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

MEMBERS:

SEN. CHRISTOPHER K. JOHNSON
SEN. DAVID C. BURNS
SEN. PAUL T. DAVIS, SR.
SEN. BILL DIAMOND
SEN. STAN GERZOFSKY
REP. MICHAEL D. MCCLELLAN
REP. RICHARD H. CAMPBELL
REP. ROBERT S. DUCHESNE
REP. ANNE-MARIE MASTRACCIO
REP. DEBORAH J. SANDERSON

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY
September 8, 2015

CALL TO ORDER

The Chair, Sen. Katz, called the Government Oversight Committee to order at 9:04 a.m. in the Cross Office Building.

ATTENDANCE

Senators:	Sen. Katz, Sen. Johnson, Sen. Davis, Sen. Diamond and Sen. Gerzofsky Joining the meeting in progress: Sen. Burns
Representatives:	Rep. Kruger, Rep. McClellan, Rep. Duchesne, Rep. Mastraccio and Rep. Sanderson Absent: Rep. Campbell
Legislative Officers and Staff:	Beth Ashcroft, Director of OPEGA Matthew Kruk, Senior Analyst, OPEGA Scott Farwell, Analyst, OPEGA Etta Connors, Adm. Secretary, OPEGA
Agency Officers and Staff Providing Information to the Committee:	Matthew Dunlap, Secretary of State David Cheever, State Archivist

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

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

Chair Katz asked if there was objection to taking an item out of order. Hearing none the Committee moved to **New Business - Presentation of State Funding for Good Will-Hinckley School Information Brief.**

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NEW BUSINESS

- **Presentation of State Funding for Good Will – Hinckley School Information Brief**

Chair Katz said the GOC, by unanimous vote, tasked OPEGA to review the State funding for Good Will-Hinckley (GWH). He said at today's meeting the Committee will hear a presentation of the Brief from OPEGA. He said he and Chairman Kruger discussed the process earlier and decided to request that members of the Committee hold their questions, if they could, until after the Brief was presented. Chair Katz said consistent with the GOC's past practice, at the end of the presentation and the Committee's questions, they will see if there is anyone from the Governor's Office, Department of Education (DOE), or GWH who might want to make a comment.

Chair Katz said the GOC will also set a schedule for further proceedings, which will include a public hearing and said OPEGA would be happy to accept public comments from anyone who would like to be heard by the Committee who are not necessarily going to be able to make the public hearing.

Chair Katz said the Committee will have to also decide who they may want to have come to the public hearing to give the GOC an opportunity to speak to them.

The Chairs asked if the members of the Committee had requests for documents they would like to see, or people they would like to have come to the public hearing, that they forward those requests to the Chairs after the meeting and they will make the appropriate requests.

Chair Katz reiterated that the role of the GOC was to just get all of the facts on the table to bring as much transparency to the issues as possible. It is not anticipated that they will be taking any action.

Director Ashcroft thanked all of the entities OPEGA reached out to throughout the review with requests for interviews and documents and for their cooperation. Those parties included the DOE, GWH and its legal representative, the Harold Alfond Foundation and the Speaker of the House and his legal representative. She said OPEGA did reach out to the Governor and offered an opportunity to speak with them, but he and members of his staff, citing the pending litigation against the Governor on the advice of their attorney, respectfully declined to speak with OPEGA. She also thanked the legislative nonpartisan offices and constitutional officers that provided OPEGA information. Lastly she thanked the OPEGA staff.

Director Ashcroft presented OPEGA's Information Brief on State Funding for Good Will-Hinckley. She noted, keeping with OPEGA's normal process, the Brief did not contain any names of person and OPEGA used titles instead. She said it got more complicated than usual because of the number of changes in the position of Commissioner for DOE, President at GWH and the number of different Governor Senior Policy Advisors that were involved. She said as she presented the Brief she will be using names and gave the names for the positions. They were:

Current Acting Department of Education Commissioner	Tom Desjardins
New Commissioner of Department of Education	Jim Rier
Prior to Commissioner Rier – back in the early part of 2014	Commissioner Bowen
Chairman, Good Will-Hinckley Board	Jack Moore
Director of Finance, Good Will-Hinckley	James Jurdak
Interim President, Good Will-Hinckley	Rich Abramson
Vice-President Operations, Good Will-Hinckley	Rob Moody
Senior Policy Advisor A	John Butera
Senior Policy Advisor B	Jonathan Nass
Senior Policy Advisor C	Aaron Chadbourne
The Policy Advisor	Tom Desjardins (previously in the Governor's Office, currently

	Acting Commissioner, DOE)
Good Will – Hinckley's Lobbyist	Sara Vanderwood
Other Lobbyist, also Good Will-Hinckley Board Member	Jay Nutting

(The Brief is on OPEGA's website at http://legislature.maine.gov/uploads/originals/final-gwh-info-brief-9-7-15-revised-9-9-15.pdf or a copy can be obtained by contacting OPEGA).

Questions and comments by the GOC members included:

Chair Kruger referred to the description of the Speaker as a vocal opponent of charter schools and asked if OPEGA found any documentation that would support that description. He said there are votes taken by members of the Legislature, but what was it that made the Speaker a vocal opponent of charter schools. Director Ashcroft said OPEGA did not research that. In the scope of the review they took the explanation that had been provided as something that was of concern to the Governor and Acting Commissioner. OPEGA did not attempt to establish what makes a vocal opponent, or not, or what the Speaker's record was. Some of it was described in the Governor's June 8th letter to GWH, the points that he felt were important to make and he did layout that this was one of his concerns.

Rep. Mastraccio said the Governor, Acting Commissioner and the Governor's Senior Policy Advisor (Mr. Chadbourne) began communicating with various GWH representatives and stakeholders and she assumed the stakeholders were from the Alfond Foundation. She asked if they talked with more than one person at point, and if so did OPEGA talk with those individuals. Director Ashcroft said yes OPEGA did talk with all the GWH representatives who had been on the receiving end of the communications as far as she knows.

Chair Katz noted that Maine Academy of Natural Sciences (MeANS) is a portion of the overall operation of GWH and asked if the Director knew what percentage of the budget it was, or the percentage of the students that were at MeANS. Director Ashcroft said at this time she could not say. OPEGA requested information from GWH that would help give context around that matter. She said GWH was very responsive in many of the documents they provided to OPEGA, but in the end in response to this request they sent the annual financial statements from the School and OPEGA did not have time to try to glean out from that information the answer to Chair Katz's question. OPEGA asked GWH for population data and how many folks were enrolled in the programs and did not get that information either and assumed the reason was because everybody ran out of time trying to put information together for OPEGA. She said it might be a piece of information OPEGA could request from GWH again.

Chair Katz asked if there had been any other school or program other than GWH that has ever participated in the Center of Excellence (COE) Program. Director Ashcroft said it was only GWH and the Legislative history on the COE bill indicated that it was specifically intended for GWH.

Rep. Duchesne referred to OPEGA making a request to talk with the Governor's staff, but they declined because of pending litigation. He asked when the staff declined to be interviewed were they specific about which litigation, civil or federal, they were worried about. Director Ashcroft said it was on the advice of the Governor's attorney citing the pending litigation of the civil suit against him that the Speaker had filed.

Rep. Duchesne said there were a lot of references in the Brief as to hazy memories, which is normal, but asked if it was hazier than normal or was it not unusual in OPEGA's experience. Director Ashcroft said there were a couple of people's memories that were hazier than others, but in the end they did their best to recall the information. OPEGA did what they could to triangulate it with other information gathered and figure out when things were happening. Rep. Duchesne referred to page 16 of the Brief regarding when the funds for GWH were pulled. He said it was the one occasion where he sees accounts differ when OPEGA talked to different people. Director Ashcroft said she will cover that when she gets to the time line in the Brief.

Sen. Diamond noted for clarification purposes that none of the responses to OPEGA's questions were done under oath. Director Ashcroft said that was correct. He referred to page 7 of the Brief about defining support

meaning the loss, or withdrawal, of the $530,000 and said the Governor vetoed the budget, but was the funding for GWH also line item vetoed by the Governor? Director Ashcroft said it was her understanding that the Governor vetoed the entire addition to the General Purpose Aid for Schools, but she could not recall right now if it was the whole program or just the portion of the program that was the increase for the State's School Subsidy portion, in which case the Center for Excellence funding would not have been involved. She has noted Sen. Diamond's question.

Rep. Sanderson said there is a lot of reference about the Foundation letter that was sent to the GWH Board. She asked if the GOC could obtain a copy of the letter so they could attest to the tone of the letter. Director Ashcroft said that document is a confidential working paper under OPEGA's statute. She said as of now it has not been published in the media so she would want to defer to GWH and/or the Harold Alfond Foundation about the possibility of releasing that letter publicly.

Chair Katz asked Committee members to get their requests to Chair Kruger or himself, and they will forward them to Director Ashcroft who will make an inquiry or analysis of the request. Director Ashcroft said typically when the Committee has requested information that she cannot provide in its original form, the Committee has been able to tell her specifically what it wants to know and she has been able to provide a summary.

Rep. Sanderson said there has been a lot of discussion regarding State funding for the School which started in 2012 and, as noted in the Brief, the GWH President indicated that it was intended that GWH would be independent within twenty-four months and asked if there was any information about why they have not reached that level of independence yet. Director Ashcroft said OPEGA did not delve into that specifically with GWH and thinks it would be a question for GWH.

Sen. Davis asked if OPEGA's lack of trying to find out if the Speaker was being a vocal opponent was because of comments made at the GOC level. He recalled the Committee wanted OPEGA to stick to the Governor's actions and not the Speaker's action. Director Ashcroft said OPEGA was on a fact finding mission and were trying to nail down the facts that were relevant to the time line and story. She said OPEGA did not exclude looking at that based on any discussion. It was a matter of OPEGA prioritizing what they thought the important points were to cover. She said OPEGA thought the Governor's objection was clearly stated, it was a point of contention and she did not think it was critical to what OPEGA was reporting to understand whether or not the Speaker could be perceived as being a vocal opponent of charter schools. The Speaker responded to many questions about his voting record on charter schools throughout the interview process at GWH and OPEGA thought that information would be sufficient enough for the Brief. Sen. Davis said he did recall a discussion at a GOC meeting that the Governor's actions should be at the top of the list and not the Speaker's. Director Ashcroft noted that the Speaker's action was captured in OPEGA's Brief.

