

Right to Know Advisory Committee  
July 15, 2011  
Meeting Summary

Convened 9:07 a.m., Room 438, State House, Augusta

Present:

Sen. David Hastings  
Rep. Joan Nass  
Perry Antone  
Shenna Bellows  
Joe Brown  
Mike Cianchette  
Richard Flewelling  
Phyllis Gardiner (for Linda Pistner)  
Ted Glessner  
Mal Leary  
Judy Meyer  
Harry Pringle  
Robb Weaver

Absent:

AJ Higgins  
Kelly Morgan  
Linda Pistner  
Mike Violette

Staff:

Peggy Reinsch  
Colleen McCarthy Reid

Introductions

Senator Hastings called the meeting to order at 9:07 a.m. and asked all the members to introduce themselves. Senator Hastings thanked the Advisory Committee for the assistance provided to the Legislature over the past year, including the comments on proposed public records exceptions; he expressed his appreciation for the work the Advisory Committee has taken on for the upcoming year, as well.

Election of Chair

Title 1, section 411, subsection 4 authorizes the Advisory Committee to elect a chair every year. Harry Pringle nominated Senator Hastings to serve as the Chair of the Advisory Committee, and Richard Flewelling seconded the nomination. Senator Hastings was unanimously elected Chair.

Summary of FOA actions during the First Regular Session

Staff summarized the actions of the First Regular Session of the 125th Legislature. Legislative recommendations of the Right to Know Advisory Committee were contained in LD 1082, An Act Concerning the protection of Personal Information in

Communications with Elected Officials, and LD 1154, An Act to Implement the Recommendations of the Right to Know Advisory Committee. The Judiciary Committee approved the recommendations and added unallocated language directing the Advisory Committee to look at the practical and system issues surrounding the maintenance, storage and retrieval of public officials' communications. (LD 1082 became Public Law 2011, chapter 264, and LD 1154 became Public Law 2011, chapter 320.)

Staff also explained the process the Judiciary Committee followed to review public records exceptions proposed in legislation. A chart summarizing the 18 bills and amendments that were reviewed pursuant to Title 1, section 434 was provided.

#### Existing public records review process

Staff outlined the continuing process of reviewing existing public records exceptions. The Advisory Committee is required to evaluate existing exceptions found in Title 22 through 25 this biennium. The Public Records Exceptions Subcommittee tackled the bulk of the exceptions up for review during 2010, leaving only 31 to be completed this year. A chart listing those sections of statute was provided.

#### Continuing projects

The Advisory Committee then discussed the ongoing projects of the Advisory Committee, including the following:

- A revision of the Criminal History Record Information Act (in conjunction with the Criminal Law Advisory Commission, which is working with the Courts' electronic records implementation group);
- The use of technology to allow members of public bodies to participate from a different location;
- Training and education for public officials; and
- The myriad of issues involved in bulk public records.

The Advisory Committee agreed that all the issues should be included in this year's work plan. It was noted that a continuing problem is keeping up with constantly changing technology. Members agreed that the education effort has made significant improvements in compliance with the Freedom of Access laws.

#### Requests from the Legislature

The Advisory Committee reviewed the memo sent by the Judiciary Committee outlining the issues on which the Legislature is seeking the assistance and expertise of the Advisory Committee.

- As mentioned earlier, the maintenance, storage and retrieval of communications of public officials;
- The availability of personal information in public records, raised in LD 917 (not enacted) and addressed for federal agencies by the federal Privacy Act;
- LD 1465, An Act to Amend the Laws Governing Freedom of Access, carried over by the Judiciary Committee; and
- The accessibility and provision of public information in large quantities, usually referred to as "bulk records."

The Advisory Committee discussed the concerns about abuse of public document requests, as identified in a letter from the Governor, and noted that the fee provisions were originally intended to address some of those concerns by allowing payment in advance in some situations, and the \$10 per hour search and retrieval fee. Again, there was recognition that the changes in technology have led to changes in requests.

Discussions about bulk data often start with the litigation between the counties' registries of deeds and the company MacImage. Although the issues raised in that situation need to be discussed, there are additional concerns involving bulk records for which the public and governmental entities are seeking guidance and decisions.

### Law School Extern

Staff explained that a new Extern from the Law School, Diana DeJesus will be joining the work team for the Fall semester. The Advisory Committee expressed its appreciation for the work of the most recent Law School Extern, Sean O'Meara, who graduated in May of this year.

### Subcommittees

The Advisory Committee agreed to organize its work through three subcommittees: Legislative Subcommittee, Public Records Exceptions Subcommittee and Bulk Records Subcommittee. Members present volunteered for one or more subcommittees, and three members agreed to serve as subcommittee chairs as follows:

<u>Legislative Subcommittee</u>	<u>Public Records Exception Subcommittee</u>	<u>Bulk Records Subcommittee</u>
Judy Meyer, Chair	Shenna Bellows, Chair	Mike Cianchette, Chair
Shenna Bellows	Perry Antone	Perry Antone
Mike Cianchette	Joe Brown	Joe Brown
Richard Flewelling	(Ted Glessner, if needed)	Richard Flewelling
Ted Glessner	(Harry Pringle, if needed)	Mal Leary
Mal Leary	(Robb Weaver, if needed)	Judy Meyer
Harry Pringle	Linda Pistner	
Robb Weaver		
Sen. Hastings*	Sen. Hastings*	Sen. Hastings*
Rep. Nass*	Rep. Nass	Rep. Nass*

\*denotes ex officio status, do not count for a quorum

Members who were absent should contact staff as soon as possible to select one or more subcommittees on which to serve: AJ Higgins, Kelly Morgan, Linda Pistner, and Mike Violette.

### Future meetings

The Advisory Committee scheduled four additional meetings for the full Advisory Committee, all to be held in Room 438 of the State House:

- Thursday, September 29, 2011, starting at 1:00 p.m.;

- Thursday, October 27, 2011, starting at 1:00 p.m.;
- Thursday, November 17, 2011, starting at 1:00 p.m.; and
- Thursday, December 8, 2011, starting at 1:00 p.m. if necessary.

The Public Records Exceptions Subcommittee scheduled the following meetings, more will follow:

- Thursday, September 1, 2011, starting at 9:00 a.m.; and
- Thursday, September 29, 2011, starting at 9:00 a.m.

The Legislative Subcommittee scheduled the following meeting, more will follow:

- Thursday, September 1, starting at 1:00 p.m.

The Bulk Records Subcommittee scheduled the following meeting, more to follow:

- Friday, September 9, 2011, starting at 9:00 a.m.

