

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. ANDRE E. CUSHING  
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

March 23, 2017  
1:30 PM

PRELIMINARY AGENDA

<u>Page</u>	<u>Item</u>	<u>Action</u>
	CALL TO ORDER	
	ROLL CALL	
1	SUMMARY OF THE FEBRUARY 14, 2017 MEETING OF THE LEGISLATIVE COUNCIL	Decision
	REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS	
9	<ul style="list-style-type: none"><li>Executive Director's Report (Mr. Pennoyer)</li></ul>	Information
10	<ul style="list-style-type: none"><li>Fiscal Report (Mr. Nolan)</li></ul>	Information
	REPORTS FROM COUNCIL COMMITTEES	
	<ul style="list-style-type: none"><li>Personnel Committee No Report</li><li>State House Facilities Committee</li></ul>	
	OLD BUSINESS	
14	Item #1: Council Actions Taken by Ballot (No Action Required)	Information
	NEW BUSINESS	
15	Item #1: Consideration of After Deadline Bill Requests	Roll Call Vote

- |           |          |   |                   |
|-----------|----------|---|-------------------|
| <b>18</b> | Item #2: | Request for an exception to food service in the Hall of Flags Policy from the Maine Credit Union League | <b>Decision</b>   |
| <b>19</b> | Item #3: | Presentation of Annual Report by Beth Ashcroft, Director, OPEGA   | <b>Acceptance</b> |
| <b>44</b> | Item #4: | GOC Recommendation Regarding Oversight of the Office of Information Technology (Ms. Ashcroft)           | <b>Decision</b>   |

**ANNOUNCEMENTS AND REMARKS**

**ADJOURNMENT**



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**LEGISLATIVE COUNCIL  
MEETING SUMMARY  
February 14, 2017**

**CALL TO ORDER**

Speaker Gideon called the February 14, 2017 meeting of the Legislative Council to order at 1:41 p.m. in the Legislative Council Chamber.

**ROLL CALL**

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

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

Absent: Representative Fredette

Legislative Officers: Heather Priest, Secretary of the Senate  
Robert Hunt, 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 1:41 p.m. with a quorum of members present.

**SUMMARY OF JANUARY 31, 2017 MEETINGS OF LEGISLATIVE COUNCIL**

**Motion:** That the Meeting Summary for January 31, 2017 be accepted and placed on file. Motion by Senator Mason. Second by President Thibodeau. **Motion passed unanimous (8-0-0-2,** with Senator Cushing and Representative Fredette absent).

## REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

### Executive Director's Report

Grant Pennoyer, Executive Director, reported on:

1. Notices for Public Regarding Committee Web Broadcasts

The Legislative Information Office has been working with the Committee Clerks to improve the signs warning the public that committee public hearings and meetings are broadcast to the web and recorded. The scripts provided to committee chairs to open public hearings and work sessions have also been updated.

2. Blood Drive at the State House

The Red Cross blood drive on Wednesday, February 1<sup>st</sup>, in the Hall of Flags was incredibly successful, exceeding the Red Cross' goal by more than 160%.

3. Legislature's Copiers Being Replaced Next Week

All of the leased copiers provided through the central state program are being switched out next week. We worked out the timing of the switch over during the school vacation when committee activity was expected to be slower. The copiers are the same make and this transition should be relatively straight forward.

4. Inaugural Class of the Aspiring Leaders Program

The very first class of a brand new Aspiring Leaders Program concluded their series of sessions last week. This is a group of 14 legislative staff who applied to this program and were accepted from a larger pool of applicants and were recommended by their office directors or supervisors. This challenging program was an opportunity for these staff to explore multiple lessons on leadership and other areas of professional growth. These dedicated staff represent hope for the continuity of the Legislature's staff leadership as we deal with imminent retirement of Baby Boomers. The graduates of this inaugural class are: Al Boutot (Clerk's Office); Brad Sawyer (Secretary's Office); Amy Sylvester (House Democratic Office); Sherry Davis (Executive Director's Office); Alex Burnett (Law Library); Stacy Morang (LIT); Susan Johannesman, Ethan Keyes and Sarah McSorley (ROS); Anna Broome, Danielle Fox, Colleen McCarthy Reid and Lucia Nixon (OPLA); and Matt Kruk (OPEGA).

### Fiscal Report

Chris Nolan, Director, Office of Fiscal and Program Review, reported on the following.

#### General Fund Revenue Update

Total General Fund Revenue - FY 2017 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
January	\$310.3	\$323.7	\$13.4	4.3%	\$327.4	-1.1%
FYTD	\$2,017.1	\$2,052.9	\$35.8	1.8%	\$2,000.7	2.6%

General Fund revenue was over budget by \$13.4 million (4.3%) for the month of January and over budget by \$35.8 million (1.8%) for the fiscal year to date. Individual income tax revenues were over budget for the month by \$16.9 million and over budget for the fiscal year to date by \$16.1 million. Withholding was under budget for the month by \$6.1 million. Estimated

payments were over budget by \$11.8 million. This should reflect final 2016 estimated payments which were due January 15. Refunds were over budget (less refunded than budgeted) by \$11.6 million. Sales and use taxes for January (December sales) were over budget by \$1.8 million for the month and are over budget by \$2.7 million for the fiscal year to date. Transfers for tax relief programs were under budget (more transferred than budgeted) by \$8.0 million for the month but are still over budget by \$2.4 million for the fiscal year to date. BETE reimbursements to municipalities account for most of this January variance.

### Highway Fund Revenue Update

Total Highway Fund Revenue - FY 2017 (\$'s in Millions)						
	Budget	Actual	Var.	% Var.	Prior Year	% Growth
January	\$26.1	\$27.0	\$1.0	3.7%	\$26.4	2.3%
FYTD	\$194.6	\$198.3	\$3.6	1.9%	\$195.4	1.5%

Highway Fund revenue was over budget by \$1.0 million (3.7%) for the month of January and over budget for the fiscal year to date by \$3.6 million (1.9%). Fuel taxes were over budget by \$0.7 million for the month while motor vehicle registrations and fees were over budget by \$0.5 million for the month. As was discussed last month, motor vehicle registrations and fees were under budget in December, and since the last day of December was a Saturday, the variances are likely related to timing between the two months.

### Cash Balances Update

The average balance in the cash pool in January of \$1,006.7 million marks the first time in decades that the average daily balance has exceeded one billion dollars. January's average balance exceeded the December average of \$948.8 million and was well above both last year's average balance for January and the ten-year average for the month. General Fund internal borrowing from other funds was not needed in January. The average Highway Fund balance of \$26.9 million in January decreased from December's average of \$27.5 million and from last year's January average of \$39.1 million. The decrease in January's average balance likely still reflects the annual payment to the Local Road Assistance program made in December.

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 **New Business, Item 1.**

### NEW BUSINESS

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

The Legislative Council considered and voted on the bill requests in accordance with the established protocol. Of the 5 new bill requests, the council authorized 4 requests for introduction in the 1<sup>st</sup> Regular Session of the 128<sup>th</sup> Legislature, and 1 was tabled. Of the 9 bill requests previously tabled, the council authorized 5 and took no action on the remaining 4 requests. Of the 5 joint resolutions, the council tabled 2 items, 1 was withdrawn by the sponsor and the council took no action on the remaining 2 items. The Legislative Council's actions on the requests are included on the attached list.

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

## REPORTS FROM COUNCIL COMMITTEES

### 1. Personnel Committee

Speaker Gideon reported that the Personnel Committee met on February 14<sup>th</sup> to consider the following items.

1. Legislator Attendance Policy

The committee reviewed the revised policy pursuant to a request by the Legislative Council. The committee recommends adoption by the Legislative Council. This item will be continued on the agenda under Old Business.

2. Work Life Balance Pilot Project

Ms. Little provided an update on the Work Life Balance Pilot Project. The committee gave direction on the future of this project. No action required by the Legislative Council.

3. Emergency Preparedness Training for Legislators

Mr. Pennoyer discussed potential emergency preparedness training for legislators. The committee provided direction to Mr. Pennoyer to develop additional information resources. No action required by the Legislative Council.

4. Committee Clerk Hiring Process

Ms. Little outlined the steps taken and noted the improvements in the process of hiring committee clerks. No action required by the Legislative Council.

5. HR Update: Aspiring Leaders

Mr. Pennoyer and Ms. Little provided the committee with an overview of the new Aspiring Leaders Program. Information was provided earlier in the Executive Director's report. No action required by the Legislative Council.