Sen. Gerzofsky asked if there was any time that the GWH Board, when discussing the search for a President, talked about the situation of hiring a sitting Speaker of the House, or any prominent politician currently sitting in the Legislature, and were there any other politician types that applied. Director Ashcroft said GWH's past President was Glen Cummings who had been a former Speaker of the House. The Board had experience with what it might be like for a Speaker to be selected as President. At the time they were developing the qualifications that they were going to be looking for in a President that got reflected in the job description. They did not have any expectation that there was going to be another Speaker, or any politician, applying for the position. They did indicate to OPEGA that President Cummings had obligations other than GWH that had kept him from, they felt, fully committing time and attention to the School and that is, she presumes, the reason for some of the qualifications that they put in the job posting, to make it clear that it is a full time position and they expected full commitment from whoever filled the job. Sen. Gerzofsky noted that Speaker Cummings had not been the active Speaker of the House when he was hired as GWH's President.

Rep. Duchesne referred to page 16 of the Brief "The Acting DOE Commissioner explained the rationale for his decision as being rooted in not knowing what would occur between GWH and the Governor or even what would occur with the FY2016 and 2017 budget as a whole." He said the second rationale would have applied to any payment they were making during that period and asked if OPEGA was aware of the DOE refusing

payment on anything else. Director Ashcroft said no. There were two other schools in the miscellaneous costs category who received their payments on the same quarterly schedule. She said those payments went forward.

Chair Kruger asked if there was a precedent in which funding that has been approved gets pulled back based on the personal agenda of an executive. Director Ashcroft said OPEGA did not cover any research that would inform them of whether that has ever happened before. Chair Kruger asked if it was a fairly common practice that an organization that received funding from the State, receive a document saying at a certain point they will not receive the funds. Director Ashcroft said it was her understanding it was a unique situation that was created for GWH. The Center for Excellence statute was specific to GWH. It is a grant from the State to GWH and was meant to be temporary in its nature. In 2012-2013 they ended up with a written agreement which had limitations on how the funds could be used and required reporting GWH to the DOE. She said those same kinds of conditions continue now in the new agreement, but DOE had never renewed the agreement prior to this. The first agreement only addressed the funding through FY13 so there was a gap where the State continued to make the grant payments where there was no written agreement that covered it until now. Director Ashcroft said that DOE did not discover that until they began doing the research around the funding to GWH.

Rep. Mastraccio said the Cabinet meeting seems to be the catalyst for things and asked how many people at that meeting was OPEGA able to interview. Director Ashcroft said OPEGA did not end up trying to interview anyone other than Mr. Chadbourne and Cindy Montgomery that may have been at the Cabinet meeting. She said OPEGA did not reach out to any of the other Commissioners that might have attended the meeting. They debated whether to do so, but decided in the end it was not critical to have that piece of information because they could see already what had transpired. She said OPEGA does know that the GWH situation was discussed in the Cabinet meeting, but what OPEGA does not know is whether the Governor said anything in that Cabinet meeting specifically about cutting GWH's funding. She said the Commissioner told OPEGA it did not happen in the Cabinet meeting, it occurred at a different time.

Rep. Mastraccio had questions about the day the GWH Board Chair spoke with the Speaker in the morning and then met with the Acting Education Commissioner at lunch time. One was to finalize a contract and the other makes it sound like the discussion was not about that at all. Director Ashcroft said it was Mr. Abramson, working on Mr. Moore's behalf, who met with the Speaker to get some of the contract details worked out. Mr. Moore had reached out to the Acting Commissioner on April 24th before the Speaker had been selected, but that meeting did not get scheduled until May 22nd after the Speaker had already been chosen by the Board. Mr. Moore described to OPEGA that because the contract had not been signed yet, he did not consider it a done deal and he felt it important to try to figure out whether hiring the Speaker was going to cause damage. That was his rationale for reaching out to the Commissioner. He had intended that it happen much earlier in the process than it did, but it was also a divergence from what the Board had laid out as its process.

Sen. Johnson referred to the note from the Governor that Mr. Moore said he no longer had. He asked if OPEGA has explored how, when and why the note was destroyed or disposed of. Director Ashcroft said OPEGA asked Mr. Moore for it and he told them he did not believe he had it any longer. OPEGA sent a specific document request asking for it, but it has not been produced and in the end, although it would be an interesting subject matter, OPEGA thinks they already understand fully that there was a threat made, whether it was conveyed through the note or not. The threat was conveyed at least two days before Mr. Moore said he might have received the note from the Governor, as the various individuals mentioned in the Brief are already talking with Good Will-Hinckley about the funding. Director Ashcroft said the note has not been produced, but she thinks OPEGA sees the picture without it.

Sen. Johnson said there are several references to people understanding that loss of support from the Governor was the funding and asked if OPEGA knew what was communicated by whom to give individuals the idea that funding was involved. Director Ashcroft said during OPEGA interviews they asked individuals to describe what occurred. In some cases OPEGA got specific about trying to learn who exactly said what, and in other cases OPEGA took their general description of what had transpired and captured that. She said she has not quizzed the lobbyist on exactly what the language was. She said folks did their best to recollect the conversation, but she did not have any specific quotes. Director Ashcroft said Mr. Chadbourne was one of the

individuals that was sending the message specifically to Ms. Vanderwood. Ms. Montgomery supposedly, according to the Speaker's attorney, was having conversations with him about the Governor's threat, but OPEGA has not been able to speak with her either. Director Ashcroft said there was no question that the persons at the receiving end of those conversations understood that the funding was what was being talked about. She said while it may be helpful to know exactly what words conveyed that, there was no question in OPEGA's mind they knew it and were taking action based on it. Whatever was said, the message seemed to have been clearly conveyed to more than just one person at GWH.

Sen. Johnson said the GWH Board Chair had said that in one of his conversations with a Senior Policy Advisor he was informed that the Governor's Office lawyer would like to speak with him. He asked if OPEGA knew if Mr. Moore did speak with the attorney and if OPEGA knew the substance of that conversation. Director Ashcroft said that was one point of inquiry that they did not have an opportunity to follow up on. Sen. Johnson asked if that could be explored. Director Ashcroft said OPEGA did not have an opportunity to talk with Ms. Montgomery and assuming that they still will not, the question would be for Mr. Moore.

Chair Katz asked if it was fair to say that the Administration made it clear that if the Speaker were to continue employment with GWH that the $530,000 in funding was either gone, or in danger of being gone. Is that essentially what happened? Director Ashcroft said that was OPEGA's view of it. She said there was a threat, it was directly connected to the Speaker being hired, and
the funding remaining is connected to his not being President.

Rep. Sanderson referred to the June 9 DOE team meeting and that ultimately it was the Acting Commissioner who stopped the payment to GWH. She asked if there was any evidence that the Governor had any knowledge that they had done that on that day. Director Ashcroft said no.

Rep. Sanderson referred to the qualifications for President of GWH and asked if Speaker Eves has a degree in education. Director Ashcroft said no, but a degree in education was not required. She said part of the Brief that she did not cover verbally with the GOC was the explanation for actions taken by everyone. She said OPEGA did review an extensive number of documents related to GWH's recruitment and selection process and described in the Brief what was recorded to as GWH's thoughts about the Speaker's qualifications for the position and also what he was asked in interviews. Director Ashcroft said the major objections that the Acting Commissioner and Governor had to Speaker Eves's ability and qualifications to run the School were things that were also of concern to the Board, and those were vetted quite a bit through the selection process with the results that people were comfortable in the end with the Speaker's responses.

Rep. Sanderson referred to the bulleted list starting on page 22 of the Brief that seemed to boil down what the Board was looking for in the new President. Director Ashcroft said it was a compilation of things OPEGA saw in the memo from the Senior Leadership Team to the Search Committee, and from what Board members and GWH staff stated to OPEGA about what their desires had been in a new President. Rep. Sanderson said that did not necessarily fall in line with the qualifications that were asked for in the job description. Director Ashcroft said OPEGA did not do a matchup of that, but just provided the information from both places.

Rep. McClellan asked if Director Ashcroft would judge the politics that is being talked about in this review as different then politics OPEGA has reviewed previously, or if OPEGA had reviewed anything similar to this situation before. Director Ashcroft said its OPEGA's job to stay out of the politics and the GOC members would have a better reality on what the political situations are like. She said the only review coming to mind is the review of the Maine CDC and Healthy Maine Partnership Contracts where it appeared there were decisions being made based on politics, or connections people had.

Rep. McClellan asked if the GOC/OPEGA would be involved in a review of the funding for GWH if the Governor had not made statements that he was concerned about the hiring of Speaker Eves. Director Ashcroft said no, probably not.

Sen. Diamond thought it was clear what the Administration did in the process, but he thinks there are loose ends on the role that GWH played. He asked if he was correct when he interprets that on May 15th the Board voted, including the Board Chair, to hire the Speaker and then a week later the Board Chair offers the job to the Acting Commissioner. Director Ashcroft said that is how it had been described to OPEGA by the Acting Commissioner. Sen. Diamond said he assumes the members of the GOC will have an opportunity to hear and question certain people under oath so they will be able to find the answers to their questions.

Chair Katz said a public hearing will be scheduled on the Brief and he and Chair Kruger would like to hear from Committee members as to what documents they would like to be able to see for the meeting and what people they would like to request be at the meeting. He said to get people under oath via a subpoena is an extreme action and the Committee has not placed people under oath without a vote of the Committee.