#### Public communications

Mal Leary moved that the issues raised by communications from the public (included in the packet) be referred to the Legislative Subcommittee for review, and the Advisory Committee agreed. The issues are:

- Status of Maine Public Broadcasting Network records under the Freedom of Access laws (Mike Brown);
- Request from the Maine Heritage Policy Center to Maine State Housing Authority for information about public employees;
- Definition of “reasonable time” (Dwight Hines);
- Application of FOA laws to volunteer fire departments (Dwight Hines); and
- UN Rule of Law Indicators: Guides and Tools, July 2011; Transparency (Dwight Hines).

The meeting was adjourned at 11:20 a.m.

Respectfully submitted,  
Peggy Reinsch and Colleen McCarthy Reid

G:\STUDIES 2011\Right to Know Advisory Committee\Meeting Summaries\Summary Advisory Committee July 15 2011 rev2.doc  
(7/26/2011 3:09:00 PM)

Right to Know Advisory Committee  
September 29, 2011  
Meeting Summary

Convened 1:08 p.m., Room 438, State House, Augusta

Present:  
Sen. David Hastings  
Rep. Joan Nass  
Perry Antone  
Shenna Bellows  
Joe Brown  
Mike Cianchette  
Richard Flewelling  
Ted Glessner  
Mal Leary  
Bill Logan  
Linda Pistner  
Harry Pringle

Absent:  
Judy Meyer  
Mike Violette

Staff:  
Peggy Reinsch  
Colleen McCarthy Reid

Introductions and Welcome to New Member

Senator Hastings called the meeting to order and asked all the members to introduce themselves. Senator Hastings also welcomed Bill Logan, a lawyer in private practice in Newport, as a new member representing the public. Mr. Logan replaces Robb Weaver who resigned from the Advisory Committee.

Bulk Records Subcommittee Update

Michael Cianchette, chair of the subcommittee, reported that the subcommittee met once on September 12<sup>th</sup>. At the meeting, the subcommittee received an update from staff on the activities of the last year's Bulk Records Subcommittee as well as a briefing from Greg McNeal of the Office of Information Technology on the work of the OIT Stakeholder Group convened at the request of the State and Local Government Committee. Previous discussions focused on county registry of deeds and requests for bulk data.

Mr. Cianchette explained that the subcommittee discussed the scope of its charge and agreed that issues related to bulk data go beyond records maintained by county registry of deeds and that bulk data requests impact a wide range of records and electronic databases maintained by government agencies. The subcommittee reviewed other state laws that define bulk data and determined that other state laws do not provide any guidance for a clear statutory definition or approach to bulk data. The subcommittee decided to gather public input and suggestions for how to address bulk data issues.

Mr. Cianchette reported that the subcommittee will hold a public hearing on Friday, October 14<sup>th</sup> to get input from state and local government agencies and interested parties on four questions:

1. What is bulk data and how should it be defined?
2. What is the appropriate method of determining the cost that a requestor must pay for bulk data?
3. Should a requestor of bulk data be entitled to the records in the format and type of access requested? Should a distinction be made between a requester seeking access to records and a requester seeking ownership of records?
4. Should the law distinguish between bulk data requests of public records for commercial purposes versus requests for noncommercial purposes?

After the public hearing on October 14, the subcommittee will meet on October 21 to discuss the testimony provided at the hearing.

Sen. Hastings stated that he believed that this is an important issue that would benefit from a comprehensive analysis as previous legislative actions have been haphazard and focused on county registry of deeds records. Mr. Cianchette agreed; the subcommittee is interested in addressing bulk data as a whole in a straightforward manner without focusing solely on deeds.

However, Shenna Bellows and Mal Leary noted the ongoing litigation between MacImage and the county registries of deeds related to this issue and told the Advisory Committee that the ACLU of Maine and the Maine Freedom of Information Coalition have filed amici briefs in support of MacImage in the appeal being considered by the Maine Supreme Judicial Court. Mr. Leary expressed his concern about some of the legal arguments being made in the case that assert that deeds are not public records. Because of the important legal issues being considered about whether businesses making requests for records can be treated differently, Mr. Leary also wondered whether the subcommittee or the Advisory Committee can resolve this issue before the Law Court weighs in. Harry Pringle stated that the MacImage case is an interesting Law Court case, but he believed the Advisory Committee has the ability to bring common sense to the issue by balancing the right to know with the ability of government to charge for reasonable access to records. Mr. Pringle commended the subcommittee for its decision to hold a public hearing.

Joe Brown stressed the importance of defining bulk data for registries of deeds, but also for state government agencies and law enforcement. Mr. Brown also asserted his opinion that there is a difference between the use of public records or bulk data like deeds for commercial use versus personal use. Sen. Hastings asked if the law should require a person to state the purpose of a records request. Mr. Pringle explained that the law does not require a person to state a reason for a request, but the law does permit a government agency to ask for clarification from the requester about which record or records are being requested. Mr. Leary noted his concerns about the application of the law if requests from businesses are treated differently than requests from individuals. Mr. Cianchette remarked that the law could distinguish between the identity of the requester and the intended use of the records requested; the goal of the subcommittee is to develop a statutory framework, if possible. Sen. Hastings stated that the subcommittee and Advisory Committee will have a better idea if a statutory solution is possible after the public hearing.

#### Public Records Exception Subcommittee Update

Shenna Bellows, chair of the subcommittee, gave the update from the Public Records Exception Subcommittee. The subcommittee met twice, including the morning of the Advisory Committee

meeting, and will meet again on October 27. The subcommittee has reviewed 31 existing public records exceptions; these are the remaining exceptions of the more than 120 exceptions in Titles 22 to 25 that the subcommittee began reviewing last year. The subcommittee has made recommendations on 21 exceptions and has done its due diligence in its review by seeking input from the Department of Health and Human Services, Bureau of Insurance, Maine Turnpike Authority, Maine Department of Transportation, Board of Licensure in Medicine, Attorney General's Office, Maine Health Data Organization and Maine Trial Lawyers' Association.

The subcommittee has tabled 8 exceptions for further discussion at its next meeting. Ms. Bellows flagged four issues identified by the subcommittee that she wanted to bring to the Advisory Committee's attention.

Issue #1: The subcommittee has identified certain statutes as obsolete, but records exist. The subcommittee is recommending language to preserve the confidentiality of certain records, if necessary, after the statute is repealed.