Senator Mason shared his praise of the Aspiring Leaders Program with the Legislative Council.

### 2. State House Facilities Committee

No report

## OLD BUSINESS

### Item #1: Approval of the Legislator Attendance Policy

**Motion:** That upon the unanimous recommendation of the Personnel Committee, the Legislative Council adopt the proposed *Legislative Council Legislator Attendance Policy*. Motion by President Thibodeau. Second by Senator Mason. **Motion passed unanimous (9-0-0-1, with Representative Fredette absent).**

**NEW BUSINESS**

**Item #2: Acceptance of the Report of the Task Force on Public-private Partnerships to Support Public Education (February 2017)**

**Motion:** That the Legislative Council accept the Report of the Task Force on Public-private Partnerships to Support Public Education and place it on file. Motion by Senator Cushing. Second by Representative Golden. **Motion passed unanimous (9-0-0-1**, with Representative Fredette absent).

**ANNOUNCEMENTS AND REMARKS**

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 2:16 p.m.

**128th Maine State Legislature  
Legislative Council Action Taken on  
Requests to Introduce Legislation  
First Regular Session  
February 14, 2017**

**AFTER DEADLINE BILL REQUESTS**

**SPONSOR: Spkr. Sara Gideon**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2248	An Act To Save the Lives of Stage-four Cancer Patients	PASSED

**SPONSOR: Rep. Peter A. Lyford**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2238	An Act To Allow Trapping of Canada Lynx	PASSED

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2240	An Act To Rename the Bridge over the Androscoggin River between Peru and Mexico	PASSED

**SPONSOR: Rep. Roger E. Reed**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2241	An Act To Require That Maine Taxpayer-subsidized Clean Election Funds Be Spent in the State	TABLED

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2235	An Act To Safeguard Personal Information Provided to School Districts	PASSED

**TABLED BY THE LEGISLATIVE COUNCIL**

**AFTER DEADLINE BILL REQUESTS**

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2160	Resolve, To Require the Public Utilities Commission To Study the Security of Maine's Electric Grid	Tabled 01/31/17



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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2182	An Act To Require That Landowners with Property Enrolled in the Tree Growth Tax Program Receive Timely Notice of Changes in Valuation of That Property	Tabled 01/31/17 PASSED

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2196	An Act Regarding MaineCare Coverage for Telehealth Services	Tabled 01/31/17 PASSED
2219	An Act Regarding Commercial Insurers and Telehealth	Tabled 01/31/17 PASSED

**SPONSOR: Rep. Stephanie Hawke**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2228	An Act To Ensure Proper Patient Care	Tabled 01/31/17

**SPONSOR: Rep. John J. Picchiotti**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2192	An Act Regarding the Natural Resources Protection Act	Tabled 01/31/17

**SPONSOR: Rep. Timothy S. Theriault**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2183	An Act To Disburse Funds to the Maine Fire Protection Services Commission	Tabled 01/31/17 PASSED

**SPONSOR: Sen. Amy F. Volk**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2165	An Act To Retain Skilled Workers in the State	Tabled 01/31/17 PASSED

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2209	An Act To Make Performing Arts Centers Exempt from Sales Tax	Tabled 01/31/17

## JOINT RESOLUTIONS

**SPONSOR:** Rep. Henry John Bear

<u>LR #</u>	<u>Title</u>	<u>Action</u>
249	JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE CONGRESS OF THE UNITED STATES TO PROVIDE TO THE HOULTON BAND OF MALISEET INDIANS JUST AND EQUITABLE COMPENSATION FOR NEGATIVE IMPACTS UPON MALISEET TRIBAL LANDS COMPARABLE TO THE LAND CLAIM SETTLEMENT PROVIDED TO THE PENOBSCOT NATION AND PASSAMAQUODDY TRIBE IN THE 1980 MAINE INDIAN CLAIMS SETTLEMENT ACT	Tabled 01/31/17 Withdrawn by Sponsor

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1255	JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO ALLOW DRUGS TO BE IMPORTED FROM CANADA	Tabled 01/31/17

**SPONSOR:** Rep. Heidi E. Brooks

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1554	JOINT RESOLUTION MEMORIALIZING THE UNITED STATES SENATE TO RATIFY THE UNITED NATIONS CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN	Tabled 01/31/17 TABLED

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2201	JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO ENDORSE THE AMERICAN RECOVERY AND REINVESTMENT ACT	Tabled 01/31/17

**SPONSOR:** Rep. Deane Rykerson

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1224	JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO INITIATE A REVENUE-NEUTRAL FEE ON THE PRODUCTION OF CARBON	Tabled 01/31/17 TABLED

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**Legislative Council  
Executive Director's Report  
March 23, 2017**

**1. New Employee Orientation**

On Wednesday, March 1st, we held an additional new employee orientation session for new employees that were not able to attend the last session in January. All seven of the new employees that missed the first opportunity were able to attend the March 1<sup>st</sup> session.

**2. Benefits Fair – March 29th**

We have scheduled a Benefits Fair on Wednesday, March 29<sup>th</sup>, from 12:30pm to 4:00pm in the Hall of Flags. Representatives from various organizations will be on hand to answer Legislator and employee questions on various state employee benefits.

**3. Video of Legislative Process**

We are working with the University of Southern Maine's Media Studies to update a video of the legislative process with the primary focus on the committee process. We will be working with the Marine Resources Committee and the Transportation Committee to pick some bills that would be interesting and be good examples of all aspects of the committee process.

**4. Copper Reuse Project – Artist Selection Process**

We have received 34 proposals as part of the call for artists to submit ideas to use the copper. The Artist Selection Committee will be meeting in a few weeks to begin the process of selecting the artist.

**5. Electric Vehicle Charging Stations**

Two electric vehicle charging stations in the Parking Garage have been installed, but remain inoperative pending the establishing of a merchant account to accept credit card payments for the use of the stations. This should be finalized in three weeks.

**6. Health Insurance Vendor Changes**

Anthem has been selected to provide health insurance and Express Scripts has been selected to provide prescription drug coverage beginning July 1, 2017. They will be replacing Aetna, the current provider. Additional information about the transition will be coming from the Department of Administrative and Financial Services once negotiations have been completed.

# Fiscal Briefing

March 23, 2017

Prepared by the Office of Fiscal & Program Review

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

Total General Fund Revenue - FY 2017 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
February	\$161.3	\$155.4	(\$5.8)	-3.6%	\$139.5	11.4%
FYTD	\$2,178.4	\$2,208.4	\$30.0	1.4%	\$2,140.2	3.2%

General Fund revenue was under budget by \$5.8 million (3.6%) for the month of February but remains over budget by \$30.0 million (1.4%) for the fiscal year to date. Individual income tax revenues were under budget for the month by \$8.9 million but over budget for the fiscal year to date by \$7.2 million. Individual income tax withholding was under budget for February by \$5.0 million. For the fiscal year to date, withholding was under budget by \$17.9 million while estimated payments were over budget by \$16.6 million. Preliminary March withholding data look positive and could offset some of the February negative variance. Individual income tax refunds were under budget for the month (more refunded than budgeted) by \$6.0 million mainly due to timing between the months of January and February. Sales and use taxes for February (January sales) were over budget by \$1.7 million for the month and are over budget by \$4.4 million for the fiscal year to date. Corporate income tax revenue was over budget by \$1.2 million in February and by \$9.1 million for the fiscal year to date.

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

Total Highway Fund Revenue - FY 2017 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
February	\$26.8	\$25.3	(\$1.4)	-5.3%	\$27.3	-7.1%
FYTD	\$221.4	\$223.6	\$2.2	1.0%	\$222.7	0.4%

Highway Fund revenue was under budget by \$1.4 million (5.3%) for the month of February but over budget for the fiscal year to date by \$2.2 million (1.0%). Fuel taxes were under budget by \$0.1 million for the month but remain over budget for the fiscal year to date by \$0.9 million, while motor vehicle registrations and fees were under budget by \$1.1 million for the month but remain over budget by \$2.3 million for the fiscal year to date.

## 3. Cash Balances Update

The average balance in the cash pool for February was \$1,030.2 million, exceeding January's average of \$1,006.7 million and well above both last year's average balance for February and the ten-year average for the month. General Fund internal borrowing from other funds was not needed in February. The average Highway Fund balance of \$28.7 million in February increased from January's average of \$26.9 million but was below last year's February average of \$40.0 million.

