



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

MEMBERS:

SEN. NATHAN L. LIBBY
SEN. PAUL T. DAVIS, SR.
SEN. BILL DIAMOND
SEN. GEOFFREY M. GRATWICK
SEN. THOMAS B. SAVIELLO
REP. JEFFREY K. PIERCE
REP. JENNIFER L. DECHANT
REP. MATTHEW A. HARRINGTON
REP. DEANE RYKERSON
REP. PAULA G. SUTTON

**MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE**

**MEETING SUMMARY
February 17, 2017
Accepted March 10, 2017**

CALL TO ORDER

The Chair, Sen. Katz, called the Government Oversight Committee to order at 9:02 a.m. in the Burton Cross Building.

ATTENDANCE

Senators: Sen. Katz, Sen. Libby, Sen. Davis, and Sen. Gratwick
Absent: Sen. Diamond and Sen. Saviello

Representatives: Rep. Mastraccio, Rep. Pierce, Rep. DeChant, Rep. Harrington,
Rep. Rykerson and Rep. Sutton

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA
Scott Farwell, Senior Analyst, OPEGA
Etta Connors, Adm. Secretary, OPEGA

**INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE
MEMBERS**

The members of the Government Oversight Committee introduced themselves for the benefit of the listening audience.

SUMMARY OF THE JANUARY 27, 2017 GOC MEETING

The Summary of the January 27, 2017 meeting was accepted as written.

NEW BUSINESS

• **Presentation of OPEGA 2016 Annual**

Director Ashcroft presented OPEGA's 2016 Annual Report. (A copy is posted to OPEGA's website at <http://legislature.maine.gov/uploads/originals/final-opega-annual-report-2016-1.pdf> or you can obtain a copy by contacting OPEGA.)

Sen. Libby asked if the funds for additional staff to work on the Tax Expenditure Reviews were sufficient to carry out the Tax Expenditure work. Director Ashcroft said two full time positions were added for the Tax Expenditure Reviews work with the funding for the current biennium coming from OPEGA's unexpended balances from prior years and a small amount from other legislative accounts. The positions are now built into the Fiscal Year 18/19 budget. With OPEGA now ending the first year of work on tax expenditures, the Director did not feel the two positions were sufficient to stay on the six-year schedule that was envisioned for the tax expenditure work and she will be talking with the Committee about that in the next few months.

Rep. Rykerson referred to the Report follow-up work and said having the agency give a report may not give a full picture. The GOC should consider holding a public hearing on some of the follow-up reports because he feels that an agency is evaluating itself in implementing the process. Director Ashcroft agreed that it was not the desired, or most robust, way to follow-up. The most robust way would be for OPEGA to go back in and do a review to see what has been implemented and whether it made the difference it was intended to make. She said OPEGA has not had the time to do that kind of follow-up work and she was not sure what Rep. Rykerson meant by holding a public hearing because the agencies' report backs are at a GOC meeting. Rep. Rykerson referred to Maine Housing for example, to have some of the stakeholders actually be allowed to testify and say whether or not this has been successful in their view. Director Ashcroft said there may have been a couple of times the GOC tried something like that.

Sen. Gratwick asked if there was ever a dollar amount that can be assigned to OPEGA's recommendations and are there best practices in other states around that. Director Ashcroft said one of the indicators OPEGA used to track what they were able to document in terms of savings that could be expected or sometimes there are additional resources that are needed for recommendations. Sometimes it is not saving money, but the need for more money. OPEGA was tracking those statistics over time and up until two years ago had that as an indicator in OPEGA's annual reports. She found, however, a number of problems in trying to track and present that information. First, not every review has a scope to it that is about money, or about saving money, so she found over time that more and more of OPEGA's projects and recommendations were not focused on finding opportunities to save money. In some cases OPEGA can say this may have a financial benefit, but can't estimate what that would be either because there is no way to reasonably estimate it, or because OPEGA does not have the time to spend to try to put together the pieces that would result in a good estimate. OPEGA, in preparing their Annual Report, or in doing follow-up, has often tried to get the agency to tell them if they have saved any money as a result of what OPEGA recommended or did they incur additional expense. Director Ashcroft said if that was a focus and directive of the type of reviews the GOC wanted OPEGA to do, they would try to track that information again.

Director Ashcroft said, in regard to any concern about letting the follow-up on reports go away after two years, that OPEGA regularly reports back, at least on an annual basis to the GOC about what the status of the report recommendations are. Before OPEGA stops following-up on a review, the GOC will have an opportunity to discuss those recommendations still unaddressed and decide if they want to try to do something about them. If the Committee wants OPEGA to continue to follow-up beyond two years, OPEGA will continue to do that. If the Committee wants to take other action, then that is talked about. She gave the 2006 Economic Development Program Report as an example. OPEGA is still following actions from that Report because the GOC continued to want to know what is going on with it and is now actively engaged in introducing legislation for issues that went unaddressed.

Director Ashcroft said she will be presenting OPEGA's Annual Report to the Legislative Council at their March meeting.

The Chair, Rep. Mastraccio, asked if the Director knew if the Legislative Council was also going to be acting on the GOC's January 5, 2017 memo regarding change for legislative oversight of State Information Technology Matters. Director Ashcroft believes that will be on the Council's March agenda.

Sen. Davis asked if OPEGA was now at full staff. Director Ashcroft said OPEGA will be at full staff on February 27th.

- **Review and Approval of OPEGA Proposed Budget for FY 17 - 18**

Director Ashcroft said OPEGA's account is a specific line item in the Legislature's budget and, in the interest of keeping OPEGA as independent as possible, its enabling statute gives authority for approving OPEGA's budget to the GOC. However, the reality is that it is the Legislative Council who puts forward the legislative budget and, therefore, the Council also has a role in determining what OPEGA's budget is ultimately going to be through that process. The Director reviews OPEGA's budget with the GOC and then the GOC sends a letter to the Legislative Council's Budget Subcommittee with regard to any changes they think ought to be made to OPEGA's budget or that they are in agreement with the budget. The GOC Chairs have sometimes attended the Council's Budget Subcommittee meeting to provide additional information about whatever the GOC wanted to convey.

Today was the start of OPEGA's budget process with making the GOC familiar with what amounts are in the FY 18/19 budget. Director Ashcroft summarized OPEGA's budget information.

Rep. Pierce referred to the Civil Right Insurance that was mentioned at the last meeting and noted that the amount for the insurance appears to go up and down. Director Ashcroft did not know why that was. The insurance is in case OPEGA is charged, or somebody claims, we have violated their civil rights and/or tort liability. She did not know the amount of liability coverage, or what amount the policy covers up to, but will find out and let the members know.

Sen. Katz said the Committee will discuss OPEGA's budget at a later time. No action was taken by the GOC on OPEGA's Proposed Budget for FY 18/19.

UNFINISHED BUSINESS

- **Review of Language for GOC-Initiated Bill Related to Evaluation of Economic Development Programs**

- **An Act to Improve Effectiveness and Efficiency of Economic Development Program Evaluations**

Director Ashcroft said the draft legislation of An Act to Improve Effectiveness and Efficiency of Economic Development Program Evaluations is a continuing effort of the GOC to amend statute toward providing for more efficient and effective evaluation of the State's investments in economic development. The process is a three part approach. For part one, the Committee looked at language for a bill at their last meeting that dealt with the Maine Economic Growth Council's (MEGC) responsibilities for developing and maintaining a long-range strategic improvement plan for the State. As a follow-up to that action, she referred members to LD 367 in their notebooks that resulted from that work. That bill has been introduced and the GOC is now working toward getting the language finalized for a second bill that will deal directly with the Department of Economic and Community Development's (DECD) current statutory responsibilities for evaluating the State's research and development activities, as well as with all other economic development programs. DECD currently has a responsibility in statute and there is also a funding mechanism set up in statute to do two separate individual reviews. The changes the GOC previously voted to introduce are reflected in the draft legislation in the Committee's notebook today. The third prong to that approach was that the GOC had decided it would make sense for OPEGA to also be performing reviews of individual programs with an economic development purpose as a complement to what DECD's evaluation would now be designed to do.

Director Ashcroft said the GOC has been provided with what the objectives of what each of the evaluations would be. Those objectives speak to the scope of what would be covered in the detailed individual program evaluations, that would be the piece of the evaluation process that OPEGA would do, versus what is shown as a macro level evaluation, and is what the DECD evaluation is now designed to be. The macro evaluation uses the strategic plan that the MEGC develops as its foundation and point of reference in terms of assessing whether the State's portfolio of economic development programs and

investments are helping achieve this strategic plan or not. If not, why not, and what do we need to do differently. If it does, what can we do to make it better.

The scope of the macro level evaluation is broad questions about the portfolio of programs as a whole. What has been missing in the past is that the level of evaluation DECD has tried to do, has not gotten to a detailed look at any individual economic development program. That has been the frustration that the Legislature has had in wanting to be able to say it may be okay when looking at the whole portfolio, but is a program contributing or not. The GOC decided OPEGA should do a detailed evaluation piece on each individual program similar to what they are doing for Tax Expenditure Programs. This would be to look at the purpose, goals and objectives of the program, what resources are going to it and what the State is getting for results and outcomes for each individual program. Theoretically, the information that would come from those individual evaluations would then be used as a piece of the overall macro level evaluation and should feed each other.

The draft legislation the GOC is looking at today deals only with the piece of the bill that is about DECD's current required evaluations. It does not include the piece that would add OPEGA doing reviews of the individual economic development programs. Director Ashcroft said even though it was decided to combine them in one bill, the reason it is not included in the draft legislation is because of the assessment OPEGA has been doing internally about the Tax Expenditure Reviews and what it is taking for resources to do them, what OPEGA has run into for challenges in making it work as far as access to data and the timing of reviews. OPEGA knows they will be coming back to the GOC within the next few months with their challenges lined out and suggestions for solutions to that. So, she was hesitant to build something into statute about OPEGA taking on economic development programs because it was going to be weaved into the same piece of statute for Tax Expenditures. The Director is concerned about overlap and putting information in this legislation when it has not been completely decided as to what to do on the Tax Expenditure side.

Director Ashcroft is looking to the GOC for whether they want to proceed with this draft legislation on its own and then deal with the OPEGA piece in a separate bill at some point in the future.

Rep. Mastraccio said, in her view, this draft legislation fits with LD 367 which has already been referred to the LCRED Committee and she hopes this draft can be put through so that when the LCRED Committee discusses them, they are discussed together. She is okay with the OPEGA piece being separate. The draft legislation will hold DECD to the fact that there will be a long-range plan and she believes they are critical pieces. She asked how much DECD has weighed in on the draft legislation.

Director Ashcroft said early in the process, when she was structuring the legislation, DECD reviewed the draft and provided their comments. Most of the draft legislation is repealing sections of their current statute and combining them and she thinks DECD was alright with that approach. OPEGA and DECD had hoped to do some work together regarding the funding mechanism because DECD feels it is not a perfect mechanism, but that has not happened. DECD has not weighed in at all on the new objectives that have been established for its evaluation. However, Director Ashcroft has worked with DECD in the past when DECD was putting out the RFPs for the evaluations and she knows that has been one of the bigger struggles in what exactly that scope should be. She thinks having it specified more directly in statute would be something DECD would be in favor of. She said a piece has been added to the legislation for the DECD Commissioner to have to report to the LCRED Committee and the Governor on actions taken on recommendations in the reports that come out of those evaluations. Director Ashcroft has not had any feedback from DECD on what they think about that and she is not sure, at this point, given the scope of what has been laid out, whether the potential recommendations would be something that DECD alone would be able to take action on. The draft legislation anticipates that DECD is the party that reports back regardless of who is supposed to be taking the action. It also gives the LCRED Committee the opportunity to take action to implement recommendations. Director Ashcroft assumes other relevant policy committees would get involved as necessary as well.

Sen. Katz said the GOC asked that OPEGA reach out to DECD and be a partner in the development of the proposed legislation, but have not had a great deal of communication coming back from DECD. Therefore, the Committee is moving forward as best they can, but he wished there had been more input from the Department that is going to be effected by the legislation. Director Ashcroft said she has been keeping DECD aware of what the GOC/OPEGA has been doing regarding its work on the legislation.