Sen. Diamond said he was referring to that only in the case of certain key people refusing to attend the meeting. Director Ashcroft said in the past the GOC has issued a request for individuals to come to a meeting and, when that failed, the Committee took a formal vote to issue subpoenas as required by the investigating committee statute. The Committee's practice has been to first invite folks to come voluntarily. Chair Katz said if the GOC intended to do that they would have to also take a vote to become an investigative committee.

Sen. Diamond referred to WMTW, Channel 8's tape of the Governor and asked if it was available to the GOC. Director Ashcroft believed it was available publicly on the internet and will email members the link.

Rep. Mastraccio said from what she has read in the Brief, OPEGA's assessment of the hiring process was that it was fair, thorough and that the outcome was never predetermined, but that there was a fair process and that GWH picked the person they thought was the best person for the job. Director Ashcroft said that was the assessment.

Rep. Mastraccio asked what the time period was from when Commissioner Desjardins left the Governor's Office as an Advisor and became the Acting Commissioner. Director Ashcroft said there was no time period in between. She said Commissioner Desjardin went to the Governor's Office as a Senior Policy Advisor in October, 2013 and was the Acting Commissioner by December 22, 2014 because the DOE Commissioner was unable to fulfill his role still. Rep. Mastraccio said Commissioner Desjardins did not directly answer OPEGA's question that the Governor actually told him to withhold the payment to GWH. Director Ashcroft said she could not recall if that question was asked to him directly, but the answer is the Governor did tell Commissioner Desjardins, at some point, that he did not want to send any funding to GWH that was not required by law. She believes the Commissioner told OPEGA that there was no specific discussion between he and the Governor about the specific payment that was withheld. He did mention to Mr. Chadbourne that he had made this decision.

Rep. Mastraccio said it is not known what transpired at the Cabinet meeting and asked if at the Lead Team meeting was the first time that Commissioner Desjardins heard that the payment to GWH had already been cut. Director Ashcroft said OPEGA spoke to four people who were in the Lead Team meeting and all of them said that the Director of Finance and School Operations who had processed the payment, offered the information that she had just processed the payment and asked whether it should be held. The Commissioner was talking at the time about the issue between the Governor and GWH. OPEGA had conflicting accounts as to whether the Commissioner was also talking about GWH funding and the Governor either being concerned about it or not wanting to send it at that time.

Sen. Burns asked if OPEGA made any inquiry on any behind the scenes involvement Mr. Brown might have had with the GWH selection process. Director Ashcroft said OPEGA saw what was documented in terms of his participation. He was the MeANS's Board Chair, was a member of the Search Committee that was established and, was the conduit through which the Speaker became aware of the position being posted. But as a member of the Search Committee, Mr. Brown did not participate in the phone interview with the Speaker. At the end of the phone interview there was a tally taken with each of those on the calls being asked to say who their top three candidates were and by consensus the Committee was going to come up with a list of folks who would be asked

to come on campus for interviews. The documentation of that tally shows that Mr. Brown made no comment about whether the Speaker should be one of three or not. Director Ashcroft said the MeANS Board was not the party that voted on either the offer of employment, or the termination of the employment contract, so Mr. Brown did not participate in any votes. Director Ashcroft said the only thing Mr. Brown participated in that OPEGA knows about is the May 13th informal meeting in Brunswick. A couple of the MeANS Board members wanted MeANS to be represented at that informal meeting and Mr. Brown was the representative that attended that meeting. As noted in OPEGA's Brief, there were no decisions made about any of the candidates coming out of that informal meeting.

Sen. Burns said that is as he understood it and said that most of them are official and documented meetings, but asked if OPEGA staff inquired from any of the participants as to whether or not there had been unofficial conversations with Mr. Brown regarding GWH's selection for the President position. Director Ashcroft said OPEGA spoke with two other Board members, one of whom was on the Search Committee. Both people told OPEGA that there had been disclosure to the Board of the relationship and that Mr. Brown had recused himself at the points OPEGA understood him to have recused himself.

Chair Katz said in regards to the note from the Governor to Mr. Moore asked if Mr. Moore was under any obligation to keep that note. Director Ashcroft said Mr. Moore was the Chair of the GWH Board. She said the note was not a public document in his hands so said no he was not under any obligation to keep the note.

Rep. Sanderson said it appears that the $530,000 per year was vital to continue having for the operation of the School. She referred to page 17 of the Brief noting that the GWH Director of Finance had responded to the Ethics Commission that he believed the loss of the funding would have no significant impact on the number of students. She asked if there was an explanation about why there is a conflict about needing the funding. Director Ashcroft said there was an explanation and referred to page 24. She said OPEGA did acknowledge that there was a distinct difference of opinion among those OPEGA spoke to at GWH about the criticality of the $530,000. OPEGA did not think there was any particular analysis done by the Director of Finance that led him to provide that information. He had spoken with the Director of Admissions and, knowing what they know now, Director Ashcroft would ask him whether what he relayed to the Commission was specifically about the current situation with the current students or a more long term projection. She did not recall talking with him about whether he considered the impact of their projected enrollment growth. She said the Director continued to maintain to OPEGA throughout the review that it was his perspective that GWH could have gotten by without the $530,000. It would have been difficult, but he did feel that they could have come up with a plan and done other things that would have allowed them to stay financially viable. Director Ashcroft said that is a different perspective than they got from Mr. Moore who felt it would cause an immediate cash flow problem for the School and would significantly impact their ability to attract students and grow their enrollment as was required by the Alfond Foundation grant. She said OPEGA did see an email with indications that Mr. Abramson, who at the time was the Interim President, had some of those same thoughts when he was asked to review what Mr. Jurdak was going to review what the Ethics Commission was putting in its letter. He was away when the Ethics Commission requested the information and that is why Mr. Jurdak was dealing with that question. Director Ashcroft said there were distinct differences of opinion. She said what OPEGA did note and asked for, but did not receive, was any kind of formal analysis that anybody at GWH had done that supported either of those positions. It did not appear to OPEGA that at the time they were making the decisions, or providing information to the Ethics Commission, that there was any kind of formal analysis done of what would GWH's situation be if x, y or z happened.

Rep. Sanderson referred to the statement on page 25 that some people have pulled their donations to the school and asked if there was any rationale behind who pulled and why. Director Ashcroft said OPEGA did not inquire about that and said it would be a question for Mr. Moody.

Rep. Sanderson said there was also a statement that said they had a receipt of negative correspondence criticizing GWH for not taking a strong stand against the Governor. She asked if there was any other negative correspondence expressing concerns over the hiring of the Speaker. Director Ashcroft said she did not know.

Sen. Davis asked if the letter from the Ethics Commission to the Speaker was available. Director Ashcroft believes OPEGA found it on line and it had been posted as part of the media stories so it is a public document.

Sen. Davis said Mr. Brown attended the May 13th meeting and asked if he participated in the meeting, did he ask questions or make comments. Director Ashcroft said OPEGA did not ask about that specifically and did not speak with Mr. Brown.

Chair Katz said a public comment period will be held at the October 15, 2015 GOC meeting. He noted that the GOC will continue as an oversight committee and not an investigatory committee at this time.

Rep. Mastraccio said there were issues for her around whether the Commissioner of DOE really acted on withholding the payment without directly hearing it from the Governor.

Director Ashcroft wanted to draw a distinction between what the GOC traditionally holds as a public comment period after any report or information brief versus when the Committee gets to a point where they decide they want to hear from certain individuals and invites them to a meeting. The public comment period is a time when anybody who wants to speak to the Committee about a report, including the agency and anybody else who has been involved and any member of the public, comes to the meeting. She said typically their action as a Committee to invite certain individuals has not come until after the public comment period has been held and the Committee has decided then that they have additional information they need. The Committee can do it differently if it wants to but this is what has transpired on past reports.

Chair Katz believed the Committee wanted to follow precedent. He said the Committee will have a public hearing, but there is no reason that the GOC could not ask people to attend. Chair Katz said the GOC will decide if there is anything else that needs to be done after that.

Chair Kruger noted that for those individuals who cannot attend the public hearing they can forward their written comments any time prior to October 15th to OPEGA.

Sen. Diamond said he was not interested in changing the GOC's focus to become an investigating committee. However, he thinks they are the catalyst for the public to make sure that all of the information gets out and if there are key people who will not attend, that is what he is focusing on. If individuals do not want to come to a meeting, the Committee has to have another discussion to talk about that. Chair Katz said they were delaying that discussion for now.

Chair Katz said in the interim if there are particular individuals that the members of the Committee would like to invite to the public hearing, or if there are particular documents, whether they have been mentioned or not, that the Committee might like to have an opportunity to review, to get either of those requests to the Chairs by Monday, September 14th and they can send out the appropriate requests at that point. Director Ashcroft said usually when the GOC does that invitation it is a formal letter from the Government Oversight Committee to each of the individuals and the Committee usually takes a vote that it is an action they want to take.

Sen. Burns asked if there was anything to preclude any Committee member from mentioning to somebody that it might be good if they have concerns to come to the public hearing. He said it was hard to keep from leaning over to an investigative committee and asked if the Committee was talking about a letter to people who may have information that is germane to the GOC's task, or is it just a generic anybody who has information come to the meeting. Chair Katz said if people come to the public hearing and want to talk about some other issue other than the narrow scope of the Information Brief that they would be out of order. The Committee would be trying to keep it to the scope of what they asked OPEGA to do.

Rep. Sanderson agreed that was a good thing to bring up because there seems to be a lot of loose ends in the Brief that may, in part, have an influence on the scope of the review and in order to get a full and broad picture there may be the need to wander from the narrow scope of the review. Sen. Katz thought the Committee would have to deal with it as it comes at the hearing.

