being less than budgeted.

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## Summary of Projects and Results

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During 2017, OPEGA completed its work on four performance reviews, two of which were OPEGA's first tax expenditure evaluations. The Office also completed a special project supporting the Taxation Committee's Expedited Review of 15 tax expenditure programs. A listing of all 51 projects OPEGA has produced public work products on since 2005 can be found in Appendix A.

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### Children's Licensing and Investigation Services

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OPEGA conducted a review of Children's Licensing and Investigation Services (Children's Licensing), an agency of the Department of Health and Human Services (DHHS), located within the Maine Center for Disease Control and Prevention (Maine CDC). The agency is responsible for the licensing and regulatory oversight of child care providers in the State of Maine, and conducts investigations of alleged child abuse and neglect<sup>4</sup> occurring in a child care facility or by a person subject to licensure or inspection by DHHS.

The GOC initiated this review in 2014 following publicity of child abuse and neglect at a child care center in Lyman, Maine. At the time, public concerns were also being raised about the agency's performance with regard to child care investigations and enforcement actions. OPEGA's preliminary research found that DHHS was well aware of the

<sup>4</sup> The term child abuse/neglect refers to child physical abuse, sexual abuse, neglect, or emotional maltreatment.

issues, and was actively implementing a strategic plan designed to enhance oversight of child care providers and address risks to children in care. OPEGA's review was suspended in June 2014 to provide time for implementation of these initiatives. DHHS briefed the GOC on the status of the implementation in the interim and OPEGA's review was resumed in April 2016. During the period OPEGA's review was suspended, DHHS implemented a reorganization that included the child care licensing and regulatory functions. Since April 2016, Children's Licensing has been part of the Maine CDC's Division of Environmental and Community Health.

OPEGA's review primarily examined whether Children's Licensing conducts timely and effective investigations of alleged child abuse/neglect and alleged licensing violations for child care facilities and family child care providers. Also, whether the agency takes timely and effective action on issues identified in those investigations. We assessed timeliness and effectiveness for a sample of investigations against expectations existing in agency policies.

We observed that investigations in our sample were generally assigned and completed within the expected time frames set in current policy. We were uncertain, however, whether investigations were as thorough as desired in all cases as investigation steps were inconsistently documented and/or policy guidance was not specific enough to assess whether the step had been completed as fully as expected. With regard to action taken on identified issues, OPEGA noted there were not many time frames set in policy against which to assess timeliness of action. Generally, however, we found that Children's Licensing was requiring providers with sanctions against them to make improvements, and monitoring to ensure violations are resolved.

OPEGA additionally assessed whether there was timely notification of investigations and results to parents<sup>5</sup>, as well as notification to prospective child care clients through the agency's Child Care Choices website, in accordance with policy and statute. For the sample of cases we reviewed, we noted that parents of alleged victims of child abuse/neglect had been notified of investigation findings. We also observed that the posting of licensing sanctions to the website took significantly longer for higher-level sanctions than for lower-level sanctions in the sample of child abuse/neglect investigations we reviewed.

The GOC voted unanimously to fully endorse OPEGA's Final Report on *Children's Licensing and Investigation Services*. The report included five recommendations for Children's Licensing to consider as it continued to improve its policies, procedures and practices. To date, the agency has implemented four of the five and is exploring options for addressing the final recommendation, which involves replacement of the computer system used to document and monitor investigations.

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## Maine State Lottery

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OPEGA reviewed the Maine State Lottery (Lottery) function within the Bureau of Alcoholic Beverages and Lottery Operations (BABLO), an agency of the Department of Administrative and Financial Services (DAFS). It operates as a business that generates revenue for the Maine General Fund. The Lottery became the focus of public concern in October 2015 when a series of media reports about the Lottery were published. These articles focused on regions of the State with the highest lottery spending per capita which raised questions for legislators about the marketing of the Lottery. OPEGA had a review of the Lottery in progress at the time and the GOC modified the objectives for the review to encompass the new areas of concern. OPEGA gave the 127<sup>th</sup> GOC an interim briefing on the review in November 2016.

OPEGA's review focused primarily on oversight and governance of the Lottery, and the Lottery's advertising and marketing activities. We also analyzed lottery sales and winnings for the period fiscal year 2012 through fiscal year 2016, and reviewed the impact of lottery winnings on recipient's eligibility for certain public benefit programs.

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<sup>5</sup> The term parent includes guardians and custodians of children.

Responsibility for governance and oversight of the Lottery lies primarily with DAFS and the State Liquor and Lottery Commission (Commission). DAFS' role is typical of the governance and oversight it provides of any agency within its organization with regard to finances, personnel and other resources, and compliance with applicable regulations, policies and procedures. The Commission meets monthly and is responsible for adopting and amending rules, approving new instant tickets, approving multi-jurisdictional lottery agreements, and hearing appeals from retailers denied a lottery retail license. OPEGA observed that oversight and governance provided by DAFS and the Commission cover all key aspects of the Lottery's finances and operations. Additional communication to legislative committees to raise awareness of the Lottery's and Commission's activities would be beneficial given the Legislature's limited oversight role.

OPEGA reviewed the Lottery's advertising and gaming system contracts, as well as marketing and advertising studies and plans. We also analyzed television and radio advertising buys and other marketing activities for the period March 2015 – December 2016. We found no indication that the Lottery puts any marketing or advertising emphasis on any specific demographic group(s).<sup>6</sup>

OPEGA made several observations from our analysis of lottery ticket sales and lottery winnings, though several limitations in the data available for analysis mean our breakdowns by county and municipality should be considered rough estimates of lottery activity in those locations. Our observations included:

- Lottery ticket sales totaled over \$1.2 billion for the period and increased about 19% between FY12 and FY16. Most of the increase occurred between FY14 and FY16 when there was a corresponding increase in instant tickets sales which typically represent over 70% of annual total sales.
- Lottery winnings totaled nearly \$698 million for the period, for an overall payout percentage of 58%. Total winnings increased 28% from FY12 to FY16 with most of the increase occurring between FY14 and FY16, mirroring a similar increase in small prize winnings claimed at lottery retailers which represent about 82% of all winnings.
- Strong positive correlations exist between total sales and winnings, total sales and population, and total winnings and population at both the county and municipal level. There were several exceptions at the county level. Both Kennebec and Washington counties had notably higher percentages of total sales and winnings than they did of total population, while Cumberland and Penobscot had notably lower percentages of total sales and winnings than of total population.
- Lottery sales over the period occurred at retailers in 352 different municipalities. Of the 25 municipalities with the highest total sales for the period FY12 to FY16, 19 were among Maine's most populated municipalities. The other six were municipalities designated by the State as regional service centers.