Sen. Gratwick referred to page 5 C. (2) of the draft legislation “within the state’s portfolio are contributing to the achievement of particular goals, measurable objectives” and asked if there were specific things you put into measurable objectives so it will be easily quantified and operationalized and the measurable objectives can be easily measured. Director Ashcroft believes the idea is that the strategic plan that the MEGC puts together will state what the objectives and goals are of that plan in ways that hopefully will have some quantifiable targets or measures that could be then easily be measured against. Right now MEGC does the “Measures of Growth in Focus” Report, so there is already a number of quantifiable measures that they are tracking. Whether all those will translate into what would be used for the strategic plan, Director Ashcroft did not know, but the idea is that we set things that we know we can measure against and that are meaningful to measure against. You don’t want to count the number of pennies if counting the number of pennies is not going to tell you anything about whether we are achieving our goal. There is a lot that goes into designing goals, measurable objectives, and then the performance measures and targets that drive you toward achieving those. That is what they are expecting to happen as a result of the strategic plan. Then the evaluation that DECD does should give a broader level read on the programs, as a group, and how the group is contributing to meeting the objectives of the strategic plan. Taken all together it is designed as a performance management process that you would see for any particular effort or program.

Sen. Gratwick noted that they were still at the stage of language and interpretation as opposed to being able to have standardized vigorous criteria. Director Ashcroft said it probably would not be a good idea, unless you are only dealing with one program, to put the specific targets in statute. There are so many different things that might turn out to be the key things that we want to track and we could miss the boat by trying to be too specific in statute or, in the alternative, make people chase after things that are not going to be meaningful. The idea is that the MEGC, in its work, will determine what those are and then we will go from there.

Director Ashcroft said another thing they are trying to do in the draft legislation is to reduce the cost of the evaluation and also put it on a timeframe that would make sense. Currently in statute the evaluations are required to be done every two years and the Committee decided that was a little too soon because it does not give enough time for people to take action on the recommendations in the report and see those results before it is getting evaluated again. Also it means that more money is being spent doing the evaluations and you have to ask what the value is of doing the evaluation every two years or every four. The GOC decided to put it on a four year schedule. The draft legislation has the evaluations being done on a four year schedule; coordinated with when the MEGC will have the strategic plans done, and when they are supposed to do full revisions of those plans, which are also on a four year schedule. The schedule is also meant to have a report from the evaluations to the Legislature in a First Regular Session when the biennial budget is being decided so if there is a recommendation to shift resources among programs there will be an opportunity to do that within the biennial budget. Director Ashcroft said it puts the next comprehensive evaluation out to February 1, 2021 and then the evaluation would be conducted every four years thereafter. The last comprehensive evaluation was reported out in January of 2016. The MEGC is committed by LD 367. if it passes, to have a strategic plan delivered by the end of December of 2018 so that plan would have a chance to be in place for a year and a half before this evaluation would start. This evaluation would also land in a biennial budget year so the Legislature would have the results in a biennial budget year. That means you would not see another DECD evaluation for some time out but quite frankly, in some ways, she thought that might be alright if what the Legislature is shooting for is to have a strategic plan that will be the foundation of that evaluation.

Rep. Mastraccio believes DECD is doing the next evaluation because they asked her to be on a Steering Committee to look at the scope. She will ask, but believes they are going along with the current statute which they have to do.

Rep. Rykerson asked for clarification on the dates listed in the draft legislation. Director Ashcroft, after reviewing the dates listed in 3. Action on Evaluation report and Recommendations said February 1, 2020 should be changed to February 1, 2021 and February 1, 2022 should be changed to February 1, 2023.

Sen. Katz asked Committee members if they agreed to move forward with the Draft Legislation. The GOC was in agreement and Director Ashcroft will submit the draft legislation to the Revisor's Office.

- **Continued Discussion of OPEGA's Work Plan for 2017-2018**

- **Review GOC Ranking of On Deck List Topics**

Director Ashcroft summarized the ranking results of the GOC members' scoring of the On Deck Topics. (A copy of the On Deck List is attached to the Meeting Summary.)

The following motions and discussions followed.

Motion: That the Government Oversight Committee remove from the On Deck List the topics of **Maine Charter School Commission; Pharmaceuticals; Public Health Labs; Personal Use of State Assets; Revenue Collected Through the Courts; Leased Office Space; and Division of Financial and Personnel Services** (Motion by Sen. Katz, second by Rep. Mastraccio)

Discussion: Rep. DeChant believes that **Maine Charter School Commission** is worthy of a look. Clearly it is not shared among her peers, but she will be voting against the motion because she feels strongly about the Maine Charter School Commission topic.

Amended Motion: Sen. Katz amended his motion to remove all of the above listed topics from the On Deck list except **Maine Charter School Commission**. Rep. Mastraccio agreed to the Amended Motion. (Motion passed by unanimous vote 9-0)

Motion: That the GOC remove **Unemployment Compensation** from the On Deck List. (Motion by Rep. Mastraccio, second by Rep. Rykerson, motion passed by unanimous vote 9-0).

Motion: That the GOC remove **Tax Collection** from the On Deck List. (Motion by Sen. Libby, second by Rep. Pierce, passed by unanimous vote 9-0).

Motion: That the GOC remove **Long-term Care: Nursing Homes** from the On Deck List. (Motion by Sen. Davis, second by Rep. Harrington, passed by unanimous vote 9-0)

Sen. Katz said there was discussion by Sen. Saviello at the previous meeting regarding **Beverage Container Recycling (Bottle Bill)** topic and noted Sen. Saviello, who could not be at this meeting, felt very strongly about the topic. Rep. Mastraccio believes there are a lot more issues regarding the Bottle Bill and the topic should remain on the On Deck list. Rep. DeChant agreed and said the Bottle Bill keeps resurrecting itself and it needs to be addressed and updated. Rep. Gratwick agreed and said he did not have enough data available to take the topic off the On Deck list. Rep. Pierce said he originally did not think the topic should be on the On Deck list, but has since changed his mind because there are a lot of concerns about what is going on at Pine State. He agreed the topic should remain on the On Deck list and eventually moved to the Work Plan. No motion was made to take the topic off the On Deck list.

Sen. Katz said the GOC had previously dealt with medical services delivered in the Prison System and he thinks the review resulted in a partial change, with the State changing its contractor providing the services

by consolidating its services with one contractor. Therefore, he thinks the landscape around the topic of Substance Abuse Programs has changed substantially partially because of the work OPEGA has already done. He was not sure what specific issues exist today that would dictate keeping the topic on the On Deck list. Director Ashcroft said that when the topic was first brought forward as a concern it was around two particular programs that were being offered. She understands from the most recent update from the Department of Corrections (DOC) that those particular programs are not being offered anymore. They have evolved into something new and different and are described in the information on the On Deck list. She did not know if the same issues that existed with the other programs still exist but, in general, they were around effectiveness and availability of services for inmates.

Rep. Pierce would like to see **Substance Abuse Treatment Programs in Prison System** stay on the On Deck list because Maine has an opiate crisis, the prisons are requesting more money for services, and the State is looking at more educational funding. Although this topic may not be high priority, he would not be comfortable taking it off the On Deck list and the GOC should see what happens through the budget process this year. Rep. Harrington agreed. No motion was made to take the topic off the On Deck list.

Sen. Katz referred to **Publicly Funded Programs for Children Birth to Five Years** noting it had been put on the On Deck list in 2012. Director Ashcroft pointed out that the scope of the review was meant to be quite wide in terms of first trying to identify all of the programs in the state that were serving this population and then trying to assess whether there were gaps, overlaps and duplications, or adequate coordination between all of those various programs.

Rep. Mastraccio said this topic is high on her list to stay on the On Deck list because there are currently so many publicly funded programs and it would be within the GOC's purview. She would argue to have the topic stay on the On Deck list. No motion was made to take the topic off the On Deck list.

Rep. Mastraccio said **Maine Charter School Commission** was brought up in the 126th Legislature and she believes it was in response to something going on in the beginning with the implementation of the Charter School legislation and specifically related to what was going on in Portland. It is her understanding that people are satisfied with what is going on with the Maine Charter School Commission and now the initial proposed scope would not be what the Committee would be looking at. Director Ashcroft said Rep. Mastraccio was correct that the initial impetus for the review came from a particular situation. At the time, the GOC considered the request, they tried not to make that the scope such that if a review was going to be done, or put On Deck, it was not about that particular situation. OPEGA did quite a bit of research that is laid out in the information on the On Deck list. She did think there was value to looking at how the Commission was fulfilling its mandate, both for approving Charter Schools, but also for monitoring them and evaluating them because it did not seem the Commission had a lot of resources available to it at the time and there were questions about how they were going to manage to do it all. She thinks the way the Maine Charter School Commission is scoped is appropriate perhaps with the exception of "MCSC's role in providing advice and assistance to applicant".

Rep. DeChant thinks the Maine Charter School Commission topic is appropriate and applicable as an examination of something that continues to be brought to the forefront and continues to have a discussion about expansion. She is not against expanding, but she thinks there is a lot of mystique around how the Commission currently operates that warrants a potential review. She also said she had come in contact with three different constituents who have three different experiences at Charter Schools. She has found their stories alarming in how "they are building the car as they are driving it", and how the students are compromised in terms of the scholastic integrity while that is happening. She said these are real examples, unsolicited, that exist and said it is therefore that much more legitimate to have that kind of scope and investigation. Rep. DeChant is not against Charter Schools, but she thinks the real life experiences have caused her to pause to think about the topic.

Sen. Libby agreed with Rep. DeChant. He said Charter Schools are relatively new territory for Maine and, they are responsible for educating at least a couple thousand Maine kids. He thinks it would be

prudent to have the GOC's resources take an unbiased view of how the Charter Schools are doing in the first early years. Things may be going well, there may be suggestions for improvements in standards of hiring and certification, etc. so he would support keeping it on the On Deck list.

Rep. Pierce did not support keeping the Maine Charter School Commission on the On Deck list because it is a new system in the school and the Department of Education (DOE) has been working a number of bills to deal with Charter Schools. He thinks they should have the chance to do their work before having government oversight. If people have problems they should be working through DOE.

Rep. Rykerson asked if it was in the GOC's purview and would they be evaluating the Maine Charter School Commission, the Charter Schools or both. Director Ashcroft said it would be within the GOC's purview to do either, or both. The way this topic is currently presented in scope, it is the review of the Commission and how the Commission is managing the responsibilities that are given to it under statute in relation to Charter Schools. The GOC can revise the scope if they wanted something different, but the current scope relates to the Maine Charter School Commission. If the Committee decided it wanted to move the topic to OPEGA's Work Plan then they would have a conversation at that time about what the scope would be.

Rep. Harrington said it appeared that the Charter School topic was added to the On Deck list about the same time Charter Schools were taking off and asked if it was more political or was there a problem. Director Ashcroft's recollection is that there was a particular situation at the time that some thought was a possible indication of a flaw in the process that was being used to approve applications for Charter Schools. She said it was probably both political and a potential problem. Rep. Harrington asked what the flaw was and Director Ashcroft said it was the degree to which the Commission was giving leeway to one or more applicants, or providing them additional assistance, in order for them to be able to get their Charter Schools approved. Also about the process being used to approve Charter Schools.

Rep. Pierce asked if the problem had been resolved. Director Ashcroft said OPEGA has not reviewed it so she doesn't know and also OPEGA never did any work to confirm it was an issue.

Rep. DeChant thinks the original genesis of what moved the topic to the On Deck list continues to be applicable regardless of what the original motivation was. Four years have gone by since 2013 and she is hearing examples now that are alarming about how ill prepared some of the students are. Four years is somebody's high school experience. She finds that alarming and that much more relevant that the Committee at least keeps the topic On Deck for consideration. If the Commission is supposed to be doing its evaluations, then she is curious about how these things are happening and it is not just one Charter School that she is hearing about.

Motion: That the Government Oversight Committee moves the Maine Charter School Commission off of the On Deck list. (Motion by Rep. Pierce, second by Sen. Davis, motion failed vote 4-5)

- Review Current Work Plan

Director Ashcroft said she did not think there was any need to do anything with the topics on OPEGA's Work Plan until the GOC was ready to determine what is going to stay or be put on the Work Plan. Unless a Committee member had additional question, or wanted additional information, she suggested holding that discussion until after the Committee decided what topics were going to be on its short list for consideration.

- Review of New Topics Proposed

Director Ashcroft referred members to the Quarterly Listing of Audit Requests in their notebooks and explained that this is typically the format that OPEGA presents to the GOC on new requests received. Depending on how many requests come into OPEGA, the new requests are presented to the Committee

on a quarterly or semi-annual basis. Typically, OPEGA will have done a bit of independent research on the topic in order to provide the Committee with information for making a decision on what action they want to take. (A copy of the Quarterly Listing is attached to the Meeting Summary.)

