

**Testimony of Kirsten LC Figueroa, Commissioner
Department of Administrative and Financial Services**

**Before the Joint Standing Committees on
Appropriations and Financial Affairs
and Veterans and Legal Affairs**

**“An Act Making Unified Appropriations and Allocations for the Expenditures
of State Government, General Fund and Other Funds and Changing Certain
Provisions of the Law Necessary to the Proper Operations of State
Government for the Fiscal Years Ending June 30, 2023, June 30, 2024 and
June 30, 2025”**

March 1, 2023

Good morning, Senator Rotundo, Representative Sachs, and members of the Joint Standing Committee on Appropriations and Financial Affairs; Senator Hickman, Representative Supica and members of the Joint Standing Committee on Veterans and Legal Affairs. I am Kirsten Figueroa, the Commissioner of the Department of Administrative and Financial Services. I am here today to testify in support of the fiscal year 2024-2025 biennial budget bill, LD 258, specifically those items on today’s agenda relating to the Department of Administrative and Financial Services.

This budget advances the Governor’s guiding belief that to build a stronger, more prosperous state where opportunity is available to all, we must invest in the infrastructure that supports the people of Maine, our greatest asset.

That is why this budget proposal strengthens the very things that Maine people rely on every day to succeed, building on the strong success of the currently enacted budget and the last legislative session to tackle Maine’s greatest challenges.

We have governed cautiously and in a fiscally prudent way over the past four years, making sure that – even in the hardest of times during the pandemic – we live within our means. This budget proposal continues that practice.

We look forward to the discussions over the next several months as we outline each initiative and the impact of the proposed investments.

Department of Administrative and Financial Services

The Department of Administrative and Financial Services (DAFS) consists of ten bureaus, a handful of boards and commissions, and more than 1,200 employees serving the public and all three branches of state government.

The Department has a broad range of responsibilities. We serve as the principal fiscal advisor to Governor Mills, prepare the state budget, coordinate the financial planning and programming activities of state agencies, prepare the financial records of the state, and advise the Maine Legislature on the economic status of the state and financial statutes of state government.

Additionally, DAFS oversees all aspects of: human resources, including employee benefits, contract negotiations, recruiting, retaining, training and performance; information technology services, including cyber security, data management, application development, project management, technology infrastructure, accessibility, and network services; maintenance, repairs and capital improvements of state-owned buildings and grounds; leased space; procurement, contracting and vendor management; state postal services; surplus property; tax collection, tax law and tax policy; and fleet management.

Various internal services for state agencies are provided by the Department, including review of accounting transactions and procedures and the implementation of account controls. We oversee three state-owned landfills. We also administer the state's lottery operations, medical and adult use cannabis programs, and the sale of distilled spirits within Maine's borders.

DAFS employees are respected as conscientious stewards of the State's assets: fiscal, human, physical and technical. We are valued for the professional expertise we provide that ensures State departments and agencies efficiently, effectively, and economically fulfill their important missions for the people of Maine. We lead and collaborate with open doors, open minds, and open hearts.

DAFS has five committees of jurisdiction – plus significant interaction with the Joint Standing Committee on Appropriations and Financial Affairs.

Two divisions of our ten, the Office of Cannabis Policy and the Bureau of Alcoholic Beverages and Lottery Operations, fall under the jurisdiction of the Joint Standing Committee on Veterans and Legal Affairs and will be covered in this testimony.

We'll start with the Office of Cannabis Policy (OCP) programs.

There has been significant change and many course adjustments to cannabis policies, procedures and programs since this office was created just four years ago. As is expected with any new business. But, in addition to opportunities, that can create challenge, angst, confusion, and emotions for industry, compliance, caregivers, providers, staff, interested parties, and vendors and contractors.

I'd like to take this opportunity to thank our OCP staff for their commitment to this marathon-sprint. OCP has handled the swerves, the periodic derision, and most recently the welcoming of a new Director with professionalism, flexibility, and dedication.