We determined that using the available data to analyze activity on a per capita basis resulted in meaningless, and potentially quite misleading, results particularly on a municipal-level. Consequently, OPEGA did not report any per capita results.

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<sup>6</sup> OPEGA reviewed academic research literature and found there is general agreement that an inverse relationship exists between socio-economic status and lottery play. There is no consensus, however, on the explanations for this inverse relationship.

The GOC voted unanimously to fully endorse OPEGA's Final Report on *Maine State Lottery*. The report included two recommendations for agency and legislative action seeking to improve transparency for Lottery activities and decisions. In response to one recommendation, BABLO immediately began posting Commission meeting agendas and summaries to its website. The GOC is currently considering whether to introduce legislation to clarify and enhance annual legislative reporting requirements for the Lottery and is awaiting input from the Joint Standing Committee on Veteran's and Legal Affairs before making that decision.

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## New Markets Capital Investment Program

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OPEGA conducted a review of Maine's New Markets Capital Investment Program (NMTC), a State program modeled after the Federal New Markets Tax Credit Program and administered by the Finance Authority of Maine (FAME). The program provides a 39% tax credit over seven years for investors who make qualified investments in low-income community businesses via a qualified Community Development Entity (CDE). The NMTC Program is one of the tax expenditures OPEGA is required to evaluate as per 3 M.R.S.A. §§ 998 – 1001. The GOC gave it priority on the review schedule following a series of media articles that raised concerns about the appropriateness of some of the investments made under the program.

OPEGA's evaluation addressed eight questions but primarily focused on the program's fiscal impacts, design and outcomes. We contracted with a consultant for assistance in modeling the broader impacts to the State budget and Maine's economy. We also analyzed cost-effectiveness of the program from several perspectives.

OPEGA found that the current program design directly supported some, but not all, of the program's desired outcomes. Despite the noted weaknesses in the program design, OPEGA found that the portfolio of 10 projects funded as of August 2016, taken in aggregate, had produced positive outcomes. The positive outcomes that OPEGA attributed directly to the program included:

- total investments of about \$313 million in the 10 projects;
- creation or retention of 1,021 direct permanent jobs since the beginning of the program with 764 of those still existing in 2016; and
- generation of additional Gross State Product estimated at \$173 million, on average, for each of the years 2013 – 2016.

Since there are no established measures or targets for the desired outcomes, OPEGA was unable to say to what extent these results match expected results for the program. We noted that these results, however, were specific to this portfolio of 10 projects. Future portfolios could have very different results, for positive or negative, depending on the types of businesses and uses of invested funds.

OPEGA estimated the direct cost of the program to the State for the 10 projects would total about \$76 million for the period 2013 – 2021. This includes approximately \$14 million incurred from 2012 through 2016 and another \$62 million over the next five calendar years. OPEGA also calculated the Net Impact on the State Budget using economic modeling to estimate the direct and indirect impacts to State revenues from Maine NMTC projects<sup>7</sup> as of August 2016. We estimate the Net State Budget Impact as being a \$24.7 million increase in State revenues from 2012 through 2016, and an \$8.9 million revenue loss in the following five years, for an overall positive fiscal impact of \$15.8 million in the period 2013 - 2021.

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<sup>7</sup> Net Impact on State Budget from investments is calculated as impact on State revenues from NMTC investments as of August 2016 minus direct cost of the program.

With regard to cost-effectiveness, OPEGA observed that, although there have been positive outcomes, the Maine NMTC Program may not be accomplishing those ends cost-effectively. The level of investments made in businesses and how those funds are used generally drive the outcomes achieved. Investments associated with both the State and federal NMTC programs are often made through complex financing structures that can reduce transparency, increase the business's cost and effort to participate, and decrease the amount of investment that a business actually has available for use. This complexity affected the amount of total investment in Maine's 10 projects that was spent in ways that impacted the Maine economy. OPEGA's estimates of outcomes on a per tax credit dollar basis included:

- an additional \$21.67 in GSP produced for every \$1 of State tax credits;
- an average of \$1.66 of business spending from the NMTC investments for every \$1 of State tax credits, rising to an average of \$3.39 in spending for every \$1 dollar of tax credit when including additional investments the businesses were able to attract;
- an average of \$1.19 of business spending "within the State" for each tax credit dollar; and
- a **total one-time cost** of \$99,179 for each of the 764 jobs still existing in 2016 and expected to persist into the foreseeable future.

OPEGA observed several areas that could be addressed to help ensure incentivized investments are used in ways that most directly drive toward desired outcomes or that might reduce the State's cost for the program. We recommended that if another round of Maine NMTC allocation is funded in the future, then the Legislature should consider addressing those areas for possible statutory or rule changes that would further focus or otherwise improve the program. The report also included three other recommendations. One of these addressed the capture of additional data that would be helpful for future evaluations. The other two were suggestions for statutory changes to incorporate a new FAME rule and clarify an ambiguous provision in statute.

The GOC voted unanimously to fully endorse OPEGA's Final Report on the *Maine New Markets Capital Investment Program*. As prescribed by statute, the GOC transmitted the report and other information gathered during the GOC's process to TAX for that committee's consideration during the legislative interim.

TAX reviewed OPEGA's report in accordance with 3 M.R.S.A. § 999 and submitted a bill to the 128<sup>th</sup> Legislature to incorporate the FAME rule. LD 1796 is currently before the TAX committee. TAX is also exploring with Maine Revenue Services (MRS) the possible need for clarifying language in a provision that establishes a fiscal year limit on total tax credits claimed. Lastly, TAX agreed with OPEGA's other two recommendations but has not taken further action as there currently is no pending legislation proposing to increase the allocations authorized for the NMTC Program. The full results of TAX's review of the NMTC report can be found in the Committee's December 2017 report on Tax Expenditure Review.

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## Pine Tree Development Zones

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OPEGA conducted a review of the Pine Tree Development Zone Program (PTDZ), another one of the tax expenditures OPEGA is required to evaluate as per 3 M.R.S.A. §§ 998 – 1001. PTDZ as a whole is administered by the Department of Economic and Community Development (DECD). However, the ten specific benefits available under the program are administered by a variety of agencies including DECD, Maine Revenue Services (MRS), the Public Utilities Commission (PUC), and Efficiency Maine Trust. At the time of our review, all benefits available under PTDZ were statutorily set to terminate as of December 31, 2028 with no new applicants being certified after December 31, 2018.