Director Ashcroft said that, because these current requests had been recently received, OPEGA has not had the opportunity to do any research on some and only very limited research on others. The information that is on the Listing is primarily what OPEGA already knew from various sources or internet research. Before OPEGA spends more time researching the topics, she wanted to see which of the topics the Committee is not interested in. She also wants the GOC's guidance as to what additional information is wanted for the topics they are interested in.

Maine Turnpike Authority – Director Ashcroft summarized the request.

Sen. Libby thought the issues talked about in the review request could be better dealt with by the Transportation Committee directing the MTA to make some changes in their operation. He said he would be happy to talk with Rep. Fecteau about putting in a Resolve to try to address those concerns. Sen. Libby asked members of the Committee what they thought about referring the review request to the committee of jurisdiction. Sen. Katz suggested that the GOC send a formal communication to the committee of jurisdiction with a formal request back from them.

Motion: That the Government Oversight Committee take no further action at this time on the Maine Turnpike Authority review request. (Motion by Sen. Libby, second by Rep. Mastraccio, motion passed unanimous vote 9-0.)

State Law Enforcement Agencies' Undercover Operations – Director Ashcroft summarized the request.

Sen. Davis said the request comes from the article in the Portland Press Herald last summer on some operations going on in Northern Aroostook County. He was Chairman of the Fisheries and Wildlife Committee at the time and looked into it. He met with the Department and the Committee was briefed, but it seemed as time went on, things came to light that makes him think the operation ought to be reviewed. The review should include the operation, what goes into it, who approves it, how they are set up, etc. Sen. Davis noted that he had been in law enforcement for a long time so he did not come to the conclusion easily that the topic should be reviewed. In his discussions with various outside groups regarding the matter, he was told that a review of the State Law Enforcement Agencies' Undercover Operations would be helpful.

Rep. Harrington had concerns with the Undercover Operations review because, especially in drug-related work, law enforcement gets tips and they need to act on them right away. He did not know if he liked having to jump through a lot of hoops in order to do that work and it would be a slippery slope to go down.

Rep. Mastraccio asked Sen. Davis if he would be happy with a preliminary inquiry in order for the GOC to get a little information because as of now she could not say she was ready to vote the review request to the On Deck list or Work Plan.

Sen. Davis said he would be agreeable to receiving more information on the State Law Enforcement Agencies' Undercover Operations before deciding what action to take on the request. He also agreed with Rep. Harrington.

Motion: That the Government Oversight Committee ask OPEGA to gather more information on the State Law Enforcement Agencies' Undercover Operations before making a decision of what action to take on the review request. (Motion by Sen. Davis, second by Rep. Pierce)

Rep. Rykerson asked if the outrageous things that were reported in the newspaper are, in Sen. Davis' opinion, issues that should be settled through the legal system or is it necessary to have OPEGA's review. Sen. Davis said at the time these cases had already gone to court and have been settled. The people were adjudicated guilty in the matters. The complaints were about the methods that were used, which after reviewing, he came away feeling more questions had to be answered.

Rep. Harrington said it was worth noting that the warden's case went to the Supreme Court and there was a unanimous decision that all of the tactics used were appropriate and the evidence was upheld.

Sen. Katz said the topic goes into systemic issues about how these things are handled by the departments, and what kind of criteria they use. These issues may not come up in an individual case where the question is whether someone's constitutional rights were violated, or not, in a particular case. He said part of the reason he is a sponsor of the request is because he is not convinced that just looking at what occurred on a case-by-case basis necessarily gets to some of the issues being talked about in the review request.

Director Ashcroft said it would be helpful to know if the members of the Committee have specific ideas about what information would help them decide whether or not to put the review request on OPEGA's Work Plan or On Deck. OPEGA could try to find out how many of these operations are conducted in a particular period, and can do interviews with each of the agencies to try to understand each of the points in the review requests, but said that would be what OPEGA normally does as part of their preliminary research on a review. She was looking for the cut off as to how much information the Committee would like to have before making their decision on the review request.

Sen. Gratwick said the issue more important to him is if the constitutional rights of the individual is being respected. You need to have law enforcement be able to have the power to do their job well and effectively, but on the other hand, there are the larger principles that we all live by and are important.

Sen. Katz agreed with Sen. Gratwick but wanted to raise a couple of issues. Let's say, for example, law enforcement officers are themselves breaking the law during an undercover operation. That might not have any implication necessarily for the Constitutional rights of the defendant in a case. For example, not saying it is true or not, if law enforcement officers were engaging in buying, giving and consuming alcohol themselves during an investigation. He said he was not saying that was necessarily wrong, but if it were going on and if that is wrong, that would not necessarily implicate the constitutional rights of the defendant in a particular case. So, he thinks it does go more broadly beyond just the rights of the individual in that case and is about whether, as a matter of public policy, this is the way you want law enforcement officers to be behaving.

Vote: The motion passed, unanimous vote 9-0.

Maine Power Options – Administered by the Maine Municipal Bond Bank and the Health and Higher Education Authority – Director Ashcroft summarized the review request.

Sen. Gratwick said the question for this review topic is whether this State program is serving the citizens of Maine well and if there are any other power suppliers MPO should pursue. He said Maine Power Options (MPO) is one of many power aggregators and every three years a bid goes out for another power option. He said there is an active and dynamic market for this, however, it seems that MPO has only awarded the contract to one power supplier over the sixteen years and the information regarding the specifics of what other bids were submitted is not available. He said MPO has approximately 820 members who are happy with the services, but he said the members do not know what the alternatives are and, therefore, have nothing to compare the services to. Sen. Gratwick said the intent is remarkably good, but from what he understands the quasi-state agency running the programs is not going along with the usual pattern of State agencies which is to say we would want to know what your books are, how the money is being spent, what the balance is, etc. He is sure things are on the up and up, but it is just not

clear and that data is not available. He thinks it should be looked into. He also noted the possibility of a conflict of interest as his understanding is that Constellation Energy, which has been winning the contract, pays the salaries for two staff members. He thinks that seems like a curious business arrangement.

Rep. Rykerson referred to the 500 million kilowatt hours shown on the Quarterly Request Listing and believes it should be dollars. He said the Energy, Technology and Utilities Committee did have an informational session with MPO. He does not know much about the Maine Municipal Bond Bank, which runs the program, but is interested in learning more. He did ask on record if they could present any evidence of cost savings and they said no.

Motion: That the Government Oversight Committee add the Maine Power Options topic to the On Deck List and have OPEGA gather some additional information. (Motion by Rep. Rykerson, second by Sen. Gratwick, motion passed unanimous vote 9-0).

Sen. Katz moved to the Topic of **Commission on Indigent Legislative Services**. Director Ashcroft summarized the review request.

Rep. Pierce thinks the review request should at least receive a preliminary inquiry at this time.

Rep. DeChant asked if it was the Judiciary Committee who oversees indigent legal services and if that Committee could be an avenue for this request.

Sen. Katz said the Judiciary Committee is the Committee of jurisdiction and noted that the Appropriations and Financial Affairs (AFA) Committee talked about this issue the previous day. He was aware that there is a potential whistle blower with information that is to be provided to the AFA Committee, but asked if the matter could be tabled because in the budget the Governor is proposing the elimination of this Commission. He is not saying it will be eliminated, but would not want to see OPEGA working on something that could be eliminated.

Rep. Pierce said he didn't want to table the request because he did not want to see the request disappear if it does not get eliminated. He asked the members of the Committee to think about adding the topic to the On Deck list to be revisited following other action that the Legislature may take.

Motion: That the Government Oversight Committee moves the Commission on Indigent Legal Services review request to the On Deck List. (Motion by Rep. Pierce, second by Rep. Harrington)

Discussion: Rep. DeChant asked if there were other avenues that would result in quicker action on the issues in the request, either through the Judiciary and AFA Committees. She said tabling does not mean that the request goes away. Director Ashcroft shared Rep. Pierce's concern for tabling the review request in that sometimes the GOC has a lot of things going on and, though she can put a tickler for the review request to be put back on the agenda for discussion there was not a big difference between doing that or putting it on the On Deck list knowing that the Committee will go back to clean up the list.

Vote: Motion passed unanimous vote 9-0.

Temporary Assistance for Needy Families (TANF) – Director Ashcroft summarized the review request.

Sen. Gratwick said he requested this review to evaluate what the Department of Health and Human Services (DHHS) is doing with its resources for child health and welfare and whether they are being appropriately used. He does not know where all the money comes from or goes – he knows the end results. He said there are four federal regulations for TANF and would ask if Maine was adhering to the federal TANF regulations and taking care of the children.

Sen. Katz knows that TANF is in the budget so will be discussed by the HHS and AFA Committees. He did not disagree with the validity of Sen. Gratwick's concerns, but wondered if they might get answered in the next couple of months through the budget process.

Rep. Mastraccio said that was also her question. If the AFA Committee could get that information and be able to confirm it, she would say let's wait to see what happens there. However, it has been her experience that information comes in drips from the agency, or from the newspaper, so she is happy to see the review request before the GOC.

Rep. Rykerson thinks the issue should be addressed because of the millions of dollars involved. People are starving and it is a pressing issue.

Sen. Gratwick said questions regarding TANF have been asked for several years and they have not been answered. He knows that people from DHHS have not been willing to come before the HHS Committee very frequently and the data has not been available. He thinks it is appropriate for the GOC to gather data however they can in this instance.

Motion: That the Government Oversight Committee moves for a preliminary inquiry of the Temporary Assistance for Needy Families review request. (Motion by Sen. Libby)

Sen. Libby withdrew his Motion.

Motion: That the Government Oversight Committee directs OPEGA to conduct a rapid response investigation on the Temporary Assistance for Needy Families review request. (Motion by Rep. Rykerson, second by Sen. Gratwick)

Discussion: Director Ashcroft referred members to the criteria for rapid response investigations in their notebooks. A vote on a rapid response investigations requires that a quorum be present and also requires a 2/3 vote of the Committee. Those who are absent can vote according to the timeframe established in the Committee Rules. She said if the GOC votes to have OPEGA do a rapid response review she will coordinate, as appropriate, with other State and federal agencies and the review will commence as soon as possible with little advance notification to the management of the entity involved. The review will continue to receive priority status in OPEGA's work load until it is complete. Director Ashcroft said a rapid response review means the GOC is telling OPEGA to start the review immediately.

Rep. Rykerson moved to withdraw his motion, Sen. Gratwick withdrew his second. Rep. Rykerson made the following motion.

Motion: That the Government Oversight Committee move the Temporary Assistance for Needy Families onto OPEGA's Work Plan. (Motion by Rep. Rykerson, motion failed for lack of a second).

Discussion: Rep. Mastraccio would be satisfied putting the request for review of TANF On Deck and waiting to see what happens in the AFA Committee. Unless the GOC had a lot more information in front of them right now, and knowing what else the GOC has going on she would like to wait to see what happens in the Legislature regarding TANF. Having it on the On Deck List may be enough for DHHS to produce the information that the AFA Committee requests. She is not making it a motion because would first like to hear what other members have to say.

Sen. Gratwick said dealing with money is one thing, but dealing with people's lives is another. If the review is delayed for too long, lives are being lost and we have to be protecting young children.

Motion: That the Government Oversight Committee places the Temporary Assistance for Needy Families review on OPEGA's Work Plan. (Motion by Sen. Gratwick, second by Rep. Rykerson)

Discussion: Sen. Katz said he would vote against the motion and wants to see if the Committees of jurisdiction and the AFA Committee deals with TANF. If they do not, he would be supportive of a motion for review at that time. He said if the pending motion failed, he would be making a motion to put the review request On Deck.

Sen. Libby asked how the GOC would feel about Option C which would give them a little bit more information. They could make a judgment later about whether the additional information is helpful in making decisions at AFA, HHS or GOC.

Vote: Motion failed, vote 4-4.

Director Ashcroft noted that absent GOC members get an opportunity to vote on motions that add a review to OPEGA's Work Plan. Consequently, we would not know if the motion failed or passed until that opportunity has been given. She said the Committee is in the mode of trying to decide overall what is going to be on OPEGA's Work Plan and she thought the Committee was building its way towards a short list of topics that they want to seriously consider for the Work Plan. She said another possible option is for the GOC to say we want to put this review On Deck, or put it on the short list, and by the time the Committee finishes the process of deciding what is going on the Work Plan there will be additional information from the AFA Committee or OPEGA could gather some information on the possible areas of focus.