Adult Use Cannabis Public Health & Safety & Municipal Opt-In Fund (Z263)

The first program is the **Adult Use Cannabis Public Health & Safety & Municipal Opt-In Fund** on page A-6. This program has a baseline Other Special Revenue Fund allocation of \$358,416.

This fund receives 12% of the cannabis excise tax revenue and 12% of sales tax revenue from the sales of adult use cannabis and adult use cannabis products. Funds in this program can be used for public health, safety awareness, education, and enhanced law enforcement training programs supporting the adult use of cannabis. Additionally, the funds may be used to provide reimbursement to a municipality for qualifying expenses incurred when the municipality opts to permit the operation of some or all adult use cannabis establishments within the municipality.

There are two initiatives in this program. Combined, these initiatives increase allocations by just over \$3.5 million each year to align with revenue as recommended in the December 1, 2022 forecast of the Revenue Forecasting Committee.

Adult Use Cannabis Regulatory Coordination Fund (Z264)

On **page A-7** is the baseline for the **Adult Use Cannabis Regulatory Coordination Fund**. This program supports the implementation, administration, and enforcement of the adult use of cannabis. This program includes 25 positions in the General Fund, and 3 positions in the Other Special Revenue Fund funded from licensing and application fees. The positions consist of senior leadership, a compliance division, a licensing division and a data analytics division.

There are three initiatives in this program.

The first initiative increases allocation to align with revenue as recommended in the December 1, 2022 forecast of the Revenue Forecasting Committee.

The second initiative provides \$150,000 in one-time appropriation in fiscal year 2024 to fund an upgrade to the trace and track system in the Office of Cannabis Policy to comply with Public Law 2021, chapter 628, An Act To Allow the State's Adult Use Marijuana Tracking System To Track Plants and Products by Group. This upgrade is critical for ensuring that one of OCP's most important compliance tools is configured to meet the specific tracking requirements of the adult use cannabis law.

The final initiative provides funds for the program's share of the cost for the financial and human resources service center within the Department of Administrative and Financial Services. This initiative appropriates General Funds of \$17,500 in fiscal year 2024 and \$18,500 in fiscal year 2025.

Medical Use of Cannabis Fund (Z265)

The **Medical Use of Cannabis Fund** can be found on **page A-36** of the budget document. This account includes funding for 20 positions and has a baseline Other Special Revenue Funds allocation of approximately \$3 million per year. The program revenues are primarily generated from applications and reapplications for registration as a qualifying patient, caregiver, dispensary, manufacturing facility and cannabis testing facility and for registry identification cards. There are two initiatives in the program.

The first initiative funds the program's share of the cost for the financial and human resources service center within the Department of Administrative and Financial Services. This initiative appropriates General Funds of \$17,500 in fiscal year 2024 and \$18,500 in fiscal year 2025.

The second initiative increases funding for legal services provided by the Office of the Attorney General. The allocation increase of \$130,965 in fiscal year 2024 and \$137,412 in fiscal year 2025 supports an additional Assistant Attorney General position. This position will provide legal services including: responding to subpoenas served; case evaluation, preparation, and presentation for both enforcement of Office of Cannabis Policy laws and defense of those laws; case preparation to include reviewing case files and evidence, preparing all pre-hearing submissions, identifying and addressing legal and factual issues; drafting legal memoranda and documents; and providing legal advice throughout the legal process including appeals. The position will also provide legal services with respect to Freedom of Access requests, as well as other consultation as needed. The corresponding initiative may be found on **page A-112**.

Now moving to the Bureau of Alcoholic Beverages and Lottery Operations. I thank the staff of this bureau for their dedication and commitment to these busy, ever-changing businesses.