Sen. Johnson asked if it would be helpful to have a brief refresher on the roles of the Committee in relation to examining witnesses, administering oaths and issuing subpoenas and what tools the GOC has available to get information. Director Ashcroft said normally when the GOC gets to where they want somebody to come speak to them it is because they have identified particular pieces of information they want to understand better and she has not heard the Committee identify those pieces yet. She said normally OPEGA issues a report, the GOC holds a public comment period, anybody who wants to say anything to the Committee does so at the public comment period. She said sometimes what comes up at the public comment period has strayed from the scope of the review. Director Ashcroft said after having heard that information, the Committee has a work session to discuss what action the Committee itself wants to take with regard to what it has learned. She thinks that is normally the point where the GOC decides what is it within the scope of what they are trying to do, and then decides who can provide information. Those individuals are then invited to come speak with the Committee. Director Ashcroft said if the GOC has not received a response from people who were invited to a meeting the Committee enters a process governed by the investigative committee statute. The Committee has to hold formal votes to set that process up, including the vote to issue subpoenas. She said that stage usually does not come until the Committee decides that there is more information required to do its work that it wants to question particular people directly about.

Director Ashcroft asked if it would be accurate for her to convey in the Committee's letter to the individuals to be invited to the meeting, that the scope of what they want to hear from them about is related to the material in the Information Brief. Chair Katz said yes.

RECESS

Chair Katz recessed the Government Oversight Committee at 12:15 p.m.

RECONVENED

Chair Katz reconvened the GOC meeting at 12:54 p.m.

Report on Office of Information Technology Follow-up Review

- **Public Comment Period**

Dwight Hines, Livermore, Maine testified on OPEGA's Information Technology Follow-up Review. Mr. Hines said it was a thorough Report. He said that people have things on their computers they do not know what it is, where it comes from or where it goes. He said he has been getting frustrated over the last couple of years because he has made various requests for information and people do not have the information, or that it is going to cost thousands of dollars to get it. Mr. Hines said he was referring to the Medical Examiner's Office and the Attorney General's Office and said they need records, not just to look for individual cases, but to look for patterns. He said the State is investing a lot of money and is not getting a good return on it. Mr. Hines said there are other implications when you have wonderful information systems, but nobody knows what is on them and how they got it. He said there are now a lot of people going to court pro se and they are supposed to be treated equally and need adequate information. He said the system is not going to collapse, but he would suggest that the GOC go out on the road because people have never seen a good committee, they have never seen how the GOC interacts and tackles problems with the methods used in OPEGA. Mr. Hines said people have to be held accountable for the systems and the State was getting poor services, poor quality and high prices and no innovations. He also had concerns about the State's security. Mr. Hines said attorneys need to be involved in the innovation and they are not getting in at the basic level. (Mr. Hines did not provide a written copy of his comments.)

Chair Katz asked if there was anyone else at the meeting who wanted to speak on the OIT Follow-up Review. Hearing none, the public comment period was closed at 1:00 p.m.

Director Ashcroft referred the members of the Committee to the written public comment received by Benson Dana. He was in the role of the IT auditor within the OIT organization. That position was established following OPEGA's original Report on Information Technology. Mr. Dana was there for a number of years and was expressing to the Committee that he felt frustrated in that role, not affective in being able to produce the kind of change within OIT from his reports and recommendations. He was strongly suggesting that if another IT function is established that it have regular and direct lines of reporting outside of OIT management so there is some oversight for change that might be needed given the results from the auditing efforts. (A copy of Mr. Dana's testimony is attached to the Meeting Summary).

- **Committee Work Session**

Director Ashcroft said OPEGA made a number of recommendations in the Report. Some OIT can directly act on itself and others required involvement of the DAFS's Commissioner, or above, and she did not see in the responses that OPEGA received from OIT an alignment between the actions that they say they are going to take and what OPEGA recommended. Director Ashcroft was at a loss to tell the GOC whether she thinks what they said they would take for action was going to address the issues that OPEGA has lined out, or whether they have any intention at all of doing the specific things recommended. She said she has not had a chance to talk with OIT further and did not get a sense of that from the discussion at the last GOC meeting. Director Ashcroft said that was an outstanding piece in terms of being able to give the GOC any guidance of whether she thinks there is action needed by the Committee to implement any of the recommendations because she does not know what the Administration has done, OIT can only speak for themselves.

Rep. Mastraccio said Mr. Dana's comments about not getting a response to his comments to OIT, and the fact that OPEGA is making recommendations, but is not sure what they are doing to actually address those, were key points for her. She said it is going to cost money. Director Ashcroft said she and the GOC need further information on the Administration's planned actions for the GOC to decide whether it needs to take any action legislatively, or otherwise. She said the GOC could ask for the DAFS's Commissioner, or whoever else is appropriate from the Governor's Office, or the Administration, to come specifically to say whether or not they intend to do anything with the recommendations OPEGA has made and, if not, what alternative actions they are planning that would result in a resolution to the situations OPEGA identified. Alternatively, OPEGA can embark on trying to have those conversation with them and bring that information back to the Committee.

Sen. Johnson preferred that Director Ashcroft take the first action to see what OIT is going to do regarding the recommendations. Other members of Committee agreed.

Director Ashcroft will bring that information back to the Committee at their November meeting.

- **Committee Vote**

Not taken.

UNFINISHED BUSINESS

• Tax Expenditure Review

- **GOC Consideration of OPEGA's Recommendations for Tax Expenditure Review Classification and Schedule as Required by PL 2015 Chapter 344**

Director Ashcroft said from the last meeting, she was to look at whether there was a way to move the New Markets Tax Credit review into the first year of the schedule. She said OPEGA has since learned that the Jobs Investment Tax Credit that was scheduled for review in 2016 was repealed last session. It would seem there was no need to review that program then and so she proposed moving the New Markets Tax Credit into

that spot. She said OPEGA is also currently compiling an understanding of what transpired during the last legislative session with regard to any of the new tax expenditures or others that got modified or repealed. Director Ashcroft was looking for the GOC's approval of the classification and schedule with the proposed schedule change to New Markets Tax Credit and, pending that, OPEGA will be back to the GOC at some point if they discover what they are going to embark on for 2016 includes anything that has been repealed or adjusted. Director Ashcroft said OPEGA did not receive any input from the Taxation Committee so she assumed that meant they were okay with it.

Motion: The Government Oversight Committee approves the classification and schedule for tax expenditure reviews as proposed by OPEGA in the March 2, 2015 "Proposal for Legislative Review of Tax Expenditures" with the following changes: The review of the New Markets Capital Investment Program will be moved to the schedule for 2016 to replace the review of Jobs and Investment Tax Credit, that credit having been repealed by the Legislature in the last session. (Motion by Rep. Sanderson, second by Sen. Johnson, passed unanimous vote, 10-0).

The Committee moved to **Report From Director.**

REPORT FROM DIRECTOR

- **Status of Current Projects in Progress**

Good Will-Hinckley School report was presented at today's meeting. Because of the work that was done on the Good Will-Hinckley review, OPEGA has not done much work on the **Riverview Psychiatric Center** review. She said the staff will be working on that review and is ready to enter into the fieldwork portion that involves reviewing records. OPEGA is still planning on presenting the Riverview report to the GOC in November pending running into any unforeseen circumstances.

Director Ashcroft said OPEGA did take off today's Agenda a discussion with Jay Harper, the Superintendent of Riverview and Justice Wathen, the Court Master, because Mr. Harper was not available. That discussion will be rescheduled to the October 15th GOC meeting.

OPEGA has not done any work on the **State Lottery** review.

- **Staffing**

OPEGA is in the process of hiring two additional staff for the tax expenditure reviews. OPEGA has conducted first interviews, have selected folks for second interviews and the Director Ashcroft is hoping to make a determination about that shortly. She noted that OPEGA now has a vacant position with Ms. Cherubini leaving and it is her intention to start the recruitment for that position in October.

- **Review and Discuss OPEGA's Current Work Plan**

Director Ashcroft said OPEGA has five topics on its Work Plan that were either in suspended status or still in planned status and the Committee thought the best way to see what the consensus was on priorities was to ask the Committee members to rank the topics.

Director Ashcroft noted the result of the topic rankings as:

DHHS Audit Functions	23
DHHS Licensing and Regulation of Child Care Providers	29
Northern New England Passenger Rail Authority	26
Public Utilities Commission	21
State Lottery	17

Director Ashcroft said from the rankings the DLRS topic will stay on top followed by NEPRA. She asked if the Committee agreed.

Sen. Johnson agreed that DLRS is a priority for the GOC.

Sen. Gerzofsky asked if OPEGA was already working on DLRS. Director Ashcroft said yes OPEGA already had been in progress on that review. It was suspended because, at the time OPEGA hit the next phase of the review, the Department had a number of actions they were implementing. The Committee decided to hold off for a year to give them time to implement their actions and then go back in to see if those actions had been effective in resolving the issues that had led to the review in the first place. He asked how the Committee would move forward with the other priorities. Director Ashcroft said if the Committee does not have any particular priority then she will determine what OPEGA will get started on next and when.

Director Ashcroft said she was looking for what the Committee wanted to do about the State Lottery review because OPEGA had not been working on it. She wondered if they wanted to put it in suspended status.

Sen. Burns asked that before State Lottery was suspended the GOC first see the report the news reporters are doing.

Director Ashcroft will assess whether OPEGA could use some of its consulting money to get some of the reviews done and will bring that assessment back to the Committee if she thinks that is a good use of resources.

- **GOC Consideration of Recommendations on Records Retention and Management From Working Group Report**

  - **Monthly Report Back From Secretary of State Dunlap on Records Retention and Management Efforts**

    Chair Kruger recognized Secretary Dunlap. Secretary Dunlap presented his monthly report on Records Retention and Management. (A copy of the Secretary's Report Back is attached to the Meeting Summary).

    Secretary Dunlap invited the GOC for a tour of Archives.

    Rep. Sanderson asked if the digital archiving work was on new information or old hard copy information that is being stored in a digital form. Secretary Dunlap said it was a mix.

    Rep. Sanderson noted that Ms. Marks, Director of Archives, received a good response from her outreach for training and asked if it was from one department in particular or a broad response. Secretary Dunlap said it was from a number of different agencies. He thinks people are now aware that it is an issue that they need to be accountable for and responsible to and are now beginning to see Archives as more of a resource.