Motion: That the Government Oversight Committee moves to reconsider its previous action on the request for review of Temporary Assistance for Needy Families whereby the vote was 4-4. (Motion by Rep. Rykerson and second by Rep. Mastraccio, passed unanimous vote 8-0.)

Sen. Gratwick withdrew his motion to put TANF on OPEGA's Work Plan and Rep. Rykerson withdrew his second. No action will be taken to contact members not at the meeting to inform them of their opportunity to vote on the Motion.

Motion: That the Government Oversight Committee moves the Temporary Assistance for Needy Families review to the On Deck list. (Motion by Sen. Katz, second by Rep. Mastraccio, passed unanimous vote 8-0.)

Guardians *ad litem* – Director Ashcroft summarized the request for review.

Sen. Katz noted that Rep. Sutton was presenting a bill at another committee and, because she is a sponsor on the Guardians *ad litem* review request, he asked the members of the GOC if they could pass over this request until Rep. Sutton could be at the meeting. Members of the Committee agreed.

REPORT FROM DIRECTOR

• Status of Projects In Progress

Director Ashcroft said at the January 27th GOC meeting she gave dates for report presentations on a number of OPEGA's current reviews. After consulting with the GOC Chairs earlier in the day, some of the report out dates are being changed given that OPEGA is not at the stages they expected to be in terms of having the reports ready. The new dates reports are expected to be presented to the GOC are:

DHHS Licensing and Regulation of Child Care Providers	March 24, 2017
State Lottery	April 28, 2017
Pine Tree Development Zones	April 28, 2017
New Markets Capital Investment Credit	March 10, 2017

Employment Tax Increment Financing - OPEGA will be making a request to extend the work on the review into 2017 so is not planning to report out on that right now. She will explain why that request is being made at a later meeting. **Northern New England Passenger Rail Authority** - is in pending status while other projects get reported out

For the three Tax Expenditure Reviews that are on the schedule for 2017, **Maine Capital Investment Credit, Reimbursement for Business Equipment Tax Exemption to Municipalities (BETE)** and **Reimbursement for Taxes Paid on Certain Business Property (BETR)**, OPEGA is planning to have the evaluation parameters documents to the GOC on April 14, 2017. At the April 14th meeting, OPEGA will also discuss with the GOC what they think they will be able to accomplish with regard to the Tax Expenditure Evaluations and that may need some decisions as to which of these reviews they would like to prioritize for 2017. OPEGA will be working on the Expedited Reviews for the Taxation Committee that, by statute, are due to that Committee in July.

Director Ashcroft said OPEGA has filled its current vacancy and Ariel Ricci will be joining the office on February 27th. Ms. Ricci has been working for some time over in Europe as a Barrister and is moving back to Maine.

Sen. Katz referred back to the request for a review of Guardians *ad litem* and suggested delaying consideration until the GOC's next meeting, particularly since just yesterday the Judicial Branch filed a report to the Judiciary Committee regarding implementation of the 2013 changes to the guardian *ad litem* law. Delaying consideration would give OPEGA an opportunity to distribute that report to the members of the GOC. Rep. Mastraccio agreed and also noted that the members of the GOC received a letter yesterday from Rep. Moonen, House Chair for the Judiciary Committee. Members of the GOC agreed to delay decision of the Guardians *ad item* review request until its next meeting.

NEXT GOC MEETING DATE

The next GOC meeting is scheduled for Friday, March 10, 2017 at 9:00 a.m.

ADJOURNMENT

Sen. Katz adjourned the Government Oversight Committee at 12:06 p.m. on the motion of Sen. Davis, second by Rep. Harrington, unanimous vote.

Government Oversight Committee

On Deck List Topics As of February 2017

The attached document lists topics currently on the GOC's On Deck list. For each general topic area, OPEGA has provided the responsible agency, possible different areas the review could focus on (although there may also be others), and additional information gathered by OPEGA to date that may be relevant to GOC decision-making about the topic. The information associated with all topics has been updated as of 1-27-17.

OPEGA has developed a matrix to use in identifying the topics on this list that the current GOC is collectively most interested in keeping on the List. That matrix is provided in a separate document. It identifies the primary outcomes the Legislature might expect from a review of the topic area based on the current questions or potential areas of focus listed for the topic. Typically there are also secondary benefits derived from any review, but those are not all captured in this matrix. Please note that the expected benefits may also change as the scope of a review becomes more defined in terms of the specific questions to be asked about the topic.

The GOC periodically considers whether topics from the On Deck List should be moved to OPEGA's Work Plan and may also vote topics off the On Deck List if they are considered no longer relevant or of high legislative interest. The GOC is currently seeking to determine the level of interest GOC members of the 128th have in each of the topics on the On Deck List.

The last column of the matrix is for each GOC member to use in ranking the level of interest in each topic. The scale of 0-4 is described on the top of the matrix. 0 = not interested and 4 = extremely interested. GOC members may wish gather input from legislative colleagues in gauging the level of collective interest in particular topics.

Please rank each topic on the matrix and return the rankings to OPEGA Director Beth Ashcroft by Tuesday, February 14th so that results can be compiled for the next GOC meeting.

**Government Oversight Committee:
On Deck List
(As of 2-3-17)**

	Topic	General Scope
1	<p>Beverage Container Recycling (Bottle Bill)</p> <p>Responsible Agencies:</p> <ul style="list-style-type: none"> Department of Environmental Protection (DEP) Department of Agriculture, Conservation and Forestry (DACF) Maine Revenue Services (MRS) 	<ul style="list-style-type: none"> • Compliance with current law by initiators of deposit • Current recycling rates for beverage containers • Current handling fees and bottler requirements of redemption centers • Continued need for current beverage container recycling laws • Opportunities to meet goals of beverage recycling laws via alternative models • Impact of potential changes to beverage container recycling laws on beverage container redemption facilities and initiators of deposit
Additional Information		
<ul style="list-style-type: none"> • Proposed by a former GOC member in the 124th Legislature. • Maine's handling fees may exceed that of most other states with bottle bills. • Expansion of redeemable beverages causes additional work for redemption centers despite attempts to mitigate costs via changes that allow commingling agreements. • There may be bottlers, particularly those from out of state, not in compliance with Maine's law. • Issues with the bottle bill have been raised for many years and bills have been considered and passed in the 125th, 126th and 127th Legislature. For example: <ul style="list-style-type: none"> ○ PL 2011 Chapter 429 changed the legislative oversight for this program to the Joint Standing Committee on Environmental and Natural Resources. It also established, as a civil violation, \$100 fine per container returned in excess of 48 containers that are found to be from out-of-state (attempt to reduce fraud). ○ PL 2013, Chapter 259: An Act to Promote the Production of Maine Beverages retained, in the returnable beverage container laws, the exemptions for small bottlers of water and small brewers and added an exemption for small manufacturers. ○ PL 2013, Chapter 275: An Act to Improve Efficiency in the Collection of Beverage Containers required collection from redemption centers be made by a distributor, or commingling group of distributors, every 15 days and required additional pickups when a center has a certain number of containers. It also required the Department of Agriculture, Conservation, and Forestry to adopt rules for conducting audits on containers presented to distributors by redemption centers as ready for redemption. ○ PL 2015, Chapter 166: An Act To Promote Recycling Program Integration and Efficiencies transferred administration of the provisions regarding returnable beverage containers from the Department of Agriculture to the Department of Environmental Protection. 		

	Topic	General Scope
2	Division of Financial and Personnel Services (Service Centers) Responsible Agency: Department of Administrative and Financial Services (DAFS)	<ul style="list-style-type: none"> • Potential for increased process efficiencies within Service Center and client agencies • Definition of roles/responsibilities between Service Center and client agencies • Staffing of financial processes and administration in Service Center and client agencies • Control environment and internal control systems • Change management • Achievement of expected savings from consolidation

Additional Information

GOC of the 127th did not have interest in this topic. OPEGA has not yet updated the topic awaiting direction from the 128th GOC.

- The Division of Financial and Personnel Services is comprised of service centers that provide financial and human resource services to agencies across state government. There are five centers focused on common customers, and each center is comprised of a financial services office and a human resources office.
- OPEGA suggested this topic during 2007-2008 work plan development because centralization of key administrative functions affected most agencies and potential internal control weaknesses in financial processes were noted in some reviews. At the time, there were also complaints from agencies about process inefficiencies and quality of customer service. In addition, the Brookings Report had highlighted financial administration as an area of possible savings.
- The topic was placed on OPEGA's 2007-2008 work plan as a second level priority but OPEGA was not able to get to all the reviews on that biennial plan.
- Since then, the State Controller's Internal Audit Division has reviewed internal controls in at least one Service Center and provided internal control training to all. The Service Centers are supposed to have internal control plans that are submitted to the Controller's Office. OPEGA is not aware of the current status of those plans or the Controller's Office review of them.

	Topic	General Scope
3	Leased Office Space Responsible Agency: DAFS	<ul style="list-style-type: none"> • Costs and use of office space leased by the State

Additional Information

GOC of the 127th did not have interest in this topic. OPEGA has not yet updated the topic awaiting direction from the 128th GOC.

- OPEGA began a review of this topic and was in fieldwork phase when the GOC suspended the review in October 2008 so OPEGA could move to a different project. The review was looking at whether the State was leasing space at the best possible price, and if the space was fully utilized.
- At the time of suspension, OPEGA had nearly completed the portion of the review covering general leased space processes and practices. OPEGA had also begun some analysis of whether the State was getting the best lease prices. Due to the passage of time, that analysis would need to be redone and updated. OPEGA had not yet begun work on how well leased space is utilized.
- OPEGA planned to submit a proposed revised scope to GOC for consideration in 2009, however the Appropriations and Financial Affairs Committee (AFA) was asking questions of the Bureau of General Services (BGS) regarding leases and a decision was made to wait and see what AFA was going to do with this topic. To OPEGA's knowledge there were no specific directions or actions taken by AFA at that time.

- In FY10, State agencies spent over \$26 million on leased office space with more than \$11 million coming from the General Fund.
- In 2011, new management in BGS was undertaking some efforts related to leased office space. BGS met with OPEGA to understand what work had been done on the leased office space review and what suggestions OPEGA might have for areas of improvement. OPEGA has not yet gathered further information on what efforts the Administration has undertaken since then on leased office space.

	Topic	General Scope
4	<p>Long-term Care: Nursing Homes</p> <p>Responsible Agency: Department of Health and Human Services (DHHS)</p>	<ul style="list-style-type: none"> • Opportunities to reduce costs and improve quality through possible changes to: <ul style="list-style-type: none"> ○ Current payment rates and structure to incentivize reducing costs ○ Inspection system to reduce inefficiencies ○ Nursing services and care delivery approaches to better match them to patients' needs and wishes and ○ Coordination between hospitals and nursing homes • Quality of care in relation to cost

Additional Information

- Proposed by former GOC member in the 124th Legislature.
- The Governor's 2016-2017 State of Maine Biennial Budget Briefing states that the proposed budget prioritizes the elderly and helps to support nursing homes by providing ongoing funding to increase their Medicaid reimbursement rates and establishing a special grant program for rural nursing homes.
- FY16-17 Budget authorized by the Legislature for Nursing Facilities (0148) was \$93,313,433 in General Fund, \$234,344,126 in Federal Funds and \$37,981,646 in Other Special Revenue Funds.
- Medicaid expenditures are audited as part of the State Single Audit, but that work would not cover the items listed in Possible Areas of Focus.
- In 2013, the 126th Legislature established the Commission to Study Long-term Care Facilities with the passage of Resolve 2013, Chapter 78. The Commission focused its work on the areas of adequate funding, staffing and regulatory requirements, and access to nursing facility services in rural and urban areas. The Commission's final report made 14 recommendations including recommendations to assist facilities in achieving adequate reimbursement for care of MaineCare recipients; a recommendation that Maine retain the current nursing facility and staffing requirements and ratios; a recommendation to address the use of consumer life insurance to pay for nursing facility care; recommendations related to errors in Cost of Care overpayments to facilities; and recommendations for further study of long-term care (through both a Blue Ribbon Commission and a Commission to Continue the Study of Long-term Care).
- The Commission to Continue the Study of Long-term Care Facilities was established by Public Law 2013, Chapter 594, section 6. The Commission continued the work of the Commission to Study Long-term Care Facilities discussed above.
- This Commission made 16 recommendations including convening a technical work group to examine rate-setting; developing policy for complex needs patients; convening a work group to develop pay-for-performance models; seeking assistance to improve options for pursuing unpaid cost of care; restoring crossover payments to nursing facilities; continuing education for direct care staff in direct care costs; lowering the threshold for occupancy adjustments; developing a critical access nursing facility designation; developing a procedure when bed rights are relocated; reviewing the recommendations in the Center for Long-term Care Reform; supporting the Maine Aging Initiative; and increasing the personal needs allowance.
- The 126th and 127th Legislatures passed several bills related to the work of these two Commissions. These enacted bills:

- directed DHHS to adopt rules regarding the cost-of-living adjustment payable to a nursing facility for FY12;
- established a new methodology under the MaineCare program for calculating recapture of depreciation upon the sale of a nursing facility;
- established the Commission to Continue the Study of Long-term Care Facilities;
- required DHHS to amend its rules governing reimbursement for nursing facilities under the MaineCare program;
- required debt overpayment collection efforts by DHHS;
- required DHHS to provide supplemental reimbursement to adult family care homes and residential care facilities in remote island locations;
- required DHHS to amend its rules so that the cost of continuing education for direct care staff is included as a direct care cost component; and
- clarified that the long-term care ombudsman has the authority to act as a resource during the hospital discharge process to assist patients with complex medical needs.

