

DRAFT



Government Oversight Committee Addendum

to the
Office of Program Evaluation and Government Accountability's
Information Brief on
State Funding for Good Will-Hinckley

January 2016

GOVERNMENT OVERSIGHT COMMITTEE OF THE 127TH LEGISLATURE

Senator Roger J. Katz, Chair
Senator David C. Burns
Senator Paul T. Davis, Sr.
Senator Christopher K. Johnson
Senator Stan Gerzofsky
Senator G. William Diamond

Representative Chuck Kruger, Chair
Representative Robert S. Duchesne
Representative Anne-Marie Mastraccio
Representative Michael D. McClellan
Representative Richard H. Campbell
Representative Deborah J. Sanderson

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Overview

This Addendum records the actions of the Legislature's Government Oversight Committee (GOC) in response to the Information Brief by the Office of Program Evaluation and Government Accountability (OPEGA) on State Funding for Good Will-Hinckley (GWH). It also includes a summary of additional or new information and context pertinent to the events reported in the Information Brief gathered during the GOC's public consideration of this report.

OPEGA's Information Brief can be found at www.legislature.maine.gov/opega/opega-reports. The GOC Meeting Summaries document, in more detail, the Committee's work and deliberations with regard to this report and can be found at www.legislature.maine.gov/opega/archive-of-previous-meeting. Copies of the Information Brief or summaries can also be obtained by contacting OPEGA at 207.287.1901 or email to etta.connors@legislature.maine.gov.

Key GOC Dates (See GOC Meeting Summaries on these dates for detailed record.)

Report Presentation: September 8, 2015

Public Comment Period: October 15, 2015

Special Inquiry of Officials and Other Representatives: November 12, 2015

Work Sessions: October 15, 2015 and December 3, 2015

Vote on Endorsing OPEGA Report: December 3, 2015

Consideration and Approval of GOC Addendum to Report: January 8, 2016

Summary of Public Comment Period

Following the presentation of OPEGA's Information Brief on September 8, 2015, the GOC decided to request that certain individuals attend the Public Comment Period to answer GOC questions. The GOC subsequently sent letters requesting attendance to:

- Cynthia Montgomery, Chief Legal Counsel, Governor's Office
- Aaron Chadbourne, Senior Policy Advisor, Governor's Office
- Thomas Desjardin, Acting Commissioner, Department of Education
- James Moore, Chairman, Good Will-Hinckley Board of Directors

Of these four, only Mr. Moore attended the Public Comment Period and answered GOC questions. The GOC's discussion with Mr. Moore is captured in the GOC Meeting Summary for October 15, 2015. Ms. Montgomery and Mr. Chadbourne declined to attend citing the current civil lawsuit on the related matter pending against the Governor. Acting Commissioner Desjardin was unable to attend for health reasons but did send written testimony. The Acting Commissioner's written testimony and the letter from Ms. Montgomery explaining why she and Mr. Chadbourne declined the request are in Appendices C and D of this Addendum.

During the Public Comment Period on October 15, 2015, the GOC also heard and/or received written testimony from the following individuals. Copies of all written testimony are in Appendix E of this addendum.

Oral Testimony Only: Rep. Helen Rankin, Chris Myers Asch, Davey Crockett, David Travers, Deb Fahy, Barbara Moore, Harold Booth, Mike Wiley, Suzanne Hedrick, Will Neils, and Meredith Ares.

Oral and Written Testimony: Rep. Jeff McCabe on behalf of Howard Trotzky, Rep. Jeffrey Evangelos, Rep. Benjamin Chipman, Rep. Janice Cooper, Brian Hodges, Cushing Samp, Jeanie Coltart, Alan Tibbetts, Becky Halbrook, James St.Pierre, Jim Ramsey, Hendrik Gideonse, and William J. Brown.

Written testimony only: Susan Bloomfield, Andrew Cadot, Mary Chouinard, Walter Eno, Judith Farley, Lianne Mitchell, Elisabeth Ramsey, Charles Sims, Ed Spencer and Edward and Diane Potter.

Through their oral and written testimony, multiple commenters urged the GOC to take one or more of the following actions:

- Get the rest of the facts related to the GWH matter by issuing subpoenas and inviting others to a meeting, as necessary, to answer the GOC's questions.
- Engage the Attorney General's Office or a Special Prosecutor to determine whether there have been any crimes committed with regard to the GWH matter. One commenter specifically referenced the following statutes:
 - Title 17A §355: Extortion
 - Title 17A §603: Improper Influence
 - Title 17A §903: Misuse of Entrusted Property
- Increase the scope of the GOC's inquiry to find the facts associated with other situations the Governor has been involved in, or allegedly been involved in, to establish whether actions taken in the GWH matter are representative of a pattern of behavior/actions.
- Forward OPEGA's report and additional facts found on the GWH matter to the House of Representatives for its consideration in possible impeachment proceedings against the Governor.

Summary of Special Inquiry

During its Work Session on October 15, 2015, the GOC discussed its role in gathering facts and getting as much information as possible relevant to OPEGA's Information Brief on State Funding for Good Will-Hinckley. Accordingly, the GOC voted to issue subpoenas for Cynthia Montgomery and Aaron Chadbourne of the Governor's Office to appear at the GOC's next meeting as they had declined to appear at the Public Comment Period as requested. The GOC also voted to send letters to seven other individuals involved in the reported events requesting they too appear at the GOC's next meeting:

- Thomas Desjardin – Deputy Commissioner, Department of Education (former Acting DOE Commissioner)
- Suzan Beaudoin – Director of School Finance and Operations, Department of Education
- Rich Abramson – former GWH Interim President
- Sara Vanderwood – lobbyist for/representing GWH
- Jay Nutting – lobbyist and former GWH Board member
- William Brown – Chairman, Maine Academy of Natural Sciences Board of Directors
- Gregory Powell – Chairman, Harold Alfond Foundation Board of Trustees

The GOC Chairs also subsequently sent letters to each of the nine individuals subpoenaed or requested to appear requesting that they also produce any relevant correspondence that had not already been provided to OPEGA during the course of the review.

A summary of the GOC's discussion and a record of the votes taken can be found in the Meeting Summary for the GOC's October 15, 2015 meeting. The subpoenas, request for attendance letters and request for documents letters are in Appendix F of this Addendum.

All nine of the individuals appeared at the GOC's meeting on November 12, 2015 and answered questions from the Committee under oath. With the exception of Mr. Nutting, all also provided additional records, some of which OPEGA already had and some of which were new. Mr. Nutting testified that he did not have any records meeting the description of what the GOC Chairs had requested.

The GOC's protocols and procedures for the Special Inquiry were governed by several statutes, with interpretation as necessary from the GOC's counsel, Chief Deputy Attorney General Linda Pistner and OPEGA Director Beth Ashcroft. Those statutes are:

- Title 3 Chapter 21 – Legislative Investigating Committees
- Title 3 Chapter 37 – Legislative Oversight of Government Agencies and Programs
- Title 1 Chapter 13 – Public Records and Proceedings

The Meeting Summary for the GOC's November 12, 2015 includes a summary of the GOC's discussions and record of votes on the procedural matters. A full audio recording of the meeting and testimonies can be found on the Government Oversight Committee's website at www.legislature.maine.gov/opega/archive-of-previous-meeting. The time stamps on the audio recording where each of the testimonies begins are as follows:

Aaron Chadbourne – 0:17:30
Cynthia Montgomery – 1:03:55
Thomas Desjardin – 1:59:00
Suzan Beaudoin – 3:38:30
Rich Abramson – 3:52:33
Sara Vanderwood – 4:42:00
Jay Nutting – 4:59:15
Bill Brown – 5:11:45
Greg Powell – 5:56:28

Additional Information and Context Gathered

Following presentation of the Information Brief on September 8th, the GOC made requests for additional information. The Committee also directed OPEGA to conduct an interview with William Brown, the Chair of the MeANS Board and a staffer for Speaker Eves, whom OPEGA had not interviewed during the review. OPEGA provided the GOC with the requested information, as well as a summary of OPEGA's interview with Mr. Brown, at the Committee's October 15th meeting. That information is in Appendix A of this Addendum.

Testimony and records obtained through the GOC's Public Comment Period and Special Inquiry produced additional information and details pertinent to events reported in OPEGA's Information Brief on State Funding for Good Will-Hinckley (Info Brief). Appendix B of this Addendum is a summary of new information gathered (not reported in the Info Brief) or information that provided relevant additional detail or context for events that were reported in the Info Brief.

GOC Vote on Endorsement of OPEGA Report

A provision in OPEGA's enabling statute, Title 3 §997.2, provides that the Committee may, at its discretion, vote to endorse, to endorse in part or to decline to endorse the report submitted by the OPEGA Director. The Committee's written process and procedure for receiving OPEGA reports states that endorsement indicates the Committee's public approval of, and support for, OPEGA's reported results and recommendations. Generally, the Committee will fully endorse the report if it finds that:

- a. the reported results are credible, objectively derived and sufficiently relevant and complete with regard to the assigned scope for the review; and
- b. the reported recommendations are reasonable and appropriate for addressing the issue(s) identified.

As OPEGA's Info Brief contained no recommendations, this criteria was not relevant to the GOC's vote.

Seven members of the GOC voted to Fully Endorse the OPEGA Information Brief. Those members were: Senator Diamond, Senator Katz, Senator Gerzofsky, Senator Johnson, Representative Duchesne, Representative Kruger and Representative Mastraccio.

Five members voted to Endorse In Part. Those members were: Senator Burns, Senator Davis, Representative Campbell, Representative Sanderson and Representative McClellan. They stated that they endorsed the entirety of the report with the exception of the section on page 21 of the Info Brief which described GWH's selection process as "consistently adhered to" and "fair to all candidates". They noted that, from their perspective:

- GWH did not adhere consistently to the established qualifications for the position as advertised when selecting the successful candidate; and
- the involvement of William Brown, MeANS Board Chair and one of the Speaker's staffers, in the selection process – even with his recusals at various points – did not make the process fair for all candidates, particularly as Mr. Brown testified that he had given the Speaker advice on the parts of his background and experience that GWH would be interested in and that he might consider highlighting.

Other GOC Actions

The GOC agreed to formally transmit the OPEGA Information Brief and this GOC Addendum to both the House and Senate.

Appendix A. Information Provided to GOC by OPEGA on October 15, 2015 in Response to Committee Questions of September 8, 2015

How big a part of GWH is the MeANS school: what % of the budget for both revenues and expenses; what % of all students served by GWH are attending the MeANS school; what % of all staff under the GWH umbrella work for MeANS; and any other metric that GWH might use to describe what portion of its entire organization is attributable to MeANS.

GWH provided the following information:

- GWH's budget for the current year is \$5,201,207, with MeANS part of the budget at \$1,606,625 or 31% of the total. MeANS is budgeted to bring in \$1,372,768 in revenue, leaving a short fall in MeANS expenses of \$233,857 that GWH covers.
- GWH currently has 156 students on campus with 124 of them, or 79%, being MeANS students.
- GWH and MeANS share some staff which makes it difficult to determine what percentage of total staff is working for MeANS. A quick estimate is that 40 – 50% of the total GWH staff is allocated to MeANS. GWH is working to provide more specific numbers on this.