Issue #2; The subcommittee has identified certain statutes that have never been implemented that contain confidentiality provisions which have been recommended for complete repeal. The subcommittee believes the policy question related to the repeal of an entire program authorized in statute (including its public records exceptions) but never implemented goes beyond their scope. The subcommittee will recommend that the issue be referred to the relevant policy committee of the Legislature for further review.

Issue # 3: The subcommittee has identified the use of inconsistent statutory language in certain public records exceptions, e.g. exception relating to confidentiality of examination records held by the Bureau of Insurance. The subcommittee will note the inconsistency when identified and will recommend that the issue be referred to the relevant policy committee of the Legislature for further review.

Issue #4: The subcommittee is reviewing an existing exception that protects information related to sentinel events, i.e. substantial medical errors leading to injury or death in hospitals and other facilities, reported to the Department of Health and Human Services. After discussing the exception at this morning's meeting with a representative of the Attorney General's Office, Ms. Bellows noted the mixed feelings of the subcommittee about the very broad confidentiality provision; whether the provision is needed to ensure that hospitals and others report sentinel events and whether, as a result, there is no mechanism to alert the public about serious medical errors. Ms. Bellows explained that the subcommittee has several options for moving forward with their discussion of sentinel events and asked the Advisory Committee members for their opinion on how best to move forward. Should the subcommittee recommend an amendment to the provision for review? Should the subcommittee hold a hearing and/or seek input from the Department of Health and Human Services, the Maine Hospital Association, Maine Medical Association and other stakeholders? Should the subcommittee recommend that this issue be referred to the Health and Human Services Committee or Judiciary Committee for review? After brief discussion, the Advisory Committee recommended that the subcommittee bring the interested parties together before making a final recommendation on the sentinel events provision.

## Legislative Subcommittee Update

Mal Leary gave the update for the Legislative Subcommittee for Subcommittee Chair, Judy Meyer, who was absent. The Legislative Subcommittee held one meeting; another is scheduled for October 6.

Mr. Leary reported that the subcommittee received a presentation from a representative of the Criminal Law Advisory Commission of a proposed re-draft of the Criminal History Record Information Act. The Criminal History Record Information Act implicates public and confidential records; the subcommittee will review the specific confidentiality provisions in the Act at the next meeting. Mr. Leary also noted that this proposed redraft will be an important policy issue when presented to the Legislature for consideration.

The subcommittee also heard an overview presentation from the Maine Heritage Policy Center on LD 1465, An Act to Amend the Laws Governing Freedom of Access. The Maine Heritage Policy Center worked with Sen. Rosen and other stakeholders in drafting LD 1465 but was the leading proponent of the bill before the Legislature. The overview focused on 3 reforms included in LD 1465: timelines, form of requests and public access officers. Mr. Leary noted that the subcommittee will discuss LD 1465 at its next meeting. The hardest issue to resolve will be the proposed timelines in the bill for responses to FOA requests. Other proposals in the bill related to public access officers and ombudsman funding may generate more agreement among the subcommittee. The subcommittee discussed the potential for making unanimous recommendations that certain provisions of LD 1465 move forward.

Mr. Leary reported that the subcommittee also discussed a request from Chris Parr, Staff Attorney in the Maine State Police, Department of Public Safety, asking the subcommittee to consider the question of what is a FOA request and whether a formal request that cites the FOA laws is necessary. The subcommittee agreed that formality is not and should not be required for a request, particularly for the general member of the public making a request. Mr. Cianchette noted that the subcommittee discussed whether formality may become more necessary if changes to the law like the timelines proposed in LD 1465 are adopted. Finally, Mr. Leary stated that the subcommittee has not yet discussed the letter received by the Governor related to possible abuses of the FOA laws through frivolous requests made to the Governor's Office, but that the subcommittee plans to discuss the issue in the future.

Sen. Hastings asked for the Advisory Committee's thoughts on LD 1465, particularly the proposed timelines. Linda Pistner stated that she believed it would be hard to develop a fixed timeline for all bodies; the current law's reasonable time standard is recognition by the Legislature that one approach may not fit everyone. Richard Flewelling agreed that the current law allows a balancing test to consider the scope of the request and the staff time needed to respond, but also requires that agencies acknowledge the request within a reasonable time. Mr. Flewelling noted that he does not represent the policy position of the Maine Municipal Association on legislation, but stated that he believed it would be very hard for municipalities to comply with the deadlines proposed in LD 1465.

Sen. Hastings asked about the recourse available in the law when agencies do not respond. Mr. Flewelling noted the provision allowing for the recovery of attorney's fees when government bodies act in bad faith. Ms. Bellows stated that her organization does get complaints about lack of responses to FOA requests and indicated her belief that timelines could be developed with escape clauses. Mr. Cianchette agreed that the example brought forward by the Maine Heritage Policy Center of the Maine Turnpike Authority's failure to respond to a request in a timely manner is



egregious. However, Mr. Cianchette believes the language in LD 1465 is ambiguous; the “reasonable” standard in current law is a legal term of art that courts can interpret on a case by case basis. Mr. Pringle stated his view that the current law is reasonable; the MTA example would be “unreasonable” under current law and an easy case for a court to decide. Mr. Pringle also noted that the Legislature recently enacted a law requiring that a record of public proceedings be provided in a “reasonable” period of time. Mr. Pringle cautioned against using one obvious abuse of the statute as a reason to make changes. Kelly Morgan stated that the proposed timelines in LD 1465 are not likely to pass as drafted, but expressed her concern about requiring persons to go to court as the only mechanism to enforce the law. Mr. Leary expressed his strong belief that an ombudsman is clearly needed to make sure government bodies are complying with the FOA laws, noting the success of ombudsman offices in other states like Texas.

Sen. Hastings asked about the provision in LD 1465 requiring that government bodies designate a public access officer and whether government bodies had the capacity to do so. Mr. Leary reminded the Advisory Committee that LD 1465 allows an agency to assign an existing employee as the public access officer; it does not require that a new position be created and budgeted. Mr. Cianchette stated that Governor LePage reissued the Executive Order requiring state agencies to have an FOA contact person, but indicated some concern that LD 1465 may overreach in dictating management functions for agencies. Mr. Cianchette noted that the bill as written requires FOA requests to be answered in the absence of the public access officer. He suggested a better approach might be to require FOA training for the chief administrative officer of government bodies. Mr. Leary stated he supported such a proposal several years ago and continues to support this, but that concerns about whether it is a municipal mandate affected its passage. Mr. Flewelling reiterated that he cannot take a legislative position on behalf of MMA, but stated that MMA has advocated for making mandatory training applicable to appointed officials as well as elected officials and has conducted extensive FOA training for its members.