	Topic	General Scope
5	Maine Charter School Commission Responsible Agency: Maine Charter School Commission (MCSC)	<ul style="list-style-type: none"> ● Processes, practices and standards the MCSC has used in soliciting, reviewing, and making approval decisions on public charter school applications ● MCSC's role in providing advice and assistance to applicants ● Factors that impact MCSC's ability to effectively and efficiently fulfill its statutorily assigned roles and responsibilities

Additional Information

- The topic is the result of a formal request for an OPEGA review from the Chairs of the Education Committee of the 126th Legislature. The GOC ultimately voted (7-2) to put the topic on the On Deck List in May 2014.
- Additional information from OPEGA research related to this topic at that time is included in the attached summary.
- Enacted legislation related to this topic includes:
 - Public Law 2013, Chapter 216. An Act to Allow Charter Schools to Request Waivers from Certain Requirements allowed, upon approval by the public charter school's authorizer, a public charter school to request from the Commissioner of Education a waiver of requirement with certain exceptions.
 - Public Law 2013, Chapter 272. An Act to Improve Maine's Charter School Laws made changes to public charter school approval and funding processes.
 - Public Law 2015, Chapter 54. An Act to Amend the Laws Related to Public Funding of Charter Schools made changes to laws governing the funding of public charter schools authorized by the MCSC starting FY15-16.

	Topic	General Scope
6	Pharmaceuticals (Prescription Drugs and Medicaid Drug Rebate) Responsible Agency: Department of Health and Human Services (DHHS)	<ul style="list-style-type: none"> ● Effectiveness of measures taken to contain costs ● Effectiveness of internal controls in place to prevent fraud and abuse related to controlled substances

Additional Information

- The GOC considered this topic during development of the 2007-2008 Work Plan as other states had found savings in this area. At that time, DHHS had been making significant efforts to reduce costs in this area including establishing a preferred drug list.
- In 2009, the GAO reported on fraudulent, improper or abusive actions related to the prescribing and dispensing of controlled substances.
- The State Single Audit performed by the State Auditor includes a compliance audit of the Medicaid program including audit steps related to prescription drugs and drug rebates. Significant findings have been noted in the past. The FY11 State Single Audit Report included a finding that controls over the pharmacy claims processing system need improvement. This finding was repeated in the reports for FY12, FY13 and FY14 but was apparently resolved by FY15.
- According to the State Single Audit Report for FY14, in FY14 the pharmacy claims system processed Medicaid claims totaling over \$214 million. This does not include claims associated with the CHIP program.
- In February 2012, DHHS began quality assurance audits of 50 paid pharmacy claims each month. OPEGA has not inquired as to whether these audits are still being conducted or have changed over the last 5 years.
- Several bills were passed in the 126th and 127th Legislature that related to the State's Controlled Substances Prescription Monitoring Program (PMP). The PMP is a secure online database that is used across the State of Maine. All prescribers and dispensers are able to review their patient's controlled substance drug history prior to prescribing or dispensing any schedule II - IV drugs. The PMP helps to prevent adverse drug-related events through opioid overdoses, drug diversion, and substance abuse by decreasing the amount and/or frequency of opioid prescribing. OPEGA observes that the PMP may also serve to help contain costs and prevent fraud and abuse related to controlled substances. The enacted legislation related to the PMP:
 - required the Substance Abuse Services Commission (SASC) to develop a process to increase registration in the PMP and to develop strategies to promote provider use of the program;
 - provided for legislative review of a major substantial rule change related to the PMP; and
 - implemented the recommendations of the SASC including repealing specific participation requirements, and requiring DHHS to update enrollment mechanism and its computer system.
- DHHS' PMP website indicates that it began transitioning to a new PMP system in December 2016.
- Other relevant legislation passed in the 126th and 127th:
 - provided that a pharmacy benefits manager may set a maximum allowable cost for a prescription drug only under certain conditions and establishes a review and appeal process;
 - added provisions to the requirements in current law relating to on-site audits of pharmacy providers conducted by pharmacy benefits managers on behalf of health insurance carriers;
 - required pharmacists and veterinarians who prescribe opioid medication to register with the PMP and establishes a fine for dispensers who fail to submit prescription monitoring information to the program;
 - required prescribers to check the PMP for records related to patients upon the initial prescription of a benzodiazepine or an opioid medication and every 90 days for as long as the prescription is renewed, or be subject to a fine;
 - required dispensers to check the PMP for out-of-state individuals, for out-of-state prescribers, for individuals with insurance paying cash and if an individual has not had a prescription for an opioid medication in the previous 12 months, or be subject to a fine;
 - required that a health care provider or veterinarian who is a prescriber of opioid medication must complete three hours every two years of continuing education related to opioid medication prescribing practices; and
 - sets limits on the supply of opioid medication that may be prescribed to a patient with statutory exceptions and requires DHHS to adopt rules for other exceptions.

	Topic	General Scope
7	<p>Public Health Labs</p> <p>Responsible Agency: Department of Health and Human Services (DHHS) Center for Disease Control (CDC)</p>	<ul style="list-style-type: none"> • Possible outsourcing of some lab work • User fees charged • Testing being conducted by multiple State agencies using different labs • Awarding of contracts • Use of federal grant funds • Management practices, including hiring and communication

Additional Information

- GOC considered this topic during development of the 2007-2008 Work Plan. Other states have found savings in this area.
- It appears there are State agencies other than DHHS that also do laboratory work, i.e. Agriculture.
- A former GOC member had been made aware of potential concerns related to management of CDC's Health and Environmental Testing Laboratory. These concerns include awarding of contracts without bidding, use of federal grant funds for purposes other than intended, poor hiring and communications practices and general mismanagement.

	Topic	General Scope
8	<p>Personal Use of State Assets: recreational vehicles (ATVs, boats, snowmobiles, etc.); airplanes and helicopters; houses and camps</p> <p>Responsible Agencies: Various</p>	<ul style="list-style-type: none"> • Policies in place regarding personal use of assets • Compliance with policies and how compliance is monitored • Appropriateness of current or past personal use of significant State assets

Additional Information

- This topic is based on a 2008 request directed to OPEGA through a legislator by an individual who requested confidentiality. OPEGA's research on this topic for the GOC at that time included collecting inventories of these assets from relevant State agencies, as well as policies governing their use.
- At that time, six departments had assets of this type with the substantial majority being in Departments of Marine Resources, Inland Fisheries & Wildlife and Conservation. Most departments reported that no personal use was allowed, but did not provide written policies that expressly communicate this. IF&W reported that assets (other than airplanes) were available for limited personal use and provided written policies to that affect.
- In 2013, OPEGA requested updated information from the six Departments that had assets of interest in 2008. All Departments responded and provided current information. Of note is that some Departments may have modified their inventory of state assets since 2008 and may no longer have pertinent assets or may have different types of assets than before. OPEGA did not request updated inventories. Furthermore, most Departments provided reference to policies pertinent to state-owned vehicles, but state-owned vehicles were not assets of interest in the original request.
- Most of the Departments provided reference to multiple policies or policy statements contained in various documents. Most maintain at least one general policy, often pertaining to "equipment." Other policies or policy statements provided were specific to certain types of assets. One Department did not have any policy relevant to the assets of interest. This department also had a relatively small inventory of these assets in 2008.
- Whether the policies allowed personal use of the assets of interest varied by Department and type of assets. Some policies did allow for personal use of certain assets under certain circumstances with prior approval by designated individuals. This was typically the case for policies on "equipment". Conservation also has a policy on camps and houses which allows for use of housing in the off season in exchange for "security, surveillance and maintenance." In other cases, personal use of certain specific assets was clearly prohibited like assets such as ATVs in IF&W and airplanes in Public Safety.

- OPEGA observes that additional specificity and coordination between the multiple policies in most of the Departments would improve understanding of which of the assets of interest are particularly governed by which policy.
- No Department provided a specific plan in regard to staff education about policies though most mentioned that policies are reviewed during the respective Department's new employee orientations. Most Departments also mentioned some sort of review mechanism when new policies are developed or when there are concerns / questions that arise.
- OPEGA has conducted no further research on this topic since 2013.

	Topic	General Scope
9	Publicly Funded Programs for Children Birth to Five Years Responsible Agencies: Department of Education (DOE) Department of Health and Human Services (DHHS)	<ul style="list-style-type: none"> • Strengths and weaknesses, including gaps, overlap, and coordination, in the State's current programs for children birth to five years

Additional Information

- The GOC of the 125th Legislature voted this topic On Deck in September 2012 during its consideration of OPEGA's report on Child Development Services. The intention was that OPEGA and the next GOC would review the reported results of the children's task forces that were currently meeting on this topic and consider whether further review of this topic area was needed to identify overlaps and gaps in services.
- The 125th Legislature passed LD 568 which had called for creating a stakeholder group to conduct an assessment of this nature including, but not limited to, Child Development Services, public prekindergarten programs and six programs administered by DHHS Bureau of Child and Family Services. That bill was vetoed by the Governor, and consequently, the stakeholder group was not created.
- In testimony before the GOC in 2012, DOE described two groups doing work on Birth to 5 learning that the Department felt would cover the area of focus given for this topic. Those groups were the State Agency Interdepartmental Early Learning Team (SIEL) and the Maine Children's Growth Council (MCGC) Sustainability Committee.
- The Work Plan for SIEL had deadlines on several tasks set at end of June 2013, end of Dec 2013 and end of June 2014. It appears that one of SIEL tasks was to review the results of the MCGC Sustainability Committee and the deadline associated with that task was end of June 2013.
- OPEGA has recently asked DOE to provide information on the status of these efforts and any results or reports that came from them.
- Public Law 2013, Chapter 581. An Act to Establish a Process for the Implementation of Universal Voluntary Public Preschool Programs for Children 4 Years of Age was enacted in the 126th Legislature. It established a process for the implementation of public preschool programs including providing start-up, operational, and grant funding and directing the Commissioner of Education to promulgate rules.

	Topic	General Scope
10	Revenue Collected through the Courts Responsible Agency: Judicial Branch	<ul style="list-style-type: none"> Internal controls over collection, deposit, accounting and safeguarding of revenue Effectiveness and timeliness of collections efforts, i.e. are all funds due the State being collected timely Factors impacting the revenue stream, particularly those related to the decline in revenues from fines, forfeitures and penalties

Additional Information

- OPEGA suggested this topic and it was placed on the 2007-2008 Work Plan because it had not been audited for some time and had a potential fiscal impact. OPEGA was not able to get to all planned reviews in that biennium and, therefore, the topic was moved to the On Deck list.
- According to the Revenue Forecasting Committee's December 2016 Report, actual FY16 revenues through the Judiciary for fines, forfeitures and penalties were \$20,610,571 (an 8.8% decrease from FY15) and are forecast to be \$22,237,275 in FY17; a 7.9% increase. Revenues from this category are primarily collected by the Judicial System. Some court collected surcharges are recorded as Other Special Revenue Funds for specific uses.