OPEGA's evaluation was intended to address eight questions. We determined, however, that many of the questions could not be answered without considerable effort because of the shortage of readily available program data. Gathering, preparing and assessing the necessary data would require a significant amount of time for OPEGA staff



and potentially the staffs of DECD, MRS and business participants. Given that the PTDZ Program had already begun to sunset and new certifications would not be issued after 2018, OPEGA decided not to pursue obtaining that data at this time. Consequently, our review focused primarily on program design, fiscal impact and administration.

OPEGA observed that half of the benefits available under the PTDZ Program represent no cost to the State budget as they are born by electric utilities and other entities. We roughly estimated the State's foregone revenue associated with the remaining five benefits to be at least \$11.3 million in FY16 and \$12.1 million in FY17. Combining forgone revenue with administrative costs brings the program's total estimated direct cost to at least \$11.4 million in FY16 and \$12.2 million in FY17. Data on actual use of some of the benefits was not readily available or not collected at all. For those benefits, we used estimates of forgone revenue generated by MRS in calculating the overall fiscal impact.

OPEGA found that the current program design does not adequately support achievement of any of the program's desired outcomes, particularly the job-related outcomes and the original intent to target areas of the State experiencing the most significant economic distress. OPEGA acknowledges that a program can still produce valuable outcomes despite design weaknesses and this may be true of PTDZ. However, a weak design does not adequately ensure that the program benefits will reach the intended beneficiaries or will only be distributed to projects that contribute to the program's goals.

OPEGA also noted overlap between the State's Employment Tax Increment Financing Program (ETIF) and the expanded ETIF benefit available to PTDZ participants. The overlap was quite significant from an administrative standpoint as well as from the perspective of State agencies and stakeholders in the business community who speak of the ETIF and PTDZ programs as though they are inseparable or are actually one and the same. OPEGA's analyses indicated the overlap is also substantial in terms of cost and use of the ETIF expansion benefit. In FY17, 42% of the total cost of the ETIF Program was associated with the ETIF expansion benefit and 89% of business projects qualifying for ETIF reimbursement were at the 80% PTDZ rate. While this commingling of the two programs has been administratively efficient for both DECD and MRS, OPEGA found it creates difficulties in identifying the cost to the State, and benefits to businesses, for each of the programs in isolation.

Lastly, OPEGA found the program, as a whole, can not be effectively administered for two primary reasons. The first is that the program's administration is fragmented. There are a number of agencies involved and there is no single entity with the statutory authority to oversee or coordinate the PTDZ benefits distributed by the others. In addition, there is no single agency with access to utilization data for all of the program's benefits. The second major issue is that many PTDZ benefits are designed in a way that makes monitoring and enforcement resource-intensive to a degree that renders those efforts unreasonable.

OPEGA made two recommendations for legislative action only in the event that the PTDZ Program was going to be extended beyond its current statutory sunset date. At the time of our report, no proposal to extend the program had been put forth. The first of these recommendations dealt with a number of noted design weaknesses and administrative issues the Legislature should consider addressing and the second involved capturing data that would allow for a full evaluation of the program. OPEGA's report also included two other recommendations. One was for enhanced reporting of fiscal impact in MRS' Biennial Maine State Tax Expenditure Report. The other discussed additional notifications DECD should make in the event a PTDZ business is decertified.

The GOC voted unanimously to fully endorse OPEGA's Final Report on the *Pine Tree Development Zones*. At the GOC's public comment period on the report, DECD reported that it had already incorporated additional notifications into its procedures. As prescribed by statute, the GOC transmitted the report and other information gathered during the GOC's process to TAX for that committee's consideration during the legislative interim.

TAX reviewed OPEGA's report in accordance with 3 M.R.S.A. § 999 and voted to recommend that the design, data availability and administrative weaknesses identified in OPEGA's report be addressed if there was legislation introduced to extend the program. Such legislation, LD 1654, was subsequently introduced and referred to the Joint Standing Committee on Labor, Commerce, Research and Economic Development (LCRED). OPEGA is currently working with LCRED, DECD and MRS on possible committee amendments to the bill that will address some of the identified issues. The full results of TAX's review of the PTDZ report can be found in the Committee's December 2017 report on Tax Expenditure Review.

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## Special Project: Tax Expenditure Expedited Reviews – Tax Fairness

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OPEGA is tasked by 3 M.R.S.A. § 1000 sub-§ 2 with providing information to support TAX in carrying out expedited reviews of certain Maine State tax expenditures<sup>8</sup>. Tax expenditures selected for expedited review are those intended to implement broad tax policy goals that cannot be reasonably measured. The information OPEGA is required to provide includes:

- a description of the tax policy under review;
- descriptions of each tax expenditure associated with that policy, including the mechanism through which it is distributed and its intended beneficiaries;
- the legislative history of each tax expenditure; and
- the fiscal impact of the tax policy and each related tax expenditure, including past and future impacts.

OPEGA gathered much of the required information on these expenditures from the following sources:

- sections of Maine statute pertaining to each tax expenditure;
- MRS' Maine State Tax Expenditure Reports for 2018-2019, 2016-2017 and 2014-2015; and
- MRS Tax Bulletins and taxpayer guidance.

In addition, the legislative history summarized in the report was prepared by OPEGA in consultation with the Office of Fiscal and Program Review based on details researched and provided to OPEGA by the Law and Legislative Reference Library.

In July 2017, OPEGA provided the required information to the Taxation Committee of the 128<sup>th</sup> Legislature on the 15 tax expenditures selected for expedited review in 2017. They included sales and use tax exemptions, income tax credits and deductions, excise tax refunds and a real estate tax exemption associated with the tax policy area generally described as "Tax Fairness." For the purposes of the expedited reviews, the "Tax Fairness" policy area captured those expenditures which appeared to:

*Prevent double taxation or pyramiding (taxing on taxes); provide similar tax treatment of similar transactions/taxpayer situations; or addresses public perception that it would not be fair to tax the item/transaction.*

The 15 tax expenditures captured in OPEGA's report were:

1. Exemption for Certain Loaner Vehicles (Sales & Use Tax)
2. Exemption for Certain Property Purchased Out of State (Sales & Use Tax)
3. Exemption for Certain Returnable Containers (Sales & Use Tax)
4. Exemption for Meals & Lodging Provided to Employees (Sales & Use Tax)
5. Exemption for Mobile & Modular Homes (Sales & Use Tax)

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<sup>8</sup> As defined by 3 MRSA § 992 and 5 MRSA § 1666, "tax expenditures" means "those state tax revenue losses attributable to provisions of Maine tax laws that allow a special exclusion, exemption or deduction or provide a special credit, a preferential rate of tax or a deferral of tax liability."