Alcoholic Beverages – General Operations (0015)

On **page A-9** is the baseline budget for the Alcoholic Beverages – General Operations program. The Bureau effectively regulates the alcohol beverage industry in Maine by ensuring responsible business practices by agency liquor stores, beer and wine wholesalers, and bars and restaurants within a favorable economic climate. Through the guidance of the State Liquor and Lottery Commission, the Bureau has responsibility for the pricing, listing and delisting of spirits. The Bureau is tasked with managing a profitable business organization. Since 2015, profits have been deposited into the Liquor Revenue Fund that, in part, pays the Maine Municipal Bond Bank for debt service related to the \$220.6 million hospital payment revenue bond. The state intends to make the final payment on this bond before June 30, 2023.

The General Fund baseline supports 13 positions in the Division of Liquor Licensing and Enforcement. The Division reviews applications for liquor licenses and

periodically inspects each location. In addition, the Division collects the excise taxes on beer, wine, and flavored malt beverages.

A fee on the registration of labels of alcoholic beverages is deposited into the Other Special Revenue account. These funds are used for education and awareness programs for alcohol servers.

This program also includes the Alcoholic Beverage Fund with an additional 5 positions. You will notice that there is a significant jump in the All Other baseline budget for this fund. This is the result of erroneously including cost of goods sold in this category. Pursuant to Title 5, section 1666, cost of goods sold expenditures in Enterprise Funds are not subject to legislative allocation. The baseline All Other allocation for the Alcoholic Beverage Fund is overstated by \$180,071,938 in each year. The annual allocation should be approximately \$12.9 million each year. We will make this correction in the biennial budget change package.

There are seven new initiatives in this program.

The first initiative establishes one Office Associate II position to provide support in the marketing and pricing of spirits and provides funding for related All Other costs. This position will support the Spirits Operation Manager, allowing the Operations Manager to focus on strategic planning for the spirits business. The position will: assist in the Commission meeting planning; prepare pricing prep work, including reviewing current price quotes from suppliers and comparing to past pricing; support the monthly spirits special program; manage the Seller Server on-line process, an educational tool on responsible spirits business practices provided to all liquor licensees; manage the spirits inventory system; assist the Spirits Operation Manager with communications to stake holders such as brokers and suppliers; act as liaison with our third party vendor; among other activities. This initiative increases allocations in the Alcoholic Beverage Fund by \$80,285 in fiscal year 2024 and \$84,817 in fiscal year 2025.

The second initiative establishes 5 Liquor Licensing Inspector positions to provide investigative and protective services work inspecting and licensing retail liquor stores, restaurants, and clubs throughout the state per statutory requirements and provides funding for related All Other costs. There are currently 6,200 licensees plus 2,500 special permits for a total of 8,700 license holders that require inspection,

application filing and follow up. This initiative is related in part to the proliferation of in-state manufacturers that increased from 160 to 270. The licensing, inspections, and maintenance for all of this requires more staffing. The current inspector staff of 7 does not allow the department to adequately service and educate the licensee community. Increasing the number of staff will positively impact our ability to foster safe and responsible service of alcohol, including overservice and underage service, in a proactive versus reactive approach. This requested increase in the number of Liquor Licensing Inspectors will result in each of Maine's inspectors still being responsible for more than twice as many establishments in an area three times the square mileage area of coverage as compared to New Hampshire and Vermont. This initiative increases allocations in the Alcoholic Beverage Fund by \$517,963 in fiscal year 2024 and \$542,748 in fiscal year 2025.

The third initiative establishes one Liquor Tax Auditor position in the Liquor Licensing division to process excise tax receipts and provides funding for related All Other costs. There are currently 3 liquor tax auditors. The need for this initiative is a direct result of the expansion of label registration from industry members, which has stressed the bandwidth of the Bureau. Liquor Tax Auditors review more than \$19 million in excise tax collections, 1,500 supplier and wholesaler license applications and 9,000 label registrations. These are complex processes and critical tasks for the state and the growing alcoholic beverage industry. This position will help eliminate and prevent backlogs that impact licensee business operations. The position will also enable the division to meet its goal of liquor label registration turn around within 48 hours. There are many more unique products being submitted for consideration that require more detailed review. This initiative will ensure appropriate oversight, timely label registration processing, improve turn-around time of notifications, and get businesses' product to market quicker. This initiative increases appropriations by \$82,724 in fiscal year 2024 and \$86,874 in fiscal year 2025.