Was the \$530,000 in funding for GWH part of the Governor's Line Item Veto of the budget?

Based on discussions with the Office of Fiscal and Program Review, it is OPEGA's understanding that the \$530,000 for GWH would not have been affected by the Governor's line item vetoes. The Governor did line item veto all of the proposed **increase** in the General Purpose Aid for Local Schools Program which included his own proposed increases as well as the additional \$19.5 million the Legislature had added to that Program. While the GWH funding (Center of Excellence funding) is captured under the GPA program, no increases had been proposed for that funding line – the \$530,000 per year was the same as the previous years' budgets – and so technically it was not vetoed.

Please provide a copy of the June 18th letter to GWH from the Harold Alfond Foundation.

See attached letter which OPEGA is providing with permission from the HAF Board Chair.

Please provide the handwritten note from the Governor to GWH Board Chairman Jack Moore.

OPEGA requested categories of documents from GWH that would have included the handwritten note. OPEGA also specifically asked the GWH Board Chair to provide the handwritten note. He told OPEGA he no longer has the note.

OPEGA also requested categories of documents from the Governor's Office that would have included any copy of the handwritten note the Governor may have kept. The Governor's Office declined to provide any documents to OPEGA beyond what has been released in response to an

external FOAA request citing the pending lawsuit against the Governor. A copy of the handwritten note was not among the documents the Governor's Office provided.

OPEGA followed up with the Governor's Office to see if they could provide confirmation as to whether or not a copy of the note exists. The response was received from the Governor's Chief Legal Counsel. She said the Governor has indicated that he sent a personal note to Chair Moore but that the Governor's Office does not have any copies of that personal note.

Is the June 28th WMTW video referenced in the OPEGA Information Brief on page 20 available?

The video can be found on the Internet at <http://www.wmtw.com/politics/deadline-looms-for-possible-state-budget-veto/33826418>. OPEGA also has the audio clip of the actual interview which includes the reporter's questions to the Governor. A transcript of that audio clip is attached.

Please provide any details available on the donations that have been pulled from GWH and the negative feedback received:

- How many donors have pulled donations and what is the dollar amount associated with that?
- What reasons have the donors given for pulling their donations?
- How much of the negative feedback received by GWH or Chairman Moore has been related to GWH's choice to hire Speaker Eves in the first place versus related to GWH and the Chair not standing up to the Governor but rather terminating the Speaker's contract instead?

GWH has been asked to provide this information and/or for Board Chair Jack Moore to be prepared to answer these questions.

Please provide a copy of the Ethics Commission letter to the Speaker.

See attached letter.

Summary of interview with William Brown, Chair of the Maine Academy of Natural Sciences Board of Directors

OPEGA interviewed Mr. Brown as requested by the GOC and his description of his role in the recruitment and selection process is consistent with what was described by others OPEGA interviewed and what was reflected in the documentation OPEGA reviewed from GWH's recruitment and selection process. He did review and prioritize all the nineteen applications that were received to determine who should be interviewed, he did not make any comment on whether Speaker Eves should be interviewed or not and he did participate in the telephone interviews with five of the candidates. Mr. Brown did not participate in the telephone interview with Speaker Eves and also recused himself at any point a decision was to be made, or an interview was to be conducted involving anyone he knew that was an applicant. He was present at the Board meetings with both candidates, but his role was only to open and preside over the meeting and categorized

the MeANS Board as guests and the GWH Board did the voting. Mr. Brown did participate in the May 13th informal meeting that Chairman Moore arranged in Brunswick with the top two candidates. The MeANS Board thought it was important to have a representative of their Board at the meeting since it was a departure from the process that had been laid out and because no one else from MeANS was available Mr. Brown went. He said the discussion with each candidate was different, but the purpose of the meetings was to discuss questions they felt had not been completely addressed in the interviews up to that point. Mr. Brown recollected that the primary questions for Speaker Eves were in regard to his future political ambitions.

Director Ashcroft said Mr. Brown said he made Speaker Eves aware of the employment opportunity after the former President of GWH had approached him and asked him specifically to relay to Speaker Eves that the opening was available. She said Mr. Brown said he did not have any role in determining whether the Speaker's contract should be terminated. That was a vote of the GWH Board. Mr. Brown did not recall having any conversations with any Board members about Mr. Eves as a candidate.



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June 18, 2015

Mr. John P. Moore, Chairman of the Board
Good Will-Hinckley
P.O. Box 159
Hinckley, ME 04944

RE: Grant agreement for the Moody School renovation and expansion

Dear Jack:

In response to recent events concerning Good Will-Hinckley and the Maine Academy of Natural Sciences (collectively "GWHMe") and, specifically, the likely loss of \$1,060,000 in state funding over the next two years for the residential programming at GWHMe, we are writing for two reasons.

First, we want to express the serious concern of the Harold Alfond[®] Foundation regarding the future financial viability of GWHMe, given the likely state funding loss—and, by extension, its ability to achieve the goals underpinning the Foundation's September 10, 2014 grant agreement with Good Will to renovate and expand the Moody School. As you know, of the \$5,500,000 in possible grant funds from the Foundation, \$2,750,000 is contingent on GWHMe achieving measurable performance goals, including reaching enrollment of 210 by the 2019-2020 year.

Second, we want to inform you that, given our concern about the likely state funding loss and the material negative impact it may have on GWHMe going forward, the Foundation has re-engaged Larry Sterrs to revisit the GWHMe budget and financial forecasts.

As you will recall, the Foundation previously engaged Larry in August of 2014. His charge then was to review the GWHMe base-line budget and financial forecast submitted as part of Good Will's grant request. To conduct his analysis, Larry worked closely with GWHMe officials and a Principal at Berry Dunn, an audit, tax and consulting firm. While Larry did recommend some adjustments to the original budget and forecast, his analysis ultimately

¹ Harold Alfond[®] is a registered trademark of the Harold Alfond Foundation.

confirmed that the GWHMe plan, as submitted to the Foundation, was feasible *provided that certain assumptions underlying the plan proved to be true*. For your reference, the following is a summary of the key elements of the GWHMe plan.

- In the 2015-2016 year, GWHMe would have 110 students and reach financial breakeven in operations, with state funding for residential programming in the amount of \$530,000.
- Annual state funding for residential programming would continue through the 2016-2017 fiscal year.
- In the 2019-2020 year, thanks in large part to the increased physical capacity provided by the renovated Moody School, GWHMe would have 210 students and generate net income from operations of nearly \$460,000.

Because the GWHMe plan did rely on certain assumptions, such as the continued receipt of state funding for residential programming, Larry's final report was careful to note potential challenges, which included, but were not limited to:

- "The stabilization of state revenues for the delivery of educational and residential services."
- "A need to increase alternative revenue streams, including fund raising, to provide a financial 'Plan B' in the event of the disruption of any of the primary revenue sources."

Given recent events, these potential challenges have become current problems. Accordingly, we have asked Larry to take another look at how the financial plan has been impacted by the likely loss of state funding. We ask that you please extend your full cooperation to Larry in his analysis, as you did in 2014. Please consider Larry's work as part of the annual reporting required by Good Will under our grant agreement and due to the Foundation in July.

In the meantime, we ask that you please share a copy of this letter with your fellow Good Will board members and your colleagues on the MeANS board. We would hope that the boards of both Good Will and MeANS will be giving full consideration to the new challenges presented by the likely state funding loss. Thank you.

Sincerely,

HAROLD ALFOND FOUNDATION



Gregory W. Powell

cc: HAF Board of Trustees, Larry Sterrs, Travis Cummings

**Transcript of Audio Clip
of Reporters Paul Merrill and Mal Leary interviewing Governor LePage on June 29, 2015**

PAUL MERRILL: Wondering about your reaction to the talk of impeachment...

GOV. LEPAGE: It is what it is; it's a free country. They can do whatever they want.

PAUL MERRILL: Regarding Speaker Eves... was there any explicit threat about his employment?

GOV. LEPAGE: First of all- I don't understand about a "threat". Here is a person who for five years has been going against charter schools. HE voted against them; he spoke harshly against them. And NOW he's concerned? I dunno what he's talking about. I'm a pro charter school advocate; he's an opponent. Would I stand up against him? And incidentally, about monies you are talking about? The money you're talking about is out of the budget. Unbeknownst to me at the time, the legislature took that money out of the budget. So...

PAUL MERRILL: So you never threatened to withhold money.

GOV. LEPAGE: Yeah, I did! If I could, I would! Absolutely; why wouldn't I? Tell me why I wouldn't take the taxpayer money, to prevent somebody to go into a school and destroy it. Because his heart's not into doing the right thing for Maine people.

PAUL MERRILL: But they would say that- if you said, "If you hire him, then I don't get the money", that's blackmail.

GOV. LEPAGE: No, it's not. Go, go read the definition. Please go read the definition of "blackmail". I don't gain anything out of it and neither does he. So there's nobody gaining anything. So I think you are misusing the word. And that's coming from a Frenchman.

MAL LEARY: The 'New York Times' yesterday portrayed you as "a party of one". How do you feel when you read that you're "a party of one"?

GOV. LEPAGE: Let me tell you something. This is how- my only comment about that is I was elected by 1.3 million people, with the most votes in the history of Maine governors, to come to Maine and to get rid of the status quo and the corruption. And I will continue do that, with every ounce of blood until my last day. Whichever, whichever comes first- the impeachment or my- the term of office.

PAUL MERRILL: You expect to veto the budget this afternoon?

GOV. LEPAGE: Absolutely.

PAUL MERRILL: Do you know about what time? What's time frame?

GOV. LEPAGE: It will before I leave at 5 o'clock. (giggles)

PAUL MERRILL: Any comments about the veto, the impending veto?

GOV. LEPAGE: Uh, it's gonna be different. Than you've ever seen. (giggles)

PAUL MERRILL: How so?

GOV. LEPAGE: That's all I'm gonna say. (giggles)



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

June 15, 2015

Hon. Mark W. Eves
Speaker of the Maine House of Representatives
2 State House Station
Augusta, Maine 04333

Dear Speaker Eves:

I am writing to respond to your June 11, 2015 letter asking for advice concerning whether voting on L.D. 1019 would constitute a conflict of interest according to the standards established in 1 M.R.S.A. § 1014(1). L.D. 1019 is the biennial budget bill proposed by Governor Paul R. LePage for fiscal years 2016 and 2017, which has been modified in majority and minority reports of the Joint Standing Committee on Appropriations and Financial Affairs. It continues \$530,000 in annual funding for an educational program that is administered by Good Will-Hinckley (GWH). GWH is the assumed name of the Good Will Home Association, a non-profit corporation based in Hinckley, Maine.

One of GWH's largest programs is the Maine Academy of Natural Sciences, a charter school specializing in natural sciences. The school is organized as a separate non-profit corporation. The \$530,000 in state funding allows a portion of the student population to reside on the GWH campus, in what is referred to as the "Campus Life Program." Among other programs, GWH also administers the Glenn Stratton Learning Center, which is a day school offering educational services to students with social-emotional and behavioral challenges, and a residential "College Step Up" program for young adults to attend Kennebec County Community College.