    Rep. Sanderson asked if Ms. Marks was developing the training protocol or was it Mr. Cheever. Secretary Dunlap said Ms. Marks was. He said because of the reduced staff Ms. Marks is now directing both Records Management and Archive Services, and provides administrative support to the Archivist and the rest of the staff.

    Rep. Sanderson noted that it sounded like Ms. Marks has a lot of different responsibilities and asked what Mr. Cheever oversees. Secretary Dunlap said he was the State Archivist and is in charge of the planning for the major projects and also provides testimony to the Legislature, and is the public face of the Archives.

    The Committee thanked Secretary Dunlap for his update on records retention and management.

    Chair Kruger recognized Mr. Cheever.

Mr. Cheever said Archives was excited about getting in the digital piece of archives because much of their charge is becoming increasingly digital. Being able to retain the document and its robust quality permanently is the challenge that not only Archives is facing, but everybody is facing. He said the hard copy challenge is in good hands, but there is a lot of the hard copy information that is out there that is archival that Archives has yet to bring in and that is the space challenge they have.

Sen. Johnson thought it would be worth discussing whether Archives could work with municipalities on offering a service on a statewide basis that they could subscribe to. Secretary Dunlap said electronically if Archives can get to that stature that would be a tremendous offering they can give to towns because eighty percent of the vital records are held in small town offices, museums, etc.

The Committee thanked Mr. Cheever for the information he provided.

NEXT GOC MEETING DATE

The Government Oversight Committee scheduled their meetings for October and November. The Committee will meet on **October 15, 2015 and November 12, 2015**. Both meetings will begin at 9:00 a.m.

ADJOURNMENT

Sen. Davis moved that the GOC meeting be adjourned. Chair Kruger adjourned the Government Oversight Committee meeting at 1:46 p.m.

August 24, 2015

Maine Government Oversight Committee

Dear Committee Members,

I have read the recent OPEGA report on Maine's OIT. As the first and still only dedicated OIT Internal Auditor, I have one very strong recommendation, and two exhibits that represent an example of how little attention and respect OIT senior management had for my recommendations and me.

There exists a significant amount of documentation of my efforts in the form of formal reports and I remain proud of the volume and quality of the work I produced. Unfortunately, as a taxpayer, my time at OIT was hugely frustrating because of the lack of meaningful progress over years of time, and because of the lack of any accountability within the department, in my opinion. I think there is more than ample support for my opinions that exists in the records of OIT.

I urge you in the strongest possible manner to ensure that any future internal audit function related to OIT have direct, formal and regular lines of reporting and accountability outside of OIT management so that the next person in the position has a fighting chance for their reports, results and recommendations to be heard.

Sincerely,

W. Benson Dana, CPA
17 Orchard Road
Cape Elizabeth, ME 04107

W/P Ref	Date	Description	Significance
1	6/30/2009	Annual Internal Audit High Level Risk Assessment for Senior Management	No response from management regarding either the findings or the recommendations.
2	6/30/2010	Annual Internal Audit High Level Risk Assessment for Senior Management	No response from management regarding either the findings or the recommendations.
3	7/26/2010	Email to Dave Maxwell regarding Project Management findings for 6/30/2010 annual risk assessment.	No response from management, including Dave Maxwell, regarding the findings.
4	10/5/2010	Email to Dave Maxwell regarding Project Management findings for 6/30/2010 annual risk assessment.	No response from management, including Dave Maxwell, regarding the findings.
4.1	10/6/2010	Email to Dave Maxwell regarding lack of any progress on project management controls	Dave Maxwell is fully and ompletely informed of my assessments and reporting.
4.2	10/6/2010	Email to Dave Maxwell regarding lack of any progress on project management controls and Dave's response highlighting "plans" for making actual progress. Finally, my reply that until actual progress is demonstrated beyond plans and hopes, the status of no improvement remains unchanged.	
4.3	10/6/2010	Sample email to Greg McNeal regarding the monthly status report.	Demonstration of regular reporting to the acting CIO. There was no response from him regarding this or any other monthly status update.
4.4	12/1/2010	Email to Dave Maxwell and dave Packard regarding project management and BC/DR risk areas.	No response from Dave Maxwell.
5	12/8/2010	Email to Dave Maxwell regarding lack of any progress on creating a functioning dashboard of project statuses. Email references an almost identical email for November.	No response from management, including Dave Maxwell, regarding the findings. I did receive a response from Dave Packard noting little effective progress on BC/DR.
6	1/3/2011	Continuing follow email to Dave Maxwell regarding lack of progress on project management risks.	No response from management regarding the findings. Dave Maxwell did respond to an earlier email on the subject but his response indicated the progress on creating a complete and accurate dashboard had made little if any real progress.
7	1/31/2011	DOE Data Warehouse and Web Portal Project assessment	No response from management regarding either the findings or the recommendations.
8	1/31/2011	PFR and Codeweaving project management assessment	No response from management regarding the findings.
9	4/28/2011	Email to Dave Maxwell regarding Project Management findings progress for April, 2011 regarding lack of any progress on creating a functioning dashboard of project statuses.	No response from management, including Dave Maxwell, regarding the findings.
10	5/16/2011	Email to Dave Maxwell regarding Project Management findings progress for May, 2011 regarding lack of any progress on creating a functioning dashboard of project statuses.	No response from management, including Dave Maxwell, regarding the findings.

11	5/23/2011	Dave Maxwell responds to a request for a link to the dashboard of active projects.	The dashboard is inaccurate, incomplete and out of date. It has almost no value as a management control over active projects.
12	6/24/2011	Email to Dave Maxwell regarding Project Management findings progress for June, 2011 regarding lack of any progress on project management controls.	No response from management, including Dave Maxwell, regarding the findings.
13	6/30/2011	Monthly status report on major risk areas.	No response from management regarding the findings.
14	6/30/2011	Annual Internal Audit High Level Risk Assessment for Senior Management	No response from management regarding either the findings or the recommendations.
15	10/5/2011	Email to Dave Maxwell (and including Dave Packard and Eric Stout) regarding lack of any progress on creating a functioning dashboard of project statuses.	No response from management, including Dave Maxwell, regarding the findings.
16	10/20/2011	Email to Dave Maxwell, Greg McNeal and Jen Smith (Commissioner Emery's office) that summarized the attempts by OIT's internal auditor to facilitate some manner of improved control systems, processes and procedures related to active IT projects.	No response from management, including Dave Maxwell, regarding the findings.
17	10/24/2011	Email to Dave Maxwell asking him to be pro-active in keeping me informed of progress towards implementing management controls over active projects	No response from Dave Maxwell.
18	10/25/2011	Email to Dave Maxwell asking why he has not responded to my requests for updates for the past 6 months.	
19	10/25/2011	Response from Dave Maxwell which deflects the point of my question as to why he's never responded to my requests to status updates.	
20	12/20/2011	Draft summary of project management controls approved by senior management at the 12/20/2011 meeting with Greg McNeal, Jim Lopatosky, Dave Maxwell and Benson Dana.	No progress on any of the agreed items until Leigh Wilkinson got involved in 2012. Some progress is now being made as of 4/9/2012.
21	12/31/2011	Monthly status report on major risk areas.	No response from management, including Dave Maxwell, regarding the findings.
22	1/19/2012	Follow up email to the 12/20/2011 meeting where senior management met and agreed to adopt certain management control processes in response to the lack of such controls.	The controls have not yet been fully implemented as of 4/9/2012.
23	1/19/2012 and 1/20/2012	Various Email reflecting confusion as to who is responsible for what regarding the management controls documented and agreed to during the 12/20/2011 meeting.	