#### Discussion: How to resolve FOA requests/response problems?

Sen. Hastings remarked that the Advisory Committee’s discussion led nicely into the last agenda item for discussion: How to resolve FOA requests/problems? Is there a resolution process that is fair to both requesters and public offices? Sen. Hastings noted the informal role of the Attorney General’s Office, and of Linda Pistner herself, in resolving issues brought to them. Although the Ombudsman position has never been funded, Sen. Hastings stated he believed the AG’s Office has been able to resolve almost all issues and suggested that funding the Ombudsman position and formalizing that role may be the most effective way to resolve disputes. Mr. Pringle agreed completely that the need for an ombudsman is critical and that the Advisory Committee has supported its establishment and funding for many years. Ms. Bellows suggested that an ombudsman could bring savings by helping to avoid litigation. Sen. Hastings asked if the Legislative Subcommittee would be willing to review the statutory duties of the ombudsman and make recommendations for any changes. Mr. Leary agreed to bring the issue to the Legislative Subcommittee. Mr. Cianchette indicated that, if the Advisory Committee is able to address concerns raised by Governor, the Governor will again consider providing funding for the Ombudsman position in the budget. Sen. Hastings stated that, although it is up to the Legislature to fund the position, the inclusion of the position in the Governor’s budget is an important factor and he hopes that the Governor recognizes the value of the position.

Sen. Hastings suggested that the Legislative Subcommittee review LD 1465 with the expectation that the ombudsman will be funded and wondered if some of the provisions in LD 1465 would still be necessary if an ombudsman were in place.

### Scheduling of Future Meetings

After recognizing that the subcommittees may benefit from additional time to complete their work, the Advisory Committee agreed to cancel its October 27<sup>th</sup> meeting. The Advisory Committee agreed to keep its November meeting date as scheduled and will meet on December 8, which they had previously scheduled only if necessary,

Meetings of the Advisory Committee and subcommittees are scheduled as follows. All meetings are to be held in Room 438 of the State House.

#### **Advisory Committee:**

- Thursday, November 17, 2011, starting at 1:00 p.m.; and
- Thursday, December 8, 2011, starting at 1:00 p.m.

#### **Public Records Exceptions Subcommittee:**

- Thursday, October 27, 2011, starting at 1:00 p.m.

#### **Legislative Subcommittee:**

- Thursday, October 6, 2011, starting at 12:00 noon.

#### **Bulk Records Subcommittee:**

- Friday, October 14, 2011, starting at 9:00 a.m. (*Public Hearing*); and
- Friday, October 21, 2011, starting at 9:00 a.m.

The meeting was adjourned at 3:00 p.m.

Respectfully submitted,  
Peggy Reinsch and Colleen McCarthy Reid

G:\STUDIES 2011\Right to Know Advisory Committee\Meeting Summaries\Summary Advisory Committee sept 29 2011.doc (10/4/2011 10:22:00 AM)

Right to Know Advisory Committee  
November 17, 2011  
Meeting Summary

Convened 1:28 p.m., Room 438, State House, Augusta

Present:

Sen. David Hastings  
Rep. Joan Nass  
Shenna Bellows  
Joe Brown  
Mike Cianchette  
Richard Flewelling  
Ted Glessner  
Bill Logan  
Judy Meyer  
Kelly Morgan  
Linda Pistner  
Harry Pringle

Absent:

Perry Antone  
AJ Higgins  
Mal Leary  
Mike Violette

Staff:

Peggy Reinsch  
Colleen McCarthy Reid

Introductions

Senator Hastings called the meeting to order and asked all the members to introduce themselves.

Citizen's Guide draft

Diana DeJesus, a Second-year Law Student at the Maine School of Law is currently the Right to Know Advisory Committee's Law Extern. Ms. DeJesus presented a draft of one of her projects: "A Citizen's Guide to Using the Maine Freedom of Access Act." She developed the publication after reviewing the website and noting that although the Frequently Asked Questions (FAQs) page is incredibly useful and informative, it does not provide instruction on how to use the Freedom of Access laws. Using a Florida publication as a guide, Ms. DeJesus used the information from the FAQ page to present the same information in a more simplified and accessible way. She envisions the document, once finalized, being made available on the State's Freedom of Access website. She would also like to create a basic version in a bookmark form that would direct people to the website, and which could be distributed at libraries and other resources. Linda Pistner, Ms. DeJesus's supervisor in the externship project, noted that Ms. DeJesus is pursuing funding, perhaps from the Nation Freedom of Information Coalition, to cover the costs of printing the Citizen's Guide. Any comments for improvement can be sent to staff, who will forward them to Ms. DeJesus.

Bulk Records Subcommittee Update

Michael Cianchette, chair of the Subcommittee, reported that since the last full Advisory Committee meeting, the Bulk Records Subcommittee had held a public hearing, and then held a follow-up meeting. The Subcommittee then joined forces with the Legislative Subcommittee for a combined meeting on November 10th. He noted that the Registries of Deeds issues are ongoing, and the bulk records questions were broader than just the application to the counties. He

reported that the Subcommittee realized that there was no way to work through bulk records as an issue separate from and outside the Freedom of Access laws. The Subcommittee agreed that defining “bulk records” was problematic; they concluded that they did not need to define the term if bulk records requests could generally be treated like any other public records request. In discussing how responses to record requests should be formatted (electronic, paper, etc.), the Subcommittee found common ground with the Legislative Subcommittee and they approached those questions together.

Senator Hastings asked whether the Subcommittee found distinguishing between commercial and noncommercial requests would be useful, and whether the Subcommittee thought there should be a separate way to establish fees for bulk records requests. Mr. Cianchette explained the discussions about fees, including thoughts about rule-making and fee schedules. He said the Subcommittee tried to separate deeds from the rest of the issues, especially since there is a separate statute that addresses issues specifically related to the Registries of Deeds. He said that the Secretary of State’s Office works with InforME on filing fees and other cost issues relating to the SOS records. The Subcommittee concluded that fees for bulk records should not be handled separately from other public records. Joe Brown wanted to make sure the Advisory Committee was aware that he didn’t agree with the rest of the Subcommittee, and thought it would be appropriate to handle bulk records requests differently based on whether the requestor will be using the information for commercial or noncommercial purposes. He noted that the State already draws distinctions between commercial and noncommercial purposes in other areas, such as registering motor vehicles and in shellfish licenses. Reflecting that same distinction in bulk records, especially with regard to deeds, would not be unreasonable. Mr. Brown emphasized the importance of protecting the integrity of the deeds.