6. Exemption for Motor Vehicle Fuel (Sales & Use Tax)
7. Exemption for Packaging Materials (Sales & Use Tax)
8. Exemption for Trade-In Credits (Sales & Use Tax)
9. Credit for Income Tax Paid to Other Jurisdiction (Income Tax)
10. Deduction for Active Duty Military Pay Earned Outside of Maine (Income Tax)
11. Deduction for Dividends from Affiliates not included in Combined Return (Income Tax)
12. Deduction for Social Security Benefits Taxable at Federal Level (Income Tax)
13. Refund of the Gasoline Tax for Off-Highway Use and for Certain Bus Companies (Excise Tax)
14. Refund of the Special Fuel Tax for Off-Highway Use and for Certain Bus Companies (Excise Tax)
15. Exemptions of the Real Estate Transfer Tax (Real Estate Transfer Tax)

In accordance with 3 M.R.S.A. § 1000, TAX conducted its Expedited Review of these tax expenditures during the legislative interim. The results of that review are contained in a December 2017 report on the Committee's Tax Expenditure Review. TAX found the tax policy described as "tax fairness" was still consistent with the goals of State policy makers to create a tax structure that is equitable and reduces unfair tax burdens and that the policy should be maintained to the extent possible within budgetary constraints. TAX also determined that each of the 15 tax exemptions were still warranted and recommended no substantial changes to them.

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## Actions on Past Reports

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OPEGA and the GOC continue to monitor actions taken on previously issued reports and determine whether additional Committee action is needed to implement recommendations not yet satisfactorily addressed. Notable actions taken on past OPEGA reports in 2017 were:

- ***Economic Development Programs in Maine.*** The Legislature considered two complementary bills introduced by the GOC and intended to improve the effectiveness and efficiency of evaluations of the State's investments in economic development. The bills were the culmination of GOC efforts that began in 2015 to address findings from OPEGA's 2006 report on *Economic Development Programs in Maine*, as well as from the evaluations of economic development investments that had been done since that time. LD 367 focused on clarifying expectations for, and funding, the development of a long-range strategic economic improvement plan for the State by the Maine Economic Growth Council (MEGC). The House passed the bill and the Senate sent it to the Special Appropriations Table where it was carried over to the Second Regular Session. In the meantime, Maine Development Foundation (MDF), which staffs MEGC, has been working with DECD and others to find alternative funding and resources that would allow the strategic plan effort to move forward. The second bill, LD 1217, was enacted as Public Law 2017, Chapter 264 on an override of the Governor's veto. The law amended several statutory provisions to improve the efficiency and effectiveness of two separate independent evaluations DECD had been required to conduct every two years. It specified the scope of these evaluations as encompassing the portfolio of the State's economic development investments and the portfolio's contribution to the strategic economic improvement plan developed by MEGC.

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

# Acknowledgements

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

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

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

Report Title	Date Issued	Overall Conclusion	JSCs that Received Report*
Pine Tree Development Zones	August 2017	Program design does not support intended goals. Whether program is achieving results despite design is unknown as adequate data is not readily available to assess outcomes.	TAX LCRED
Special Project: Tax Expenditure Expedited Reviews - Tax Fairness	July 2017	Provided information on 15 tax expenditures for "tax fairness" items to Joint Standing Committee on Taxation. The information included estimates of fiscal impact, program descriptions and history of legislative changes. The Committee used the information to conduct statutorily-required Expedited Reviews.	TAX
Maine State Lottery	April 2017	DAFS and the Lottery Commission govern and oversee all aspects of Lottery finances and operations. The Lottery advertises state-wide to all adults and there was no indication of marketing emphasis on any specific demographic group(s).	VLA
Children's Licensing and Investigation Services	March 2017	Investigations and follow-up on licensing sanctions were completed within expected time frames. Time frames are needed for some post-investigation activities. Procedural guidance and documentation should be enhanced to help ensure thorough and consistent investigations.	HHS
New Markets Capital Investment Program	March 2017	Current portfolio of projects funded with investments under the program produced positive outcomes. Cost-effectiveness of the program could be improved.	TAX LCRED
Northern New England Passenger Rail Authority	September 2016	NNEPRA is subject to federal and State oversight with MDOT playing a significant role. As is typical for passenger rail service, Downeaster operating revenues are not sufficient to cover operating expenses. NNEPRA and the State face particular challenges in implementing passenger rail service in Maine that create inherent risk in ability to achieve desired outcomes for passenger rail service.	TRANS
Special Project: Tax Expenditure Expedited Reviews- Necessity of Life	July 2016	Provided information on 13 sales tax exemptions for "necessity of life" items to Joint Standing Committee on Taxation. The information included estimates of fiscal impact, program descriptions and history of legislative changes. The Committee used the information to conduct statutorily-required Expedited Reviews.	TAX
Riverview Psychiatric Center	April 2016	Primary avenues for reporting incidents and concerns are generally effective in ensuring timely attention of appropriate authorities. Inconsistencies in policy, practice and documentation were noted and some reported metrics may be unreliable.	HHS

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

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

Report Title	Date Issued	Overall Conclusion	JSCs that Received Report*
Emergency Communications in Kennebec County	February 2010	Fragmented PSAP and dispatch network presents challenges. Quality and rate issues need to be addressed to optimize public safety.	EUT CJPS
Special Project: Professional and Administrative Contracts	February 2010	Opportunities exist to reduce FY11 General Fund costs for professional and administrative contracts by temporarily suspending some contracts. Potential also exists to reduce costs of on-going agreements.	AFA
Fund for a Healthy Maine Programs	October 2009	Adequate frameworks exist to ensure cost-effectiveness of specific activities. Allocations should be reassessed and changes should be made to improve financial transparency.	AFA HHS
MaineCare Durable Medical Equipment and Medical Supplies	July 2009	Prevention and detection of unnecessary or inappropriate claims should be strengthened to better contain costs.	AFA HHS
Maine State Prison Management Issues	June 2009	The workplace culture of Maine State Prison may be exposing employees and the State to unacceptable risks and needs continued attention.	CJPS
MaineCare Children's Outpatient Mental Health Services	February 2009	8% of funds spent support DHHS's administrative costs. Primary drivers are a contract with the ASO and costs incurred in processing provider claims. Another 19% of expenses can be attributed to providers' administrative costs.	AFA HHS
Fund For A Healthy Maine Programs: A Comparison of Maine's Allocations to Other States and a Summary of Programs	February 2009	Maine consistently prioritized preventive health services more than other states.	AFA HHS
State Contracting for Professional Services: Procurement Process	September 2008	Practices generally adequate to minimize cost-related risks; controls should be strengthened to promote accountability.	AFA
DHHS Contracting for Cost-Shared Non-MaineCare Human Services	July 2008	Cash management needs improvement to assure best use of resources.	AFA HHS
State Administration Staffing	May 2008	Better information needed to objectively assess possible savings opportunities.	AFA
State Boards, Committees, Commissions and Councils	February 2008	Opportunities may exist to improve State's fiscal position and increase efficiency.	AFA SLG ENR
Bureau of Rehabilitation Services: Procurements for Consumers	December 2007	Weak controls allow misuse of funds, affecting resources available to serve all consumers.	AFA LCRED
Riverview Psychiatric Center: An Analysis of Requests for Admission	August 2007	Majority seeking admission not admitted for lack of capacity but appear to have received care through other avenues; a smaller group seemed harder to place in community hospitals.	CJPS HHS
Urban-Rural Initiative Program	July 2007	Program well managed; data on use of funds should be collected.	TRANS