GWH has offered you, and you have accepted, the position of President and Executive Director, which you intend to begin on July 1, 2015. You are asking whether you may vote on L.D. 1019 even though it continues the funding of the Campus Life Program at GWH. In your letter, you explain that you have not advocated for this funding and have exerted no influence over the

consideration of the funding by the Joint Standing Committee on Appropriations and Financial Affairs (AFA). The budgets in both the majority and minority reports of the AFA committee contain the same funding for this program (\$530,000 for fiscal years 2016 and 2017).

Applying the statutory standards, it is the opinion of the Ethics Commission staff that it would not constitute a conflict of interest for you to vote on L.D. 1019 in the 126th Legislature even though the budget bill provides \$530,000 in continued funding to GWH. Please bear in mind that this advisory letter is provided on behalf of the staff of the Maine Commission on Governmental Ethics and Election Practices. It is not binding on the members of the Commission, if a complaint alleging a violation were filed.

Role of Commission in Providing Advice

The Commission is authorized by law to issue advice to Legislators on ethical issues, such as whether it would be a conflict of interest to vote on or influence legislation. (1 M.R.S.A. § 1013(1)(A)) The Commission bases its advice on the definition of a "conflict of interest" set forth in 1 M.R.S.A. § 1014(1). It is a violation of legislative ethics for a Legislator to attempt to influence a bill or other legislative matter if the member has a conflict of interest in connection with that matter. (1 M.R.S.A. § 1014(1))

Advice from the Commission and its staff is based, in large part, on factual information provided by the Legislator requesting the guidance. If the Legislator provides incomplete or inaccurate information, the Commission's assessment of the question and its advice may change if the Commission receives additional, contrary information.

Factual Information Provided

History of state funding. In 2009, the Legislature enacted L.D. 1443 which established a residential and nonresidential program for educating at-risk students, in 20-A M.R.S.A. §§ 6951-6954. P.L. 2009, c. 296. Section 2 of the Public Law directed the Maine Department of

Education to arrange with GWH to implement the program. It charged the Commissioner of Education and the Chief Executive Officer of GWH to develop a plan for funding the program with the goal of providing services by September 1, 2010.

In the past four fiscal years, the State has provided the following funding for the program:

FY 2012	\$330,000
FY 2013	\$530,000
FY 2014	\$530,000
FY 2015	\$530,000

L.D. 1019 proposes to continue the funding at \$530,000 for both fiscal years 2016 and 2017.

Campus Life Program at Maine Academy of Natural Sciences. For purposes of this opinion, I interviewed James Jurdak, the Vice President of Finance and Administrative Services for GWH. The purpose of the funding is to facilitate the attendance of students at the Maine Academy of Natural Sciences by residing at the GWH campus. He said that in the current school year, the total population of the school is 77 students, and that 14-24 students have lived on campus. The total population of the school is intended to increase to 122 for the next school year beginning in the fall of 2015.

The Maine Academy of Natural Sciences and GWH both operate on a fiscal year that begins July

1. The projected budgets for the coming year (beginning July 1, 2015) are:

Maine Academy of Natural Sciences	\$1.37 million
Good Will-Hinckley	\$3.43 million
Total	\$4.80 million

The annual funding of \$530,000 is paid quarterly by the State of Maine directly to GWH. GWH spends the revenue to pay for salary, wages, and benefits, and other operational expenses such as

food, transportation and utilities. The money does not flow through the Maine Academy of Natural Sciences, although it does support the Campus Life Program of the school. In the coming fiscal year, the \$530,000 in revenue represents roughly 11% of the total combined revenue of the Maine Academy of Natural Sciences and GWH.

If the State's funding of the Campus Life Program were eliminated, it is expected that most of the students who currently reside on campus would continue to attend the school by commuting. Mr. Jurdak said that, based on his discussions with the school's Director of Admissions, he would foresee no significant impact on the number of students attending the school. There might be a small reduction, on the order of a handful of students. If the State's funding were eliminated, Mr. Jurdak would not expect a change in the salary of any manager or the laying off of any faculty or administrative staff. When asked, he noted that your compensation is established by a written contract for a term of two years, beginning July 1, 2015, and that the amount of your salary is not dependent on the amount of any revenue stream.

Applicable Conflict of Interest Standards

Maine law sets the standards for when a member of the Legislature must recuse himself or herself due to a conflict of interest. The Legislative Ethics Law defines the term "conflict of interest" in 1 M.R.S.A. § 1014(1) to cover a number of situations which are set forth in paragraphs (1)(A) through (1)(F). If a member has a conflict of interest in connection with a bill or other legislative matter, it is a violation of legislative ethics for the Legislator to attempt to influence that bill or matter. (1 M.R.S.A. § 1014(1))

Recusal on bills affecting a Legislator's business, client, or employer

Paragraph 1(A) relates to situations in which the Legislator has a "close economic association" with an entity that is affected by proposed legislation. This could cover the Legislator's employer as well as other organizations with which the Legislator is affiliated (e.g., if a

Legislator serves as a member of a non-profit organization's board of directors, or passively owns more than 10% of a family business).

A. When a Legislator or a member of the Legislator's immediate family has or acquires a direct substantial personal financial interest, distinct from that of the general public, in an enterprise that would be financially benefited by proposed legislation, or derives a direct substantial personal financial benefit from close economic association with a person known by the Legislator to have a direct financial interest in an enterprise affected by proposed legislation;

The Commission has taken the view that voting on legislation results in a conflict of interest under § 1014(1)(A) only if the Legislator or immediate family member *personally benefits* from the legislation. In a March 12, 2010 advisory opinion to Rep. Jon Hinck, the Commission endorsed the reasoning of a June 10, 1983 advisory opinion of Maine Attorney General James E. Tierney. In the latter opinion, a Legislator had inquired whether she was prevented from voting on a bill because her husband had rendered legal advice to a client concerning the bill. After reviewing the legislative history of 1 M.R.S.A. § 1014(1)(A), the Attorney General observed that

[I]t is clear that the Legislature never intended that a member of either House must be disqualified from voting on a proposal merely because she or a member of her immediate family is compensated for work performed for an employer or a client who might be affected by the legislation. The "direct substantial personal financial benefit" referred to in 1 M.R.S.A. §1014(1)(A) must involve a financial reward separate and distinct from the remuneration one receives as an employee or agent for services rendered.

The Attorney General concluded that

In short, §1014(1)(A) does not prevent a Legislator from voting on a measure unless she or a member of her immediate family will receive a financial benefit

either directly or through a third party, by virtue of the proposed legislation. To suggest otherwise, leads to the conclusion, clearly not contemplated by the Legislature, that any Legislator employed in the private sector must abstain from voting on legislative matters which affect the profession or business in which the Legislator is employed.

For purposes of this advice letter, the Commission staff is relying on the reasoning of Attorney General Tierney in his June 10, 1983 advisory opinion and the Ethics Commission's endorsement of that reasoning in its March 12, 2010 advisory opinion to Rep. Jon Hinck. Both of those opinions interpret § 1014(1)(A) to mean that a Legislator does not have a conflict of interest merely because his or her employer is financially benefited by legislation. Under this reasoning, a conflict results only if the Legislator *personally* receives a benefit from the legislation.

Recusal on bills relating to a Legislator's employment, profession or trade

Two of the paragraphs apply to legislation that relates to a Legislator's employment:

E. When a Legislator or a member of the Legislator's immediate family accepts or engages in employment that could impair the Legislator's judgment, or when the Legislator knows that there is a substantial possibility that an opportunity for employment is being afforded the Legislator or a member of the Legislator's immediate family with intent to influence the performance of the Legislator's official duties, or when the Legislator or a member of his immediate family stands to derive a personal private gain or loss from employment, because of legislative action, distinct from the gain or losses of other employees or the general community; and

F. When a Legislator or a member of the Legislator's immediate family has an interest in legislation relating to a profession, trade, business or employment in

which the Legislator or a member of the Legislator's immediate family is engaged, and the benefit derived by the Legislator or a member of the Legislator's immediate family is unique and distinct from that of the general public or persons engaged in similar professions, trades, businesses or employment.

These two paragraphs contain a number of tests for determining whether a Legislator has a conflict of interest. In summary, a Legislator has a conflict of interest in influencing legislation related to his employment, profession or trade, if (1) the legislation would result in a financial benefit to the Legislator, and (2) that benefit is unique or distinct from other individuals in the same trade or profession or employment as the Legislator. Additionally, a conflict may exist under § 1014(1)(E) when a "Legislator knows that there is a substantial possibility that an opportunity for employment is being afforded the Legislator ... with intent to influence the performance of the Legislator's official duties."

Advice from the Commission Staff

Based on the standards set forth in 1 M.R.S.A. § 1014(1) and the facts you have provided, the Commission staff advises that it would not be a conflict of interest for you to vote on the majority or minority version of L.D. 1019 even though both include the proposed funding of \$530,000 for the Campus Life Program operated by GWH. In your June 11, 2015 letter, you stated that "My family and I will receive no direct personal benefit from the funding." The information that I received from the Vice President for finance at GWH confirms this. He advised that your compensation is set by a two-year written contract and has no relationship to any revenue received by GWH. If the Maine Legislature were to cut back or eliminate the funding, the Maine Academy of Life Sciences would continue to operate without the Campus Life Program in the short term. He said that the number of students would not change significantly and he would expect no change in the compensation of any manager at GWH. The other programs of GWH, such as the Glenn Stratton Learning Center and the College Step-Up program, would continue as well.

Hon. Mark W. Eves

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June 15, 2015

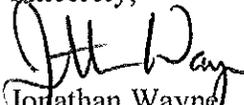
Given the lack of evidence that you would receive any personal benefit from the enactment of L.D. 1019, it is not a conflict of interest for you to vote on the budget bill under 1 M.R.S.A. § 1014(1)(A) (as interpreted by the Commission and the Maine Attorney General), the final clause of § 1014(E), or § 1014(F). In addition, given the timing of the Governor's inclusion of the proposed funding in L.D. 1019 and your subsequent application and acceptance of the position, there does not seem to be any basis to infer that GWH offered you the position with the intent to influence you with respect to the budget bill or any other legislative action.

We note that several factual circumstances would diminish any public perception that you have a conflict of interest in voting on L.D. 1019. The legislative decision to fund a program for at-risk youth and to direct its administration by GWH was made in 2009. At that time, you were in your first year in the Maine Legislature and, presumably, no future employment by GWH could be anticipated. The proposed funding for fiscal years 2016 and 2017 is the same as in the three prior fiscal years. There is no evidence presented that you have used your position to advocate for the Governor's (or the AFA Committee's) inclusion of the continued funding in the budget. Finally, Legislators have an important duty to their constituents to vote on comprehensive budget legislation that will determine the funding of Maine state government, including all state programs and services, for the next two years. The funding for GWH is a very small component of the overall state budget.

With regard to other legislation that could arise in the remainder of your current term of service, we recommend considering whether you may need to recuse yourself from voting on particular matters that would affect GWH, in order to avoid the appearance of any conflict of interest.

Thank you for your consideration of this advisory letter from the staff of the Maine Ethics Commission.