Mr. Cianchette noted that the deeds issues had bogged down general discussion in the past. He mentioned other bulk records: the Secretary of State works with InforME as well as big purchasers for different data sets; general financial records, including payroll records, are also requested and made available in bulk. The Subcommittee reached consensus in finding that deeds are public records, and would otherwise fall under the FOA laws generally.

Judy Meyer said that if you set up a commercial/noncommercial distinction, then you start investigating motivation and purpose or requests. Also, how do you apply the process uniformly across the state, make small towns act in as sophisticated a manner as large State agencies? Besides, newspapers are commercial entities that are profitable; how would newspaper requests be treated?

Senator Hastings noted that Registries of Deeds are the only records center that has turned into a profit center. The counties are concerned that if you take away the ability of the Registries to charge fees, then the counties must raise property taxes to make up the difference.

Ms. Meyer said the Subcommittee recommended no change at this time, and the deeds issue aside, she saw no compelling reason to change. Shenna Bellows pointed out that different members chose to recommend no change now for different reasons. The ACLU Maine has filed an amicus brief in the MacImage litigation, siding with Mr. Simpson and his company and against the counties’ position.

Harry Pringle said that the Legislative Subcommittee hadn’t really thought about how the recommendations will affect bulk records like the Registries. Ms. Pistner provided that the recommendation isn’t so much to “do nothing”, but that it is such a hard nut to crack. Something

doesn't seem right, she said, when an agency spends a lot of time and money developing a database and they have to turn it over for the cost of a CD.

Senator Hastings said that the Advisory Committee should expect to vote at the next meeting, and he encouraged any members who have other recommendations to provide specific alternatives.

#### Legislative Subcommittee update, and combined update

Judy Meyer summed up the activities of the Legislative Subcommittee and the work that overlapped with the Bulk Records Subcommittee. She first explained the lengthy review of the Criminal History Record Information Act (CHRIA) revision, facilitated by Special Assistant Attorney General Charlie Leadbetter. The confidentiality provisions of CHRIA were scheduled for review by the Right to Know Advisory Committee in 2008-2009. The Advisory Committee requested the help of the Criminal Law Advisory Commission (CLAC), who pointed out significant other issues in CHRIA that CLAC thought should be addressed. The Advisory Committee officially requested CLAC to undertake the revision, and then have the Advisory Committee review the draft for Freedom of Access review purposes. CLAC's draft was broken into two pieces, the second creating a separate subchapter on intelligence and investigative information, a category of information that is not the same as criminal history. Mr. Leadbetter explained the revisions and improvements in terminology. The Subcommittee agreed that the new language is much clearer with regard to what information is public and what information is confidential. The Subcommittee agreed to recommend that the full Advisory Committee approve the draft. The next step will be for CLAC to submit the bill for consideration by the Legislature. The legislation will be the official product of the Criminal Law Advisory Commission, but the Advisory Committee may be asked to weigh in.

The Advisory Committee members agreed to review the draft revision, which is posted on the website, and be prepared to vote at the next meeting.

Ms. Meyer explained the discussions about the issues raised in LD 1465, as well as related questions that had been directed to the Advisory Committee. She explained that costs and timelines had been thoroughly discussed, and the Bulk Records Subcommittee and the Legislative Subcommittee had agreed to require that a responding agency or official provide an estimate of when a copy of a requested record would be available, rather than setting hard deadlines. The estimate would have to be made in good faith and would be nonbinding. The members agreed to support clarification that requests can be by any means, including over the phone, and the copies can be provided by mailing, which could be more convenient for requestors and responders alike. LD 1465 recommended court-ordered sanctions, which the members decided was already covered by current law and so rejected the proposal. Ms. Meyer said the Subcommittees still have a lot to work through, and that they were not prepared to make recommendations on these issues at this meeting.

Ms. Bellows identified a significant split in the membership with regard to the consideration of new or expanded "working papers" exceptions to the public records definition. She wanted to make sure that such a proposal, if it goes forward, would not be made part of LD 1465, but would be a separate piece of legislation.

Senator Hastings asked for clarification on the various timelines proposed by LD 1465, and Ms. Meyer agreed that there was not consensus. She personally does not think the same timelines can appropriately apply to all situations – the part-time town clerk in a small town, as well as a large

State agency. Kelly Morgan explained that a handful of members disagreed and thinks that a deadline is good, while “reasonable” doesn’t give requestors or agencies a structure in which to work. She thinks a requirement to acknowledge the request within five days would be very helpful. One of Mr. Pringle’s concerns about establishing a deadline is that it will become the date that responses will be made, even if they could have been provided earlier. All agreed that they do not want to eliminate the opportunity for a citizen to walk up to the counter and ask for a public record; formalizing the process is not necessary. Establishing deadlines may require the use of a form for requests in order to track compliance with the deadlines.

Both Subcommittees support funding the Ombudsman within the Attorney General’s Office as a full-time position.

Public Records Exception Subcommittee Update

Ms. Bellows reported on the activities of the Public Records Exceptions Subcommittee. A chart identifying each statute reviewed and its status within the Subcommittee was provided.

Patricia Quinn and Nathaniel Rosenblatt, representing the Northern New England Passenger Rail Authority (NNEPRA), attended the meeting to address any Advisory Committee questions about the Subcommittee’s divided recommendation on the revision of the NNEPRA confidentiality statute. Ms. Meyer was concerned about all estimates for procurement contracts being kept confidential forever, and Ms. Bellows reiterated her concern about the confidentiality of records and correspondence about negotiations after contracts are executed. After much discussion, the Advisory Committee asked staff to look into other statutes that govern contracts, estimates and negotiations and to work with NNEPRA to prepare a redraft. The issue was tabled.