Report Title	Date Issued	Overall Conclusion	JSCs that Received Report*
Highway Fund Eligibility at the Department of Public Safety	January 2007	The absence of a clear definition of HF eligibility and reliable activity data prevent a full and exact determination of which DPS activities are eligible to receive HF.	AFA CJPS TRANS
Economic Development Programs in Maine	December 2006	EDPs still lack elements critical for performance evaluation and public accountability.	AFA ACF LCRED TAX
Guardians <i>ad Litem</i> for Children in Child Protection Cases	July 2006	Program management controls needed to improve quality of guardian ad litem services and assure effective advocacy of children's best interests.	HHS JUD
Bed Capacity at Riverview Psychiatric Center	April 2006	RPC referral data is unreliable; other factors should be considered before deciding whether to expand.	CJPS HHS
State-wide Information Technology Planning and Management	January 2006	State is at risk from fragmented practices; enterprise transformation underway and needs steadfast support.	AFA SLG
Review of MECMS Stabilization Reporting	December 2005	Reporting to Legislature provides realistic picture of situation; effective oversight requires focus on challenges and risks.	AFA HHS
Title IV-E Adoption Assistance Compliance Efforts	November 2005	Maine DHHS has made progress in addressing compliance issues; additional efforts warranted.	HHS

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

AFA - Appropriations and Financial Affairs  
ACF - Agriculture, Conservation and Forestry  
CJPS - Criminal Justice and Public Safety  
EDUC - Education  
ENR - Environment and Natural Resources  
EUT - Energy, Utilities and Technology  
HHS - Health and Human Services  
JUD - Judiciary  
LCRED - Labor, Commerce, Research and Economic Development  
SLG - State and Local Government  
TAX - Taxation  
TRANS - Transportation  
VLA - Veterans and Legal Affairs

**Appendix B: Summary of Implementation and Follow-Up Status on Issued Reports**  
 (Implementation status based on information gathered by OPEGA as of 12-31-17)

Report Title	Date Issued	Implementation Status
<b>Reports Still in Active Follow-Up Status (by date of issuance)</b>		
Pine Tree Development Zones	August 2017	Not Implemented (Activity in Progress)
Maine State Lottery	April 2017	Partially Implemented (Activity in Progress)
Children's Licensing and Investigation Services	March 2017	Mostly Implemented (Activity in Progress)
New Markets Capital Investment Program	March 2017	Not Implemented (Activity in Progress)
Riverview Psychiatric Center	April 2016	Partially Implemented (Activity in Progress)
Follow-Up Review of the Office of Information Technology	August 2015	Limited Implementation (Activity in Progress)
<b>Reports No Longer in Active Follow-Up Status (by date of issuance)</b>		
Maine State Housing Authority: Energy Assistance Programs LIHEAP and WAP	July 2013	Partially Implemented (Activity in Progress)
Maine Economic Improvement Fund	June 2014	Mostly Implemented (Activity in Progress)
Healthy Maine Partnerships' FY13 Contracts and Funding	December 2013	Mostly Implemented
Public Utilities Commission	September 2013	Fully Implemented
Child Development Services	July 2012	Fully Implemented
Maine State Housing Authority: Review of Certain Expenditures	May 2012	Fully Implemented
Health Care Services in State Correctional Facilities	November 2011	Fully Implemented
Maine Green Energy Alliance	August 2011	Partially Implemented
Maine Turnpike Authority	January 2011	Fully Implemented
Emergency Communications in Kennebec County	February 2010	Mostly Implemented
OPEGA's Special Project on Professional and Administrative Contracts	February 2010	Partially Implemented
Fund for a Healthy Maine Programs	October 2009	Mostly Implemented

Report Title	Date Issued	Implementation Status
MaineCare Durable Medical Equipment and Medical Supplies	July 2009	Mostly Implemented
Maine State Prison Management Issues	June 2009	Fully Implemented
MaineCare Children's Outpatient Mental Health Services	February 2009	Limited Implementation
State Contracting for Professional Services: Procurement Process	September 2008	Fully Implemented
DHHS Contracting for Cost-Shared Non-MaineCare Human Services	July 2008	Fully Implemented
State Administration Staffing	May 2008	Partially Implemented
State Boards, Committees, Commissions and Councils	February 2008	Limited Implementation
Bureau of Rehabilitation Services: Procurements for Consumers	December 2007	Fully Implemented
Urban-Rural Initiative Program	July 2007	Fully Implemented
Economic Development Programs in Maine	December 2006	Partially Implemented (Activity in Progress)
Guardians <i>ad Litem</i> for Children in Child Protection Cases	July 2006	Partially Implemented
Bed Capacity at Riverview Psychiatric Center	April 2006	Fully Implemented
State-wide Information Technology Planning and Management	January 2006	Partially Implemented
Review of MECMS Stabilization Reporting	December 2005	Mostly Implemented
Title IV-E Adoption Assistance Compliance Efforts	November 2005	Fully Implemented

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



**STATE OF MAINE**  
**OFFICE OF THE STATE AUDITOR**

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RECEIVED JAN 31 2018

**Pola A. Buckley, CPA, CISA**  
State Auditor

**Melissa Perkins, CPA**  
Deputy State Auditor

January 31, 2018

Honorable Members of the Legislative Council for the 128<sup>th</sup> Legislature

Honorable Paul R. LePage  
Governor of the State of Maine

We have audited the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the State of Maine for the year ended June 30, 2017. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards and *Government Auditing Standards*, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated November 28, 2017. Professional standards also require that we communicate to you the following information related to our audit.

Significant Audit Findings

*Qualitative Aspects of Accounting Practices*

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the State of Maine are described in Note 1 to the financial statements. No new accounting policies were adopted and the application of existing policies was not changed during 2017. We noted no transactions entered into by the State of Maine during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimates affecting the Governmental Funds and Governmental Activities were the accrual of taxes receivable, tax refunds payable, allowance for doubtful accounts, other post-employment benefit obligations, incurred but not paid Medicaid claims settlements and the net pension liability.