Sincerely,


Jonathan Wayne
Executive Director

Appendix B. Summary of Additional Information and Context Gathered through GOC Public Comment Period and Special Inquiry

Testimony and records obtained through the GOC's Public Comment Period and Special Inquiry produced additional information and context pertinent to events reported in OPEGA's Information Brief on State Funding for Good Will-Hinckley (Info Brief). OPEGA's summary of this information is presented here and is generally organized by Info Brief page number, with reference to the particular event, or discussion, on that page to which it is relevant. It should be noted that at the time of OPEGA's review Thomas Desjardin's title was Acting Commissioner of the Department of Education, but at the time of his testimony to the GOC his title was Deputy Commissioner. For the sake of consistency with the OPEGA Info Brief, he is referred to throughout this summary as Acting Commissioner.

Relevant to Page 6 of the Info Brief

- The last paragraph describes a plan GWH submitted to the Administration in December 2012 that the GWH President at the time indicated was intended to have GWH independent of State Center of Excellence funds in 24 months. In response to GOC questions on October 15th, GWH Board Chair Jack Moore said that this plan to be independent of this State funding has been the focus of GWH all along. However, it became clear that in order to achieve sustainability, GWH needed to rebuild the School and grow enrollment. As enrollment grows, they can allocate fixed costs over a wider population, but they were curtailed on enrollment with the current environment they had. Hence, the effort to renovate and expand the Moody School building that is expected to be paid for with the remaining balance of the Alford Foundation grant.

Relevant to Page 9 of the Info Brief

- The second paragraph describes that Speaker Eves submitted his application for the President's position on March 8th, the closing date for the posting. In his interview with OPEGA and in his testimony before the GOC, MeANS Board Chair Bill Brown said he mentioned the job opening to the Speaker at the urging of GWH's former President Glenn Cummings. An email exchange between Mr. Cummings, Mr. Brown and the Speaker's Chief of Staff (all using non-State email addresses) shows that Mr. Cummings forwarded the job posting to Mr. Brown on February 18th asking if it might be of interest to the Speaker and noting that GWH would likely be flexible during session and the salary was good. Mr. Brown responded that he hadn't thought of that and then forwarded the email to the Speaker's Chief of Staff saying that the Speaker should take a look at the posting. Mr. Cummings subsequently responded to Mr. Brown that the Speaker was a "great fit".
- The fourth paragraph discusses the telephone interviews conducted with the top six candidates by the expanded Search Committee on April 22nd and 24th. In his interview with OPEGA and in his testimony to the GOC, Bill Brown, the MeANS Board Chair who was also a legislative staffer for Speaker Eves, stated that he was not part of the telephone interview with Speaker Eves. He stated he did participate in the telephone interviews with the other five candidates, listened to their answers, evaluated them against the criteria that had been established and advocated for the inclusion of his top choices in the next round. GWH's documentation on the selection process that OPEGA examined during the review confirms that Mr. Brown was not present on the call for the Speaker's interview. The documentation also shows that following the telephone interviews, when the Search Committee was narrowing the list to three candidates, Mr. Brown only gave his top two candidates, neither of which was the Speaker, while the other seven Search Committee members gave their top three.

- The last bullet describes a March 3rd meeting of GWH Board Chair Jack Moore and GWH Interim President Rich Abramson with the Governor and Senior Policy Advisor Aaron Chadbourne. Mr. Abramson had previously described to OPEGA that in this meeting he also briefly talked with the Governor about GWH's plans to get off the \$530,000 in State funding. In his testimony, Mr. Abramson also described conversing with the Governor about the funding in a meeting he was in with the Governor, Mr. Moore, Mr. Abramson and Ms. Vanderwood in April. Mr. Abramson testified that at that meeting he let the Governor know that he was aware that the funding being provided through DOE was time limited and that part of his (Mr. Abramson's) responsibility was to develop a plan on how GWH would continue with providing the residential component without State funds. Mr. Abramson said he was reporting to the Governor that he had begun building that plan. In his testimony, Mr. Chadbourne also referenced attending a meeting with GWH in April where others were present and where he said he first heard of GWH's search for a President. (Note: OPEGA reported the date of this meeting as March 3rd based on documentary evidence obtained during the review. OPEGA is unaware of any meeting of the Governor's Office with the School other than that meeting. Though both Mr. Chadbourne and Mr. Abramson say in their testimonies that this meeting took place in April, given the attendees they described as being present it is likely the March 3rd meeting they were referencing.)

Relevant to Page 10 of the Info Brief

- The second and third paragraphs describe informal meetings with the top two candidates that were arranged by the GWH Board Chair and held in Brunswick on May 13th. In his testimony, GWH Interim President Rich Abramson explained that he had several conversations with GWH Board Chair Jack Moore throughout the search process that included such questions as the Speaker's time commitment, his relationship with the Governor and how someone could run an organization like GWH while being Speaker of the House and living in Southern Maine. Mr. Abramson testified that the May 13th meetings came about because Mr. Moore wanted to privately meet with the Speaker to get comfort in the responses to those questions as he didn't feel the Speaker had answered them to his satisfaction through the interview process. Mr. Abramson said he reminded Mr. Moore of the need to be consistent in their selection process and, if he was going to meet with the Speaker, he needed to have those same conversations with the second candidate. Mr. Abramson testified that he insisted either he or the GWH Vice-President be present at those meetings to serve as a witness that could attest to what took place at those meetings. Mr. Abramson testified that Mr. Moore related to the Board that, as a result of those two meetings, he was comfortable with moving the Speaker's nomination forward.
- In his testimony, the MeANS Board Chair Bill Brown, also a legislative staffer for Speaker Eves, stated that he attended those meetings on May 13th but did not participate. He did not ask or answer any questions. He stated he was there in an observer role because it was important for a MeANS Board member to be there. Mr. Brown also stated that he did not participate in discussions the GWH Board Chair and Vice President had about the candidates following the interviews. Mr. Brown said he had tried to find another member of the MeANS Board to attend but was unable to. An email exchange, provided by Mr. Brown, shows that on the evening of May 11th Mr. Brown asked the Vice Chair of the MeANS Board if he could attend the interviews, but the Vice Chair responded that he was not available. Emails obtained by OPEGA during the review shows that the GWH Board Chair did not settle the date, time and location of the interviews until late afternoon on May 11th.
- The fifth paragraph discusses the May 15th interviews the top two candidates had with both the GWH and MeANS Boards. In his testimony, MeANS Board Chair Bill Brown stated that he was present at the Speaker's interview with the MeANS Board, but did not participate. He stated he only opened the meeting and observed while other Board members asked the interview questions.

- That paragraph also describes the GWH and MeANS Boards coming together after those interviews to deliberate on the two candidates. In his testimony, GWH Interim President Rich Abramson said that he thought each Board deliberated separately for about 45 minutes and then the two Boards got together to deliberate further. Mr. Abramson said that GWH Board Chair Jack Moore worked very hard when the two Boards were together to make sure that everybody had an opportunity to offer their perspectives on the interviews of the final two candidates even though it was the GWH Board that had the legal authority to vote. Mr. Abramson testified that the Board spent a great deal of time and effort on which of the final two candidates could best represent both organizations, MeANS as well as GWH, also on who had the most experience. It was noted that one was a Maine person, the other was from away. He said the Board was also deliberating how much time would be spent in a honeymoon period catching either candidate up on everything that was going on and it was anticipated that it would take the second candidate a lot more time to hit the ground running than it would Speaker Eves. Mr. Abramson also testified that the Board gave more weight to abilities that would make a candidate a good outward facing leader for GWH than to education experience and certain other credentials. This was because the Board had great confidence in GWH's and MeANS Senior Leadership Team but felt GWH needed to restore its image in community across the State and needed to raise additional funds for capital projects that were underway.

Relevant to Page 11 of the Info Brief

- Page 11 describes a May 22nd lunch meeting between GWH Board Chair Jack Moore and Acting DOE Commissioner Thomas Desjardin. Acting Commissioner Desjardin told OPEGA that during the meeting Mr. Moore appeared to be asking him if he was interested in the position even though, as OPEGA reported, by that date the GWH Board had already voted to offer the position to Speaker Mark Eves. Mr. Moore told OPEGA he did portray at the meeting that Speaker Eves' hiring was not a done deal as a final contract had not been signed, and he did think he asked a couple of times who the Acting Commissioner thought would be great for the position. In responding to GOC questions on October 15th, Mr. Moore maintained that he did not offer the job to the Acting Commissioner. He said he might possibly have asked if the Acting Commissioner was interested in the job given the Acting Commissioner's level of enthusiasm and his level of disapproval over Speaker Eves. However, he did not recall asking this, and therefore, he could say it was not a meaningful part of their conversation. Mr. Moore described his efforts in meeting with the Acting Commissioner as diplomacy in presenting the notion that Speaker Eves was their selection and trying to determine if that would negatively impact GWH.
- In his testimony, Acting Commissioner Desjardin stated that at the May 22nd lunch meeting Mr. Moore told him that the Search Committee had arrived at two final candidates. Those candidates being Speaker Eves and a woman from Massachusetts. The Acting Commissioner said Mr. Moore also expressed interest in a third person who might be a strong candidate but had not applied for the position and, therefore, was not considered. Mr. Moore wanted the Acting Commissioner's feelings about that person as well. As OPEGA reported, the GWH Search Committee did arrive at two final candidates and those candidates met with Mr. Moore and others in Brunswick on May 13th and interviewed with the GWH and MeANS Boards on May 15th. OPEGA examination of GWH's recruitment and selection documentation shows that the other final candidate was not a woman from Massachusetts.
- Acting Commissioner Desjardin testified that there were three different times over the course of their May 22nd discussion that Mr. Moore said to him "you know you'd be great for this position." The Acting Commissioner stated that after the third time he started to realize there may be something more to it than Mr. Moore just being complimentary so he told Mr. Moore he appreciated his confidence, but he was just getting started in the Department of Education, things were going well, and he was not

interested in leaving State government. Acting Commissioner Desjardin also testified that his clear impression from the lunch meeting was that Mr. Moore was not happy about hiring the Speaker and was looking for some other alternatives. The Acting Commissioner said he perceived it as Mr. Moore didn't like either of the two names the Search Committee had come up with, that he needed to do something to change that and was looking for the Acting Commissioner's opinion and advice on names of people that might be so much better for the job than the Speaker that he could go back to the Board and ask them to reconsider. The Acting Commissioner said he was not able to come up with any names off the top of his head. The Acting Commissioner testified that Mr. Moore expressed to him that he was generally very displeased with the thought of having to hire the Speaker, but the Acting Commissioner could not recall any specific reasons Mr. Moore gave for that. He explained that they had a general discussion about it and some of the reasons being discussed were the Acting Commissioner's thoughts and some were Mr. Moore's thoughts. During OPEGA's interviews with Acting Commissioner Desjardin, he did specify the reasons he gave Mr. Moore for being critical of the idea of the Speaker as GWH's President. Those reasons are given in the second paragraph on page 11 of the Info Brief.