Ms. Bellows then moved acceptance of the Subcommittee’s recommendations on those sections of law on which the members unanimously supported keeping the law as is. Bill Logan seconded the motion, and the vote was unanimous. Accepted as is are the following statutes:

EXCEPTION #	DESCRIPTION
20	Title 22, section 1711-C, subsection 2, relating to hospital records concerning health care information pertaining to an individual
21	Title 22, section 1828, relating to Medicaid and licensing of hospitals, nursing homes and other medical facilities and entities
22	Title 22, 1848, subsection 1, relating to documents and testimony given to Attorney General under Hospital and Health Care Provider Cooperation Act
33	Title 22, section 2706, relating to prohibition on release of vital records in violation of section; recipient must have “direct and legitimate interest” or meet other criteria Amended in 2011, PL 2011, c. 58
34	Title 22, section 2706-A, subsection 6, relating to adoption contact files
35	Title 22, section 2769, subsection 4, relating to adoption contact preference form and medical history form
36	Title 22, section 3022, subsections 8, 12 and 13, relating to medical examiner information
44	Title 22, section 4008, subsection 1, relating to child protective records
55	Title 22, section 8824, subsection 2, relating to the newborn hearing program
56	Title 22, section 8943, relating to the registry for birth defects

EXCEPTION #	DESCRIPTION
59	Title 23, section 1980, subsection 2-B, relating to recorded images used to enforce tolls on the Maine Turnpike  Amended by PL 2011, c. 302, §18
60	Title 23, section 1982, relating to patrons of the Maine Turnpike
61	Title 23, section 4251, subsection 10, relating to records in connection with public-private transportation project proposals of at least \$25,000,000 or imposing new tolls
68	Title 24, section 2604, relating to liability claims reports under the Maine Health Security Act
69	Title 24, section 2853, subsection 1-A, relating to action for professional negligence under the Maine Health Security Act
70	Title 24, section 2857, subsections 1 and 2, relating to mandatory prelitigation screening and mediation panels
73	Title 24-A, section 216, subsections 2 and 5, relating to records of the Bureau of Insurance

Ms. Bellows then explained each of the provisions the Subcommittee had reviewed that the Subcommittee recommended either amendments or letters for legislative committees to review, or on which the members divided. The Advisory Committee accepted all the recommendations.

EXCEPTION #	DESCRIPTION	RECOMMENDATION
22	Title 22, section 1555-D, subsection 1, relating to lists maintained by the Attorney General of known unlicensed tobacco retailers	Proposed draft, but letter to HHS that whole section preempted
22	Title 22, 1848, subsection 1, relating to documents and testimony given to Attorney General under Hospital and Health Care Provider Cooperation Act	Divided report: no change 5-1 (SBellows)
37	Title 22, section 3034, subsection 2, relating to the Chief Medical Examiner missing persons files	AMEND
38	Title 22, section 3188, subsection 4, relating to the Maine Managed Care Insurance Plan Demonstration for uninsured individuals	letter to HHS about repeal because never implemented
39	Title 22, section 3192, subsection 13, relating to Community Health Access Program medical data	letter to HHS about repeal because never implemented
53	Title 22, section 8707, relating to the Maine Health Data Organization	AMEND
94	Title 24-A, section 2393, subsection 2, relating to workers' compensation pool self-insurance and surcharges	AMEND to address when program no longer exists

112	Title 24-A, section 6807, subsection 7, paragraph A, relating to individual identification data of viators	Divided report: no change 3-1 (SBellows) - but letter to IFS to flag that inconsistent with treatment of examination reports
-----	--	--

Ms. Bellows explained that the few remaining sections should be ready for final disposition at the next Advisory Committee meeting. Senator Hastings recognized the work of the Public Records Exceptions Subcommittee and thanked the members for their work.

Senator Hasting adjourned the meeting at 3:22 p.m.

Meetings of the Advisory Committee and subcommittees are scheduled as follows. All meetings are to be held in Room 438 of the State House.

- Thursday, December 8, 2011, 9:00 a.m.: Public Records Exceptions Subcommittee
- Thursday, December 8, 2011, 10:00 a.m.: Bulk records and Legislative Subcommittees
- Thursday, December 8, 2011, 1:00 p.m.: Advisory Committee

Respectfully submitted,  
Peggy Reinsch and Colleen McCarthy Reid

G:\STUDIES 2011\Right to Know Advisory Committee\Meeting Summaries\Summary Advisory Committee November 17 2011.doc (5/17/2012 11:24:00 AM)



DRAFT

Right to Know Advisory Committee  
December 8, 2011  
Meeting Summary

Convened 1:06 p.m., Room 438, State House, Augusta

Present:

Sen. David Hastings  
Rep. Joan Nass  
Perry Antone  
Shenna Bellows  
Joe Brown  
Mike Cianchette  
Richard Flewelling  
Ted Glessner  
AJ Higgins  
Mal Leary  
Bill Logan  
Judy Meyer  
Kelly Morgan  
Linda Pistner  
Harry Pringle

Absent:

Mike Violette

Staff:

Peggy Reinsch  
Colleen McCarthy Reid

**Introductions**

Senator Hastings called the meeting to order and asked all the members to introduce themselves. He thanked all the members for their dedication and effort on behalf of the Right to Know Advisory Committee, especially through the meetings of the subcommittees. He also welcomed in the audience Diana DeJesus, the Right to Know Advisory Committee Law Extern. Linda Pistner explained that Ms. DeJesus will continue work with the Advisory Committee into the next semester, so she will be available to see how the Advisory Committee works with the Legislature.

Senator Hastings then asked for reports from the Subcommittees so the Advisory Committee could complete its recommendations for the final report.

**Legislative Subcommittee Update**

Judy Meyer, Chair of the Legislative Subcommittee, summarized the Subcommittee's work. She started off by explaining that all the meetings were almost completely

consumed by reviewing and developing recommendations for LD 1465, An Act To Amend the Laws Governing Freedom of Access.

#### Criminal History Record Information Act

The Subcommittee did spend a significant amount of time reviewing the draft revision of the Criminal History Record Information Act, guided by Special Assistant Attorney General Charlie Leadbetter. The revision was drafted by the Criminal Law Advisory Commission, partly at the request of the Advisory Committee. The Legislative Subcommittee reviewed the revision, which divides the current law into two separate subchapters to treat intelligence and investigative information separately from criminal history information, to consider the changes made to public access by the revision. The public records exceptions have not changed significantly overall: what is confidential under the existing law will generally be confidential under the revision. Some of the clarifications may be interpreted as narrowing particular public records exceptions, and the revision addresses a few substantive issues that are new to CHRIA. Major differences that users will notice are that the terminology used in the revision and the realigned structure make it abundantly clear what is public and what is not.

The Advisory Committee approved a draft letter to the Criminal Law Advisory Commission, thanking CLAC for its work and accepting the revision as meeting the public access/confidentiality concerns of the Advisory Committee. CLAC is expected to finalize the draft and introduce it as legislation in the Second Regular Session of the 125<sup>th</sup> Legislature.