We consider all notes to the financial statements to be significant to the users as the notes are an integral part of the financial statements. The financial statement disclosures are neutral, consistent, and clear.

#### *Difficulties Encountered in Performing the Audit*

We encountered no significant difficulties in dealing with management in performing and completing our audit.

#### *Corrected and Uncorrected Misstatements*

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. The attached schedule summarizes an uncorrected misstatement of the financial statements. Management has determined that its effect is immaterial, both individually and in the aggregate, to the financial statements taken as a whole. In addition, none of the misstatements detected as a result of audit procedures and corrected by management were material, either individually or in the aggregate, to each opinion unit's financial statements taken as a whole.

#### *Disagreements with Management*

For purposes of this letter, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

#### *Management Representations*

We have requested certain representations from management that are included in the management representation letter dated December 15, 2017.

#### *Management Consultations with Other Independent Accountants*

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the State of Maine's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

#### *Other Audit Findings or Issues*

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to commencing the audit. Additionally, we have communicated internal control related matters in a separate report dated December 15, 2017. Since we are authorized by statute to conduct the financial audit of the State of Maine, pre-

engagement discussions and the development of internal control related matters were not factors in our retention as Maine's Independent Auditor.

#### Other Matters

We applied certain limited procedures to the Management's Discussion and Analysis, Budgetary Comparison Information, State Retirement Plans, Other Post-employment Benefit Plans, and Information about Infrastructure Assets Reported Using the Modified Approach, which are required supplementary information "RSI" that supplements the basic financial statements. Our procedures consisted of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit the RSI and do not express an opinion or provide any assurance on the RSI.

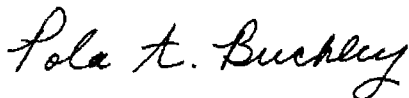
We were engaged to report on combining and individual non-major fund statements and schedules, which accompany the financial statements but are not RSI. With respect to this supplementary information, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with accounting principles generally accepted in the United States of America, the method of preparing it has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the financial statements or the financial statements themselves.

We were not engaged to report on the introductory and statistical sections, which accompany the financial statements but are not RSI. Such information has not been subjected to the auditing procedures applied in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

#### Restriction on Use

This information is intended solely for the information and use of members of the Legislative Council for the 128<sup>th</sup> Legislature and management of the State of Maine and is not intended to be, and should not be, used by anyone other than these specified parties.

Sincerely,



Pola A. Buckley, CPA, CISA  
State Auditor

State of Maine  
Office of the State Auditor  
Schedule of Uncorrected Misstatements  
Fiscal Year Ending June 30, 2017

The Office of the State Auditor (OSA) accumulates uncorrected misstatements to the financial statements that Management judged were immaterial, both individually and in the aggregate, to the financial position, results of activities, and cash flows and to the financial statement disclosures. In the case of our fiscal year 2017 financial statement audit, since some of the Department of Health and Human Services (DHHS) accounts receivable and accounts payable were not appropriately split between the Federal and State shares, and a portion of the DHHS accounts receivable balances were omitted when the allowance for uncollectible accounts was calculated, the OSA proposed an auditor's adjustment as outlined below.

Expressed in \$000's Opinion Unit, Fund Type or Fund	Factual (F), Judgmental (J), or Projected (P)	Financial Statements Effect - Amount of Over (Under) Statement of:					Change in Fund Balance
		Assets	Liabilities	Fund Balance	Revenues	Expenditures	
<b>General Fund</b>	F	5,186	1,795	3,391		(3,391)	3,391
Net audit differences		5,186	1,795	3,391	-	(3,391)	3,391
Financial statement caption totals		838,059	453,143	173,424	3,582,553	3,454,184	128,090
Net audit differences as % of F/S caption		0.62%	0.40%	1.96%	0.00%	-0.10%	2.65%

Opinion Unit, Fund Type or Fund	Factual (F), Judgmental (J), or Projected (P)	Financial Statements Effect - Amount of Over (Under) Statement of:					Change in Fund Balance
		Assets	Liabilities	Fund Balance	Revenues	Expenditures	
<b>Federal Fund</b>	F	(2,327)	(12,387)	10,060	8,797	(1,263)	10,060
Net audit differences		(2,327)	(12,387)	10,060	8,797	(1,263)	10,060
Financial statement caption totals		365,311	341,561	23,721	2,958,379	2,969,106	(13,416)
Net audit differences as % of F/S caption		-0.64%	-3.63%	42.41%	0.30%	-0.04%	-74.99%



Partial Report

RECEIVED JAN 31 2018

**STATE OF MAINE  
128th LEGISLATURE  
SECOND REGULAR SESSION**

**Task Force to Identify Special Education Cost Drivers  
and Innovative Approaches to Services**

**January 2018**

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Rep. Richard R. Farnsworth, Chair  
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Lesley Snyder  
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Andrea Disch  
Jennifer McGee  
Jerry Nault  
Carrie Woodcock**



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### Appendices

- A. Authorizing Legislation, Resolve 2017, Chapter 26 (LD 642), Resolve, To Identify Special Education Cost Drivers and Innovative Approaches to Services
- B. Membership List, Task Force to Identify Special Education Cost Drivers and Innovative Approaches to Services
- C. Acknowledgement of Key Resource People, Presenters and Organizations
- D. Department of Health and Human Services Responses to Special Education Task Force Questions
- E. Resources Provided to the Task Force

## Executive Summary

The Task Force to Identify Special Education Cost Drivers and Innovative Approaches to Services (Task Force) was established during the First Regular Session of the 128th Legislature by Resolve 2017, Chapter 26 (LD 642, “Resolve, To Identify Special Education Cost Drivers and Innovative Approaches to Services”). The Task Force was comprised of 11 members, including 2 legislators and 9 individuals with expertise in school administration, finance and management, special education services and students with special needs. The Task Force was established to address the rising cost of special education and the maintenance of high-quality services that accommodate the needs of all children, by identifying cost drivers and recommending innovative approaches to serving students.

### PROCESS

The Task Force explored key information regarding the special education funding components, including the background, trends, common themes, comparisons and policy considerations related to the ongoing state and federal special education cost drivers. The Task Force considered the statutory and regulatory policy trends aligned with the administration of special education programs and services and the response to intervention system. The Task Force members also reflected upon strategies that provide cost savings while improving student outcomes, including services and best practices for raising the outcomes for all students, both those with and without special needs.