Relevant to Page 12 of the Info Brief

- The second paragraph describes a June 5th meeting between the Acting DOE Commissioner and the Governor regarding the logger training initiative, the meeting where the Acting Commissioner told the Governor that Speaker Eves had been hired. In his testimony to the GOC, Aaron Chadbourne (the Governor's Senior Policy Advisor) said that he was also present at that meeting. He testified that this was the first time he heard the news and that he believes it to be the first time the Governor heard the news. Mr. Chadbourne said the Governor was very surprised and that his instant reaction was to question what Speaker Eves knew about running a school for adverse kids. He described the Governor as puzzled over what qualifications the Speaker might have had that led to such a decision. Mr. Chadbourne also testified that in this meeting the Governor asked him whether or not it was permissible under law for a member of the Legislature to be employed by a charter school that receives its funding directly from the State. Mr. Chadbourne said he researched that question after the meeting by taking it to Assistant Attorney General Sarah Forester. Mr. Chadbourne said this was the only thing the Governor asked him to do coming out of that meeting.
- In his testimony to the GOC, Acting Commissioner Desjardin described the Governor's reaction to the news at the June 5th meeting as surprised and a little shocked, but the Acting Commissioner said he had seen the Governor have much stronger reactions to other issues. The Acting Commissioner said that, in that meeting, the Governor went down a list of things that did not make the Speaker an excellent candidate. The Acting Commissioner said the Governor's list included the Speaker's fairly vehement opposition to charter schools over the years, how much time the Speaker would have to run the School while serving as Speaker and living so far from the School, and how much of a background the Speaker had in education.
- The second bullet describes Senior Policy Advisor Aaron Chadbourne's interactions with GWH's lobbyist Sara Vanderwood on June 5th. In his testimony, Mr. Chadbourne confirmed that he had called Ms. Vanderwood and asked her to stop by his office, that he asked her to confirm whether Speaker Eves had been hired and that she said she did not know. He said this contact with Ms. Vanderwood was on his own initiative, no one told him to contact her. He testified that Ms. Vanderwood came back to see him that afternoon with the information and he thought she was also surprised to learn of it. Mr. Chadbourne said he let her know of the Governor's concerns about Speaker Eves' qualifications and whether this decision had been made in the best interest of GWH. Mr. Chadbourne testified that Ms. Vanderwood asked whether the Governor would still speak at GWH commencement. He said GWH funding was not discussed, he was not familiar with the details of GWH's funding at that time, and

whatever Ms. Vanderwood inferred about the funding being in jeopardy was not a direct result of things that he said. Mr. Chadbourne testified that no one ever directed, or asked, him to convey a message about the funding being in jeopardy to Ms. Vanderwood or anyone else.

- In her testimony about these conversations with Mr. Chadbourne, Ms. Vanderwood said that Mr. Chadbourne told her the Governor was very upset if it was Speaker Eves that had been selected and that the Speaker was not qualified to hold the position, either educationally or from the perspective that he was a vocal opponent of charter schools. Ms. Vanderwood said she also believes Mr. Chadbourne stated that the Governor knew the at-risk student population very well and that Speaker Eves would be incapable of handling a group of at-risk students. Mr. Chadbourne said the Governor had been very supportive of GWH in the past and he did not think that support would continue if GWH hired Speaker Eves as their President. Ms. Vanderwood testified that to her the issue of the Governor's support was directly related to funding and that it seemed very clear to her, without funding being mentioned, that funding is what support meant and she did relay that to Mr. Abramson. She said there was nothing further that happened after that to ever make her question her assessment of that message. Ms. Vanderwood maintained throughout her testimony that she was given the impression the funding was in jeopardy and testified that there was no doubt in her mind that the funding was threatened because GWH hired the Speaker and that funding was restored because he was then fired. She noted in her testimony that, although she worked on some other minor issues for GWH, her primary role was to ensure the funding for GWH stayed in the budget, that she had had conversations with Mr. Chadbourne leading up to this whole situation and that she thinks he understood what her role was. Ms. Vanderwood stated that she thought Mr. Chadbourne was operating on his own initiative and that, although he told her he had had conversations with the Governor, she did not have the sense that Mr. Chadbourne and Acting Commissioner Desjardin had been corresponding or anything.
- In her testimony, Ms. Vanderwood referred to Acting Commissioner Desjardin's earlier testimony when he said that even prior to June 5th he had conversations with lobbyists about GWH possibly being a candidate for some of the money he needed to find in the budget. Ms. Vanderwood stated that she did not have any conversations with Acting Commissioner Desjardin about the GWH money perhaps being in jeopardy prior to June 5th or any time up to when the budget was actually finalized and voted on, which she thought was on June 17th. She said she did send the Acting Commissioner an email on June 24th just asking him if he had seen the Speaker's contract had been rescinded and that she did not receive a response from him on that.
- The last bullet describes the GWH Interim President Rich Abramson receiving a call from the Governor on June 5th sometime between 10 am and noon. In his testimony, Mr. Abramson further described his conversation with the Governor. He said the Governor informed him that he was extremely upset that he had learned Speaker Eves had been hired as the next President of GWH. Mr. Abramson said the Governor expressed his concerns about the Speaker, particularly around his voting record on charter schools. Mr. Abramson testified it was obvious that the Governor was upset with GWH, the Board and with him for having led the process. Mr. Abramson said the Governor used a few profanity words in describing the Speaker and the Speaker's work, but that the Governor was not yelling or screaming. Mr. Abramson said he tried as hard as he could to explain to the Governor the process GWH had followed, but that didn't mean much to the Governor and he was still pretty upset after the explanation. It was clear the Governor wanted to make a point. Mr. Abramson testified that the Governor did share as part of that conversation that he had been a big proponent of MeANS and that, if GWH was making this type of decision, GWH would lose his support. There was no mention of money, it was merely stated that GWH had lost his support if it moved forward with this decision. Mr. Abramson testified that he did not know what "support" meant at that time but there were several possibilities including funding, whether the Governor would not participate in graduation or whether he would no longer want to be

affiliated with MeANS. Mr. Abramson asked the Governor what he wanted him to do as he worked for the Board and the Board had followed a straightforward process. The Governor shared a couple of people he thought GWH should have considered but who didn't apply. Mr. Abramson said he knew the people the Governor mentioned and said they would be excellent candidates, but they did not apply for the position. Mr. Abramson said he asked once more if there was anything more the Governor would like him to do and the Governor replied "No" and the conversation ended. Mr. Abramson said the conversation lasted about 15 minutes.

- In his testimony, Mr. Abramson also described his conversation with GWH lobbyist Sara Vanderwood when she called him on June 5th. He said it was a very short conversation in which she relayed she had been called to the Governor's Office and met with Senior Policy Advisor Aaron Chadbourne but not the Governor. He testified that Ms. Vanderwood told him that the GWH funding was in jeopardy. Mr. Abramson also thought they talked a little about how the whole thing puts GWH in a very awkward position. He testified that Ms. Vanderwood encouraged him to continue to move forward, not knowing whether or not the funding would be withheld, and that the Board should not be intimidated into changing its decision. Mr. Abramson said it is what he heard from Ms. Vanderwood together with what GWH Board Chair Jack Moore told the Board about the situation that led him to believe that the Governor's "support" meant the funding and that the loss of funding was a very real possibility if GWH continued with Speaker Eves as President.

Relevant to Page 13 of the Info Brief

- The first bullet describes a telephone call Acting Commissioner Desjardin made to GWH Board Chair Jack Moore on June 5th. In his testimony, Acting Commissioner Desjardin told the GOC that this was the first telephone call he made after the official word had come out and his purpose was to clarify who some of the people were on the GWH and MeANS Boards. The Acting Commissioner testified they had heard that both Boards had voted unanimously to hire the Speaker. Someone in the Governor's Office had looked up the names of the Board members and found a few names that raised questions. The Acting Commissioner said they asked him to call Mr. Moore and find out if these names were the people they thought they were. Acting Commissioner Desjardin testified that the purpose of his call was mostly to confirm whether people, according to press reports, that had voted to hire the Speaker were in fact the same individuals the Governor's Office thought they were. As reported in the Info Brief on page 15, the first press reports on the Speaker being hired that OPEGA was able to identify were not posted until June 9th.
- Regarding his June 5th telephone call with Mr. Moore, Acting Commissioner Desjardin also testified that he did not believe he told, or suggested to, Mr. Moore during that conversation that the funding for GWH might be cut if the Speaker were hired. He stated to the GOC, however, that before all this occurred and before he had any knowledge of the Speaker being hired, the Legislature had cut \$5.5 million dollars from two areas in the budget that the Department had discretion over and that the Department was going to have to find \$1.5 million somewhere in the account that contained the GWH funding. The Acting Commissioner said he remembered thinking, prior to all this happening, that GWH was going to be a really good candidate for at least some form of cut to help reach that because it was the only charter school to be receiving this kind of additional funding. He said he thought it was always going to be hard for him to justify giving this money to one school, especially when he also knew that funding had been intended to be temporary. The Acting Commissioner testified that it was always in his mind that GWH was a candidate for at least a portion of the \$1.5 million they would need to find and so he may, prior to all this occurring, have had conversations mostly with lobbyists saying that it was going to be difficult to get through the \$1.5 million and that giving GWH this funding was going to be hard to justify. He initially testified that he did not think he made these statements to Mr. Moore. However, later

in his testimony, the Acting Commissioner stated that during his June 5th discussion with Mr. Moore he was conveying to Mr. Moore what had been on his mind for a long time, which was that the leadership of the Department was going to have to really sharpen the pencil after the budget was passed and find a million and a half dollars. Acting Commissioner Desjardin acknowledged to the GOC that the Governor's dissatisfaction with GWH was one of the things the Department leadership was going to have to consider when it got together to figure out what to do about the \$1.5 million.

- The third bullet describes the role of the lobbyist Jay Nutting, who was also a GWH Board member, in informing the Speaker's Chief of Staff about the situation with the Governor's displeasure over hearing about Speaker Eves being hired by GWH. In his testimony, Mr. Nutting stated that later on the morning of June 5th he did find the Speaker's Chief of Staff just to check in and see if they were knowledgeable about what was going on. He said he thought they would be given how quickly news spreads. However, he doesn't believe she was aware of it until he told her that the Governor had conveyed to various folks that he was displeased with the hiring.
- The fourth bullet describes information obtained from OPEGA's interview with the GWH Director of Finance regarding telephone conferences held by the GWH and MeANS Boards on June 5th. A copy of an email exchange provided by the MeANS Board Chair confirms that an emergency meeting of the MeANS Executive Committee via conference call was scheduled for 3:30 pm on June 5th and that GWH's Vice President of Operations was asked, and agreed, to participate on that call.
- The last bullet mentions the Harold Alfond Foundation (HAF) Board Chair Greg Powell receiving a voice message from GWH Board Chair Jack Moore on June 5th and the third paragraph on page 14 describes the conversation between Mr. Powell and Mr. Moore when Mr. Powell returned the June 5th call. In his testimony, Mr. Powell said that the June 5th messages were ones that were left with his office so he did not get a voice mail. He was on his way to Arizona at the time and returned Mr. Moore's call over the weekend, either June 6th or 7th. Mr. Powell testified that he believes they may have exchanged voice mails with each other and was not confident that they actually had a two-way conversation at that time. It was, however, through those exchanges that he came to understand something of the nature of the controversy that was brewing. It was his first indication that there had been controversy brewing about the hiring of the Speaker and the Governor's dissatisfaction with that.