SFY 2011

Major Risk Categories	July	August	September	October	November	December	January	February	March	April	May
Security	No coordinated approach to the many security issues facing SOM.	No coordinated approach to the many security issues facing SOM. Failed Security Team "Kick-off" meeting	No coordinated approach to the many security issues facing SOM. No follow up meeting for infrastructure security team. DOE security incident. No senior management oversight process for security.	No coordinated approach to the many security issues facing SOM. No follow up meeting for infrastructure security team. DOE security incident still under investigation. No senior management oversight process for security. Monthly security briefings for October showed little if any progress from the prior month.	The Infrastructure security Team has met and has developed a set of specific objectives. The Application Inventory database has adds about 6 security-related fields and has populated them with data. This can be used to perform a high level security risk analysis of these aspects of the application.	The Infrastructure security Team has met and has developed a set of specific objectives. The Application Inventory database has added about 6 security-related fields and has populated them with data. This can be used to perform a high level security risk analysis of these aspects of the application.	The Infrastructure security Team has met and has developed a set of specific objectives. The Application Inventory database has added about 6 security-related fields and has populated them with data. This can be used to perform a high level security risk analysis of these aspects of the application.	The Infrastructure security Team has met and has developed a set of specific objectives. The Application Inventory database has added about 6 security-related fields and has populated them with data. This can be used to perform a high level security risk analysis of these aspects of the application. There may be unresolved security concerns at DOE and for the new MMIS System hosted by Molina. Internal Audit plans to address these 2 issues in the coming months.	New developments include: The monthly security scanning of server vulnerabilities has improved reporting of results and reports good response to the findings from staff. We are trying to move toward identifying system security coordinators. Password remediation continues. By May, all firewall releases will be current. EPO is moving closer to being upgraded/implemented.	No known changes to the status	No known changes to the status
Business Continuity/Disaster Recovery	No demonstrated progress. No "Bolton Hill" type exercise. No direct coordination with the move to a new location.	No demonstrated progress. No "Bolton Hill" type exercise. No direct coordination with the move to a new location.	No demonstrated progress. No "Bolton Hill" type exercise. No direct coordination with the Move to a new location. No senior management oversight of the overall BC/DR efforts or status.	No demonstrated progress. No "Bolton Hill" type exercise. No direct coordination with the Move to a new location. No senior management oversight of the overall BC/DR efforts or status. The call list has not been updated since July.	No demonstrated progress. No "Bolton Hill" type exercise. No direct coordination with the Move to a new location. No senior management oversight of the overall BC/DR efforts or status. The call list has not been updated since July.	No demonstrated progress. No "Bolton Hill" type exercise. No direct coordination with the Move to a new location. No senior management oversight of the overall BC/DR efforts or status. The call list has not been updated since July.	**Continued lack of any demonstrable progress is a serious concern.**	No demonstrated progress. No "Bolton Hill" type exercise. No direct coordination with the move to a new location. No senior management oversight of the overall BC/DR efforts or status. The call list has not been updated since July. The Comm-Vault group meets ever 2 weeks to address backup plans, concerns and functionality, but this is not connected to any other BC/DR efforts. The Business Impact Analysis (BIA) updates to the Application Inventory Database should be loaded in March. The BIA's are still in process.	No known changes except that the Department of Labor is using a grant to document the BC/DR plan and process for one major application, UIProd.	**Continued lack of any demonstrable progress is a serious concern. The DOL project is experiencing some serious challenges.**	**Continued lack of any demonstrable progress is a serious concern. The DOL project is experiencing some serious challenges.**
Financial Management	No progress on CBE Valcom. No progress on Nancy Forester recommendations. AP process is still dysfunctional. No monthly account analysis of cost center financial statements for management.	No progress on CBE Valcom. No progress on Nancy Forester recommendations. AP process is still dysfunctional. No monthly account analysis of cost center financial statements for management.	No progress on Nancy Forester recommendations. AP process is still dysfunctional. No monthly account analysis of cost center financial statements for management. P&L statements are inaccurate and unreliable from a control perspective.	No progress on Nancy Forester recommendations. AP process is still dysfunctional. No monthly account analysis of cost center financial statements for management. P&L statements are inaccurate and unreliable from a control perspective. OIT Net income for the first quarter year-to-date was about $3.5 million, which appears questionable.	The Financial Initiative team has been meeting every 2 weeks and has made specific progress toward developing a financial projections model, developing inte4mal control documentation for the OIT billing system, and for appending an application name that is common to the BFMS system and the Application Inventory database to some billing transactions.	The Financial Initiative team has been meeting every 2 weeks and has made specific progress toward developing a financial projections model, developing inte4mal control documentation for the OIT billing system, and for appending an application name that is common to the BFMS system and the Application Inventory database to some billing transactions.	The Financial Initiative team has been meeting every 2 weeks and has made specific progress toward developing a financial projections model, developing inte4mal control documentation for the OIT billing system, and for appending an application name that is common to the BFMS system and the Application Inventory database to some billing transactions.	The Financial Initiative team has been meeting every 2 weeks and has made specific progress toward developing a financial projections model, developing inte4mal control documentation for the OIT billing system, and for appending an application name that is common to the BFMS system and the Application Inventory database to some billing transactions.	No known changes to the status	No known changes to the status. Continued progress with resource allocation will tend to improve the financial management and reporting capabilities in the future.	OIT employees have all been set up with time and task options within their TAMS spreadsheets. This should allow OIT to begin collecting actual productivity data in July, 2011. Continued progress with resource allocation will tend to improve the financial management and reporting capabilities in the future.
Resource Allocation	No progress at all.	No progress at all.	No progress at all.	No progress at all. Meeting have been held but there has been no training, no communication and no education regarding possible changes to activity reporting.	A team has been working to develop specific TAMS project and TAMS framework for the DHHS and DOL applications teams and may have this implemented in January. The plan is to introduce the new reporting process in steps across OIT, including CTS.	A team has been working to develop specific TAMS project and TAMS framework for the DHHS and DOL applications teams and may have this implemented in January. The plan is to introduce the new reporting process in steps across OIT, including CTS.	A team has been working to develop specific TAMS project and TAMS framework for the DHHS and DOL applications teams and may have this implemented in January. The plan is to introduce the new reporting process in steps across OIT, including CTS.	A team has been working to develop specific TAMS project and TAMS framework for the DHHS and DOL applications teams and may have this implemented in January. The plan is to introduce the new reporting process in steps across OIT, including CTS.	No known changes to the status	TAMS has been modified to provide custom projects to all OIT staff, CTS and the Application Teams, for recording time spent to specific tasks or categories relative to their functions. This is significant progress. This provides a foundation for beginning to manage the actual use of resources effectively as of June 30, 2011.	TAMS has been modified to provide custom projects to all OIT staff, CTS and the Application Teams, for recording time spent to specific tasks or categories relative to their functions. This is significant progress. This provides a foundation for beginning to manage the actual use of resources effectively as of June 30, 2011.
Project Management	No process for managing and assessing the health of projects or compliance with policies. No progress toward implementation of GASB 51. No process for tracking Deployment Certification waivers. No integration of the portfolio with a process for planning future projects.	No process for managing and assessing the health of projects or compliance with policies. No progress toward implementation of GASB 51. No process for tracking Deployment Certification waivers. No integration of the portfolio with a process for planning future projects.	No process for managing and assessing the health of projects or compliance with policies. No progress toward implementation of GASB 51. No process for tracking Deployment Certification waivers. No integration of the portfolio with a process for planning future projects.	No process for managing and assessing the health of projects or compliance with policies. There is a prototype dashboard but it contains only a handful of projects. The performance of the 18 formal Project Managers is managed by informal verbal and written reports. No progress toward implementation of GASB 51. other than meetings. Deployment Certification waivers issued since about April are being tracked using a personal Outlook calendar but there is no data available on any waivers that were issued prior to that time. No integration of the portfolio with a process for planning future projects and the portfolio is now growing stale.	No process for managing and assessing the health of projects or compliance with policies. There is a prototype dashboard but it contains only a handful of projects. The performance of the 18 formal Project Managers is managed by informal verbal and written reports. Serious project management deficiencies have been identified for the DOE data warehouse and web portal projects. Some progress toward implementation of GASB 51 through the Resource Allocation process. Deployment Certification waivers issued since about April are being tracked using a personal Outlook calendar but there is no data available on any waivers that were issued prior to that time. No integration of the portfolio with a process for planning future projects and the portfolio is now growing stale.	**Continued lack of any demonstrable progress is a serious concern.**	**Continued lack of any demonstrable progress is a serious concern.**	**Continued lack of any demonstrable progress is a serious concern. Some work is underway to create an accurate "dashboard" of the status of active projects, but the overall consistent lack of progress for the past nine months means that the risk in this area still appears unacceptable.**	**No known changes to the status**	**An entire year's worth of effort has produced a dashboard of project statuses that has the following qualities:** **There is no business case or project summary** **There is no project plan** **Perhaps 98% of the current active projects have no status report within the last month** **There is no financial data to provide any sense of scale or priority** **There is no indication which of the project managers report to the PMO** **The project end dates are unreliable and obviously wrong in perhaps 50% of the projects** **There is no indication that any project is "on-track" and progressing as expected, or "off-track," and experiencing problems.** **The compensating control to these deficiencies is only whatever direct and close management is being exerted by the project sponsors and the project teams. In some cases, that may be adequate, but history has shown us that this is not good enough.**	**No known changes to the status**

Legend

	Good Progress
	Some Progress - improvements still needed
	Unacceptable - virtually no progress
	Serious concerns

MATTHEW DUNLAP
SECRETARY OF STATE

STATE OF MAINE

OFFICE
OF THE
SECRETARY OF STATE

Interim Report to the
Joint Standing Committee on Government Oversight
Regarding Compliance with Public Records Laws

Office of the Secretary of State

September 8, 2015

Senator Katz, Representative Kruger and distinguished members of the Committee on Government Oversight; my name is Matt Dunlap and I am the Secretary of State for the State of Maine. Since we last met on the issue of records management and public records, I am pleased to report that significant progress has been made, and although a significant amount of work remains to be done, the work itself is taking shape.

Attached to this summary are the minutes of the first stakeholder group meeting, which was convened at the State Archives on August 4th. To be sure, we had intended to convene a second meeting before now, but late summer scheduling is tricky. We hope to schedule that meeting soon.

I am particularly grateful for the assistance and energy of Eric Stout of the Office of Information Technology, who has provided administrative and technical assistance in the work of the stakeholder group.

The stakeholder group is an eclectic and broad-ranging group representing all three branches of state government and beyond, and is made up of myself; Dave Cheever, state archivist; Tammy Marks, director of the archives; Donna Grant, deputy secretary of state for information services; Kristen Muszynski, director of communications for the secretary of state's office; Brenda Kielty, public access ombudsman for the attorney general; Grant Pennoyer, executive director of the Legislature; John Barden, director of the legislative law and reference library; Kevin Dieterich, director of information technology for the Legislature; David Packard, chief information officer for the courts; Greg McNeal, chief technology officer for the Office of Information Technology; Eric Stout, who is staffing the stakeholder group from the Office of Information Technology; and Howard Lowell, late of the National Archives and Records Administration.

The discussion at the first meeting was reflective of any number of dialogues I've been a party to regarding public records, records management, archiving and public access—in the broadest sense, the tasks involved are so immense as to seem overwhelming. The changing nature of records and the vast, exponential growth in the production of information that is part of the public trust was and never has been envisioned by traditional archiving and records management practices.

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The nature and future of the work summarized in the minutes, which reflect the nature of the August 4th discussion, is to better understand what the role of the Archives Advisory Board currently is, what it should be, and what aspects of archives and records management it should focus its work on. Such a review, it should come as no surprise to you given the nature of your work, probably should have been undertaken not once but several times over the last few decades. The fact that it is only happening now informs the enormity of the task. We anticipate that some aspects of the recommendations will probably include amendments to the statute, which we will be recommending later this fall.

Parallel to this work, we have been engaged in a long-term and thorough review of the Archives itself; how internal and external communications can be enhanced, and to distill training towards best practices in records management to better serve our colleagues in the Legislative, Executive and Judicial branches as we stand accountable to the public in our work.

