MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY

November 20, 2020
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Call to Order

The Chair, Sen. Chenette, called the Government Oversight Committee meeting to order at 10:03 a.m. in the State House.

Attendance

Senators:	Sen. Chenette and Sen. Sanborn Participating in the meeting by Zoom: Sen. Libby Absent: Sen. Hamper, Sen. Keim and Sen. Timberlake
Representatives:	Rep. Mastraccio, Rep. Dillingham, Rep. Arata, Rep. Millett and Rep. Pierce Participating in the meeting by Zoom: Rep. O'Neil
Legislative Officers and Staff:	Scott Farwell, Senior Analyst, OPEGA Etta Connors, Adm. Secretary, OPEGA
Participating in the meeting by Zoom:	Danielle Fox, Director of OPEGA
Executive Branch Officers and staff participating in the meeting by Zoom:	Daniel DAlessandra, Staff Attorney, Maine Revenue Services Peter Lacy, Deputy General Counsel, Maine Revenue Services Kate Foye, Director of Legislative Affairs and Communications, Department of Economic and Community Development Phoenix McLaughlin, Tax Incentive Director, Department of Economic and Community Development

Sen. Chenette summarized the meeting procedures. The GOC convened with a quorum in Room 228, State House with members social distancing, wearing face masks and abiding by all the procedures necessary for following the public health perspectives. Some GOC members will move to other locations in the building after Committee introductions and voting on several agenda items.

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defender's office in lieu of supervising attorneys. She wondered if there was a way to work that fact into future consideration when discussing costs.

Sen. Chenette thinks Rep. O'Neil's request seems a bit more of a political policy adjustment that is not necessarily in line with the report. Others members can correct him if he is wrong, but thought it is really about outlining the details of the report and then the next GOC, and committee of jurisdiction, the Judiciary Committee, are going to have to weigh the recommendations of OPEGA's MCILS report, its details and data analysis provided in the report to assess whether to overhaul the existing system or move to potentially a new option. That policy decision is not necessarily what the GOC is outlining or what is being discussed at today's meeting. It is simply to outline the details of the report to the next GOC who will have to have those discussions.

Director Fox said Sen. Chenette's explanation was her understanding of what the Committee wanted in the draft letter. The guidance she was given was to point out what is in the report and OPEGA does not make any recommendations with regard to a public defender's office. She reminded the Committee there has yet to be a public comment period held on this report and there will be more formal recommendations by the next GOC.

Rep. O'Neil was not seeing her comment as a recommendation, but as an acknowledgement of the conversation that is on the table.

Sen. Chenette thinks, as Rep. O'Neil suggested, there might be some folks that come forward that point out that there might be some benefits, or downsides, to multiple different systems. Those suggestions might come out during the public comment period on OPEGA's MCILS report.

Rep. Mastraccio thought the draft letter is for the 129th GOC's comments to be presented for the public comment period held by the 130th GOC. It is a statement that will be in the record for the 130th GOC to use and pass on. If you look at that purpose for the letter, she thought it probably is not appropriate to add Rep. O'Neil's comments. If Rep. O'Neil is part of the next GOC, or still in the Legislature, she would be able to attend the public comment period on the report and make those comments as her public comments.

Rep. O'Neil agreed to step back on her request to add language to the letter going to the 130th GOC from the 129th GOC regarding OPEGA's MCILS report.

Sen. Chenette asked if there were any other questions, comments or concerns about the draft letter. Hearing none, he said the letter to the 130th GOC will be put in final form for the Chairs' signatures and will be presented to the 130th GOC at the public comment period on OPEGA's MCILS report.

New Business

- **Presentation of OPEGA on Pine Tree Development Zones (limited scope review)**

Director Fox presented the Pine Tree Development Zones report. (A copy of her presentation slides, are attached to the Meeting Summary. The report can be found at http://legislature.maine.gov/opega/opega-reports/9149.)

Director Fox thanked OPEGA Analysts Jennifer Henderson and Kari Hojara, for their work on the PTDZ report.

Sen. Chenette reminded everyone that there will be a public comment and work session on the PTDZ report in the 130th GOC, but this GOC felt it was important to make sure the report got released publicly so that not only the public and interested parties can review it, but also so the legislators of the 130th have an opportunity before cloture to be looking and using the information in the report.

Sen. Chenette recognized that there were representatives from the Department of Economic and Community Development (DECD) and the Maine Revenue Services (MRS) at the meeting via Zoom. He asked if the members of the Committee had questions for either MRS or DECD regarding the report.

Rep. Millett thought it interesting that the GOC really stressed the need for a plan that could be called economic development and strategic back in 2006. In broader terms it was delivered by DECD last year and now we have, post-pandemic, a report on economic recovery coming and this oversight review of the PTDZ is a small part of fitting in with both of those other two activities. He thinks DECD is probably going to play a bigger role in sharpening up the strategic plan with timelines, focusing on what comes out of the Economic Recovery Committee (ERC) and maybe addressing the two pieces that he thinks are the weaker ones in the summary part of OPEGA's PTDZ report. That is namely the lack of a strong "but for" provision and the need for proactive program management and strengthened oversight of PTDZ. He was looking at the next Legislature and hopefully the GOC will not lose interest in the issue, which has been a part of its focus for 14 years. He asked if DECD could comment about how they see the December report of the ERC, which is going to demand a lot of the Legislature's attention in the 130th Legislature as they try to revive the weakened sectors, particularly at the small business level. Also, what they will be doing to try to sharpen what they can do and what they should do with respect to fleshing out the 10 year plan in the upcoming months. Rep. Millett was looking for comments from DECD and maybe to a lesser extent from MRS, in how they can address the conclusions, particularly the weaker portions that he referred to.