Relevant to Page 14 of the Info Brief

- The second bullet describes a June 7th email from GWH Board Chair Jack Moore to Acting Commissioner Desjardin, with a carbon copy to Senior Policy Advisor Aaron Chadbourne. In the email, Mr. Moore wrote, in part, "I can see that this will certainly be very (financially) detrimental as we have yet to make the transition to 200 students where the School becomes self-supportive." Throughout his testimony, Acting Commissioner Desjardin maintained that he did not threaten to withhold funding and he did not communicate to GWH that DOE or the Governor was threatening to withhold funding. He stated that he never said to Mr. Moore that hiring the Speaker is going to lead to the loss of money and that he wouldn't have said that, even after the Governor told him on June 9th that he didn't want to send them any money, because the Acting Commissioner has seen many occasions where the Governor has changed his mind. The Acting Commissioner testified that, in his conversations with Mr. Moore, he did not directly link funding being gone if the Speaker was hired or funding staying if the Speaker was fired. He said he never intended to communicate that and cannot comment on how Mr. Moore, or GWH, got that impression from any conversations he had with them or that others in the Governor's Office had with them.

- Acting Commissioner Desjardin testified that the Governor did not direct him to communicate anything to GWH Board Chair Mr. Moore. Nor did the Governor instruct him to communicate with anybody about anything in particular regarding this situation.
- The second paragraph describes conversations GWH Lobbyist Sara Vanderwood had with the GWH Interim President Rich Abramson and Board Chair Jack Moore over the weekend of June 6th and 7th and into the following week. Ms. Vanderwood testified that she had some conversations with Mr. Chadbourne over the weekend about whether or not the Governor would change his mind and the response she heard from Mr. Chadbourne was that the Governor realized people make mistakes and that people can change their minds, particularly if the mistake is rectified. Ms. Vanderwood stated that she relayed this message to Mr. Abramson over the weekend and that in her mind the mistake being referred to was GWH making a mistake in their hiring. She said she doesn't believe she spoke with Mr. Moore until around June 8th or 9th or maybe even later.
- The fifth paragraph describes the contents and status of a handwritten note GWH Board Chair Jack Moore received from the Governor. In response to GOC questions on October 15th, Mr. Moore confirmed that he no longer had the note. He said may have showed it to his wife but he knows that it never left his house and that it ended up in a pile that was heading for the dumpster. He described it as a short note and said he did remember what it said. Mr. Moore said in the note the Governor recognized the note Mr. Moore had just sent to him. Mr. Moore also said there was an element in the note where the Governor said that he would have trouble supporting GWH if they were to hire, and Mr. Moore believes there were two words and one was scribbled out, but he did refer to Speaker Eves as a hack.
- The last paragraph describes the GWH Board Chair's recollections of two conversations he had with Senior Policy Advisor Aaron Chadbourne, although he could not recall the dates of those conversations. In his testimony, Mr. Chadbourne said the date of his first conversation with Jack Moore, GWH Board Chair, was on June 8th and that he called Mr. Moore on his own initiative. Mr. Chadbourne said he had spoken to Sara Vanderwood prior to the weekend. She had indicated that Mr. Moore might like to meet with the Governor and he had indicated to her that the Governor might be willing to meet. Mr. Chadbourne's purpose in calling Mr. Moore on June 8th was to let him know that the Governor had instead decided to send him a letter outlining his concerns with their selection of the Speaker and that the Governor hoped they would continue the selection process. Mr. Chadbourne testified that during this conversation he laid out the same objections that were in the Governor's letter. He also described Mr. Moore asking him about whether the Governor was objecting because Speaker Eves was a Democrat to which the answer was no, it was about the Speaker's qualifications. A June 7th email that OPEGA obtained during the review suggests that someone had already told Mr. Moore prior to June 8th that the Governor did not want to meet. In the email, which is described in the second bullet on the top of page 14 of the Info Brief, Mr. Moore also states he understands if the Governor is not interested in meeting.
- Mr. Chadbourne maintained throughout his testimony that the only message he intended to convey to Mr. Moore during the June 8th call was that the Governor disagreed with their selection and did not have confidence in the selection process, that the Governor did not believe Speaker Eves was qualified. The Governor could not support their decision and encouraged them to continue their search process. Mr. Chadbourne also maintained that he did not tell Mr. Moore the funding was in jeopardy nor did he ever bring up the funding situation. Mr. Chadbourne said he did not remember his exact words and could not say for certain that he did not say "we would have trouble supporting GWH if you hire the Speaker", but he maintained it was not his intent to communicate anything about the funding. He said he was not even aware at that time of the extra \$530,000 in funding that GWH was receiving from the State as it was not part of the budget he had worked on before it was submitted. Mr. Chadbourne said

he did not know what he said that would have led Mr. Moore to conclude that the funding was in jeopardy. Mr. Chadbourne also testified that he did not have any direct knowledge of the Governor instructing anyone else to convey concerns about the funding to GWH.

- Mr. Chadbourne testified that it was also in this June 8th conversation that Mr. Moore indicated the Speaker had signed a contract with GWH over the weekend. That fact was not known to Mr. Chadbourne, or the Governor, when they were putting together the Governor's June 8th letter to the GWH and MeANS Board Chairs. Mr. Chadbourne testified that when Mr. Moore told him this he told Mr. Moore that it seemed the Board had made its decision then and there was nothing to talk about.
- When asked why the Governor did not have confidence in the selection process, Mr. Chadbourne said that it was because the Governor had learned that the Chair of the MeANS Board was one of Speaker Eves' staffers. Mr. Chadbourne acknowledged that he personally did not know much about the selection process other than a couple of details that Mr. Moore may have mentioned in the June 8th conversation. Mr. Chadbourne also testified that he did not believe the Governor had any additional knowledge, beyond what was described in the OPEGA report, of GWH's selection process or how the MeANS Board Chair was involved in it.
- The last sentence describes that the GWH Board Chair was informed at some point by Senior Policy Advisor Aaron Chadbourne that their lawyer would like to speak to him. Mr. Chadbourne testified that he did not recall the specific date of this call but thought it was just before July 4th. He called Mr. Moore to let him know that he was giving Mr. Moore's contact information to Cynthia Montgomery, Governor's Chief Legal Counsel, and that she might be contacting him given that there was pending litigation. Emails provided show that Ms. Montgomery first contacted GWH Board Chair Jack Moore on July 20, 2015 and a meeting was set for July 23, 2015. Ms. Montgomery had to cancel that meeting on July 22, 2015 and intended to reschedule. She testified that her purpose in arranging a meeting with Mr. Moore was that by that time she had been contacted by Speaker Eves' attorney and it was clear that litigation was going to be filed and that is what she wanted to talk with Mr. Moore about. Ms. Montgomery stated, however, that the meeting was never held as she became consumed by issues emerging at that time regarding the legal status of a large number of bills on the Governor's desk. In addition, during the period she was dealing with that, an outside attorney had been obtained for the Governor.

Relevant to Page 15 of the Info Brief

- The first bullet discusses Acting Commissioner Desjardin's recollections of comments made by the Governor and himself at a Cabinet meeting on June 9th. In her testimony, the Governor's Chief Counsel Cynthia Montgomery stated she was also at the Cabinet meeting and recalls the Governor making just one off-hand comment about Speaker Eves having been hired. She recalls the nature of the comment as being "can you believe they hired somebody who's not qualified" or "I can't believe they hired Mark Eves." Ms. Montgomery stated it was just a comment and she wouldn't even characterize as venting.
- The fourth paragraph describes the June 8th conversation between the HAF Board Chair Greg Powell and the Governor. Mr. Powell testified that there was no mention in the conversation about whether there would be continued State funding or not. He stated that the Governor told him he could not support the School and was in a sense expressing regret because they had been partners in trying to help the School. It seemed to Mr. Powell the Governor felt he should tell him personally about his position because he was pulling out of the partnership. Mr. Powell said the Governor definitely used the word "support" and he was not smart enough at the time to question the Governor in detail about what he

meant by support. Mr. Powell did understand the Governor's past support to be moral, public and being an active promoter of funding. He said he was certainly concerned after the call that part of that support would involve the funding as financial support from State government has been an issue that the HAF has been familiar with for years. Mr. Powell testified that he did come to believe that the Governor's "support" meant the funding. He said he talked with Mr. Moore and former GWH President Glen Cummings and came to the conclusion that pulling the funding was within the range of the Governor's possibilities and it was something very likely to happen.

- Mr. Powell also testified that he did not think the Governor spoke disparagingly of the Speaker during the June 8th conversation, with the possible exception of describing his educational skills as being able to fit in a thimble. Other than this, the Governor just listed the reasons the GOC has already heard about as to objections to the Speaker. Mr. Powell said his response to the Governor was that the School was his first interest and he doubted very much if anyone at GWH was disrespectful or ungrateful for the support the Governor had extended to the School. Mr. Powell told the Governor that he did not know anything about the hiring of Speaker Eves. Mr. Powell said he did not know anything about the points the Governor was making about Speaker Eves. Mr. Powell testified that he did not make the Governor any promises about looking into the situation or anything and that, as a matter of fact, the Governor told him the contract had already been signed with the Speaker. Mr. Powell felt the Governor was just expressing his regret.
- The last bullet describes a June 9th DOE Lead Team meeting and Acting Commissioner Desjardin's decision to stop a check to GWH that was in process. In his interviews with OPEGA, the Acting Commissioner said that he did not mention in this meeting the Governor not wanting to send GWH any money not required by law. In his testimony, Acting Commissioner Desjardin stated that although he doesn't believe he did, and he really can't recall, it is possible that he mentioned it and if others recall him mentioning it then he did. Acting Commissioner Desjardin also testified that the Governor's dissatisfaction with the hiring of Speaker Eves had very little to do with his decision to hold the payment that was in process for GWH. He stated that the conversation with the Governor was clearly in his mind when he went into the DOE Lead Team meeting, but if it had been the dominant thing he would not have hesitated when deciding whether to pull the check. He testified that neither the Governor nor the Governor's Office instructed him to pull a check as they were unaware there was a check. The Governor was unaware for three weeks after that there was a check. Acting Commissioner Desjardin stated that instead he was really thinking about having to find \$1.5 million in the budget if it passed as is and that they wouldn't sit down as a group to figure that out until after the budget passed. He was thinking that there would be three or four more weeks before the decision had to be made about sending GWH any money and there were a lot of things that could happen in that time, including the Governor changing his mind. He stated he decided to wait until he had more information. Acting Commissioner Desjardin also testified that he did not see how the holding of this check could be seen as a threat as DOE never notified GWH that the payment had been pulled. He stated that at no time did anyone communicate either to the Governor or GWH that the School was not getting this money.
- In her testimony, the Governor's Chief Counsel Cynthia Montgomery stated that Acting Commissioner Desjardin talked to her about his decision to hold the check sometime after the June 9th Lead Team meeting though she could not recall when that conversation took place. She testified that the Acting Commissioner told her that he was in a staff meeting and there was a point in the meeting where there was a question about whether to hold a check that was going to GWH. Ms. Montgomery recalled the Acting Commissioner saying that he paused for quite a while before making the decision to hold it, and he told her his thought process was that it's easier to hold it than to get it back.