**General Fund Revenue  
Fiscal Year Ending June 30, 2017 (FY 2017)**

**February 2017 Revenue Variance Report**

Revenue Category	February '17		February '17	Fiscal Year-To-Date			FY 2017 Budgeted Totals	
	Budget	Actual	Var.	Budget	Actual	Variance		
						Variance %	% Change from Prior Year	
Sales and Use Tax	81,335,683	83,066,724	1,731,041	936,271,933	940,701,980	4,430,047	0.5%	6.6%
Service Provider Tax	4,700,000	4,573,465	(126,535)	40,069,493	40,337,317	267,824	0.7%	30.7%
Individual Income Tax	56,724,374	47,817,603	(8,906,771)	978,562,749	985,743,402	7,180,653	0.7%	-2.1%
Corporate Income Tax	(1,000,000)	245,956	1,245,956	75,553,192	84,687,962	9,134,770	12.1%	65.3%
Cigarette and Tobacco Tax	10,182,890	7,500,841	(2,682,049)	93,508,434	91,835,923	(1,672,511)	-1.8%	-3.1%
Insurance Companies Tax	1,165,699	1,424,854	259,155	14,133,074	17,145,897	3,012,823	21.3%	18.5%
Estate Tax	944,000	998,371	54,371	12,603,262	11,416,706	(1,186,556)	-9.4%	-30.1%
Other Taxes and Fees *	8,605,350	9,607,023	1,001,673	89,813,893	91,996,235	2,182,342	2.4%	6.2%
Fines, Forfeits and Penalties	2,085,238	1,565,309	(519,929)	13,694,583	11,801,061	(1,893,522)	-13.8%	-14.6%
Income from Investments	155,924	329,765	173,841	1,147,076	1,901,918	754,842	65.8%	171.1%
Transfer from Lottery Commission	4,223,073	4,156,412	(66,661)	36,951,930	37,503,551	551,621	1.5%	-6.5%
Transfers to Tax Relief Programs *	(4,500,000)	(2,109,468)	2,390,532	(63,050,000)	(58,239,617)	4,810,383	7.6%	-14.7%
Transfers for Municipal Revenue Sharing	(5,944,722)	(6,336,113)	(391,391)	(43,675,255)	(44,172,060)	(496,805)	-1.1%	4.6%
Other Revenue *	2,600,311	2,600,001	(310)	(7,161,767)	(4,271,392)	2,890,375	40.4%	-276.6%
<b>Totals</b>	<b>161,277,820</b>	<b>155,440,742</b>	<b>(5,837,078)</b>	<b>2,178,422,597</b>	<b>2,208,388,881</b>	<b>29,966,284</b>	<b>1.4%</b>	<b>3.2%</b>

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



## Highway Fund Revenue Fiscal Year Ending June 30, 2017 (FY 2017)

### February 2017 Revenue Variance Report

Revenue Category	February '17		February '17		Fiscal Year-To-Date			FY 2017 Budgeted Totals
	Budget	Actual	Actual	Var.	Budget	Actual	Variance	
							% Variance	
<b>Fuel Taxes:</b>								
- Gasoline Tax	15,385,831	15,401,500	15,669		138,410,468	1,241,860	0.9%	200,201,200
- Special Fuel and Road Use Taxes	3,680,976	3,517,023	(163,953)		32,488,437	(168,034)	-0.5%	47,086,700
- Transcap Transfers - Fuel Taxes	(1,401,154)	(1,390,003)	11,151		(12,557,827)	(149,811)	-1.2%	(18,171,111)
- Other Fund Gasoline Tax Distributions	(384,755)	(385,145)	(390)		(3,461,233)	(55,174)	-1.6%	(5,006,432)
Subtotal - Fuel Taxes	17,280,898	17,143,374	(137,524)		154,879,845	868,841	0.6%	224,110,357
<b>Motor Vehicle Registration and Fees:</b>								
- Motor Vehicle Registration Fees	5,064,537	4,560,282	(504,255)		40,346,059	42,011,859	4.1%	66,345,787
- License Plate Fees	259,535	261,367	1,832		2,102,865	149,727	7.1%	3,458,710
- Long-term Trailer Registration Fees	1,588,123	1,131,917	(456,206)		6,176,435	85,443	1.4%	9,884,523
- Title Fees	893,259	803,497	(89,762)		8,467,071	214,718	2.5%	13,366,264
- Motor Vehicle Operator License Fees	619,013	621,796	2,783		5,302,855	444,145	8.4%	8,499,545
- Transcap Transfers - Motor Vehicle Fees	0	0	0		(7,715,186)	(246,439)	-3.2%	(15,570,414)
Subtotal - Motor Vehicle Reg. & Fees	8,424,467	7,378,859	(1,045,608)		54,680,099	2,313,393	4.2%	85,984,415
<b>Motor Vehicle Inspection Fees</b>	293,541	129,749	(163,793)		2,463,332	(122,976)	-5.0%	2,982,500
<b>Other Highway Fund Taxes and Fees</b>	80,759	77,455	(3,304)		808,439	76,308	9.4%	1,280,229
Fines, Forfeits and Penalties	69,332	47,633	(21,699)		521,650	(8,005)	-1.5%	739,039
Interest Earnings	56,127	19,139	(36,988)		420,483	(217,671)	-51.8%	585,484
Other Highway Fund Revenue	555,897	533,283	(22,614)		7,623,569	(702,023)	-9.2%	9,959,100
<b>Totals</b>	<b>26,761,021</b>	<b>25,329,491</b>	<b>(1,431,530)</b>		<b>221,397,417</b>	<b>2,207,867</b>	<b>1.0%</b>	<b>325,641,124</b>

**Legislative Council Actions  
Taken by Ballot Since the  
February 14, 2017 Council Meeting**

**Requests for Introduction of Legislation:**

**LR 2281      An Act to Provide Funds for Federal Training for First Responders**

Submitted by: Representative Owen Casas

Approved: March 13, 2017

Vote: 10-0-0-0 in favor



**128th Maine State Legislature  
Legislative Council  
Requests to Introduce Legislation  
First Regular Session  
As of: 3/17/2017 9:14:37 AM**

**AFTER DEADLINE BILL REQUESTS**

**SPONSOR: Rep. Henry John Bear**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2278	An Act To Encourage Support of the Tribal Government of the Houlton Band of Maliseet Indians through On-reservation Business Activity	

**SPONSOR: Rep. Eleanor M. Espling**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2289	An Act To Ban the Burning of Marijuana Debris	

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2263	An Act To Require Insurance Coverage for the Diagnosis and Treatment of Lyme Disease	

**SPONSOR: Sen. Kimberley C. Rosen**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2280	An Act To Study the Negue Plymouth Trading Post in Orono	

**SPONSOR: Rep. Deane Rykerson**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2264	An Act To Appropriate Funds To Provide Sea Protection and Public Access to the Historic Whaleback Lighthouse in Kittery	

**TABLED BY THE LEGISLATIVE COUNCIL**

**AFTER DEADLINE BILL REQUESTS**

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2160	Resolve, To Require the Public Utilities Commission To Study the Security of Maine's Electric Grid	Tabled 01/31/17

**SPONSOR: Rep. Stephanie Hawke**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2228	An Act To Ensure Proper Patient Care	Tabled 01/31/17

**SPONSOR: Rep. John J. Picchiotti**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2192	An Act Regarding the Natural Resources Protection Act	Tabled 01/31/17 Withdrawn by Sponsor

**SPONSOR: Rep. Roger E. Reed**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2241	An Act To Require That Maine Taxpayer-subsidized Clean Election Funds Be Spent in the State	Tabled 02/14/17

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2209	An Act To Make Performing Arts Centers Exempt from Sales Tax	Tabled 01/31/17

#### JOINT RESOLUTIONS

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1255	JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO ALLOW DRUGS TO BE IMPORTED FROM CANADA	Tabled 01/31/17

**SPONSOR: Rep. Heidi E. Brooks**

<u>LR #</u>	<u>Title</u>	<u>Action</u>
1554	JOINT RESOLUTION MEMORIALIZING THE UNITED STATES SENATE TO RATIFY THE UNITED NATIONS CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN	Tabled 02/14/17

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

<u>LR #</u>	<u>Title</u>	<u>Action</u>
2201	JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO ENDORSE THE AMERICAN RECOVERY AND REINVESTMENT ACT	Tabled 01/31/17

**SPONSOR:** Rep. Deane Rykerson

LR #  
1224

Title  
JOINT RESOLUTION MEMORIALIZING THE PRESIDENT  
OF THE UNITED STATES AND THE UNITED STATES  
CONGRESS TO INITIATE A REVENUE-NEUTRAL FEE ON  
THE PRODUCTION OF CARBON

Action  
Tabled 02/14/17



# Maine Credit Union League

2 Ledgeview Drive · Westbrook, ME 04092  
Mailing Address: P.O. Box 1236 · Portland, ME 04104  
207-773-5671 · 1-800-442-6715  
www.maineicul.org

RECEIVED MAR 06 2017

March 3, 2017

Legislative Council  
115 State House Station  
Augusta, Maine 04333

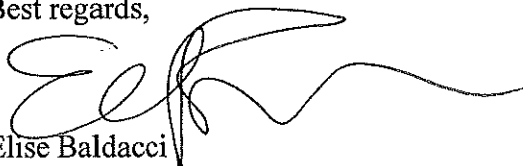
To Members of the Legislative Council:

Each year, the Maine Credit Union League hosts Credit Union Day at the State House in the Hall of Flags. In years past, this event was typically held during the morning hours, from 9:00 a.m. to 11:00 a.m., and we served coffee and breakfast pastries. In an effort to enable more credit union representatives from across the State to attend this event, we have decided to hold this annual event from 11:00 a.m. to 1:00 p.m., on Thursday, March 30<sup>th</sup> in the Hall of Flags.