The meetings included a number of presentations from individuals representing organizations engaged in the finance and delivery of special education services and related policy research at the state and national levels, including the Maine Department of Education, the Maine Education Policy Research Institute, the Maine Administrators of Services for Children with Disabilities, the Maine School Management Association, the District Management Group, the Maine Small School Coalition, and the University of Maine Center for Community Inclusion and Disability Studies. The final meeting of the Task Force focused on the discussion of findings and the development of proposed recommendations for the final report.

### FINDINGS AND RECOMMENDATIONS

This report fulfills the Task Force’s requirement to submit a report that includes findings and recommendations that address the rising cost of special education and the maintenance of high-quality services that accommodate the needs of all children. Following its receipt and review of the Task Force report, the Joint Standing Committee on Education and Cultural Affairs is authorized to submit a bill to the Second Regular Session of the 128<sup>th</sup> Legislature. The Task Force developed nine recommendations:

**Recommendation #1. Implement strategies to remove barriers between special education and general education and develop an integrated, inclusive system in which special education and general education work collaboratively to deliver services to all students.**

The Task Force recommends that the Department of Education, with input from state and local education policy experts and stakeholders, take the following steps to promote integration:

- ❖ Review and make necessary changes in state law, special education rules, teacher certification requirements, job titles, funding formulas, and other relevant areas, to allow:
  - Special education teachers and paraprofessionals to serve all students, not only those identified as special education students;
  - General education teachers and subject area specialists (for example, reading and math specialists) to provide services for Individual Education Programs (IEPs) to special education students. This is allowed under federal law and regulations;
  - Special education and general education teachers to co-teach classrooms;
  - Special education paraprofessionals to provide general classroom support, not only support to individual special education students; and
  - Special education staff to focus on specialized and adapted instruction of general education curriculum; and
- ❖ Critically review the use of one-to-one adult support for special education students and develop strategies to foster student independence:
  - Develop and implement standard processes and criteria for one-to-one adult support that IEP teams must follow to identify, justify, and regularly re-evaluate the need for this service; and
  - Explore and implement alternative strategies to meet the needs of special education students with reduced reliance on one-to-one support.

**Recommendation #2. Enhance and upgrade the Response to Intervention system as an all-encompassing Multi-Tiered System of Support.**

The Task Force recommends that the Department of Education (DOE) upgrades the Response to Intervention (RTI) system to become a holistic Multi-Tiered System of Support (MTSS) for regular education and special education students. Task Force members proposed that the DOE should bring the RTI system back to the forefront in general education, in addition to special education, to ensure that the RTI/MTSS system is utilized to serve all students. The Task Force agreed that any necessary changes should be made to implement the RTI/MTSS systems broadly, and that the DOE should specifically consider moving RTI related rules from the special education rules chapter, (Chapter 101), to an appropriate general education rules

chapter, possibly Chapter 125, related to the Basic Approval Standards for Public Schools and School Administrative Units.

The Task Force also recommends that the DOE promote the integration of the proposed RTI/MTSS system by taking the following steps:

- ❖ Promote integration of RTI and regular classroom instruction by increasing the investment of regular instruction teachers in special education students; and requiring the regular instruction teachers to be the teacher of record who is responsible for issuing grades (the exception would only be for those students who spend 100% of their instructional time in special education classroom);
- ❖ Enhance RTI/MTSS targeted interventions; the RTI/MTSS staff should provide interventions to target academic, behavior and mental health needs; interventions should be data driven; and regular education staff need training related to various intervention approaches, strategies and data collection;
- ❖ Increase RTI support for reading instruction, which is the gateway to all other learning; provide additional support, both financially as well as strong technical assistance, to ensure all students have a solid reading foundation and reduce future referrals to special education; and
- ❖ Revise the Essential Programs and Services (EPS) school funding formula law to provide resources for the RTI/MTSS systems to support regular education; funding resources must be allocated in order to provide effective levels of support for:
  - Student interventions so that these are noticed and funded;
  - Training to be provided for all regular education staff in the areas of differentiating instruction, providing targeted interventions that are data-based, and using interventions and instructional strategies that are research-based;
  - Training teachers to provide instruction and track progress;
  - Math and literacy coaches and behavior strategists; change the EPS formula treatment of math and literacy coaches and behavior strategists so that they are counted under support rather than direct instruction;
  - Behavior strategists to provide behavior plans and to consult with classroom teachers; and

- Oversight to assure that the RTI/MTSS system has been implemented in all districts.

**Recommendation #3. Address special education staffing shortages by reviewing the certification processes for special education teachers and related staff, including promotion of dual certification programs at the university level whereby students graduate with both general and special education certification, and implementing “grow our own” initiatives to encourage enrollment in special education certification programs.**

The Task Force recommends that the state and local education policy makers work to reduce barriers to obtaining special education and related certifications. These certifications include, but are not limited to, certifications for special education teachers, reading and math specialists, and paraprofessionals. The Task Force recommends that state and local education policy leaders should work together to:

- ❖ Design and promote the use of dual certification programs at the university level whereby students obtain certification in both general and special education;
- ❖ Design alternative pathway approaches to special education certification for Education Technicians (for example, through the Department of Labor’s (DOL) apprenticeship model);
- ❖ Design a “fast track” certification program for special education teachers; and
- ❖ Develop “grow our own” initiatives to create incentives for Maine students to go into the field of special education through tuition reimbursement, scholarship and loan forgiveness programs.

**Recommendation #4. Streamline and reduce state special education paperwork requirements so that teachers can dedicate more time to direct student instruction.**

The Task Force recommends that the Department of Education (DOE) take the following steps to streamline and reduce special education paperwork requirements:

- ❖ Align with federal standards: review the Maine Unified Special Education Regulations (Rule Chapter 101) to identify where paperwork and documentation requirements exceed Federal regulations and propose changes to streamline state requirements, reduce redundancy and bring state and Federal regulations into alignment; conduct rulemaking to implement proposed changes;
- ❖ Eliminate redundancy: review standardized forms to identify duplication and implement changes to reduce redundancy; and

- ❖ Collect data and measure progress: collect data on time spent on special education paperwork and meetings by teachers (special education and general education) under current state requirements (baseline) and then again after changes have been implemented.

**Recommendation #5. Address federal and state laws and regulations regarding funding formulas related to financing special education programs and services.**

The Task Force recommends that the Department of Education (DOE) revisits the following federal and state funding formulas to increase the equity of special education costs across all school districts:

- ❖ Review the Essential Programs and Services (EPS) school funding formula regarding issues related to the high cost in-district students;
- ❖ Revisit the federal and state statutes and regulations related to the Maintenance of Effort (MOE) finance requirements and review the MOE data for Maine school districts; and
- ❖ Propose legislation that recalculates the base and supports funding formulas that ensure greater equity in special education allocations.