Turning to **page A-10**, the next initiative establishes one Office Associate II position, adding to the current complement of 3 licensing staff members. Bureau Office Associate II positions process monthly reports from 700 out-of-state suppliers, 250 in-state manufacturers and 24 wholesalers. Additionally, they process nearly 4,000 on and off premises license applications, 600 agency liquor store applications and more than 2,000 event permits. They also process violations, sort mail, prepare documents for audit, track filed reports, and follow up with licensees who fail to file.

Currently, some of this administrative work falls to the Liquor Tax Auditors. Adding another Office Associate II position will shift the administrative work, decrease overtime costs, prevent administrative backlogs, and increase customer service effectiveness and efficiency for state liquor licensees. The initiative increases appropriations by \$78,748 in fiscal year 2024 and \$83,193 in fiscal year 2025.

The next initiative on this page appropriates \$100,000 starting in fiscal year 2025 for the liquor licensing modernization project authorized in Public Law 2021, chapter 398, Part L. The Bureau of Alcoholic Beverages and Lottery Operations is responsible to enforce laws relating to the manufacture, importation, storage, transportation and sale of all liquor and administer those laws relating to licensing and the collection of required taxes and license fees on spirits. Currently, processes are manual, paper heavy, and difficult to coordinate for reporting, tracking, and monitoring. The modernization effort is one which will modernize the processes with more efficiency and better customer service. This funding is necessary for annual maintenance and upgrade costs.

The third initiative on this page funds the Bureau's share of the cost for the financial and human resources service center within the Department of Administrative and Financial Services. This initiative appropriates \$81,000 in fiscal year 2024 and \$85,000 in fiscal year 2025.

The final initiative in this program funds increases for statewide Central Fleet Management services. This initiative appropriates \$25,500 in fiscal year 2024 and \$25,500 in fiscal year 2025.

Lottery Operations

The last DAFS program scheduled for today is **Lottery Operations on page A-32**. The Maine State Lottery offers instant ticket scratch games and draw games to the public generating over \$71 million last year to the General Fund. The operations of this program are supported entirely by the proceeds from the sale of lottery tickets. The budget allocation supports the administration of the state's lottery games, including 22 positions responsible for customer service, marketing, field sales, security, and general operations.

There are two initiatives in this program.

The first initiative establishes one Marketing Specialist position and provides funding for related All Other costs. This position will manage day to day activities and assist in the development of marketing materials including point of sale, radio, television, digital and social media. In addition, this position will assist in the development of special promotions and reconcile all media buys to ensure proper placement and appropriate billing for all purchased media. This position will optimize the media budget to gain the most efficient investment in messaging, work on long-term planning for new lottery channels and product lines and engage in Maine's commitment to the Tri-State Lottery partnership. Since fiscal year 2016, annual lottery sales have increased from \$272 million to nearly \$391 million, or 43.5 percent. These increases resulted in a record \$72 million in profits to the General Fund and Outdoor Heritage Funds in fiscal year 2022. The Maine Lottery currently has 22 FTEs to support and manage a lottery comprised of 1,100 lottery retailers across the state. For comparison, the following lotteries also have approximately 1,100 retailers supported by a substantially higher number of FTEs: New Hampshire – 65; Idaho – 40; New Mexico – 65; and Rhode Island – 80.

The second initiative establishes one Inventory and Property Associate I position to provide state lottery warehouse management functions and provides funding for related All Other costs. This position will oversee the fleet vehicle program needs; provide ticket dispensers and point of sale to retailers; manage shipping and receiving related materials for retailers; serve as the point of contact with Scientific Games for retailer maintenance of in-store technology; and be responsible for replenishing lottery field rep storage units, thereby allowing field reps to have more time providing customer service to retailers. This position would be the "go to" stop for all support related to collateral material and retailer sales activation.

This concludes my testimony. Thank you. I would be happy to address any questions you may have.