In an effort to provide attendees of Credit Union Day with appropriate food options for the this time of day, we are asking the Legislative Council to consider making an exception from the limitation on food service found in the Legislative Council Policy on the use of the Hall of Flags for our event. We would like to serve small finger sandwiches, cheese platters, and chips, which currently are prohibited under the policy. Incorporating this change would not require any additional tables than used in past years nor would it require any additional space in the Hall of Flags.

On behalf of Maine's 58 credit unions, I greatly appreciate you taking this request under consideration.

Best regards,



Elise Baldacci  
Director of Governmental Affairs

OPEGA  
ANNUAL  
REPORT



Office of Program Evaluation and  
Government Accountability

Annual Report on  
Activities and Performance

2016

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

February

2017

## 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

Etta Connors  
Phone: (207) 287-1901  
Fax: (207) 287-1906  
Email: [etta.connors@legislature.maine.gov](mailto:etta.connors@legislature.maine.gov)

### Mailing Address:

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

### Web:

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

## OFFICE OF PROGRAM EVALUATION & GOVERNMENT ACCOUNTABILITY

Director Beth Ashcroft, CIA     [beth.ashcroft@legislature.maine.gov](mailto:beth.ashcroft@legislature.maine.gov)

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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 17, 2017

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 MRSA § 995.4, I respectfully submit OPEGA's Annual Report on Activities and Performance for 2016. OPEGA's service to the Legislature as a non-partisan resource is meant to provide support in overseeing and improving the performance of State government. The OPEGA staff and I are honored that Maine's legislators and legislative committees have come to view the Office as a trusted source of objective, credible information. As OPEGA begins its 13<sup>th</sup> year of service to the Legislature, we will continue to conduct our work in a manner that earns your trust and respect, as well as that of Maine's citizens. I hope our efforts and results will continue to be viewed as a worthwhile use of taxpayer dollars.

Sincerely,

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

Beth L. Ashcroft  
Director

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

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# About OPEGA

## History:

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

## Organization:

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

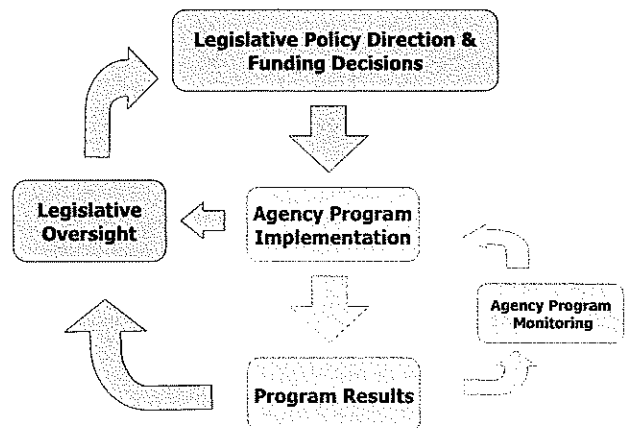
The Legislative Council appoints the Director of OPEGA for five year terms and also sets the Director's salary. OPEGA's activities are overseen by the legislative Government Oversight Committee (GOC), a 12-member bi-partisan and bi-cameral committee appointed by legislative leaders according to Joint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

## Staffing:

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

## Function:

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



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

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

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

## Mission

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

## Vision

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

## Values

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

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

## Overall Goals

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

## 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.

---

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

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

## Key Activities in 2016

### OPEGA Completed Two Projects and Conducted Substantial Work on Six Others

OPEGA's GOC-approved Work Plan for 2015-2016 included 16 projects – one of which was added in 2016. The 16 projects included 13 full performance reviews, one follow-up review and two special projects. OPEGA's Work Plan and project status are shown in Table 1 and posted on OPEGA's web site.

Project Name	Date Initiated	Scope Approved	Status	Date Completed
Special Project: Tax Expenditure Expedited Reviews-Necessity of Life	Jan 2016	Scope is per statute	Completed	July 2016
Riverview Psychiatric Center	Sept 2014	Sept 2014	Completed	April 2016
Follow-Up Review: Office of Information Technology	Nov 2012	Nov 2012	Completed	Aug 2015
Special Project: Tax Expenditure Programs Phase II	April 2014	April 2014	Completed	Mar 2015
DHHS Workplace Culture and Environment	July 2014	NA	Completed	April 2015
State Funding for Good Will-Hinckley	July 2015	June 2015	Completed	Sept 2015
DHHS Licensing and Regulation of Child Care Providers	April 2014	NA	Suspended	
	March 2016	May 2016	In Progress	
Northern New England Passenger Rail Authority	March 2016	Nov 2016	In Progress	
State Lottery	Aug 2013	Dec 2013	In Progress	
Tax Expenditure: Employment Tax Increment Financing	Oct 2015	Jan 2016	In Progress	
Tax Expenditure: New Markets Capital Investment Credit	Oct 2015	Jan 2016	In Progress	
Tax Expenditure: Pine Tree Development Zones	Oct 2015	Jan 2016	In Progress	
DHHS Audit Functions	NA	NA	Planned	
Independent Living Services (multiple programs)	NA	NA	Planned	
Public Utilities Commission: Independent Assessments	NA	NA	Planned	
The Fund for A Healthy Maine	NA	NA	Planned	

In 2016, the Office finished its work on two projects, a performance review of Riverview Psychiatric Hospital and a special project to support review of a group of tax expenditures by the Legislature's Joint Standing Committee on Taxation (TAX).

***Riverview Psychiatric Center (RPC).*** The GOC added the RPC review to OPEGA's Work Plan in late September 2014. Work on this review began in December 2014 and was completed in April 2016. A number of factors contributed to the length of time it took to complete this project including the need to coordinate with RPC on scheduling interviews with numerous direct care staff and on gaining access to a variety of RPC records. Questions also arose about what records RPC could allow OPEGA access to, and in what form, under various federal regulations. Both RPC and OPEGA sought assistance from the Attorney General's Office in resolving the access concerns. OPEGA's final report made ten recommendations. A summary of review results is on page 9.

***Special Project: Tax Expenditure Expedited Review-Necessity of Life.*** In accordance with 3 MRSA §1000, OPEGA collected and prepared certain information on 13 tax expenditures. These tax expenditures were sales tax exemptions for "necessity of life" items. OPEGA presented the information to TAX in July 2016 and TAX used it to conduct the statutorily-required Expedited Reviews. This OPEGA project is summarized on page 10.

During 2016, OPEGA conducted substantial work on six other performance reviews: Northern New England Passenger Rail Authority, State Lottery, DHHS Child Care Licensing and Regulation, and three Tax Expenditure evaluations. The final reports on five of these reviews are expected to be released by the end of April 2017.

***Northern New England Passenger Rail Authority (NNEPRA).*** OPEGA began work on this project in March 2016. The comprehensive preliminary research phase of this review was completed in July 2016. It culminated in OPEGA preparing an Information Brief on the subject matter prior to the GOC making decisions about whether to proceed further with more in-depth review of particular areas. OPEGA publicly presented the Information Brief in September 2016 and the GOC solicited public comment on it at the Committee's October meeting. In November 2016, the GOC voted for OPEGA to continue with more in-depth review of several areas. Consequently, this review is still in progress and OPEGA will resume work on it once other projects that are near completion are finished. A summary of this project to date is on page 12.