Ms. Foye said, at this point, short of offering any policy recommendations, what she would say is the strategic plan was designed to ebb and flow with changes in the economy. Although they did not anticipate a year ago that this is the position they would be in, certainly as they take a look at the recommendations that come out of the ERC and align them with the work DECD wants to do in the strategic plan, they will be looking at all of the programs and all of the recommendations. She was not sure she answered Rep. Millett's question, but said yes DECD will be looking at how the strategic plan lines up with the ERC recommendations and the adjustments they need to make to move towards a recovery.

Rep. Millett said Ms. Foye did respond to his basic underlying concern in that DECD does see the importance of the 130th addressing the issues that are evolving as we look, hopefully, to the end of the pandemic and recovery in the context of making the plan more specific, short and long term, and that offers an opportunity for all of us to look at PTDZ as to how it fits better and how it can be made better. He was hoping for a broad acknowledgement that this will be an important agenda issue for the 130th Legislature.

Ms. Foye thinks the 130th Legislature, as well as the Administration, has an important role moving forward as they look through the recovery.

Ms. Foye introduced Phoenix McLaughlin from DECD. He is the Tax Incentive Director, the position formerly held by Andrea Smith.

Rep. Pierce referred to the 10 year plan and said it was an interesting note that DECD designed the plan as an overlay to what we had as existing programs. When she thinks about designing something for 10 years she would have thought you would have designed the plan that you think is best and then we might be looking at all of the things that we have going on and whether or not they respond to that. This program responds to it generally, but not specifically, and asked if Ms. Foye could speak a little to that decision and to the PTDZ program in particular.

Ms. Foye said she was not necessarily sure DECD designed the plan as an overlay to the programs that we have already, but they did not need to reinvent the wheel on some of the tax incentive programs and included them in the plan as they already exist. The plan was looking towards recommendations for new things that they could do moving forward over the next 10 years. One of the things that DECD had planned to do, everything is pre-

covid and/or post-covid, was to do a major look at all of the tax incentive programs with somebody in Audit, somebody outside of DECD, to see what works, what is not working, what can be improved, and if we need to design something new. Unfortunately, the funding for that has been put on hold in a post-covid world, with the intention to still do that. Moving forward they are trying to figure out, from a budgetary standpoint, how to appropriately make that work in the most responsible way possible. Ms. Foye said to answer the question, DECD understands they have these tax incentive programs that are important incentives to attract new investment in the State, but before they make any policy recommendations about any, she thinks it is important to look at them and then to look at some of the other recommendations that are coming out now that we are post-covid. To see where we were before versus where we are now and looking for recommendations from the ERC as well and how they can align with the strategic plan and some of these other tax incentive programs that they also plan to take a look at.

Rep. Mastraccio thinks Rep. Pierce is echoing the way that she felt, which is that everything was supposed to be on the table, so was a little surprised to hear that it was just layered on top of what we already have. She envisioned it differently and thinks she understands why we are where we are, but hopes going forward, that we do look at everything like it is the first time we are looking at it because it is a new world and something that has worked for 10 or 15 years doesn't necessarily mean it works now. The old way of doing things is not always going to work in the midst of a pandemic, so let's take what we have learned and move on. There are now new businesses that have come out of the pandemic. She thinks that everything deserves to be on the table and understands the need for independent reviews by DECD, but the GOC did this statute of tax incentive evaluations for a reason and they need to be utilized. We know that the 130th Legislature will be addressing PTDZ because the program is expiring. It is going to be a discussion and she thinks that DECD needs to be prepared to be very specific in how they think this plan fits into an economic development strategy and recovery going forward.

Sen. Chenette asked if there were any other comments, questions or concerns for DECD or MRS. Hearing none, he thanked those from DECD and MRS for participating in the meeting.

Sen. Chenette noted that the 130th GOC will be responsible for handling the public comment period and a work session on OPEGA's PTDZ report so there will be an opportunity for interested parties to come forward and provide feedback.

Report from Director

- **Letter from PEW Charitable Trusts' State Fiscal Health project**

Director Fox referred to the letter the GOC received from the PEW Charitable Trusts' State Fiscal Health division that talks about the value of tax expenditure reports generally and how they have appreciated our approach to some of these evaluations and the usefulness of them. OPEGA has been asked at past virtual meetings of the PEW Charitable Trust to talk about some of OPEGA's evaluation, with the last one being the BETR/BETE evaluation. She noted the tax expenditure reviews are a fairly new type of review for OPEGA and credited their success to the analysts in OPEGA. More states are adding tax expenditure reviews to their evaluations or creating offices just for that purpose. PEW has noted OPEGA as a resource and an example for tax expenditure evaluations.

Sen. Chenette said this is a good affirmation of the work that OPEGA is doing and is good to have that recognition reflected in a third-party atmosphere.

- **Status of projects in process and preview of what is to come in the 130th**

Director Fox offered to skip this item because thinks the Chair has laid out what the new GOC in the 130th will be looking at. The Committee agreed.