- The Acting Commissioner testified that a lot of what folks were interpreting as a threat came from the Governor himself specifically stating publicly his position on the GWH funding rather than any conversations he, Mr. Chadbourne, or others had with GWH. He said that any conversation he might have had about any of the issues he would have to consider with regard to the funding was outweighed by the clear, obvious statement by the Governor about his threat. The Acting Commissioner said he had not built the timeline around when the Governor was on the radio, or television, expressing his points of view and he was not present at any of the meetings where GWH was discussing why they had the impression they did. All he can do is tell what he said and how he said it. He can't explain why they took it the way they did. As reported in the OPEGA Info Brief, the Governor did publicly admit to threatening to withhold funding from GWH in an interview with a report on June 29th, five days after the GWH Board voted to terminate the Speaker's contract, and well after GWH perceived there was a threat. OPEGA is unaware of any other public statements the Governor made about his threat to withhold funding.

Relevant to Page 16 of the Info Brief

- On page 16, OPEGA reports that the Acting DOE Commissioner described a meeting he had with the Governor in which the Governor told him that he did not want to send any funds to GWH that were not required by law. The Acting Commissioner told OPEGA he could not recall when this conversation had taken place, though he did not think it was prior to his DOE Lead Team meeting on June 9th. In his testimony, the Governor's Senior Policy Advisor, Aaron Chadbourne, confirmed that he was present with the Acting Commissioner and the Governor during that conversation. Mr. Chadbourne testified that he did not specifically recall when the conversation took place but, after looking at his calendar recently, his best guess is that it took place following the June 9th Cabinet meeting. The Governor had a previously scheduled meeting with the Acting Commissioner immediately after the Cabinet meeting to talk about a teacher certification issue and he believes this is when the conversation about GWH funding took place. The meeting was in the Governor's Office and GWH was not at all the focal point of the conversation. Mr. Chadbourne described it as an incidental comment made as he and the Acting Commissioner were leaving. Mr. Chadbourne testified that he thought the Acting Commissioner made some comment about the Governor's past advocacy for more funding for GWH and at that point the Governor said very clearly to the Acting Commissioner that he wanted him to read the budget very carefully after it was passed and "we'll give them exactly what we are required by law and nothing more."
- In his testimony about this conversation with the Governor, Acting Commissioner Desjardin stated that he too also now believed it most likely took place just after the Cabinet meeting because of the nature of the meeting. He described his recollections that he was standing up, not sitting, and it was kind of an impromptu meeting as they sometimes have with the Governor after the Cabinet meeting. The Acting Commissioner told the GOC that he took the Governor's statements as the Governor expressing his opinion and that it was something he should take under advisement but that he had weeks before he needed to decide whether to act on the Governor's opinion and in two or three weeks the Governor's opinion might change. He also stated that when a person he is directly responsible to tells him to do something he does understand that those are his orders until they otherwise change. He acknowledged that the Governor's position did not change between the time of this conversation and the DOE Lead Team meeting that followed shortly thereafter.

Relevant to Page 17 of the Info Brief

- The fifth bullet point describes that HAF Board Chair Gregory Powell met with GWH Board Chair Jack Moore on June 15th, possibly over dinner. An email from Mr. Moore to Mr. Powell and another HAF associate dated June 21st briefly references a dinner meeting between Mr. Moore and Mr. Powell the previous week and indicates that GWH was a topic of discussion at that meeting with Mr. Moore writing, “During dinner last week, Greg asked if there was anything he could do (outside of GWH)....”. Mr. Powell testified that at that meeting the concerns about losing State funding and what that meant to GWH’s financial stability were discussed. Mr. Powell said Mr. Moore already knew about these concerns because he had asked Mr. Moore to help out at GWH. He said Mr. Moore is a very intelligent guy from a finance standpoint and Mr. Powell had wanted him to work with the Board to bring financial stability and sustainability to the operation. Mr. Powell testified that he thought Mr. Moore already knew that the loss of funding was a serious issue and that the more people were thinking about it the more concerned they became because \$500,000 a year was at least 15% of GWH’s total operating budget.
- The last bullet discusses the June 18th letter that Mr. Powell sent to Mr. Moore advising him of the HAF’s concerns with the likely loss of State funding and the HAF’s plan to re-engage a consultant to revisit the GWH and MeANS budget and financial forecasts. An email shows that this letter was sent to Mr. Moore via email at 5:21 pm on June 18th with a copy to the consultant. Another email shows that the consultant contacted Mr. Moore via email at 6:39 am on June 19th to let Mr. Moore know he will call him on Monday, June 22nd to discuss the process and schedule for this assessment. June 19th is also the date the GWH Board held its regularly scheduled Board meeting and discussed the financial risks associated with the loss of State funding as described on page 18 of the Info Brief. Minutes of the GWH June 19th Board Meeting show this meeting began at 8:10 am.

Relevant to Page 18 of the Info Brief

- The second and third paragraphs describe the GWH Board meeting on June 19th during which the Board discussed during Executive Session, and then with the Speaker present, the financial situation facing GWH. In his testimony, GWH Interim President Rich Abramson further described the discussion at that Board meeting. Mr. Abramson said that GWH Board Chair Jack Moore presented to the full Board a copy of the letter he had received from the HAF and indicated to the Board that, with the loss of State funding, a whole series of events might be triggered. First GWH would lose \$530,000 each year for two years of funding and that would put GWH in a different financial status and affect some of the parameters the HAF was holding their feet to the fire for. Also, that GWH would need to go through another financial audit or scrutiny from HAF to make sure GWH could sustain that blow and, if not, the possibility that HAF would not provide the rest of the grant funding which would potentially trigger a default on a bridge loan GWH had secured. Mr. Abramson said Mr. Moore laid this all out for the Board at that meeting. Mr. Abramson also stated that he was not aware of the HAF letter prior to coming into that meeting and he did not think the Board was aware of the letter prior to the meeting either. Mr. Abramson testified that Mr. Moore also talked with the full Board at that time about the conversations he had with Acting Commissioner Desjardin. Mr. Abramson recalled that as part of the Board’s conversation there were questions from Board members about whether the audit would go away, and whether the State funding and grant funding would remain, if the Board did not move forward with the Speaker’s contract. Mr. Abramson stated that Mr. Moore relayed to the Board that, from his conversations with the Acting Commissioner and the HAF, that would in fact occur.
- The last paragraph discusses communications occurring between GWH Board Chair Jack Moore and Speaker Eves on Sunday, June 21st. An email from Mr. Moore to HAF Board Chair Gregory Powell at 10:31 am on June 21st includes a post script note letting Mr. Powell know that he (Mr. Moore) has been

back and forth with Speaker Eves already that day and Mr. Moore hopes to have some developments later.

Relevant to Page 19 of the Info Brief

- The first paragraph describes communications that occurred between the Speaker's attorney and the Governor's Chief Legal Counsel Cynthia Montgomery on June 22nd and 23rd as described to OPEGA by the Speaker's attorney. In her testimony, Ms. Montgomery described two telephone calls she had with the Speaker's attorney. She stated that the Speaker's attorney called first to let her know that he thought he had a claim of constitutional retaliation against the Governor. He wanted her to look at some case law and wanted to know if the Governor would change his position with respect to the Speaker. Ms. Montgomery testified that she told him she agreed she would talk to the Governor and then would get back with him. She stated that she called the Speaker's attorney back the following day. She testified that during that conversation she did not say that the Governor would not withdraw his threat - rather she recalls specifically saying that the Governor was not inclined to change his mind about the Speaker.
- Page 19 discusses events occurring on June 24th, particularly the 4:30 pm GWH Board meeting. An email shows that it was also on this day, at 4:19 pm, that HAF Board Chair Gregory Powell informed the HAF Board of the situation regarding the threaten loss of State funding and his letter to GWH Board Chair Jack Moore. The subject of the email is "Foundation Update" and the GWH situation is one of two items Mr. Powell is updating the Board on. Mr. Powell attached to this email the Governor's June 8th letter to the GWH and MeANS Board Chairs and his own June 18th letter to Mr. Moore.
- The second bullet notes a *Bangor Daily News* story that was posted on June 24th regarding the HAF's letter to GWH raising concerns about the possible loss of State funding. During his testimony, MeANS Board Chair Bill Brown, who is also a staffer for Speaker Eves, was asked if he gave the HAF letter to the press or if he knew how the press got it. Mr. Brown testified that he did not give the letter to the press and does not know how the press got it.
- The last paragraph notes the June 25th posting of a *Maine Center for Public Interest Reporting* article about the Governor taking action to withhold a payment that was in process for GWH. Preceding the posting of that article are emails from the reporter to both the Governor's Office and DOE seeking confirmation of information she had obtained that the Governor or someone in his office had called an impromptu meeting with Suzan Beaudoin, DOE Director of School Finance and Operations, on June 9th and she was told to stop the payment to GWH. The Governor's Press Secretary forwarded that email to Senior Policy Advisor Aaron Chadbourne and others in the Governor's Office. Mr. Chadbourne replied by email at 1:36 pm on June 25th that he had not met with Ms. Beaudoin on this issue and did not believe anyone else in the Governor's Office had either. The DOE Director of Communications deferred all comment to the Governor's Office. According to the article, the Governor's Press Secretary replied to the reporter that "This is not accurate and due to pending litigation, we are unable to comment." In her testimony to the GOC, Ms. Beaudoin stated that she was not called to the Governor's Office to discuss this issue and she only spoke with the Acting Commissioner about it. She also said she was not aware of anyone else from her office going to the Governor's Office.

Relevant to Page 20 of the Info Brief

- Page 20 has a paragraph describing Acting DOE Commissioner Thomas Desjardin working with GWH's new Interim President during the period July 1st – July 11th to establish a new written agreement for the FY16-17 funding. OPEGA reported that on July 6th, Acting Commissioner Desjardin sent GWH a letter committing to sending the first quarterly check as soon as the agreement was signed. The agreement was signed and returned on July 8th which committed DOE to \$530,000 in funding for FY16 and FY17 if conditions were met. The Acting Commissioner had also previously told OPEGA that it was on July 7th that the DOE Lead Team met to determine how to address the \$1.5 million in cuts to the budget for the Miscellaneous Costs category of which the GWH funding was a part. Included in the records obtained through the Special Inquiry is a July 4th email from Senior Policy Advisor Aaron Chadbourne to Acting Commissioner Desjardin regarding the new draft agreement and the letter to GWH that is to accompany it. In this email, Mr. Chadbourne asks whether DOE has determined yet how much money would be available for GWH given the reductions to Miscellaneous Costs and suggests that the Acting Commissioner should let GWH know in the letter what they can expect for funding or where DOE is in its process of determining that.
- In his testimony, Acting Commissioner Desjardin repeatedly stated that his thinking throughout all these events, and particularly with regard to his decision to hold the check in process for GWH, was that he would not be in a position to decide whether to continue funding for GWH until DOE leadership met to determine how to deal with the \$1.5 million cut in Miscellaneous Costs. Acting Commissioner Desjardin also testified that the opinion on whether DOE should continue this funding for GWH changed when they learned that loss of the funding would impact the funding from the HAF as well and cause a devastating effect on the School. The Acting Commissioner stated that he was not aware, before learning of the HAF's letter to GWH, that the HAF was funding anything at GWH or how detrimental it would be for GWH to lose that. Acting Commissioner Desjardin said this information made it a different situation. They wanted the School to continue its work so GWH was told they had two more years to figure out how to get off the funding. In her testimony to the GOC, Ms. Beaudoin stated that all the sections within the Miscellaneous Cost category were mentioned when the DOE leadership met on July 7th to discuss the cuts and that included the funding to GWH. Ms. Beaudoin testified that the conversation around the GWH funding at that point was about the additional information they now had about the funding from the HAF, the need for GWH's residential facility and the fact that DOE had discovered there was no current written contract with GWH. She stated that the fact that Speaker Eves had been fired from GWH and was no longer in the running to be President there was not discussed at this meeting.