***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 (MCPPIR). OPEGA currently expects to issue the final report on this review in April 2017. 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.

***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 we currently expect to release the final report in March 2017.

**Tax Expenditure Evaluations.** Title 3 § 999 requires OPEGA to conduct evaluations of specified tax expenditure programs in accordance with a schedule approved by the GOC. Three tax expenditure programs were scheduled for review in 2016: Employment Tax Increment Financing (ETIF), New Markets Capital Investment Program (NMTC), and Pine Tree Development Zones (PTDZ). OPEGA has a dedicated team of two full-time resources to conduct these reviews and also contracted with a consultant for assistance with economic impact modeling desired for these projects. These three projects all were initiated in October 2015 and ran concurrently throughout 2016 with the GOC approving the scope for each of them in January 2016. OPEGA is currently scheduled to report out on NMTC in March 2017 and on both ETIF and PTDZ in April 2017.

OPEGA did not have sufficient resources in 2016 to do any work on the four projects in Planned status on the 2015 – 2016 Work Plan. Two of these projects - DHHS Audit Functions and Public Utilities Commission: Independent Assessments - were carried over from the 2013 - 2014 Work Plan and have again been carried over to the 2017 – 2018 Work Plan. The other two projects in Planned status – Fund for a Healthy Maine and Independent Living Services – have also been carried over. The GOC for the 128<sup>th</sup> Legislature is currently in process of determining what projects will be on OPEGA’s 2017 – 2018 Work Plan and will be considering whether any of the carried over projects In Progress or Planned should be removed.

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## OPEGA Monitored Actions Taken on Past Reports

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

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 seven reports listed in Table 2 had outstanding recommendations and were in active follow-up status in 2016. During 2016, the GOC received report backs from responsible agencies on five of these reviews and has now ceased active follow-up on four of them. OPEGA and the GOC did not get to follow-up with Maine State Housing Authority on its Weatherization Programs in 2016 and follow-up on that review will continue in 2017. The Office of Information Technology review will also remain in active follow-up status.

Additionally, the review of Economic Development Programs in Maine will continue in active follow-up status while the GOC continues to pursue initiating legislation as a means to implement the unaddressed recommendations in that report, or improve upon measures that have been implemented.

<b>Table 2. OPEGA Reports in Active Follow-up Status in 2016</b>
Follow-Up Review of the Office of Information Technology (2015)
Maine Economic Improvement Fund (2014)
Healthy Maine Partnerships' FY13 Contracts and Funding (2013)
Public Utilities Commission (2013)
Maine State Housing Authority: Energy Assistance Programs LIHEAP and WAP (2013)
Child Development Services (2012)
Economic Development Programs in Maine (2006)

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

## 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, 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, with a breakdown by implementation status, at two year intervals for the last six years. For the period January 2005 through December 2016 (based on OPEGA’s follow-up to date), 62% of all recommendations made (138 of 221) have been implemented or affirmatively addressed including:

- 67% of the recommendations directed to management (105 of 157); and
- 52% of recommendations directed to the Legislature (33 of 64).

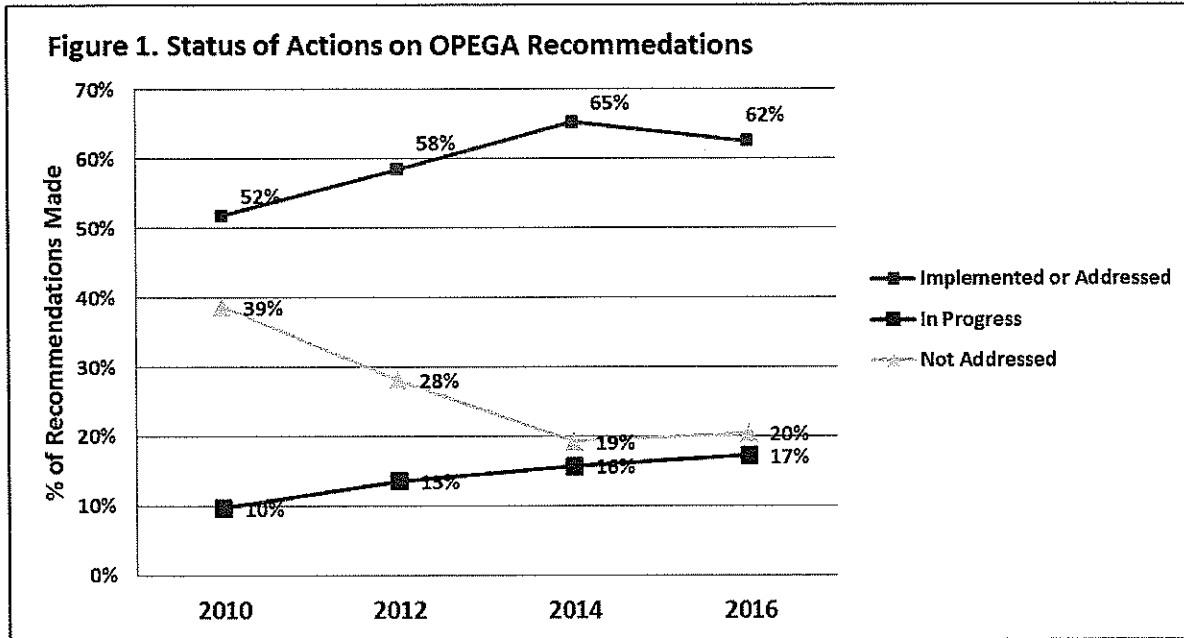
OPEGA is aware of activities in progress that, if successfully completed, could result in implementation of another 38 recommendations, of which 29 were directed to management and nine to the Legislature. Seven of the 29 directed to management are in progress due to actions of the GOC or the passage of legislation that directed improvements be made.

Status	2010	2012	2014	2016
Implemented or Affirmatively Addressed	75	104	129	138
In Progress	14	24	31	38
Not Addressed as of Last Follow-Up	56	50	38	45
<b>Cumulative Total of Recommendations Made</b>	<b>145</b>	<b>178</b>	<b>198</b>	<b>221</b>

Of the 45 recommendations that had not been addressed as of OPEGA's last follow up, 41 are from 14 OPEGA reports that the Office and GOC are no longer conducting active follow-up on. The other four are from reports released in August 2015 and April 2016.

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.



Over the past six years, as shown in Figure 1, the percentage of total OPEGA recommendations implemented or affirmatively addressed has generally increased. 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. The drop in percentage of recommendations implemented in 2016, with corresponding increases in the percent in progress or unaddressed, is related to OPEGA’s two most recent reports Follow-Up Review: Office of Information Technology and Riverview Psychiatric Center. In both cases, there are a number of actions we believe to be in progress, but which we have not yet verified as completed, as well as a few that we believe have not yet been addressed as of our last check on the status of implementation. OPEGA and the GOC are continuing to monitor actions taken on these reports.

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## OPEGA Supported GOC and Other Legislative Efforts

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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 13 meetings in 2016. 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 2016, the Office processed and/or conducted research related to two formal requests for OPEGA reviews. The GOC actively considered both requests. The Committee placed one, Independent Living Services, on OPEGA’s Work Plan for 2015 - 2016, and specified that the other, Maine Capital Investment Credit, be placed on OPEGA’s Tax Expenditure Review Schedule for 2017. In 2016, OPEGA also fielded contacts from approximately 20 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.

Throughout 2016, the GOC continued work toward introducing legislation that would improve the effectiveness and efficiency of evaluations of the State’s investments in economic development. This effort stemmed from findings in 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. There have been three aspects to the

GOC’s approach that, when implemented, will coordinate and serve to provide for comprehensive assessments of the State’s economic development activities against the goals and objectives of an established long-range plan. OPEGA assisted the Committee in those efforts by identifying elements that needed to be addressed, proposing changes and additions to statute, drafting bills and interfacing with affected agencies. In November 2016, the GOC voted to introduce two bills to the 128<sup>th</sup> Legislature from these efforts. The first has been introduced as LD 367 and the second is still being drafted and reviewed by the GOC.

OPEGA also assisted the Taxation Committee with its Expedited Reviews of 13 tax expenditures by providing information on those sales tax exemptions, as well as a guide to facilitate Committee discussion of review objectives specified in statute.

**OPEGA Stayed Within Budget and Continued to Face Staffing Challenges in 2016**

OPEGA’s actual expenditures have been under budget each year since beginning operations in 2005 and that trend continued in 2016. Table 4 shows OPEGA’s adjusted General Fund budget and actual expenses for the past three fiscal years.