#### Formality of public records requests

Ms. Meyer said that the Subcommittee also reviewed an inquiry from Chris Parr, Staff Attorney with the State Police, about the necessity for formalities of requests for public records. The Subcommittee agreed that the process should support informal requests, with no need for written requests. Written requests may be considered necessary if strict response deadlines were in place, but not under the current law.

Advisory Committee action on the inquiry was not required, although staff was requested to review the Frequently Asked Questions on the State's FOAA webpage to determine if any clarification would be helpful.

#### Proposed legislation, including LD 1465

Ms. Meyer explained that the Subcommittee, joined by the Bulk Records Subcommittee, went through LD 1465 thoroughly. She guided the Advisory Committee through a document that contained all draft language discussed by the Subcommittees, including a couple of issues not part of LD 1465. The Advisory Committee voted on each section of proposed legislation.

Section 1. Section 1 proposes to enact language to officially name Title 1, chapter 13, subchapter 1 the "Freedom of Access Act."

The Advisory Committee voted 15-0 to support Section 1 as presented.

Section 2. Section 2 addresses the purchase of information technology products and services. The original draft included statement of a policy that the use of new information technology may not reduce public access, in addition to a requirement that agencies consider maximizing public access and the ability to export public data when purchasing information technology products and services.

The Advisory Committee voted 14-1 (Mr. Leary dissenting) to support the revised language to require the consideration of maximizing public access and the exportability of public data while protecting confidential information when agencies are purchasing information technology resources.

Section 3. The details of the functions of a Public Access Officer are included elsewhere in the draft; Section 3 provides a new definition, cross-referencing the new §413, with all the other definitions in §402.

The Advisory Committee voted 15-0 to support Section 3 as presented.

Section 4. Section 4 includes draft language to add two new exceptions to the definition of public records to provide temporary confidentiality to “working papers” of the Governor with regard to legislation and a similar exception that is applicable across government for governing bodies as well as duly-authorized officials. The gubernatorial exception, presented as ¶C-2, is based on the existing working papers exception for the Legislature; the general working papers exception is based on both the Legislature’s exception and language drawn from North Dakota’s law on the same topic. Ms. Meyer made clear that this topic was not included in LD 1465, but was raised by the Governor in a letter to the Advisory Committee this past summer. The Advisory Committee agreed that any proposal on this topic that goes forward will be treated as separate from recommendations about LD 1465.

Ms. Meyer explained that the Legislative and Bulk Records Subcommittees were divided on this topic. A minority had voted to recommend the repeal of the Legislative working papers exception. A majority recommended extending a working papers exception similar to the Legislature’s to the Governor (if the Legislature’s is not repealed), and a minority supported the broad working papers exceptions.

After an in-depth discussion that included the reasoning behind working papers exceptions, the equity of treating co-equal branches of government the same, the role of the Advisory Committee, the question of whether the topic needs more time within the Advisory Committee to hear from more parties and the recognition that making any alterations is a significant change in the Freedom of Access laws and how citizens view and interact with their government, the Advisory Committee took three votes, which were all divided. Some members opposed any exceptions as antithetical to the purpose of the Freedom of Access laws in general. Concern was also raised about the wording and breadth of the proposal protecting records of the Governor and the Governor’s staff. Mr.

Flewelling explained that an informal poll of the 80-member Legislative Policy Committee of the Maine Municipal Association resulted in responders opposing the general government exception 2-1 because it is not necessary, it is exceptionally broad, and they were concerned about how it would be applied in the field.

The Advisory Committee voted 9-6 (Ms. Meyer, Mr. Pringle, Mr. Leary, Ms. Bellows, Ms. Morgan, Mr. Higgins dissenting) to keep the Legislative working papers exception (¶C) as written.

The Advisory Committee voted 10-5 (Ms. Meyer, Mr. Leary, Ms. Bellows, Ms. Morgan, Mr. Higgins dissenting) to support the working papers exception for the Governor (¶C-2) as presented.

The Advisory Committee voted 13-2 (Mr. Pringle, Mr. Cianchette dissenting) to not support the general government working papers exception.

Notice of public proceedings. Ms. Meyer pointed out that LD 1465 had proposed a 3-day notice requirement of public proceedings. Current law requires that notice be “given in ample time to allow public attendance.” The Subcommittees recommended that the proposed change not be made because in practice, three days may likely become the maximum notice provided. It also would limit flexibility in dealing with meetings that last extra-long and may need to spill into the next day.

Sections 5 and 6. The draft proposes the repeal of current §408 to be replaced by a new §408-A (not the same as the §408-A printed in LD 1465). Much of the proposed §408-A tracks current law. It provides for reasonable office hours and the posting of contact information for people seeking access to public records, as well as clarifying that requests do not have to be made in person or in writing. A response may be mailed to the requester, which was proposed in LD 1465. It requires that the agency or official provide a good faith estimate of when a response will be completed, although the time target is not binding. This is an alternative to the more rigid deadlines proposed in LD 1465. Not all members of the Subcommittees agree that no date-certain is appropriate, and they would support an outside deadline to at least acknowledge that a request for public records has been received. The proposed §408-A relocates the requirement that a refusal be made in writing from current §409; the current reference to “a body” that refuses access to records is retained. New subsection 8 codifies the practice that an agency or official is not required to create or compile a record that does not exist.

Subsection 9 addresses an issue raised in LD 1465: A public record must be provided in the medium in which it is stored if the requester so chooses, unless that format does not allow the redaction of confidential information. The record custodian is not required to provide the public record in a medium other than printed or the medium in which it is stored. Subsection 9 also changes the terminology from “translation” to “conversion” to describe the process, for which an agency may charge, to change a public record into a useable format.

Ms. Meyer explained that Subsection 10 does not have the unanimous support of the Subcommittees in that it changes the hourly fee from \$10 to \$15, after the first hour, for searching for, retrieving and compiling the requested public record. Subsection 12 is the same as current law except that it allows the agency or official to charge in advance for copies when the cost exceeds \$30 (current law has a \$20 threshold). Subsection 13, which is the same as current law, provides for waivers of fees.

The Advisory Committee voted 12-3 (Mr. Leary, Ms. Bellows, Ms. Morgan dissenting) to support the proposed new §408-A with the change to \$30 in subsection 11.

Section 7. Section 7 amends subsection 1 of current §409 to reflect the shifting of the refusal language to §408-A.

The Advisory Committee voted 15-0 to support Section 7.

§410. Ms. Meyer explained that the Subcommittees did not include in their recommendations the LD 1465 proposal to specifically authorize injunctive relief for violations (amending §410) because the courts already have that power. Staff provided draft language to clarify the availability of injunctive relief as part of the Frequently Asked Questions part of the State's FOA website.