	Topic	General Scope
11	Substance Abuse Treatment Programs in Prison System Responsible Agency: Department of Corrections (DOC) Office of Substance Abuse (OSA)	<ul style="list-style-type: none"> Effectiveness and/or cost-effectiveness of programs in rehabilitating participants and reducing recidivism

Additional Information

- This topic was added to the On Deck list as the result of a citizen's 2009 request for a review of two specific programs – Correctional Recovery Academy and the Intensive Outpatient Program.
OPEGA recently requested that DOC provide updated information on substance abuse programs in the Corrections System and the Department provided the following information current as of January 2017.
- The Maine Department of Corrections offers substance abuse treatment programs at all of its secure adult facilities, including the Maine State Prison (MSP), Maine Correctional Center (MCC), Mountain View Correctional Facility (MVCF), and Women's Center (WC). Additionally, programs are offered at the Bolduc Correctional Facility (BCF) and Women's Reentry Center (WRC). The Department partners with Correct Care Solutions (CCS) and Day One to provide these services.
- In 2016, the male prisoners admitted into the Department's institutions had the following substance abuse treatment need:
 - 45% were assessed as needing outpatient substance abuse treatment;
 - 21% were assessed as needing residential substance abuse treatment;
 - 33% were assessed as not needing substance abuse treatment;
- In 2016, the female prisoners admitted into the Department's institutions had the following substance abuse treatment need:
 - 77% were assessed as needing outpatient substance abuse treatment;
 - 2% were assessed as needing residential substance abuse treatment;
 - 2% were assessed as needing individual substance abuse treatment;
 - 20% were assessed as not needing substance abuse treatment;
- The Department has two residential substance abuse treatment programs for male prisoners, the Correctional Recovery Center at MCC and the Substance Abuse Unit at MVCF. The remaining treatment programs offered across the facilities are outpatient substance abuse programs.

- Residential Substance Abuse programs
 - The Correctional Recovery Center (MCC) is a 12 month residential substance abuse treatment program, provided by Correct Care Solutions, that has the goal of reducing prisoner's dependency on drugs and alcohol. The Correctional Recovery Center utilizes a therapeutic community structure, which emphasizes routine, structure, and peer-accountability. Upon completion of the program, prisoners either transfer to a minimum security facility or are released to the community. Across the last 18 months, this program has graduated 55 prisoners.
 - The Substance Abuse Unit (MVCF) opened in July 2015 and is a 12 month residential substance abuse treatment program, provided by Day One, focused on reducing prisoner's dependency on drugs and alcohol. This unit utilizes a modified-therapeutic community structure, which emphasizes routine, structure, and peer-accountability. Upon completion of the program, prisoners either transfer to a minimum security facility or are released to the community. Since it opened, this program has graduated 54 prisoners.
- Outpatient Substance Abuse programs
 - The Department offers evidence-based outpatient substance abuse programming at all of its adult facilities (excluding Downeast Correctional Facility). These programs are delivered by Correct Care Solutions.
 - The primary outpatient substance abuse program utilized is Cognitive Behavioral Interventions for Substance Abuse, a curriculum developed by the University of Cincinnati Corrections Institute. This program is approximately six (6) months in duration.
 - The Department offers other outpatient substance abuse programs to both male and female prisoners. Seeking Safety is an outpatient program that addresses both trauma and substance abuse, and may be offered to male and female prisoners. At the female facilities, Co-Dependent No More is also offered.
 - At the minimum security facilities (excluding Downeast Correctional Facility), Living in Balance is also offered to address substance abuse treatment needs in a more flexible manner. This open-enrollment curriculum is focused on substance abuse recovery and is able to be individualized based upon the prisoner's substance abuse treatment needs, allowing for the flexibility needed at a minimum security facility. The program has up-to 47 different program lessons to be included in the program delivery.
 - In 2016, 518 male prisoners and 181 female prisoners successfully completed outpatient substance abuse treatment while incarcerated.
- As of July 2012, MDOC entered into a contract with Correct Care Solutions to provide both medical and behavioral health services to the adult and juvenile populations. In July 2015, Correct Care Solutions began providing substance abuse treatment services across the Department's adult facilities. The substance abuse treatment services provided by Correct Care Solutions are paid for by the DOC (general funds), with support from the DHHS SAMHS Office (general funds).
- Also in July 2015, the juvenile facility at Mountain View was repurposed into a secure adult correctional facility focused on providing treatment programs to male prisoners. Day One, the previous provider of juvenile substance abuse treatment services at this location, was retained and began offering the substance abuse treatment services at the Mountain View Correctional Facility, including the Substance Abuse Unit. The services provided by Day One are paid for by the DHHS SAMHS Office.

	Topic	General Scope
12	<p>Tax Collection (income, sales, use, fuel, cigarette)</p> <p>Responsible Agency: Maine Revenue Services (MRS)</p>	<ul style="list-style-type: none"> • Timely collection and deposit of taxes (including efforts to collect overdue taxes) • Effective efforts to assure credits, etc. taken to reduce taxes owed are valid

Additional Information

- Other states have found savings in this area.
- The State has had past initiatives aimed at collecting overdue taxes and enhancing compliance with the Use Tax. These included a Tax Amnesty program in 2003, a Use Tax Compliance Program in 2006 and Tax Receivable Reduction initiatives in both 2009 and 2010. These initiatives brought in about \$70.7 million in unpaid taxes while waiving about \$44 million in interest, penalties, etc.
- MRS contracted with Revenue Solutions, Inc. in 2014 to implement the Collections Technology Project which has increased collections through improved efficiencies. As of June 2016, the net increase in collections due to this project was \$10.89 million.
- MRS administers over 40 state tax regimes. Title 36 specifies the particular filing and payment requirements for each tax type. MRS has a Compliance Division whose objective is the collection of delinquent tax receivables. The Division focuses primarily, however, on individual income, corporate, sales and use, and service provider taxes. The Division has contracts with an independent collection contractor in Maine and with out-of-state attorneys to assist with that effort.
- MRS uses several approaches to protect against underreporting and to detect non-filers. In 2016, \$149.8 million was collected through the on-going compliance and audit efforts.
 - The Sales, Fuel, and Special Tax Division Audit Unit is comprised of 24 positions responsible for conducting desk and field audits of individuals and businesses to determine tax liability and compliance for various State taxes and fees. Though primarily based in Maine, audit work is conducted throughout the United States. The Unit also has 4 individuals working in support of the audit staff. The Unit provides taxpayer education and proactively identifies taxpayer groups that may lack an understanding of their tax reporting responsibilities, working to bring them into voluntary compliance.
 - The Individual/Estate Income Tax Division Business Audit Unit is comprised of 13 positions responsible for conducting desk and field audits of individuals and businesses to determine tax liability and compliance for various state taxes. Field audit work is conducted throughout the United States and there are two individuals who work in support of the Business Audit Unit. The Division's Individual and Business Units also consist of 18 positions and ten support positions responsible for conducting desk audits of individuals, pass-through entities and businesses to identify fraudulent returns and conduct compliance efforts. The Division is also responsible for a Voluntary Disclosure Program, which allows taxpayers to come forward to become compliant with Maine taxes. Along with providing compliance activity, the Unit is involved in taxpayer outreach and education.
 - MRS also reviews returns to determine if corrections are necessary. Current year personal income tax returns are reviewed by computer using a series of rules that cause problematic returns to suspend for further (human) inspection. This includes returns filed by imposters seeking fraudulent refunds. (MRS has a small team assigned to improve methods of stopping fraudulent refunds.) The Income Tax Division also reviews/documents returns requesting refundable credits such as the Educational Opportunity Tax Credit and the Sales Tax Fairness Income Tax Credit.
 - The MRS Tax Compliance Unit a/k/a Non-Filer Unit focuses on discovery of personal income tax non-filers and uses a computer data warehouse system, similar to that used in at least 20 other states, to uncover unfiled Maine state personal income tax returns with unpaid personal income tax due.
 - MRS has a small, but full time, Criminal Investigations Unit to investigate the most egregious offenders and refer cases to the Attorney General's Office for prosecution. In fiscal year 2016, the Criminal Investigations Unit obtained judgments in excess of \$1.1 million. MRS tracks tax receivables and is required each year to recommend for charge-off those receivables that are deemed uncollectible. Total tax receivables as of the end of June 2016 was \$226.82 million. In February 2016, MRS recommended receivables charge-offs totaling about \$12.93 million.

	Topic	General Scope
13	Unemployment Compensation Responsible Agency: Department of Labor (DOL)	<ul style="list-style-type: none"> Status and effectiveness of actions planned and taken by DOL and Unemployment Commission in addressing recommendations contained in Blue Ribbon Commission report and Federal DOL letter
Additional Information		
<ul style="list-style-type: none"> A review of this topic was requested by a former GOC member in April 2013 in regards to concerns of possible inappropriate political pressure being used to influence Hearing Examiners' decisions. At the time, two separate efforts to review the same topic area were also just being initiated. The GOC decided to monitor the status and results of these efforts before making a decision on this review request. The Governor appointed a Blue Ribbon Commission on Unemployment Reform tasked with reviewing Maine citizens' concerns about the consistency and objectivity of the unemployment adjudication process. The Commission's report was released December 2013 and contained seven recommendations for improvements. The Commission Chairs briefed the GOC on the report. The U.S. Department of Labor (DOL) began a fact finding review of on the first-level appeals component of the Maine's Unemployment Compensation (UC) program as prompted by a combination of factors including public concerns about possible political interference in the state's UC appeals process. DOL's fact finding letter was released in February 2014 and contained five recommendations. OPEGA observed that several of the findings and recommendations from DOL were similar to those raised by the Blue Ribbon Commission. Following these reports, the Commissioner of Maine's Department of Labor shared with the GOC the State's action plan for addressing the recommendations. The GOC voted (6-4) in June 2014 to place the topic On Deck for possible future review of the implementation of those actions. OPEGA recently requested that DOL provide a status update on actions taken in response to the recommendations from the Blue Ribbon Commission and the Federal DOL letter. The MDOL Commissioner provided the requested updates as of January 2017. The Commissioner also provided a July 2014 letter from the US DOL with the results of that agency's follow up review of the first level appeals component of Maine's Unemployment Compensation Program. Based on the Commissioner's responses, it appears the intended actions have all been taken. Some are on-going in nature and the rest have been fully completed. The Commissioner also provided specific examples of the outcomes of the several of the actions illustrating improvements in the UC appeals process. The letter from the USDOL states that its follow up review of the first level appeals process, which included review of 40 cases, did not find any evidence of decisions being made on a pro-employer or pro-claimant preference. USDOL intended to continue to monitor available reports from Maine DOL to identify any significant changes in appeal or reversal rates for claimant or employers who appeal and to conduct additional follow-up reviews if trends suggested an issue. According to the MDOL Commissioner, USDOL has conducted no further follow-up reviews. According to the MDOL Commissioner, the regular federal quality review of the Division's quarterly review process has not been performed since 2013 because USDOL transitioned to a three year cycle. Currently, the federal quality review for all states is scheduled for June 2017. 		

**Maine Charter School Commission and Baxter Academy
OPEGA Summary for the Government Oversight Committee
Updated for April 12, 2013**

Statute and Rules

Legislation passed in 2011 allowed public charter schools in Maine. They are authorized and governed under Title 20-A Chapter 112 Public Charter Schools. Public charter schools are defined in statute as schools parents choose to send their children to that are independent of a school administrative unit, and are established and operated under the terms of a contract between the school's governing board and its authorizer. Public charter schools must provide a program of education for one or more of the following: preschool, prekindergarten and any grade(s) K-12. The program may focus on certain types of students such as special education or at-risk and may include various academic approaches or themes such as natural resources and the environment or science, mathematics and technology.

Pursuant to statute, the Department of Education has established major substantive Rule 05-071 Chapter 140 to govern the authorizing, oversight and operation of public charter schools in Maine. The rule requires public notice of activities of authorizers and charter schools, sets forth student enrollment procedures, establishes standards for the performance of authorizers, clarifies the funding of public charter schools, clarifies the process for petitioning for conversion of a non-charter public school, and provides criteria for determining when a charter school governing board is sufficiently independent of an education service provider with which the board may contract.

Statute sets out what shall be included in requests for proposals for charter schools, applications, and charter contracts. In addition, the Maine Charter School Commission, also pursuant to statute, has adopted Rule 90-668 Chapter 2 – Procedures for Commission Authorization of Public Charter Schools. The rule establishes the:

- process the Commission will use to solicit, accept and review public charter school applications;
- performance indicators that will be used as the performance framework for any approved application; and
- minimum requirements for a charter contract.

Rules adopted by the commission before June 30, 2014 are routine technical rules and after that they are major substantive rules.