**Table 4. OPEGA’s Adjusted Budget and Expenditures by Year**

	<b>FY 2014</b>	<b>FY2015</b>	<b>FY2016</b>
Total General Fund budget (adjusted)	\$875,003	\$1,070,489	\$1,145,264
Total General Fund dollars expended	\$691,611	\$876,520	\$912,438
<b>Dollar variance of expenditures to budget</b>	<b>(\$183,392)</b>	<b>(\$193,969)</b>	<b>(\$232,826)</b>
<b>% variance of expenditures to budget</b>	<b>(21%)</b>	<b>(18%)</b>	<b>(20%)</b>

The increase in the adjusted budget from FY14 to FY15 is primarily accounted for by an allotment in FY15, from prior year balances, to cover costs associated with a temporary position and anticipated consulting services needed for work on tax expenditures required by Resolves 2013 Chapter 115. OPEGA’s adjusted budget for FY15 also reflected cost of living increases to salaries. OPEGA’s adjusted budget for FY16 also reflects an allotment from OPEGA’s prior year balances 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.

OPEGA’s actual expenditures for FY16 were \$232,826, or about 20%, under the adjusted budget. The variance was primarily due to:

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

OPEGA continued to face staffing challenges with two full-time analyst positions having vacancies that totaled approximately six months in calendar year 2016. One of those positions had been vacant since August 2015 and was filled in April 2016. The other position became vacant in October 2016 and will be filled in February 2017.



## Summary of Projects and Results

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During 2016, OPEGA completed its work on the review of the Riverview Psychiatric Center and a special project supporting the Taxation Committee's Expedited Review of 13 tax expenditure programs. The Office also completed the preliminary research phase of the review of Northern New England Passenger Rail Authority and presented an Information Brief covering that phase to the GOC prior to the Committee's decision on whether to continue further with that review. A listing of all 46 projects OPEGA has produced public work products on since 2005 can be found in Appendix A.

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### Riverview Psychiatric Center

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OPEGA conducted a review of the Riverview Psychiatric Center (RPC), one of two psychiatric hospitals operated by the Department of Health and Human Services (DHHS). The GOC initiated this review in response to concerns raised by current and former employees. OPEGA's review focused on avenues available for staff and patients to report incidents and concerns, and the extent to which reported concerns are addressed. OPEGA also assessed accuracy and reliability of reported performance measures for the hospital. The scope of work involved extensive review of relevant written RPC policies and procedures, interviews with randomly selected direct care staff, and review of documentation and records associated with a randomly selected sample of reported incidents and patient grievances.

OPEGA's research and analyses identified six key reporting avenues internal to RPC and DHHS for patients and staff to report incidents and concerns, particularly those impacting staff and patient safety and patient treatment and rights. Although we noted issues with the quality of the written policy guidance available, we found staff was generally aware of current reporting expectations, requirements, processes and procedures for all six reporting avenues. We also found that staff and managers have generally been adhering to the current expected reporting processes for the five avenues with formal documentation. Consequently, we determined that these five avenues should be effective in bringing incidents and concerns to the timely attention of individuals in positions of authority within RPC and DHHS for review and subsequent action if necessary.

The sixth reporting avenue was for reporting violations of a policy governing staff behavior and professional conduct. There was no formal documentation required and little guidance in the policy as to whether, when, or to whom particular types of behaviors should be escalated. Consequently, there was risk that violations of a more serious or recurring nature may or may not receive timely review and action by the appropriate levels of management.

OPEGA also assessed the extent to which reports of incidents and professional concerns are appropriately addressed by responsible parties. We observed that there are multiple opportunities for incidents and concerns to be brought to the attention of multiple individuals in positions with ability and authority to initiate further actions. RPC also conducts formal, documented follow-up in the form of fact findings, root cause analyses and investigations for certain types of reported incidents. We noted inconsistencies between expected and actual practice for these more formalized follow-up actions. Additionally, we observed that a more formal, ongoing process of analysis and review of data could provide additional insight into root causes of incidents that could then be acted on to avoid recurrence of these events.

Lastly, OPEGA reviewed the accuracy and reliability of performance metrics published in RPC's Quarterly Performance Reports. OPEGA discovered several issues that called into question the accuracy, reliability or meaning of some regularly reported metrics.

Several concerns emerged that were outside the scope of this review. These included staffing concerns and related issues that had also been identified, and were being addressed, as part of the Court Master's ongoing efforts to monitor RPC's compliance with requirements of the Consent Decree Settlement Agreement. The Joint Standing

Committee on Health and Human Services, as well as the GOC and OPEGA, monitored the Court Master's efforts, and DHHS' responses, to these issues throughout the course of OPEGA's review. The other concerns that emerged appeared closely correlated with overall workplace environment and culture issues. RPC and DHHS reported taking a number of actions to address areas identified as needing significant improvement. A new Superintendent also took over at RPC shortly after the conclusion of OPEGA's review.

Overall, OPEGA made a number of recommendations for RPC to consider as it continued its work to improve reporting, documentation, and workplace culture. RPC administration reported that RPC was already in the process of implementing these recommendations.

The GOC voted unanimously to fully endorse OPEGA's Final Report on *Riverview Psychiatric Center*. OPEGA and the Committee are continuing to monitor the status of RPC's actions in response to the reported recommendations through the normal follow-up process.

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### **Special Project: Tax Expenditure Expedited Reviews – Necessity of Life**

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OPEGA is tasked by 3 MRSA § 1000 sub-section 2 with providing information to support the Legislature's Joint Standing Committee on Taxation in carrying out expedited reviews of certain Maine State tax expenditures<sup>4</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.

In July 2016, OPEGA provided the required information to the Taxation Committee of the 127<sup>th</sup> Legislature on the 13 tax expenditures selected for expedited review in 2016. All 13 are sales and use tax exemptions associated with the tax policy area generally described as "Necessity of Life." They included:

1. Grocery Staples
2. Meals Served to Patients in Hospitals and Nursing Homes
3. Fuels for Cooking and Heating Homes
4. Gas Used for Cooking and Heating in Residences
5. Water Used in Private Residences
6. Certain Residential Electricity
7. Rental Charges for Living Quarters in Nursing Homes and Hospitals
8. Rental Charges on Continuous Residence for More Than 28 Days
9. Prescription Drugs
10. Prosthetic Devices
11. Diabetic Supplies
12. Positive Airway Pressure (PAP) Equipment & Sales
13. Funeral Services

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<sup>4</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."

OPEGA gathered much of the required information on these sales tax exemptions from the following sources:

- sections of Maine statute pertaining to each exemption;
- Maine Revenue Services' (MRS) Maine State Tax Expenditure Reports for 2016-2017 and 2014-2015; and
- MRS Sales and Use Tax Bulletins.

In addition, the legislative history summarized in this 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.

None of the sources we reviewed directly identified intended beneficiaries for these exemptions, so OPEGA has defined these based on our understanding of the exemptions.

OPEGA found no definition of "Necessity of Life" as a sales tax exemption policy area that is generally used in Maine, among other states, or among the tax policy experts we consulted. Consequently, OPEGA suggested the Taxation Committee define a "Necessity of Life" as "any good necessary for health and welfare" in assessing whether the exemptions subject to expedited review in 2016 are consistent with the goals of this tax policy area. OPEGA's suggestion was based on a similar definition used by the State of Vermont.<sup>5</sup>

The fiscal impact estimates OPEGA provided for the "Necessity of Life" sales tax exemptions represented estimated foregone revenue for the State. MRS prepares these estimates, based on current tax law, and presents them biennially in its Maine State Tax Expenditure Report as estimated General Fund revenue loss. MRS uses an economic microsimulation model to prepare the estimates for 10 of the 13 "Necessity of Life" tax expenditures and estimates foregone revenue for the other three tax expenditures using various methods.

OPEGA noted substantial increases in the fiscal impact estimates for some exemptions between the years FY13 and FY14. MRS explained these changes as primarily due to a new sales and excise tax model that uses an updated base year for purchases data. For some tax expenditures, the changes were also attributable to other external factors accounted for by the model, such as fuel prices or inflation.

Additionally, we noted a drop in estimated revenue loss between FY15 and FY16 as well as substantial increases in revenue loss estimates for some exemptions between the years FY17 and FY18. MRS explained these trends as being due to the anticipated sales tax rates for each year at the time MRS prepared the estimates for its Tax Expenditure Report for FY14 – FY17. The anticipated general sales and use tax rate was 5.5% for FY14 and FY15 and 5% for FY16 and FY17. The FY18 estimates produced for OPEGA were based on the current sales tax rate which was still at 5.5%. According to MRS, the increases between FY17 and FY18 are also due to changes in the economic forecasts provided to MRS twice a year by the Consensus Economic Forecasting Commission.