**Recommendation #6. Review and improve the MaineCare billing systems and procedures to simplify the billing process and reduce the burden for school districts that seek to obtain Federal funds for medically necessary services for public school students.**

The Task Force recommends that the DOE and DHHS review and address barriers in the current MaineCare billing systems and processes for medically necessary services including:

- ❖ Consider and make changes to improve the formation and distribution of seed money to remove barriers for school districts, particularly with respect to students sent to special purpose private schools;
- ❖ Simplify the MaineCare process for school districts' billing and reduce school districts' administrative burdens; and
- ❖ Change the MaineCare billing rules to include a provision for school district-based reimbursement with a different, but appropriate set of school-based rules established for a medical provider.

**Recommendation #7. Review and recodify the state special education regulations to improve usefulness, readability and accessibility.**

The Maine Unified Special Education Regulations (Rule Chapter 101) provide the regulatory framework for the administration and delivery of special education in Maine. Chapter 101 is a critical resource and reference document for school administrators, teachers and staff across the State, providing guidance and direction on the many, and often complex, requirements for special education services. The Task Force finds that it is time to update and recodify this document.

The Task Force recommends that the DOE conduct rulemaking to recodify Rule Chapter 101 for the purpose of improving the flow, structure, usefulness and accessibility of the contents of this important document. These changes will reduce time spent and increase accuracy for users who need to locate specific regulations and will support correct implementation of the regulations within the document.

**Recommendation #8. Explore and address the costs associated with special education litigation and educational program materials to determine the actual cost to school districts and how to reduce those costs.**

The Task Force recommends gathering additional information on what is driving special education litigation and what the actual cost of that litigation is to school districts. The Task Force suggests utilizing a Maine Education Policy Research Institute (MEPRI) study to gather and analyze the drivers and associated costs of litigation. Data on this issue could lead to a better understanding of how to reduce litigation costs, while still providing special education services that meet the needs of the students.

At the final meeting, the Task Force also identified the high cost of educational program materials as a potential cost driver. The Task Force considered whether the purchase of materials and supplies could be negotiated at the State level to ease some of the burden on individual school districts. The Task Force noted that even small discounts could have large implications for school district budgets. The Task Force recommends that the Department of Education explore and implement where feasible, state-wide purchasing options to reduce these costs to school districts.

**Recommendation #9. Consider providing funding for universal preschool programs.**

The Task Force suggests that the Legislature should consider providing funding in order to implement universal preschool access for all four and five year old children in the State. Task Force members proposed that providing funding for universal preschools would accomplish the following:

- ❖ All children would have access to an enriched preschool experience with approved curriculum, regardless of their parent's financial status;
- ❖ In some cases, districts would be able to deliver services that are not provided through Child Development Services (CDS);

- ❖ Reduce future identification of students requiring special education and related services by early intervention and identification;
- ❖ Provide access to literacy, math, and behavior specialists for preschool teachers and their students; and
- ❖ Create a seamless transition to kindergarten for students.

### **Conclusion**

The Task Force acknowledges that the proposed recommendations for prospective changes may well address the areas of rising special education cost drivers and the innovative approaches to the maintenance of high-quality services that will be able to accommodate the needs of all children. Therefore, the Task Force encourages the Committee on Education and Cultural Affairs to explore the recommendations proposed in this report in order to help improve the programs and services that are capable to fulfill the needs of all children in the State.





**STATE OF MAINE  
128th LEGISLATURE  
SECOND REGULAR SESSION**

**Commission To Streamline Veterans' Licensing  
and Certification**

**January 2018**

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## Executive Summary

The 128<sup>th</sup> Maine Legislature established the Commission to Streamline Veterans' Licensing and Certification (referred to in this report as the "commission") with the passage of Resolve 2017, chapter 27. Pursuant to the resolve, ten members were appointed to the commission by the Speaker of the House and the President of the Senate with the Commissioners of the Department of Professional and Financial Regulation, the Department of Labor and the Department of Defense, Veterans and Emergency Management invited to participate or to send designees to participate as the final three voting members of the commission.

The resolve set forth the following duties for the commission:

- Identify workforce needs in the State that could be met by the recruitment of veterans and service members who are transitioning out of the military;
- Identify similarities and differences between military occupational specialty training and state licensing and certification requirements for those fields of work identified by the commission;
- Address barriers commonly encountered by transitioning service members and veterans by:
  - Assisting civilian licensing boards in recognizing the military documentation of veterans' training and experience;
  - Developing strategies to prevent duplicative training requirements for attaining relevant licensure or certification; and
  - Streamlining the administrative rules and processes within civilian licensing and certification systems that create barriers for veterans to obtain licensure or certification; and
- Develop strategies to accelerate veterans' licensure and certification by:
  - Assessing the equivalency of military training courses and using official documentation to permit veterans with fully or partially equivalent training and experience either to sit for civilian licensure examinations or to be licensed by endorsement;
  - Addressing training gaps by working with educational institutions to set up accelerated programs for veterans that bridge training gaps, provide veterans advanced standing in existing programs or offer bridge courses that prepare veterans to enter existing programs;
  - Addressing administrative or process challenges by assessing any non-skill-related licensing or certification requirements that might place veterans at a disadvantage, such as fees or length of experience; and
  - Taking steps to make civilian employment pathways friendlier to veterans through concerted outreach to both veterans and prospective employers.

Over the course of two meetings, the commission reviewed information on the variety of occupational licenses issued in Maine, Maine laws governing licensure and veterans and a survey

of laws and programs in other states. The commission also received presentations from stakeholders and engaged in discussions on the barriers faced by veterans and service members transitioning to the civilian workforce as well as possible strategies to address those barriers.

After discussing the information they received from presenters, including the perspectives of commission members with military experience, the commission developed recommendations to assist veterans and service members transitioning to the civilian workforce with obtaining licensure in the State. The commission developed the following five recommendations:

1. Adopt the California model for licensure of military medics/corpsmen as Licensed Practical Nurses;
2. Waive all license, certification and examination fees specifically for veterans and service members transitioning out of the military;
3. Encourage passage of the amended version of LD 1327, An Act To Allow Former Military Medical Personnel To Perform Certain Medical Services;
4. Consider whether a specific position should be created within State government (or redesign the duties of an existing position) to assist veterans and service members transitioning out of the military with navigating the professional licensing process; and
5. Consider whether the State should adopt the North Carolina model for licensure of veterans and service members transitioning out of the military for all occupations requiring professional licensure.

In making its recommendations, the commission focused on recommendations that were feasible to achieve in the short-term while having the maximum effect on addressing issues faced by veterans and individuals newly separated from military service when entering or reentering the civilian workforce.