Section 8. Section 8 provides for the mandatory training of Public Access Officers, who are described in Section 9. Mr. Cianchette would also support the mandatory training of the chief administrative officer of each agency.

The Advisory Committee voted 15-0 to support the proposed Section 8.

Section 9. Ms. Meyer explained that the Bulk Records and Legislative Subcommittees in the morning meeting agreed to changes in the language describing where a Public Access Officer must be appointed – any agency to which the FOA laws apply (including school districts) – and a provision ensuring the appointment of a PAO does not create new hurdles for the public. Specifically, there should be a “no wrong door” policy to ensure that requests are still honored even if not made directly to the PAO. The language must also be clarified to provide that the absence of the PAO does not mean fulfillment of requests can wait until the PAO returns.

The Advisory Committee voted 14-1 (Mr. Leary dissenting because he needs to see the language before he can support) to support Section 9.

Section 10. Section 10 provides funding for a full-time Assistant Attorney General to serve as the Public Access Ombudsman. The funding listed in the appropriations section is based on an April 1, 2012 starting date. Mr. Cianchette recommended that the appropriation go forward along with a letter to the Governor requesting the funding in the Supplemental Budget.

The Advisory Committee voted 15-0 to support the funding in Section 10 and to send a letter to the Governor requesting the funding in the Supplemental Budget.

### **Bulk Records Subcommittee Update**

Mr. Cianchette provided the recommendations of the Bulk Records Subcommittee. He reported that the Subcommittee decided that bulk records should not be treated as a different category of public records. The Subcommittee was about evenly split in thinking about the deeds in the county registries of deeds, and whether there should be a cost differential based on whether the documents were being requested for resale. The Subcommittee decided not to write special provisions in the FOA laws that try to address the deeds issues, fully expecting the counties to continue to working on finding the appropriate formula. The MacImage case is before the Law Court now, and it will be useful to have the ruling of the Court before there are additional changes in the statute. Mr. Leary reminded the Advisory Committee that the freedom of access review statute was amended to ensure that the Judiciary Committee has authority to review proposed legislation that may affect access to public documents.

The Advisory Committee voted 14-0 (Mr. Pringle had left by the time of the vote) to not make specific recommendations but to note that it is an ongoing issue on which litigation and legislation are pending.

### **Public Records Exceptions Subcommittee Update**

Ms. Bellows asked Ms. Pistner to explain the Subcommittee's recommendations as Ms. Pistner had presided at the Subcommittee meeting that morning in Ms. Bellow's absence.

Exceptions 18 & 19. The Subcommittee recommended writing to the Environment and Natural Resources Committee and the Health and Human Services Committee about the "Community Right-to-know Program" in Title 22, governing access to information about hazardous substances, which has never been implemented.

The Advisory Committee voted 14-0 to send the letter to the Environment and Natural Resources Committee and the Health and Human Services Committee, and to make no statutory changes at this time.

Exception 54. The Subcommittee had discussed the complete confidentiality provided by the statute with regard to the reporting of "sentinel events" by hospitals and other providers to the Department of Health and Human Services. Ms. Pistner identified the tension that exists between helping hospitals to improve and giving consumers the information they need to make intelligent choices about which hospital to utilize. The Subcommittee did not recommend statutory changes with the understanding that the subject matter would be taken up again when the Subcommittee reconvenes in 2012; the Subcommittee can then explore the balance in more depth and determine if the public's



need for information can be satisfied without undermining the value of the Sentinel events program.

The Advisory Committee voted 14-0 to carry over Exception 54, to continue the discussion of Title 22, section 8754 in 2012.

Exception 57. Ms. Pistner explained that Title 23, section 63 was redrafted to ensure that engineering estimates of total costs for MaineDOT and Maine Turnpike Authority projects were released when the contracts are executed. Both MaineDOT and MTA support the new language.

The Advisory Committee voted 13-0 (Mr. Brown was out of the room) to support the redraft of Title 23, section 63.

Exception 62. Ms. Pistner explained the discussions about the revisions to the confidentiality statutes applicable to the Northern New England Passenger Rail Authority (NNEPRA). Nathaniel Rosenblatt, an attorney representing NNEPRA, and Marina Douglass of NNEPRA answered questions about availability of information and the numerous audits to which NNEPRA is subjected. There was discussion about the availability of records and correspondence related to contract negotiations being kept confidential, even though the contracts themselves become public once entered into.

The Advisory Committee voted 9-4 (Ms. Meyer, Mr. Leary, Ms. Bellows, Ms. Morgan dissenting; Mr. Brown was out of the room) to support Exception 62, amending 23 §8115 and enacting §8115-A, as drafted.

Exceptions 66 and 67. Ms. Pistner explained that the Subcommittee spent extra time on these sections in the Health Security Act at the request of the medical licensing board. The Subcommittee worked with interested parties and supported (without Ms. Bellows there) changes to ensure that the medical licensing boards' statutes applied to handling all complaints against their doctor licensees, rather than the general licensing board statutes in Title 10. The proposal also includes language that makes the Health Security Act consistent with other licensing boards' statutes that allow the sharing of confidential information with state and federal enforcement agencies if the information contains evidence of possible violations of laws enforced by those agencies. Ms. Bellows objected to that sharing of evidence as being too broad when the licensing boards have not taken disciplinary action; she believes the other agencies can obtain a court order to access the information when necessary.

No changes were recommended for Exception 67, concerning the sharing of hospital privileges and credentialing information with the medical licensing boards.

The Advisory Committee voted 10-2 (Mr. Leary, Ms. Bellows dissenting; Mr. Cianchette abstaining; Mr. Brown was out of the room) to support Exception 66, amending 24 §2505 and 24 §2510, sub-§1.

**Final Report**

Staff will update the draft report with the decisions made at the meeting and send it out for review. Proposed legislation will be in three separate pieces: Proposed public records exceptions changes; LD 1465, which will be prepared as a proposed Committee Amendment; and the “working papers” exception for the Governor and the Governor’s office.

Senator Hasting adjourned the meeting at 4:08 p.m.

No additional meetings of the Advisory Committee or subcommittees are scheduled.

Respectfully submitted,  
Peggy Reinsch and Colleen McCarthy Reid

G:\STUDIES 2011\Right to Know Advisory Committee\Meeting Summaries\Summary Advisory Committee December 8 2011.doc (10/1/2019 1:39:00 PM)