The Maine Charter School Commission is established as one of the entities that can authorize public charter schools. Commission members are appointed for 3-year terms by the State Board of Education with input from the Joint Standing Committee on Education and Cultural Affairs. A local school board can also authorize public charter schools within the boundaries of the SAU it governs. Local school boards can form a collaborative to set up a regional public charter school.

Public charter schools are subject to federal, state and local laws such as those relating to special education and required to have independent audits. Statute charges authorizers with responsibility for oversight and evaluation of public charter schools they authorized. Statute also establishes roles and responsibilities for the Department of Education.

The Maine Charter School Commission is comprised of seven members appointed to three-year terms by the State Board of Education with input from the Legislature's Joint Standing Committee on Education and Cultural Affairs. Three Commission members must be members of the State Board of Education and they nominate the four other members who must be approved by a majority vote of the State Board. Members appointed to the Commission must have diverse professional experience in education, social services, youth training, business startup and administration, accounting and finance, strategic planning and nonprofit governance.

The Commission has two staff persons – an Executive Director and an Administrative Assistant. The Executive Director started in October 2012 but volunteered for the Commission prior to being hired. Legal assistance for the Commission is currently provided by the Assistant Attorney General who assists the Department of Education.

The law allows the Charter School Commission to authorize a maximum of 10 charter schools during an initial 10-year transition period. Charter schools authorized by local school boards do not count toward the 10-school limit of the Charter School Commission.

Maine Charter School Commission Process for Authorization of Public Charter Schools

The basic process established in Commission Rule for soliciting and considering public charter school applicants includes:

- Issuance of a Request for Proposals (RFP) with notice to general public and interested parties.
- Public informational meetings to answer questions about the RFP (with notice of meetings posted on Commission website and distributed to interested parties) and/or written responses to questions on the RFP posted to the Commission website.
- Letter of Intent filed with the Commission by an entity intending to submit an application.
- Submission of Application and review for completeness by Commission or Commission staff.
- Evaluation of Application by an assigned Review Team consisting of not more than 3 Commissioners and other technical experts as needed.
- Review Team presentation of recommendations on Application to full Commission.
- Commission determination of whether the Application appears to demonstrate the applicant's competence in each element of the Commission's published approval criteria and appears to demonstrate that the applicant is likely to open and operate a successful public charter school as required in Title 20-A, section 2407(4)(C)(1).
- Denial of Application if Commission determines criteria not met. Otherwise,
 - Commission holds in-person interview with Applicant to clarify information provided in the application, to seek additional information, to determine whether members of the Board and school leaders understand their obligations for academic and operational accountability, and to gauge the applicant's capacity to effectively launch and oversee the proposed charter school.
 - Commission holds public hearing to elicit public comment on the expected impact of the proposed charter school on students, parents, the community to be served by the school, and public education in the State.
 - Commission votes to approve, conditionally approve or deny Application. A decision to conditionally approve the application must set forth the specific changes that must occur in order for the application to be fully approved, and the deadline by which the changes must occur. A decision to deny the application must state the reason for denial.
 - Commission negotiation and finalization of contract with approved Applicant.

The Rules prohibit Commission members, and any others participating in the application review process, from discussing any potential or actual application with a proposed or actual applicant during the period between the issuance of the RFP and the final Commission vote on all applications submitted in response to that RFP, except during the in-person interviews provided for in the Rules.

Publicly Accessible Information about Public Charter Schools and the Commission

Information about public charter schools can be found on the Department of Education Charter School website - <http://www.maine.gov/doe/charterschools/index.html>. DOE's website includes the governing statute, questions and answers about charter schools, and information on: how charter schools are authorized, how to create a charter school, charter school founders and operators, and how to enroll in a charter school. The enrollment information includes links to two Commission-approved charter schools - Cornville Regional Charter School and The Maine Academy of Natural Sciences. DOE's website also includes a link to the website for the Maine Charter School Commission.

The Maine Charter School Commission website at <http://www.maine.gov/csc/index.html> has information on the Commission and its activities including:

- Commission members
- Meetings and materials – minutes, agendas
- Request for Proposals issued by the Commission
- Applications received in response to the two RFPs issued to date
- Additional information requested of applicants by the Commission
- Authorized schools
- Laws and rules

Baxter Academy

Baxter Academy of Science and Technology is located on York Street in Portland, Maine and expects to open in September 2013. According to the Baxter Academy website at <http://baxter-academy.org>, the school has received the required number of applications and letters of intent for its charter, has a new 5-year lease on its building, and is reviewing over 200 teacher applications.

Baxter submitted its initial application to the Commission on May 29, 2012 and, after its review, the Commission granted Baxter conditional approval. The Commission specified its conditions in letters to Baxter and required a revised application by September 30, 2012 with revisions addressing those conditions incorporated. Baxter submitted its revised application on September 28, 2012 and the Commission granted approval and began negotiations for the charter contract with the further requirement that Baxter provide proof of a minimum of 150 letters of intent by March 15, 2013.

As discussed in the Commission's March 30, 2013 letter to the Government Oversight Committee, the Commission halted contract negotiations with Baxter when it learned the Baxter's Executive Director had been fired. The Commission requested 12 documents, and responses to Commission questions, from Baxter which were heard and reviewed at a public meeting held Monday, March 25th. The list of requested documents and Commission questions (as taken from the Commission's website) are attached. The Commission requested further information to be provided subsequent to the March 25th meeting.

The Commission held a meeting on April 8, 2013 to further consider whether to proceed with a contract for Baxter Academy. OPEGA observed the Commission reviewed the additional information provided by Baxter, further questioned Baxter Academy representatives present at the meeting and revisited criteria that had previously caused concerns for various Commission members. Citing recent significant improvements in Baxter's academic plans, financial situation, potential enrollment figures and Board and parent involvement, the Commission voted unanimously to go forward with a contract - noting that a finalized contract would still be contingent on the Board making changes to its by-laws and completing the hiring of an Executive Director.

Public Concerns Raised

On March 22, 2013, the Mayor of the City of Portland formally requested that the Attorney General conduct a review of several matters since recent changes to the Board and management of Baxter Academy had raised serious questions about its viability, as well as concerns about the application process and subsequent approval granted by the Maine Charter School Commission. The Attorney General responded that she understood the Charter Commission was currently reviewing these and other concerns and that she was confident and hopeful the Commission would take the allegations seriously and thoughtfully consider them as it re-examined its approval of the Baxter Academy application.

The Mayor's request to the AG and his concerns were recently covered in the media preceded by recent media coverage related to the Baxter Academy Board's dismissal of its Executive Director in March 2013. Other questions and concerns discussed in the media since Baxter Academy submitted its application to the Charter Commission regard the financial assumptions in Baxter's budget including specific questions about lines of credit, enrollment projections and the availability of federal grants.

A summary of selected media coverage of the Baxter School's application and the Charter Commission's consideration of that application is attached.

Maine Charter School Commission Document and Information Request to Baxter Academy for the Commission's March 25, 2013 Meeting

(as taken from the Commission's website at <http://www.maine.gov/csc/index.html>)

Documents to be delivered to the Commission by the Board of Directors for Baxter Academy by March 18 in advance of the interview scheduled for March 21, 2013:

1. The names of all current members of the Board of Directors for Baxter Academy, along with their resumes, the date of appointment to the board for each member, and their primary role as a board member (either office and/or special area of expertise).
2. The number of current proposed enrollments, based on received letters of intent, along with the grade levels. Include the numbers from each SAU, to the extent that this number is known.
3. A statement on the financial status for the pre-opening period, with documentation on the status of funds either received or committed from donors, other fund-raising, or from commercial lines of credit.
4. A current three-year budget plan.
5. An updated organizational chart showing the key administrative positions and their relationship to the Board.
6. The name and resume for the new Executive Director, if presently known.
7. If known, the names and resumes for the chief financial officer, director of technology, and the director of special education/special services.
8. The status of the building lease agreement, together with a copy of the lease, if signed.
9. A description of the present status of contracts for transportation, food service, custodial services.
10. The names and roles of the current membership of the Advisory Board.
11. A description of the present status of a hiring plan for instructional staff.
12. Information on pending litigation against Baxter Academy of Technology and Science or its Board.

Potential MCSC questions to the Baxter Academy Board of Directors for the March 25, 2013 Interview

1. The Commission has a number of questions concerning Baxter Academy's financial capacity to open its school and to fulfill the requirements of the charter contract that we must enter into before the school may open and receive public tuition subsidy from the per pupil allocation as provided by law.
 - a. What is your current forecasted enrollment, based on a verified list of "intents to enroll" received from parents? Has this list been checked to ensure that none of the caps on enrollment from one or more SAUs has not been exceeded?
 - b. Do you have a revised three year budget plan based on: a) a new estimated enrollment plan; b) a revised staffing plan (including revisions to the administrative structure); and c) updated information on transportation, food service, and other contracted services?
 - c. What is the status of the potential new line of credit? Has FAME agreed to serve as a guarantor? Is it able to be drawn upon at present?

- d. Does this plan have contingencies within it should enrollment drop below either the 150 student forecast as approved in the Commission's vote to grant a charter (date of vote), or in your current best estimate for enrollment numbers?
 - e. What present revenue or other access to funds does the school have on hand to enable it to enter into either facilities lease or other contractual arrangements necessary before school opens? Please specify the amounts available from donations, grants, other fundraising, and from an approved line of bank credit.
 2. With regard to the academic program offering: In light of personnel and budgetary changes, what revisions, if any, does the school propose to make to its stated academic program and schedule based on its present enrollment projections?
 3. There has been high turnover on the Baxter Academies board of Directors since the first submission of its application and even since the vote to issue a charter. The Commission needs further assurances that the present Board has the capacity necessary to enter a contract and open a school in September 2013. Specifically, we need information and plans from the Board in the following areas:
 - a. Based on updated list of Board members, their resumes and specific areas of expertise that will support Baxter Academy, what areas of needed expertise will you now seek to add? A timeline for this?
 - b. Please give us an indication as to the frequency and number of board meetings you have held since the vote to approve the charter and minutes of formal votes taken at those meetings.
 - c. Can you give us an indication as to your projected number and frequency of planned board meeting going forward throughout this next year?
 - d. How have you posted public notice of Board meetings to date? What is your plan for the future for notifying parents, staff and public about the dates and times for board meetings, and your plans, if any, to involve them in your decision making?
 - e. Please list for us the action steps, with names of the specific Board member assigned, for specific operational tasks and oversight activities that the Board and school intend to make in order that school may open in September and operate throughout the first full year of operation.
 4. What is the potential impact of any pending litigation on the ability to go forward as a school? How are the litigation costs to be paid? If the intellectual property is deemed not to belong to the school, how would this effect the ability to go forward as a school? If the litigation was to go for a long period of time, how would that affect the school?

**Summary of Select Media Coverage of Baxter Academy Application
to Maine Charter School Commission (MCSC)
July 2012 – April 1, 2013**

In June and July 2012, the MCSC was considering multiple charter school applications including Baxter Academy in Portland. Baxter Academy is planned as a Science, Technology, Engineering and Math (STEM) school. Opponents, such as the Mayor of Portland and Maine Education Association, raised questions about the financial assumptions in the Baxter Academy budget. Baxter stated it had secured a \$500,000 line of credit from an anonymous benefactor to fund start-up costs and was projecting \$360,000 in the first year from federal U.S. Department of Education grants. The grant amounts were questioned, as were enrollment projections of 160. Baxter presented a new budget for 100 students with a smaller federal grant projection.

The MCSC subcommittee recommended approval, but the full Commission continued to have questions about Baxter's finances. One member suggested a budget based on 80 students might be good. Supporters noted the need for a STEM school and some MCSC members characterized issues raised in opposition as political.

At the same time the Commission was being criticized for the time it was taking to approve charter schools and the small number being approved. Commission members stated they were making decisions based on specific merits, not whether charter schools are good or bad generally.

In November Baxter Academy was approved as Maine's third charter school with a projected opening in September 2013.

In March 2013, the Baxter Academy Board dismissed John Jaques, the Director stating that it saw a pattern of mismanagement and had been considering dismissing Jaques after it learned the school did not have the line of credit it needs for its contract with the State. The Board discovered the line of credit was not in place when it went to sign the building lease.