OPEGA recognizes that the changes to the microsimulation model, and its inputs, make it challenging to discern any trends or policy impacts over time using the revenue loss estimates published in the Maine State Tax Expenditures Reports. MRS is unable to determine the amount of impact from each of a variety of factors associated with the modeling in any given year. Additionally, MRS explained that its process for producing model-generated estimates of foregone revenue for these biennial Reports does not consider expectations about consumer behavior (such as possible decreases in demand if sales tax is increased) or the State's ability to enforce compliance with tax law, factors that are considered when fiscal notes for specific bills are prepared. As such, the estimates in the MRS Reports do not give the Legislature a complete picture of how much revenue could be recouped if these items were taxed. MRS told OPEGA they do not use these estimates to look at trends; rather, the numbers are "frozen in time" based on the economic forecast using the best information available at the time.

Neither OPEGA nor MRS was able to identify any existing data that could be used to assess how closely MRS' estimates reflected actual forgone revenue, or that would better illustrate trends in fiscal impact.

<sup>5</sup> "Vermont Tax Expenditures 2015 Biennial Report," January 15, 2015.

In addition to providing the Taxation Committee with the required information, OPEGA also prepared a written discussion guide to assist the Committee in meeting the objectives for Expedited Reviews specified in statute. As required by statute, the Taxation Committee reported the results of its reviews to the Legislature in December 2016. The report included several recommendations for the Taxation Committee of the 128<sup>th</sup> Legislature to address particular inconsistencies in several of the exemptions, as well as a recommendation for the Committee to gain a better understanding of MRS' microsimulation model and the fiscal impact estimates generated from it.

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## Northern New England Passenger Rail Authority

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OPEGA completed the initial phase of its review of Northern New England Passenger Rail Authority (NNEPRA), the quasi-State agency that operates the Downeaster passenger rail service. This initial phase of OPEGA's review focused on gaining a sound understanding of NNEPRA and its functions and assessing areas of risk or concern, particularly with regard to use of resources, planning, financial policies and processes, oversight and governance, and management effectiveness. The scope of work included reviewing citizen complaints; interviewing NNEPRA management and other stakeholders; and reviewing various documents including NNEPRA policies and procedures, past federal reviews and independent financial audits, and Maine Department of Transportation (MaineDOT) and NNEPRA's plans for passenger rail. OPEGA also analyzed NNEPRA's financial and performance information. In July 2016, the GOC agreed with OPEGA's recommendation to report the results of the work to date in an Information Brief before deciding whether any areas warranted more in-depth review.

OPEGA reported several observations about NNEPRA's operations, finances and oversight in the Information Brief:

- As is typical of passenger rail services across the country, the Downeaster's operating revenues are not sufficient to cover its operating expenses. However, with the exception of FY15, NNEPRA's cost recovery rate exceeded 50% annually and was consistently two to four percentage points better than the composite comparison group of commuter rail lines. We noted several functions NNEPRA performs that appear key to maximizing ridership and, thus, operating revenues. These include scheduling, fare setting, and marketing.
- NNEPRA has established strong written policies and procedures to ensure economic purchasing; to reduce the risk of inappropriate, unnecessary, or excessive expenditures; and to ensure budgets are reasonable and aligned with established priorities.
- NNEPRA is subject to oversight and governance from a number of entities. The Legislature's Joint Standing Committee on Transportation reviews and confirms the Governor's appointments to the NNEPRA Board and reviews and considers any proposed legislation related to NNEPRA. NNEPRA is also subject to review by the Legislature by way of statutorily required reports. The Federal Railroad Administration (FRA) promotes and enforces rail safety regulations and conducts a yearly audit of one of the FRA-funded projects that NNEPRA has underway. The Federal Transit Administration (FTA) provides financial assistance to NNEPRA through grants and reviews NNEPRA every three years to ensure it is following federal mandates as well as statutory and administrative requirements.
- MaineDOT plays a significant role in the oversight of NNEPRA. In addition to having a seat on the Board, statute requires the MaineDOT Commissioner's approval of NNEPRA's annual operating budget. MaineDOT is responsible for long-term planning for Maine's transportation infrastructure including both freight and passenger rail. Although NNEPRA collaborates with MaineDOT in the planning related to passenger rail, the Authority's role is primarily to implement current passenger rail policy choices and plans as laid out by MaineDOT.

Overall, OPEGA also observed that NNEPRA and the State face particular challenges in implementing passenger rail service in Maine that create inherent risk in achieving desired outcomes for passenger rail service. These challenges are important considerations in establishing realistic expectations for NNEPRA and Downeaster performance, as well as realistic expectations for the societal benefits that passenger rail will generate. The constraints associated with the reliance on operating partners for equipment and infrastructure, and the demographics and needs of riders and potential riders, are among the realities that should be well considered during the evaluation and vetting of proposed expansions and capital improvement projects requiring substantial funding. OPEGA made several suggestions on improvement opportunities for NNEPRA and the State to consider toward ensuring that the realities and challenges identified, as well as public input, are fully considered in future policy-setting and planning for passenger rail in Maine.

The GOC held a public comment period on the Information Brief during which concerned citizens encouraged the GOC to continue with a more in-depth review of NNEPRA. A number of the concerns expressed, however, were outside the scope of the current NNEPRA review. The GOC ultimately voted, on a split vote, to direct OPEGA to continue the current review with a focus on effectiveness of the NNEPRA Board in its various roles, accuracy and transparency of performance metrics for the Downeaster service, and NNEPRA's administration and oversight of contractual arrangements with key partners for operating the Downeaster service. Also on split votes, the GOC put two other NNEPRA-related topics on the Committee's On Deck List for further consideration by a future GOC.

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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. Some notable actions taken on past OPEGA reports in 2016 were:

- ***Economic Development Programs in Maine.*** In November 2016, the GOC voted to introduce two bills to the 128th Legislature intended to improve the effectiveness and efficiency of evaluations of the State's investments in economic development. The GOC has been working toward this legislation since 2015 in an effort 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. There have been three aspects to the GOC's approach that, when implemented, will coordinate and serve to provide for comprehensive assessments of the State's economic development activities against the goals and objectives of an established long-range plan. One bill, recently introduced as LD 367, focuses on clarifying expectations for, and funding, the development of a long-range strategic economic improvement plan for the State. By statute, the Maine Economic Growth Council (MEGC) already has responsibility for that effort. The second bill, which is still being drafted, amends several statutory provisions to improve the efficiency and effectiveness of two separate independent evaluations the Department of Economic and Community Development (DECD) is currently required to conduct every two years. It specifies 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. This bill will also assign OPEGA responsibility for conducting reviews of individual economic development programs with objectives similar to those established for the statutorily required reviews of tax expenditure programs.
- ***Healthy Maine Partnerships' FY13 Contracts and Funding.*** Several actions were initiated or completed in response to OPEGA's 2013 report and the subsequent inquiry of Maine CDC officials.
  - Over the course of 2016, the GOC received periodic status updates from the Secretary of State on actions being taken by State Archives to address recommendations made in an April 2015 report by a working group convened by the Attorney General and Secretary of State at the request of the GOC. The report described the State's records management and retention framework and made recommendations for improving records management and retention practices across State government.