Relevant to Pages 21 and 22 of the Info Brief

- On page 21 and 22, OPEGA provides details about GWH's selection process. In response to GOC questions on October 15th, GWH Board Chair Jack Moore discussed further how the process led them to select Speaker Eves. Mr. Moore said that none of the applicants fit to a "T" the criteria GWH had listed when it advertised the position. Consequently, as they went through the process they needed to prioritize what was important to the School, look at the strength of each applicant, weigh how those strengths would most benefit GWH, and which applicants would best complement the existing GWH staff. Mr. Moore described the position as unique and outward facing, noting that the School already had strong senior leadership and staff that did very well day to day. Mr. Moore said they felt the Speaker had a good skill set for that outward facing role. He was a good communicator and it was their view that he could probably raise money as well as be a good spokesperson for the School. Mr. Moore said the Speaker was not hired because he was a politician, but politicians tend to have the type of skill sets they were looking for in this position. Mr. Moore said the GWH Board has not reached out in the past to the

Administration about who was acceptable to hire, or not hire, at GWH and GWH has not, at any other time, given the Administration the opportunity to veto any of the names of applicants being considered for a position. Mr. Moore said that if GWH had not been in jeopardy of losing the State funding he thinks Speaker Eves would have been the President of GWH today.

- The sixth bullet on page 21 describes the role of the MeANS Board Chair, Bill Brown, in the selection process as told to OPEGA by others involved in the process and as reflected in the recruitment and selection documentation maintained by GWH that OPEGA reviewed. In his testimony, Mr. Brown, who was also a legislative staffer for Speaker Eves, provided more specifics about his involvement at particular points in the process and those specifics have been captured at the appropriate points earlier in this document. Throughout his testimony, Mr. Brown maintained that he recused himself at any point during the process where the Board or Search Committee was considering the Speaker's candidacy. He stated that he offered no comment to anyone on the Speaker's candidacy but if he was asked a question he tried to respond truthfully, offering the response only as information. Mr. Brown recalled two occasions during the selection process when he had discussions with other Board members outside of the formal Board deliberations. One was a conversation with the Vice Chair of the MeANS Board who was also a member of the GWH Board. Mr. Brown said that conversation was about how they had some interesting candidates. Mr. Brown said on another occasion GWH Board Chair Jack Moore asked him about the relationship between the Speaker and the Governor. Mr. Brown said he believes his words were that "it's better than it was last legislative session and it's as good as anyone else's" – which Mr. Brown felt was true at that time. It was his view at that time that relations between the third and second floor seemed to be as good as they had been at any point in the last few years.
- In response to GOC questions about information he may have provided to the Speaker, Mr. Brown stated that he did not share with the Speaker any information about the Search Committee or Board's deliberations and did not provide the Speaker with any information about any of the other candidates. Mr. Brown stated that he did give the Speaker advice during the interview process. He described looking at the Speaker's resume, noting to him certain aspects of his resume and experience that he felt the School would be interested in, and telling the Speaker it might be helpful if he highlighted those areas.

Relevant to Pages 23 and 24 of the Info Brief

- Page 23 and 24 contain explanations for the actions taken by the HAF, particularly HAF Board Chair Greg Powell, in response to the possibility that GWH would lose the \$530,000 in annual State funding. In his testimony, Mr. Powell described further the HAF's actions and intentions. He maintained throughout his testimony that the HAF never said it was going to pull its grant funding, or threatened to do so, in the letter to GWH or otherwise, and that it was never HAF's intention to send such a message to GWH. Mr. Powell stated that the HAF Board had not had a meeting to talk about the circumstance to decide what to do about the grant, but the Board expects him to know the facts. He said he was very concerned about the possibility of losing the State funding because of the School's history with changes in State funding back in 2008 and the School needing to be resurrected from that. The \$530,000 in annual funding was part of the School's funding stream in the plan it put forth to the HAF for the grant to renovate the Moody School. Mr. Powell said that the HAF did understand the School would be weaned off this funding source at some point in time but expected it would be continuing for the next two years. Mr. Powell testified that HAF grants are in the form of agreements that they regard as contracts and, though they usually do everything they can to help grantees succeed, they do expect the grantees to do their part and live up to the business plans they put forward to the HAF. Mr. Powell stated that he thought the School would have survived without the State funding, but it would not have kept on track and that was a concern because it would have wasted the HAF's grant money. Mr. Powell said HAF wanted to find out where GWH was going to get the \$500,000 if it did not come from the

State. Not having the \$500,000 would require compromises in the way the School did business that would have made it more difficult to get to the 210 students GWH needed to be self-sustaining without further State support. So, if there was going to be a delay in getting the \$500,000, then what was the plan and how would GWH move forward. Mr. Powell said that is what the HAF wanted to know. He said the HAF frankly expected the State to do its part as these were kids who can't afford to have the education that they need to prosper so the withdrawal of funding was not a good thing.

- Mr. Powell testified that GWH Board Chair Jack Moore was keeping him up to date on what considerations the Board was undertaking to try to deal with the situation. Mr. Powell said Mr. Moore advised him that there were a whole bunch of options, everything from getting the Speaker and Governor together to try to resolve things, to having funding from another source, to operating the School differently and turning away kids who could not afford to pay. All of the options were on the table, but the progression increasingly moved toward the question of whether the Speaker would stay in his position. Mr. Powell thought one option was obviously that the Speaker and the GWH Board Chair would agree that it would be better if the Speaker didn't move forward with employment and to just simply put the School's interest first. Mr. Powell testified that when he was satisfied from his inquiries that the Governor's withdrawal of support likely meant that nobody was going to patch up and make things work, at that point he became worried about the loss of \$1 million over the next two years and that is why he wrote the June 18th letter to GWH. Mr. Powell said he wanted Mr. Moore and his Board to understand the HAF's concern. He wanted GWH to move forward in a way that would be as positive as possible for the Institution. Mr. Powell stated he wanted them to take it seriously and the HAF wanted to help. Mr. Powell said it was for that reason that the second part of his letter was to tell GWH that the HAF was engaging a consultant to come back in, look at the financial model, what are the options here to deal with the lack of funding, and how could funding be replaced some other way. Any and all ideas were up for grabs. He wanted a report back to him and the HAF Board as to what the plan was if \$500,000 per year for the next couple of years was not going to be there.
- When Mr. Moore spoke to the GOC on October 15th, he said his impression after conversations with Mr. Powell was that if the State funding wasn't received than the remaining \$2.75 million of HAF grant still due might also be in jeopardy. When asked to comment on this during his testimony, Mr. Powell stated he thought this was a conservative, cautious conclusion on Mr. Moore's part. He thought that Mr. Moore recognized, as all the HAF's grantees do, or should, that if they don't meet their end of the bargain they can't expect the HAF to step forward and fund.

Other relevant information of interest obtained from records or testimony

- OPEGA's first interview with Acting DOE Commissioner Desjardin was on July 23, 2015. In an email from the Acting Commissioner to the Governor's Chief Counsel, Cynthia Montgomery, dated July 24th, the Acting Commissioner said "Two things I would like to "add to the record" with OPEGA after yesterday's interview but wanted to check with you first." He included, for her review, a draft of the email he proposed to send to OPEGA. He wanted to let OPEGA know what Jack Moore told him during the May 22nd lunch meeting regarding Speaker Eves' responses to questions about his relationship with the Governor and whether his role as Speaker would interfere with his work at GWH. The Acting Commissioner also told Ms. Montgomery in the email about a question OPEGA asked him and another example he could provide OPEGA to show how the Governor separates personal issues from professional if she thought it would be useful for him to do so. Ms. Montgomery's response to his email is "Let's talk." She also forwarded the email chain to Mr. Chadbourne.

- In her testimony on Nov. 12th, Ms. Montgomery acknowledged this email from the Acting Commissioner and said she didn't really advise him. She said she let him know that in her opinion the arguments she raised with respect to OPEGA examining the Governor's exercise of executive authority did not apply to the agencies and, therefore, he would need to respond to OPEGA and she wasn't advising him on that one way or another. She also remembers specifically telling him, and others in DOE, that if they were asked to testify they should tell the truth. In his testimony, Acting Commissioner Desjardin explained that at one time he had asked Ms. Montgomery for some general advice when it became clear that the Governor's Office was not going to be participating in any interviews with OPEGA. He said there was one communication where he was asking Ms. Montgomery how he should approach this and her response was that it was for him to decide. Acting Commissioner Desjardin said it became clear that they would not be coordinating on those kind of communications and he had to make decisions on his own. During his testimony, Aaron Chadbourne said he thought there were several times that the Acting Commissioner reached out to the Governor's Office to let them know what he was sharing with OPEGA, but that Mr. Chadbourne at no time had given any direction about what Acting Commissioner Desjardin should do about sharing information, it was the Acting Commissioner's decision to make. Mr. Chadbourne testified that the only direction he provided the Acting Commissioner, and DOE, was that they should cooperate fully with OPEGA and be truthful and provide exactly what they were asked for (in terms of documents).
- Senior Policy Advisor Aaron Chadbourne testified that following the June 5th meeting with the Governor, where they both learned from the Acting DOE Commissioner about Speaker Eves being hired, there were only two other instances where he spoke with the Governor about the situation. One of those was when he was assisting the Governor with drafting the letter that was sent to GWH on June 8th. The other instance was on June 10th. Mr. Chadbourne said the Governor was traveling out of state that day and called him as he had heard something on the radio about education funding more broadly and had questions about that. Mr. Chadbourne said that during their conversations about this the Governor mentioned that he wanted Mr. Chadbourne to start working on charter school laws because he wanted to make sure that if Speaker Eves was going to be President of GWH that we have the toughest and best charter school laws in the country. Mr. Chadbourne testified that he relayed that comment to the Acting Commissioner who responded that because Maine's laws were so new they are some of the best. Mr. Chadbourne said he then relayed this to the Governor who responded that Arizona was ranked number one and Maine was only ranked number three and there is more we can do particularly if the Speaker is now interested in charter schools.
- The Governor's Chief Counsel testified that she had no direct involvement in any matters involving GWH until June 22nd when she was contacted by the Speaker's attorney as described on page 19 of OPEGA's Info Brief. She said she, therefore, did not have direct knowledge of any events prior to that date. She testified that she had no conversations with the Governor about GWH or funding for the School prior to June 22nd. The GOC did not require Ms. Montgomery to answer questions about any conversations she may have had with the Governor after this date, in acknowledgement of attorney/client privilege, since it was on that date the possibility of litigation against the Governor became known.

Appendix C. Acting Commissioner Desjardin's Written Comment to the GOC on October 15, 2015

Appendix D. Chief Counsel Montgomery's Letter to GOC Declining Request to Appear at GOC Public Comment Period

Appendix E. Written Testimony Received During GOC Public Comment Period

Appendix F. Subpoenas and Request Letters for Appearance and Records for the GOC's Special Inquiry on November 12, 2015