Jaques denied mismanagement and stated board acted unethically and dismissed him in order to obtain a donation of \$250,000 contingent upon his removal. Jaques said that donation was from the father of a member of the school's advisory board. The Board said a family member was paying Jaques' salary, and that the donation did come from someone who had previously worked with Jaques then pulled his support. The individual who said his organization, the Jebediah Foundation, would not provide any more funding to the academy as long as Jaques was in charge confirmed this.

Jaques cut board off from school email, records, website and facebook page which included applications for positions and enrollment. There was back and forth in the press between current Baxter board members who supported the dismissal and former advisory board members who supported Jaques. A lawsuit was filed by the Board to get materials from Jaques because they were necessary in order to proceed with plans to open school in September.

Board has now signed lease and gained access to teacher applications.

On March 22 it was reported that the Portland Mayor asked Attorney General to investigate allegations of mismanagement, determine whether MCSC conducted an appropriate review of the school's financial picture and whether Commission offered inappropriate advice or assistance during application process.

The MCSC meeting on 3-25-13 to discuss Baxter Academy was covered. Jaques supporters criticized new leadership at school and said that most members of advisory board had resigned and school is corrupt. Baxter supporters claimed problems are a distraction and that the school is moving forward with a new

plan, parents are still supportive, they have 156 student applications and are only about \$100,000 short of \$350,000 fundraising goal.

March 29 reports on GOC to be asked to authorize an inquiry, review school's finances, standards used by MCSC to consider application. The Governor criticized Portland Mayor for requesting an Attorney General investigation. The Mayor reiterated his discomfort with sending hundreds of thousands of school funds to a school whose own directors have raised questions about financial management. The MCSC Chair stated that criticism is from those who don't want charter schools, and the Commission is doing the oversight and vetting as deeply as it can. Baxter board members raised a concern that a long inquiry could jeopardize a September opening.

Quarterly Listing of Audit Requests for GOC Consideration

First Quarter 2017						
#	Topic Area	Possible Areas of Focus	Rough \$ estimate	Covered by other topic?	Past or current efforts in this area?	Additional Information
1	Maine Turnpike Authority	<ul style="list-style-type: none"> • Impact of the timing of EZ Pass toll postings on customer discounts under the toll discount program 		No	OPEGA MTA review, report released in 2011. However, the review did not cover this possible area of focus.	<p>The Maine Turnpike E-ZPass is an automated toll collection system that allows individuals and businesses to pay tolls electronically. An electronic "tag" is attached to the windshield, roof or license plate of the vehicle. This tag relays the vehicle's turnpike entry and exit locations to the MTA and the appropriate toll is then calculated and deducted from a prepaid toll account.</p> <p>Maine Turnpike toll payers who have an EZ Pass are eligible for a 25% rebate if they make 30 one-way trips (or 15 round-trips) in a month, and a 50% rebate if they make 40 trips in a month.</p> <p>The requester alleges that sometimes EZPass tolls for trips on the turnpike that occur in the last few days of a month get posted in the following month, depriving the EZPass holder their proper rebate.</p>
		<ul style="list-style-type: none"> • Effectiveness of Whistleblower Hotline and other avenues for employees to report concerns 		No	OPEGA MTA review, report released in 2011	<p>The 2011 OPEGA MTA review resulted in the MTA proposing to update or establish additional written policies and procedures to govern employee job training and internships, protection of whistleblowers, network access, computer usage, and union negotiations. As part of this effort, a whistleblower hotline was established.</p>
LEGISLATIVE SPONSOR: Rep Fecteau						

Quarterly Listing of Audit Requests for GOC Consideration

#	Topic Area	Possible Areas of Focus	Rough \$ estimate	Covered by other topic?	Past or current efforts in this area?	Additional Info (OPEGA has conducted no research on this topic)
2	State Law Enforcement Agencies' Undercover Operations	<ul style="list-style-type: none"> • Approval process for undercover operations • Oversight of undercover operations • Controls on the length of the operation • Funding for undercover operations • The role of the Attorney General, if any, in approval or oversight 	Unknown	No	Unknown	Some state law enforcement agencies include undercover work as part of their law-enforcement efforts. The requestors are interested in whether the general policies, procedures, and practices for these activities are ensuring that the operations, while remaining confidential, are carried out in a way that respects the rights of individuals so that citizens will have confidence in the integrity of such operations.
LEGISLATIVE SPONSOR: Senator Davis, Senator Katz						

Quarterly Listing of Audit Requests for GOC Consideration

#	Topic Area	Possible Areas of Focus	Rough \$ estimate	Covered by other topic?	Past or current efforts in this area?	Additional Info (OPEGA has conducted very limited research on this topic)
3	Maine Power Options— Administered by the Maine Municipal Bond Bank and the Maine Health and Higher Education Authority	<ul style="list-style-type: none"> • Effectiveness of program in meeting its intent • Effectiveness and transparency of Request For Proposal and contractor selection process for electricity supply • Public transparency of MPO activities and decisions 	500 million kilowatt hours purchased by members per year	No	2013 review of MPO by the Maine Office of Policy and Management (OPM)	<p>In August 2013, OPM reported the results of its review of MPO to the Governor’s Office in a Draft Advisory White Paper. OPM concluded that:</p> <ul style="list-style-type: none"> • MPO could not provide evidence demonstrating cost savings for participating members; • Oversight of the program was weak; • the electricity supply contract was a concern; and • MPO participants had numerous alternatives other than MPO available for procuring energy.

Additional Info (cont.)

In 1999, the Legislature passed legislation directing the Maine Municipal Bond Bank and the Maine Health and Higher Education Authority to create an aggregation program to purchase electricity, fuel oil and other commodities on behalf of governmental units (such as municipalities, schools, and sewage and water districts) and other not-for-profit entities in the State. Maine PowerOptions (MPO) was created as an energy-purchasing consortium that serves as an aggregator for Maine's local governmental and non-profit organizations. Maine PowerOptions group-purchasing programs are designed to increase the buying power of eligible participant organizations for the purchase of fuel oil and electricity. MPO has approximately 820 members statewide.

MPO has an Internal Advisory Committee (IAC), made up of members that periodically provide suggestions and recommendations for improvements to the program. There is a competitive bid process conducted every three years to select an electricity provider who will offer the best choice of options for the term, and is open only to licensed energy suppliers in Maine. The members of the IAC participate in the interview process for selection of the energy supplier. A single electricity supplier has won the contract since the program’s inception. The contracted supplier pays MPO a monthly fee for the expenses of running the program.

LEGISLATIVE SPONSOR: Senator Gratwick

Quarterly Listing of Audit Requests for GOC Consideration

#	Topic Area	Possible Areas of Focus	Rough \$ estimate	Covered by other topic?	Past or current efforts in this area?	Additional Info (OPEGA has conducted very limited research on this topic)
4	<p>Temporary Assistance for Needy Families (TANF)</p> <p>Department of Health and Human Services Office of Children and Families</p>	<ul style="list-style-type: none"> • Reasons for decline in TANF enrollment • Possible correlations between declines in TANF enrollment and trends in: <ul style="list-style-type: none"> ○ infant mortality, ○ childhood poverty, ○ childhood food insecurity, ○ drug affected newborns, and ○ housing problems • Adequacy of Federal and State resources supporting TANF 	<p>Governor's Proposed Budget for FY18 TANF program includes: \$21.9 million in State General Fund and \$53.6 million in Federal Block Grant Funds</p>	<p>No</p>	<p>Unknown</p>	<p>The TANF Program is a financial assistance program for needy families with dependent children who are deprived of parental support or care because of the death, continued absence, incapacity of a parent, or the under employment of a parent who is the principal wage earner. Maximum assistance provided to a family (with the possibility of extensions) is 60 months in a lifetime.</p> <p>Applicants must meet age, relationship, deprivation, citizenship, alien status, residency, and cooperation requirements, as well as remain within the income and resource limits of the program in order to be eligible to receive TANF benefits.</p> <p>Recent newspaper articles indicate that TANF enrollment in Maine has dropped by more than 60% since 2012 while statewide poverty rates have not improved.</p> <p>An initiative in the Governor's Proposed Budget for FY18 and FY19 reduces proposed amount for TANF by about \$105 million from prior years to adjust allocation between TANF program and the Child Support program within the same fund to align activities with the appropriate program. Also to reduce allocation in TANF program to align with existing resources.</p>

LEGISLATIVE SPONSOR: Senator Gratwick

Quarterly Listing of Audit Requests for GOC Consideration

#	Topic Area	Possible Areas of Focus	Rough \$ estimate	Covered by other topic?	Past or current efforts in this area?	Additional Info (OPEGA has conducted no new research on this topic)
5	Guardians ad litem Judicial Branch	<ul style="list-style-type: none"> • Judicial Branch progress in implementing the requirements of PL 2013 Chapter 406 • Effectiveness of actions taken in addressing past issues with GALs 	Unknown	No	2006 OPEGA report on Guardians ad litem	The requirements of PL 2013 Chapter 406 addressed some of the key recommendations from OPEGA's 2006 report that had not been implemented.
<p>Additional Info (cont.) PL 2013 Chapter 406, "An Act To Improve the Quality of Guardian ad Litem Services for the Children and Families of Maine", from the 126th Legislature used existing requirements for guardians ad litem as a base, and included some of the recommendations of the reports to the Supreme Judicial Court, "Recommendations for an Improved Process for Complaints Regarding Guardians Ad Litem," dated September 21, 2012, and "Recommendations for Amending the Maine Rules for Guardians Ad Litem," dated January 14, 2013, by the Guardian Ad Litem Stakeholders Group. Under the new chapter, guardians ad litem appointed under the Maine Revised Statutes, Title 18-A are subject to the general provisions and rules adopted by the Supreme Judicial Court, including the complaint process. Guardians ad litem appointed under Title 19-A and Title 22 are subject to the general provisions and the rules, as well as specific provisions for the different types of cases.</p> <p>The Chapter:</p> <ul style="list-style-type: none"> • Directs the Family Division within the Judicial Branch to assist the Chief Judge of the District Court to roster guardians ad litem and in the administration of guardians ad litem appointed under Title 19-A and Title 22. It also requires the family division to collect, maintain and report data about the appointment of guardians ad litem, reports, caseloads and other information. • Clarifies the process of rostering guardians ad litem, although the details were to be established by rules adopted by the Supreme Judicial Court. The rules must include criminal background checks. • Establishes in statute the role of a guardian ad litem and requires compliance with standards of conduct, which were to be adopted by rule by the Supreme Judicial Court. • Requires the Supreme Judicial Court to provide by rule for a complaint process concerning guardians ad litem. The complaint process is in addition to the right of a party to file a motion to remove the guardian ad litem while the case is pending. • Directs the Judicial Branch to include guardian ad litem elements in its request for proposals for the new case management system for the courts. • Specifies that the order of appointment must specify the duties of the guardian ad litem. A guardian ad litem has no authority to perform and will not be expected to perform any duties beyond those specified in the order, unless subsequently ordered to do so by the court. • Specifies that the order appointing a guardian ad litem in a case under Title 18-A and Title 19-A must also specify the hourly rate or flat fee for the guardian ad litem, the timing of the payments to be made and by whom and the maximum amount of fees that may be charged for the case without further order of the court. <p>The entire chapter is repealed October 1, 2017, although there is currently a bill before the 128th Legislature to remove the repeal language.</p>						
LEGISLATIVE SPONSOR(S): Rep Sampson, Rep Sutton, Rep Malaby, Rep Seavy, Rep Bradstreet						

Quarterly Listing of Audit Requests for GOC Consideration

#	Topic Area	Possible Areas of Focus	Rough \$ estimate	Covered by other topic?	Past or current efforts in this area?	Additional Info (OPEGA has conducted very limited research on this topic)
6	Commission on Indigent Legal Services	<ul style="list-style-type: none"> • Effectiveness of the Commission in meeting its mission • Economical use of resources 	Annual budget approximately \$17 Million	No	Unknown	<p>The Maine Commission on Indigent Legal Services was established by the Legislature in 2009 to provide high quality representation to Maine citizens who are entitled to counsel at state expense under the United States Constitution or under the Constitution or statutes of Maine. The Commission’s mission is to protect the rights of Maine’s indigent citizens in courts throughout the State by providing oversight, support, and training to assigned private counsel and to contract counsel. The Commission assumed responsibility for providing indigent legal services on July 1, 2010.</p> <p>Concerns expressed in the request relate to application of financial eligibility requirements in assigning court-appointed attorneys, attorney billing practices, and billing and collection efforts for citizens with assigned attorneys who are required to pay a portion of the attorney fees.</p>
LEGISLATIVE SPONSOR: Rep Pierce						