To that end, Tammy Marks reported last week that in the first day of registrations for training on records management policies and schedules that some twenty-six records officers across state government had registered for the training, and that several offices have requested on-hands training in their own environments. This is a welcome development, and reflects on the high profile of the issues of records management raised by this committee.

I am happy to entertain any questions you may have at this time, at the pleasure of the Chairs.

Records Management Stakeholders Committee
August 4, 2015, 10 a.m. - noon
State Archives conference room and tour of State Archives permanent holdings

STAKEHOLDER COMMITTEE MEMBERS:

- **Secretary of State/ State Archives:**
  - Matt Dunlap, Secretary of State
  - David Cheever, Maine State Archivist (on vacation)
  - Tammy Marks, Archives Director
  - Donna Grant, Deputy Secretary of State, Information Systems
  - Kristen Muszynski, Communications Director for Secretary of State
- **Attorney General's Office:**
  - Brenda Kielty, Public Access Ombudsman
- **Legislature:**
  - Grant Pennoyer, Executive Director
  - John Barden, Director, Law and Legislative Reference Library
  - Kevin Dieterich, Director, Legislative Information Technology
- **Judicial Branch/ Courts:**
  - David Packard, Chief Information Officer for Judicial/ Courts
- **Executive Branch:**
  - Greg McNeal, Chief Technology Officer, Office of Information Technology
  - Eric Stout, IT Project Manager (staff support to the committee)
- **Citizen Member:**
  - Howard Lowell (former Assistant Archivist at Maine and at National Archives)

Also attending (not a Committee member):

- Public observer: Dwight Hines, PhD (retired)

AGENDA:

- Introductions and a quick tour of Archives
- Scope of the Stakeholder Committee
- Next steps and goals for the next meeting

NEXT STEPS:

- ACTION: Get notes out. [Eric Stout from OIT is serving as recorder/ staff support to the Committee.]
- SCOPE/ ACTION: Focus on 3-12 points. Next meetings to be set. Modularized discussion on selected topics. Start with GOC report to look at (#2 in summary table below). Recommendations are on p. 23-24. Law and Rule are attachments.
- ACTION: Greg McNeal will talk with Cindy Montgomery in Governor's Office about participation.

See table below for summary of suggested topics for next meetings (based on the meeting discussion on pages 5-10).

SUMMARY OF SUGGESTED TOPICS FOR NEXT MEETINGS

(based on detailed discussion points at August 4, 2015 meeting – see minutes)

#	Suggested Topics	Background/ Resources
1	**Records management's legal, policy, technical, and fiscal implications throughout State Government**	Overview topic – see sub-topics below
2	**"Records Retention and Management Report to Government Oversight Committee"** (summary of 21 recommendations on page 23-24) • ACTION: Discuss how to promote/ ensure effective implementation of each recommendation.	http://legislature.maine.gov/uploads/originals/records-retention-and-management-report-to-goc-2015-4215.pdf
3	**Archives and Records Management Law** • ACTION: Review statute for recommended changes by the Legislature.	http://www.mainelegislature.org/legis/statutes/5/title5sec91.html (sec. 91-98)
4	**Review role and membership of Archives Advisory Board (AAB)** • ACTION: Recommend changes to statute, rule, and policy for the strengthening the AAB.	Maine State Archives Rule ("Chapter 1"): http://www.maine.gov/sos/cec/rules/29/255/255c001.doc – role described in sec. 12B
5	**Staffing at State Archives and in State Agencies** • ACTION: Recommend needed staffing levels at both State Archives and State Agencies.	Currently less than half the staff of what it was originally
6	**Agency records management programs** • ACTION: Review how to strengthen State Agency compliance with records management law, rules, policy, guidance, training, and accountability.	GOC report at #2 above
7	**Freedom of access to public records** • ACTION: Recommend ways to overcome State Agency poor records retention practices, which blocks full compliance with FOAA. • ACTION: Recommend better technology tools to foster fuller compliance with FOAA.	GOC report at #2 above
8	**Electronic records and email (non-historical)** • ACTION: Give guidance to agencies on proper management and retention of electronic records and email within the agency. • ACTION: Plan for migration to email platforms (like Office 365) and records management systems (like SharePoint and OpenText) that enable effective/ efficient retrieval of records and email.	Guidance from National Archives: • Email management: http://www.archives.gov/records-mgmt/email-mgmt.html • Electronic Records Management: http://www.archives.gov/records-mgmt/initiatives/erm-guidance.html
9	**Electronic records and email (historical value)** • ACTION: Recommend technical solution for an Electronic Records Archives – to enable State Agencies to convey electronic records and email to State Archives in digital form.	Guidance from National Archives: • Electronic Records Archives: http://www.archives.gov/era/
10	**Other topics?**	

Records Management Stakeholders Committee
Minutes of August 4, 2015 meeting – key discussion points

INTRODUCTORY COMMENTS – Secretary of State Matt Dunlap:

- Changing nature of archives and records.

- The issue was highlighted because of problems with disposal of records at the Maine Center for Disease Control and Prevention (CDC) a couple years ago. That situation showed a lack of guidance of what records should be maintained and how. The issue is State-wide.

- The Legislature's Government Oversight Committee (GOC) and Office of Program Evaluation and Government Accountability (OPEGA) have worked with us on identifying some of these issues.

- Problems have evolved over the past 30 years or so. State Archives started with 37 staff many years ago, now down to less than half that.

- GOC asked us to put together a Stakeholders group, on how to manage records, and also advice on the role of the Archives Advisory Board.

- Challenge is that records have changed – largely electronic. We want to ensure we don't lose "the records of an age" (historical value records).

TOUR OF STATE ARCHIVES – Secretary of State Matt Dunlap:

- 100 million permanent records (various types, including maps, photos, etc.) – all these stored at the Archives building have been conveyed to the State Archives as owner.

- Digitizing/ scanning some of the archival records into an archival records management system – a steady, slow process.

- When old records are brought to State Archives, they have to be inspected and treated to ensure no bugs get into the Archives building. A refrigerator-like machine quick-freezes them. Also have a humidifying machine to make some old papers less brittle to handle, so they can be flattened and stored better.

- Maine has a large collection of Civil War records (muster rolls, battle reports, photos, maps, letters, etc.). See scanned image collections at: http://www.maine.gov/sos/arc/research/civilwar.html

- Vault has the most valuable holdings:
    - Maine State Constitution (1820) – original in the vault. See original text on Maine Legislature website: http://legislature.maine.gov/uploads/originals/const1820.pdf

- Maps of the coast commissioned by President Jefferson
- Original printed copy of the Declaration of Independence
- Other valuable holdings

- Treasure of many original documents and other types of "records of an age." The State Archives building is all archival/ permanent value – ownership by State Archives.

- Separate from the State Archives holdings, the State Records Center at the Bureau of Alcoholic Beverages and Lottery Operations (BABLO) building (10 Water Street, Hallowell) has longer-term storage of records that belong to the agency. 120 million pages of documents stored in 60,000 "spaces" (boxes) at BABLO building – long-term records that have a disposition schedule; have to get approval from agency before destruction. See guide for use of the State Records Center at: http://www.maine.gov/sos/arc/records/state/recordscenter.doc

ADDITIONAL BACKGROUND ON STATE ARCHIVES – enhancing comments of tour:

- **Summary from State Archives website:**
  http://www.maine.gov/sos/arc/about/index.html
  - "The Maine State Archives, a bureau within the Department of Secretary of State, maintains approximately 95 million pages of official State records considered to be permanently valuable. These include bills introduced in the Legislature, Governor's Executive Council Reports, election returns, deeds to and from the State of Maine, maps from the Land Office, vital statistics, federal census records from Maine up to 1930, county court records dating back to the 1639, and military records through World War I, to list a few.
  - Our Archives Services Division preserves and provides access to these archival records. Researchers may request general information or specific records by contacting us in person, by phone, FAX, or e-mail.
  - Our Records Management Services Division identifies and schedules State and local government records to insure they are retained and, if not archival, destroyed properly. The Division conducts training and creates publications to assist government agencies in meeting general records management requirements. Its State Records Center maintains approximately 120 million pages of official State records not currently needed in State offices and scheduled for ultimate destruction."

- **Archives 50th Anniversary:**
  - **TV 5 highlight of Archives 50th Anniversary** (2 minutes):
    http://wabi.tv/2015/06/08/maine-state-archives-celebrates-50th-anniversary/
  - **Video on Archives 50th Anniversary Tour** (18 minutes):
    https://www.youtube.com/watch?v=jP2bC9hJS-0

- **Other links:**

- **Maine State Archives website:** http://www.maine.gov/sos/arc/ and http://www.maine.gov/sos/arc/about/index.html
- **Archives Services:** http://www.maine.gov/sos/arc/research/
- **Digital Image Collections:** http://digitalmaine.com/arc_img/
- **Maine State Archives Online Store:** http://www10.informe.org/webshop_ifw/?storeID=5
- **Records Management website:** http://www.maine.gov/sos/arc/records/

DISCUSSION – NEXT STEPS AND GOALS FOR NEXT MEETING:

[NOTE: Web links were added to enhance the value of discussion points, and facilitate research and follow-up actions by the Committee]

- ISSUE: Technology and social changes over the century.

- ISSUE: Freedom of access for public records:
  - Under the Freedom of Access Act (FOAA), if you have it, you have to let them see it. See: http://www.maine.gov/foaa/. See frequently asked questions: http://www.maine.gov/foaa/faq/index.shtml
  - Some records are protected/ confidential. There are statutory exemptions in FOAA to protect privacy/ confidentiality. See: http://www.maine.gov/foaa/law/exceptions.htm.

- ISSUE: Overwhelming is the massive volume of files, e-mails, documents. Challenges from agency perspective how to manage their records.

- ISSUE: Take time to reflect what you saw in Archives repositories. Importance of preserving history through physical records. Also important to properly preserve emails and other electronic records that have historical value. What is "ephemeral" versus historical value?