- The Department of Administrative and Financial Services' Division of Purchases made changes to its Policy on Contract Renewals and Amendments to clarify that the policy applied to grants as well as contracts. Similar changes to Division of Purchases' Rules were also in progress. At the GOC's recommendation, the agency also added specific guidance in that policy to address situations where, through renewal or amendment, there are going to be decreases or shifts in funding among multiple original awardees.
- In March 2016, the Maine Center for Disease Control (CDC) issued a new Request for Proposals (RFP) for the next Healthy Maine Partnership initiative (HMP) funding cycle. Development of the RFP involved an extensive process which is described in OPEGA's 2015 Annual Report. Five contracts were awarded and extend through September 2017 after which they will be renewed annually.
- **Child Development Services (CDS).** In July 2016, Child Development Services implemented a new data system called the Child Information Network Connection (CINC) that is expected to address several data-related issues noted in OPEGA's 2012 report on CDS. The CDS Director reported that the real time, web-based data system would bring them light years ahead in efficiently collecting data and having it accessible to the entire CDS team, including contracted providers. The system also links directly to CDS' accounting system and allows for CDS data to be more readily integrated in the Department of Education data. Data in the system can be easily accessed for federal and legislative reporting. CINC also allows management the capability to get real time data through ad hoc queries.
- **Follow-up Review on Office of Information Technology.** Two actions of note were taken in response to OPEGA's 2015 report on the Office of Information Technology. OIT and the Department of Administrative and Financial Services are also continuing to implement other recommendations from that report.
  - The Governor issued Executive Order 2016-006 establishing the State Information Technology Governance Committee effective August 31, 2016. The Order establishes specific responsibilities for the Committee with the overall purpose of ensuring strategic information technology planning and spending. The Committee is composed of seven members, with five permanent members and two members rotating on an annual basis. The permanent membership includes the Chief Information Officer, a member of the Governor's staff, and the Commissioners of the Departments of Administrative and Financial Services, Health and Human Services, and Labor. One of the remaining positions on the Committee is filled by the Commissioner of the Department of Education, the Commissioner of the Department of Transportation, or the Commissioner of the Department of Public Safety on an annual, rotating basis. The remaining position on the Committee is filled by a Commissioner or Director from the other Cabinet Level agencies on an annual, rotating basis. The Chief Information Officer serves as Chair of the Committee.
  - In October 2016, the GOC sent a memo to the Legislative Council for the 127<sup>th</sup> Legislature requesting that the Council consider making a change in legislative oversight for the Office of Information Technology and IT-related matters in State government beginning with the 128<sup>th</sup> Legislature. The GOC expressed concerns regarding the current level of legislative understanding, and effectiveness of legislative oversight, for a variety of information technology matters – concerns which emerged during the GOC's consideration of OPEGA's report. The GOC offered the Council alternatives for strengthening legislative oversight of this critically important and costly area. Those alternatives included assigning jurisdiction of OIT and IT-related matters to a new legislative committee, or of a subcommittee comprised of members from existing committees, with relevant background, experience and/or interest in this technical and complex subject matter. With the transitioning of the Legislature, the GOC forwarded it's request to the Council for the 128<sup>th</sup> Legislature where it is currently being considered.

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*
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 AFA?
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



Report Title	Date Issued	Overall Conclusion	JSCs that Received Report*
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
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

Report Title	Date Issued	Overall Conclusion	JSCs that Received Report*
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
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

Report Title	Date Issued	Overall Conclusion	JSCs that Received Report*
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
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

**Appendix B: Summary of Implementation and Follow-Up Status on Issued Reports**  
 (Implementation status based on information gathered by OPEGA as of 12-31-16)

Report Title	Date Issued	Implementation Status
<b>Reports Still in Active Follow-Up Status (by date of issuance)</b>		
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)
Maine State Housing Authority: Energy Assistance Programs LIHEAP and WAP	July 2013	Partially Implemented (Activity in Progress)
Economic Development Programs in Maine	December 2006	Partially Implemented (Activity in Progress)
<b>Reports No Longer in Active Follow-Up Status (by date of issuance)</b>		
Maine 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
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

Report Title	Date Issued	Implementation Status
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
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- Necessity of Life; 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.



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SEN. ROGER J. KATZ, SENATE CHAIR  
REP. ANNE-MARIE MASTRACCIO, HOUSE CHAIR

MAINE STATE LEGISLATURE  
GOVERNMENT OVERSIGHT COMMITTEE

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To: The Honorable Sarah Gideon, Chair  
The Honorable Michael D. Thibodeau, Vice-Chair  
And Members of the Legislative Council

From: Roger Katz, Senate Chair *RK*  
Anne-Marie Mastraccio, House Chair *Am*  
Government Oversight Committee

Date: January 5, 2017

Re: Suggestions for Change in Legislative Oversight of State Information Technology Matters

Attached please find an October 6, 2016 memo from the Government Oversight Committee to the Legislative Council of the 127<sup>th</sup> Legislature. The memo respectfully requests that the Council consider making a change in legislative oversight for the Office of Information Technology and IT-related matters in State government beginning with the 128<sup>th</sup> Legislature. It discusses the GOC's concerns regarding the current level of legislative understanding, and effectiveness of legislative oversight, for a variety of information technology matters – concerns which emerged during the GOC's consideration of a 2015 report from the Office of Program Evaluation and Government Accountability (OPEGA).

In the memo, the GOC also offers the Council alternatives for strengthening legislative oversight of this critically important and costly area. Those alternatives include assigning jurisdiction of OIT and IT-related matters to a new legislative committee, or of a subcommittee comprised of members from existing committees, with relevant background, experience and/or interest in this technical and complex subject matter.

With the transitioning of the Legislature, we now respectfully request that the Council of the 128<sup>th</sup> Legislature review our concerns and consider taking action. We and OPEGA Director Ashcroft would be pleased to answer any questions the Council has and/or discuss these ideas with legislative leaders.

Attachment

Cc: Grant Pennoyer, Executive Director of the Legislative Council  
Richard Rosen, Commissioner, Department of Administrative and Financial Services  
Jim Smith, CIO, Office of Information Technology  
Members of the Government Oversight Committee



SEN. ROGER J. KATZ, SENATE CHAIR  
REP. CHUCK KRUGER, HOUSE CHAIR

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MAINE STATE LEGISLATURE  
GOVERNMENT OVERSIGHT COMMITTEE

To: The Honorable Michael D. Thibodeau, Chair  
The Honorable Mark W. Eves, Vice-Chair  
And Members of the Legislative Council

From: Roger Katz, Senate Chair *RSK*  
Chuck Kruger, House Chair *CK*  
Government Oversight Committee

Date: October 6, 2016

Re: Suggestions for Change in Legislative Oversight of Information Technology Matters in the  
Maine State Legislature

The Joint Standing Committee on State and Local Government (SLG) is currently the legislative committee of jurisdiction for the State's Office of Information Technology (OIT) and matters related to information technology in State government. The SLG Committee was assigned jurisdiction over this agency and subject matter as a result of a recommendation in the Office of Program Evaluation and Government Accountability's (OPEGA) 2006 report on State-wide Information Technology Planning and Management. That report noted, among other issues, that although all Joint Standing Committees perform some oversight of information systems as they relate to the agencies and/or programs within their jurisdictions, there was not one legislative body assigned responsibility for overseeing the planning and management of Information Technology (IT). At the time, OPEGA suggested SLG Committee as a possible committee of oversight because it was familiar, by virtue of its other responsibilities, with the State's processes for managing investments in large capital asset areas. SLG Committee also already had jurisdiction over the Department of Administrative and Financial Services (DAFS), of which OIT is a part.

In August 2015, OPEGA issued a report from a Follow-up Review of OIT. The report included several recommendations for Executive Branch actions to address substantial challenges impacting the State's ability to properly manage IT-related risks and capitalize on IT-related

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opportunity to discuss possible changes to legislative oversight. From their experience and perspective, the current structure in the Legislature does not necessarily provide for meaningful discussions, understanding and legislative input on the IT expenses and State strategic plan as it relates to technology. Commissioner Rosen explained that under the current structure the SLG Committee is the Committee of oversight for all of DAFS. The IT discussions come up in a piece meal fashion with other legislative committees and then with the Appropriations and Financial Affairs Committee, which goes through a lot of work in a very compressed amount of time. There is not opportunity for strategic discussions regarding IT for the Executive Branch, and there may also be discussions the Legislature would want to have with the Judicial Branch and Legislative Branch on technology budgets and strategic plans as well.

The Commissioner was very supportive of having an entity in the Legislature, other than SLG Committee, that was interested in embracing the IT subject matter. He did not think such an entity necessarily needed to be comprised solely of technology experts. It would also be helpful to have members who had an interest in the subject matter, the enthusiasm to become a champion of IT issues among colleagues, and who could weigh in on behalf of the Legislature as an authoritative voice on OIT's strategic proposals. The Commissioner, from his perspective as a former legislator, also felt that any new committee or subcommittee should be a unit of the Legislative Branch comprised of legislators rather than persons from outside of government. He noted that the committee could bring in any outside expertise to appear before it.

The GOC encourages and appreciates the Council's consideration of these concerns and suggestions for improvement in legislative oversight of the State's information technology. We and Director Ashcroft would be pleased to answer any questions the Council has and/or to further discuss these ideas with those legislative leaders engaged in setting the structure for the 128<sup>th</sup> Legislature.

Cc: Grant Pennoyer, Executive Director of the Legislative Council  
Richard Rosen, Commissioner, Department of Administrative and Financial Services  
Jim Smith, CIO, Office of Information Technology  
Members of the Government Oversight Committee