- ACTION: Important to have the right type of guidance on records.
  - What exists for training? Training site: http://www.maine.gov/sos/arc/records/state/statetraining.html

- ACTION: State Archives has been providing some training for agency records officers, but many records officers are vacant. Did a survey of agency records management programs, and only got 3 responses out of 25.
  - Records Officer responsibilities, and list by State agency: http://www.maine.gov/sos/arc/records/state/recordsofficers.html

- ACTION: Many agency records retention schedules are seriously out-of-date.
  - See State agency schedules: http://www.maine.gov/sos/arc/records/state/agencyschedules.html. While the

website was updated July 2015, the majority of the agency schedules are over 20 years old.

- See also General Records Schedules, which were recently updated: http://www.maine.gov/sos/arc/records/state/generalschedules.html

- ACTION: October is Archives Month, and State Archives will be doing more outreach.
  - See background on American Archives Month: http://www.statearchivists.org/archivesmonth/

- SCOPE: How do you look at it, with such a broad area?

- SCOPE/ ISSUE/ ACTION: **"Records Retention and Management Report to the Government Oversight Committee"** (April 2015): http://legislature.maine.gov/uploads/originals/records-retention-and-management-report-to-goc-2015-4215.pdf
  - Report to GOC after CDC incident (records disappeared that documented an important funding decision).
  - Staff said they didn't know, so that's an accountability issue. The "harm of loss" can be either on the archives side or the records management side. Report lays out statutory and regulatory requirements. Separate the archives side and records management side. Then separate paper and electronic, because the issues are different.
  - The way the system is structured is based on a cooperative relationship between Archives and agencies:
    - Archives issues policies and gives training.
    - Agencies need to assign Records Officers and manage their records.
    - A breakdown, in that agencies don't always do their part.
  - For GOC report, we didn't have opportunity to get much input from agencies (we should get that now).

- Archives can't "order" agencies to do something. Agencies have to step up do what they're supposed to per existing law, rule, policy, and guidance, which are all available through the State Archives website:
  - **Policies and guidance:** http://www.maine.gov/sos/arc/records/state/index.html
  - **Training and education:** http://www.maine.gov/sos/arc/records/state/statetraining.html
  - **Resources:** http://www.maine.gov/sos/arc/records/state/stateresources.html

- ISSUE: Agencies can't destroy records without Archives approval. Originally the Legislature's intent was to set up an agency to manage the records of State Government, of which "archival" was one of the dispositions. A lot of what the State Archives program needs to do is have the structural stuff in place so that records arrive here.

- ISSUE: For electronic records, it's a time bomb. Planning needs to be in place because potential loss is huge. Could lose "the records of an age." If there is no program, no guidance in place, then could lose all the history contained in emails.
    - FOAA is meaningless if the electronic records (and emails) don't exist.

- SCOPE: Anything outside of scope? No.

- ACTION: The law needs to be revisited, such as the role of the Archives Advisory Board and who should be on it.
    - See Archives and Records Management Law (1973, as amended): http://www.mainelegislature.org/legis/statutes/5/title5sec91.html (sections 91-98)
    - See also: Maine State Archives Rule ("Chapter 1"): http://www.maine.gov/sos/cec/rules/29/255/255c001.doc. Archives Advisory Board – role described in section 12B

- ISSUE: Using private email to conduct government business. Federal law and regulations are clear about use of private email accounts.

- ISSUE: Facebook – co-mingling of personal and government messages/ posts. In the Federal government, you're required to transfer messages/ posts to a government system.

- ACTION: Governor's Office is invited, and they will send someone. It's important to have them give guidance to State Agencies (Executive Branch).

- ACTION: Records management needs to be taken seriously, so the public has confidence in records being there.

- ISSUE: Now with the State's Outlook email systems, individuals can delete their own email. With future installation of Office 365 (when/ if Executive Branch agencies migrate to that platform), there will be an "immutable" (unchangeable) archive of all emails, regardless of whether an individual deleted email from their own accounts. Office 365 comes with 50 gigabytes (50,000 megabytes) for mailbox and 1 terabyte (1 million megabytes) of file storage for each user account. With all that increased storage, how are agencies going to manage all those emails and files?
    - Office 365 overview: https://products.office.com/en/business/office-365-enterprise-e3-business-software
    - Office 365 file storage and sharing: https://products.office.com/en/business/office-365-file-sharing-online-collaboration-tools
    - Office 365 eDiscovery Center: http://social.technet.microsoft.com/wiki/contents/articles/19485.ediscovery-faq.aspx and https://technet.microsoft.com/en-us/library/dn790281.aspx

- ISSUE: Some people write notes to avoid being in email, but that physical note can be a record, and attached to e-mail.

- ISSUE: What email do we need to keep? A very small % is of long-term historical value.

- ISSUE: Do we want to include redaction policies in the scope (to protect people's privacy)? Such as the Federal Driver's Privacy Protection Act.
    - See: https://en.wikipedia.org/wiki/Driver%27s_Privacy_Protection_Act

- ISSUE: How is information accessed, and privacy information handled? DHHS, Department of Labor, Public Safety, Maine Revenue Services, etc. have records with privacy information. For Federal Tax Information (FTI), you can get 5 years in jail and $5,000 fine for disclosing private tax information. Need to educate IT people how to treat the FTI data. Lots of regulations protect the data. Social Security Numbers (SSN) are embedded in a lot of records.

- SCOPE/ ACTION: Archives Advisory Board (AAB): Is their scope just about archival permanent records, or is it all aspects of records management, including the "99%" of the volume of records that never comes to the Archives, but stays at the agencies. In statute, the AAB is co-equal to authority of the Archivist; and it approves records retention schedules. It's made up of members of the public. Should look at original statute description of AAB, which included a representative from the Attorney General's Office for legal aspect, State Auditor for audit of records. Public input has been left out.

- ISSUE: Question of what's a public record is very broad. How long do you have to keep it? Assessment of retention value is critical. An agency might not want to keep it (for administrative use), but it may be required for audit reasons, or historical value. You should keep it only as long as it should be according to the records schedule. What we're keeping is based on value, and is changing.
    - Background from the FOAA website, http://www.maine.gov/foaa/faq/
      What is a public record?
      The FOAA defines "public record" as "any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these entities, and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business". A number of exceptions are specified. (See the discussion of exemptions below.) 1 M.R.S. § 402(3)

- ACTION: Important for agencies to update their schedules – 60% are from the 1980s. If people would update their schedules, we might not need to keep some of 60,000 boxes we have in the State Records Center.

- ISSUE: Agencies continually modernize their business practices, but records schedules are often out-of date and need to be aligned with current business practices (including the predominant use of electronic records). Need to emphasize the value of the record in determining retention time. It's the content, not the format that determines retention.

- ACTION: Give guidance to agencies on email, to set up folders for topic and by date.

- ISSUE: Judicial Branch/ Courts don't know what the historical value will be in the future.

- ISSUE: If the electronic records are well managed from the beginning, then records are easy to find. But if not organized well, or in individual accounts, then it's a massive effort to search. Do we have the functionality to search globally? With Courts' Google Mail, they can search globally. With Office 365 (when/ if implemented in the Executive Branch agencies), they will be able to search globally across multiple user accounts or even department-wide.

- SCOPE: How will technology help State Archives and State Agencies to find records more easily? Now we are relying on individual manual preservation, especially with email.

- ISSUE: With electronic record-keeping, staff has been reduced.

- ISSUE: It's what you need to do that should govern use of technology.

- ISSUE: Technology can be a facilitator of bad practice. It's cheaper to give people more space rather than take the time to manage the records. A lot of duplication of what is attached to emails.

- ISSUE: Electronic ownership – state employees don't own the records and email they created. When someone leaves an Executive Branch Agency, the Office of Information Technology (OIT) standard procedure now gives their files and email archives to the supervisor, who will ideally retain or destroy records and email according to records schedules.

- ISSUE: Will the file formats be readable 25 years from now?

- ACTION: Emails should be off-loaded at some point from the individual accounts to a records management system that is more easily searchable.

- ISSUE: How do you segregate non-record emails (like from vendors) from official State email?

- ISSUE: What should the AAB be focused on? What is statutorily protected? Would like to see the AAB have rule-making authority. AAB should reflect on these things, to protect the interests of the public and transparency.

- SCOPE: Include local government records? Yes, public records are public records.

- ACTION: Should have someone on this Committee from the local government perspective – perhaps the Maine Municipal Association, counties, County Clerks Association?

- ACTION: National Archives and all States are trying to address these issues. Our Records Management staff should be part of those conversations. There are a number of issues going on. There is existing guidance on www.archives.gov for electronic records, email management, electronic archives, etc. See links in summary table.

State of Maine
Office of the Secretary of State

Matthew Dunlap
Secretary of State

June 23, 2015

As a result of meetings with the OPEGA's Government Oversight Committee, it is obvious that emerging technologies present a challenge across State government regarding effective and comprehensive records management. Digitally-born documents, whether of temporary or permanent value to the State, prompt questions about identification, collection, storage, preservation, and access for the public and prospective researchers.

Rather than answer those questions unilaterally, it seems prudent that gathering perspectives from stakeholders from each branch of State government would help to reach reliable records management policies.

We are forming a committee of stakeholders who are responsible for the proper preservation of paper and digital records, and archival materials. The group will explore email, Twitter, Facebook, Periscope, smart phones and office equipment applications have become an integral part of the workings of our government. It is important to ensure that we are meeting our responsibilities to capture public records, store and preserve them properly, and be able to provide access to it in a secure and timely manner to the public, if requested.

The committee may also be asked to provide input on the membership and role of the Archives Advisory Board with the goal of structuring the board to meet current day challenges.

I am asking that you or a senior member of your agency serve on this committee as record management carries legal, policy, technical, and fiscal implications throughout State government.

Please contact Dottie Canelli at 626-8401 to confirm your agency's participation by June 30, 2015. We would like to hold our first committee meeting in July.

Sincerely,

Matthew Dunlap
Secretary of State